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Legal Aid with regard to Right to Fair Trial in Pakistani and International Law: A Comparative Approach

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Abstract

The key objective of this article is to analyze the concept of legal aid, its significance, challenges, and potential solutions. This article by using the doctrinal research methodology, presents a comparative analysis of legal aid “in the context of international law” and Pakistani law, highlighting “the” similarities and dissimilarities between the two systems. Access to justice and legal representation are fundamental principles in international and national legal frameworks, ensuring that individuals have adequate assistance in navigating the legal system's complexities. This article examines the relevant provisions in international instruments, such as the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, which underscore the importance of legal aid. Additionally, this article explores the role of international organizations, such as the European Court of Human Rights, in providing legal aid to individuals involved in international criminal proceedings. On the other hand, Pakistani law recognizes the importance of legal aid as well, albeit with its own unique features and challenges. This article examines the constitutional provisions and statutory laws in Pakistan that guarantee the right to legal representation for individuals, particularly those who are economically disadvantaged. By understanding the similarities and dissimilarities between these systems, policymakers, legal practitioners, and scholars can identify potential areas for improvement and enhance access to justice for individuals, irrespective of their economic or social status. This article concludes that international law recognizes legal aid as a universal right and various international treaties make it mandatory for states (i.e., Pakistan) to ensure access to legal aid for those who cannot afford it.

Keywords: legal aid; legal assistance; right to fair trial; international law; Pakistani statutes

1. Introduction

Legal aid is the assistance to the part of the community which is financial instable and cannot afford the fee and other monetary elements required for the legal proceedings or trial of their case. The legal expenses of such a class are covered by the publicly funded assistance called the legal aid (Dictionary, 2018). The recent enactment promulgated in Pakistan called the “Legal Aid and Justice Authority Act, 2020” (hereafter the 2020 Act) defines “legal aid” in section 2(i) and states that as “the provision of assistance, to a person who is unable to afford legal assistance, representation and access to justice.” It has been stated by the “United Nations Development Programme” of 2004 that it is necessary to furnish legal aid to the poorer so the accessibility of justice should be established. Expeditious justice is the element of a civilised and cultured society. Hence, the international law in context with the Human Rights recognised the “legal aid with regard to right to fair trial as” it can be evinced by various conventions like “European Convention for the Protection of Human Rights and Fundamental Freedoms and International Covenant on Civil and Political Rights (Flynn et. Al, 2016).” It is necessary to assure the right to a fair trial of an accused by providing the effectual availability of legal aid or representation. It is stated that the “state to dispense equal access, efficiency, speed, and affordability of justice to all its citizens. However, due to the significance of the right to a fair trial and, consequently, to legal representation, both States and governments as well as local, national, and international NGOs must make extensive and coordinated efforts to provide legal assistance (Shehzad, 2015).” In Constitution of Pakistan 1973, the right to fair trial is preserved which make it more significant to critical analyse the legal framework for the legal provisions protecting the legal aid’s concept keeping an eye on the standard enshrined in the international law on the subject matter. To this end, this article uses the doctrinal research methodology to critical analyses the concept of legal aid and its scope. This article inspects the legal issues in the existing laws on the legal aid in Pakistan and highlights the complexities in them. This article has been divided into various portions to justify the topic. This article at first instance scrutinizes the concept and the evolution of the legal aid concept with time in international law and surveys all the international treaties and the covenants on the topic and highlights the judgments of the courts to pinpoint how the courts have broadened the scope of the legal aid while interpreting the international laws. Secondly, with the intent of authenticating the article and diverse its scope, this article compares the international perspective with the Pakistani perspective on the legal aid under the fair trial right. Thereby, this article explores all the existing laws in the legal aid in Pakistan and pinpoints the loopholes in these laws in general and specific emphasis on the recent enactment of the 2020 Act by Pakistan to identify its weakness and limitation and to suggest the recommendations and culminate the discussion into a justified conclusion.

A. International Law Regime

2. Status of Legal Aid in light of International Law

The concept of prompt and expeditious justice has been the building block of every legal system and without speedy justice a legal system has nothing to do with it. Justice, more specifically the affordable and speedy under the right of fair trial, is recognised, acknowledged and appreciably considered by the standards of international human rights. Along with this provision or this provision of legal aid in the context of fair trial right is accompanied with the right of legal defence and the right to equal protection (Flynn, 2016). All these righteous aids are afforded and

offered to humankind without the discrimination of color, race, or creed. In criminal proceedings, many people get their chances of being defended and represented without discrimination and hence due to the existence of these provisions in law it becomes easier for them to be defended and tried fairly (Rice, 2009).

