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ABOUT US

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provide dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

PRO BONO LEGAL AID: ASSURANCE OF JUSTICE AND RULE OF LAW FOR THE MARGINALISED.

AUTHORED BY - BANVEER KAUR JHINGER

Abstract

Rule of law and justice are intertwined with each other. Law is the means to achieve the justice. Rule of law means law is equally applicable to all the humans and nobody is above law. The word justice is derived from a French word "Justise" which means uprightness, equity, vindication of right, administration of law.

To ensure that rule of law exists in letter and spirit, the justice in all spheres must prevail. There are manifold dimensions to justice: Social, Economic, Political and Legal Justice.

Legal justice means rule of law and not rule by law. The Constitution of India provides various provisions which emphasis the legal emancipation of the marginalized sections of the society. The Preamble to the Constitution declares Justice as the primary goal of the Indian polity. Article 14 imbibes the Principle of Rule of law. Further, Article 15, 16 and 17 of the Indian constitution also reflect the idea of justice enshrined in the preamble of the constitution. All these articles are incorporated under part III of the constitution which gives fundamental rights to every citizen.

Provisions relating to 'Equal Justice and Free Legal Aid' are enshrined under article 39A of the Indian constitution. Which give every citizen right to get free legal help from officers of the court. No one can be denied access to free legal aid. Its duty of the State to secure that working of the legal system is based on justice, it should provide equal opportunity, and also, provide free legal aid, to ensure that any opportunity for securing justice is not denied to any citizen due to his economic or other disabilities.

The focus of the research paper shall be to examine the legal justice in the context of legal aid to poor and ensuring that the justice delivery system is fair, reasonable and affordable to the economically weaker section of the society by adopting Doctrinal method, reference shall be made to the journals, books, statutes, research papers and other secondary resources. The paper

shall analyse and discuss the legislations, the judgments and the role of social activists to ensure the presence of legal justice.

Keywords: Justice, Rule of Law, Equity, Access to Justice, Legal Aid

Introduction to the rule of Law and Justice

The idea in the rule of law suggests that all people, regardless of status or power, must be subject to the law, and that the formulation, application, and interpretation of the law itself must regulate the interactions between legal laws. These principles require that the government be subject to the same legal obligations as its inhabitants. The principle of equal treatment before the law, according to which no one has rights that are not accorded to others and no one is exempt from legal responsibility, is fundamental to this idea. Laws must be administered equitably, consistently, and without regard to a person's authority, class, or standing.¹

In order for these values to have any real meaning, there needs to be a strong legal framework in place that guarantees authorities are answerable to the law.

In addition to these essential ideas, the rule of law demands specific characteristics from the laws themselves. Laws ought to be understandable, broadly construed, globally applicable, and open to all. They ought to be internally consistent, stable, and able to direct behaviour without placing an excessive load on people. Laws should also settle inconsistencies through the judicial system and not be retroactive.

There is still no agreed-upon definition of the rule of law, despite extensive discussion. Its meaning has changed as communities and eras have changed. In his seminal work, A.V. Dicey distinguished three essential components of the rule of law of the English legal system.

Dicey's Concept of Rule of Law

The main proponent of the current conception for the rule of law is thought to be A.V. Dicey, however Sir Edward Coke is credited with originating the notion that "the sovereign is bound by Lord and the Law."² During his 1885 Dicey developed this idea further and offered a more

¹ Naomi choi, *Rule of Law*, Britannica, (July, 1, 2024), <https://www.britannica.com/topic/rule-of-law>

² Jagrati Gupta, *Dicey's Concept of Rule of Law- An Analysis*, 8 Nov 2021 7:14 AM, Legal Bites, <https://www.legalbites.in/concept-of-rule-of-law/>

organised explanation of the theory. Dicey states that the idea that "a governing body should be controlled by laws, rather by individuals" is the foundation of the rule of law, which is supported by three main pillars.

