

Access to Justice and International Standards of Human Rights

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Abstract

Human Rights are those liberties either recognized through custom or by international agreement and are standard to be adopted by all the nations.² UN defines HR as rights inherent to all human beings without prejudice to their colour, nationality, language, residence or any other status.³ Access to justice is also one of these HR safeguarded through various HR instruments discuss under this article.

1.1 Definition of Access to Justice

It is rightly said that “Access is the first weak point in the law machine”⁴. ATJ lacks any unanimous or widely acceptable definition under international law rather it is articulated through different terminologies⁵ and expressions in HR conventions. The term been used in numerous ways under different perspectives. Conventionally, it was an expression indicating the formal systems and structures of the law to the vulnerable segment of society⁶ but now the concept has been diversified and is used in its broader sense. Underhand is presented some of the definitions of ATJ disclosing the terminologies in which it exists.

Sometimes, it is considered much easier to define the term in negative connotation i-e to express what ATJ is not rather than what it is. In other words it is easy to figure out denial of ATJ than its achievements.⁷ For instance, backlog of cases defines denial of ATJ in a more appropriate manner than expeditious disposal of cases which is an expression of attaining ATJ.

During its development, many scholars have offered numerous explanations of the term ‘access to justice’ but no single all-inclusive and unanimously acceptable definition could be coined till today. One of its simplest definition is presented by Stefan Wrba. According to him, “The term of ATJ consists of two parts: *access* and *justice*. In its literal meaning, *access* stands for the chance to reach or accomplish something, whereas *justice* refers to fairness and reasonableness and embodies the concepts that everybody’s rights are safeguarded”.⁸ Wrba defines ATJ in terms of fairness, reasonableness and equal protection of law.

Stephen Bottomley⁹ and Simon Bronniti¹⁰ has defined ATJ in terms of formal system of justice. According to them, “ATJ is usually taken to mean access to formally constructed, political impartial

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² Maurice William Cranston, *What are Human Rights?* (California: The University of California, 1963), 60.

³ Roger Stenson Clark, *A United Nations High Commissioner for Human Rights*, (Netherlands: Springer, 2013) 16.

⁴ Marcel Berlins and Clare Dyer, *The Law Machine*, 5th ed. (England: Penguin Books, 2000) 1.

⁵ Terminologies used for the term access to justice in international law are: right of fair trial, right to have effective remedy, right to access to courts, right to have legal assistance etc.

⁶ Sahar Maranlou, *Access to justice in Iran: Women, Perceptions and Reality* (Cambridge University Press, 2014),170.

⁷ Dr. Eilionoir Flynn, *Disabled Justice? Access to Justice and the UN Convention on the Rights of Persons with Disabilities*, revised ed. (Ireland: Ashgate Publishing Ltd., 2015) 12.

⁸ *Collective Actions: Enhancing Access to Justice and Reconciling Multilayer Interests?*, ed. Stefan Wrba, Steven Van Uytsel and Mathias Siems (USA: Cambridge University Press, 2012), 27

⁹ Stephen Bottomley is Dean and Professor of Commercial Law in the ANU College of Law at the Australian National University.

¹⁰ Simon Bronniti is a Professor of Law at TC Beirne School of Law, The University of Queensland.

courts and administrative agencies”.¹¹ This definition excluded all the informal systems¹² of attaining justice prevailing around the globe.

A much broader definition of the term has been presented by Mauro Cappelletti¹³ and Bryant Geoffrey Garth¹⁴. According to them access to justice is “A system by which people may vindicate their rights and/or resolve their disputes under the general auspices of the state. It consists of guaranteeing equal access and achieving just outcomes. It could also simply refer to ‘mechanisms by which an individual may seek legal assistance’”.¹⁵

As compared to previous definition given by Bottomley and Bronnitt, Cappelletti and Garth has defined access to justice in a much broader way. This definition has covered all the existing systems of ADR like Jirga systems¹⁶, Lok adalat and other formal and informal systems of dispute resolutions recognized and permitted by the State. Moreover emphasis of this definition is on the point of reaching to the just and fair results of this exercise.

Another comprehensive explanation of the term ATJ is presented by UNDP. UNDP expresses it as “The ability of people to seek and obtain a remedy through formal or informal institutions of justice, in conformity with HR standards”.¹⁷ UNDP has elaborated this concept in terms of right of a person to *seek* and *obtain* a remedy when aggrieved. This definition on the one hand covers all the formal and informal systems of justice around the globe and on the other hand provides a comprehensive set of rules to be followed in the shape of HR standards.

