

MAKING JUSTICE THROUGH LITIGATION ACCESSIBLE TO THE WEAKEST SECTIONS OF THE SOCIETY

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Abstract

We live in a country where daily, thousands of cases are taken to Court. In this kind of a system, it is evident that some people are benefitted, and some others are not. The main agenda is always about providing Justice to all without discrimination, but when in practice, it is often not done. The more affluent sections of society often hire the best senior lawyers and get the results in favor of their clients, but at the same time, the marginalized communities cannot even dream of the this because of the astronomical lawyers' fees. Through this research paper, it has been attempted to understand Justice and how it is facilitated through litigation. This has been dealt with a thorough observation of the drastic changes that had occurred regarding the present system from the time when there existed no methods of legal practice or court system. Through this paper, the emphasis has also been given to the point that even though the laws of our country claim to be equal for all, the affluent sections enjoy the advantage of their economic standards in the judiciary because they are economically well-equipped to hire the most-senior advocates of the country and thereby find their way through Justice. These senior lawyers take up the cases of the rich alone stresses on this point furthermore. Such an assumption is about the decision of the Hon'ble Supreme Court, wherein it was stated that lawyers should refrain from charging a fee not exceeding Rs.8,000. According to the Hon'ble Court, it is imperative to prevent any attempts of commercialization of the legal profession. This judgement has opened many possible debates. Now the question is whether the acts of charging exorbitant fees from clients are against the law or at the least, ethics of the legal profession. The next possible question would be whether preventing the senior lawyers from charging exorbitant fees would help the poor in getting access to Justice through these lawyers. If not, then what should be the possible steps taken for their benefit, and also who can make provisions for the issue? It has been attempted to perform a detailed study regarding all of these questions.

Keywords.

Justice, Discrimination, Senior Lawyers, Marginalized Communities, lawyer's Fee, Litigation, Affluent Sections, Commercialization, Exorbitant Fees, Ethics of Legal Profession.

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I. Introduction

The establishment of lawmaking and law enforcing bodies was to ascertain that the Principles of Natural Justice, to which every person in the world is entitled to, is provided and upheld. To understand the abovesaid, the definitions of natural Justice or Justice alone should be made clear. According to American philosopher John Rawls, "Justice is the first virtue of Social Institution"¹. So, if we consider that definition and analyze it, we can understand that all social institutions, i.e. institutions set up for the upliftment of the society consider and should always consider Justice as an imperative and non-negligible element of the proper working of the social machinery.

To guarantee that the rule of Justice is upheld a proper mechanism for checks and balances had to be devised, hence, with this notion in mind, philosophers put forward the idea of law and its rule. Several philosophers advocated about the fact that law was the method to attain Justice, for example, Salmond stated that "law as the body of principles recognized and applied by the state in the administration of justice"². Based on this idea, multiple types of machinery were applied to implement the law, thereby attain Justice as an outcome.

Over time Courts emerged as a solution for attaining both the rule of law and also Justice. In the earlier years of jurisprudence, the cases that came in front of courts were limited as cultural practices and taboos were relevant.

Gradually, cases requiring the involvement of courts increased, and courts began to be considered as the most valid and rational system for establishing Justice through the law. The courts were considered more efficient because it provided opportunities for both sides to present their perspective of the matter concerned.

Nevertheless, it was propounded that to make the above-mentioned applicable knowledge of the law became imperative, and since all the people could not know the law, certain distinguished men were selected to do the task and since their main task was to know the law and apply them, they were eventually called lawyers. Nowadays, lawyers are referred to as advocates and attorneys, also.

If we concentrate our focus on the Indian Scenario of Upholding Justice through the rule of law, we can observe that modern-day law came into existence with the establishment of the High Court of Judicature on 1st July 1862 under the provisions of the High Courts Act, 1861³ which was preceded by the present-day Supreme Court of India which is regarded as the apex court of the country. Over the years, the incidents and circumstances during the post-independence era and the time of emergency resulted in the rise of many of the most outstanding lawyers of all time and most of these lawyers are still the top lawyers of the country.