International law provides ample space for the right to defence with regard to criminal trials. Due to which the people who have been charged with any kind of criminal offence are empowered to get due and proper legal assistance. Consequently, the right to defence in such cases is basically in law and is assured without discrimination. The generalization is the rule but specifically the people who cannot afford the legal representation to face their criminal proceedings due to the no presence of the sufficient means and the vulnerability this group of people is required to be given with the legal aid without any discrimination (Harris, 2017). However, this is the legality which is enshrined in laws but whether this is practically applied or accepted in the developed countries is different, but in developed countries the legal aid to compel fair rights rule is applied and practiced.

It has been declared by the General Assembly of the United Nation that “legal aid is an essential element of a fair, humane and efficient criminal justice system that is based on the rule of law.” Further it has been stated that “it is a foundation for the enjoyment of other rights, including the right to a fair trial, as a precondition to exercising such rights and an important safeguard that ensures fundamental fairness and public trust in the criminal justice process (United Nations, 2012).” To this end, international treaties have successfully “assured and acknowledged the right to defence and hence the constitutions of the States force the existence of the right of fair trial and oblige the governments to provide the legal aid to everyone.” Consequently, a presumption can be drawn logically and more reasonably that the states are responsible for providing the legal assistance. Member states that are signatory are bound by UN that “consistent with their national legislation, to adopt and strengthen measures to ensure that effective legal aid is provided, to consider, where appropriate, enacting specific legislation and regulations and to allocate the necessary financial resources for the establishment of a comprehensive legal aid system (UN, 2012)”

2.1 Model Law on Legal Aid and its recognition in Criminal Justice System of 2017

This is known as the Model Law that was established as the fundamental and most specialised essential that provide assistance to the countries in the implementation and development of the legalization with respect to the legal assistance. This model law provides a blueprint for making a reasonable and exclusive mechanism for legal assistance with the purpose of providing a backbone rather than being adjusted in the existing drafted and promulgated national legislative system. It relies on the guidelines and the doctrine of the UN, and the application of such provision is limited to legal aid in the context of criminal trials and criminal matters. The minimum and basic requirements are established under this Model law which provides that the scope and the extent of eligibility should be broadened. The broadened scope should be unrestricted and all the topics that are not covered should be particularly addressed. In this way, an inclusive and extraordinarily comprehensive system for legal aid is recognised by the Model Law and it calls for the enforcement of the laws rather than only making of the laws about legal aid under the criminal matters (UNODC, 2017).

Main problems have been encountered after the promulgation of the legislation regarding legal aid. The model law has been propagated to deal with such concerns. Many of the provisions enshrined in the Model Law provided as an option for the facilitation of being adapted and assimilated in the national legalization. Moreover, the commentary on such provisions describes the legal and analytical basis and the importance of the provision in the form of precious information to the entire relevant concerns that could be resolved by these provisions. The Model law has the ability of dealing with the broader and more significant viewpoint of the legal assistance with regard to the criminal concerns. The ambit of the model law covers the legal representation in the context with the legal assistance or we can also call it legal advice. The realm of the law also covers the information about the disadvantaged portion of the community who are the basic legal aid's recipients by the service providers or whoever provides the legal aid to them (Mattar, 2017).

2.2. Placement of Legal Aid under “International Covenant on Civil and Political Rights of 1966”

“International Covenant on Civil and Political Rights of 1966” (ICCPR), has a distinct nature, and it is very much clear in explicitly placing the obligation of the fair and free legal aid in the “criminal matters for the assurance of the right to the fair trial.” It has been described that Covenant of 1966 in Article 14 clause 3 (d) states that “in the determination of any criminal charge against him, everyone shall entitle to [...], and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him.” Further the article states that in any circumstances where there is a matter of justice then if the person is unable to pay and in case where he is eligible to pay should be asked in order to get legal aid. The committee concerned with the Human Rights has further deliberated that “particularly in capital cases, it is axiomatic that the accused must be effectively assisted by a lawyer at all stages of the proceedings (Aliboeva, 2005).” It is to submit that it is a more reasonable and prominent step that everyone for the criminal matter should be provided with legal assistance.

