

CHRI 2018



Hope Behind Bars?

STATUS REPORT ON LEGAL AID FOR PERSONS IN CUSTODY



CHRI

Commonwealth Human Rights Initiative
working for the *practical* realisation of human rights in
the Commonwealth

Volume-I

Commonwealth Human Rights Initiative

The Commonwealth Human Rights Initiative (CHRI) is an independent, non-profit, non-partisan, international non-governmental organisation, working for the realisation of human rights in the countries of the Commonwealth. In 1987, several Commonwealth professional associations founded CHRI, with the conviction that there was little focus on the issues of human rights within the Commonwealth although the latter provided member countries the basis of a shared set of values and legal principles.

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HOPE BEHIND BARS?

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“There can be no equal justice where the kind of a trial a man gets depends on the amount of money he has.”

Justice Hugo Black, United States Supreme Court, 1964

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FOREWORD

Date: 6 September 2018

Justice Ruma Pal

Former Judge

Supreme Court of India

It gives me great pleasure to write this Foreword for this Report of CHRI which again focuses the attention of the public on that forgotten individual's rights who happens to be behind bars either for crimes committed but more often than not on suspicion of criminal behaviour. Those individuals who generally come from educationally and economically deprived circumstances often have no recourse to redressal under the legal system.

To bridge this gulf, there have been a slew of laws, statutory regulations and judicial decisions to ensure that access to constitutional rights is not denied to these individuals. These measures include the setting up of Legal Service Authorities both at the National, State and District levels. Over a period of time CHRI found that these policies were not being translated into effective action on the ground. The regulatory laws needed untangling and tools for implementing the policies were found to be either inadequate or defective because of incompetent and untrained lawyers, negligent jail authorities, and a desultory judiciary resulting in CHRI's reports on the subject of Legal Aid.

This Report contains a detailed analysis of the reasons for the continued thwarting of the intention of the laws to afford relief to the individuals behind bars. Innumerable obstacles had to be overcome in the collection of data from jails and courts. The analysis of the data which has been painstakingly and thoroughly done has resulted in recommendations which lay down standards as well as to monitor and mentor the actions of all responsible to fulfill the object of legal aid. Importantly the rationale for each recommendation has been given. A vital lacuna in the present laws has been highlighted in the observation- "Negligent, delayed and unprofessional service is unacceptable and requires to carry consequences. Presently it does not".

The CHRI team are to be congratulated not only for the assiduous preparation of this Report but also for dealing with such an important and complex issue in a manner that can be utilized with ease.

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GLOSSARY

Convict Paralegal Volunteer (CPLV): Prison paralegal volunteers are long-term convicts nominated by the prison department and appointed by the legal services institution. They are mandated to conduct jail legal aid clinic at least twice a week; draft bail applications, petitions, appeals, parole and other applications; and maintain the records and registers.

Community Paralegal Volunteer (CoPLV): Community paralegal volunteers are appointed by the legal services institution to maintain legal aid clinics; give legal advice; resolve disputes through lok adalats; implement various schemes of the legal services authority; and other activities.

Jail Visiting Lawyer (JVL): Jail visiting lawyers are lawyers appointed from among the panel lawyers by the legal services institution to visit jail legal aid clinics every fortnight. They are mandated to provide legal advice, draft applications, letters and petitions for inmates inside the jail.

Jail Legal Aid Clinics (JLACs): These are clinics mandated to be constituted in each prison across India as per the NALSA 2011 Regulations and NALSA SOP on Representation of Persons in Custody 2016.

Legal Aid: Free legal aid entails the provision of free legal services in civil and criminal matters for poor and marginalised people who cannot afford the services of a lawyer for the conduct of a case or a legal proceeding in any court or tribunal, or before an authority.¹

Provision of free legal aid may include:

- a) Representation by an advocate in legal proceedings.
- b) Payment of process fees, expenses of witnesses and all other charges payable or incurred in connection with any legal proceedings in appropriate cases.
- c) Preparation of pleadings, memo of appeal, paper book including printing and translation of documents in legal proceedings.
- d) Drafting of legal documents, special leave petitions, etc.
- e) Supply of certified copies of judgements, orders, notes of evidence and other documents in legal proceedings.

Legal Services Authorities Act, 1987 (LSA): This Act was enacted to provide free and competent legal services to weaker sections of society. The Act came into force in 1995. The LSA paved the way for the constitution of legal services institutions at the national, state, district and taluka levels.

Legal Aid Counsel (LAC): Remand and bail lawyers are appointed by the legal services institution under the NALSA 1998 Model Scheme. They are assigned to each magistrate court to oppose remand, apply for bail and move miscellaneous applications for those in custody.

Legal Aid Providers: Legal aid providers are individuals appointed by the LSI to provide legal aid. These include lawyers and paralegals. In this report, we have classified legal aid providers as primary and secondary legal aid providers. The former includes panel lawyers, retainer lawyers and remand lawyers as they directly represent persons in court, whereas the latter includes jail visiting lawyers and convict and community paralegal volunteers as they usually provide legal aid services other than representing persons in court.

Legal Services Institutions (LSI): Legal Services Institutions (LSI) means the Supreme Court Legal Services Committee, State Legal Services Authorities (SLSAs), the High Court Legal Services Committee, District Legal Services Authorities (DLSAs) and Taluk Legal Services Committees or sub-divisional legal services committees, as the case may be. The National Legal Services Authority (NALSA) is the nodal agency for legal aid in India. Every state has a SLSA to carry out the activities as formulated by NALSA. The DLSA and the TLSC at the district and taluka levels, respectively, ensure that the legal aid schemes and regulations of the SLSA are implemented.

¹ NALSA website, <http://nalsa.gov.in/content/faq>.

Monitoring Committee: Every legal services institution is mandated to set up a monitoring committee to track and review the progress of the court-based legal services rendered by the panel lawyers in legal aid cases. The committee for the district or taluka legal services institution shall be constituted by the executive chairman of the SLSA and shall consist of: a) the senior-most member of higher judicial services in the district, b) member secretary or secretary of the legal services institutions and c) a legal practitioner with more than 15 years' experience at the local bar to be nominated in consultation with the president of the local bar association.

Panel Lawyer: Panel lawyers are appointed by the LSI for a fixed tenure to represent those who are in need of free and competent legal services and are entitled to legal aid.

NALSA 2010 Regulation: The NALSA (Free and Competent Legal Services) Regulations, 2010 provide for the constitution of a panel of legal aid lawyers, who are expected to represent persons in need of legal representation, upon assignment by the LSI. The regulations look at procedures for seeking and receiving legal aid, and mechanisms to monitor the quality of legal representation, viz. monitoring committees.

NALSA 2011 Regulation: The NALSA (Legal Services Clinics) Regulations, 2011 provide for setting up of "legal services clinics" in order to provide basic legal services "where the people face geographical, social and other barriers for access to the legal services" including jails. The clinics are to be operated by paralegal volunteers and panel lawyers.

NALSA 1998 Model Scheme: NALSA Model Scheme for Legal Aid Counsel in all the courts of Magistrates 1998 mandates the appointment of remand and bail lawyers for every magistrate's court. Lawyers appointed under this scheme must represent all unrepresented cases, and oppose unnecessary remand and file applications for bail. They are required to be present at the court every day during remand hours.

NALSA Scheme for Paralegal Volunteers (Revised): In 2009, NALSA formulated a Scheme to include paralegal volunteers (PLVs) as legal aid providers. The Scheme has recently been revised to include presence of paralegals at police stations and strengthen their training curriculum.

NALSA Standard Operating Procedures for Representation of Persons in Custody 2016: The SOP clarifies and standardises the mandate of legal aid functionaries working for persons in custody. These include the state legal services authorities (SLSAs), the district legal services authorities (DLSAs), the panel and jail visiting lawyer, the paralegal volunteers, prison officers and magistrates.

Retainer Lawyer: Retainer lawyers are drawn from among the panel lawyers for a fixed period by the executive chairman of the legal services authority. They are paid a monthly fee and are expected to also be involved in the administrative affairs of the legal aid institution.

LIST OF ACRONYMS/ABBREVIATIONS:

CrPC: Code of Criminal Procedure, 1973

DLSA: District Legal Services Authority

JVL: Jail Visiting Lawyer

LSI: Legal Services Institutions

MC: Monitoring Committee

NALSA: National Legal Services Authority

PLV: Paralegal Volunteer

TLSC: Taluka Legal Services Committee

NALSA 2010 Regulation: The NALSA (Free and Competent Legal Services) Regulations, 2010

NALSA 2011 Regulation: The NALSA (Legal Services Clinics) Regulations, 2011

NALSA Model Scheme: NALSA Model Scheme for Legal Aid Counsel in all the courts of Magistrates, 1998

NALSA SOP 2016: NALSA Standard Operating Procedures (SOP) for Representation of Persons in Custody, 2016

ABOUT THE REPORT

This report is prompted by the right of every person to have effective legal representation of his or her choice. This stems from constitutional guarantees of fair trial and due process, read into the assurance that all people are equal before the law.² The State is bound to provide legal representation for people who are unable to employ their own lawyer.

The Legal Services Authorities Act, 1987 (LSA Act) effectuates the guarantee through the National Legal Services Authority (NALSA) which regulates the provision of legal aid, devises schemes for its delivery and monitors implementation.

Section 12 of the LSA Act³ provides the categories of people who are eligible for legal aid. Apart from those eligible under the means test, there are seven other categories which are eligible: a member of a Scheduled Caste or Scheduled Tribe, a victim of trafficking in human beings, any woman or child, a person with disability, a person in custody, an industrial workman, a person under circumstances of undeserved want such as being a victim of a mass disaster, ethnic violence, caste atrocity, flood, drought, earthquake or industrial disaster. While NALSA has formulated a separate scheme for six of these seven categories, there is no separate scheme for persons in custody that covers representation by legal aid lawyers at all stages of a criminal proceeding.

Though no separate scheme governs legal aid for persons in custody, three schemes/regulation together address early and effective access to legal aid for persons in custody viz. the NALSA 1998 Model Scheme which recommends appointment of remand lawyers at magistrate courts; the NALSA 2010 Regulations which deal with the appointment of legal aid providers and their monitoring; and The NALSA (Legal Services Clinics) Regulations, 2011 which deal with setting up of legal aid clinics, including in prisons.

This report analyses these three regulations in particular. It looks at the delivery of legal aid to accused persons in police stations, courts and prisons in India. It also seeks to identify good practices of legal aid delivery from different states and districts. The scope of this report is limited to access to legal aid in criminal cases.

The primary source of information for the report has been received through CHRI's RTI applications. When the RTI applications were filed in September 2016, the information on legal aid for persons in custody in the public domain was extremely limited. However, in the last one year, NALSA has provided some information on legal aid providers on their website. So too has Ministry of Law and Justice, Government of India, in response to questions asked in the Parliament. While this information is limited to state-wise data on appointment of legal aid providers, CHRI's RTI responses also contain detailed district and jail-wise information on appointments of legal aid providers, functioning of monitoring mechanisms, outcome of legal aid representation, reporting of legal aid providers, functioning of JLACs and more. The report has tried to combine the broader, publicly available information, along with the specific information received through the RTI responses, to give a comprehensive picture as possible. The report covers the period July 2015 to June 2016.

The report is divided into two volumes. Volume I comprises the standards, national findings on the implementation of the schemes, recommendations for key stakeholders and replicable formats of recording, reporting and monitoring mechanisms. Volume II looks at the functioning of legal aid delivery at the state level. This volume has state summary sheets for 29 states and seven union territories. Each state summary includes three components: a) a snapshot of the criminal justice delivery system in the state; b) a snapshot of the response to our legal aid RTI and the key findings; and c) detailed findings on the implementation of legal aid delivery in the state. The recommendations also include good practices from different states. These documents helped identify better reporting models, which we have suggested in the format chapter.

The report examines two important elements of legal aid delivery: early access to legal aid and ensuring quality legal representation. These elements have taken centre stage internationally in the last decade. In 2012, the

2 Article 14, 15 and 21 of the Constitution of India 1950.

3 The Legal Services Authorities Act 1987.

United Nations Principles and Guidelines on Access to Legal Aid (UNPGLA) in Criminal Justice Systems⁴ were formulated. These principles reiterate the importance of legal aid in the criminal justice system and stress the need for “effective access to legal aid”.⁵ United Nations Office on Drugs and Crime (UNODC) also prepared handbooks on the role of legal aid lawyers and paralegals⁶ and early access to legal aid.⁷ In 2017, UNODC finalised its Model Law on Legal Aid. The document lays down the procedures and mechanisms required to ensure early access to legal aid and also illustrates how countries have incorporated legal aid principles in their legislations. The UN International Conference on Access to Legal Aid in the Criminal Justice Systems, held in South Africa and Argentina in 2014 and 2016, respectively, which led to the Johannesburg Declaration⁸ and the Buenos Aires Declaration,⁹ have also taken forward the conversation on legal aid, especially legal aid for persons in custody. Globally, the need for early access to legal aid at arrest, during detention and in fact, pre-arrest for suspects, has been repeatedly advocated¹⁰ and emphasised.

Clearly, there have been a series of positive international developments on standard setting relating to legal aid delivery. At the same time, there have been considerable improvements in policy level changes on legal aid in India. However, these changes have not percolated at the ground level. Therefore the main purpose of this study is to assist the legal aid system to mend the existing gaps and improve its performance in providing an essential service, not only to the individual client, but also to contribute in building public trust in fair judicial outcomes.

Throughout the study, the individual who has the right to legal aid is referred to as “the client”. We have chosen this nomenclature deliberately, to press home the point that representation under the legal aid scheme is a constitutionally mandated right. It is not an act of charity. In the asymmetries of power that exist in India, this is almost always forgotten. Therefore, it is important to remind ourselves that the relationship between the legal aid lawyer and the individual is the same as that of attorney and client. It attracts all the client-lawyer privileges of confidentiality, standard of care and the high degree of trust that are expected of a skilled professional. None of these can be breached. Negligent, delayed and unprofessional service is unacceptable and must bear consequences. Presently it does not. We hope that the evidence provided by delving into the details of how legal aid is delivered will help ensure effective and prompt legal representation.

4 United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, available at: http://www.unodc.org/documents/justice-and-prison-reform/UN_principles_and_guidelines_on_access_to_legal_aid.pdf.

5 Principle 7 of the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems.

6 A Handbook for Paralegals Working in Prison, available at: <https://www.penalreform.org/wp-content/uploads/2013/06/man-2002-paralegal-handbook-en.pdf>.

7 Early Access to Legal Aid in Criminal Justice Processes: A Handbook for Policymakers and Practitioners, available at: http://www.unodc.org/documents/justice-and-prison-reform/eBook-early_access_to_legal_aid.pdf.

8 The Johannesburg Declaration on the Implementation of the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, available at: http://www.legal-aid.co.za/InternationalConference/International_Conference_on_Access_to_Legal_Aid_in_Criminal_Justice_Systems/Home_files/2014%20Johannesburg%20Declaration%20on%20Implementation%20of%20UNPGLA.pdf.

9 The Buenos Aires Declaration on the Implementation of the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, available at: http://www.unodc.org/documents/justice-and-prison-reform/LegalAid/Buenos_Aires_Declaration_English.pdf.

10 Principle 3 & Guideline 3 of the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, available at: http://www.unodc.org/documents/justice-and-prison-reform/UN_principles_and_guidelines_on_access_to_legal_aid.pdf.

CONTEXT

The overwhelming majority of those accused of criminal acts are from amongst the economically weak and disadvantaged sections of society. Very few of these people know anything about their rights or procedures relating to the police, prosecution and court, or what the services of a lawyer should entail.

Given the indigence of the majority of suspects and accused, their extremely limited education and negligible knowledge of legal rights, it is hardly surprising that two-thirds of the prison population in India are undertrials. The complexities of our laws and the procedural convolutions play an enormous role in this tragedy. Globally, only 17 countries fare worse on undertrial to convict ratios.¹¹ In the last five years while the prison population in India has increased by 12%, the undertrial population has gone up by 17%.¹²

Long-standing structural shortfalls and bad practices contribute to the growing numbers. Around 60% of all arrests are unnecessary.¹³ There are only 18 judges per million population,¹⁴ among the poorest ratios in the world. The backlog of criminal cases across more than 30,000 courts in India is a staggering 17 million. Over 1.65 lakh of cases are pending for over 10 years. More than 10% of India's 1,401 prisons are overcrowded by over 100%.¹⁵ **Remands to judicial custody are too often given without application of mind and more than 40% of the expenditure in jails is spent on persons who should not have been arrested at all.** Many end up spending as much time awaiting trial in custody as their possible sentence. In prison, overcrowding and understaffing mean that all too often, inmates endure extremely poor conditions of incarceration. This often results in diseases, and with limited health care services available in prison, rights of prisoners are routinely violated.

Bail while awaiting trial is permissible under the criminal procedural laws, and “bail not jail” is the much-mouthed slogan. The statute too, is permissive but too often the letter of the law flounders at implementation. Lawyers are often unavailable at first appearance and unprepared at later times. Police routinely resists bail for unsubstantiated reasons and magistrates themselves are caught in traps set by the realities of court functioning.

For one, the time a magistrate spends on considering each case is often extremely limited. The busiest high courts spend less than four minutes per hearing.¹⁶ The situation in trial courts would likely be worse. In these few minutes magistrates have to decide the prima facie reasonableness of the arrest, ensure the suspect has a lawyer, make sure s/he has not been maltreated and also make a considered decision about the liberty of the person in custody. This is simply not possible.

Several other factors militate against the easy grant of bail. There is routine resistance from the prosecution and limited assistance from defence counsels who more often than not submit standard bail applications that are easy to reject. In the absence of permanent addresses, financial stability, employer guarantees or community assurances, the poor have little to offer the courts by way of assurance that they will appear in court. Lack of any objective indicators to assist the court in evaluating the possibility of the accused suborning justice or being a flight risk, forces a judge to invariably prefer to use his/her discretion conservatively and avoid bail in favour of incarceration. So, it has become common practice that bail is not granted, till a charge-sheet has been filed,¹⁷ when it is available at a far earlier stage of proceedings. Even when there is a lawyer at hand, till bail is granted, interaction is extremely limited and relies to a great extent on briefings from friends and family.

With so many frailties weighing against fair outcomes, the role of a competent lawyer becomes crucial. Legal aid is the “hope” that persons in custody get a fair trial. Almost 80% of India's 132 crore population is eligible

11 World Prison Brief, available at: http://www.prisonstudies.org/highest-to-lowest/pre-trial-detainees?field_region_taxonomy_tid=All.

12 Prison Statistics India, 2015, NCRB, available at: <http://ncrb.nic.in/StatPublications/PSI/Prison2015/PrisonStat2015.htm>.

13 Para 22.23; Third Report- National Police Commission, 1980.

14 <https://indianexpress.com/article/india/india-news-india/india-has-18-judges-per-ten-lakh-people-law-ministry-2953735/>.

