



A critical exploration of the challenges and barriers relating to legal assistance at the early stages of criminal justice system

Anuradha Chadha¹, Puneesh Jindia²

¹ Professor, Principal, Department of Law, Desh Bhagat University, Mandi Gobindgarh, Punjab, India

² Research Scholar, Department of Law, Desh Bhagat University, Mandi Gobindgarh, Punjab, India

Abstract

Poverty and inequality that have been inherent in the Indian Social Structure of India lead to disparity in rights of members of the society. The right to be represented and protected by the legal practitioners at various stages of criminal justice against arbitrary arrest and detention have been provided under Articles 20, 21, 22, 38, 39, 39A, 32 and 226 of the Indian Constitution along with Sections 41, 41 A, 41 B, 41 C and 41 D of Criminal Procedure Code, 1973 and Legal Services Authority Act, 1987 pursuant to the policy of the Government to give legal assistance at earlier stages of criminal justice particularly to economically weaker section of the society. However, issue of in-accessibility of justice at the early stages of criminal justice is badly affected by a number of social, legal, economical and psychological challenges those are on the rise and this paper aims at critically analysing them in order to finally provide concrete solutions in the form of more effective legal provisions and more efficient implementation mechanism. In order to achieve that objective, books, research papers, landmark judgements and contributory work of eminent jurists have been relied upon.

Keywords: Barriers, challenges, criminal justice, early access, legal assistance

Introduction

Having access to the criminal justice system at the early stages is essential for a healthy Government. However, inequality is rife in today's culture. The right to be represented by the legal practitioners at various stages of criminal justice and to be protected against arbitrary arrest and detention have been provided under Articles 20, 21, 22, 38, 39, 39A, 32 and 226 of the Indian Constitution along with Sections 41, 41 A, 41 B, 41 C and 41 D of Criminal Procedure Code, 1973 and Legal Services Authority Act, 1987. However, the inequalities which are sanctioned by societal, legal, and institutional norms contribute towards the non-access of legal assistance at the earlier stages of criminal justice and so are blamed for the rejection of justice. It is in agreement with the Karl Marx's theory of surplus value, and so it cannot be denied that the working people (poverty ridden) are still exploited despite numerous welfare laws. The issue of non-access of justice at the early stages of criminal justice worsens with each passing second due to the major challenges such as poverty, illiteracy, and population growth which all are on the rise.

Statement of Problem

Access to justice is an ameliorative function of catering justice to the unmet legal needs of citizens. However, despite the knowledge that impanelled legal professionals to offer free legal aid services to the under-privileged, consumers are reluctant to contact legal aid agencies at the early stages of criminal justice system as they believe that such lawyers are not committed or serious about the purposes of Legal aid programs, but rather utilize them to gain cheap fame. In this manner, because of their incompetence and irresponsibility and due to not providing justice to public timely in real sense and due to corruption, the scheme's main driving force i.e., the investigation

officials and impanelled legal practitioners have lost the faith and respect. Moreover, the ignorance and illiteracy of poor, complex legal procedure, and un-awareness of general public, lack of proper legal provisions as well as a lot of other social, economic and legal challenges lead to improper implementation of the law relating to legal assistance at early stages of criminal justice.

Review of Literature

Justice V.M. Sahai in his Article 'Overcoming Challenges in ensuring Opportunities for Securing justice and Dynamics of Legal Services Institutions has referred to National Legal Services Authority (Lok Adalat Regulations, 2009, National Services Authority (Free and Competent Legal Services) Regulations, 2010, National Legal Services Authority (Legal Aid Clinic) Regulations, 2011 and Para-Legal Volunteers scheme, the scheme for Legal Services to Disaster Victims, Scheme for Legal Services to the Mentally III Persons and Persons with mental Disabilities, Scheme for Legal Services to the Workers in the Unorganized Sector and 'Dove Mission' and 'Kutty Mission'. The author has explained thoroughly challenges and the ways to get rid of them in order to achieve the main objective of providing legal assistance to the poor and needy people.

The effects of excessive pretrial detention are investigated in the book titled "Pretrial Detention and Torture: Why Pretrial Detainees Face the Greatest Risk," written by Moritz Birk and co-authors. In this book, the intersection of pre-trial detention with public health, torture, and corruption is investigated, in addition to the socio-economic impact that pre-trial detention has. The authors suggested one of the most effective ways to prevent torture through early access to legal aid, combined with a system of regular, unannounced visits to places of detention.