These pillars are:

1. Supremacy of Law:

The absolute authority of law, which holds that everyone should be subject to the law, even those who dispense it, is the first tenet of Dicey's rule of law. Dicey highlights that the supremacy of law above arbitrary power is what defines the rule of law. He believed that punishment should only be meted out for blatant violations of the law and that it should follow established legal protocols. This theory disavows the idea of governmental discretion or fiat in legal questions.

2. Equality before Law:

The second tenet of Dicey's theory is equal before the law, which holds that all people are subject to the same courts and regular laws of the country, regardless of their station or rank. Dicey believed that systems of specific laws and tribunals for particular classes of people threatened equality, hence he opposed their existence. According to him, everyone should be treated equally under the law, which would be applied uniformly to all cases and decided by the same legal processes.

3. Predominance of Legal Spirit:

The dominance in the legal ethos is the third and last pillar. Dicey thought that the court was the enforcing authority that could uphold the rule of law, which is what he needed for it to fully prevail. According to Dicey, the courts serve as the major defenders of the law and as such, they have to be unbiased and unaffected by outside forces. He emphasised that judicial independence is a vital component of the rule of law. According to Dicey, the ultimate defenders of individual liberties and rights are the courts, not a written constitution.

Although Dicey's theory has been criticised in a number of ways, his central claim—that authority must come from and be used in accordance with the law—remains valid. Fundamentally, Dicey's idea stresses the requirement of equality before the law, the lack of arbitrarily and discretionary power, and the availability of legal protections for basic human rights. These values are still important in today's democratic societies.

Objective of Study

In the end, pursuing justice necessitates ongoing creativity and improvement. India must make sure that the rule of law is more than just a theoretical concept as it works to protect each person's rights and dignity. The aim of this research is to examine and evaluate the many obstacles associated with obtaining justice in India. Its goal is to assess how the backlog of cases and judicial delays affect the justice and efficiency of the legal system, especially for marginalised and economically disadvantaged populations. In addition, the study aims to evaluate the efficacy of the present legal aid system by identifying obstacles to its use and suggesting ways to overcome them.

This study also looks at how technology is changing the way justice is delivered, with particular attention to how innovations like digital legal resources, online dispute resolution, along with e-courts might close current gaps in the legal information landscape. It also evaluates how the rule of law is currently interpreted in India, with a focus on how Dicey's ideas have been modified to guarantee the preservation of individual rights while also conforming to modern human rights norms. By using this research, the study hopes to suggest institutional and policy changes that will support a more fair, effective, and accessible judicial system, preserving the rule of law and attending to the requirements of all citizens—especially the most disadvantaged.

Research Methodology

The research is based on doctrinal method because it focusses on a careful analysis of judicial interpretations, legislative frameworks, and legal theories. With this method, important legal concepts like those included in the Indian Constitution and pertinent laws, can be thoroughly examined. Doctrinal research assesses the efficacy of current legal mechanisms, identifies parts for potential reform, and offers an in-depth comprehension regarding how legal concepts such as access to justice along with the rule of law are put in practice by examining landmark court decisions and statutory provisions. This approach is ideal for evaluating these legal ideas' influence and assimilation into the Indian legal system.

Significance of Rule of Law

In order to ensure that everyone is subject to the law, even those in positions of authority, as well as that legal rights have been effectively maintained, the rule of law is essential in preventing the misuse of governmental power. It provides the framework for fundamental

democratic ideals including upholding laws passed by parliament and ensuring that elections are conducted fairly³. In a larger sense, the application of law promotes social stability by offering legal channels for settling conflicts and guaranteeing justice. In terms of the economy, it promotes stability and expansion by defending property rights, reducing corruption, and upholding an atmosphere conducive to trade between nations when agreements are upheld. No nation can be a functional democracy without the rule of law, even though it does not ensure democracy on its own.

Applicability of rule of law in India

In ancient and mediaeval India, the idea of the rule of law was largely nonexistent in administrative law. The king was regarded as the final authority of justice and the law at that time, and the law did not apply to him. The concept that the law was ultimate and applied to everyone, including rulers, was rendered obsolete by this concentration of power. Although the rule of the law was acknowledged in Britain throughout British administration in India, it was mainly disregarded in that country.⁴

Law enforcement and just justice were subordinated to economic activity, revenue collection, as well as territorial development under the leadership of the East India Company and the British administration. As a result, the idea for the rule of law got marginalised in favour of colonial goals.