15 Lok Sabha Question Number 303 dated 8th August 2017; available at: <http://164.100.47.190/loksabhaquestions/annex/12/AS303.pdf>.

16 The State of the Indian Judiciary: A report by DAKSH available at: http://dakshindia.org/state-of-the-indian-judiciary/11_chapter_01.html#_id-TextAnchor009.

17 Law Commission Report No. 268, May 2017; page 80: available at: <http://lawcommissionofindia.nic.in/reports/Report268.pdf>.

for legal aid. This is by far the biggest coverage of legal aid in the world and India has made provisions to ensure that those who cannot afford it, have legal representation.

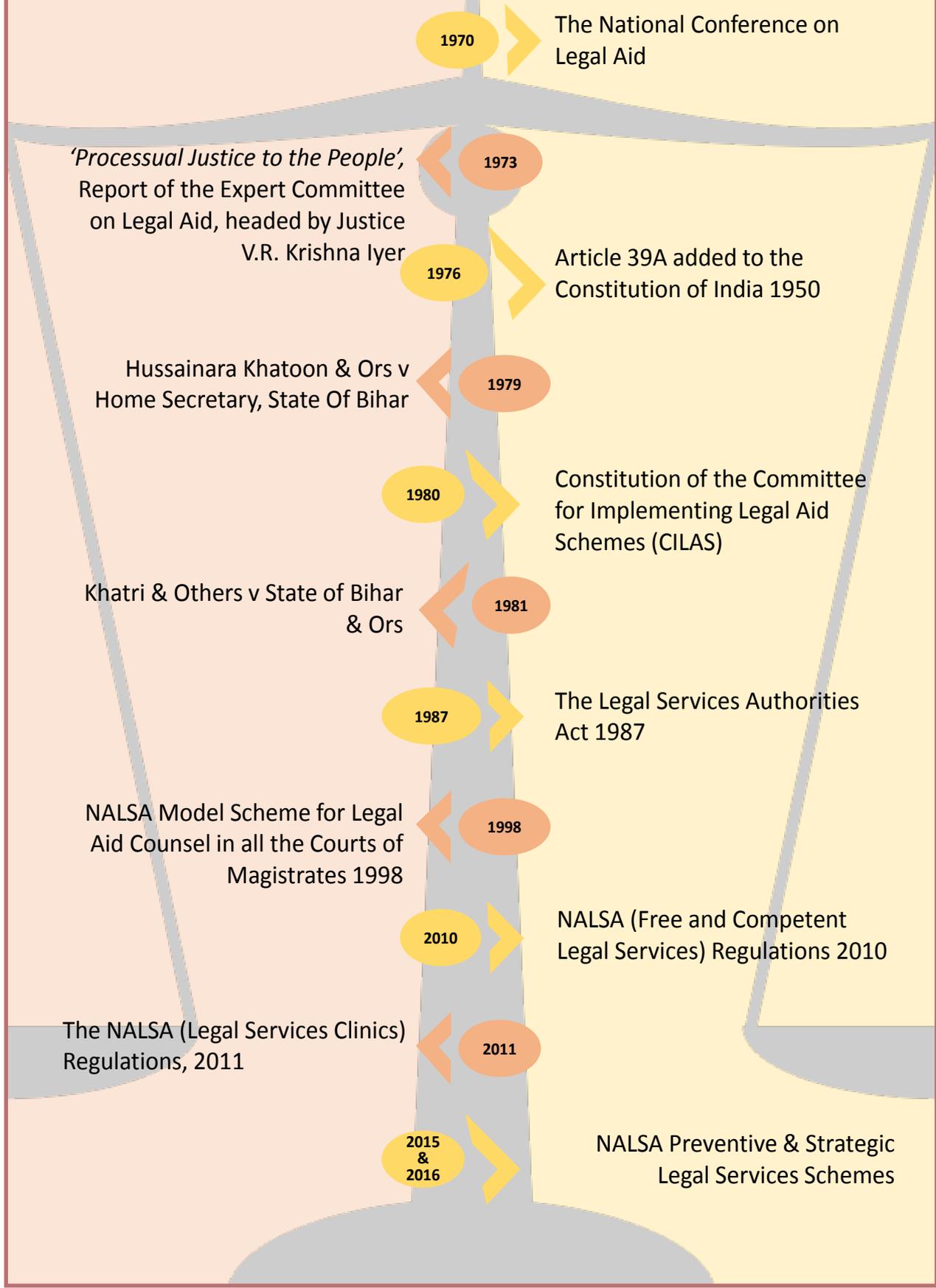
Whatever the realities, the standards to ensure legal representation for all are clear. All persons are entitled to equal treatment before the law. There are procedural safeguards in place at every point, right from being called in for questioning till the completion of the trial. Accused persons have the right to call on the assistance of a lawyer of their choice to protect and establish their rights and to defend them at all stages of the criminal proceedings.¹⁸ This is in keeping with the UN Principles and Guidelines on Legal Aid which describes legal aid as “an essential aspect of a fair, humane, and efficient criminal justice system based on the rule of law.”

To ensure that those who cannot afford a lawyer get proper representation at court, India has enacted a comprehensive framework to provide legal aid. The Legal Services Authorities Act, 1987 has a four-tier structure designed to deliver standardised legal aid nationwide with NALSA at the helm and institutions at the state, district and sub-divisional levels.

While the framework is detailed and elaborate, actual delivery falls short. The quality of legal aid has been criticised by civil society and most importantly by its beneficiaries. Prison statistics and prisoners’ experiences demonstrate that a majority of inmates either do not have access to *effective* legal aid nor have much confidence in the legal aid system. The perception of the *aam junta* (people in general) about a *sarkari vakil* (legal aid lawyer) is far from complimentary. **The study looks at three schemes in particular to ascertain why comprehensive provisions on paper do not translate into effective legal aid delivery on ground.**

18 UN Basic Principles on the Role of Lawyers (1990), available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/RoleOfLawyers.aspx>.

The Journey: Evolution at a Glance



I. EXECUTIVE SUMMARY

In the course of this study, we received information from 24 states and five union territories. While infrastructural questions were answered by most district legal services authorities (DLSAs), they were more reticent in responding to questions on processes and documents relating to monitoring and reporting of legal aid delivery. The RTI responses were then analysed and classified thematically. The analysis revealed good practices as well as challenges with the legal aid delivery.

Even though the law affirms the right of a person in custody to legal aid, there is at present no scheme of the National Legal Services Authority which establishes a mechanism to provide legal aid at the police station or ensure compliance of Section 41D of the Code of Criminal Procedure, 1973. Consequently, other rights are frequently breached with impunity. It is common place to hear of arrest without sufficient cause, breach of D. K. Basu¹⁹ guidelines, illegal detentions for over 24 hours, intimidation and torture in the early stages of the criminal justice process.

The first formal provision of a legal aid lawyer, as per NALSA 1998 Model Scheme kicks in at the stage of the individual's first appearance at court. While in some states, remand lawyers are appointed and are present in court, the study shows that in many courts remand lawyers have not been appointed (Only 164 of the 244 DLSAs, which responded, had assigned remand lawyers in the courts). Further, too often, they are not present or do not appear during remand hours.

The NALSA (Legal Services Clinics) Regulations, 2011 provide for legal aid clinics to be set up in every prison across the country, to assist any inmate seeking legal representation. Jail visiting lawyers (JVLs) are appointed and must visit prisons at least eight times in a month. Most jails have constituted legal aid clinics (606 out of 658 jails). Visiting lawyers have been appointed in about two-thirds of these clinics (458 of 606 clinics have appointed JVLs). Some visit very frequently (Delhi), others visit once a month or even less. To ensure a permanent facility in prisons, convict paralegals are trained to man the clinics. Many clinics do not even have these paralegals (203 of 606 clinics have appointed PLVs).

The clinics are responsible for sending legal aid applications to the LSI. While LSIs in some states assign panel lawyers on the same day (Arunachal Pradesh, Kerala, Madhya Pradesh), some states (Himachal Pradesh, Rajasthan) report long delays. After the panel lawyer is appointed, the monitoring committee at the LSI is required to review the progress of the legal aid cases. Many DLSAs still do not have a monitoring committee (185 of the 293 DLSAs or 60% of the DLSAs that responded have a committee). Of those who do, most do not have separate staff (26 DLSAs or 14% have staff) or do not maintain registers (47 DLSAs or 25% maintain registers) or call for progress reports from the lawyers. Without these basic requirements, it is not possible to monitor the progress of a case. Some states such as Andhra Pradesh and Haryana, and some districts in Rajasthan maintain detailed monitoring committee registers and reports. When a case is completed, the panel lawyers are expected to submit completion reports. These reports are generally not submitted. Where submitted, they are just a copy of the judgement. The LSIs mostly do not maintain records of the outcome of the cases and therefore there is no basis on which to self-evaluate the functioning of the system. The analysis shows that while NALSA has emphasised and invested in having a framework in place for legal aid delivery, the quality of services delivered have not till recently received much attention. The per capita budget on legal aid is not even one rupee (0.75 rupee²⁰).

19 *D. K. Basu v State of West Bengal* (1997) 1 SCC 416. (The Supreme Court in this case laid down detailed guidelines for police to follow during and after arrest.)

20 The budget estimate for legal aid in 2017-18 was 100 crores (1 billion). The Indian population is 132 crores (1.32 billion).

A. LEGAL SERVICES INSTITUTIONS

There are 651 DLSAs and 2,222 taluka legal services committees²¹ in the 29 states and seven union territories in the country. Of these, 27 states and union territories responded to our RTI query with respect to LSI (520 DLSAs and 2,176 TLSCs). Of the 520 DLSAs, only 339 had full-time secretaries. Without a dedicated secretary, legal aid administration would remain insufficient and ineffective. Another important aspect of legal aid administration is the suitability of judicial officers to administer legal aid. Judicial officers are trained in adjudicating cases, not administering implementation of schemes. To be able to “manage” legal aid services, the officers need orientation. But the first step is to ensure that all authorities have full-time secretaries.

B. LEGAL AID PROVIDERS

India’s per capita lawyer ratio is better than most countries in the world. There are about 1.8 million lawyers in India²² which means one lawyer for every 736 persons. Still, many people remain unrepresented for long periods. There are 61,593 panel lawyers and 9,563²³ remand lawyers in the country. Therefore 3.95% of these 1.8 million lawyers are legal aid lawyers. This translates to one legal aid lawyer per 18,609 population or five legal aid lawyers per 100,000 population. Another important category of legal aid providers are paralegals. NALSA trained 67,844 paralegals last year.

With respect to CHRI’s RTIs, we received responses from 292 districts (DLSAs). Of these, 250 districts provided information on appointment of panel lawyers. Seven districts did not appoint even a single panel lawyer. More than half the panel lawyers in the country were appointed in six states (Kerala, Madhya Pradesh, Maharashtra, Rajasthan, Tamil Nadu, West Bengal). In fact, a sixth of the panel lawyers (10,216) in the country were appointed by Tamil Nadu. The average panel size was 80 but there were huge variations in the size of the panel from one²⁴ to 496²⁵ in a district.

Retainer lawyers, drawn from the panel, are intended to assist the legal aid authority in the functioning of legal aid. The responses received through our RTI provided information on 156 districts that had appointed 1,671 retainer lawyers. No retainer lawyer was appointed in 49 districts. With respect to remand lawyers, 244 districts provided information through responses to our RTI. Two-thirds (169 districts) of these had appointed remand lawyers. No remand lawyer was appointed in 29 districts and 46 districts did not provide any information about the appointment of remand lawyers.

Most DLSAs do not maintain any data on representation and outcome of cases. The outcome of the legal aid provided may not be reflective of the quality of legal representation at the level of individual cases. However spatial and temporal analysis of the supply of legal aid and its outcome would help LSIs ascertain the standard of delivery and the progress made over time and jurisdictions.

Of the 250 districts, where panel lawyers were appointed, only two-thirds of the DLSAs (167 DLSAs) provided information about representation of cases. Half the DLSAs provided information on the outcome of cases. Most either chose to not respond to the query or said that they did not maintain this data. Interestingly, in 20% of the districts (32 districts), panel lawyers did not take up even a single case throughout the year. Seven of these districts belong to Madhya Pradesh and six to Bihar.

In the remaining 80% of the districts, panel lawyers took up 27,000 legal aid cases. A quarter of these cases were

21 Ministry of Law & Justice in response to a question in the Rajya Sabha dated 16 March 2018, available at: <http://164.100.47.5/qsearch/QResult.aspx>.

22 Ministry of Law & Justice in response to a question in the Lok Sabha dated 4 December 2014, available at: <http://164.100.47.194/Loksabha/Questions/QResult15.aspx?qref=11298&Isno=16> “The Bar Council of India has informed that there are 17 lakhs lawyers in the country, about 1100 colleges/universities are imparting legal education in the country. Every year around 30,000 advocates join profession.”

23 This is in response to a question asked to the Ministry of Home Affairs in the Rajya Sabha answered on 7 March 2018, available at: <http://164.100.47.5/qsearch/QResult.aspx>.

24 Nayagarh and Gajapati (Odisha); Shravasti (Uttar Pradesh); and Mamit (Mizoram).

25 Panna, Madhya Pradesh.

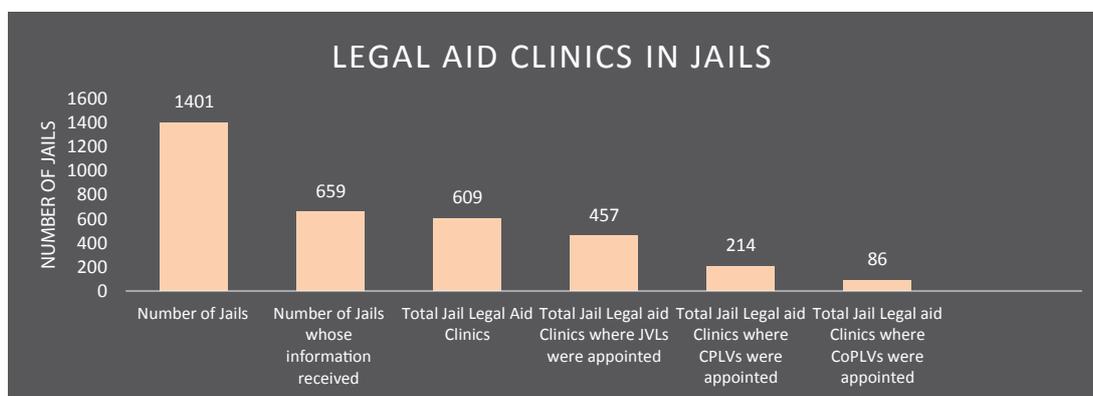
from Delhi. In fact, just five states²⁶ accounted for 60% of all cases taken up by panel lawyers. This means that either the other states do not maintain such data, or that they need to catch up with Delhi's legal aid delivery. On the other hand, in five states (Arunachal Pradesh, Chandigarh, Chhattisgarh, Daman and Diu, and Puducherry), either no legal aid cases for prisoners were taken up in the entire year (even though a total of more than 250 lawyers were appointed in these states) or they do not record this information at all.

Information on bail releases and acquittals was also dismal. Records provided reflected a total of 1,911 bail releases and 1,097 acquittals during the year. This after 27,000 cases saw representation by legal aid lawyers. The RTI response did not mention, of the 27,000 cases taken up, how many were disposed off.

While, legal aid providers have been appointed in most states in the country, their reporting appears to be missing. Information on the outcome of legal aid cases is not documented. Maintaining this information will help the LSI in assessing their work over time and across geographies.

C. LEGAL AID CLINICS IN JAIL

Table 1: Legal Aid Clinics in Jails



There are 1,401 jails in India. Each jail should have a legal aid clinic. We received information on the existence and functioning of legal aid clinics from 659 jails (47%). In 609 (92%) of these jails, LSIs had constituted legal aid clinics.

In 2015, NALSA wrote to all SLSAs to constitute jail legal aid clinics (JLAC). A year later, the NALSA Standard Operating Procedure for Representation of Persons in Custody came into force to streamline the constitution and functioning of JLACs. Therefore, it is no surprise that more than 50% of the clinics were constituted between 2015 and 2016. Interestingly, 28 clinics were constituted before the NALSA 2011 Regulations. The earliest clinic we noted were set up at Central Jail Jaipur, Rajasthan, in 2001 and District Jail Sonapat, Haryana, in 2002.

The responsibility for the functioning of the JLACs lies essentially with CPLVs and JVLs. While only three-quarters of the clinics appointed JVLs, convict PLVs were appointed in only a third. Most DLSAs in Madhya Pradesh, Odisha, Rajasthan and Uttar Pradesh have either not appointed JVLs or did not provide information on them.

Further, frequent visits by the JVLs are important for constant advice and flow of information on the progress of cases between the courts/LSIs and the inmates. The NALSA SOP mandates visits at least twice a week. Of the DLSAs that responded to the RTIs, 91 shared the mandate of the frequency of the visits and the actual number of visits made by the JVLs. Of these, 38 stated a mandate of twice a week and 34, once a month. Four districts, Bongaigaon (Assam); Sitamarhi, Champai (Bihar); and SBS Nagar (Punjab); surprisingly stated a mandate of once a year.

Registers are crucial to record, monitor and follow up on requests made by inmates in the clinics. Only 35% of the DLSAs (93 of 251 districts) said that the JLAC in their district maintained registers. Khagaria district in Bihar stood out as it maintained nine registers.

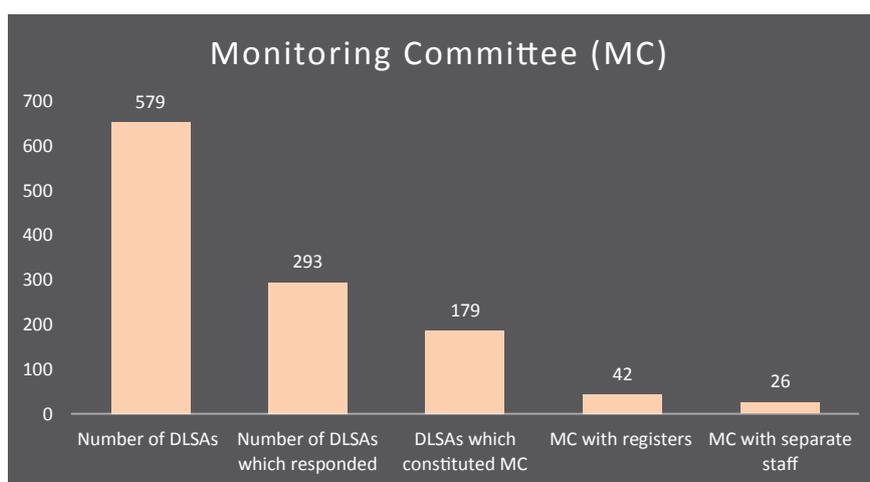
²⁶ Delhi, Haryana, Punjab, Rajasthan and West Bengal.

Update: NALSA's latest data (as on March 2018), says that 1,062 jails have constituted a legal aid clinic.