The United Nations Office on Drugs and Crime in the handbook, “Early access to legal aid in criminal justice processes: a handbook for policymakers and practitioners” has envisioned an applied guidance to evolving and executing rules and programmes to guarantee early access to legal assistance together with applying the worldwide ideals established by the United Nations Principles and Guidelines on Access to Legal Aid at the early stages in Criminal Justice Systems. In this handbook, a justification is shown for why the facility of early access to legal assistance donates to a just, empathetic, and well-organized criminal justice scheme, in addition to how it pays towards social expansion. Secondly, it focuses on the pros and cons of early access to legal aid. Case studies are then used to illustrate how early access to legal aid actually operates in practice, which is followed by an analysis of the most significant obstacles and issues that arise during this process.

Objectives of Study

The objectives of the study are:

- To determine the exact scope of law providing for legal assistance at early stages of criminal justice.
- To examine thoroughly the challenges and barriers in the way of implementation of the legal assistance at the early phases of criminal justice.
- To suggest the ways and means for removing the challenges in order to strengthen and improve the existing law as well as implementation strategies for providing legal assistance at the early stages in criminal matters in letter and spirit.

Research Methodology

In this research paper, the focus has been laid upon the legal statutory provisions at the national level along with challenges and barriers in the way of providing access to justice particularly at the stages of investigation and arrests. Books, magazines, published and unpublished reports of National Law Commission, various committees, research papers, websites, news-papers and landmark judgements along with views and opinions of eminent jurists' contributory to the relevant field have been the significant tools of study.

Discussion and Findings

A complete community of barristers, social activists, magistrates, framers of law and policy and administrators have been scrambled by the barriers regarding access to justice. However, still this community has projected their solutions to bring to the surface justice so that it could come within the hold of the general public at its early stages of criminal justice. However, these barriers can be broadly categorized into social, economic and legal barriers.

Social Barriers to Legal Assistance at the Early Stages of Access to Criminal Justice

Social Barriers are those impediments that arise as a result of the societal background in which the individual exist or has grown up or been fostered. Obfuscation of justice occurs when the very society in which a person resides becomes a barrier to the person's ability to voice his or her opinions. India has historically been composed of two distinct societies: one who lives in the urban areas and another in the rural areas, which are marked by a strong presence of historic caste and social class dynamics.

1. Primitive Society

During the later Vedic Ages, a pristine system known as the Varna System that existed during the Early Rig Vedic Era was grossly misrepresented, which ultimately led to the development of caste divides. Then a medieval society emerged as a result of the interaction of the systems and the later invasions in the region. The caste system in the feudalistic society of India, in which the poor were classified as *Dasyus* or *Sevaks*, contributed significantly to the further marginalization of the position of the poor. They were not invited or given the opportunity to represent the local bodies. They were not allowed to own property and instead had to perform labour for their owners. In past times, the evidentiary value of a witness who was a *Dasyu* was also thought to be relatively lower as compared to that of a person who belonged to a higher caste. For several centuries they were subjected to oppression and denied access to the courts for raising their voice as well as legal assistance at the early access of criminal justice and this situation is still in existence.

After that, the establishment of colonial rule resulted in the formation of separate courts but both the native population and the British people were subjected to distinct adjudicatory procedures. The marginalized community was rarely catered to. Resultantly, even after independence, as a direct result of the establishment of this caste divide, it became significantly more difficult for this community to gain access to criminal justice particularly at the early stages of investigation.

2. Lack of Access to Legal Education and General Public Awareness

Furthermore, by virtue of the lack of access to legal education, the people are not aware of their rights that are constitutionally sanctioned to them under Article 21-A, their rights as property owners, the value of proprietary interest, or the rights of a coparcener in a family estate. Additionally, information provided in words about rights may be for them tough to grasp, and inscribed knowledge may not be functional in transmission of information about rights especially when it is reproduced in legal terminology and the suspicious person or wrongdoer is un-educated or unaware about their rights. Hence, the lack of knowledge prevents them from making use of the beneficial civil and criminal provisions in their favor thereby condensing their role only of bystanders.

