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Role of Legal Aid Grants to States in India

Shreya Sinha
LL.M. student, Gujarat National Law University, Silvassa.
sinhashreya2000@gmail.com

Abstract: *This article discussed how legal aid grants to States in India came to be a constitutional and fiscal route to justice. Free legal aid that has been established by the Articles 39A of the Directive Principles of State Policy and in several ways supported by the judicial pronouncements under Articles 14 and 21 has become a constitutional provision. In an asymmetric federal system in India, where the Centre is financially more powerful than the States, which have the duty of delivering justice, grants become a crucial tool of cooperative federalism. The article examines legal aid grants as redistributive measures to correct vertical and horizontal fiscal imbalances, its role in decentralization and cooperative federalism, the empowerment of States to respond to the local realities to deliver justice, and the inadequacy of the grant system that are causing weaknesses, loss of autonomy, uniformity, and short term which requires reform. It puts forward new ideas like performance-based funding, transparency, and a Governance Accountability that grants should not be a simple fiscal transfer, but a governance tool that bolsters constitutional justice and equitable access throughout India.*

Key Words: *grant system, cooperative federalism, Judicial Activism, fiscal priority.*

1. INTRODUCTION

The legal aid grants being given to States in India to be interpreted in the constitutional vision of justice in Articles 39A of the Directive Principles of State Policy. This clause guides the State to make sure that no citizen is deprived of access to justice on economic or social inequality bases. Although not justiciable, judicial declarations have made free legal assistance into a constitutional requirement under Articles 14 and 21, and have turned it into a matter of welfare desire into a legal obligation. The Supreme Court in *Hussainara Khatoon v State of Bihar*[1]and *Manubhai Pragaji Vashi v State of Maharashtra* [2] underscored that legal aid is integral to both equality before law and the right to life, thereby situating it at the heart of India's federal bargain.

The asymmetry in the federal structure of India, however, is characterized by the fact that the Centre enjoys more fiscal resources whereas the States are left to deliver justice at the ground. This imbalance creates the need to have a system of grants and transfers under which the Centre facilitates States in meeting their constitutional requirements. Legal aid grants, therefore, are not simply about putting money into their hands, but about employing them as a tool of cooperative federalism, which continues to promise equal access to justice in various geographical areas. The article looks at the roles of legal aid grants as a constitutional and fiscal access to justice. It starts by placing grants in Article 39A and judicial activism, demonstrating that free legal aid has become a constitutional obligation. It then follows the anatomy of grants using the recommendations of the Finance Commissions and the budgetary allocations and underscores the redistributive nature in correcting the vertical and horizontal fiscal imbalances. The article discusses the concept of decentralization and cooperative federalism and how the States modify justice delivery in response to local realities and depend on central transfers. Meanwhile, it critically analyzes the lack of strengths in the weakness of the grant system, loss of autonomy, sameness over diversity and short termism as weaknesses of the system that hamper effectiveness. Lastly, it suggests reforms and innovations performance-based funding, transparency, and a Governance Accountability by claiming that grants should change to not just fiscal transfer but also to an instrument of smart cooperative federalism in order to achieve equal access to justice.

[1] AIR 1979 SC 1360
[2] 1995(5) SCC 730)

2. LITERATURE REVIEW

1.Bridging the Gap Between Law and Justice: An In-Depth Discussion of Article 39A and the Right to Free Legal Aid in India - Abdul Samad Suhail and Ashish Kumar Singhal (2025)

Article 39A is placed in this paper as the normative basis of free legal assistance by pointing out that pronouncements by a court under Articles 14 and 21 have made it a constitutional obligation. It emphasizes how legal aid has changed its course as a welfare aspiration to a constitutional requirement.

2.Article 39A and the Right to Free Legal Aid: Implementation Challenges and Judicial Activism - Shilpa Bhimrao Chintewar and Kranti D Deshmukh (2025)

The authors underline the importance of judicial activism, which has broadened the application of Article 39A, highlighting the way in which the courts have pressured the State to offer legal assistance despite an inability to do so due to financial constraints. Their contribution highlights the judicial process in strengthening the equality under law.

3.Implications of 14th Finance Commission Recommendations to Finance the Social Sectors in Odisha: Ranjan Kumar Mohanty (2020)

Mohanty reviews recommendations of Finance Commission especially the 14 th and criticizes their lack of effectiveness in addressing the needs of the grassroots legal aid. His work shows the conflict between constitutional principles and financial reality in funding the social sector.