Legal aid clinics have been set up in most jails in India. Their efficient functioning however needs to be monitored and tracked. Appointment and training of PLVs and JVLs, as well as frequent visits by JVLs would ensure timely and effective legal assistance to persons in custody.

D. MONITORING LEGAL AID AND QUALITY OF LEGAL REPRESENTATION

Table 2: Functioning of Monitoring Committees



Monitoring the quality of legal representation is a difficult task. Should the legal aid authorities monitor the quality of defence in each hearing: Should they seek inputs from the court, or should they seek feedback from the prisoner/ their families, or should they just mentor the lawyers and advise them without monitoring the case?

To monitor the work of panel lawyers, the NALSA (Free and Competent Legal Services) Regulations, 2010 formulated the constitution of monitoring committees which would seek frequent reports from the lawyers and review documents from the court. To monitor the work of remand lawyers the NALSA 1998 Model Scheme recommended submission of attendance certificates. We have looked at the implementation of these two mechanisms. Statistics of how many lawyers are appointed, how many cases are dealt with, the existence of clinics, the number of visits - can only evaluate the existence and quantity of an essential service, but not its quality. The NALSA 2010 Regulation attempts to check whether the service is actually provided. We found that even this limited check was barely adhered to.

Such checks are essentially an internal mechanism and connected more to ensuring financial probity within the system, rather than gauging customer satisfaction. The only inkling of quality can be gleaned from complaints that come to the grievance redressal mechanism but the numbers are so miniscule, that they are no barometer to gauge performance. In short, there has been no attempt to assess whether the client is satisfied with the representation he/she has been provided and whether judges, who must ensure the fairness of the trial, feel that the performance has been adequate.

Of the 293 districts that responded to the RTI, 60%²⁷ (179 districts) had constituted a monitoring committee. In the absence of a monitoring committee, tracking the progress of legal aid cases, the amount of legal aid provided, let alone its quality, is impossible to assess. In order to track the day-to-day progress of legal aid cases, maintaining registers is crucial. Of the 179 monitoring committees, less than 25% (42 committees) maintained

²⁷ 185 DLSAs constituted a monitoring committee, 46 DLSAs did not. The remaining 52 DLSAs responded to the RTI but not to this specific query.

registers. Some were very detailed and we deem this to be the precedent-setting practice for others.

Monitoring committees are expected to seek progress reports from lawyers. Criminal cases usually go on for years, and even if, conservatively five reports were sought in a year, this would mean about 1,35,000 progress reports. However, only 852 reports were submitted by lawyers to the monitoring committees, not even 1% of the number that should have been submitted. The story gets worse. As much as 88% of this small number was from just five²⁸ states. This could be because of any of five factors: lawyers are not aware of their duty to report; they are aware, but lack knowledge on the mechanism of reporting; they are aware of the mechanism but choose not to report; the LSIs are not aware of the reporting mechanism; or they are aware but do not have the resources to monitor.

Client feedback is an important element, though certainly not the only one, to gauge the quality of legal representation. In total, 256 complaints were received by the LSIs for fees/consideration sought by legal aid lawyers. Of these, 179 complaints were from Delhi and 30 from Andhra Pradesh and Madhya Pradesh. The remaining were spread across other states. These complaints led to the removal of 65 lawyers from the panel. Interestingly, none of them was from Delhi. Given the number of legal aid providers, the number of legal aid cases taken up and the oral complaints from the inmates, the number of complaints is miniscule. This could be because either the inmates are not aware of the grievance redressal mechanism or cannot access the mechanism.

Training/orientation of lawyers* empanelled with LSIs is an important facet of the quality of legal representation. During 2017-18, NALSA trained nearly 40,000²⁹ out of the 61,593 lawyers empanelled with LSIs. Training is an essential opportunity to review and ground legal aid lawyers in the law, to imbue them with a strong service orientation and educate them about the circumstances in which clients from disadvantaged socio-economic circumstances come to legal aid.

One of the oft cited reasons for inadequate quality of legal aid is the low remuneration of legal aid providers. The SLSAs fix the fee as per S. 29A of the Legal Services Authorities Act, 1987 and therefore the fee paid to legal aid lawyers vary from state to state. A committee recently appointed by NALSA recommended a minimum fee to be paid to panel lawyers, which was adopted by the Central Authority of NALSA in its meeting dated 9 April 2016. All the SLSA were requested to amend their regulation accordingly. The schedule of the minimum fees³⁰ is provided in Annexure 3.

The quality of legal aid delivery is a serious concern. Monitoring committees, expected to review legal aid cases, have been constituted in most LSI. A standard operating procedure which clearly lays down the scope of the committee and the process to monitor legal aid services would improve the functioning of these committees. Also, capacity building of legal aid providers through periodic training and mentoring as well as making them accountable through review mechanisms and feedback from the client/client's family/ the concerned judge will go a long way in improving the quality of legal aid services.

E. Early Access to Legal Aid

The effective presence of a legal representative as soon as a person comes in contact with the criminal justice system is a constitutional and statutory mandate.³¹ It reduces the possibility of violations and helps the accused assert his/her rights. The NALSA Paralegal Scheme directs the visit of paralegal volunteers (PLVs) at the police station, when the PLV receives information about the arrest of a person in the locality. They have to ensure that the arrested person gets legal assistance, if necessary, through the nearest legal service institution. Also, there is a possibility of the lawyers appointed under the NALSA 1998 Model Remand and Bail Scheme to visit the police station attached to the court they have been assigned. Their presence in the police station would help them oppose police remand in court and seek bail. Therefore, we inquired whether the Remand Scheme mandated

²⁸ Bihar, Kerala, Himachal Pradesh, Rajasthan, and Haryana.

²⁹ https://nalsa.gov.in/sites/default/files/document/Training_Programmes,April-2017_to_March-2018.pdf.

³⁰ In response to a question asked to the Ministry of Law & Justice in the Rajya Sabha, answered on 16 March 2018, available at: <http://164.100.47.5/qsearch/QResult.aspx>.

³¹ Article 22(1) of the Constitution, Section 41 D CrPC, Sec 12(g) LSA Act.

* NALSA's training modules can be viewed at https://nalsa.gov.in/sites/default/files/document/Training_Module_Part-1.pdf

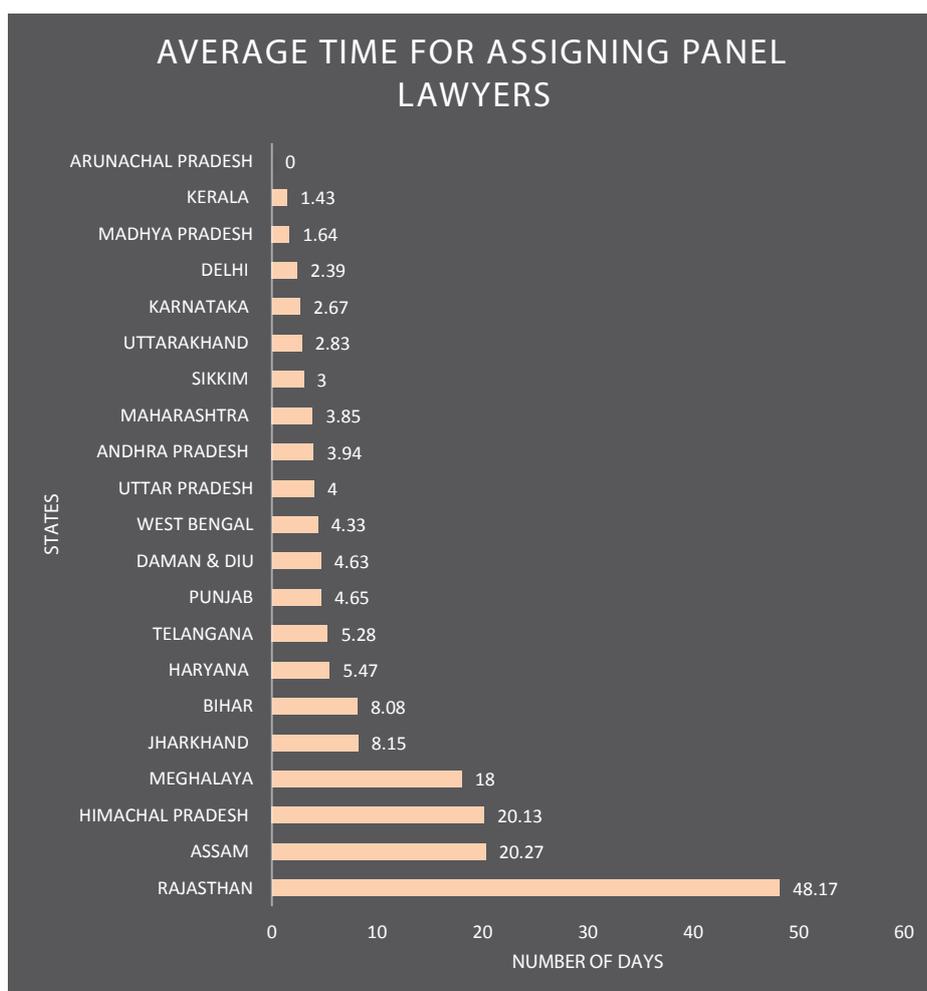
them to provide legal aid at police stations. The responses from 147 districts (65%) stated that the Scheme did not. Interestingly, 41 districts responded that the Scheme also applied to police stations. According to these districts 1,044 people were represented at police stations by legal aid lawyers. However, these 1,044 people were from just eight districts. So, it is clear that under the current legal aid framework, for a person in custody the first point of access to a legal aid lawyer is in court, when he/she is produced before a magistrate.

Visits to police stations by legal aid lawyers do not appear to be a standard or routine practice. NALSA has used the device of the paralegal to at least ensure that there is some limited legal assistance at the police station: a time, where it would not be out of place to say, that the individual is at greatest risk of rights violation and bodily harm.

The availability of a lawyer at the police station will assist in ensuring that interrogation and arrest procedures are followed, unnecessary arrests are reduced, police remand is opposed and bail is promptly sought. Given that the appointment of lawyers in more than 20,000 police stations might involve considerable resources, the assistance of PLVs should be taken.

F. TIMELY ACCESS TO LEGAL AID

Table 3: Time Taken to Assign Legal Aid Lawyers



In order to ensure the assignment of a legal aid lawyer to a prisoner, the prisoner needs to fill an application form, which has to be sent to the LSI, after which the LSI assigns a panel lawyer. While in many cases, this process was completed in a day, in some cases it took a few days, and in others, it took months. We sought

information about the time taken for the authorities to assign a legal aid lawyer by seeking details of the last five legal aid cases taken up by the LSI from every district. We received details of 804 cases from 170 districts in 21 states. The average number of days between application and assignment was 11 days. However, Rajasthan with 109 cases and an average of 48 days skewed the national average. Without Rajasthan, the average time taken was 5.34 days. However, averages here conceal the swiftness and delays in numerous individual cases. Of the 804 cases, in 306 cases the assignments were made on the same day. In 65 cases, the assignments took one day. However, in 20% of the cases (164 cases) it took more than 10 days to assign a lawyer. In fact, in 98 cases, it took more than 30 days. We also sought information about the other time intervals: from filling an application form to it reaching the DLSA, and after the appointment of a lawyer, the time taken for the appointment letter to reach the prisoner but we received very limited response on these issues. One of the responses from Mandya (Karnataka) however stood out, as a legal aid application form was filled in August 2015 and received by the DLSA in December 2016.

Overall, the process is not designed for speed and too often is so delayed that it defeats the intention behind the law. The appointment may happen within a day or take months. Inevitably it will be lengthened by the amount of time it takes for the prison authorities to forward the request to the local legal service institution. Many days may pass between the formal appointment and the briefing by the client to the lawyer. The consequences of dilatory and negligent handling fall squarely on the client and there are no checks and balances within the system to ensure accountability or consequences for not providing a statutory service to the most vulnerable of people. The value of liberty thus stands cheapened.

G. LEGAL AID BUDGET

Legal Aid Budget information was received from both NALSA and SLSAs. Of the total funds allocated to SLSAs, only one third was allocated by NALSA, and about 60% by the state government. The RTI responses show that some states have high proportions of under-spending, others have spent way beyond their allocations. Bihar, Sikkim and Uttarakhand utilised less than half the funds allocated to them. Andhra Pradesh and Uttar Pradesh also underspent by more than a third. At the other end of the spectrum, Delhi, Gujarat, Punjab, Rajasthan and a few others spent more funds during the year than were allocated to them. On average, one-sixth of the funds utilised by the SLSAs have been on lok adalats, legal awareness and legal representation. The biggest chunk of expenditure, and rightly so, was on payments made to lawyers, which accounted for 28% of the total expenditure. Only 3% was spent on training.

The findings of the report reveal that though the legal aid infrastructure is in place, the processes require constant monitoring and re-engineering. While much can be achieved from simply following the existing procedures, enhanced engagement and coordination of the institutions and stakeholders will make the system more efficient. It is in that spirit, that specific recommendations on the three NALSA Regulations/ Schemes have been enlisted in the next chapter.

II. RECOMMENDATIONS

For ease of reference, we provide a list of recommendations in tabular form. For each recommendation, we have provided the relevant provision and the rationale. These recommendations are directed towards change in policy and suggests additions in the existing NALSA schemes and formulation of new standard operating procedures and duty notes by the central authority.

NATIONAL LEGAL SERVICES AUTHORITY (FREE AND COMPETENT LEGAL SERVICES) REGULATIONS, 2010

S. No.	Recommendation	Relevant Provision	Rationale
1	The duration between the application for legal aid for a person in custody and actual appointment of the legal aid lawyer should not be more than 24 hours.	R. 7(4)	The existing provision allows 8 weeks. Procedural requirements should not delay access to legal aid, especially when liberty is at stake.
2	The strength of the panel lawyers should be based on a specific parameter- this could be the prison population/population of the district, number of foras where presence in required/ demand for legal aid.	R. 8	Many districts have unreasonably large or small panels. Smaller, more focused panels, with adequate number of criminal lawyers, would be easier for the authorities to manage/monitor.
3	The role of the retainer lawyer requires clarity. After the 2016 NALSA letter, ³² retainer lawyers are also expected to work as remand advocates and in some states also visit jails. Retainer lawyers are mandated to man the front office among other tasks, whereas the remand lawyers are expected to be present in their assigned court.	R. 8(6, 10), NALSA 2016 Letter	Tasks assigned are distinct. If they are expected to take up both roles, then the role would require structuring. Telangana SLSA in February 2016 issued a letter ³³ to the DLSAs where it mentioned ' <i>One Advocate cannot be appointed both as Legal Aid Counsel and Retainer Lawyer in view of the nature of the work</i> '.
4	The period of appointment of retainers should be defined and specified. The minimum tenure should also be specified.	R. 8(7)	This study found that the term of retainer lawyers is either too short or too long. Both have their limitations.
5	Legal aid lawyers should be mandated to meet their clients in prisons/ courtroom regularly. The SDLSCs/ DLSAs may provide vehicles to ferry lawyers from the court complex to the prison once in a day so as to ensure that panel lawyers may meet their clients in prison. This may be most relevant for places where the distance between the court and prison is considerable.	No Regulation. Suggest Inclusion in R. 8	Regular interaction between the lawyer and inmate is important: a) to understand the case b) to inform the client about the status of the case. Sikkim SLSA recognising this issued a letter ³⁴ directing the panel lawyers to visit the prisons and that the Legal Aid Institutions would reimburse the taxi fare. It also mentioned that the jail authorities will maintain a register to record visits.

32 Letter Re D/o No-L/43/2015/NALSA/1948 dated 5-July-2016.

33 Telangana SLSA Roc No. 1046/TLSA/SW/2016 dated 22-Feb-16.

34 Sikkim SLSA Letter Reference No. 7/SLSA/194 dated 19-Jul-06.

6	Standard format should be followed for monitoring the work of legal aid providers. This can be done through regular progress reports and completion reports by panel lawyers. NALSA's Legal Services Card for each case may be kept at the front office for this purpose. The paralegals/retainers may call the panel lawyers or the panel lawyers may visit the front office to inform and record the progress of the case after every hearing.	R. 11(3) & 14(3)	Currently no format exists. Copy of the judgment is provided as a substitute of the completion report. Suggested format appended as Format 2, 3 and 5.
7	The report of the Monitoring Committee at DLSA and SDLSC to the SLSA should be monthly and not bi-monthly.	R. 12	It is impractical for the MC to send bi-monthly reports in all legal aid cases and SLSA to be able to give advice on all these cases from all the legal aid institutions twice a month.
8	Standard format for reporting by the Monitoring Committee to the SLSA should be followed.	R. 12	A structured format would allow monitoring committees to frequently send reports to the SLSA and the SLSA to give its comments. Sample format appended as Format 4.
9	The lawyer assigned to the Monitoring Committee should be remunerated for the task.	R. 12	To be able to monitor the quality of the intervention of legal aid lawyers, the lawyer assigned to the monitoring committee must take a bigger role in coordinating the activities. He should be remunerated for this task.
10	The monitoring committee should conduct monthly meetings with all the panel lawyers (who have been assigned legal aid cases) to discuss any challenges they are facing in their respective cases or with any court or police practice/procedure.	R. 12	The work of the monitoring committee should not be restricted to just evaluating the work of the legal aid lawyers but also to mentor and assist them.
11	The monitoring committee must maintain information on the outcome of the cases where legal aid was provided.	R. 12	This study showed that most of the legal aid institutions do not maintain information of the outcome of the legal aid provided. This hampers effective monitoring of legal services being provided.
12	A separate note for the functioning of the monitoring committee must be prepared by NALSA.	R. 12	This study showed that monitoring committees in general (where constituted) did not function as per the mandate. An SOP/ guiding note would be useful for the committee.
13	Legal services institutions should appoint adequate number of law students to assist the panel lawyers with case law research.	R. 9	Legal services institutions should also act as resource centres for legal aid lawyers. Legal services institutions should tie up with local law colleges and seek assistance from 4th, 5th year law students on rotational basis. Law students may be assigned on rotation basis to the LSIs who should be available to provide research to the legal aid lawyers.

14	The training/orientation of the legal aid providers (Panel Lawyers, Retainer Lawyers), should be conducted, preferably, within the first month of their appointment.	No Regulation. Suggested Inclusion in R.8	Legal Aid lawyers should be trained/oriented to the schemes, their responsibility and reporting mechanisms. As panel lawyers are appointed for a three-year term, this would not lead to unnecessary use of resources.
15	There should be a standard format of legal aid application register and assignment register at legal aid institutions for persons in custody.	R. 3	In order to evaluate the time taken in processing legal aid applications and keep a record of the legal aid lawyers assigned for persons in custody, a separate register should be maintained. Suggested format appended as Format 1.
16	There should be a standard format of the monitoring committee register to be maintained by the legal aid institution.		This study showed that the formats maintained by some legal aid institutions were problematic and it was impossible to review proceedings in the format used by them.
17	At the time of appointment, along with the appointment letters, duty notes should be given to panel and retainer lawyers.	R. 8	Duty notes assist legal aid providers in legal aid delivery. Suggested format appended as Note 1 and 2.
18.	There should be a standard letter to the legal aid beneficiary in custody specifically mentioning contact details of lawyer and that they are not expected to pay any fees to the panel lawyer. Also the letter should mention that they can complain regarding the same and should also provide the process for registering the complaint.	R. 8(15)	Measures need to be taken to ensure that panel lawyers do not ask money or any other consideration in legal aid cases.
19.	The frequency of part payment of the honorarium should be increased.		Usually panel lawyers are paid honorarium in two instalments, one at the outset of the case and the next at the conclusion of the case. Given the long duration of cases, lawyers remain unpaid which often acts as a disincentive.