No doubt, in order to encourage legal awareness, a series of changes have been implemented by the Government, including the *Ladli Lakshmi Yojana* and the *Mid-Day Meal Scheme*, with the goal of encouraging children to receive free and compulsory education for at least first fourteen years of their lives. However, still due to less literacy rate and more drop out, the illiteracy and un-awareness about their right to be represented by the legal practitioners at the early stages of criminal justice is still just a dream for the deprived people.

Another primary reason is the lack of awareness regarding the continuing initiatives of the Legal Services Committees at the District, State and National Level i.e., at the High Courts, and the Apex Court of India. Moreover, because of lack of acquaintance with the procedure of the court, in addition to over-all terror about the system of the court, e.g., the objection petitions are very rarely filed by the indigents when it has been decided by the police to doze off all charges against the suspects.

3. Un-supportive Attitude of the General Public towards Legal Assistance at Early Stages of Criminal Justice

The rights and their knowledge regarding procedures for suspects and wrongdoers usually and precisely for early access systems are habitually not prevalent with people and the social order. The vigilant public engagement is needed to be relied upon for the launching of operative and maintainable structures for early access to legal assistance, so that there have a sense of proprietorship and thoughtfulness of the methods among the local groups in which advantage from Government's schemes may be taken by them. Not only advantages to persons as probable accused or sufferers, but also broader monetary and societal assistances are included in this, for example; the role that early access schemes can play to the transparency and raising the sense of responsibility of criminal justice procedures and organizations and the strengthening of the rule of law. However, partisan arrogances in the direction of initiation of a system for providing legal assistance are frequently informed by communal insolences. Moreover, there is often a terror of wrongdoing and the belief that providing suspects and offenders with legal assistance may strengthen the harmful arrogances enabling those guilty of committing crimes to evade trial and sentence. There is a widespread credibility, extensive in many nations, that requesting for an attorney at the information-gathering phase of the criminal justice process is, or may be understood as, a symbol of culpability, or that demanding an attorney may "exaggerate" the set of circumstances and make things shoddier for the suspect or offender.

4. Psychological Barriers

The lack of awareness relates to another major barrier to access of the psychic un-willingness of people to resort to legal proceedings. Psychological inaccessibility is compounded by several factors; the anxiety-provoking formality of the legal process, the typical courtroom setting, the language barrier for some litigants, the mysterious legal mechanization, the fear of lawyers, of even entering lawyers' chambers, and like considerations. Complicated procedures, detailed forms, intimidating courtrooms, and overbearing judges and lawyers make the litigants and the prisoners feel lost in an alien world.

Economic Barriers to Access to Justice Expensive Procedure of Legal Assistance

Another blockade to the initiation of the essential legal structure for early access to legal assistance is the anxiety of the fee. There is economic divide prevalent in the nation. Unprivileged section has no remedy to monetary funds and, as a result, no recourse to pursue legal remedies in the form of legal assistance at the early stages of investigation. Among the existing populace, the demographical study, and the under-trial custodial data demonstrates that nearly 75 percent of those who are presently being prosecuted are those who have its place in the feebler segments of the social order and, resultantly, have petite or nope access to justice especially at the early stages only because of the lack of financial resources.

A most conspicuous instance of the consequence of the financial rift is demonstrated in the Criminal Law courts. The safety measures for the defence of the welfare of the public in Code of Criminal Procedure, 1973 in the form of Legal Requirements are; completion of enquiry within sixty

and ninety days sanctioned under the regulation which was made to confirm that an individual was not made to experience the severities of confinement over and beyond the obligatory period of imprisonment. Moreover, it is a basic principle of Law of Crimes that every man is supposed to be guiltless until he has been a confirmed guilt-ridden. However, unfortunately, these safeguards practically are unavailable to the un-privileged.

Secondly, though the Government has provided the machinery for dispensing justice to the people and pays the salaries of judges and other court personnel and provides buildings and other facilities necessary to try the cases, but the litigants have to bear other costs of settling the disputes e.g., the stamp fee, attorney's fee and other costs of the court. Hence, the poor persons, not sure of the result hesitate to initiate the litigation and prefer to forgo the right.

Thirdly, an indigent suffers at two ends. First, he has to spend on litigation and secondly, he has to lose the income for the time spent in connection with litigation. The 'delay' generally multiplies the costs of litigation which puts great pressure on the economically weak to forgo their claim or settle for much less than their legitimate claim.