¹ Quote by John Rawls, A Theory of Justice, Harvard University Press, page 2.

² Quote by Salmond, Jurisprudence or The Theory of Law, Steven and Haynes page 18.

³ Indian High Courts Acts, 1861, Acts of India, 1861

II. Division of Advocates in India

Earlier lawyers used to charge only for the services that they rendered during the case, whereas in the modern-day Court system, the lawyers with lots of successful cases and experience are often found charging astronomical fees from their clients. However, till date, the Supreme Court has believed and accepted only three classifications of lawyers or advocates- Senior Advocates, Advocates-on-Record and Other Advocates.

1. Senior Advocates

These advocates receive this designation from the Supreme Court of India or by any high court. The courts (Supreme Court or High Court) may appoint any advocate as a senior advocate, with his consent, based on virtues of his ability, standing at the Bar or special knowledge or experience in law.⁴

2. Advocates-on-Record

These are the advocates who are required to have a minimum of five years of experience or four + one year of experience. Their eligibility is subject to the fact that they have strictly passed the Supreme Court Special Exam. These advocates are enrolled in a particular role of the Supreme Court, i.e. a code number is provided. "Only these advocates are entitled to file any matter or document before the Supreme Court. They can also file an appearance or act for a party"⁵ at the Supreme Court. They have the power to file vakalatnama

and other significant cases. Also, they can represent a client in the Supreme Court. For a Senior Advocate, it is necessary to have on-board an Advocate-on-Record while appearing before the Supreme Court.

3. Other Advocates

These are Advocates who are enrolled on the roll of any State Bar Council within the provisions of Advocates Act, 1961 and they can appear and argue any matter on behalf of a party in the Supreme Court, but they are not entitled to file any document or matter before the Court. There is no minimum experience given to them for arguing in the Supreme Court cases".⁶

This classification may be the official on-record classification of advocates, but if we have a somewhat better look at the top supreme court lawyers, we find that they can be divided into three classes- Advocates charging from 15-25 lakhs, Advocates charging from 10-15 lakhs and Advocates charging from 5-10 lakhs. These advocates do not even amount up to 1% of the advocates of the Supreme Court, but still, they are the identity of advocacy in the Supreme Court. When these advocates appear in the Supreme Court, the chances that the case may turn against them is far too less, and therefore it is not wrong to assume that these lawyers are well-equipped to provide Justice to their clients. Alternatively, in rather elaborate ways, it can be said that these lawyers are generally successful in getting their clients

⁴ Section 16(1), The Advocate's Act, 1961, No.25 Acts of Parliament, 1961 (India)

⁵ <https://www.pathlegal.in/Types-of-Supreme-Court-Advocates-In-India-blog-2381559> last visited on 03-08-2020

⁶ Section 16(2) The Advocate's Act, 1961, No.25 Acts of Parliament, 1961 (India);

Types of Supreme Court Advocates In India. <https://www.pathlegal.in/Types-of-Supreme-Court-Advocates-In-India-blog-2381559> last visited on 03.09.2020

Justice while within the system of 'Rule of Law'. However, there should be an emphasis on the fact that the clients of these lawyers are the richest of the society and they attain Justice with the help of these lawyers. So, it is not wrong to assume that when these lawyers are hired for a case, what the parties do is buy Justice at a cost that is acceptable and comes well within their economic standards.

It should come into notice that the sole purpose of judiciary is to provide Justice to all by staying within the rule of law and this has to be done with the concept of equality as mentioned under article 14 of the Constitution of India. Then the possible question would be regarding outcomes of cases handled by lawyers who charge a standard, reasonable fee compared to the lawyers as mentioned above. It can never be said that the Supreme Court or any other Court is ignorant towards the duty of ensuring Justice to the poor citizens of the country, but it is an inevitable fact that the rich enjoy the benefits of their money, even in the judiciary of the country.