1.2 Components of Access to Justice

As the term ATJ do not find any unanimous definition therefore academic and legal experts attempted to establish its parameters. Andre Tunc, distributed it in three broad components. These are “access to legal justice”, “access to machinery of justice specific to welfare state” and “access to Justice”¹⁸. According to Tunc, the first component *access to legal justice* means enforcement of a legal right existing under current legal system of any state and removal of barriers from obtaining legal remedied available to aggrieved. Its second component, *access to machinery of justice specific to welfare state* is related to the protection of new legal rights available to the subjects due to modern machinery like rights of employees, right to environmental protection, consumer rights etc. whereas, the third component *access to Justice* with capital “J” is indicative of the concept that the term ATJ not restricted to access to judicial process only but concepts of legal awareness, equality and achievement of social justice is also enshrined in it.¹⁹

¹¹ Stephen Bottomley and Simon Bronnitt, *Law in Context*, 3rd ed. (Sydney Australia: Federation Press, 2006), 83

¹² Informal systems of justice includes traditional, tribal, religious courts or community based systems of resolving disputes having different names under different regions like panchayat, jirga, lok adalat, arbitration by clan leaders etc.

¹³ Mauro Cappelletti was a Professor of Law at the University of Florence, Italy.

¹⁴ Bryant Geoffrey Garth is Professor of Law, University of California-Irvine.

¹⁵ Cappelletti, M., and Garth, B., *Access to Justice - A World Survey*, (1978), 6, quoted in Lola Akin Ojelabi Dr, “Improving Access to Justice Through Alternative Dispute Resolution: the Role of Community Legal Centers in Victoria, Australia”, *Civil Justice Research Online*, (September 2010): 10, <http://www.civiljustice.info/access/20/> (accessed July, 05, 2018).

¹⁶ A jirga is a traditional assembly of leaders that make decisions by consensus.

¹⁷ UNDP, Access to justice Practice Note, 2004.

¹⁸ Andre Tunc, “The Quest for Justice” in *Access to Justice and the Welfare State*, ed. Mauro Cappelletti (Italy: European University Institute, 1981),315-16

¹⁹ Sutatip Yuthayotin, Central Intellectual Property and International Trade Court, Bangkok, Thailand, *Access to Justice in Transnational B2C E-Commerce, A Multidimensional Analysis of Consumer Protection Mechanism*, (New York: Springer International Publishing Switzerland, 2015), 46

Similarly, Dr. Eilionoir has distributed ATJ among three components that are substantive ATJ, procedural ATJ and symbolic component of ATJ.²⁰ He elaborated, *Substantive* ATJ in terms of assessment of the rights claimed included therein, all stages of judicial process, available to those who seek a remedy. *Procedural* ATJ is defined in terms of opportunities and barriers which come in the way of getting justice like access to court and lawyer, reasonable time etc. Whereas, *Symbolic* component of ATJ is defined in terms of general promotion and preservation of ATJ like legal empowerment and awareness of citizens of a particular state.²¹

ATJ Advisory Committee appointed by the Government of Commonwealth in 1994 also defined three key features of the term 'ATJ' the same includes 'Equality of access to legal services', 'National equity' and 'Equality before the law'.²²

'ATJ' is also defined in terms of different challenges and barriers of justice like provision of legal services and legal aid, reasonable time, cost of litigation, settling of small claims, financial responsibility and competence of the party to recognize a claim or defense,²³ parallel opportunity to access the system and to enforce existing rights or laws.²⁴

On the basis of definitions and expressions discussed above, terminologies related to ATJ are presented below through fig.1.

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²⁰ Dr. Eilionoir Flynn, *Disabled Justice? Access to Justice and the UN Convention on the Rights of Persons with Disabilities*, revised ed. (Ireland: Ashgate Publishing Ltd., 2015) 18.

²¹ Ibid

²² Natalina Nheu and Hugh McDonald, *By the People, for the People? Community Participation in Law Reform*, Volume 6 (New South Wales: Law and Justice Foundation, 2010) 11.

²³ Sidney B. Jacoby, review of *Access to Justice* by M. Cappelletti; B. Garth; J. Weisner; K.-F. Koch, in *The American Journal of Comparative Law*, Vol. 29, No. 3 (Summer 1981): 532-535. This review paper is based on five different books of the above mentioned writers.