Furthermore, at every stage of the litigation process also steps; be it requesting a copy of the judgment, submitting an application, or pleading for a postponement, institutionalizing corrupt practices, result into major challenges in the way of gaining access to the criminal justice system at the early stages.

Legal Barriers Relating to Access to Justice at Early Phases

Even though the appropriate mechanisms are in place, early access to criminal justice is still only a distant dream. Lawful obstacles to have early access to justice create a vicious circle that encompasses each and every cause that, when taken together, contribute to the denial of justice which (Legal Barricades) have been highlighted as under:

1. Discriminatory Legal System

It doesn't matter what the law says on paper; when it's put into practice, it sometimes lead to a significant degree of injustice for those who are socially and economically disadvantaged in society. The justice system was designed more for an era of laissez-faire in the nineteenth century and the State only had three functions: defending the borders of the country, maintaining law and order, and administering justice, as well as collecting taxes to pay for all of these functions. However, the State of the 20th century is a Welfare State. Even then too frequently, the legal system, particularly as it has evolved over the course of the last few centuries, has itself acted as an obstacle to the enforcement of newly established rights of the disadvantaged persons. As in many situations, the enforcement of the rights of indigent people, consumers, renters, workers, and others are hampered by the presence of high-priced lawyers, convoluted adversarial procedures, and relatively in-active judges. Justice Krishna Iyer has also proposed that the adversary legal system be dismantled because it is a factor that contributes to injustice and conceals the truth.

2. Barriers of Legal Procedure

The prevailing absence of funds, mal-administration and procedural complexities discourage the implementation of law regarding legal assistance at the early stages of criminal

justice. In the context of the courts, the parties involved had to put up with an unmanageable number of delays due to procedural complexities beginning with the stage of first issuing summons and subsequently slapping a bailable and a non-bailable warrant, before proclaiming the witness as an absconder, and attaching his property, or issuing a standing warrant against him. The compliance with the intricate safety nets before the initiation of court proceedings has also become a major source of the problem. Moreover, the central administrative arrangement is yet outdated, with very petite or no support of computers or other contemporary forms of communication.

3. Executive as a Stake Holder in Denial of Access to Justice

In addition to being responsible for the protection of citizens, the upkeep of law and order, and the investigation of crimes, police stations are also tasked with the responsibility of securing public places, providing security cover to dignitaries, and running witness protection programs. However, the Police Manuals regulating the practical order, process, roles and accountabilities of the police officials are obsolete and are in need of methodical improvements. In order to recruit the most talented individuals and tap their full potential, the salaries are not evaluated on a regular basis and the working conditions are not improved.

In majority of the cases, the police are stationed in areas that are both too remote and grossly un-connected. There are hardly any efforts made to provide the officials in law enforcement with updated training or to evaluate the level of physical readiness, they possess. In each and every one of these police stations, there were preparations made to initiate a technological interface; however, as a result of the petite literacy level of the Law enforcement agency particularly constables, the computers have been gathering dirt for a considerable period of time. Furthermore, because of a severe lack of resources, there is no Forensic Science Lab Unit in many districts. As a result of delay, tangible evidence is frequently misplaced, obliterated, or tampered with and so the findings become inconclusive as a result of the passage of time. According to the comprehensive guidelines, the Honourable Supreme Court of India in the case of *Prakash Singh v. Union of India*, has also unequivocally expressed its anguish at the state of affairs which has not only demoralized the police force but is also very dis-incentivizing. All these factors contribute towards almost no legal assistance at the early stages of criminal justice system.

4. Lack of Structured and Informed Preparations by the Advocates

On the part of the advocates, there is a clear absence of legal knowledge, both in terms of the substantive law and the procedures. Advocates do not do a good job of preparing the case facts. When judges ask them questions about the case, they frequently do not know the answers. The majority of the time, advocates and their greed sometimes are the single most problematic factor that contribute to the initiation of legal proceedings. Due to the fact that their cases are being heard simultaneously, attorneys are frequently seen making their way from one courtroom to another in order to ask for an adjournment in their cases. On the other hand, the difficulty that the Legal Aid Society finds itself in is

deplorable. The attorneys receive no compensation for their work and are frequently asked to represent clients who are unable to pay the costs of the case. Thus, despite of impliedly extensive magnitudes of providing access to justice particularly at the earlier stages of investigation and litigation as given under Article 39 (a) of the Indian Constitution, which has also been pronounced over and over again in a catena of landmark judgements, especially *Hussainara Khatoon v. State of Bihar*, by the Apex Court, the issue has become rampant due to the vast quantity of such cases but with the scarcer number of attorneys for representing poor.