THE NALSA (LEGAL SERVICES CLINICS) REGULATIONS, 2011

S. No.	Recommendation	Relevant Provision	Rationale
1	A comprehensive standard operating procedure on functioning of Jail Legal Aid Clinics (JLAC) and the role of the legal aid providers in these clinics must be formulated.	R. 4	While JLACs have been setup under NALSA 2011 Regulations, the particular details on functioning of such clinics has not been addressed in much detail either by the Regulations or by the NALSA SOP 2016.
2	Legal Aid clinics shall also be constituted at police stations in line with Regulation 4.	R. 4	Sec. 12 of LSA Act, Sec. 41D of CrPC, read with Art. 39A of the Constitution of India suggests that all persons in custody, including those detained at the police station are entitled to legal aid. As per Regulation 4, those eligible under Section 12 of the LSA Act are entitled to benefits of legal aid clinics. Persons in custody (police custody) fulfil the Section 12 Act criteria and therefore entitled to get benefit of legal aid clinics.

3	Jail Visiting Lawyers (JVLs) should have access to the new entrant ward (Mulahiza ward) of the prison. Paralegal volunteers (PLVs) either convict or community can also ensure that new inmates are brought to the clinic.	R. 6	Mechanisms should be in place to ensure that inmates in need of legal assistance are not missed.
4	Posters should be put up at the legal aid clinics as well as other prominent areas in the prison including the new entrant's wards about the right to legal aid and time and place of JLACs.	R. 13	
5	The frequency of the visit to jails should be based on the prison population.	R. 7	The frequency of visits of lawyers in jails have been mandated by NALSA as either twice or four times a week in recent communications. This however should be based on the prison population. Haryana SLSA in a letter dated 8th January 2010 suggested the frequency to range between five times to twice a week based on the population of the prisons.
6	Where possible information Kiosks can be placed in every jail so that inmates can use them to access basic information on their case as well as view updates.		Inmates are usually unaware of status of their case. Kiosks linked to e-courts websites for checking status of case would assist prisoners in knowing status of their case.
7	JVLs/PLVs should identify inmates eligible for review by Under Trial Review Committees and bring them to their notice, as well as to the notice of the concerned courts.		The JVL can assist in identifying inmates whose detention may not be necessary.
8	JVLs should also identify cases in which bail has been granted but the inmates are unable to secure bail due to lack of surety. In all such cases, applications for reduction of surety can be filed in court.		
9	JVLs should identify persons arrested under preventive provisions (S 107,151 CrPC) and have spent more than a week in prison and take appropriate action.		
10	The training of the legal aid providers (JVL, Convict and Community PLVs) should be conducted, preferably, within the first month of their appointment.		Legal Aid Providers should be trained/oriented to the scheme, their responsibility and reporting mechanisms. This would improve their functioning. NALSA might consider preparing video training modules to standardise training across the country.
11	Standard format should be followed for monitoring the work of legal aid providers through periodic reports of JVLs, convict PLVs and Community PLVs.	R. 20	The reports for submission by jail visiting lawyers and paralegals are not standardised. This makes monitoring difficult. Suggested format appended as Format 11.
12	The Legal aid registers in the clinic– i) Legal Aid Clinic Work Register, ii) Attendance Register should be standardised.	R. 20	The registers followed by many jails do not capture important details regarding the inmate. Suggested format appended as Format 9 & 10.

13.	Identity cards for JVLs and PLVs should be prepared to facilitate their visits to prison.		To facilitate the visit of JVLs and reduce the possibility of non-legal aid lawyers canvassing for cases in prison in garb of legal aid, identity cards may be issued for JVLs as well as PLVs.
14.	The PLVs must send a monthly status of provisions (stationery and forms) at the clinic to the legal aid institutions.		Shortage of forms and basic provisions like papers for drafting applications, pen, stapler, <i>vakalatnama</i> etc. often delay the functioning of the clinics.
15.	Honorarium for convict PLVs should be fixed per visit to clinics and the mode and frequency of payment should be defined.	R. 17 (1)	While the NALSA 2011 Regulations clearly mention that honorarium would be paid to paralegal volunteers manning the clinics, there is lack of clarity about the payment to convict paralegals.
16.	At the time of appointment, along with the appointment letters, duty notes should be given to JVLs & PLVs.		Suggested format appended as Note 4 and 5.

NALSA LEGAL AID COUNSEL IN ALL COURTS OF MAGISTRATES SCHEME 1998

S. No.	Recommendation	Relevant Provision	Rationale
1.	There is a need to clarify the role of a remand lawyer.	R. 2	Currently there is an overlap between the work of the remand and panel lawyers.
2.	Duty notes should be given to remand lawyers at the time of appointment.		The duty note would assist their functioning and help the LSI monitor their work. Suggested duty note appended as Note 3.
3.	The tenure of remand lawyers should be fixed.	R. 8(7)	Different states have different tenures for remand lawyers ranging from 3 months to 2 years.
4.	The appointment process of the next batch of remand lawyers should start three months in advance.		Often the appointment process is initiated after the completion of tenure of the remand lawyers which creates a gap.
5.	Remand lawyers should also be appointed to Executive magistrate courts dealing with Sec 107-110/151 Cr.P.C. cases.		Often, police uses these sections to unnecessarily detain persons without following due process. It is essential to have lawyers at magistrate court. For instance, Rajasthan SLA has broadened the scope of the Remand Scheme to include Executive magistrate courts.
6.	The training of remand Lawyers should be conducted, preferably, within the first month of their appointment.		NALSA to prepare video modules on training for standardisation. This would improve the functioning of the scheme and better orient the lawyers about their role.
7.	Standard format should be followed for monitoring the work of remand Lawyers- a) Work Reports b) Attendance Certificates.		It is important to monitor the work of remand lawyers. In absence of standardised documentation and reporting on this, monitoring is difficult. Suggested format appended as Format 14 & 15.
8.	Standard format should be followed for remand lawyer's attendance register.		
9.	The LSIs should ensure that every production court displays the name and particulars of remand lawyers appointed for each section.		The Scheme mandates display of information with name and particulars of remand lawyer inside every court room.

III. METHODOLOGY

This study is based on responses received under Section 6³⁵ of the Right to Information Act 2005. Three right to information applications were sent to state and district legal services authorities (in some cases) in September 2016. One application was sent to the National Legal Services Authority (NALSA) in April 2017. The NALSA RTI application was specific to information on budgets and staff. The other three applications, one for each NALSA regulation were sent to each authority. The information about these three RTI applications has been detailed in this section. The RTI applications were based on the following regulations:

NALSA (Free and Competent Legal Services) Regulation, 2010;

NALSA (Legal Services Clinics) Regulation, 2011; and

NALSA Legal Aid Counsel in all the Courts of Magistrates Scheme, 1998

S. No.	RTI Name	NALSA Regulations	Period of Information
1	2010 Regulations	NALSA (Free and Competent Legal Services) Regulations, 2010	July 2015 to June 2016
2	2011 Regulations	NALSA (Legal Services Clinics) Regulations, 2011	
3	Remand & Bail Scheme	NALSA Legal Aid Counsel in all Courts of Magistrates Scheme, 1998	
4	Budget RTI		January 2017

Scope of the RTI Applications

Through these RTI applications, district-wise information was sought from the LSIs. Given the expanse of the taluka legal service committees, information regarding the same was not requested. We received information from the SLSAs and DLSAs. Some sub-divisions also provided detail information but the same has not been included in the report.

RTI Response: Time Frame

The RTI applications were filed in September 2016. In total, districts from 24 states and five union territories responded. The first response was received from Punjab on 18 October 2016 and the last in June 2017. While the RTI Act clearly prescribes a one-month time period for response, the responses kept trickling in for nine months. As follow up, we filed appeals in three states, wrote letters and emails to SLSAs and DLSAs. Phone calls were made to more than 100 districts. We still did not get responses from all districts.

While states such as Haryana, Punjab, and Tamil Nadu responded to the RTI application within the first two months, the majority responded later. DLSAs in some states such as Maharashtra, Odisha and West Bengal responded after six months.

Further, while the information was sought from SLSAs, most of the information was received from DLSAs. This meant that often following up and collating information was a tedious task. Non-standardised information, information in regional languages and multiple copies of registers and reports made compilation of data extremely challenging and time consuming.

³⁵ Section 6 [Request for obtaining information] (1)(a), RTI Act, 2005: A person, who desires to obtain any information shall make a request in writing or through electronic means to the Central Public Information Officer or State Public Information Officer of the concerned public authority.

RTI Response: Quantity of Response

Three RTI applications were sent to each SLSA and information was sought district-wise. We received responses from 29 states and union territories. Two states³⁶ rejected the application and five³⁷ did not provide any response even after appeals and calls. Of the 29 cases, where responses were received, seven SLSAs³⁸ directly provided us the information. In the case of Uttar Pradesh, while most of the DLSAs rejected the application, 11 responded but the SLSA provided information on the primary questions. In the remaining 22 states, the SLSAs forwarded the RTI applications to the DLSAs, which in turn provided us the information. The response rate to the RTI applications was 60%.

Table 4: State-wise Response to CHRI's Legal Aid RTI Applications

Number of DLSAs that Responded					
States & Union Territories	Total Number of DLSAs	NALSA 2010 Regulations RTI	NALSA 1998 Model Scheme RTI	NALSA 2011 Regulations RTI	Response Rate
Responded to the RTI Application					
Andhra Pradesh	13	7	7	8	56.4
Assam	22	5	4	4	19.7
Bihar	37	16	13	14	38.7
Chandigarh	1	1	1	1	100
Chhattisgarh	22	12	-	-	18.18
Dadra and Nagar Haveli	1	1	1	1	100
Daman and Diu	2	2	1	1	66.6
Delhi	11	11	11	11	100
Haryana	22	10	10	12	48.4
Himachal Pradesh	11	11	11	11	100
Jharkhand	24	19	15	19	73.6
Karnataka	30	23	22	21	73.3
Kerala	14	7	6	5	42.8
Madhya Pradesh	50	27	24	23	49.3
Maharashtra	33	24	16	18	58.5
Mizoram	8	8	6	6	83.3
Odisha	30	11	11	11	36.6
Punjab	22	17	17	17	77.2
Rajasthan	35	27	25	26	74.2
Telangana	11	9	9	8	78.7
West Bengal	19	8	6	4	31.5

36 Gujarat and Jammu and Kashmir.

37 Andaman and Nicobar, Goa, Lakshadweep, Nagaland and Tripura.

38 Arunachal Pradesh, Manipur, Mizoram, Puducherry, Sikkim, Tamil Nadu and Uttarakhand.

Arunachal Pradesh	20	Cumulative Response from the SLSA			100
Manipur	9				100
Meghalaya	11				100
Puducherry	1				100
Sikkim	4				100
Tamil Nadu	32				100
Uttar Pradesh	71				100
Uttarakhand	13				84.62
Total	579	416	374	378	67.3%
Rejected the RTI Application					
Jammu and Kashmir	22	-	-	-	-
Gujarat	31	-	-	-	-
Total	53	-	-	-	-
Did Not Respond					
Andaman and Nicobar Island	1	-	-	-	-
Goa	2	-	-	-	-
Lakshadweep	0	-	-	-	-
Nagaland	11	-	-	-	-
Tripura	5	-	-	-	-
Total	19	-	-	-	-
Grand Total	651	416	374	378	60%

RTI Responses: Quality of Response

In total 40 questions were asked in the RTI application that looked at various facets of legal aid delivery. While questions relating to appointment of actors were responded to by most, the queries on monitoring of legal aid delivery were mostly answered as: “No response”, “Not available” or remained unanswered.

Rejections of the RTI Application

The RTI application was rejected by Bihar, Gujarat, Jammu & Kashmir and Uttar Pradesh. Jammu & Kashmir rejected the RTI as the J & K Act allows information to be sought from residents of the state only. Bihar, Gujarat and Uttar Pradesh rejected it by citing the fact that the information sought was too detailed and could not be provided at the state level. Upon follow up with the states, we eventually received responses from Bihar and Uttar Pradesh.

Legal Aid Budget RTI

Information on legal aid budgets was sought through an RTI application filed with the NALSA in April 2017. The queries were basic and the information was expected to be available with NALSA. NALSA responded to some of the queries and forwarded the applications to the SLSAs to respond to the remaining. The information was received from 28 states and union territories. Some SLSAs even forwarded the applications to the DLSAs.

Information from Secondary Sources

The report refers to data on legal aid published by NALSA and the National Crime Records Bureau (NCRB) on

their website. Information on legal aid through responses to parliamentary questions have also been used. The quantity of information available on legal aid in the public domain was traditionally extremely limited, but that has seen a change in the last couple of years. Further, information on prison departments, police departments and courts available in the public domain have also been accessed and evaluated.

Data Analysis

The information provided by the SLSAs and DLSAs have been analysed both district-wise and state-wise. While the institutional framework and setup is analysed state-wise, the performance and procedures have been analysed district-wise.

Follow up with DLSA/SLSA on the RTI Applications

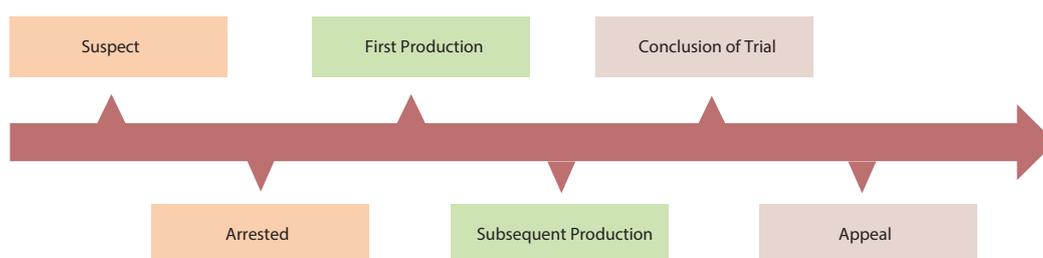
Following up with the SLSAs and DLSAs has been a crucial element of gathering the evidence for the study. These conversations with the authorities were quite fascinating. The Bihar SLSA suggested that the RTI applications we filed would serve as a good monitoring framework. The West Bengal SLSA appeared to have prepared a separate file to manage the RTI application. The Gujarat SLSA found us to be a nuisance and after rejecting the application, chose not to speak to us. We spoke to the Tripura SLSA on at least eight occasions over eight months and on every occasion, we were told that the response would be received within a week. Yet, we never received it. This is fascinating, because most of the information that was sought should be proactively disclosed by the legal services authorities as mandated under the RTI Act 2005.

IV. STANDARDS

The Legal Services Authorities Act, 1987 mandates the constitution of LSI in every sub-division, district, state, High Court and Supreme Court, with a central body at the helm. These LSI are mandated to provide free and competent legal services to the weaker sections of society, in order to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities. Section 12 of the LSA Act lays down the criteria for eligibility for legal aid services. In particular, Section 12(g) entitles all persons in custody to legal aid irrespective of their income. By virtue of this section, a person is entitled to legal aid if s/he is in custody. The term “custody” can be construed to mean all nature of detention, including in police stations and jails.

The standards have been divided into four themes, namely: a) First Access to Legal Aid: Police Station or Court? b) Prison Legal Aid Clinics: Effective Link? c) Application to Appointment: Timely Access to Legal Aid? and d) Legal Aid Watch: Effective Monitoring? All these elements are governed by different provisions and look at different elements of legal aid delivery. The first two themes look at access to legal aid at police stations, courts, and prisons. The third looks at the time it takes to actually receive legal services and eventually the last theme addresses how the quality of the representation is monitored.

THEME 1: FIRST ACCESS TO LEGAL AID: POLICE STATION OR COURT?



The early phase of the criminal justice process is the most crucial period for those arrested or detained for an offence. Decisions made during this period can have serious repercussions on the trial. Further, the suspect/accused is at a higher risk of being mistreated. Access to a lawyer right at the outset would go a long way in reducing the possibility of any bodily violation and ensuring that fair trial rights are safeguarded.

A. Commencement of the Right to Legal Representation & Legal Aid

The right of early access to legal representation is one of the fundamental elements of fair trial rights. This right should begin the moment a person comes in contact with the criminal justice system. Article 22(1) of the Indian Constitution clearly allows an arrestee to consult a lawyer. The Supreme Court in *Nandini Sathpathy*,³⁹ 30 years before the UN Model Law was formulated, interpreted Article 22 to mean: “The right to consult an advocate of his choice shall not be denied to any person who is arrested. This does not mean that persons who are not under arrest or custody can be denied that right. The spirit and sense of Article 22(1) is that it is fundamental to the rule of law that the services of a lawyer shall be available for consultation to any accused person under circumstances of near custodial interrogation.” Furthermore, Article 22 prohibits denial of the right to legal representation to an arrestee with the means to engage one. Giving it statutory recognition, Section 41D of the Code of Criminal Procedure 1973 guarantees to an arrestee, the right to meet an advocate of his choice during interrogation, though not throughout interrogation. Therefore, the right to a lawyer unambiguously begins at the police station.

The right to legal aid should be contemporaneous with the right to legal representation. However, the Supreme Court in the *Kasab*⁴⁰ judgement held that the right to legal aid starts when the person is first produced before the

39 *Nandini Satpathy v Dani (P.L.) And Anr 1978 AIR 1025.*

40 *Mohd. Ajmal Amir Kasab v. State of Maharashtra, (2012) 9 SCC 1.*

magistrate. This goes against the constitutional mandate. Article 39A of the Constitution of India 1950 ensures that the same protection is guaranteed to those who cannot afford a lawyer. With the objective to promote justice on the basis of principle of “equal opportunity” Article 39A categorically lays down that the state needs to ensure that citizens are “not denied opportunities to secure justice” due to economic or other disabilities. In fact, Section 12 (g) of the LSA Act enlists “persons in custody” to include persons in police custody as intended beneficiaries of legal aid. Looking at international standards, the *UN Principles and Guidelines on Legal Aid in the Criminal Justice System*⁴¹ and *UN Model Law on Legal Aid in the Criminal Justice System*⁴² clearly state that the right to legal aid arises from the moment a person is made aware that he is the subject of an investigation. The right exists not only while the person is being questioned but even before the questioning. The right exists not only with the arrestee but also with those detained before a formal arrest is made. Article 4, 6 and 12 of the UN Model Law reiterate the same.