4.Fiscal Federalism and Social Sector Financing in India: Issues and Challenges- Satyabrata Tripathy (2025)

this places legal aid in the context of the bigger issues of fiscal federalism, including lack of resources and structural defects in the allocation processes. According to him, all these imperfections are contradicting the constitutional promise of universal access to justice.

5.The Book: Legal Aid in India: Constitution and landmark Supreme Court Cases - Akshita Tiwari (2023)

Tiwari gives a doctrinal explanation of some of the landmark Supreme Court decisions such as Hussainara Khatoon and Manubhai Pragaji Vashi. She illustrates the fact that judicial declarations have rendered legal assistance to be invaluable in a manner that connects the constitutional value and economic requirements.

6. Report No. 277 on Legal Aid - Law Commission of India (2018)

The report by the Law Commission revealed that there was a systemic lack in the delivery of legal aid and suggested reforms, such as performance-based funding and accountability measures. It strengthened the necessity to match fiscal transfers with quantifiable justice outcomes and more.

3. OBJECTIVES

- To prove that free legal aid has become a constitutional obligation in Articles 14, 21 and 39A.
- To discuss legal aid grants as fiscal tools to fix vertical and horizontal imbalances in the Indian federal structure.
- Critically analyze flaws in the grant system and propose reforms to enhance cooperative federalism in the delivery of justice.

4. RESEARCH METHODOLOGY

The research method can be characterized as mainly doctrinal and analytical, basing on the constitutional provisions (Articles 14, 21, and 39A), judicial precedent decisions such as Hussainara Khatoon v. State of Bihar[3] and Manubhai Pragaji Vashi v. State of Maharashtra[4] and legal statutes such as Legal Services Authorities Act, 1987 It also integrates

[3] ibid
[4] ibid

documentary analysis of reports on Finance Commissions, Union Budget allocations, and government audits to track the fiscal path of legal aid grants. The analysis of fiscal federalism and interpretation of the constitution allows the study to assess both the normative basis and practical shortcomings of the grant system and, therefore, to place legal aid in the context of the cooperative federal system in India.

5. LEGAL AID GRANTS AS THE FEDERAL PATHWAY TO JUSTICE

In India, the constitutional vision of justice is anchor in Article 39A of the Directive Principles of State Policy which guides the State not to deny any citizen access to justice on the basis of economic or social inequalities. Though non justiciable, this provision is a normative indicator, which guides the debate on equality before law and entrenches access to justice in the overall context of constitutional governance. It makes justice not just a value but a constitutional duty[5] and so places it at the center of the federal bargain in India.

The federal design of India is marked by high degree of asymmetry with the Centre having larger financial resources compared with the States which have the main responsibility of providing the justice on the ground. This is an imbalance of structure which requires a system of grants and transfers by which the Centre allows States to perform their constitutional duty. Legal aid grants, especially, become an essential tool to overcome vertical fiscal imbalances so that the promise of justice cannot be threatened on the fact of scarcity of resources at the sub national level.

These grants are not an Indian federalism spirit of cooperation but they are an allocation of finances. They facilitate the national pledge of equity and inclusiveness through allocating resources to State Legal Services Authorities and other institutions that encourage the provision of legal assistance at the local level. The Centre, with its financial assistance, the States, with their implementation power partake the constitutional guarantee of justice. This understanding of legal aid grants is a federal subsidy bargain, a partnership in which financial transfers by the Centre supports the institutional innovativeness of the States and they collectively promote the constitutional objective of equal access to justice.

This arrangement accentuates the dynamism of the relations between the ideals of the Constitution and the facts of finances. The justice as it is applied to the Indian context is not merely normative commitment but is a redistributive initiative that must be well balanced by the financial flows between the levels of government. Access to justice is hence a mutually shared responsibility that is founded on constitutional values, state-sustained through fiscal transfers, and fulfilled in cooperative governance.

6. ANATOMY OF LEGAL AID GRANTS IN INDIA

The history of legal aid grants in India is a measure of the increasingly institutionalized access to justice as a constitutional and fiscal priority. Article 39A of the Directive Principles of State Policy, started with, instructed the State to give free legal assistance. This was an aspirational provision initially but formed the basis of such initiatives as the Legal Services Authorities Act, 1987, which established NALSA and SLSAs to effect legal aid. Finance Commissions have been instrumental in the translation of constitutional ideals into the fiscal obligation over the ages. As an example, the 12 th Finance Commission (2005) was categorical that legal aid should be supported and the commissions since then have been providing money and in effect incorporating justice into the distributive reasons behind federal transfers.