²⁴ Louis Schetzer, Joanna Mullins, and Roberto Buonamano, *Access to Justice & Legal Needs A project to identify legal needs, pathways and barriers for disadvantaged people in NSW* (New South Wales: Law & Justice Foundation of New South Wales, 2002),²⁴

ACCESS TO JUSTICE AND RELATED TERMINOLOGIES

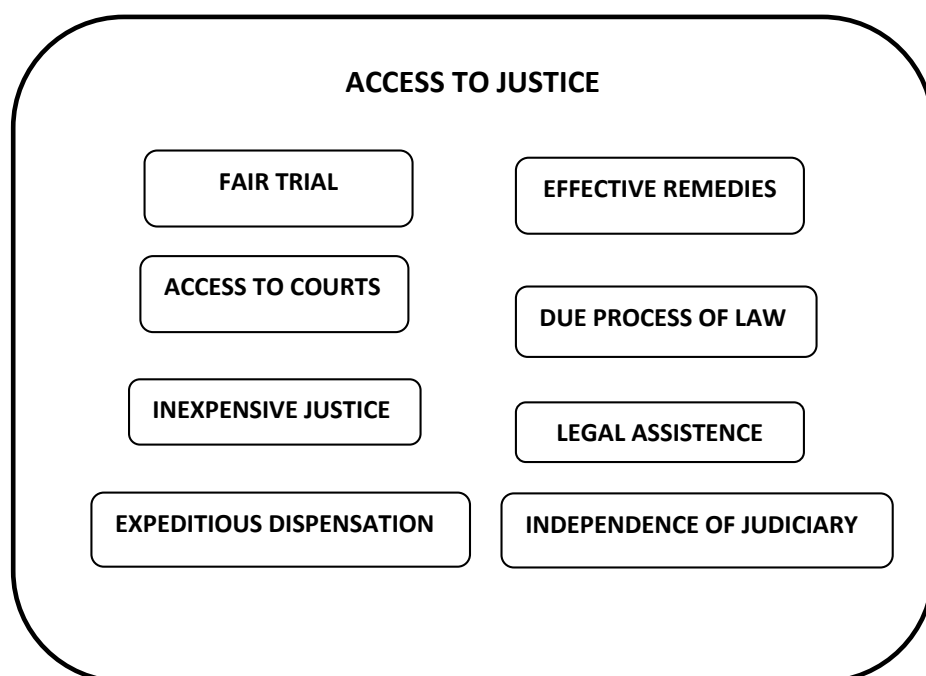


Fig.1

From the above discussion, the term ATJ can be divided into two categories i-e in broader and narrower sense. In broader sense, it can be further divided into two categories namely Procedural and Substantive ATJ. Here term procedural ATJ includes opportunities and barriers in getting ones claim into court or tribunal. Whereas, substantive ATJ indicates receiving of a fair and just remedy for violation of one's rights or an assessment of the rights claims that are available to those who seek a remedy. To further elaborate the concept, fig. 2 is presented below.

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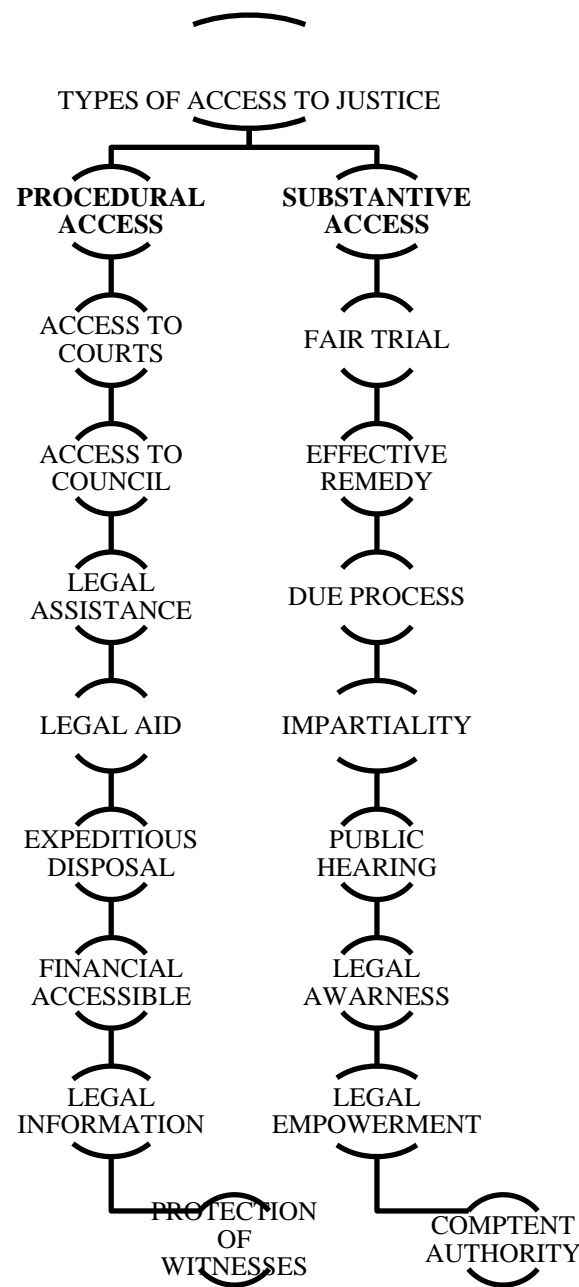