UN Model Law on Legal Aid in Criminal Justice Systems

Article 4. Scope of application

4.1. Subject to the procedures established under the present Law, an individual is entitled to legal aid, regardless of his or her financial means, when he or she:

4.1.1. Is arrested, detained, suspected or accused of, charged with or sentenced for a crime punishable by a term of imprisonment [or the death penalty];

Article 6. Right to information

6.1. Anyone who is arrested, detained, suspected, accused of or charged with a criminal offence has the right to be promptly informed of his or her procedural rights, including the right to legal aid and of the process to obtain legal aid and the consequences of waiving such a right in a way and in language that is clearly understandable to him or her, prior to any interviewing and at the time of deprivation of liberty.

Article 12. Rights of legal aid beneficiaries

12.1. Any individual who is entitled to legal aid in accordance with Article 5 shall have the following rights:

12.1.3 The right to prompt and effective provision of legal aid throughout all the stages of the criminal justice process;

12.1.4. The right to have a legal aid provider present during questioning by any investigative authority and at all stages of the proceedings.

Therefore, a plain reading of the constitutional provisions, the statutory mandate and the Supreme Court’s decision in *Sheela Barse* and *Nandani Satpathy* suggest that in principle, in India, the right to legal aid commences at arrest.

If the person, however does not receive legal representation at the time of arrest, it is the responsibility of the magistrate, in front of whom the inmate has to be produced within 24 hours to inform them of this right and ensure that he is able to exercise this right. The Supreme Court in *Khatri*⁴³ stated that right to free legal aid would be “illusory” unless the trial judge informs the accused of such a right. The apex court in *Suk Das*⁴⁴ stated that “it would be mockery of free legal aid if it were left to a poor ignorant to ask for free legal aid. And in that case, it would merely become a paper promise, and its purpose would fail.” In fact, the Supreme Court in the *Kasab* judgement, reiterated the obligation of the court to provide the accused with legal assistance, and went ahead to say that any failure to discharge this duty would amount to dereliction in duty and would make the concerned magistrate liable to departmental proceedings.

Under the legal aid framework, NALSA in 1998 formulated a Model Scheme for ‘Legal Aid Counsel in all the Courts of Magistrates’ to appoint remand lawyers who would be assigned to each court to ensure that no person goes unrepresented during the first and subsequent productions before the court. The Scheme continues to function, albeit in different forms, across the country.

41 Principle 3 & Guideline 3 of the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, available at: http://www.unodc.org/documents/justice-and-prison-reform/UN_principles_and_guidelines_on_access_to_legal_aid.pdf.

42 Article 8 of the Model Law on Legal Aid in Criminal Justice Systems, available at: https://www.unodc.org/documents/justice-and-prison-reform/LegalAid/Model_Law_on_Legal_Aid.pdf.

43 *Khatri and Others v State Of Bihar & Ors* 1981 SCC (1) 627.

44 *Suk Das & Anr v Union Territory of Arunachal* 1986 AIR 991.

B. Obligation of the State to Provide Early Access to Legal Aid

International standards, constitutional mandates, statutory provisions, all become meaningless, if they don't translate into an implementation framework. In order to provide legal aid at police station, mechanisms need to be devised to ensure that at the time of interrogation, the legal aid lawyer is present.⁴⁵ It should be the responsibility of the police department or the LSI to ensure this. The Supreme Court in the 1983 *Sheela Barse*⁴⁶ case directed that the police must inform the nearest legal aid committee as soon as an arrest is made and the person is taken to the lockup. The legal aid committee should take immediate steps to provide legal assistance to the arrested person at the state's cost, provided such person is willing to accept legal assistance. The Supreme Court later in the 2005 *Afsan Guru*⁴⁷ case held that, "If the person in custody is not in a position to get the services of a legal practitioner by himself, such person is very well entitled to seek free legal aid either by applying to the court through the police or the concerned legal services authority, which is a statutory body." Article 19 and 30 of the UN Model Law also enlists the obligation of the state to safeguard the right to legal aid at police station.

The National Legal Services Authority (NALSA) has assigned PLVs⁴⁸ to provide legal representation at the police station, but has not mandated them to be stationed there. Rather, they should act "when the PLV receives information about the arrest of a person in the locality". There is no mechanism as to how the PLVs would be made aware of arrests taking place. Neither has the Authority developed any mechanism through which police stations can communicate directly with LSI.

The Ministry of Law & Justice, in response to a parliamentary question⁴⁹ in December 2017 stated: "At present legal aid is provided by legal services authorities to eligible persons at police stations as and when request for such services are received.... There is no specific scheme for providing free legal aid to persons at police stations. Yet all persons in police custody requiring legal aid are provided requisite services through lawyers whose panel is maintained by state and district legal services authorities."

45 For more information on possible models see CHRI's Guidebook on Legal Aid Clinics at Police Station, available at: <http://www.humanright-sinitiative.org/download/1536155776CHRI%20Prisons%20Legal%20Aid%20Pamphlet%202018.pdf>.

46 *Sheela Barse v State of Maharashtra* AIR 1983 SC 378.

47 *State v Navjot Sandhu alias Afsan Guru* (2005)11 SCC 600.

48 "When the PLV receives information about the arrest of a person in the locality, the PLV shall visit the Police Station and ensure that the arrested person gets legal assistance, if necessary, through the nearest legal services institutions." Page 7, NALSA Scheme for Para-Legal Volunteers (Revised), available at: https://nalsa.gov.in/sites/default/files/scheme/Scheme_%28Para_Legal_Volunteers%29.PDF.

49 Question answered in the Rajya Sabha on 22 December 2017, available at: <http://164.100.47.5/qsearch/QResult.aspx>.

Early Access to Legal Aid / Access to Legal Aid at Police Station: International Standards

The UN Principles and Guidelines on Access to Legal Aid for Persons in Criminal Justice Systems (UNPGLA), 2012 calls member states to take measures to “ensure that police and judicial authorities do not arbitrarily restrict the right or access to legal aid for persons detained...” and more importantly “to facilitate access for legal aid providers assigned to provide assistance to detained persons in police stations.”

European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment:

“The possibility for persons taken into police custody to have access to a lawyer during [the period immediately following deprivation of liberty] is a fundamental safeguard against ill-treatment. The existence of that possibility will have a dissuasive effect upon those minded to ill-treat detained persons; further, a lawyer is well placed to take appropriate action if ill-treatment actually occurs.”

Body of **Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (1988)** (UN General Assembly Resolution 43/173) provides that “[a] detained person shall be entitled to have the assistance of a legal counsel. He [or she] shall be informed of his [or her] right by the competent authority promptly after arrest and shall be provided with reasonable facilities for exercising it,” and that “[i]f a detained person does not have a legal counsel of his [or her] own choice, he [or she] shall be entitled to have a legal counsel assigned to him [or her] by a judicial or other authority in all cases where the interests of justice so require and without payment by him [or her] if he [or she] does not have sufficient means to pay.”

The Basic Principles on the Role of Lawyers (Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, 1990) mentions the obligation of the State to inform the public of “their right to be assisted by a lawyer of their choice upon arrest or detention or when charged with a criminal offence”.

Realising the need for access to legal aid at the earliest, **UNDP and UNODC developed a handbook** in 2014, titled ***Early Access to Legal Aid in Criminal Justice Processes: A Handbook for Policymakers and Practitioners***. The Handbook lays down the need for early access in the following words:

“The early stages of the criminal justice process—the first hours or days of police custody or detention—are crucial for those who have been arrested or detained in respect of a criminal offence. Decisions made and actions taken, or not taken, will determine their ability to effectively defend themselves, the length of their detention, whether and when they are produced before a court, whether appropriate decisions are made about prosecution or diversion from the criminal justice system and, ultimately, whether they receive a fair trial. During this period, suspects and accused persons are at greatest risk of torture or other forms of ill-treatment, ranging from neglect and demands for bribes, to coerced confessions and unlawful detention.”

“Access to legal aid during the early stages of the criminal justice process protects people at a time when they are most vulnerable, and is a key safeguard against torture and ill-treatment. It also ensures that poor and vulnerable people are treated with respect and dealt with fairly, and helps to strengthen criminal justice institutions and make them more responsive to the needs of citizens.”

The handbook also looks at some models of legal aid at police stations ranging from Wales, Sierra Leone, South Africa and Nigeria, among others. The models vary in the actors (paralegals and lawyers) and the kind (advice, assistance, representation) at the police station.

UN Human Rights Committee, CCPR (General Comment 32, 2007) “The right to communicate with counsel requires that the accused is granted prompt access to counsel. Counsel should be able to meet their clients in private and to communicate with the accused in conditions that fully respect the confidentiality of their communications.”

The Johannesburg Declaration on the Implementation of the UNPGLA, 2014 states that “Legal aid and early assistance schemes reduce excessive and arbitrary pretrial detention, improve the administration of justice, increase public trust in justice and can boost socio-economic development at the family and community level.”

Defining Early Access to Legal Aid: The UNDP-UNODC Handbook defines early access to legal aid as “...from the time that a person is suspected of, arrested or detained in respect of, or charged with a criminal offence (whichever is the earliest) and throughout the period up to and including the first appearance before a judge for the purpose of determining whether the person is to be detained or released pending trial”.

THEME 2: PRISON LEGAL AID CLINICS: EFFECTIVE LINK?

According to NALSA SOP 2016, every prison in India is mandated to setup a jail legal aid clinic (JLAC). NALSA 2011 Regulations regulate the functioning of legal aid clinics. This is to ensure that the geographical barriers do not restrict individuals from exercising their constitutional right under Article 39A. As per the NALSA 2011 Regulations, every person “who fulfils the criteria specified in Section 12 of the LSA Act shall be eligible to get free legal services in the legal aid clinics.”⁵⁰

Legal aid clinics are supposed to be manned by trained paralegal volunteers (PLVs) who are responsible for their functioning. They are expected to maintain registers to record the work done and the actions taken to help those seeking legal aid and advice. Panel lawyers are expected to visit the clinics periodically. Panel lawyers visiting prisons are known as jail visiting lawyers (JVL). The volunteers running the clinics are from the community, known as community paralegal volunteers (CoPLV) and long-term convicts, known as convict paralegal volunteers (CPLV).

The 2009 Ministry of Home Affairs’ Comprehensive Advisory on Prison Administration⁵¹ mentions the constitution of a legal aid cell in each prison. NALSA’s 2010 Quinquennial Vision Document⁵² mentions setting up of legal aid clinics in prisons as a key focus area, emphasising the need to provide legal aid to prisoners. The NALSA (Legal Services Clinics) Regulations, 2011 were formulated, and subsequent to an amendment in 2014 they too included provisions for setup of legal aid clinics in jails. NALSA’s National Plan of Action, 2012-2013,⁵³ under Provision 5, discussed setting up legal aid clinics in jails, directing district authorities to take appropriate action to establish these clinics in order to provide free legal services to persons accused of criminal offences. The Paralegal Scheme was introduced by NALSA in 2009, which aimed to train volunteers to ensure that legal aid services reached all people, thus removing barriers to access to justice. The duties of the PLVs under the scheme include education, awareness, oversight and jail visits. Additionally, some educated prisoners with good behaviour who are serving long-term sentences in prison may be trained as PLVs.

In March 2015, the Minister of Law & Justice at the 12th All India Meet of State Legal Services Authorities discussed the need to constitute legal aid clinics in prisons to provide necessary legal aid to undertrials. Pursuant to this meeting, NALSA’s Director wrote a letter to all the member secretaries of the state legal services authorities,⁵⁴ seeking the setup of legal services clinics in all the prisons in their respective states. A year later, the Model Prison Manual, 2016⁵⁵ included a separate chapter on legal aid, addressing the need to setup of legal services clinics in all prisons.

In 2016 NALSA framed the Standard Operating Procedure for Representation of Persons in Custody⁵⁶ to streamline the functioning of JLACs. The NALSA SOP 2016 addresses the lack of standardisation of the frequency of visits by JVLs to the jails and states: “Visits to the jails must be made at least twice every week.” However, in the all-India meet of the SLSAs in March 2017, the SLSAs resolved that “. The minimum number of visits of panel lawyers to the jail clinics should be at least four days in a week.”⁵⁷

50 Regulation 4 of the NALSA 2011 Regulation, available at: <https://nalsa.gov.in/sites/default/files/scheme/NALSA%20LEGAL%20AID%20CLIN-ICS%20REGULATIONS%2C%202011.pdf>.

51 Prison Advisory, MHA, available at: <http://mha1.nic.in/PrisonReforms/pdf/PrisonAdmin17072009.pdf>.

52 NALSA’s 2010 Quinquennial, available at: <http://hslsa.gov.in/sites/default/files/documents/qinquennial.pdf>.

53 NALSA National Plan 2012-13, available at: palsa.gov.in/uploads/NATIONAL%20PLAN%20OF%20ACTIONdd.doc.

54 NALSA Letter vide No. L/47/2014-NALSA dated 21 May 2015.

55 Model Prison Manual 2016, available at: <http://mha1.nic.in/PrisonReforms/pdf/PrisonManual2016.pdf>.

56 Standard Operating Procedure for Representation of Persons in Custody, available at: <https://nalsa.gov.in/sites/default/files/document/SOP-%20Persons%20in%20Custody.pdf>.

57 Minutes of the 15th All India Meet of the State Legal Services Authorities held on 18 & 19 March 2017 at New Delhi.

Setting up of Legal Aid Clinics in Jails*

The District Authorities shall take appropriate action to establish Legal Aid Clinics in Jails. In big jails like Central Prisons, the Legal Aid Clinic shall function on all days with the help of PLVs selected and trained from amongst the long-term prisoners and the lawyers deputed by the District Legal Services Authority. At least one lawyer shall be deputed every day in the Legal Aid Clinics functioning in the Central Prisons for providing legal services like filing bail applications, for appearing on behalf of the undertrial prisoners who are not assisted by any legal practitioners, timely filing of the appeals of the convicted prisoners, preparing applications for remission, parole, etc. The District Legal Services Authority shall instruct the lawyers and the PLVs deputed to the Legal Aid Clinics in Central Prisons to have acquaintance with the jail manual and the other rules/regulations relating to prisons.

Honorarium for the lawyers attending to the Legal Aid Clinics in jails shall be fixed by the State Legal Services Authority in accordance with the nature and the volume of work done.

District Legal Services Authorities shall set up Legal Aid Clinics in the District Jails/Sub-jails also. The frequency of the visit of the lawyer to the District Jails/Sub-jails may be fixed by the District Legal Services Authority depending on the circumstances. However, one PLV can be deputed to such jails on daily basis to ascertain whether any newly admitted undertrial prisoner requires legal services. The PLV shall report back to the District Legal Services Authority with the information so collected from the jails. On receipt of the information, the District Legal Services Authority shall immediately take steps for appointing a panel lawyer or direct the Retainer lawyer to appear on behalf of the undertrial prisoners.

Free legal services shall be given to persons accused of any criminal offence to defend their cases. Such persons may also be provided with such services in connection with civil matters wherein such accused is not in a position to enter appearance on account of his incarceration. Free legal assistance may also be given to the family of the accused to initiate or defend cases of a civil nature on behalf of the accused lodged in the prison. The new project taken up by the Chhattisgarh State Legal Services Authority may be adopted as a model in this regard.

*NALSA's National Plan of Action for 2012-13 presented at the 10th All-India Meet of the State Legal Services Authorities, 2012; page 13.

THEME 3: APPLICATION TO APPOINTMENT: TIMELY ACCESS TO LEGAL AID?

NALSA 2010 Regulations formulates procedures to appoint a legal aid panel, receive legal aid applications, assign cases to panel lawyers and make payments to the lawyer based on the assessment of the quality of representation. As per Regulation 7, after the legal services authority receives the application for legal aid, it has to decide within eight weeks from the date of receipt of the application if the applicant is entitled to legal services. Rendering the accused unrepresented for eight weeks, essentially means continued detention for this period merely to decide whether the person is eligible for legal aid is unreasonable and against the principle of liberty guaranteed under Article 21 of the Constitution.

Article 30.4 of the UN Model law states that "Even when a means test is required by virtue of Articles 4.2 and 4.3, individuals in custody shall be presumed eligible for legal aid, and a legal aid provider shall be promptly appointed for them pending determination of eligibility." The Supreme Court in the *Afsan*⁵⁸ case had also stated: "Not that the police should, in such an event, postpone investigation indefinitely till his request is processed, but what is expected of the police officer is to promptly take note of such request and initiate immediate steps to place it before the magistrate or legal services authority so that at least at some stage of interrogation, the person in custody would be able to establish contact with a legal practitioner."

58 State v Navjot Sandhu alias Afsan Guru (2005)11 SCC 600.

7. Scrutiny and evaluation of the application for free legal services:

(1) There shall be a committee to scrutinise and evaluate the application for legal services, to be constituted by the legal services institution at the level of taluk, district, state and above.

(4) The committee shall scrutinise and evaluate the application and decide whether the applicant is entitled to the legal services or not within a period of eight weeks from the date of receipt of the application.

Regulation 7 of NALSA (Free and Competent Legal Services) Regulation, 2010

THEME 4: LEGAL AID WATCH: EFFECTIVE MONITORING?

Across the globe, the quality of free legal services provided is a serious concern. NALSA, in its 2010 Regulations has provided a detailed mechanism to ensure effective monitoring of panel and retainer lawyers. The regulations require all LSI to set up a monitoring committee to review the progress of court-based legal aid cases. The committee's mandate includes:

- Maintaining a register for legal aid cases to record day-to-day postings, progress of cases and end results.
- Seeking reports from the lawyers about their legal aid cases to oversee the progress of cases.
- Seeking registers from the courts to take note of progress in legal aid cases.
- Advising lawyers to take appropriate steps if the progress of cases is unsatisfactory.
- Sending periodic reports to the SLSA on the progress of legal aid cases in their districts.
- Communicating the suggestions, if any, from the SLSA to the lawyers regarding their cases.

In order to review the functioning of legal aid clinics, NALSA, in its 2011 Regulation, has suggested multiple provisions. Regulation 20 mandates maintaining records and registers. These registers are to be maintained by the paralegals and lawyers and they are to be handed over to the LSI as and when called for. Regulation 26 directs SLSAs to conduct periodical reviews. They should collect monthly reports from the DLSA on the functioning of the clinic. These reviews may include seeking reports from the JVLs and PLVs or reviewing the registers maintained in the clinics.

To monitor the work of remand lawyers, the NALSA 1998 Model Scheme mandates that LSIs may insist on receiving an attendance certificate issued by the court to the remand lawyer before making a payment. The Scheme also suggests that a certificate of merit may be given to remand lawyers whose performance is found to be outstanding.