However, the adequacy of these allocations is debatable. Though grants are trying to correct fiscal imbalances, they are not always able to meet the needs of the grassroots. An example is the 14th Finance Commission (2015), which recognized the value of legal aid but its allocations have been criticized as insufficient against the magnitude of unmet legal needs. This strain is a portrayal of the way in which justice in numbers demonstrates the powers and deficiencies of fiscal federalism. The allocation mechanisms are also complicated by contrasting principles equity requires poorer States to be supported more, efficiency requires funds to be tied to measurable results, and politics tends to play a role in distribution. These conflicting logics determine the effectiveness of legal aid grants.

The judiciary has reinforced the constitutional imperative of financing justice. In *Hussainara Khatoon v. State of Bihar (1979)*, the Supreme Court held that free legal aid is an essential component of the right to life and liberty under Article 21.[6] Similarly, in *Khatri (II) v. State of Bihar*[7], the Court emphasized that the State cannot avoid its responsibility to

[5] Abdul Samad Suhail and Ashish Kumar Singhal, 'Bridging the Gap Between Law and Justice: An In-Depth Examination of Article 39A and the Right to Free Legal Aid in India' (2025) 7(2) *International Journal for Multidisciplinary Research* (IJFMR)
[6] AIR 1979 SC 1819
[7] (1981)

provide legal aid on grounds of financial constraints.[8] More overly ,in *State of Maharashtra v. Manubhai Pragaji Vashi*[9], the Court underscored that legal aid is integral to equality before law under Article 14.[10] These pronouncements elevate legal aid from a discretionary welfare measure to a constitutional mandate, binding both Centre and States to ensure adequate fiscal support. Collectively, the constitutional directive, Finance Commission recommendations, allocation dynamics, and judicial insistence demonstrate that legal aid grants are not merely welfare transfers but a formal fiscal venture, continually negotiated between ideals, numbers, and institutional obligations.

7. FISCAL FEDERALISM AND THE ECONOMICS OF LEGAL AID

The legal aid in India should be considered as a state good in terms of the fiscal federalism. It is non excludable and non-rivalrous in its nature: by the very fact that institutions like the district legal aid clinics of NALSA have been created it is available to all eligible citizens without reducing the access of others. This renders collective financing an indivisible one, as markets themselves cannot ensure fair delivery. It is in this way that the constitutional pledge of access to justice has an economic rationale in the theory of public goods. Decentralization, at the same time, enhances the delivery of justice since the States are in a better position to develop schemes that are appropriate to the local realities. As an example, the Delhi State Legal Services Authority has come up with the program of migrant workers and survivors of domestic violence whereas the Jharkhand SLSA is concerned with the tribal land disputes. These local strategies raise efficiency and legitimacy, but rely on fiscal transfers to be maintained.

The need for such transfers arises from the vertical fiscal imbalance in India's federal design. The Centre controls the bulk of revenue-raising powers, while States bear the responsibility of delivering justice on the ground. Legal aid grants therefore become a corrective tool, ensuring that constitutional commitments are not undermined by resource constraints. The Union Budget 2025–26 (Budget Estimate) allocated ₹200 crore as grants-in-aid to the National Legal Services Authority (NALSA)[11]is a clear example of how central funds sustain State-level legal aid infrastructure. Without such support, poorer States like Bihar or Odisha would struggle to maintain even basic legal aid services. This illustrates how the Centre's financial capacity and the States' functional responsibilities must be aligned through cooperative transfers.

Horizontal fiscal imbalances are also very crucial and emphasize the differences between the States themselves. The richer States like Maharashtra and Tamil Nadu will be able to invest more in justice delivery and poorer or less institutionalized States especially in the North East find themselves crippled and it also becomes hard to meet even basic needs. This imbalance threatens to provide unequal access to justice within the federation. The assistance to Lok Adalat which discard millions of cases in a year can be seen as redistributive transfers that can close these gaps and ensure equity.

The combination of these conceptual frameworks, i.e., the concept of public goods, decentralization, vertical imbalance and horizontal imbalance, provides a holistic perspective of the fiscal basis of legal aid in India. They demonstrate that the delivery of justice is not only a constitutional dream but it is a complex federal project which involves transfer of financial resources over a long period, collaboration in governance and redistributive administrative processes in order to ensure that the promise of equal access to justice is fulfilled in the whole country.