2.3 Legal Aid and European Convention for Human Rights, 1950

ECHR which is commonly known as the “European Convention for the Protection of Human Rights and Fundamental Freedoms” was promulgated in 1950 is a fundamental and the most commendable document of the time, particularly preserves the access to the free and sufficient legal assistance in context of the fair trial right. ECHR of 1950 in its Article 6(3)(c) preserves the subject matter as “Everyone charged with a criminal offence has the following minimum right... To defend himself in person or through legal assistance of his own choosing or, if he has does not have sufficient means to pay for legal assistance, to be given it free when the interests of justice so require...” it has been held by the worthy European Court of Human Rights that there is existence of the two significant essentials that are required to be accompanied together. These essentials requirement affect the right to legal aid funded publicly in criminal matters (COE 2020). These essential requirements are as follows:

2.3.1 Means Test

First, the requirement is called the means test which requires the applicant to establish the inadequacy of the economic resources. The court stated that there is no need to produce

conclusive proof for the inadequacy of funds, but the applicant is required to show the signs that he is not well off (Pakelli, 1983). However, the decision of court is quite uncertain, and the Means test is subjective as it lack any objectivity because the showing of signs of paucity of economic resource cannot be a possibly reasonable requirement as there should be some documents as the proof for the lack of economic resources from the applicant like the issuance of such documents by local government.

2.3.3. Merit Test

The second element is the interest of justice and the Quaranta, 1991 considers it a merit test which renders that where there need for the interest of justice then the legal aid funded publicly should be given. In these circumstances the facts of any case will show the existence of a matter of interest of justice and the focus should be given to the seriousness and the gravity of the offence. Along with it, the seriousness of the punishment can also be considered in the views of the court.

It has been stated by the court that legal assistance must be given to the defendant when he applies for it at the pre-trial stage of investigation. This statement of the court rests well with the right of fair trial because due to the legal aid the defendant could easily get a chance of fair trial. The court in the Salduz case of 2008 gave broader statement that “in order for the right to a fair trial to remain sufficiently ‘practical and effective’ ... [art 6] requires that, as a rule, access to a lawyer should be provided as from the first interrogation of a suspect by the police [t]he rights of the defence will in principle be irretrievably prejudiced when incriminating statements made during police interrogation without access to a lawyer are used for a conviction.”

Moreover, it has been established in the Quaranta case that party or defendant who is going to be awarded with any certain punishment should be given the opportunity of the free legal assistance and representation in order to provide a fundamental right of fair trial to him. It has also been argued by the scholars that in the cases that are complex and are not easily understandable there is need to give the legal assistance to the defendant so he can easily understand the Jorgen of law which includes the legal language and terminology and skills (Twalib, 1998).

B. Pakistani Law Regime

3. Legal Provisions

Pakistani legal regime has civil laws (Khokhar, 2022) and the right to a fair trial is a fundamental principle of justice in Pakistan. It is enshrined in the Constitution of Pakistan under Article 10-A, which guarantees the right to a fair trial as a fundamental right of every citizen. “The right to a fair trial” is also protected by the “Universal Declaration of Human Rights, and “various international conventions” and treaties to which Pakistan is a signatory. In Pakistan, the right to a fair trial is protected by a number of legal safeguards. Some of the key legal provisions protecting the right are outlined as:

3.1 Critical Analysis of Constitutional and Statutory Provisions on Legal Aid

The Constitution of Pakistan 1973 (hereafter 1973 Constitution) put the obligation on the state to dispense the impartial and speedy justice. The 1973 Constitution is a sacred document that protects justice and its delivery to everyone without discrimination. In its articles and their provision, the 1973 Constitution gives the surety to the people to provide the mechanism for the legal assistance. However, it is to submit that the 1973 Constitution lacks the depiction of explicit provisions on the subject matter. The 1973 Constitution in Article 4 clause 1 provides that everyone should be treated under law and in accordance with law. Moreover, the 1973 Constitution in Article 10 (1) states that an individual who has been arrested should be given the opportunity to consult with the legal practitioner and the accused has option which is open to choose the legal practitioner according to his own choice. This provision is too generic, but it might in the boarder interpretation provide space for “the free legal assistance to the people who cannot afford assistance under law for them.” Article 25 states that “all citizens are equal before law and are entitled to equal protection of the law” while Article 37 of the 1973 Constitution provides that a State should be responsible for dispensation of expeditious and speedy justice with the intent of promoting justice in the society for the annihilation or abolition of the all the social evils form the society.