III. Present Scenario

An essential fact that needs to be focussed on is the existence of Article 39A of the Constitution of India which "directs the state to provide free legal aid to the poor and weaker sections of the society, to promote"⁷ 'justice based on equal opportunity'⁸. "The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of

India"⁹ and article 19(g) of the Constitution which lays down the 'fundamental right to the profession of every citizen of the country'¹⁰. From those as mentioned above, it is clear that Justice can not be discriminatory towards the economic aspect of any citizen. Moreover, as we mentioned earlier, the top paid lawyers are at the top because of their ability to guarantee Justice to their clients. When we correlate the two conditions, is it possible for the poorest of the poor of the country to hire the top lawyers of the country? Statistically, the answer would be a big 'NO', but the question is whether there exists any provision of law that would enable a poor citizen to hire the best lawyers in the country. If a poor citizen hires a top lawyer of the country, the problem would be regarding the fact of paying the lawyer as his fees would be astronomical from the perspective of the client.

IV. Landmark Judgements on status quo and suggestions

In the year 2013, the Supreme Court Rules were amended and enacted, which lays down the provisions and the stipulated amount a lawyer can charge as fees. According to the Supreme Court Rules, the amount of the maximum fee that a lawyer can charge is Rs.8000 per hearing but, it is smaller than a fraction of what lawyers of the Supreme Court charge in reality. The same rule was again stressed upon by a two-judge bench consisting Justice AK Goel and Justice UU Lalit in the case of *B Sunitha vs The State of Tela-*

⁷ Pro bono work in India | Open Justice.
<http://www.open.ac.uk/blogs/openjustice/?p=55> last
visited on 03.09.2020

⁸ INDIA CONST. art. 39A

⁹ INDIA CONST. art. 14

¹⁰ INDIA CONST. art. 22

*ngana*¹¹. In this case, it was stated that "lawyers' fee is a barrier to access justice, it was observed that it was the duty of the Parliament to prescribe a "fee for services rendered by members of the legal profession"¹². The first step should be taken to prescribe floor and ceiling in fees". The Supreme Court had also referred to the case of *Tapan Kumar Das v. Union of India*¹³ where it was stated that

"Access to Justice cannot be denied to an individual merely because he does not have the means to pay the prescribed fee. Hence the provisions of the act and rules must be broadly interpreted to ensure access to justice."

This was opposed by many of the senior advocates of the Supreme Court stating that such an act would be against the provisions mentioned under Article 19 of the Constitution which guarantees Right to pursue any profession or business. Many lawyers claimed that the work of advocacy comes under the provision of skilled work. In the case of *Silver Jubilee Tailoring House v. Chief Inspector of Shops & Ors*¹⁴, it was held that "the rate of work depends on the skills and the manner of work done." Based on the above case, it can be inferred that the wages of all skill used and the manner of work done (incomplete sentence,

kindly reframe it). In terms of lawyers, the quantity and quality of work done vary with each lawyer and the ability to present the case also varies. Based on these variations, in a positive sense, the advocates are entitled to claim a higher fee as they are entitled to the same as they do a higher quantity of work.

No result can be achieved if an issue is dealt with the perspective of one side alone. So, to understand the position of the issue better, we should try to understand the issue from the side of the opposers of the judgement also. The arguments in their favour primarily involve the fact that the work of advocacy is skilled as only the knowledge of law may be equal with all lawyers. However, the ability and the skill to use the same knowledge to turn the whole case round in their favour lies within the factors of ability they attain regarding the same as a result of the years of practice and experience in Court. Nobody is born a lawyer; one instead becomes a lawyer based on his potential. It is not just for the services rendered that a lawyer charges his clients for but for the applied skill also.