8. REDISTRIBUTIVE TOOL REDUCING LEGAL AID GRANTS

The Centre, which has a bigger revenue base, directs its funds to States which have the burden of delivery of justice. Such downward redistribution is to make certain that fiscal capacity complies with constitutional requirements of Article 39A. An example is the allocation of ₹200 crore to NALSA in the Union Budget 2024- 25, enabling poorer States like Bihar and Odisha to maintain legal aid clinics that would otherwise fail due to resource shortages. Likewise, Lok Adalat are NALSA-funded institutions that remove millions of litigations every year, making even weaker States to provide a quick resolution. The case law supports this redistributive rationale: in the case of Hussainara Khatoon v. State of Bihar (1979), the Supreme Court found that free legal aid was a part of Article 21, whereas in the case of Manubhai Pragaji Vashi v. State of Maharashtra (1995), it was connected to Article 14 equality. Yet weaknesses persist. Allocation is still insufficient, does not correspond to the magnitude of unmet legal needs, and equity is prone to political bargaining.

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[8] 1981 SCR (2) 408
[9] (1995)
[10] 1995 (5) SCC 730
[11] Lok Sabha, *Unstarred Question No. 1258: Details of Funds Allocated for Legal Aid Across the Country* (answered 2023) < https://sansad.in/getFile/loksabhaquestions/annex/187/AU1258_dgezpi.pdf?source=pqals > accessed 1 April 2026

Therefore, although grants redistribute the capacity of access to justice, they nevertheless fail to even out access in different regions.

9. THE APPLICATION OF DECENTRALIZATION AND COOPERATIVE FEDERALISM

Decentralization also makes delivery of legal aid context sensitive with the States tailoring schemes to local realities. One example is the Delhi State Legal Services Authority has migrant workers and domestic violence survivors' programs, and Jharkhand SLSA is specializing in tribal land claims. These localized interventions reveal the effectiveness and legitimacy of decentralization. Cooperative federalism compliments this by coordinating central funding with State innovation: NALSA offers resources whereas States arrange Lok Adalat and legal literacy camps, establish a common constitutional bargain. Judicial decisions, including Khatri (II) v. State of Bihar, highlight that the inability of States to provide legal aid on the ground of financial incapacity is not a valid defense promoting a shared responsibility. However, weaknesses remain. Central strings are common with grants, and impede autonomy and creativity by the State. Lack of uniform allocation models neglect socio economic diversity of India, leading to inefficiencies. Ad hoc disbursements in the short-term compromise institutional capacity and the State Legal Services Authorities are left wondering on how to plan in the long term. Therefore, decentralization and collaboration enhance justice delivery, but structural weaknesses of the grant system such as inadequacy, loss of independence, unrealized homogeneity, and short termism still undermines the claim of equal access to justice.

10. THE WEAKNESSES IN THE GRANT SYSTEM

Although legal aid is constitutionally supported and even fiscally committed, the grant system in India exposes a number of structural flaws that negatively affect the effectiveness of the system. The initial area of fault is the tension between adequacy and aspirations. Although grants form a financial basis on which legal aid can be provided, the amount is usually insufficient to meet the quantity of unmet need. Dreams of the universal access to justice are therefore limited by small financial grants thereby creating a systematic gap between the ideals of the constitution and the realities on the ground.[12]

The second issue is the loss of independence in the form of attached central strings of funding. Grants often have features that limit the latitude of the States in formulating context specific legal aid programs. Such reliance on central transfers tends to bring States down to implementers of centrally-settled plans, thus jeopardizing the spirit of federal cooperation in creative innovation. The autonomy and accountability is a fragile area, and the States are frequently forced to be more creative on compliance aspects rather than creativity.[13]

The third fault line arises as a result of the tension involving uniformity and diversity. The large social economic heterogeneity of India requires that justice delivery should be differentiated. However, grant schemes tend to use standardized models, which do not adapt to local differences in legal need, institutional capability and social reality. This one-size fits all solution is dangerous in making inefficiencies and injustices because states that have varying issues cannot accommodate interventions in the unique populations.

Lastly, the allocations are short term, which compromises the long-term institutional capacity development. The grants are often given on an annual or ad hoc basis, which makes the State Legal Services Authorities and the district level institutions unsure about the long-term funding. This instability deters investment in infrastructure, training and systemic reforms to an extent of a stop gap means and not a permanent institution of justice. The access to the justice promise is weak in the absence of predictable and long-term fiscal assistance.

Collectively, these vices the lack of adequate sufficiency, weakened autonomy, false uniformity and short termism point to the weaknesses of the grant system structure. They emphasize the necessity of changes that can bring the fiscal transfers and constitutional aspirations into harmony, empower States to innovate, acknowledge diversity in the needs of justice, and develop sustainable capacity of the institutions.