With regard to civil cases, the procedure is provided in the CPC which is a document that enshrines all the civil procedures. CPC in its Order XXXIII permits the institution of the pauper suit and the litigant who is a pauper can invoke this Order of CPC. However, CPC fails in two ways; First, it has not properly defined what a pauper is in the context of legal aid at the expense of the public or be funded by public and second, how a litigant or which will be considered as a pauper. It has not provided any kind of subjective or objective test for identification of a pauper.

In the light of section 340 of Pakistani Criminal Law Procedure commonly called the CrPC or Code of Criminal Procedure of 1898 it has been provided that an individual either a male or female who is facing “the criminal trial is required to be represented by a legal aid in the form of a counsel.” CrPC considers it as the right of an individual to have legal representation for criminal matters.

The Chapter 4/E, Volume 5 of the Rules of High Court states that an accused should be bestowed with the legal aid that would be funded by the public in the cases where the accused in unable to engage a lawyer for himself for his defence due to this constrained financial condition. However, it engages a confinement of the legal aid to the specific group of accused specially the accused with regard to the crimes with the punishment of the death penalty. However, the legal counsel so hired shall be paid a minimum of two thousand per day and not more than two hundred per day, for subsequent days. It is submitted that this amount should be revised in order to dispensation and fulfillment of the need reasonably.

3.2. Legal Aid and Enthusiastic Pakistan Bar Council: Rules and Practice, 1999

Pakistani Bar Council “played a very important role in the acknowledgement of the free legal aid to the accused.” This has been practically done by the lawyers in Pakistan that they fought the cases of the poor free of charge. The biggest example is Asma Jahangir who is most passionate lawyer in the history of Pakistan. She ever fought the cases of prostitutes or women or labour working at the Kilns free of charge for the promotion of fundamental human rights and performance of the sacred task of free legal aiding to the poorer (Badry, 2020).

An enactment in the shape of the “Pakistan Bar Council Free Legal Aid” was propagated in 1973 in Section 13 of which it has been described the concept of legal aid. Then, in 1988 a scheme called “Pakistan Bar Council Free Legal Aid Scheme, 1988” was initiated for the performance of the similar function of giving the legal assistance however that remained unsuccessful because of less functionality of it in context of practice (Siddique, 2015). The same scheme was activated and started functioning properly in the year 1999 when the scheme was properly notified, and rules were started affecting. Under the rules the legal aid to be provided to the people including the “poor, destitute, orphan, widow, indigent and deserving. The criteria to be a deserving person were set as a person who is entitled to Zakat, or his financial position and income resources are not sufficient to bear the expenses for engaging an Advocate to prosecute, defend and protect his legal rights in genuine litigation.” The rules have set the category of the cases in which the legal assistance services will be provided contained: “Accidents, Succession Certificate, Family Laws, Ejectment, Illegal Detention, Abuse of power and authority by the police, law enforcing agency and Executive, Neglect of duties by Government departments, Local Councils/bodies and local authority/agency, Public interest litigation and such other cases or category of cases as may be approved from time to time by the Central Committee.”

These rules are commendable and have attained the position at the provincial and central level as the Committees at the district level have been established for providing the free legal assistance in all the courts of Pakistan including the superior courts (Pakistani Supreme Court and High Courts) and the lower judiciary (District or civil courts etc.) It is function of the committee to provide the panels of two distinct kinds of lawyer which includes the pro bono attorneys these lawyers provide the services by getting a portion of fee or the volunteer lawyers that provide their services free of charge without getting a single penny. Moreover, the rules require providing one client to each of the lawyers in a year which provides free legal assistance to the client. But it has been criticized that the system has failed to be adopted in most cities as it has not been managed due to the poor and the citizenry who is living in vulnerable conditions. It is required to be executed properly as the management body is lacking otherwise the lawyer could be persuaded to perform the functioning of free legal aid to the people when they require it.