Theoretical Application of Rule of Law in India

According to the Indian Constitution, the Constitution has the ultimate authority and the country upholds the law. The Constitution gives legislators and officials their authority, and all laws passed by the legislative body must abide with its tenets. Any statute that is in contradiction to the Constitution shall be declared invalid, according to Article 13(1)⁵. This is further supported by Article 21⁶, which states that no one may be taken from their life or their freedom other than through the proper legal channels. Article 14⁷ forbids discrimination on the grounds of race, religion, or national origin and ensures equality before the law.

³ Naomi choi, *Rule of Law*, Britannica, (July, 1, 2024), <https://www.britannica.com/topic/rule-of-law>

⁴ Sushma, *Rule of Law and its Application in India*, Law Column, June 9, 2020, <https://lawcolumn.in/rule-of-law-and-its-application-in-india/>

⁵ INDIA CONST. art 13, cl. 1

⁶ INDIA CONST. art 21

⁷ INDIA CONST. art 14

By essentially establishing a division of power between the legislative, executive branch, and court, these clauses guarantee the independence of the court. India is a supposedly Dicey-rule-of-law nation since the Constitution preserves the fundamental tenets of this theory.

Practical Application of Rule of Law in India

Critics contend which the rule of law within India is still more of a concept than a working reality, notwithstanding these constitutional protections. The efficient application of the law continues to be threatened by corruption and inefficiency. In categories like transparency in government, where it is placed 37th out of 97 countries, and the implementation of law, where it ranks even lower, India performs poorly, based to the 2012 World Justice Project. Although India is ranked second out of 23 low-income countries and first out of five nations in its region, these rankings show serious flaws in actual practice.

The continued application of antiquated laws is one of the main obstacles to India's rule of law. The Indian Independence Act declared that all legislation from the colonial era will remain in effect until specifically revoked by Parliament after independence. Many of these laws are now out-of-date and inappropriate for the needs of the modern world, even though their continuity offered legal stability during the post-independence period. Due to the absence of a "sunset clause," many legal clauses are ambiguous and might cause misunderstandings and drawn-out legal conflicts.

Furthermore, the actualisation of the rule of law is hampered by widespread corruption in the legislative branch and the judicial system. India's low ranking in terms of non-corruption and order and security is a result of the substantial disconnect between the Constitution's theoretical tenets and their practical implementation in government and administration.

Rule of Law and Indian Constitution

Moreover, pervasive corruption within the legislative and judicial branches of government impedes the implementation of the rule of law. India ranks poorly in aspects of order and security, non-corruption, and government because there is a significant gap among the Constitution's theoretical principles and their actual application in the executive branch.

The Constitution's numerous clauses aimed at establishing justice, equality, and liberty incorporate the rule of law. The Preamble of the Indian Constitution reflects these goals. No

one will be deprived these privileges by the state because to Article 14, which protects people from being denied equal before the law with equal protection under the law. The main idea of Article 14⁸ is that as everyone is subject to the rule of law, the law is final and forbids arbitrariness.

This clause represents the fundamental idea of the rule of law, which is impartial treatment for all. The Supreme Court noted in *Maneka Gandhi v. Union of India*⁹ that Article 14 promotes justice and equity of treatment by challenging the arbitrary nature of state actions. The Court underlined that arbitrariness is prohibited by the rule of law, which is a fundamental aspect of the Indian Constitution. Furthermore, the principle of equality is reinforced by Articles 15, 16, and 23, which provide protective discrimination provisions to guarantee equality among equals.

The Indian Constitution's Article 13 strengthens the rule of law by permitting laws that conflict with its provisions to be declared unconstitutional. The Supreme Court ruled in *Keshavananda Bharti v. State of Kerala*¹⁰ that one of the fundamental elements of the Constitution is the rule of law. The Court limited Parliament's ability to alter the Constitution by holding that changes may not change the fundamental framework of the document, which includes the rule of law. Part III enshrines fundamental rights, which are universal and unalienable, and a state that upholds the rule of law must safeguard them. The Constitution's Articles 32 and 226 provide for the enforcement of these rights. A law is null and void if it contravenes any element of the constitution, especially the fundamental rights.

