

Human Rights and Access to Justice: Overcoming Barriers to Legal Remedies

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Abstract— Access to justice for all is the idea that everyone should be able to seek legal help, protect their rights, and receive fair treatment under the law, regardless of their financial situation or personal circumstances. It is a key component of effective, fair, and inclusive justice systems. Access to justice is a fundamental human right, essential for the protection and promotion of all other human rights. However, many individuals and groups face significant barriers to accessing legal remedies, undermining their ability to seek justice and accountability. This article examines the relationship between human rights and access to justice, identifying key barriers to legal remedies and exploring strategies for overcoming these obstacles and suggesting an appropriate measures to revolve the conflicts of interest.

Index Terms: Justice, fair, remedies, barriers.

I. INTRODUCTION

Background and context:

Universal Declaration of Human Rights (1948): The UDHR, adopted by the United Nations General Assembly, established the fundamental principles of human rights, including the right to a fair trial and access to justice.

International Covenant on Civil and Political Rights (1966): The ICCPR further elaborated on the right to a fair trial and access to justice, emphasizing the importance of an independent judiciary and the right to legal assistance.

Vienna Declaration and Programme of Action (1993): The Vienna Declaration reaffirmed the importance of access to justice and the rule of law in promoting human rights.

Access to justice is one of the constitutionally recognized fundamental and human rights. Access to justice means reaching justice easily by legal proceedings at the appropriate time and place.

Delivery of justice should be impartial, and also take all necessary steps to provide transparent, effective, fair and accountable service to all people irrespective of caste, colour, sex, religion, economic status etc that promote access to justice.

Legal aid programs and campaigns are a central component of strategies to enhance access to justice for every person. Access to justice is often used as a term for access to the formal institution of the legal system by those in search of a legal remedy either by individuals or collectively or by constitutional challenges. It is essential today that the effectiveness of the rule of law should go hand in hand with access to justice.

Access to justice and International Human Rights Laws: The Universal Declaration of Human Rights drafted in the year 1948 gave universal recognition to these rights including the right of 'access to justice' in the following manner:

Article.6: Everyone has the right to recognition everywhere as a person before the law.

Article.7: All are equal before the law and are entitled without any discrimination to equal protection of the law.

Article.8: Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the Constitution or by law.

II. DEFINITION OF HUMAN RIGHTS AND ACCESS TO JUSTICE

Human rights are fundamental rights that all people have by virtue of being human, and access to justice is a vital human right:

A. Human rights

These are universal rights that apply to everyone, regardless of their status. They include the right to life, freedom from torture, freedom of expression, and the right to education. The Universal Declaration of Human Rights (UDHR) was the first legal document to set out these rights.

B. Access to justice

This is the right to an effective remedy and a fair and public hearing. The UDHR includes articles that highlight the importance of access to justice. The International Criminal Court (ICC) was established to ensure justice for victims of genocide, crimes against humanity, and war crimes.

III. IMPORTANCE OF ACCESS TO JUSTICE IN PROTECTING HUMAN RIGHTS

Promotes Accountability: Access to justice ensures that individuals and institutions are held accountable for their actions. This helps to prevent human rights abuses and promotes a culture of respect for human rights.

Protects Vulnerable Groups: Access to justice is

particularly important for vulnerable groups, such as women, children, and minorities, who may face discrimination and marginalization. By providing access to justice, these groups can assert their rights and challenge discriminatory practices.

Upholds the Rule of Law: Access to justice is essential for upholding the rule of law, which is a fundamental principle of human rights. By providing access to justice, individuals can challenge arbitrary decisions and actions by those in power.

Prevents Impunity: Access to justice helps to prevent impunity by ensuring that those responsible for human rights abuses are held accountable. This helps to promote a culture of accountability and respect for human rights.

Empowers Individuals and Communities: Access to justice empowers individuals and communities to assert their rights and challenge human rights abuses. This helps to promote a culture of human rights and empowers individuals and communities to demand respect for their rights.

Supports Sustainable Development: Access to justice is essential for achieving sustainable development. By providing access to justice, individuals and communities can assert their rights and challenge human rights abuses, which helps to promote sustainable development.

Fosters Trust and Confidence: Access to justice helps to foster trust and confidence in institutions and the justice system. This is essential for promoting human rights and the rule of law.

Protects Economic, Social, and Cultural Rights: Access to justice is essential for protecting economic, social, and cultural rights, such as the right to education, healthcare, and social security.

Supports National and International Human Rights Mechanisms: Access to justice supports national and international human rights mechanisms, such as the Universal Periodic Review (UPR) and the Human Rights Council.