3.3. Defining Legal Aid under District Legal Empowerment Committees Rules of 2011

“Law and Justice Commission of Pakistan Ordinance, 1979” under section 9 provides the rules that are called as “District Legal Empowerment Committees (Constitution & Functions) Rules, 2011” “to provide” the “legal” assistance to the “litigants who” deserve. Committees called the “District Legal Empowerment Committees” (Committees) were made under these rules. Moreover, the definition of legal aid has been provided albeit which is not a reasonable or affective definition of the legal aid. Aid is to be furnished by the people or parties who deserve it, by these Committees. The deserving includes the people who have no financial resources to cope with the money or financial needs for the hiring of an advocate as their representative. The maintaining of the funds and their allocation has been furnished in the rules and aid under these rules covers all the cost including the cost for the processing fee, filing of case fee, court cost and the fee of the lawyers and the necessary costs that are required to be paid as determined by the committees. There are three ways for invoking the functioning of committees that includes;

- An application by the Litigant
- An application by the jail Superintendent
- An application by the judge

3.4 Legal Aid in the Light of Legal Aid and Justice Authority Act 2020

The new statutory enactment in Pakistani legal regime is the “Legal Aid and Justice Authority Act of 2020” (the 2020 Act) that highlight how and when the “legal assistance will be provided to the” person in Pakistan. How the procedure will be “executed in the context of the legal aid in pursuant to the constitutional framework of the right to fair trial in Pakistan.” The 2020 Act provides a structure for the financial and the legal assistance to the person who required it. The Board is the authority under the 2020 Act to regulate legal aid.

3.5 Lacunas and Challenges

The 2020 Act is a commendable job but there are certain lacunas and challenges that are being faced on the implementation of it.

- The 2020 Act failed to particularize or give an account of the cases in which assistance will be provided by the 2020 Act.
- The reviewing mechanism of the application is a bit faulty regarding the busyness of the board members, and the party will not be able to receive justice in time when needed.
- There is no process of filing complaints against the authority or board, hence the 2020 Act lacks the accountability mechanism for the board.
- The enactment is considered the work of charity rather than the proper legislation, and it lacks the basic assurance of aid.
- “The eligibility criteria for advocates, volunteers and members of the Free Representation Unit have not been specified.”
- There is no proper mechanism for the choosing of the eligible application, as the criteria set is less reasonable and is on discretion rather than the objective testing.

C. Comparison of International and Pakistani Law

Legal aid is an important aspect of ensuring access to justice and the right to a fair trial. In Pakistan, “legal aid is provided to certain sections of society, while in international law, legal aid is typically considered a universal right. In Pakistan, the right to legal aid is enshrined in the Constitution. In comparison, international law under the Universal Declaration of Human Rights recognizes the right to legal aid as a universal right.” It asserts that “everyone has the right to a fair and public hearing by an independent and an impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.” This right includes the right to legal assistance, regardless of a person’s financial situation. The International Covenant on Civil and Political Rights (ICCPR) also guarantees the right to a fair trial and includes provisions on legal aid. The ICCPR makes it a mandatory requirement for “states to provide legal aid to defendants who are unable to pay for legal help.” The United Nations recommends various measures to ensure that indigent persons have access to legal aid, including the establishment of legal aid offices, pro-bono programs, and fee waivers for those who are unable to pay court and attorney fees.

4. Similarities between International and Pakistani Law

International Law	Pakistani Law
<p><i>General Existence</i></p> <p>Under international law, the right to a fair trial is considered a fundamental human right and its reference exists in various treaties (Ebers, 2023).</p>	<p><i>General Existence</i></p> <p>In Pakistan, the right to a fair trial is also recognized as a fundamental right under Article 10-A of the Constitution and various other statutory laws. Which means it is not only statutory but also a constitutional right (Niazi, 2015).</p>
<p><i>Existence in Criminal Law</i></p> <p>Guidelines adopted “by the United Nations General Assembly” have set out basic principles on legal aid in criminal justice systems (1990). The guidelines provide that legal aid should be provided to all persons charged with a criminal offence, irrespective of their means, and “should cover all stages of the proceedings, including pre-trial, trial and appeal” (United Nations, 2017).</p>	<p><i>Existence in Criminal Law</i></p> <p>The Protection of Pakistan Act 2014, the Anti-Terrorism Act 1997, and the Criminal Procedure Code 1898 also “provide for the right to legal aid, primarily in the context of criminal proceedings” (Hafeezullah, 2014).</p>
<p><i>Way of Providing Aid</i></p> <p>ICCPR “provides that everyone shall have the right to a fair hearing, including access to legal assistance,” and the right to be represented before the court by a lawyer of their choosing (Article 14).</p>	<p><i>Way of Providing Aid</i></p> <p>Under Pakistani law, legal aid is provided through the Legal Aid and Justice Authority, which was established under the Legal Aid and Justice Authority Act 2000. The Authority “is responsible for providing free legal aid, advice and representation to persons who are unable to afford legal services” (Rafiq, 2022).</p>
<p><i>Maintenance of Rule of Law</i></p> <p>Indeed, it is difficult to conceive of a scenario in which the right to a fair trial would be satisfied without the right to legal aid. It maintains rule of law through Human right perspective (Ebers, 2023).</p>	<p><i>Maintenance of Rule of Law</i></p> <p>Legal aid is not only an essential tool “for the protection of individual rights,” it is also a crucial tool for promoting the rule of law (Hafeezullah, 2014).</p>
<p><i>Role of Lawyers and Legal Aid</i></p>	<p><i>Role of Lawyers and Legal Aid</i></p>