A person's right to life and personal liberty are protected by Article 21¹¹, which is a fundamental component of the rule of law. It emphasises that law is supreme and declares that no one may be dispossessed from their life or freedom other than through a process set forth by law. The right also upholds concepts like the prohibition against double jeopardy as well as self-incrimination by guaranteeing that no one is penalised other than for breaking a law that was in effect at the time of the misconduct. The ideals of the rule of law are also in line with Article 19¹², which lists a number of freedoms.

⁸ INDIA CONST. art 14

⁹ *Maneka Gandhi v. Union of India* (1978) AIR 579 2 SCR 621

¹⁰ *Keshavananda Bharti v. State of Kerala* (1973) AIR 4 SCC 225

¹¹ INDIA CONST. art 21

¹² INDIA CONST. art 19

Only reasonable restrictions that are compliant to Articles 14, 19, and 21 may be placed on these freedoms. Because of their essential significance, these three articles of the Indian Constitution are frequently identified as the "Golden Triangle" of the document. The Supreme Court ruled in *E.P. Royappa v. State of Tamil Nadu*¹³ that when restricting basic rights, the state must comply with Articles 14, 19, and 21.

Judicial review is another essential component of the rule of law, serving to uphold fundamental constitutional values and verify the legitimacy of executive orders. Judicial review guarantees that all actions taken by public servants and state authorities are scrutinised and held accountable by the courts.

The independence of the judiciary, safeguarded by the Constitution, is essential to upholding the rule of law. As the guardian of the Constitution and fundamental rights, the judiciary plays a crucial role in maintaining the rule of law. Judicial review is also considered a basic feature of the Constitution. Thus, the principles of the rule of law permeate the very fabric of the Indian Constitution.

Role of Judiciary in Rule of Law

There are a number of cases where the concept of the rule of law in Administrative Law in India was discussed. Some of many cases are as follows:

A.K. Gopalan v. State of Madras (1950)¹⁴: This historic case, referred to as the Habeas Corpus instance, contested a detention order issued in an emergency on the grounds that it violated the rule of law, which is regarded as a fundamental component of the Indian Constitution. Whether India has a legal system that goes beyond Article 21 was the main question put to the Supreme Court. Justice Khanna dissented, pointing out that the rule of law is fundamental to all civilised communities and necessary for striking a balance between freedom for individuals and public order. The majority opinion rejected this idea. He maintained that the state cannot legally deprive someone of their life or liberty, even in the absence of Article 21¹⁵.

¹³ *E.P. Royappa v. State of Tamil Nadu* (1974) AIR SC 555

¹⁴ (1950) AIR 27 SCR 88

¹⁵ INDIA CONST. art 21

A.K. Kraipak v. Union of India (1969)¹⁶: The Supreme Court ruled that administrative duties also need to follow natural justice principles. The Court emphasised that all state authorities must behave in a just, equitable, and reasonable manner and are subject to the rule of law. This principle, which applies to all administrative activities, strengthens the notion that the rule of law governs the operations of all state agencies.

Indira Nehru Gandhi v. Raj Narayan (1975)¹⁷: There was opposition to the 39th Amendment, which exempted high-ranking official elections from judicial review. This amendment was declared illegal by the Supreme Court because it went against the fundamental principles of the Constitution, especially the rule of law. The Chief Justice stated that because it goes against the fundamental idea of non-arbitrariness, the rule of law prohibits any retroactive validation of an unlawful election.

Bachan Singh v. State of Punjab (1980)¹⁸: This important ruling about the death penalty's legitimacy permitted its application in the "rarest of the rare" circumstances. Justice Bhagwati dissented, claiming that Articles 14 and 21 are violated by the death punishment as it is outlined in Section 302 of the IPC. He emphasised that the rule of law rejects arbitrary behaviour and demands that the executive and legislative branches be subject to independent judicial oversight.