Fig. 2

Whereas, in narrow sense the ATJ is persistently recognized as: a right to a fair and proper trial, right to an effective remedy/ access to legal process, access to court, right to due process of law, financially affordable judicial system, right to have impartial courts, independence of judiciary and right to have expeditious dispensation of justice. These terms can also be considered as offshoots of procedural and substantive ATJ.

1.3 Access to Justice and Human Rights Instruments

The right of ‘Access to Justice’ was kept preserved in almost all the HR instruments under different expressions of ATJ. Although it was Convention on International Access to Justice 1980, that introduced the terminology of ATJ but Convention on the Rights of Persons with Disabilities 2006, elaborated first time ATJ as a conclusive right. Following is presented some of the human right’s instruments preserving the right of ATJ.

1.3.1 Universal Declaration of Human Rights (UDHR) 1948

Although, the term ATJ has never been coined at the time of promulgation of UNHRC but the fundamental concept of the same has been secured very carefully since inception of HR preservation efforts. Therefore, in 1948 some terms having meaning to ATJ were placed under this charter.

UNHRC also known as UDHR, under Article 1, declares the right of ATJ as a fundamental right to all. Whereas, Article 7 of the instrument provides for right of equality before law and equal protection of law. Similarly, Article 8 of the Charter enumerates the right to an effective remedy as determined by the courts for fundamental rights ensured by the Constitution or by law.

Article 10 of the Charter provides a combination of various rights covered under the right of ATJ, including right of equality before the law, right to a fair and proper trial, right of public hearing and right to have impartial court and tribunal.

1.3.2 European Convention of Human Rights (ECHR) 1950

Generally at some forums, right of fair trial and public hearing guarantees regular procedures. Whereas, at European Court of HR it is taken in broader meanings and also includes a right to access to the courts. Article 6 of the Convention provides not only right to a fair and public hearing but also provides expeditious disposal from an independent and impartial tribunal as a fundamental right. Whereas, Article 13 of the ECHR guarantees the right to an effective remedy for the aggrieved in case of violation of his rights and freedoms provided under ECHR. It provides an explicit assurance towards the right to ATJ in the sense that it states that the aggrieved “shall have” an effective remedy when any grievance may cause to him.

1.3.3 International Convention on the Elimination of All Forms of Racial Discrimination (CERD) 1965

Article 6 of the CERD highlights the right of ATJ in terms of right of effective remedy through competent tribunals. Here the term competent tribunal is used in wider sense including all the forums of provision of justice i-e all the formal or informal systems of justices. It also includes the right of free, fair and impartial trial through independent tribunal which is ultimate aim of provision of right of ATJ.

1.3.4 International Convention on Civil and Political Rights (ICCPR) 1966

The International Covenant on Civil and Political Rights (ICCPR) under Article 2 preserves right of ATJ in terms of right to effective remedy. Whereas, under Article 14, Convention remarkably ensures equality before the law and equal protection of the law along with fairness of procedure, due process of law and impartiality of adjudicating authority. Similarly, in its Article 26, ICCPR reiterates the guarantee of equality before the law and equal protection of the law without any discrimination.