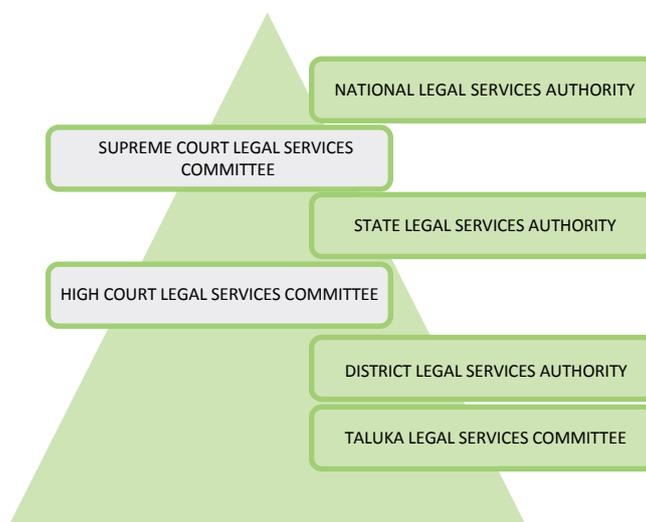
In NALSA's National Plan of Action 2012-2013, DLSAs are directed to monitor the activities of legal aid clinics and verify the records kept by the clinics at least once a month. It also provides for a social audit system regarding the services, gathering feedback from the community to improve the functioning of LSI.

V. NATIONAL FINDINGS

1. LEGAL SERVICES INSTITUTIONS

RTI Question: Please provide information regarding the infrastructure of Legal Services Institutions as on 1 January 2017 :				
State/UT	Number of High Court Legal Services Committees	Number of District Legal Services Authorities (DSLAs)	Number of Full-Time Secretaries of DSLAs	Number of Taluka Legal Services Committees

The legal aid machinery in India includes legal services institutions (LSI) at the national, state, district and sub-divisional/taluka level. Each state is also mandated to constitute a LSI at the High Court level. Finally, a Supreme Court Legal Services Committee is set up to deal with legal aid cases at the Supreme Court.



STRUCTURE OF LEGAL AID

Table 1.1: Designation of Heads of Legal Services Institutions

Designation	NALSA	SLSA	DLSA	TLSC	SCLSC	HCLSC
Patron in Chief	Chief Justice of India	Chief Justice of the High Court	-	-	-	-
Executive Chairperson/ Chairperson	Judge, Supreme Court (Serving or Retired)	High Court Judge (Serving or Retired)	District Judge	Senior-most Judicial Officer	Supreme Court Judge (Serving)	High Court Judge (Serving)
Member Secretary/ Secretary	District Judge Level Judicial Officer	District Judge Level Judicial Officer	Civil Judge/ Subordinate Judge Rank Judicial Officer	-	Secretary (Qualification as prescribed by the State Government)	Secretary (Qualification as prescribed by the State Government)

As on January 2018,⁵⁹ there were 651 DLSAs and 2,222 TLSCs in 36 states and union territories in the country. Of these, 27 responded to the RTI query. In these 27 states and union territories there were 520 DLSAs and 2176 TLSCs. Of the 520 DLSAs, only 339 had full-time secretaries.

Table 1.2: Legal Services Institutions: State-Wise

S. No.	State	Number of District Legal Services Authorities (DLSAs)		Number of Full-Time Secretaries of DLSAs	Number of Taluka Legal Services Committees		Number of High Court Legal Services Committees
		2018 (Ministry of Law & Justice)	2016 (CHRI RTI Response)	2016 (CHRI RTI Response)	2018 (Ministry of Law & Justice)	2016 (CHRI RTI Response)	2016 (CHRI RTI Response)
1	Andhra Pradesh	13	13	13	138	138	1
2	Arunachal Pradesh	20	Not responded	Not responded	0	Not responded	-
3	Assam	22	Not provided	Not responded	3	Not responded	-
4	Bihar	37	37	37	15	42	1
5	Chhattisgarh	22	21	21	65	66	Not responded
6	Goa	2	Not responded	Not responded	11	Not responded	Not responded
7	Gujarat	31	30	24	234	237	1
8	Haryana	22	21	21	34	33	1
9	Himachal Pradesh	11	11	7	42	42	1
10	Jammu & Kashmir	22	22	0	68	69	2
11	Jharkhand	24	24	0	4	4	1
12	Karnataka	30	30	22	148	148	3
13	Kerala	14	14	14	62	62	1
14	Madhya Pradesh	50	50	0	149	149	3
15	Maharashtra	33	33	15	303	303	3
16	Manipur	9	9	0	0	0	1
17	Meghalaya	11	Not responded	Not responded	4	Not responded	Not responded
18	Mizoram	8	8	0	0	0	1
19	Nagaland	11	Not responded	Not responded	0	Not responded	Not responded
20	Odisha	30	30	30	88	88	1
21	Punjab	22	22	22	40	40	1
22	Rajasthan	35	35	34	181	182	2
23	Sikkim	4	4	0	6	6	1
24	Tamil Nadu	32	29	30	150	151	2
25	Telangana	11	11	10	78	75	1

⁵⁹ This information was provided by the Ministry of Law & Justice in the Rajya Sabha on 16 March 2018 in response to Un-starred Question Number 2514.

26	Tripura	5	5	3	14	14	1
27	Uttar Pradesh	71	71	51	304	335	2
28	Uttarakhand	13	13	10	31	31	1
29	West Bengal	19	Not responded	Not responded	42	Not responded	Not responded
30	Andaman & Nicobar	1	Not responded	Not responded	3	Not responded	Not responded
31	Chandigarh	1	1	1	0	0	1
32	Dadra & Nagar Haveli	1	1	0	0	0	Not responded
33	Daman & Diu	2	Not responded	Not responded	0	Not responded	Not responded
34	Delhi	11	11	11	0	0	1
35	Lakshadweep	0	Not responded	Not responded	2	Not responded	Not responded
36	Puducherry	1	1	0	3	3	1
Total	651	520 (in 27 states)	339	2,222	2,176	35	

2. LEGAL AID PROVIDERS

Legal aid providers comprise both lawyers and PLVs. In India, they are further sub-divided as panel lawyers, retainer lawyers, remand lawyer, JVLs, convict PLVs and community PLVs. In this report, we have classified them as primary and secondary legal aid providers. Panel lawyers, retainer lawyers and remand lawyers directly represent persons in court and are therefore referred to as primary legal aid providers. JVLs, convict and community PLVs identify persons with legal needs, provide legal advice and facilitate applications, but do not generally represent them in court and are therefore referred to as secondary legal aid providers.

While the LSIs have for decades provided legal representation to those eligible, in 2010, there was an attempt to regulate the functioning of legal aid providers through the NALSA (Free and Competent Legal Services) Regulations, 2010. These regulations mandate every LSI to appoint panel and retainer lawyers. While the number of panel lawyers to be appointed to each LSI is not defined, the strength of retainer lawyers⁶⁰ is fixed. panel lawyers are appointed to represent people in court, retainer lawyers also assist the LSI in conducting camps and manning the front office of the LSI.

2.1 Appointment of Legal Aid Providers

RTI Question:

The information on appointment of lawyers and others functionaries:

- The number of lawyers appointed (Regulation 8 of the NALSA Regulations, 2010) in the district courts as on 30 June 2016 as i) panel lawyers and ii) retainer lawyers.
- The number of senior lawyers, law firms, retired judicial officers, mediators and law professors in the panel appointed as on 30 June 2016 (Regulation 9 of the NALSA Regulations, 2010).
- Have separate panels been maintained for dealing with different kinds of cases? If yes, list of the panels as on 30 June 2016. (Regulation 8(5) of the NALSA Regulations 2010).

⁶⁰ Regulation 8 of the NALSA 2010 Regulations: The strength of retainer lawyers shall not exceed: (a) 20 in the Supreme Court Legal Services Committee; (b) 15 in the High Court Legal Services Committee; (c) 10 in the district legal services authority; (d) 5 in the taluk legal services committee.

2.1.1 Appointment of Panel Lawyers

Appointing panel lawyers is the primary prerequisite of the LSIs. For the legal aid machinery to function, be it to represent people in court or provide legal aid advice, they are indispensable. State-wise information on the appointment of panel lawyers was not available in the public domain till it was provided in response to a question⁶¹ raised in the Parliament in March 2018. CHRI's RTI data looks at district-wise data of panel lawyers from 293 districts across the country. While the table below looks at NALSA's data on appointments of panel lawyers, the description below incorporates the information received through RTI responses.

Table 2.1: Appointment Of Panel Lawyers: State-Wise

S. No.	State	Panel Lawyer	Population (Census 2011)	Panel Lawyers (per 100,000 Population)	Number of Districts	Panel Lawyers per District (Avg)
1	Sikkim	182	6,10,577	30	4	46
2	Puducherry	298	12,47,953	24	4	75
3	Himachal Pradesh	1,329	68,64,602	19	12	111
4	Lakshadweep	11	64,473	17	1	11
5	Arunachal Pradesh	202	13,83,727	15	21	10
6	Tamil Nadu	10,216	7,21,47,030	14	32	319
7	Tripura	503	36,73,917	14	8	63
8	Daman and Diu	30	2,43,247	12	2	15
9	Goa	152	14,58,545	10	2	76
10	Madhya Pradesh	7,181	7,26,26,809	10	51	141
11	Kerala	3,274	3,34,06,061	10	14	234
12	Andaman and Nicobar Islands	32	3,80,581	8	3	11
13	Chhattisgarh	2,097	2,55,45,198	8	27	78
14	Delhi	1,351	1,67,87,941	8	11	123
15	Odisha	2,759	4,19,74,218	7	30	92
16	Mizoram	70	10,97,206	6	8	9
17	Haryana	1,613	2,53,51,462	6	22	73
18	Chandigarh	63	10,55,450	6	1	63
19	Andhra Pradesh	2,798	4,93,86,799	6	13	215
20	Punjab	1,566	2,77,43,338	6	22	71
21	Nagaland	111	19,78,502	6	11	10
22	Manipur	141	28,55,794	5	16	9
23	Rajasthan	3,278	6,85,48,437	5	33	99
24	Gujarat	2,876	6,04,39,692	5	33	87
25	Karnataka	2,701	6,10,95,297	4	30	90
26	Uttarakhand	411	1,00,86,292	4	13	32

61 This information was provided by the Ministry of Law & Justice in the Rajya Sabha on 16 March 2018 in response to Un-starred Question Number 2514.

27	Dadra and Nagar Haveli	14	3,43,709	4	1	14
28	West Bengal	3,679	9,12,76,115	4	23	160
29	Jharkhand	1,310	3,29,88,134	4	24	55
30	Maharashtra	4,376	11,23,74,333	4	36	122
31	Meghalaya	105	29,66,889	4	11	10
32	Telangana	1,166	3,51,93,978	3	31	38
33	Jammu and Kashmir	372	1,25,41,302	3	22	17
34	Assam	702	312,05,576	2	33	21
35	Bihar	2,085	10,40,99,452	2	38	55
36	Uttar Pradesh	2,578	19,98,12,341	1	75	34
Total	India	61,593	121,08,54,977	5	718	86

There are 61,593 panel lawyers in the country with five panel lawyers per 100,000 population. One-sixth of the panel lawyers (10,216) are appointed by Tamil Nadu. In fact, six states (Kerala, Madhya Pradesh, Maharashtra, Rajasthan, Tamil Nadu and West Bengal) combined have appointed more than half of the panel lawyers in the country. Looking at the panel lawyer's population, in comparison to the state population, Himachal Pradesh, Kerala, Madhya Pradesh and Tamil Nadu have a higher⁶² panel lawyer to population ratio⁶³ (10 and above) compared to other states. Uttar Pradesh and Bihar stand at the bottom of the table with one and two lawyers per 100,000 population respectively.

Table 2.2: Appointment of Panel Lawyers: Summary

Panel Lawyers	Districts where Panel Lawyers Were Appointed	Districts where Panel Lawyers Were Not Appointed	Districts that Did Not Respond/ Provide this Information	Total Districts that Responded to the RTI
	250	6	36	292

The RTI responses provided district-wise information on panel lawyers. Of the 292 districts that responded to the RTI application, 250 had appointed panel lawyers. While 36 districts did not even respond to this basic question, seven districts⁶⁴ stated that they did not have any panel lawyers. These 250 districts had appointed a total of 20,368 panel lawyers, which means an average panel size of 80 lawyers. The size of the panel of lawyers varied from one⁶⁵ to 496⁶⁶ in a district. Over half the districts had a panel of more than 50 lawyers, and 50 districts had a panel of more than 100 lawyers. Tamil Nadu clearly had the largest panel of lawyers, followed by Maharashtra and Madhya Pradesh. The basis of determining the size of the panel needs examination. Ideally it should be on the basis of the need for legal representation. However, the need/demand for legal aid is difficult to quantify, and therefore the state population is a good indicator. Furthermore, the need for panel lawyers in the implementation of government schemes is an important factor.

It is not just the number of legal aid providers but the effectiveness of their representation which is of prime importance. While there are no objective screening tests, the NALSA 2010 Regulations state that "the competence, integrity, suitability and experience of such lawyers shall be taken into account". The Regulations also suggest that LSIs may maintain separate panels to deal with different type of cases. Only a quarter of the districts that responded to the RTI application, maintained separate panels. These included panels for civil

62 Comparing states/union territories with population of more than 50,00,000.

63 Panel lawyer per 100,000 population.

64 Morena, Seoni, and Satna (Madhya Pradesh); Chamoli (Uttarakhand); Serchhip and Lawngtlai (Mizoram).

65 Nayagarh and Gajapati (Odisha); Shravasti (Uttar Pradesh); and Mamit (Mizoram).

66 Panna, Madhya Pradesh.

cases, criminal cases, matrimonial cases, revenue cases and juvenile cases among others. One district⁶⁷ also had a further sub-division in each panel as senior and junior lawyers.

The Regulations suggest that senior lawyers, retired judicial officers, mediators and law professors should be a part of the panel as well. Most of the districts did not appoint any of them. About 30 districts appointed senior lawyers. Only one district (Sri Mukhtar Sahib in Punjab) appointed a retired judicial officer. None of the districts which responded, appointed a law professor.

- ❖ The appointment letter and duty note of panel lawyers has been prepared as Note 1.
- ❖ The format for the case assignment letter to the panel lawyer & intimation letter has been prepared as Format 6.

2.1.2 Appointment of Retainer Lawyers

Retainer lawyers are drawn from panel lawyers and are appointed for a fixed period by the Executive Chairman of the LSI. They are paid a monthly fee and in addition to representing people in legal aid cases, they are expected to work on the administrative affairs of the LSI. With staff constraints and the difficult task of tracking the implementation of legal aid schemes, retainer lawyers can play a supportive role. The Bihar SLSA⁶⁸ further elucidated the role of retainer lawyers and directed that their services may also be used to assist DLSAs to implement NALSA Schemes on free legal aid and legal services; and to evaluate the work of PLVs and panel lawyers for payment of honorariums.

As per the NALSA 2010 Regulations, the strength of retainer lawyers shall not exceed 20 in the Supreme Court Legal Services Committee; 15 in the High Court Legal Services Committee; 10 in the DLSA; and 5 in the TLSC. Given the existing numbers of LSIs, a maximum of 18,165 retainer lawyers can be appointed country-wide. However, information about the number of retainer lawyers appointed by LSIs across the country is not available in the public domain.

Table 2.3: Appointment of Retainer Lawyers - Summary

Retainer Lawyers	Districts where Retainer Lawyer Appointed	Districts where Retainer Lawyer Not Appointed	Districts that Did Not Respond/ Provide this Information	Total Districts where Panel Lawyers were Appointed	Total Districts that Responded to the RTI Application
	158	49	43	250	292

The response to CHRI’s RTI application shows that in the 250 districts where panel lawyers were appointed, 158 districts appointed retainer lawyers. 49 districts did not appoint any retainer lawyer, while 43 chose not to provide this information. The 158 districts that appointed retainer lawyers had appointed a total of 1,671 retainer lawyers, which means an average of 11 lawyers per district. As per the NALSA 2010 Regulations, the strength of retainer lawyers shall not exceed 10 persons. In Rajasthan, all districts (except Ajmer) appointed just one retainer lawyer.

Period of Appointment: As per the NALSA 2010 Regulations, the duration of appointment of retainer lawyers shall be fixed by the Executive Chairman of the LSI. The duration varies considerably between the states and even within states. Some states have suggested one year and others three years.

Honorarium and Fees: Unlike regular panel lawyers, retainer lawyers are paid a monthly honorarium. This is in addition to the fees payable to them for the cases entrusted to them as panel lawyers. However, with reporting and monitoring mechanisms not in place, checks are needed to make monthly payments to retainers. The Bihar

67 Thiruvananthapuram.

68 Bihar SLSA Guidelines via letter No 168/BLSA/LAW/1133 dated 20 March 2016.

SLSA, for instance directed that if retainer lawyers do not attend court for 10 days in a month, they shall not be entitled to payment of honorarium for that month. Uttar Pradesh in a September 2015 letter⁶⁹ stated that payments to retainer lawyers were made to them under the 13th Finance Commission Fund (2010-2014) and as that period was over, and they have not received any funds from the UP Government to make future payments, therefore, until further direction, the DLSAs and TLSCs should not give any work to retainer lawyers.

Role of Retainer Lawyers: In a 2016 letter,⁷⁰ NALSA suggested that retainer lawyers may also take up the work of remand lawyers. This can be challenging for retainer lawyers, as this involves a completely different set of tasks. In fact, the Bihar SLSA in a letter in March 2016 stated that they have received queries from different DLSAs about the nature of work to be undertaken by retainer lawyers. Subsequent to the NALSA letter, multiple states such as Bihar, Haryana, Jharkhand, Karnataka, Uttarakhand and others deputed retainer lawyers to work as remand lawyers (to assist undefended arrestees at the time of first remand) as well as a legal aid lawyers at the front office (to give legal opinion and legal assistance to persons visiting or brought to the office). However, in this situation, the NALSA 2010 Regulations, which cap the maximum number of retainer lawyers than can be appointed in a district to 10, would have to be amended.

❖ The appointment letter and duty note for retainer lawyers has been prepared as Note 2.

2.1.3 Remand Lawyers

Remand lawyers are assigned to magistrate courts to defend unrepresented prisoners. There are 9,563⁷¹ remand lawyers in the country. In response to CHRI's RTIs application, 244 districts provided information on remand lawyers. Of these, 169 districts appointed remand lawyers, 29 districts did not appoint any remand lawyer and 51 districts did not provide any information about appointment of remand lawyers.

Appointment of Remand Lawyers

Of the 169 districts that appointed remand lawyers, 132 appointed them for all magistrate courts. Delhi, Haryana and Himachal Pradesh stood out in terms of compliance as all the districts in these states which responded to our RTI, had appointed remand lawyers in every court.