No argument has value until and unless it is backed with the relevance of law. So, about the present issue, the opposing lawyers have taken the help of the Bar Council of India Rules, which is considered to be a handbook for the functions and responsibilities of a lawyer. Under this rule, section II states the duties of an advocate towards the client of which clause 11 states

"An advocate is privileged to accept any brief in court or tribunal or before which he proposed to practise at a fee consistent with his

¹¹ B.Sunita v. State of Telangana (2018) 1 SCC 638

¹² SC asks Centre to bring law to regulate legal profession
<https://timesofindia.indiatimes.com/india/sc-asks-centre-to-bring-law-to-regulate-legal-profession-cap-lawyers-fees/articleshow/61939343.cms> last visited on 03.09.2020

¹³ Tapan Kumar Das v. Union of India (2006) SCC Online DRAT 78: (2007) 1 BC 178 (DRAT)

¹⁴ Silver Jubilee Tailoring House v. Chief Inspector of Shops & Ors 1974 SCR (1) 747

standing at the Bar and the nature of the case.”¹⁵

Based on the above provision, a lawyer is allowed to charge a fee based on his stand and the connection in the Bar Council. All a lawyer has to do is to prove that the fee he charges is realistic enough to qualify the above provision and that is because of the judgement in the case of *Sanjeev Kumar v. Raghubir Saran Charitable Trust & Ors*¹⁶ wherein it was stated that advocates fee should be realistic and actual. The same was upheld in the 248th Law Commission Report which was again taken for reference in the case of *Raman Gupta and Anr. v. Sri Anil Kumar Goyal* and the same was upheld.

We shift our focus back to Article 39A of the Constitution, which guarantees free legal aid to all. To focus on the point, reference can be made to the judgement of *State of Maharashtra v. Manubhai Pragaji Pragaji Vashi*¹⁷ wherein the Supreme Court of India enlightened that for providing “free legal aid”, it is imperative to have well-trained and well-equipped lawyers who have relevant skills for the case.

So, what we understand is that under the provisions laid down by article 39A of the Constitution of India anyone can get a lawyer for free if he/she can prove that they cannot afford legal aid, but this provision remains limited to the availability of legal aid, and Justice is far away and remains to be a distant

concept. For reference, the case of *Mahipal Singh Rana v. State of UP*¹⁸ it was stated by the Hon'ble Court that “Counsels are available if the litigants are willing to pay the fee.” “Being a private monopoly, the profession is organized similar to a pyramid in which the top 20 per cent order the 80 per cent of paying work, out of which 30 per cent surviving by catering to the needs of the middle class and government litigation, while the bottom 50 per cent barely survive with legal aid cases and cases managed through undesirable and exploitative methods.”¹⁹

The judgement, as mentioned earlier, is not a limited one but among the very few cases filed regarding the exorbitant fees by lawyers. To be mentioned in the case of *Subrata Roy Sahara v. Union of India*²⁰ it was stated by the Hon'ble Court that “the cost of litigation should not be enhanced, court fee or any other litigation related cost should not be raised. Access to Justice should be emphasized, and related cost should be as low as possible”. So, based on these we can clearly understand that it is not due to the lack of legal machinery that exorbitant fees cannot be curtailed but what we lack is machinery to have a check and balance regarding the same.

We are all part of a country which attained independence and later, the status of a social, democratic, secular, republic. All these titles and achievements were the result of the hard

¹⁵ Section II (11) of the Bar Council of India Rules

¹⁶ *Sanjeev Kumar v. Raghubir Saran Charitable Trust & Ors* Civil Appeal No.8610 OF 2011

¹⁷ *State of Maharashtra v. Manubhai Pragaji Vashi* 1996 AIR, 1 1995 SCC (5) 730

¹⁸ *Mahipal Singh Rana v. State of UP* (2008) 8 SCC 335 (please re-check the citation; the year of the case)

¹⁹ Raising the bar for the legal profession - The ... - The Hindu. <https://www.thehindu.com/opinion/lead/raising-the-bar-for-the-legal-profession/article3897883.ece> last visited on 03.09.2020

²⁰ *Subrata Roy Sahara v. Union of India* (2014) 8 SCC 470

work of some great lawyers. Jawaharlal Nehru, Mahatma Gandhi and B.R. Ambedkar are some to be named. During the initial years of the post-independence era, the legal profession was one of the most respected professions due to the actions of these great men, but the present scenario is a somewhat different one.