1.3.5 Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) 1979

CEDAW under its Article 2 requires States parties to the Convention, to ensure the provision of right to an effective remedy and equality before the law. It necessitates a rectifier to ensure this right through competent tribunals and other public institutions giving protection to the women against any act of discrimination.

As per CEDAW, no discrimination would be acceptable towards the women with regard to their right of equality before the law and ultimately their right to ATJ.

1.3.6 Convention on International Access to Justice 1980

Convention on international access to justice 1980 was promulgated in order to facilitate ATJ to the citizens of the States signatory to this Convention at international level.

The Convention's purpose is not to harmonize domestic laws, but ensure protection of the Convention to the right of ATJ to those alien to a State. The Convention safeguards such people from

discrimination on the ground of either their being non-resident of a State or lacking domicile of the state. According to the Convention the mere status as an alien or the absence of residence or domicile in a State should not disallow a person from seeking redress of his grievances and legal assistance.²⁵

Article 1, of the Convention provides assurance of legal aid to non-resident of the contracting states. It safeguards from discrimination to those alien to the State but in a limited sense because it protects legal aid for “court proceedings” only and not for other forums. Similarly, it specifies that legal aid is to be provided in the matters of “civil and commercial” nature. Whereas, Article 2, of the Convention provides assurance of “legal advice” to the person seeking. Similarly, Article 12 of the Convention secures expeditious and timely disposal of the applications made under Convention for legal aid.

Title of the instrument reveals its enrichment as a comprehensive Convention upon the subject but the detail study is not impressive because it provides for only the right to legal aid, security for cost, copies of entries and decisions and physical detention and safe conduct. Overall, the Convention is not adequately dealing with the concept of access to justice and miserably failed to do justice to its title adopted by the contracting States.

1.3.7 Universal Islamic Declaration of Human Rights (UIDHR)1981

Article 4 and 5 of UIDHR expressly deals with ATJ in terms of right to justice and right to fair trial. Article 4 of the declaration is unique in its perception and the same not in existent in any other instrument or declaration. As this Article is not only creating right to justice but also obligating upon the individual to practically exercise this right. This Article also provides for free and fair trial along with independence of judiciary and impartial trial.

Whereas, Article 5, clause (a) & (b) discusses Right to Fair Trial. According to it no individual shall be held guilty of an offence and made liable to punishment except after proof of his guilt is established before an independent judicial tribunal.

1.3.8 Convention Against Torture (CAT) 1984

The CAT pledges a right to redress for acts of torture. In a broader sense, the Convention indicates about the right to ATJ in cases of torture. Article 13 of the convention provides for right to complain or right to claim which is ultimate guarantee of right to have an effective remedy. Similarly, Article 13 also provides for prompt and neutral examination of one’s case by competent authorities that includes right of due process of law. One of the distinct protection provided under Article 13 of CAT is protection to the complainant as well as the witnesses of the matter concerned.

Similarly, Article 14 of the Convention requires States parties to ensure that victims of torture are able to obtain redress via their legal systems and have “an enforceable right to fair and adequate compensation”, which covers right of fairness in judicial adjudication whether related to some suit before legal forum or some administrative matter before an authority.

²⁵ HCCH, “Outline Hague Access to Justice Convention”, *Hague Conference on Private International Law* (December 2007).

1.3.9 Convention on Access to Information, Public Participation in Decision-Making and Access to Justice In Environmental Matters 1998

Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, 1998 in its preamble aims to improve the system of accountability and transparency in making decisions. It also intended to reinforce the public support for decisions on the environment.²⁶

Through Article 9, the Convention allows the public to ATJ, i.e. the right to seek redress when environmental law is infringed and the right to access review procedures to challenge public decisions that have been made without regard to the two other pillars of the Convention.

This Article has established number of rights to the public. The same starts from provision of right to information and goes on with all other inter-related rights, including due process of law, right to have effective and inexpensive justice through independent and impartial tribunal and expeditious disposal.

1.3.10 Convention on The Rights of Persons With Disabilities 2006

The Convention on the Rights of Persons with Disabilities²⁷ requires under its Article 13, from States parties to “ensure effective ATJ for persons with disabilities on an equal basis with others”. It provides for the provision of right of ATJ to those with disabilities along with acceptance of their equality before the law. This is second international instrument after Convention on International Access to Justice, 1980 that categorically refer the comprehensive expression of right of ATJ.