[12] Satyabrata Tripathy, 'Fiscal Federalism and Social Sector Financing in India: Issues and Challenges' (2025) 11(3) *International Journal of Political Science* <https://www.arcjournals.org/pdfs/ijps/v11-i3/4.pdf> accessed 29 March 2026

[13] Akshita Tiwari, 'Legal Aid in India: Constitution & Landmark Supreme Court Cases' (Nirma University Publication, 2023) <https://justicealive.org/legal-aid/legal-aid-in-india-constitutional-promise-supreme-court-rulings-and-landmark-cases/> accessed 25 march 2026

11. THE DIRECTION OF REFORM AND INNOVATION.

The ongoing corruption in the grant system provides the argument to reconsider the way legal aid financing and delivery are organized in the federal context of India. Reform should not be an incremental change, but rather adopt innovation that will enhance accountability, efficiency, and equity. One of the main offers in this respect is the establishment of a Governance Accountability Index on legal aid grants. This kind of index could offer a systematic instrument that gauges the effectiveness of the States in the use of fiscal transfers and ties the funding to the actual increase in access to justice.[14] The index would turn grants into agents of systemic reform by incorporating into fiscal appraisal the precepts of governance transparency, inclusiveness and responsiveness.

This vision is further strengthened in performance tied and result based funding models. Conventional allocations that are input based can easily miss whether grants are converted into any meaningful justice delivery. Funding models can encourage States to be creative and result-oriented by conditioning funding to quantifiable performance metrics, e.g., the number of beneficiaries served, a decrease in the number of cases pending, or an increase in legal literacy.[15] Such a strategy is in line with constitutional goals of allocating finances as the fiscal transfers are spent and the outcomes must lead to measurable changes on access to justice.

Benchmarking and transparency are also imperative. The non-transparency of the existing allocations makes it inefficient and lacking credibility to the populace. Having well-defined performance standards, reporting a comparative data across the States, and integrating spillover sensitive allocation systems would build a culture of accountability.[16] There should be a reward of innovations that will propagate to other States, as their spillover effects, and best practices should be spread throughout the federation. By so doing, besides enhancing oversight, transparency and benchmarking would also spur healthy competition among States to promote justice delivery.

These reforms hold together a vision of a future where legal aid grants will not be fiscal transfers but instruments of smart cooperative federalism. India can become a fair, efficient and innovative system of justice delivery by incorporating accountability, connecting finance to results and enhancing transparency. The reform agenda therefore converts the legal aid financing into a governance project so that fiscal federalism is a real facilitator of constitutional justice.[17]

12. CONCLUSION

The analysis of the role of legal aid grants to States in India illustrates the interaction of constitutional ideals, fiscal federalism, and cooperative governance to promote access to justice. These grants are also based on Article 39A and supported by judicial pronouncements, they are redistributive tools that address vertical and horizontal imbalances, and decentralize and innovate at the State level. However, the systemic flaws of inadequacy, autonomy deficiency, homogeneity versus diversity and short termism still persist to constrain their performance. The solution is to shift grants as just fiscal transfers into instruments of governance in the form of performance-based funding, transparency and accountability systems like a Governance Accountability Index. A way to achieve this is by harmonizing financial flows with quantifiable results so that cooperative federalism can be made stronger and that legal assistance is not merely a promise in the constitution but a reality that is lived. In the end, legal aid grants should become a driver of system reform, and an intermediary between the ideal of constitutionality and the real-life practice of justice in different regions.

13. RECOMMENDATION

It is suggested that the Union and State governments should institutionalize a long term, predictable funding system which no longer relies on ad hoc funding in order to enhance the effectiveness of the legal aid grants. This must be augmented with capacity building of State Legal Services Authorities, so that they have the infrastructure and trained staff to administer justice at all times. Moreover, a clear reporting and regular auditing process should be incorporated

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[14] Law Commission of India, *Report No. 277 Legal Aid* (2018) https://static.pib.gov.in/WriteReadData/userfiles/Report%20No.%20277%20Wrongful%20Prosecution.pdf > accessed on 29 March 2026

[15] Ministry of Law and Justice, *Union Budget 2025–26, Demand No. 58* (Government of India, 2025)

[16] Comptroller and Auditor General of India, *Performance Audit on Legal Aid Services* (2022); UNDP, *Access to Justice in India: A Review of Legal Aid Services* (2019)

[17] *Khatri (II) v State of Bihar* (1981) 1 SCC 627; *Hussainara Khatoon v State of Bihar* (1979) AIR 1369 (SC); *State of Maharashtra v Manubhai Pragaji Vashi* (1995) 5 SCC 730

into the grant system, which would increase the accountability and build the trust of people. Placing steady funding with institutional reinforcement and supervision, legal aid grants can become long-term tools of cooperative federalism that actually close the divide between constitutional ideals and daily delivery of justice.

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