5. Discrimination in Granting Bail

Poverty has a very severe impact on the grant of bail to the indigent defendant. A man charged with theft, due to his inability to make financial arrangement for the bail, has to spend inconsiderable periods in the prison awaiting trial, and finally is acquitted due to his innocence. Though innocent, he has been punished due to his only crime of being poor. So, evidently it is a case where justice is denied and man is to be under imprisonment for no reason other than his poverty.

6. Discrimination in Sentencing due to Non-Payment of Fine

Another field in which an indigent has to suffer is 'Sentencing', particularly the consequences visited upon by the defendants for non-payment of a fine. Imprisonment for non-payment of fines is of considerable antiquity, dating back to medieval England, and is still being practiced and adhered to by legislative as well as judicial organs. In such types of cases, only the convicted indigent defendants alone are exposed to the risk of imprisonment.

7. Discrimination in Case of Punishment

It is observed that the political process favours the privileged and the ruling elite as it is usually the poor and the underprivileged and the political dissenters who are convicted and hanged in capital crimes. The poor rarely have the means to employ a good lawyer while the rich can avail the best legal services. There are countless examples in many States where landlords and the upper castes have massacred and brutally tortured Harijans and Adivasis and have escaped conviction. The police personnel who kill the persons in custody has never been heard to be prosecuted and hanged. On the other hand, when the impoverished, facing further exploitation and destitution if kill a landlord, a reign of terror is launched involving the killing of scores of un-privileged persons.

8. Discrimination Against Criminals of Petty Offences

The individuals indulging in street crimes usually come from poor and unprivileged classes and are mostly compelled by starvation or other wants to commit crimes like; theft, bribery, thuggi, picking pockets, etc. If the police start to drive against crime, it is mostly not against mafia dons, though they or their lieutenants are detained but temporarily for public display, it is especially against the society of petty criminals. It is usually the petty criminals who are tortured sometimes to death. This attitude of police contributes towards in-access to criminal justice at its earlier stages.

9. Discrimination by Courts and Advocates

Another reason of inequalities and discrimination against the poor is notable. The differences in the administration of law are dependent not upon the law itself, but upon the social results of the inequality of wealth. As long as the social conditions which are productive of poverty continue to exist, the poor will continue to be arrested more often, convicted more frequently, sentenced more harshly, and rehabilitated less successfully than the rest of society. Justice Iyer also has summed up the present state of affairs and highlighted that elimination of disparity, by effective enforcement of egalitarian laws, is none's concern.

Furthermore, the general tendency of the bar in case of indigent client is that he (Advocate) is more interested in seeing the function of court smoothly – which means that his client should plead guilty. It is generally thought that the defence lawyer and the prosecuting attorney are opponents whose struggle will bring out the truth, i.e., innocence or guilt of the accused, but in reality, it does not happen. And this approach results into non-implementation of law relating to legal assistance at the early stages of criminal justice.

10. Wrong Approach regarding Pre-trial Requirement of Legal Assistance

One more barricade towards the acceptance of the responsibility for statutory acknowledgement of the right to early access to legal assistance in criminal cases is the trust that the emphasis for finding out of culpability or guiltlessness in the pre-trial stage is not required as the legal assistance is necessary to guarantee a fair trial at the time of litigation only. Furthermore, a common trust and a specific apprehension in numerous nations is that questioning of accused by the law enforcement agency is intended to expose “the fact” that the participation of the providers of legal assistance in this procedure will impede the detection of reality. Conversely, it is a noteworthy task that the constabularies every so often do not have the needed skills, amenities or funds to enable them for discovering and safeguarding confession along with other forms of evidence. Rather, it should be noticed now that the International Covenant on Civil and Political Rights, under its Article 14, paragraph 3 (g), offers that an individual must neither be obligated to affirm in contradiction of himself or herself nor be forced to plead guilty.

11. Establishing a legal framework with Plenty of Able Lawyers

An important characteristic of a sincere and supportable early access to justice structure is to deliver the excellent legal facility. However, the challenging task to efficient execution of such an agenda is to make sure that there are satisfactory providers of legal assistance who are capable and has the readiness for the deliverance of legal assistance at the early stages of criminal justice.