Promotes Human Dignity: Access to justice promotes human dignity by ensuring that individuals are treated with respect and dignity, and that their rights are protected and promoted.

IV. BARRIERS TO ACCESS TO JUSTICE

A. Economic barriers: cost of legal services, court fees, and other expenses:

Another very important impediment to access to justice was the economic divide, which occasioned because of the social divide which already existed in the society. Access to Justice has never been a problem for one, who has access to all means and is financially sound. Access to Justice is a colossal difficulty for someone who has no recourse to financial resources and therefore had no recourse to pursue legal remedies, assuming that he was in fact aware about his rights.

B. Social and cultural barriers: discrimination, language barriers, and cultural biases

Social barriers to Access to Justice Social Barriers are those impediments which arise by virtue of the social setting in which the person resides, or has grown up or nurtured in. When the very society in which the person resides becomes the impediment in voicing his opinions, this leads to obfuscation of justice. India has always been a mix of two societies: India and Bharat. Bharat resides in villages which are heavily dominated by class politics and caste dynamics. The pristine system of Varna System in the Early Rig Vedic Era was grossly maligned during the later Vedic Ages which lead to the creeping of Caste Divides. Life for this segment of society was always full of challenges. Access to basic amenities was the biggest challenge of the days, which in turn resulted from the class divide. The rich grew richer whereas the poor were oppressed, and not given the basic amenities such as proper education, a healthy and balanced diet as well as a way to enhance their skills so that they could grow as a human potential.

C. Legal Barriers to Access to Justice:

People are unable to obtain remedies because of a variety of reasons, which may or may not be attributable to their societal stature, or their economic independence, but which may also have a stark bearing on the quality of justice delivered by the legal system itself. Legal barriers to access to Justice are the barriers which can be attributable to the very legal system in which we operate. The problems are manifold, however an attempt has been drawn to look at Justice Dispensing problem from the view point of three very crucial stakeholders: The Litigants, the Courts and the Executive. The term Executive has a broad connotation and includes the police, the other executive agencies, including those which are responsible for carrying out policy operations, as well as those which are also known as ancillary agencies which are necessitated for the proper adjudication of the dispute.

D. Geographical Barriers:

India sub-continent has extremely varied geography, which although is a blessings but, suffering from the challenges. Access to justice is one such especially in rural areas. This can be resolved to some extent through e-courts and will not burden a state's economy. Relationship between law and community can be improved by ensuring access to justice and e-courts is one such way to improve it, In many trials in India, the physical presence of the accused and victim is necessary, e-courts will reduce overall litigation expenses by appearing virtually."

V. STRATEGIES FOR OVERCOMING BARRIERS

Access to justice is a basic principle of the rule of law. In the absence of access to justice, people are unable to have

their voice heard, exercise their rights, challenge discrimination or hold decision-makers accountable. The Declaration of the High-level Meeting on the Rule of Law emphasizes the right of equal access to justice for all, including members of vulnerable groups, and reaffirmed the commitment of Member States to taking all necessary steps to provide fair, transparent, effective, non-discriminatory and accountable services that promote access to justice for all. Following the strategies that we can apply to provide the access to the justice to the victims.

A. E-courts

E-courts can help improve access to justice, especially in rural areas. They can also reduce litigation expenses by allowing the accused and victim to appear virtually.

B. Virtual courts

Virtual courts can make the trial process more efficient and accessible, especially for cases involving witnesses or defendants in remote areas.

C. Mediation

Mediation can save time and money for the parties and provide them with justice without going through litigation. The mediator maintains confidentiality, so the personal information shared by the parties is not known to the judge who refers the case for mediation.

D. Legal Services Authority Act, 1987

This act aims to ensure that no one is denied access to justice because of disability or economic reasons. It provides free legal aid and establishes Lok Adalat.

E. Educating the public

The government can spread awareness and educate the people about their basic fundamental rights. This can lead to proper utilization of free legal aid services.

F. Other strategies include:

- Addressing discriminatory and gender-biased clauses in statutes
- Improving judicial processes
- Handling women's complaints properly
- Making legal language in-laws explicit and precise
- Enacting gender-specific provisions
- Increasing the number of judges
- Reducing corruption in the judiciary.

VI. CONCLUSION

In order to ensure a just and equitable judicial system that upholds the rule of law and defends individual rights, the problem of access to justice is of the utmost significance. The notion of access to justice, its importance, the stakeholders involved, the pertinent legislative framework in India, and recommendations for improving access to justice have all

been thoroughly covered in this research paper. We can create a more inclusive and accessible justice system that meets the needs of the most vulnerable members of society by tackling socio economic gaps, bolstering legal aid programmes, encouraging legal literacy, and utilizing technology.

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