Table 2.4: Appointment Of Remand Lawyers: State-Wise

State	Number of Districts that Appointed Remand Lawyers	Number of Magistrate Courts in the Entire District	Number of Magistrate Courts that Undertake Remand Hearings	Number of Remand and Bail Lawyers Appointed in the District as on 30 June 2016	Remand Lawyer-Magistrate Ratio
Andhra Pradesh	7	106	104	117	1.13
Assam	2	21	21	34	1.62
Bihar	5	81	69	50	0.72
Dadra & Nagar Haveli	1	2	2	6	3.00
Delhi	10	113	104	175	1.68
Haryana	10	117	109	180	1.65
Himachal Pradesh	11	115	112	130	1.16

69 SLSA Letter No 2911/SLSA-70/2015 dated 10 September 2015.

70 NALSA Letter No L/43/2015 dated 5 July 2016.

71 This is in response to a question asked to the Ministry of Home Affairs in the Rajya Sabha answered on 7 March 2018.

Jharkhand	6	58	56	44	0.79
Karnataka	14	796	227	245	1.08
Kerala	3	40	39	24	0.62
Madhya Pradesh	13	78	124	462	3.73
Maharashtra	12	341	265	218	0.82
Manipur	1	3	3	3	1.00
Meghalaya	1	34	20	24	1.20
Mizoram	6	48	12	228	19.00
Odisha	4	30	27	10	0.37
Puducherry	1	8	8	8	1.00
Punjab	14	132	132	42	0.32
Rajasthan*	21	540	270	485	1.80
Sikkim	1	8	8	8	1.00
Tamil Nadu	1	174	150	335	2.23
Telangana	7	117	116	117	1.01
Uttar Pradesh	3	19	19	10	0.53
Uttarakhand	5	42	42	41	0.98
West Bengal	5	57	10	86	8.60
Grand Total	169	3080	2049	3082	1.50

*We do not have this information for Rajasthan, so we are assuming half the magistrate courts undertake remand hearings.

The 169 districts that appointed remand lawyers had a total of 3,080 magistrate courts. Of these, 2,049 undertook remand hearing. In these 2,049 courts, 3,082 remand lawyers were appointed making it an average of 1.5 lawyers per court. As per the provisions, the LSIs decide the number of lawyers per court based on the quantum of production. West Bengal, Madhya Pradesh and Mizoram have appointed higher number of remand lawyers given the number of courts in their states, compared to other states. Uttar Pradesh and Bihar have the least number of remand lawyers vis-à-vis the number of courts.

Table 2.5: Appointment Of Remand Lawyers: Summary

Appointment of Remand Lawyers: Do all Magistrate Courts have Remand Lawyers?						
Response	Yes	No	Not provided	Not responded	Not asked	Total
No. of Districts	153	44	24	6	30	257

Role of Remand Lawyers: In 1998, under the chairmanship of Dr. Justice A. S. Anand, Supreme Court of India, NALSA developed a scheme for legal aid and assistance to the prisoners in custody: The Model Scheme for “Legal Aid Counsel” in all the Courts of Magistrates, wherein lawyers (called legal aid counsels) would be assigned to magistrate courts to represent those who are unrepresented. After the remand period, if the person still does not have a lawyer, the legal aid counsel may represent the accused for the entire trial. The letters to implement the Scheme were sent to the SLSAs on 10 June 1998 to be adopted by the states with suitable modifications.

In 2010, NALSA formulated the NALSA (Free and Competent Legal Services) Regulations, which mandated the appointment of panel and retainer lawyers to represent persons eligible for legal aid under Section 12 of the

LSA Act which also includes persons in custody. This has led to ambiguities in the functioning of remand lawyers as the roles of panel and remand lawyers overlap. The Odisha SLSA in an August 2011 letter⁷² directed retainer lawyers to take up the role of legal aid counsel and asked the DLSAs to discontinue appointing legal aid counsels where the LSIs have set up a Front Office and appointed retainer lawyers. In July 2016, NALSA in order to clarify the functioning of legal aid counsels, issued a letter⁷³ to the SLSAs where it mentioned that it has proposed an amendment to the NALSA 2010 Regulations to include remand lawyers under its fold. It also directed that “one panel/retainer advocate be deputed as remand advocate in each of the magistrate courts and the courts of sessions/special designated courts where remand proceedings were held”. However, the letter did not specify that if retainer lawyers are deputed as remand lawyers, will they still be expected to carry out their functions as retainer lawyers. Subsequently, among other SLSAs, Jharkhand on 26 July 2016 directed all the DLSAs to depute panel/retainer lawyers as remand lawyers and the Uttarakhand SLSA on 15 July 2016 directed that panel lawyers be appointed as remand advocates as the state had no retainer lawyers.

Given that retainer lawyers are responsible to man the front office, represent inmates in legal aid cases, assist the LSI in implementing its schemes, and in some states visit jails, it would be difficult for retainer lawyers to take up the role of remand lawyers as well. A remand lawyer must make him/herself available in magistrate courts during production hearings, thus making it difficult for a retainer lawyer to do justice to all his/her responsibilities. The Telangana SLSA in February 2016 issued a letter to the DLSAs where it mentioned “One advocate cannot be appointed both as legal aid counsel and retainer lawyer in view of the nature of the work.”

Remuneration: With respect to the remuneration of remand lawyers, the NALSA 1998 Model Scheme fixed it at Rs 500 per month. After 16 years, in 2014, NALSA revised it to Rs 1,000 per month. However, the Haryana SLSA, in 2011 had already increased the remuneration to Rs. 1,500 per month. In 2016, NALSA suggested⁷⁴ that retainer lawyers be deputed as remand lawyers and therefore be paid as per the structure laid down for retainer lawyers, i.e. Rs 5,000 at the DLSA level and Rs 3,000 at the TLSC level.

Criteria: With respect to appointment of remand lawyers, as per the NALSA Scheme, they should have “a minimum standing of five years on the criminal side”. The Madhya Pradesh SLSA suggested⁷⁵ that for special courts, the eligibility criteria should be seven years. Apart from the experience, the Scheme does not advise any other criterion. The Haryana SLSA also states that “The only requirement is that the concerned counsel must be sincere and faithful to the job assigned to them, failing which his/their name should be deleted from the panel of ‘Legal Aid Counsel’...”. The Telangana SLSA recommends⁷⁶ further considerations. It suggests that “...to see that the eligible and willing advocates of different categories are represented and put every effort to secure the advocates from all the sections maintaining the equal social status...”. The SLSA also lamented that most remand lawyers in the state do not represent inmates for one reason or the other and thereby causing much inconvenience to remand prisoners. It therefore suggested: “While selecting the panels, the concerned officer has to keep in mind that competent lawyers to assist undertrial prisoners and convicts are to be appointed so that legal aid for the poor does not become poor legal aid.”

SLSAs have repeatedly written letters to DLSAs and TLSCs to improve the implementation of the Scheme. The Haryana SLSA in 2010,⁷⁷ detailed the functions of legal aid counsels. While detailing their duties, the SLSA directed the remand lawyers to also visit prisons regularly. Chandigarh has done the same. While other SLSAs also issued similar letters, the letter issued by Sikkim SLSA⁷⁸ in 2016 was extremely detailed. It included asking courts to direct investigating officers to inform remand lawyers in advance by phone about the time of remand. It recommended that *peshkars* in court maintain remand registers and remand lawyers submit monthly reports and suggested formats for the same. The SLSA also mentioned that courts may insist that investigating officers should produce the accused during office hours. However, this may not always be possible and the officer may have to produce the accused at the magistrate’s residence. The Delhi SLSA therefore developed guidelines⁷⁹

72 Letter No 2429 (30) dated August 2011 .

73 NALSA Letter No L/43/2015 dated 5 July 2016.

74 Ibid.

75 F No. 5/LA/SLSA/270/09 dated 16 June 2009.

76 Roc No. 1046/TLSA/SW/2016 dated 22 February 2016.

77 L. No. 757-68(51)/MS/HLSA dated 24 February 2000.

78 L. No. 2765-74/SLSA dated 24 February 2016.

79 DLSA/Legal Aid Wing/2016/3969 to 3980 dated 12 April 2016.

to ensuring the presence of remand lawyers at the magistrate’s residence during remand. The concerned SHO/ investigating officer/ the staff of the court must inform the advocate about the probable time of the production. The duty roster should take into consideration the distance of the advocate from the concerned magistrate’s residence.

Legal Aid and the Bar (Advocates Act, 1961)

Section VI. Bar Council of India Rules

Duty to Render Legal Aid

46. Every advocate shall in the practice of the profession of law bear in mind that any one genuinely in need of a lawyer is entitled to legal assistance even though he cannot pay for it fully or adequately and that within the limits of an advocate’s economic condition, free legal assistance to the indigent and oppressed is one of the highest obligations an advocate owes to society.

(<http://www.barcouncilofindia.org/wp-content/uploads/2010/05/BCIRulesPartVonwards.pdf>)

2.2 Representation and Outcome of Legal Aid Cases

Most districts either did not maintain the data on representation and outcome or did not provide the same.

RTI Question:

The total number of persons who were provided legal representation and its impact under the NALSA 2010 Regulations in the district courts from 1 July 2015 to 30 June 2016 through a) panel lawyers and b) retainer lawyers at each level, as per the table below:

Legal Services Institution	a) Number of Accused Represented by Panel Lawyers	b) Number of Accused Represented by Retainer Lawyers	c) No. of Form II Issued	d) No. of Bail Releases	e) No. of Acquittals	f) No. of Cases Disposed	g) No. of Completion Reports Filed by Panel Lawyers	H) No. of Cases Withdrawn by Panel Lawyers
Specific Regulations (R), if any	(R8 (1) of NALSA 2010)	(R8 (6) of NALSA 2010)	(R11 (1) of NALSA 2010)	-	-	-	(R14 (3) of NALSA 2010)	(R. 8 (13) of NALSA 2010)
Response								

The total number of persons represented and released from jail under the Remand and Bail Lawyers Scheme in the district courts from 1 July 2015 to 30 June 2016 in the format provided below:

Total Number of Accused Persons Represented	Total Number of Persons Who were Granted Bail	Total Number of Persons Who were Actually Released on Bail	Total Number of Persons Discharged

2.2.1 Representation of cases by legal aid providers

a. Panel lawyers:

Of the 252 districts⁸⁰ that appointed panel lawyers, only 199 provided information about the cases taken up by these lawyers and 53 districts chose not to even respond to this basic question. **Of the districts that provided information, 32 districts replied that none of the panel lawyers in their district took even a single case throughout the year. Seven of these districts belonged to Madhya Pradesh and six to Bihar.** Clearly, either prison walls are too thick to let legal aid enter or there is a lack of documentation on the cases assigned.

In these 167 districts that appointed panel lawyers, about 20,000 lawyers represented around 27,000 inmates. A quarter of them were from Delhi. In fact, just five states⁸¹ accounted for 60% of all cases taken up by panel lawyers. This does indicate that some states have been better able to identify those in need of legal representation. On the other hand, in five cases (Arunachal Pradesh, Chandigarh, Chhattisgarh, Daman & Diu and Puducherry), it

⁸⁰ We received responses from 292 districts; 259 provided information on the appointment of panel lawyers, and 7 of them did not appoint any panel lawyers.

⁸¹ Delhi, Haryana, Punjab, Rajasthan and West Bengal.

seems, no legal aid cases for prisoners were taken up during the entire year even though more than 250 lawyers have been appointed in these states. This may also be attributed to the fact that LSI do not document and follow up on the outcome of the cases.

The average number of cases taken up by a panel lawyer in a year is 1.83 cases. This means, if the cases are distributed evenly, the workload of panel lawyers is manageable. Mizoram and Meghalaya panel lawyers with 21.25 cases, and 9.27 cases per year respectively, stand on a different footing. Also among the larger states, panel lawyers with most cases were in Delhi (14.93 cases) and Haryana (6.21 cases).

b. Retainer Lawyers:

Retainer lawyers were appointed in 154 districts across 19 states. **Of the 154 districts only 94 provided information on cases that were represented. In 36 out of these 94 districts, retainer lawyers did not take up any case. In the remaining 58 districts they took up 2,306 cases in total.** The maximum number of cases were taken up by Punjab and Mizoram with 465 and 355 cases respectively. Interestingly, while Mizoram had four legal aid lawyers, Punjab had 112 lawyers.

Table 2.6: Representation of Cases by Panel & Retainer Lawyers: Summary

	Districts Where Legal Aid Lawyers Took Up Cases	Districts Where Legal Aid Lawyers Did Not Take Up Any Case	Districts that Did Not Respond/ Did Not Provide Information about Representation by Lawyers	Total Districts that Appointed Panel/Retainer Lawyers	Total Districts that Responded to the RTI Application
Panel Lawyers	165	32	53	250	293
Retainer Lawyers	58	36	60	154	

Table 2.7: Representation of Cases by Panel & Retainer Lawyers: State-Wise

State	Panel Lawyer			Retainer Lawyer		
	Appointment	Representation	Average Cases Taken Up per Panel Lawyer in a Year	Appointment	Representation	Average Cases Taken Up per Retainer Lawyer in a Year
Andhra Pradesh	177	135	0.76	34	12	0.35
Assam	36	96	2.67	12	0	0.00
Bihar	359	1685	4.69	69	73	1.06
Delhi	424	6330	14.93	0	0	-
Haryana	363	2253	6.21	40	73	1.83
Himachal Pradesh	277	109	0.39	26	29	1.12
Jharkhand	927	619	0.67	50	143	2.86
Karnataka	869	216	0.25	47	120	2.55
Kerala	654	671	1.03	70	12	0.17

Madhya Pradesh	1348	1104	0.82	114	103	0.90
Maharashtra	1312	873	0.67	13	0	0.00
Manipur	87	52	0.60	7	398	56.86
Meghalaya	103	955	9.27	0	0	-
Mizoram	48	1020	21.25	4	497	124.25
Odisha	76	30	0.39	12	18	1.50
Punjab	782	2709	3.46	109	477	4.38
Rajasthan	1608	2689	1.67	42	283	6.74
Sikkim	186	109	0.59	0	0	-
Tamil Nadu	3363	2065	0.61	205	50	0.24
Telangana	158	79	0.50	118	16	0.14
Uttar Pradesh	217	351	1.62	60	2	0.03
Uttarakhand	171	443	2.59	0	0	-
West Bengal	1086	2114	1.95	70	0	0.00
Total	14631	26707	1.83	1102	2306	2.09

c. Remand Lawyers

Of the 164 districts where remand lawyers were appointed, 95 districts did not respond or said they did not maintain this information. Of the ones that responded, 14 districts mentioned that not even a single case was represented by remand lawyers in the entire district during the year. Only in 55 districts, remand lawyers represented people in court. In these 55 districts, remand lawyers represented over 10,000 inmates, 6,000 of which belonged to Delhi, Rajasthan and Tamil Nadu. Interestingly, eight districts also mentioned that remand lawyers represented persons in police custody (1,044 persons).

Table 2.8: Representation of Cases by Remand Lawyers: State-Wise

State	Number of Districts	Number of Cases Represented
Andhra Pradesh	5	643
Delhi	3	3,026
Haryana	4	370
Himachal Pradesh	4	939
Karnataka	4	80
Kerala	2	249
Madhya Pradesh	2	29
Maharashtra	5	116
Manipur	1	398
Mizoram	2	426
Odisha	2	22
Punjab	3	74
Rajasthan	12	2,017
Tamil Nadu	1	1,202
Telangana	1	36
West Bengal	4	725
Total	55	10,352

2.2.2 Outcome of Legal Aid Cases

a. Panel & Retainer Lawyers: Bail, Acquittal and Disposal

From the districts that maintained and provided this information, there were 1,911 bail releases and 1,097 acquittals. With panel and retainer lawyers taking up almost more than 30,000 cases, these numbers appear inadequate and are indicative of lack of documentation. Also, some of these cases may not have been disposed off yet.

The table clearly depicts that most of the districts did not provide this information. This is clearly indicative of the fact that information on the outcome of representations is not maintained by the legal aid authorities. After the appointment of a legal aid lawyer, there is no effective tracking of the work undertaken by the legal aid lawyer. Some of the legal aid authorities clearly mentioned that they do not maintain this information and this data would be available with the courts. This is despite the mandate of the monitoring committee to constantly monitor the progress of the legal aid cases by seeking reports from the lawyers.

Table 2.9: Outcome of Representation of Cases by Panel Lawyers: Summary

Districts Where Legal Representation:		Districts that Did Not Respond/ Did Not Provide Information:	Number of Districts Where Panel Lawyers Took Up Cases	Total Number of Districts that Responded to the RTI Application
Lead to Bail Releases	Did Not Lead to Any Bail Releases	About Bail Releases	167	293
58	26	83		
Lead to Acquittals	Did Not Lead to Any Acquittals	About Acquittals		
63	14	90		

Table 2.10: Outcome of Representation of Cases by Panel Lawyers: State-Wise

State	Number of Accused Represented by Panel Lawyers	Number of Accused Represented by Retainer Lawyers	Number of Bail Releases	Number of Acquittals
Andhra Pradesh	135	12	16	10
Assam	96	0	0	0
Bihar	1,685	73	17	0
Dadra & Nagar Haveli	51	12	0	4
Delhi	6,330	0	66	91
Haryana	2,253	73	9	98
Himachal Pradesh	109	29	7	8
Jharkhand	619	143	34	46
Karnataka	216	120	55	23
Kerala	671	12	31	26
Madhya Pradesh	1,104	103	0	208
Maharashtra	873	0	41	35

Manipur	52	398	174	0
Meghalaya	955	0	74	0
Mizoram	1,020	497	230	78
Odisha	30	18	16	3
Punjab	2,658	465	96	133
Rajasthan	2,689	283	9	23
Sikkim	109	0	0	0
Tamil Nadu	2,065	50	926	267
Telangana	79	16	4	10
Uttar Pradesh	351	2	0	0
Uttarakhand	443	0	9	0
West Bengal	2,114	0	97	34
Grand Total	26,707	2,306	1,911	1,097

b. Remand Lawyers: Bail and Discharge

Of the 55 districts where remand lawyers took up cases, in 43 districts, the representation led to bail releases. Of the 10,352 cases represented by remand lawyers, 3,972, inmates were granted bail. Of these 3,512 were actually released on bail. So one can infer that the remaining 460 inmates who were granted bail, could not be released due to their inability to provide bonds and sureties.

Table 2.11: Outcome of Representation of Cases by Remand Lawyers: Summary

Districts Where Inmates Were Granted Bail Due to Representation by Remand Lawyers	Districts Where Representation by Remand Lawyers Yielded No Bail Releases	Districts that Did Not Respond/ Did Not Provide Information about Bail Granted Due to Representation by Remand Lawyers	Total Number of Districts Where Remand Lawyers Represented	Total Number of Districts that Responded to the RTI Application
43	4	8	55	244

Of the 55 districts where remand lawyers took up cases, in 17 districts, the representations led to discharge of the inmate. While 22 districts did not provide any information regarding the same, in the remaining 16 districts representations did not lead to any person being discharged. In these 17 districts, 384 persons were discharged by the court.