Besides, in some of the nations, attorneys are located incredibly in cities, while populace in majority live in rural areas. In a majority of nations, there are a tremendous number of male lawyers, but they may not be capable enough to efficiently accommodate the women suspects and wrongdoers. In addition, in cases in which there can be language as a blockade and clarification is not effortlessly obtainable, access to barristers who are talented to

communicate excellently with their clients may prove a supplementary task.

In addition to that in certain republics where there are early access schemes prevailing but there is a deficiency of training to police personnel for improving information and skills and, sporadically, an absence of collaboration of the bar associations for making early access systems operational. Moreover, in certain nations, there is risk to the attorneys themselves while protecting the interests of their clients predominantly at the time of the handling politically complex cases.

12. One Shot ‘Litigants’

Prof. Galanter has coined two terms for two different types of litigants. Those facing the court for the first time are according to him “One shot” litigants and are in a disadvantaged position as compared to those litigants who have frequent and long-lasting encounters with the judicial system. The individual consumer would normally abandon his right due to his/her un-awareness to go for legal assistance at the early stages of criminal justice.

In this way, evidently the economic, geographical, psychological, and other related barriers deter an indigent to have legal assistance at the earlier stages of access to criminal justice. As practically, the factors that are extraneous to legal merits play a very effective role in the assertion and vindication of legal decisions.

Conclusion and Suggestions

Finally, on the basis of the above critical study, it can be concluded that a challenge for all democracies is to provide citizens with access to the criminal justice system at its earlier stages. It is necessary to acknowledge and criticize the challenges which are required to be put in their place. It is impossible for human society to advance until unjust legal and social arrangements or circumstances are remedied, and the less fortunate and more vulnerable members of society are granted the rights that are rightfully theirs to have a fair opportunity of having access to justice particularly at the early stages of criminal administration. For that purpose, there is dire need of a specific legislation or a particular major amendment in the existing legislation for making it mandatory requirement on the part of the police, lawyers, judicial officers and other agents of criminal administration of justice to deliver legal assistance at the early stages of criminal justice.

Secondly, a variety of stratagems is desirable in order to deal with the issue of non-existence of knowledge and understanding regarding the right to access to legal assistance in criminal justice at the early phases. The mechanism through which suspects and wrongdoers are to be made aware about their right to such kind of access requires to be prudently analysed, suitably and efficiently planned and executed. A prototypical “letter of rights” formulated by the European Union can be considered for this purpose. Civic instruction is also vital in the dispersal of knowledge and in raising objections against the myths. The “courtyard conferences” which are prevalent in Bangladesh also help to find out how information can be made more accessible to communities. In India also, there needs to be proper management and monitoring of the legal assistance services.

Furthermore, for the right to access to legal assistance at the early steps of criminal justice to be successfully employed,

the police department needs to be trained properly in order to arm it with proof-collecting skills, and the amenities and funds to empower them to make use of them. Moreover, obtainability of attorneys, and the procedure and level of payment for delivering the services of legal aid, require to be taken into consideration at the time of developing systems regarding them. In certain nations, systems for making the use of para-legals have been evolved as a solution to the inadequate number of attorneys. The judicial officers also need to be pro-active in this respect in order to protect the rights of the under-trial prisoners. At the last, it is worth to mention Reginald Heber Smith who said that:

“Without equal and early access to the law, the system not only robs the poor of their only protection, but it places in the hands of their oppressors the most powerful and ruthless weapon ever invented.”