Sambamurthy v. State of Andhra Pradesh (1986)¹⁹: Clause 5 of Article 371-D, that gave the government the authority to overrule administrative tribunal rulings, was declared unconstitutional by the Supreme Court. Chief Justice Bhagwati declared this clause illegal on the grounds that it went against the fundamental tenet of the Constitution—the rule of law. The ruling reaffirmed the importance of judicial review being a component on the rule of law.

Yusuf Khan v. Manohar Joshi (2000)²⁰: The Supreme Court emphasized the state's duty to maintain law and order under the rule of law, ensuring that no acts of violence undermine this principle.

¹⁶ Civil Petition no. 541/2019

¹⁷ (1975) AIR 2 SCC 159

¹⁸ Criminal Appeal no. 273 of 1979

¹⁹ (1987) 2 ATC 502

²⁰ (2000) AIR 2 SCC 696

ADM Jabalpur v. Shivkant Shukla (1976)²¹: The Habeas Corpus scenario, another significant case from the Emergency period, raised the question if any legal rights persisted after Article 21²² while fundamental rights remained suspended. In a controversial decision, the Court upheld the state's position and rejected the idea that the rule of law supersedes constitutional prohibitions.

Keshavananda Bharti v. State of Kerala (1973)²³: The Supreme Court limited Parliament's ability to change the core elements of the Constitution by ruling in this landmark judgement that the rule of law is a component of the Constitution's fundamental structure.

Legal Aid and Access to Justice in India

Justice and Access to Justice

To be just means to treat each person equally, rationally, and equitably. Making sure that everyone has efficient channels for resolving grievances—especially the impoverished, the vulnerable, and the marginalized—is known as providing access to justice. Opportunities that are equal for the enforcement of legal rights are part of it, especially for people who have had their fundamental rights violated or who are being exploited. The ability to petition the court, legal counsel, and free legal aid are essential components of access to justice that guarantee even the most vulnerable members of society are shielded against capricious actions by the government or private organisations.²⁴

Legal Aid and Equality in Justice

Establishing social mechanisms that ensure that all individuals have a connection to the legal system as well as may claim their legal rights is what legal assistance implies. Equal justice is highly valued in the Indian Constitution, and legal aid strives to ensure ensure no one is denied access to the legal system due to their socioeconomic status as well as other economic or social disadvantages. The underprivileged must obtain free legal assistance if a community is to maintain the rule of law. Reasonability, justice, and fairness in the legal system are all essential elements of this.

²¹ 1976 AIR SCC 1207

²² INDIA CONST. art 21

²³ (1973) AIR 4 SCC 225

²⁴ Dr Sarabjit Kaur, *Access to Justice and Legal Aid in India*, Infilbnet, <https://ebooks.infilbnet.ac.in/lawp02/chapter/access-to-justice-and-legal-aid-in-india-statutory-and-case-laws/>

In *Hussainara Khatoon v. State of Bihar*²⁵, Justice P.N. Bhagwati emphasised the value of free legal aid in the administration of justice. He said that any accused person that cannot afford legal representation because of financial hardship or other conditions has a constitutional right to obtain free legal aid from the government. A trial could become unlawful and violate Article 21²⁶ if such aid is denied. Justice thus requires the State to offer free legal services, and if it doesn't, the entire legal system may be deemed void.

The Need for Government-Funded Legal Aid

To safeguard the rights of people who are unable to cover the cost of legal counsel, government funds ought to be allocated towards providing free legal aid. This ensures that everyone, regardless of financial circumstances, has access to courts, tribunals, as well as other authorities looking for recourse.

Article 39-A of the Indian Constitution: Equal Justice and Free Legal Aid

The 42nd Amendment Act of 1976 added Article 39-A²⁷, which highlights the state's obligation to guarantee ensure the legal system advances justice determined by equal opportunity. In order to guarantee that the rule of law is not delayed because of social or economic disadvantages, it is necessary to provide free legal aid, either through laws or other initiatives. This provision aims to remove financial barriers that prevent people from accessing the courts in order to make justice accessible to everyone, especially those from economically and socially disadvantaged backgrounds.