It is important to mention here that the Convention attained highest number of signatures on its opening day, which makes it remarkably unique in history to a UN Convention. Similarly, it is considered as a first comprehensive HR treaty of the 21st century and is the first HR convention to be open for signature by regional integration organizations.

1.3.11 Magna Carta of Judges, 2010

The Consultative Council of European Judges (CCJE) of the Council of Europe adopted the Magna Carta of Judges (Fundamental principles) on 18th November 2010²⁸.

The purpose of the instrument is to promote the role of judges, improvement in their efficiency and independence, as well as to elucidate their duties and responsibilities.²⁹ This instrument brings to limelight all fundamental principles regarding judges and judicial system. According to Article 23 of the instrument, the principles provided in the instrument “shall apply mutatis mutandis to judges of all European and international courts”.

Magna Carta of Judges includes ATJ as one fundamental pillar of the rule of law. Under Clause 15 of the instrument it requires from judges to play their effective and responsible role towards the provision of ATJ.

Whereas it's Clause 16 provides for the right of public hearing and right to information to the litigants, right of expeditious disposal of cases along with utilization of efficient case flow management.

²⁶ Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, (Aarhus, Denmark, 25 June, 1998)

²⁷ Convention on the Rights of Persons with Disabilities 2006.

²⁸ Magna Carta of Judges (Fundamental Principles), (Strasbourg, 17 November 2010 CCJE (2010)3 Final).

²⁹ Council of Europe, Committee of Ministers, Minister Deputies, CM Documents, 1098 Meeting (October 2010).

Clause 17 of the instrument provides for enforceability of right of fair trial. According to it “The enforcement of court orders is an essential component of the right to a fair trial and also a guarantee of the efficiency of justice”.

Magna Carta, 2010 is one of the pioneering instruments highlighting the role and responsibilities at the shoulders of judges for the preservation of the right of ATJ.

1.3.12 American Convention on Human Rights 1969

American Convention on HR, comprehensively provides for right of ATJ in both of its terms i-e procedural and substantive ATJ.

The Convention demonstrates the right to ATJ under the expression of right to access to the courts, which has become an international norm. Through Article 8, the Convention introduces a concept in terms of right to be heard, expeditious disposal, right of fair trial, independent and impartial forums to adjudicate upon the matter and right of legal assistance. As all these terminologies are prerequisites to the procedural ATJ.

Article 25(1) of the Convention provides this guarantee from another aspect of “Right to Judicial Protection”. According to this Article everyone is entitled to recourse “to a competent court or tribunal for protection” for violation of his fundamental rights. The same is indicating the substantive ATJ in terms of competency of the adjudicating authority to handle the matter.

Similarly, Article 25(2) obligates upon a contracting party to “ensure that any person claiming such remedy shall have his rights determined by the competent authority provided for by the legal system of the state”, “develop the possibilities of judicial remedy” and “ensure that the competent authorities shall enforce such remedies when granted”.

1.3.13 The African Charter on Human and People’s Rights 1981

The African Charter on Human and Peoples' Rights (also known as the Banjul Charter) was adopted in 1981 and entered into force in 1986.³⁰

The Charter contains the most explicit guarantee of access to the courts under its Article 7(1). It states that “Every individual shall have the right to have his cause heard”. Through this Article enormous rights have been discussed that are expressions of ATJ, like right to claim, right to public hearing, expeditious dispensation of justice and legal assistance.

Article 26 of the Charter directs the States party to the Charter, preservation of the right of ATJ by assuring the independence of the judiciary. This Article obligates the States party to the Charter, assurance of the independence and impartiality of the courts in order to preserve and promote the rights and freedoms guaranteed under the Charter.

Article 3 of the Charter, the same provides that every individual “shall be entitled to equal protection of the law”. According to the African Charter a legal system which fails to provide meaningful ATJ to individuals in a society, regardless of their financial status, actually dissents from its responsibility of equal protection of the law.

³⁰ African Charter on Human and Peoples rights, Adopted 27 June 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), entered into force 21 October 1986.

1.3.14 African Commission On Human And Peoples' Rights 2001

In 2001, the African Commission on Human and Peoples' Rights adopted a set of Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa³¹. The guidelines provided under the commission includes public hearing through independent and impartial tribunals, appropriate education and training of judicial officials, guarantee of right to an effective remedy, public access to court records and information related to judicial proceedings, access to lawyers, mechanism of legal aid and assistance and expeditious disposal of cases.