References

1. Capperletti M, Garth B. access to justice-emerging issues and perspective 638 (M Cappelletti, B. Garth, 1979).
2. Harris, Shaw JAW, looking for patterns: race, class and crime (J. Sheley Ed., 2000). C.A. Belmont: Wadsworth, Criminology: A Contemporary Handbook 129–163 (3rd ed., 2000).
3. Amruta Patil, Varna System during Early Vedic Period-Ancient India History, Notes Ias Exam Latest Updates-Prepp By Collegedunia, Sep. 12, 2023, <https://prepp.in/news/e-492-varna-system-during-early-vedic-period-ancient-india-history-notes>.
4. Anil Gaur v. State of U.P. (12.09.2022 - ALLHC): MANU/UP/3218/2022.
5. Atul Thakur, Rema Nagarajan. Undertrials comprise 75% of India's prison population, most in a Decade, THE TIMES OF INDIA Feb., 2022, 14.
6. Bahaar Hamzehzadeh, Repeat Player v. One-Shotter: Is Victory all that Obvious, 6 HASTINGS BUS. L.J. 239 (2010).
7. Code of Criminal Procedure, 1973, sec. 167, Acts of Parliament, 1973.
8. Code of Criminal Procedure, 1973, sec. 173, Acts of Parliament, 1973.
9. Derek A. Western, Fines, Imprisonment and the Poor: Thirty Dollars or Thirty Days, 57 CALIF L. REV. 778. 818-19 (1969). Philip Fahringer, Equal Protection and the Indigent Defendant: Griffin and its Progeny, 16 STAN. L. REV., 1964:394:396.
10. Diego García-Sayán, Corruption, Human Rights, and Judicial Independence, UNODC, July 2017.
11. DR. Kalpesh kumar I Gupta, dr. Viralkumar B. Mandaliya legal aid. awareness in india: issues & challenges (Dr. Kalpesh Kumar L. Gupta, Eds., Germany: LAP Lambert Academic Publishing, 2018).
12. Gold Berg, Equality and Governmental Action, 39 NYUL Rev., 1964:205:219.
13. Hussainara Khatoon v. State of Bihar, (1980) 1 S.C.C. 93 (India).
14. Hussainara Khatoon v. State of Bihar, A.I.R. 1979 S.C. 1369 is a glaring example of an under-trial languishing in jails because of poverty.
15. India Const, art. 21; Pankaj Kumar v. State of Maharashtra, (2008) 16 SCC 117.
16. India Const. (86th Amendment), 2002 Amendment of Parliament, 2002.
17. IX C.J. Fuller, Caste Today 295 (Oxford University Press, Ed. 1996).
18. J. Bartlet Brebner, Laissez Faire and State Intervention in Nineteenth-Century Britain, 8 S1 THE J ECO. HIS., 59-73, 15 pages (Cambridge University Press, 1948).
19. Justice V.M. Sahai, Overcoming Challenges in Ensuring Opportunities for Securing Justice and Dynamics of Legal Services Institutions, XV 3 NYAYA DEEP, NALSA (July-October, 2014).
20. Kathmandu, Supreme Court of Nepal and United Nations Development Programme, Assessment Of Impact Of Legal Aid Service In Nepal: A STUDY REPORT (Nepal, Forum for Protection of People's Rights, n.d., 2011).
21. M. Abregu, barricades or obstacles: the challenges of access to justice 53-69 (puymbroeck r. V. Ed, 2001), comprehensive legal and judicial development: towards an agenda for a just and equitable society in the 21st century (Washington, D.C: The World Bank).
22. Manoj Pratap Singh v. The State of Rajasthan (24.06.2022 - SC): MANU/SC/0808/2022; Griffin v. Illinois 351 U.S. 12, 17 (1956).
23. Marc Galanter, Afterwards Explaining Litigation 9 (2) LAW & SOCIETY REV. 347, 347-360 (1975).
24. Marc Galanter, Why the Haves come out Ahead, Speculations on the limits of legal change, 9 LAW & SOC'Y REV 95 (74) (1974); Marc Galanter, Afterward, Explaining Litigation, 9 (2) LAW & SOC'S REV 347-368 (1975).
25. Michael Meltsner, What is the role of the lawyer? Law Against the People; Essays to Demystify Law, Order and the Courts. Edited by Robert Lefcourt. N.Y. TIMES, March 5, 1972.
26. Module 6- Access to Justice, Barriers to Access to Justice, STUDOCU, <https://www.studocu.com/in/document/university-of-kerala/law-society-and-judicial-process/barriers-to-access-to-justice/31206363>.
27. Moritz Birk & Cozma Julai, Pretrial Detention and Torture: Why Pretrial Detainees Face The Greatest Risk (Open Society Justice Initiative, 2012).
28. Moumita Sarkar, Relevance of Caste System in Ancient India: A Rigvedic Eye View, 10 12(4) INT. J. MUL. EDU. RES. 46, 46-49 (Dec., 2021).
29. Pooja Amaravathi & Ananya Mishra, The Presumption of Innocence and its Role in the Criminal Process, 4 (3) IJLMH 1135 – 1149 (2021).
30. Prakash Singh v. Union of India, (2006) 8 S.C.C. (India).
31. PTI-Business News Politics 43 Lakh Cases Pending in the High Court, over 8 Lakh a Decade Old, THE ECO. TIMES June, 27, 2019.
32. Reginald Heber Smith, Justice and the Poor xiv the carnegie found. For the advancement of teaching N.Y. 271 (1919).
33. Resolutions Adopted On The Reports Of The Third Committee, Declaration Of Basic Principles Of Justice For Victims of Crime And Abuse of Power 40/34 (General Assembly Resolution, Nov., 29, 1985).
34. Robert Lefcourt, Law Against The People: Essays To Demystify Law, Order And The Courts 28 (New York: Vintage Books, Random House, Ed., 1971).