The essay emphasises the necessity to streamline legal processes, adapt the justice system to the requirements of the public, and use legal resources effectively. The Legal Services Authorities Act of 1987 was passed in order to carry out these objectives. This Act put Article 39-A's goal into practice by establishing legal services organisations at different tiers to offer free legal aid to qualified individuals.

Free legal aid was first proposed during the Indian independence movement, when leaders like Jawaharlal Nehru, Dr. B.R. Ambedkar, and Mahatma Gandhi stressed the importance of justice for all people, regardless of their financial situation. The Law Commission of India's 1956

²⁵ (1979) AIR 3 SCR 532

²⁶ INDIA CONST, art. 21

²⁷ INDIA CONST, art. 39, cl A

Report on Legal Aid emphasised the importance of helping the underprivileged and disenfranchised obtain justice even more.

The Supreme Court's seminal ruling in *Hussainara Khatoon v. State of Bihar* (1979)²⁸ rather than 1973—did in fact set the stage for the acknowledgement of free legal aid as a fundamental component of the right to life and personal liberty guaranteed by Article 21 of the Indian Constitution. This case established the need of free legal aid as a fundamental right by bringing attention to the horrific conditions of undertrial detainees in Bihar. The case also established the relevance to offering legal assistance to people who could not pay it.

The ruling mandated the creation of legal aid panels at the district and taluka levels in order to guarantee that everyone, regardless of their economic status, could access the legal system. Following this development, Article 39-A was added to the Constitution by the 42nd Amendment Act of 1976, which required the provision of free legal aid in order to ensure that no citizen would be denied justice because of their financial situation or other limitations.

The Legal Services Authorities Act of 1987 was passed in order to implement Article 39-A. This Act made free legal aid available to all who qualify by institutionalising the structure for legal services authority at the federal, state, and local levels. Millions of disadvantaged citizens now have better access to justice thanks to the Act, which ensures that their inability to pay for legal representation won't stop them from fighting for their rights.

Certain Legal Provisions Enhancing Access to Justice:

- 1. Rule 9A of the Civil Procedure Code (CPC), 1908:** Under Order XXXIII of the CPC, Rule 9A allows the court to assign a pleader to an indigent person and exempts such individuals from paying court fees. This provision ensures that poverty does not become a barrier to seeking justice in civil cases.
- 2. Section 304 of the Code of Criminal Procedure (CrPC), 1973:** This provision requires the court to assign an attorney or advocate to represent a suspect facing prosecution before a Court of Session at the State's expense if the accused person cannot afford one. This guarantees that every person's right to a fair trial is respected, irrespective of their financial situation.

²⁸ (1979) AIR 3 SCR 532

Government Schemes and Policies

In order to guarantee that the economically and socially marginalised segments of society have equal access to justice and free legal aid, the Indian government has implemented a number of programs and laws. These programs aim to empower citizens to recognise and use their legal rights by raising legal awareness among them in addition to offering legal assistance²⁹. Among the important programs and directives are:

1. Legal Literacy Camps:

- To guarantee that everyone is informed of their legal rights, including the availability of free legal assistance, legal literacy is crucial. In order to do this, legal institutions, NGOs, and the government host a variety of legal literacy programs in rural areas, law schools, and law colleges, as well as constitutional rights education lectures. By imparting fundamental legal information, the main goal is to guarantee that justice is available to everyone, regardless of their financial situation.
- These camps help in spreading awareness about fundamental rights, legal procedures, and government schemes.
- Special focus is given to women's rights, child protection laws, and new legislation.

2. Committee for Implementing Legal Aid Schemes (CILAS):

Under the direction of Justice P.N. Bhagwati, the Committee on Implementing Legal Aid Schemes (CILAS) formed in 1980 with the goal of supervising and organising legal aid initiatives throughout the nation. CILAS helped create a structure for legal services throughout India and set the groundwork for an organised approach to legal aid.

- NALSA continues its objective of delivering strategic and preventive legal aid through the State Legal Services Authorities, which it works with to organise women's empowerment programs and legal literacy camps in rural areas.