The commission considers right to fair trial, provision of legal assistance and access to courts as the means of promotion and preservation of right of ATJ. According to it, everyone is entitled to bring before "judicial bodies" his grievance upon the violation of human right, which is once again authenticating the concept that ATJ is not only a right in itself but means to protect other HR as well.

1.3.15 Southern African Development Community (SADC) Protocol On Gender And Development

The Southern African Development Community (SADC) Protocol on Gender and Development recognizes ATJ both as a means of securing other rights and a right in itself that women must share on a basis of equality with men.

The Protocol provides in Article 7, "Equality in Accessing Justice" that States Parties must put in place measures that secure "equality in the treatment of women in judicial and quasi-judicial proceedings, or similar proceedings, including customary and traditional courts"; "equal legal status and capacity in civil and customary law"; "the provision of educational programs to address gender bias and stereotypes and promote equality for women in the legal system"; and "accessible and affordable legal services for women."

The protocol discusses equality before the law especially of the women, provision of accessible and affordable legal services including legal assistance.

1.3.16 Access to Justice in European Laws

There was no common concept of ATJ in European Law that included European Union (EU) law, European Convention on Human Rights (ECHR) and European Economic Area (EEA) law, till the commencement of Treaty of Lisbon 2007.

The Treaty of Lisbon was adopted in order enable several EU policies to be reformed. It was signed at the European Council of Lisbon on 13 December 2007 and it has been ratified by all Member States.³²

Before the Treaty of Lisbon, ATJ was usually taken in the meanings of application and enforcement of rights in the European Union legal system, both at national and European level.³³

Under Title V of TFEU namely "Area of Freedom, Security and Justice" Article 67.1 provides general legal basis for the EU to legislate in the field of (access to) justice.³⁴ The treaty makes it mandatory that the contracting parties, through 'TFEU as amended by Treaty of Lisbon' shall provide

³¹ African Union, African Commission on Human & Peoples' Rights, "Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa", DOC/OS(XXX)247

³² House of Lords, *The Treaty of Lisbon: An Impact Assessment*, Volume I, Report (London: The Stationary Office Limited, 2008), 189.

³³ Méndez Pinedo, Vol. 1, 9.

³⁴ Martin Trybus and Luca Rubini, *The Treaty of Lisbon and the Future of European Law and Policy* (USA: Edward Elgar, 2012),142.

facilitation to the right of ATJ under its Article 67(4) of Part I. according to it: “The Union shall facilitate ATJ, in particular through the principle of mutual recognition of judicial and extrajudicial decisions in civil matters”.³⁵

Similarly through Article 81 (e) of Part I, Chapter III namely Judicial Cooperation in Civil Matters, TFEU as amended by Lisbon Treaty, provides for cooperation for provision of “effective ATJ.”

Along with these articles in the main EU Treaties, the EU Charter of Fundamental Rights (EU CFR) that has gained the same legally binding status as the EU Treaties provides for the right to an effective remedy and to a fair trial under Article 47 EU CFR. Article 47 guaranteed the provision of right to an effective remedy, right to fair and public hearing, expeditious disposal of matter, impartial and independent tribunal and free legal aid to those who deserves. According to Article, the provision of these rights ensures the protection and preservation of right of ATJ. Moreover, the third paragraph of Article 47 specifically refers to legal aid as an element of ATJ, but the term “ATJ” which inspires the article in its entirety is neither defined nor explained

Conclusion

Although the right of ATJ remained present in one form or the other in almost all international HR instruments but the use of the exact terminology was first time introduced in Convention on International Access to Justice, 1980. Later on several other international and regional instruments adhered the same terminology in order to comprehensively express numerous fundamental rights including right to fair trial, right to council, right to have due process of law, right to public hearing etc.

Correspondingly, international organizations also played a distinguished role in protection and preservation of this right. They, under their mandates, enshrined judicial reforms and institutional strengthening of the Bar & Bench in order to promote and preserve right of ATJ. Due to these organizations this right has come to lime light and attained such a milestone today.

³⁵ “Consolidated Reader-Friendly Edition of the Treaty on European Union (TEU) and the Treaty on the Functioning of the European Union (TFEU) as amended by the Treaty of Lisbon (2007)”, ed. Jens-Peter Bonde , (Foundation for EU Democracy, 2008), ISBN: 87-87692-72-4