<p>The Basic Principles on the Role of Lawyers adopted by the United Nations General Assembly in 1990, state that “everyone is entitled to legal representation,” regardless of their economic situation.</p>	<p>An enactment in the shape of the “Pakistan Bar Council Free Legal Aid” was propagated in 1973 in Section 13 of which it has been described the concept of legal aid. Then, in 1988 a scheme called “Pakistan Bar Council Free Legal Aid Scheme, 1988” was initiated for the performance of the similar function of giving the legal assistance however that remained unsuccessful because of less functionality of it in context of practice (Siddique, 2015).</p>
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5. Differences between International and Pakistani Law

International Law	Pakistani Law
<p><i>No Specific Legal Aid System</i></p> <p>The right to legal aid in international law is rooted in principles of access to justice and due process. While international law recognizes access to legal aid as an essential component of due process and the right to a fair trial, it is also important to note that international law does not prescribe a specific legal aid system.</p>	<p><i>Have Specific Legal Aid System</i></p> <p>Pakistani legal regime provides a specific legal aid system in form of “Legal Aid and Justice Authority Act of 2020” although which has several loopholes. Moreover, it is way to access to justice, but it is not part of due process in Pakistan.</p>
<p><i>Guidelines for Quality of Legal Aid</i></p> <p>The guidelines also provide that “the quality of legal aid provided should be of a high standard,” and that legal aid providers should be independent and free from political interference.</p>	<p>No specific guidelines for Quality of Legal Aid Pakistan does not provide specific guidelines particularly on quality of legal aid as laws only requires law despite his competence on matter.</p>
<p><i>General Eligibility Criteria</i></p> <p>The eligibility in international law are very generic as this aid is provided to everyone who requires it, despite discrimination.</p>	<p><i>Specific Eligibility Criteria</i></p> <p>The provision of legal aid in Pakistan is subject to certain eligibility criteria and is limited to cases where the accused person is facing a criminal charge and “is unable to afford legal representation. There is no universal provision for legal aid in Pakistani civil proceedings” (Order XXXIII, CPC, 1908).</p>

<p><i>Require Legal Clinics</i></p> <p>There may be humanitarian-based legal aid clinics in place, but they may not be properly funded or staffed. In still other cases, there may be cultural barriers to the provision of legal aid. For example, some people may be reluctant to accept legal assistance because of fear of reprisals from the state.</p>	<p><i>Do not require Proper Legal Clinics</i></p> <p>There is no proper concept of clinics albeit “Legal Aid and Justice Authority Act of 2020” has adopted it but there is no representation of citizenry and it has made it department rather than a humanitarian based legal aid clinics.</p>
<p><i>No Centers</i></p> <p>International law regards humanitarian based legal aid clinics rather than centers run or under control of government influential authorities.</p>	<p><i>Made Centers</i></p> <p>The Legal Aid and Justice Authority Act 2020, also provides for the establishment of legal aid centers to provide free legal aid to the poor and marginalized.</p>
<p><i>No Practical Issues</i></p> <p>A fair trial is not just about the appearance of justice, it is about ensuring that the individuals are given the tools needed to defend themselves against the state. Legal aid is one of those tools. International law faces no certain practical issues in ensuring this right.</p>	<p><i>Have Practical Issues</i></p> <p>Pakistani legal system has a weak justice system, so it fails to ensure the practice of legal aid system. This Aid system is less effective in Pakistan.</p>
<p><i>Strong Implementation</i></p> <p>The implementation of this constitutional right at international level never remained weak.</p>	<p><i>Weak Implementation</i></p> <p>The implementation of this constitutional right in Pakistani courts remains weak, and access to the legal aid often depends on the willingness of lawyers and legal aid organizations to provide their services.</p>
<p><i>No Fundamental Issues</i></p> <p>It has not developed a system for legal aid but in the light of human rights, international law provides detailed guide points regards the representation. It is never subjected to political interference at an international level.</p>	<p><i>Have Fundamental Issues</i></p> <p>In terms of “the quality of legal assistance provided by the Legal Aid and Justice Authority,” Pakistan has not yet adopted any specific guidelines. This leaves open the possibility of potential bias or inadequate representation, particularly in cases where the legal aid provider is not independent from the state and subject to political interference (Rafiq, 2022).</p>