3. Designing Innovative Solutions for Holistic Access to Justice (DISHA):

To improve the availability, affordability, and convenience of legal services, the Department for Justice started the DISHA initiative. The program is centred on developing solutions that are easy to use in order to improve the provision of legal services as well as guarantee efficient access to justice.

²⁹ Amrit Raj Dubey, *Access to Justice vis-a-vis Legal Aid And Services System in India: A Critical Analysis*, Legal Service India, <https://www.legalserviceindia.com/legal/article-15207-access-to-justice-vis-a-vis-legal-aid-and-services-system-in-india-a-critical-analysis.html>

DISHA has a strong focus on providing comprehensive accessibility to justice through cutting-edge strategies including combining technology with legal education programs.

4. Lok Adalats:

A venue for peaceful settlement of conflicts that are either in the court system or in the pre-litigation phase is offered by Lok Adalats, a form of alternative dispute resolution. They are especially helpful to those who cannot afford to fight protracted, costly legal fights.

Lok Adalats are a useful tool for the quick and affordable settlement of conflicts since they are founded on the ideals of fairness, equity, and compromise.

Modern Interpretation of the Rule of Law

Dicey's traditional borders are no longer applicable to the present interpretation of the rule of law as expressed by international organisations and legal experts. It currently includes the advancement of social justice, human dignity, and civil rights in addition to the prohibition of arbitrary power³⁰. The preservation of human dignity is emphasised as being essential to the rule of law in the Delhi Declaration of 1959 of the International Commission of Jurists, that was reiterated in Lagos in 1961. According to this broadened understanding, the rule of law must be implemented in a way that upholds people's dignity, which includes their socioeconomic, political, educational, cultural, as well as developmental rights in addition to their civil and political rights.

The Role of Human Rights in the Rule of Law

Ensuring human rights protection is essential to enforcing the rule of law in nations like India, where socioeconomic differences are substantial. The idea of the rule of law is changing, and it now acknowledges that human rights protection systems are essential to properly just and equitable governance. This is especially important in developing nations where socioeconomic rights require strong safeguarding.

Moderation of Dicey's Concept in the Modern Context

In light of the current legal environment, Professor Wade provides a sophisticated viewpoint

³⁰ Shweta Singh, *Rule of law and its relevance*, Ipleaders, October 12, 2020, https://blog.ipleaders.in/rule-law-relevance/#Exceptions_to_Rule_of_Law

on Dicey's conventional definition. Wade claims that the contemporary rule of law includes:

1. Effective Control along with Transparency for Delegated Legislation: Delegated laws must to be well-defined and extensively publicised, particularly if they carry penalties.
2. Equitable Liability Under the Law: Regular citizens and public servants should be held to the same standards by the laws of the state.
3. Impartial adjudication for rights: Independent, unbiased tribunals should decide each person's rights.
4. Protecting Fundamental Rights: The nation's customary rules ought to uphold each person's fundamental rights.

Barrier to Access to Justice in India

1. Judicial Delays: The enormous backlog of cases in India is one of the biggest obstacles to obtaining justice. There are currently about 3.5 crore cases waiting in different courts, hence delays in the legal system are usual. The lack of judges, ineffective court procedures, and numerous adjournments all lead to protracted litigation, which stresses plaintiffs emotionally and financially in addition to undermining the legitimacy of the legal system³¹. Prolonged delays might push people to look for extrajudicial resolutions or give up on their claims, which frequently results in a loss of legal rights.
2. High Legal Costs: For many people, particularly those who come from economically disadvantaged backgrounds, the cost of litigation is a significant barrier. Court fees, attorney fees, and the cost of acquiring legal documentation are all included in the category of legal costs. The duration of the trial may cause these expenses to increase, limiting access to justice to those with the means. Legal assistance options are in place, however they are frequently underutilised because of various obstacles and a lack of understanding.
3. Inadequate Legal Aid Services: In spite of the Legal Services Authorities Act of 1987 and other statutory and constitutional clauses for legal aid, such as those included in Article 39-A, the use of these services is still quite low. The stigma attached to pro bono legal services, a lack of public knowledge, and inadequate funding are some of the factors that lead to the underutilisation of legal aid. The imbalance in access to justice is sustained by this discrepancy in the effectiveness and availability of legal aid services.