In the case of *Tahil Ram Issardas Sadarangani v. Ramchad Issardas Sadarangani*²¹, it was stated by the Hon'ble Court that "Legal profession must give an introspection to itself. The general impression which the profession gives today is that the element of service is disappearing and the profession is being commercialized. It is for the members of the Bar to act and take positive steps to remove this impression before it is too late."²² In, a similar case *Munish Kumar Singla Trading Association v. Jollibee Foods Corporation*²³ it was stated that "these exorbitant and astronomical fees charges by lawyers convey wrong impressions about lawyers."

V. Challenges To Enforceability Of These Guidelines

Emphasizing on the arguments mentioned above it is clear that it is a bad practice to commercialize the legal profession, but at the same time, it is an exception mentioned under the rules of the governing body of lawyers. So,

²¹ Tahil Ram Issardas Sadarangani v. Ramchand Issardas Sadarangani AIR 1993 SC 1182, 1993 Supp (3) SCC 256

²² In Re Vs. Rameshwar Prasad Goyal, Advocate | ADVOCATE IN

<https://advocateinjabalpur.wordpress.com/2015/09/27/in-re-vs-rameshwar-prasad-goyal-advocate/> last visited on 03.09.2020

²³ Munish Kumar Singla Trading Association v. Jollibee Foods Corporation 2017 SCC OnLine Del 11823

the possible and accurate question to be asked here would be who can take relevant actions regarding the same. We did mention the case of *B. Sunita v. State of Telangana*²⁴ wherein the Supreme Court held that the maximum chargeable fee per hearing for a lawyer could not exceed Rs.8,000. Nevertheless, at the same time, this judgement was not wholly welcomed by the Bar Council of India, which is the governing body regarding such provisions to be made. The explanation given by the Bar Council of India was that it had to make an elaborate and detailed consensus regarding the same involving the opinion of the senior advocates who are the most affected parties in the case scenario. In the case of *Mahaveer Prasad Sharma v. State of Rajasthan*, it was stated that advocates charging exorbitant fees from their clients is against the ethics of the profession²⁵.

So, until there is an approval by the Bar Council of India regarding the same, the current provisions would be maintained, and the lawyers can charge as much as they want. It is a known fact that the lawyers who charge astronomical fees are the senior lawyers of the country and they are not senior advocates only because of their experience but also due to the power and position they hold for themselves in the Bar.

As stated in one of the cases as mentioned earlier, these lawyers are the top 20% who command and control the whole judicial process nowadays. These lawyers are those

²⁴ B.Sunita v. State of Telangana (2018) 1 SCC 638

²⁵ Mahaveer Prasad Sharma v. State of Rajasthan (2012) S.B. Civil Writ Petition No. 3600/2012

who have the power to make out of court settlements and also have the authority for mentioning in a case. Mentioning is the practice where a senior advocate who represents one of the parties in a crucial case can directly convey his essential points to the judge in his/chambers even before Court starts hearing the case. This practice is not an illegal one, but at the same time, it is not morally right either as the judge of a court should be entitled to hear arguments of both sides that too in a court²⁶.

VI. Other Applicable Methods

The entire focus of this paper is to gather information about how the poorest and weakest of the society can get access to not just free legal aid but also to the best quality of legal aid possible, as Justice is not an abstract concept which can be divided on monetary grounds. Every question has a unique solution to it. Other than Article 39A of the Constitution of India, there is another method to provide free legal aid to the poor and the weak. This method is called pro bono. Under this method, the lawyers who are ready to fight cases for free are enrolled based on their position.

Pro bono comes from the Latin expression “Pro Bono Publico” which means “for the public good”²⁷. In India, free legal aid and services come under the provisions and the discretion of the National Legal Services Authority after which the power to the same lies with the State, District and Taluk Legal Aid services²⁸. The

primary agenda of this set up is to ensure that the system of access to justice through the application of the law is made available to all. This plan is a newly set up one keeping the provisions of Article 39A, Article 14 and Article 22 in mind.

