



1st Regional Conference on Access to Legal Aid

STRENGTHENING ACCESS TO JUSTICE
IN THE GLOBAL SOUTH

New Delhi, November 27-28, 2023

Chief Justices' Roundtable on 'Equal Access to Justice for All in the Global South'

New Delhi, 27th November 2023, Monday

Additional Building Complex, Supreme Court of India, New Delhi (TBC)

BACKGROUND

Worldwide, more than five billion people have unmet justice needs¹. They either live in extreme conditions of injustice with no legal protection or opportunity to defend their rights, are faced with a justice problem they cannot resolve, or are excluded from the social, economic and political opportunities the law should provide. Many people experience multiple and intersecting justice problems simultaneously.

Goal 16 of the 2030 Agenda for Sustainable Development adopted by the United Nations General Assembly on 25th September, 2015 calls upon the Member States to promote peaceful and inclusive societies for sustainable development by providing equal access to justice for all and building effective, accountable, and inclusive institutions at all levels. An independent and impartial judiciary plays a critical role in ensuring Member States can make progress on Goal 16. Judges ensure that the rule of law is respected and the fundamental rights of individuals are upheld.

Meeting on the sidelines of the first regional conference on Access to Legal Aid, this high-level roundtable will explore the role of the judiciary in ensuring access to quality legal aid services in the countries of the Global South. Legal aid is a key component of a fair, humane, effective, inclusive, and efficient justice system. It is also a foundation for the enjoyment of other rights, including the right to a fair trial and ensures equal protection of the laws and equal access to justice for all. It is an important safeguard for ensuring fundamental fairness and public trust in their institutions.

¹ <https://s42831.pcdn.co/wp-content/uploads/sites/3/2023/03/Task-Force-on-Justice-Report-27Jun19.pdf>

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OBJECTIVE

As part of the *First Regional Conference on Access to Legal Aid*, deliberations at the ‘Chief Justices Roundtable’ will enable the Hon’ble Chief Justices / Leaders of the highest Courts from the various countries of the Global South to build relationships, identify common challenges and share best practices on the role of the judiciary in improving access to justice and in ensuring access to quality legal aid services. The roundtable will enable discussion and exchange on how the judiciary can ensure that legal aid services are credible, effective, and accessible to all, regardless of wealth or status. It will also explore how courts can better focus on understanding people's justice needs and transform their services and procedures to meet those needs.

Poverty, lack of awareness, geographical barriers, discrimination, corruption are some of the factors that limit access to effective legal aid services in the countries of the Global South and poses challenges in equitable administration of Justice. These countries represent a diverse group of nations, that are often characterized as low and middle-income economies, with high levels of poverty and socio-economic inequality.

The Roundtable of the Chief Justices of the Global South countries will thus be a unique initiative to encourage identification of common challenges in the delivery of legal aid and administration of justice and to develop strategies to address the same.

ROUNDTABLE AGENDA

Premised on the call of the *2030 Agenda for Sustainable Development* to ‘leave no one behind’, the roundtable would facilitate conversations among attendees on:

- i. **Ensuring the Right to Legal Representation:** The right to be defended by a lawyer is enshrined in the basic human right to fair trial. Article 14 (3)(d) of the *International Covenant on Civil and Political Rights, 1966* affirms that in the determination of any criminal charge against him, everyone shall be entitled to be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; and to be informed, if he does not have legal assistance, of this right. Principle 3 of the *United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, 2012* further provides that “States should ensure that anyone who is detained, arrested, suspected of, or charged with a criminal offence punishable by a term of imprisonment or the death penalty is entitled to legal aid at all stages of the criminal justice process.” This right is guaranteed either in the constitutional or statutory laws of many countries, however frameworks for its effective implementation are often missing and as a result many persons detained or accused of a criminal offense are left without meaningful access to justice. The judiciary is at the forefront of upholding the right to legal

representation. From ensuring the presence of a lawyer at the time of questioning, arrest, trial and appeal to terming any proceedings conducted without legal representative as invalid – the judiciary has a crucial role to play in ensuring the rights of accused persons to be represented by a legal practitioner in legal proceedings. This session seeks to encourage discussion on the central role of judicial institutions in ensuring equal access to justice for all, by affirming the right to legal representation, in particular the right to legal aid services.

- ii. **Technological Innovations & Advancements:** The COVID-19 pandemic has accelerated the acceptance of technology in justice systems in several parts of the world. Judicial systems are now swiftly moving towards digitization of courts to increase accessibility and to close existing gaps within legal systems that often restrict equal access to legal processes for marginalised and disadvantaged persons. Further, judicial institutions also have a role in producing publicly available data, that assists in the assessment for progress on ensuring equal access to justice for all. In several jurisdictions, innovative methods are being adopted to provide legal advice and assistance to those who are otherwise unable to access such information due to social, economic, or geographical factors. Technological innovations and advancements can play a significant role towards ensuring ‘*equal access to justice for all.*’ At the same time, it is important to recognize that the use of technology carries the risk of excluding certain groups of people. Similarly, data collection process can be biased or simply blind to experiences of certain people and may focus on goals or solutions that do not protect people’s rights. Through sharing of good practices and solutions available in different countries, this session will facilitate discussions on the increasing potential of technology including the use of video technology and Artificial Intelligence in the courts.
- iii. **Expanding Access to Justice through Legal Information and Alternative Dispute Resolution Mechanisms:** The *United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, 2012* makes clear that the concept of legal aid includes not just legal representation, but is also intended to include the concepts of legal education, access to legal information and other services provided for persons through alternative dispute resolution mechanisms and restorative justice processes. The judiciary has a significant role in ensuring the creation and simplification of legal forms, processes and language so that all people can more easily access the courts and address their legal needs. The judiciary can also play a leading role in advancing the use of alternate dispute resolution (ADR) mechanisms that enable people to resolve disputes without engaging in lengthy court processes. These include mechanisms like mediation, conciliation, and community based or People’s Courts (Lok Adalats) etc. and are aimed at ensuring speedy and efficient justice to aggrieved parties to a dispute. These processes may also reduce

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stress, are less expensive and enable individuals to have a higher degree of control over the process and outcome. This Session seeks to bring together good practices for expanding access to legal information and removing barriers to the courts, and to explore the diverse models of ADR.

OUTCOME

The overall outcome of the Roundtable would be to improve Access to Justice and strengthen the Rule of Law in the Global South countries. By sharing best practices, identifying common challenges, and building relationships, the roundtable can make a significant contribution to achieving the goals outlined in the *2030 Agenda for Sustainable Development*. The roundtable will lead to a '*Declaration of Principles*' by the Hon'ble Judges that reaffirms the commitment to Access to Legal Aid, Access to Justice, and judicial independence. The declaration will outline a plan of action for addressing the common challenges to the administration of justice in Global South countries and expression of cooperation on issues related to Access to Justice.