6. Conclusion and a way forward

Pakistani courts should seek guidance (Khokhar, 2023) as the right to legal aid is a fundamental right enshrined in international law. It is an essential tool for promoting the rule of law and protecting human rights. By doing so, we can help to ensure that the legal system is accessible to all, and that justice is done. The right to a fair trial is a fundamental principle of justice in Pakistan. The Constitution of Pakistan, as well as international treaties, protects the right to a fair trial. It is to submit that the international law in various treaties and covenants has recognised the legal aid in the context of the fair trial right. Similarly, the constitution of Pakistan and various other domestic Pakistani Laws recognise it. The court (human rights) has in its various judgments tried to settle the board's perspective of legal aid, which is also admirable. However, there remain challenges to fully upholding this right in practice. This study provides a strong and effective framework to discuss and critically analyse the existing legal aid mechanism in Pakistan and for the fulfillment and the need of the authentication, the study provides the international law perspective on the subject. The study finds various loopholes in the law and legal regime of Pakistan. For the reasonable and best maintaining system, there is need to consider some steps that include:

- Despite the challenges of providing legal aid to all persons who need it, there are several strategies that can be used to increase access to it.
- There is a need to ensure that the legal safeguards designed to protect the right to a fair trial remain effective and are consistently enforced.
- The judiciary, the legislature, and other relevant actors should work towards upholding the rule of law and ensuring that justice is done.
- The staff should be increased for the effective functioning of the Laws regarding the legal aid specifically the effective management requires the coordinating networking teams and the staff to run the mechanism.
- The humanitarian-based clinics should be made under the premises of the courts so that the efficiency of these offices should be increased regarding promotion among the parties that require legal assistance.
- The Legal Aid perspective in Pakistan should be promoted by using the social media.
- More and More funds should be collected after the proper advertisement of the concept to save the rights of fair trials of the poor.
- The legal services courses should be added to the Law's course so that the fresher could find the concept's importance.
- Minimum criteria should be set for the lawyers to provide legal assistance to the party as the lawyer must have knowledge of the field.
- Pakistani law provides for the provision of legal aid through the Legal Aid and Justice Authority, but the quality of assistance provided may be increased by limiting the political interference and other factors.
- There should be proper mechanism for the watching or monitoring the function done under Pakistani Laws in the context of legal aid and its account based on right to fair trial in Pakistan.
- In Pakistan, in various laws there are loopholes as there are no proper definitions to enlist the category of eligible litigants and the cases in which the legal aid should be given to the people needs a proper management and functioning system because when a person is unable to the fee of the lawyer would unable to represent himself and hence the system

will be failed to ensure the legal and constitution provision of right to fair trial to everyone. It can be resolved by giving more importance to the dispensation of justice through “legal aid in the context of right to fair trial.”

In conclusion, while both international and Pakistani law recognizes the right to legal aid as a fundamental aspect of access to justice and the right to a fair trial, there are significant differences in the scope and quality of legal aid provision. While international law recognizes legal aid as an essential component of due process and the right to a fair trial, it does not prescribe in system. Ultimately, it is crucial that access to justice and due process are upheld in both international and national contexts by ensuring that legal aid is of a high quality, accessible, and free from political interference. Pakistan’s Constitution guarantees and scope of implementation remains limited, and access to legal aid is not universal. In comparison, international law recognizes legal aid as a universal right and various international treaties make it mandatory for states to ensure access to legal aid for those who cannot afford it. There is a need for Pakistan to enhance the implementation of the constitutional provision for free legal aid and adopt measures to ensure that indigent persons have access to legal aid. This would help to ensure greater protection of the right to a fair trial in Pakistan.

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