There is also the application of another law here, The Legal Services Authority Act, 1987, which is the fundamental and the most vital law that enables the proper functioning and maintenance of the same. The modus operandi of pro bono is that it has a list of advocates who are willing to take up cases for free and charge no fee from the clients if the clients do not come under the economically stable and sound group who can pay lawyer’s fee. The list for the same purpose has to be made by the respective organizations, and this has been mentioned under section 12 of the Legal Services Authority Act²⁹.

In the present day, it has been seen that this method has brought a positive change by enabling poor and weak clients to get access to justice through law. This practice has benefitted many people. Even though this system has brought a change to the process of ensuring justice to the weak and the poor, but still the efficiency and the reach of the program is in question due to a variety of reasons some of which may be lack of enough number of lawyers, non-availability of lawyers due to busy schedule, economic backgrounds of the lawyers, too many cases to be dealt with pro bono litigation among others.

²⁶ Black’s Law Dictionary (8th ed. 2004).

²⁷ Black’s Law Dictionary (8th ed. 2004).

²⁸ Legal Services Authority Act.

²⁹ Criteria for giving legal services, Legal Services Authority Act, 1987 (No. 59 of 1994).

Open Justice, an organization working in the UK in the sectors of litigation and pro bono work, has made some suggestions regarding what India needs to ensure that pro bono litigation is successfully implemented. Some of the suggested requirements were- pro bono opportunities flexible with the calendar of lawyers, rules mandating the practice of pro bono litigation for all lawyers and last but not the least spreading awareness about pro bono and making it a part of daily law affairs of people.

Any change that needs to be made regarding the legal profession must be sanctioned and authorized by the Bar Council of India. So, in simpler terms, it could be understood that the suggestions as mentioned above can be implemented or executed only by the Bar Council and therefore, the onus of implementing these measures for improving the system lies on the Bar Council.

VII. Actions Taken By The Government

Even though the Bar Council is the rigid body, still the government can take appropriate steps to ensure free and proper legal aid to the weaker sections of society. The government of India has made various schemes and policies to ensure the same and provide judicial security to the poor citizens of the country. Mainly three schemes have been launched by the Government of India, namely Pro Bono Legal Services, Tele Law Service and Nyaya Mitra Scheme.

VIII. Pro Bono Legal Services

The planned motive of this program is to encourage lawyers and legal professionals to

come forward and provide legal aid and support for free to the weaker and marginalized communities of the society. The modus operandi is that it creates a database of lawyers and their relevant details according to which they can be allotted to assist clients under the pro bono network. Any lawyer who is willing to take up Pro Bono job can get themselves enrolled through the Department of Justice website. Any lawyer registered with the Bar Council is eligible to enrol themselves. A large number of lawyers have registered for this program according to the survey conducted by the National Legal Services Authority.³⁰

IX. Tele Law Service

Tele Law means the use of communications and information technology for the delivery of legal services and advice. It is a combined mission by the Department of Justice along with the National Legal Services Authority (NALSA) and Common Services Centre (CSC). The interaction between lawyers and clients would be through video-conferencing facilities and infrastructure set up at the CSCs. The concept of Tele-Law is to facilitate the delivery of legal advice through a panel of lawyers stationed at the State Legal Services Authorities (SALSA) and CSC. The project would connect lawyers with clients through video conferencing facilities at CSCs, operated by paralegal volunteers³¹.

³⁰ National Legal Services Authority, Pro Bono (Sept.03,2020, 11:25 PM) www.nalsa.gov.in/probono.

³¹ National Legal Services Authority, Tele Law Services (Sept.03,2020, 11:28 PM) www.nalsa.gov.in/teleawsservices

X. Nyaya Mitra Scheme

The Nyaya Mitra scheme is aimed at reducing delays in cases across selected districts, with particular focus on those pending for more than ten years. A retired judicial officer, or an executive officer with judicial experience, will be put in charge of assisting those suffering due to judicial delays³².