³¹ Juhi Gupta, *Legal and Institutional Barriers To Access To Justice*, Infilibnet.

4. **Limited Use of Technology:** India's judicial system has only recently begun to incorporate technology. Though their adoption has been patchy, e-courts, videoconferencing, as well as electronic case management tools offer the potential to improve efficiency and streamline judicial operations. The legal system's capacity to resolve cases quickly is hampered by the restricted use of technology, which also makes it more difficult for the general public to obtain legal information and services.
5. **Lack of Legal Literacy:** Several individuals, particularly in underserved and rural areas, lack even the most basic legal understanding regarding their rights and the channels through which they might pursue justice. To close this gap, the government runs programs such legal literacy camps as well as legal aid boards, although their efficacy and accessibility are frequently limited. Insufficient legal knowledge hinders people's ability to comprehend and make use of the resources at their disposal, hence restricting the access to justice.

Recommendations and Suggestion

1. **Enhance Legal Aid Outreach and Awareness:** Conduct focused campaigns to raise consciousness about free legal aid services, particularly in underserved and rural areas. To inform individuals on their rights along with the legal aid resources at their disposal, legal literacy initiatives must to be carried out in their native tongues.
2. **Strengthen Legal Aid's Quality and Availability:** Give legal aid attorneys greater tools and training to help them deliver higher-quality legal aid. Make sure that the system for legal aid is accessible and adequately supported as well. More grassroots legal aid clinics and centres should be established.
3. **Use Technology to Streamline the Delivery of Justice:** To cut down on delays and enhance accessibility, particularly for individuals living in rural locations, increase the use of e-courts, virtual hearings, as well as online case management systems. Early resolution, case management, and legal research can all benefit from the incorporation of AI-based solutions.
4. **Encourage the Use of Alternative Dispute Resolution (ADR):** To settle conflicts swiftly and affordably, promote the utilisation of mediation, arbitration, and various other ADR procedures. District-level ADR centres should be established to offer easily accessible alternatives for settling disputes outside of the established legal system.

5. Decentralise and Empower Local Legal assistance bodies: Give district along with taluk-level legal services bodies greater authority and funding in order to decentralise the legal assistance system. As a result, they will be better equipped to meet the particular legal requirements for their local communities thus guarantee that justice is available to all.

Conclusion

Despite being the cornerstone of democratic administration, the idea of the rule of law has undergone substantial change, particularly in relation to access to justice. A.V. Dicey's ideas have been updated to suit modern requirements in India, resulting in a more complex understanding of the rule of law that strikes a balance between individual rights and authority control.

The Indian legal system has established the foundation for guaranteeing equal access to justice for all individuals, especially those from economically disadvantaged groups, through significant rulings as well as constitutional provisions including Article 39-A. Together with government programs like NALSA and programs like Tele-Law and Nyaya Bandhu, the legislation known as the Legal Services Authorities Act, 1987, represents a commitment to closing the justice gap. But there are still many major obstacles to overcome, such as lengthy court cases, exorbitant legal expenses, and the requirement for deeper technology integration. The suggestions made in this paper emphasise crucial actions that should be taken to strengthen the legal aid system and increase justice access. Increasing the scope for legal literacy programs, maximising the application of technology in legal procedures, promoting alternative conflict resolution procedures, and raising understanding of legal aid services are a few of these. By resolving these issues, India may ensure that justice is a fundamental right that is available to everyone rather than a privilege for a select few by better aligning its legal system with the principles of the rule of law.

In the end, pursuing justice necessitates ongoing creativity and improvement. India must make guarantee that the rule of law isn't merely a theoretical ideal as well as an actual reality as it works to protect each person's rights and dignity. India may strive towards a legal system that truly represents its diverse population and promotes a more just and equitable society by means of persistent efforts and inclusive policies.