35. S. Schumann, Bruckmüller & Soyer, Pre-trial Emergency Defence, Antwerp, Belgium, *Intersentia* 369 (2012).
36. Saurav Singh, Unveiling India's Caste System: A Persistent Barrier to Equality *OBSER. VOICE* (Jan. 26, 2023), <https://observoice.com/unveiling-indias-caste-system-a-persistent-barrier-to-equality-13216/>.
37. Shai Danziger, Jonathan Levav and Liora Avnaim-Pesso, Extraneous Factors in Judicial Decisions, *108(17) Proc Natl Acad Sci USA* 6889–6892 (April 26, 2011).
38. Smitu Kothari, The State as Executioner, *THE illustd. Weekly of ind.* 7-13 (April, 1985).
39. Surplus Value is value created by wage workers' labour over and above the value of their labour power and appropriate by the capitalist without remuneration. Capitalists try to constantly expand production by utilizing for this purpose the value created by workers. M.I. Volkov, *A Dictionary Of Political Economy* 348-49 (Mikhail Ivanovich Volkov, 2nd edition, June 11, 2020).
40. The Franks Case in the New Republic, *LASKI'S GRAM. OF POL.* 566 (Sep., 24, 1924).
41. The Scottish Government, Letter of Rights When You Are At The Police Station-Annexure IV 19 (APS Group Scot., April, 2023).
42. The State of Inequality in India- Report Released, The State of Inequality Report is a stock-taking of both inclusion and exclusion *PRESS INFORM. BUREAU DEL.* (May 18, 2022), <https://pib.gov.in/PressReleasePage.aspx?PRID=1826325>.
43. The Wire Staff. Custodial Torture Continues Unabated in India Amidst Culture of Impunity: Report on Rights, The 'India: Annual Report on Torture 2019, *THE WIRE*, (July, 8, 2020), <https://thewire.in/rights/custodial-torture-continues-unabated-in-india-amidst-culture-of-impunity-report>.
44. United Nations and the Rule of Law- Access to Justice, *UNITED NATIONS*, <https://www.un.org/ruleoflaw/thematic-areas/access-to-justice-and-rule-of-law-institutions/access-to-justice/>.
45. United Nations Office on Drugs & Crime, Access To Legal Aid- Decade of Action, (Commission on Crime Prevention & Criminal Justice, United Nations).
46. United Nations Office on Drugs and Crime, Comprehensive Study On Cybercrime- Draft Feb. 2018 (New York: United Nations, 2013).
47. United Nations Office on Drugs and Crime, Early Access To Legal Aid In Criminal Justice Processes: A Handbook For Policymakers And Practitioners (Criminal Justice Handbook Series, United Nations, 2014).
48. United Nations Office on Drugs And Crime, Handbook on Ensuring Quality of Legal Aid Services In Criminal Justice Processes-Practical Guidance Promising Practices (United Nations- Vienna: Criminal Justice Handbook Series, 2020).
49. United nations office on drugs and crime, handbook on improving access to legal aid in Africa 1-124 (Criminal Justice Handbook Series, United Nations, 2011).
50. United Nations Office on Drugs And Crime, Handbook on The Crime Prevention Guidelines- Making Them Work (United Nations New York: Criminal Justice Handbook Series., Aug., 2010).
51. Krisna Iyer VR. Judicial Justice. *TRIATIC BOM*, 1985, 12.
52. R Krishna Iyer V. *Indian Justice. DELHI* 38 (1984).