Apart from the above methods, in several high-profile cases, courts in India have called on senior lawyers to play the role of amicus curie, and have also called on lawyers to come forward to provide legal representation to the poor. National Law Colleges of India have started legal aid clinics of their own. Where they provide weak and marginalized communities with free legal aid and advice. Even though law schools take such a step, the emphasis on clinical education of law and its practice is limited to the top universities and colleges of the country, thereby making the option as mentioned earlier rare and limited to very few cities of the country. So, along with changes to the policies for pro bono, emphasis should also be made to provide clinical education of law and litigation across all law colleges of the country.

All these options may be relevant enough, but still, the hindering factor is that most of the lawyers who have enrolled themselves are those belonging to the middle 50% and the lower 30%. Meanwhile, the top 20% enjoy their position as top lawyers and therefore do not enrol in pro bono activities. So, in this case,

the actions should be taken by the Bar Council of India. The most practical action in this scenario would be to make pro bono mandatory to all lawyers of the country for a fixed ratio such as for every four economically beneficial cases, 1 case should be pro bono.³³

XI. Conclusion

Justice is the right of every citizen fundamentally guaranteed, and it should be provided to all equally without discrimination based on any factors. The present system of judiciary is a result of drastic changes that took place gradually and over a long time. In earlier times, the poor and the weak had no opinion; therefore, access to justice was not possible. With the introduction of modern-day court procedures, this slowly started to change, and everyone gained access to Justice without any discrimination based on any hindering factors. However, later on, this system drastically changed due to the emergence of individual highly capable lawyers who changed the face of present-day law. After these lawyers came, the lawyers started to be divided into different groups, namely lawyers for the rich, and the ordinary lawyers. The original procedure wise distribution suggests that there are three types of lawyers, namely – senior advocates, advocates-on-record and other advocates. However, even in this procedure, the earlier classification would apply as senior advocates are generally considered as advocates of the rich and the other advocates would fight cases of the middle class and advocates-on-record

³² NATIONAL LEGAL SERVICES AUTHORITY, Nyaya Mitra Scheme (Sept.03, 2020, 11:30 PM), www.nalsa.gov.in/nyayamitrascheme.

³³ Nabeela Siddiqui, Pro Bono Work in India, Open Justice, UK, (Sept.03, 2020, 11:34 PM), <http://www.open.ac.uk/blogs/openjustice>

mostly assist the senior advocates in their cases. So, this classification has created a difference in the explanation and availability of Justice, that is, if a person has money, he can hire one of the most senior advocates and can avail Justice through procedures such as mentioning. This led to the commercialization of the legal profession, as stated by many judgements. Now the problem is that the cases of the rich get more attention compared to other cases as the advocates of these cases are senior advocates. The Supreme Court recently questioned this in 2017 wherein the Supreme Court held that charging exorbitant fees is against the ethics of this profession. The Supreme Court also held that the maximum chargeable fees per hearing by a lawyer should not exceed Rs.8000. This was welcomed by many and opposed by some. The Bar Council of India is silent regarding the same so that no actions can be imposed at the moment.

Meanwhile, other solutions can be devised wherein the poor, and the weaker sections of society can get access to good quality litigation for Justice. The main among them all remains Pro Bono litigation work. Under this method advocates registered with the Bar, enrol themselves in a list of advocates who are willing to provide legal aid and advice to the poor for free. Recently the Government of India has also come forward with specific schemes to ensure free and fair quality legal aid to the citizens. Even though all these measures are taken, these would not suffice the purpose of preventing commercialization of the legal profession. For this, a floor and ceiling should be recommended for capping the fees of

lawyers under which lawyers would not be allowed to charge more than a reasonable amount as a fee. Another suggestion would be that the Bar Council of India should mandate Pro Bono litigation for all lawyers with a reasonable ratio such as for every four economically beneficial cases, the lawyers should take up one case pro bono. These are just some mere suggestions, and many more can yet be suggested. The legal profession is at the peril of complete commercialization and losing control to the corporate tycoons. Immediate actions should be taken to control this problem and therefore ensure the prosperity of the legal profession.