Table 2.12: Outcome of Representation of Cases by Remand Lawyers: State-Wise

State	Total Number of Accused Persons Represented	Total Number of Persons Who Were Granted Bail	Total Number of Persons Who Were Actually Released on Bail at Court	Total Number of Persons Discharged
Andhra Pradesh	643	354	285	154
Delhi	3,026	66	0	0
Haryana	370	5	1	0
Himachal Pradesh	939	355	355	3

Karnataka	80	38	31	1
Kerala	249	121	114	0
Madhya Pradesh	29	4	4	0
Maharashtra	116	77	75	0
Manipur	398	174	83	16
Mizoram	426	168	159	117
Odisha	22	8	8	6
Punjab	74	24	22	0
Rajasthan	2,017	1,589	1,472	34
Tamil Nadu	1,202	838	694	30
Telangana	36	36	36	0
West Bengal	725	115	112	23
Grand Total	10,352	3,972	3,451	384

3. Legal Aid Clinics in Jail

RTI Questions:

The name and certified copy of the legal aid scheme/ regulation/ guideline/ letter of the state legal services authority to further the implementation of the National Legal Services Authority (Legal Aid Clinics) Regulations, 2011.

Does the signboard displayed on the jail legal aid clinic mention the name, working hours and days of legal aid clinic in English and the local language as per Regulation 13 of the NALSA Regulations., 2011?

The details of the legal aid clinics constituted in the jails in your district under Regulation 3 of the NALSA Regulations, 2011 as per the table below:

Jails	a) Name of the Jail	b) Legal Aid Clinic Constituted (Yes/No)	c) Date of Constitution of the Legal Aid Clinic
Central Jail			
District Jail			
Sub Jail 1			
Sub Jail 2			
Sub Jail 3			
Sub Jail 4			
Sub Jail 5			
Other Jails			
Other Jails			
Other Jails			

Information about the functioning of the Legal Aid Clinic as below:

- Name of the registers maintained by the legal aid clinic (in the Central/ District, Sub Jails and other Jails) in your district.
- Certified copies of the format any one jail in each district maintained for the registers in the legal aid clinic (in the Central/ District, Sub Jails and other Jails) in your district.
- Certified copy of the last two filled pages of the Attendance Register any one jail in each district maintained in the Legal Aid clinic as per Regulation 20 (1) of NALSA Regulations, 2011 from 1 June 2016 to 30 June 2016, from the (i) Central Jail/District Jails and (ii) Sub Jails in your district.
- Certified copy of the last five pages of the Work Register maintained in the legal aid clinic as per Regulation 20(2) of the NALSA Regulations, 2011 from Central/ District, Sub Jails and other Jails.
- The number of times attendance and work registers were called for by the DLSA for review from the prison from 1 July 2015 to 30 June 2016.

Total Number of Jails	Total Jails for which Information was Received	Total Number of Jails with JLACs
1,401	659	609

3.1 Constitution of Legal Aid Clinics

There are 1,401 jails in India. Each jail should have a legal aid clinic. We received information on the existence and functioning of jail legal aid clinics (JLACs) from 659 jails (47%) of the total 1,401 jails. In 606 (92%) of these jails, LSIs had constituted JLACs. According to information from NALSA, as of March 2018,⁸² 1,062 jails (75.5%) in India had constituted a JLAC.⁸³

Table 3.1: Constitution of Jail Legal Aid Clinics: State-Wise

State	Number of Jails ⁸⁴	Did Not Respond to the RTI Application	Responded to the RTI Application (June 2016)	Not Responded to the Question	Constituted	Not Constituted	SLSA	As per NALSA, JLAC constituted (Mar 2018)
Andhra Pradesh	112	72	40	-	39	1	-	86
Arunachal Pradesh	2 ⁸⁵	0	6	-	3	3	-	5
Assam	31	27	4	-	3	1	-	11
Bihar	58	36	22	-	22	-	58/58	55
Chandigarh	1	0	1	-	1	-	-	1
Dadra & Nagar Haveli	1	0	1	-	-	1	-	1
Daman & Diu	2	1	1	-	1	-	-	1
Delhi	10	0	10	1	8	1	-	17
Haryana	19	6	13	-	13	-	-	19
Himachal Pradesh	14	1	13	-	12	1	-	12
Jharkhand	29	8	21	-	21	-	-	27
Karnataka	102	55	47	2	36	9	-	63
Kerala	54	31	23	-	23	-	-	21
Madhya Pradesh	123	73	50	1	48	1	-	121
Maharashtra	154	133	21	1	18	2	-	38
Manipur	2	0	2	-	2	-	-	2
Meghalaya	4	0	4	-	4	-	-	4
Mizoram	7	0	7	-	7	-	-	9
Odisha	91	66	25	-	25	-	-	84

82 NALSA Website: Available at: https://nalsa.gov.in/sites/default/files/document/Legal_Service_Clinics,April-2017_to_March-2018.pdf.

83 Constitution of JLACs may not necessarily mean that a separate space has been provided for functioning of the clinic in prison, but that legal aid providers have been appointed to visit prisons and provide legal aid services.

84 Prison Statistics India 2015, National Crime Records Bureau.

85 While the NCRB mentions the existence of 2 jails, the RTI response provided information about constitution of 6 Jail Legal Aid Clinics. Thus gap of 4 jails in the totals column.

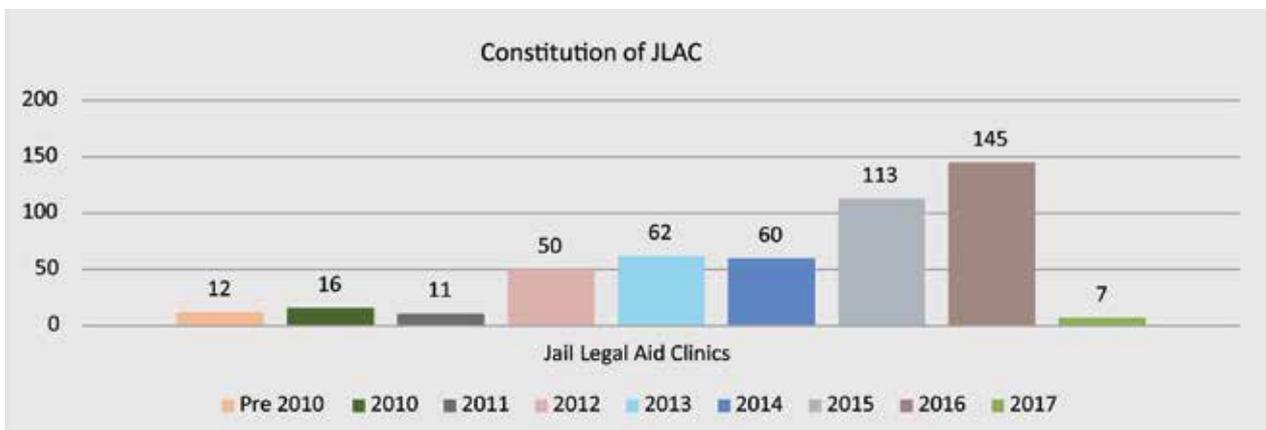
Punjab	26	2	24	1	20	3	-	32
Rajasthan	126	46	80	-	79	1	-	98
Sikkim	2	0	2	-	2	-	-	0
Telangana	50	18	32	-	32	-	-	39
Uttar Pradesh	67	-	Cumulative (67)	-	48	19	48/67	13
Uttarakhand	11	0	11	-	10	1	-	9
West Bengal	58	48	10	-	10	-	-	49
Chhattisgarh	28	28		-	-	-	-	34
Goa	2	2	0	-	-	-	-	2
Gujarat	27	27	0	-	-	-	-	48
Jammu & Kashmir	14	14	0	-	-	-	-	14
Nagaland	11	11	0	-	-	-	-	11
Tamil Nadu	137	15	Cumulative (122)	-	122	-	-	119
Tripura	13	13	0	-	-	-	-	13
Andaman & Nicobar Island	5	5	0	-	-	-	-	0
Lakshadweep	4	4	0	-	-	-	-	0
Puducherry	4	4	0	-	-	-	-	4
Grand Total	1,401	745	659	6	609	44		1,051

3.2 Year of Constitution of Jail Legal Aid Clinics

Of the 609 legal aid clinics constituted, information on the date of the constitution was available for only 476 clinics.

Total JLACs Constituted	Year of Constitution not provided	Information Provided
609	133	476

Table 3.2: Year of Constitution of Jail Legal Aid Clinics: Summary



The NALSA (Legal Services Clinics) Regulations, 2011. In December 2011, shortly after the adoption of The NALSA (Legal Services Clinics) Regulations, 2011, the Uttar Pradesh SLSA issued a letter⁸⁶ to all DLSAs regarding the constitution of legal aid clinics, specifically in jails. It also requested compliance reports as proof that these legal aid clinics have been constituted.

Three years into the regulation, less than a third of the clinics were constituted. Andhra Pradesh, Haryana, Manipur, Meghalaya, Mizoram, Odisha and Punjab were the few states where 75% or more clinics in jails were constituted up to 2014. In August 2014, the Andhra Pradesh SLSA wrote a letter “directing the LSI in the state to constitute legal aid clinics in jails”. The letter was in furtherance to the resolution of the 11th All India Meet of State Legal Services Authorities in 2014 and the National Plan of Action, 2012-13. Thirty-four of the 40 JLACs in Andhra Pradesh were constituted in 2014. In fact, 30 of these 34 JLAC were constituted post August 2014 (following the SLSA’s letter).

More than 50% of the clinics were constituted in 2015 and 2016. This was probably a result of the letter written by NALSA in 2015, instructing all SLSAs to constitute legal aid clinics in jails after the 13th All India Meet of State Legal Service Authorities. The Himachal Pradesh SLSA issued a letter dated 23 July 2015 on “Setting up of Legal Aid Clinics in Jail,” clearly delineating the functioning of legal aid clinics. In April 2015, the Bihar SLSA directed⁸⁷ all DLSAs to set up legal aid clinics. While 49 of the 58 JLACs were constituted in 2015, 35 of the 58 JLACs were constituted within a period of 9 months after the SLSA’s letter written in April 2015. In September 2015, the Telangana SLSA sent out a circular requesting all DLSAs to set up legal aid clinics. Subsequently, 24 of the 32 prison legal aid clinics were set up in 2015.

This clearly shows that even though regulations were in place, NALSA’s directions quickened the pace of implementation. Interestingly, for Tamil Nadu, there were only 16 jails where legal aid clinics had already been constituted at the time the RTI application was filed. The remaining 94 JLACs were constituted in July 2016, after the date specified in the RTI application. This could be a consequence of the NALSA SOP 2016.

Interestingly, 28 clinics were constituted before the NALSA 2011 Regulations. The earliest clinics, we noted, were Central Jail Jaipur, Rajasthan in 2001 and District Jail Sonapat, Haryana in 2002. While 16 of the 28 clinics were constituted in 2010, 13 of these were constituted in Odisha. The Haryana SLSA, in 2008 wrote a letter to all the DLSAs to constitute a legal aid cell in all the jails in Haryana. The letter directed the appointment of JVLs to these clinics, which were to visit prisons twice a week.

Table 3.3: Year of Constitution of Jail Legal Aid Clinics: State-Wise

State/UT	2001	2002	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	Grand Total
Andhra Pradesh	-	-	-	-	-	-	-	-	2	1	33	3	-	-	39
Arunachal Pradesh	-	-	-	-	-	-	-	-	-	-	2	-	-	1	3
Assam	-	-	-	-	-	-	-	-	-	1	-	-	1	-	3
Bihar	-	-	-	-	-	-	-	-	-	2	1	19	-	-	22
Chandigarh	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1
Daman & Diu	-	-	-	-	-	-	-	-	-	-	-	1	-	-	1
Delhi	-	-	-	-	-	-	-	-	-	1	1	-	-	-	8
Haryana	-	1	1	4	-	-	-	2	2	-	-	-	-	-	13
Himachal Pradesh	-	-	-	-	1	-	-	-	-	-	1	8	3	-	12
Jharkhand	-	-	-	-	-	2	1	-	1	5	3	2	2	-	21
Karnataka	-	-	-	-	1	-	1	2	1	5	2	7	6	-	36

86 Letter No. 2653/S.L.S A-110/2010 dated 8 December 2011.

87 The SLSA’s letter also laid down procedures with respect to the functioning of the clinics. The letter directed the appointment of two convict PLVs to man the jail legal aid clinics; and one panel lawyer to provide legal aid, monitor the progress of cases of undertrial prisoners and report the same to the Secretary, DLSA or the monitoring committee of that respective district.

Kerala	-	-	-	-	-	-	-	1	5	8	1	-	-	2	25
Madhya Pradesh	-	-	-	-	-	-	-	-	2	3	2	21	1	1	48
Maharashtra	-	-	-	-	-	-	-	-	2	-	2	7	3	-	18
Manipur	-	-	-	-	-	-	-	-	-	-	2	-	-	-	2
Meghalaya	-	-	-	-	-	-	1	-	-	-	-	-	-	-	1
Mizoram	-	-	-	-	-	-	-	-	3	3	-	-	1	-	7
Odisha	-	-	-	-	-	-	13	-	1	9	-	-	1	-	25
Punjab	-	-	-	-	-	-	-	4	9	-	2	-	1	-	20
Rajasthan	1	-	-	-	-	1	-	1	20	15	6	19	13	-	79
Sikkim	-	-	-	-	-	-	-	-	1	-	-	1	-	-	2
Tamil Nadu	-	-	-	-	-	-	-	-	-	-	-	-	106	-	122
Telangana	-	-	-	-	-	-	-	1	1	-	2	24	1	3	32
Uttar Pradesh	-	-	-	-	-	-	-	-	-	-	-	-	-	-	50
Uttarakhand	-	-	-	-	-	-	-	-	-	4	-	-	4	-	8
West Bengal	-	-	-	-	-	-	-	-	-	5	-	1	2	-	10
Grand Total	1	1	1	4	2	3	16	11	50	62	60	113	145	7	476

3.3 FUNCTIONING OF JAIL LEGAL AID CLINICS

1. Appointment of Secondary Legal Aid Providers

JLACs are manned by the secondary legal aid providers (JVLs and PLVs). While the role of the visiting lawyers and paralegals has been defined by the NALSA 2011 Regulations and the NALSA Paralegal Scheme, they do not specifically deal with legal aid providers in jail. The NALSA SOP 2016 for representation of persons in custody specifies that, JVLs are expected to visit prisons regularly at least twice a week and work in tandem with the PLVs to provide legal aid to the prisoners. Their work includes providing legal advice and assistance, and on some occasions, they are also assigned cases in court.

RTI Questions:

The details of the legal aid clinics constituted in the jails in your district under Regulation 3 of NALSA Regulations, 2011 as per the table below:

Jails	d) Number of Jail Visiting Lawyers) as on 30h June 2016	e) Number of Prisoner Paralegal Volunteers as on 30 June 2016	g) Number of Community Paralegal Volunteer as on 30 June 2016
Central Jail			
District Jail			
Sub Jail 1			

The details of the jail visiting lawyers, prisoner paralegal volunteers and community paralegal volunteers from 1 July 2015 to 30 June 2016 as below:

- Certified copy of one appointment letter.
- State Legal Services Authority/ District Legal Services Authority's mandate of the frequency of visits to the jails.
- Number of visits made (in each of the Central/ District, Sub and other Jails) in the above-mentioned period.
- Format of the monthly reports submitted.
- The total honorarium paid during the above-mentioned period.

3.3.1 Appointment of Secondary Legal Aid Providers

Table 3.4: Appointment of JVLs, CPLVs & COPLVs: Summary

	Appointed	Not Appointed	Not Responded	Not Provided	Total Number of JLACs
JLV	457	27	113	12	609
CPLV	214	259	135	1	
CoPLV	86	167	10	343	

a. Jail Visiting Lawyers (JVL)

Most of the 600 JLACs had appointed a JVL. However, 27 jails legal aid clinics did not have a JVL. The NALSA 2011 Regulations and the NALSA SOP 2016 mandate the LSI to depute their panel or retainer lawyers as JVLs. The appointment of JVLs has been done differently by different states. For instance, the Rajasthan SLSA guidelines direct the creation of legal aid awareness teams in all districts alongside the JVLs and paralegals. In Tamil Nadu, all panel lawyers are deputed to visit jails on a rotational basis. Central jails are supposed to be visited on a daily basis, whilst sub jails are to be visited on a weekly basis. In Sikkim, there are no specific JVLs. Instead, every panel lawyer is required to visit jails to meet the undertrial prisoner assigned to them, in connection with his or her case.

Table 3.5: Appointment of Jail Visiting Lawyer JVLs: Summary

Number of JLAC Where JVLs were Appointed	Number of JLAC Where JVLs were Not Appointed	Not Responded	Not Provided	Total Number of JLACs
457	27	113	12	609

Table 3.6: Appointment of Jail Visiting Lawyer JVLs: State-Wise

State/UT	Total JLAC	Districts Where JVLs Appointed	Districts Where JVLs Not Appointed	Not Responded	Not Provided
Andhra Pradesh	39	39	-	-	-
Arunachal Pradesh	3	1	1	-	1
Assam	3	3	-	-	-
Bihar	22	21	1	-	-
Chandigarh	1	1	-	-	-
Daman & Diu	1	1	-	-	-
Delhi	8	8	-	-	-
Haryana	13	12	1	-	-
Himachal Pradesh	12	12	-	-	-
Jharkhand	21	19	1	1	-
Karnataka	36	36	-	-	-
Kerala	23	19	-	-	4
Madhya Pradesh	48	9	8	28	3
Maharashtra	18	18	-	-	-

Manipur	2	-	1	1	-
Meghalaya	4	4	-	-	-
Mizoram	7	4	3	-	-
Odisha	25	14	2	9	-
Punjab	20	17	1	-	2
Rajasthan	79	57	7	14	1
Sikkim	2	-	-	1	1
Tamil Nadu	122	122	-	-	-
Telangana	32	25	-	7	-
Uttar Pradesh	48	-	-	48	-
Uttarakhand	10	6	1	3	-
West Bengal	10	9	-	1	-
Grand Total	609	457	27	113	12

b. Convict (CPLV) and Community Paralegal Volunteer (CoPLV)

CPLVs are required to man the legal aid clinic and assist the JVL in providing legal aid to inmates. They are expected to identify inmates in need of legal aid. They are also mandated to maintain the clinic register and draft applications as and when required.

As per the data, only a third of the clinics have appointed convict PLVs. Karnataka, Rajasthan and Tamil Nadu barely appointed PLVs in their jails, whereas Andhra Pradesh and Madhya Pradesh have appointed PLVs in all their jails.

Usually, convicts are only lodged in central or district jails and not in sub jails. Therefore, there are no CPLVs in sub jails, which account for 53% of all jails. In these jails, undertrials need to be appointed or trained, or the role of the CoPLV becomes crucial. CoPLVs are expected to visit legal aid clinics in prisons and assist the CPLV and the JVLs. Most of the DLSAs did not respond on the appointment of CoPLVs. This may be due to the fact that they are not even aware of the need to appoint CoPLVs to visit jails. The information maintained by NALSA on their website stated that 1955 PLVs were deployed in jails and observation homes. However, it does not mention the number of jails/observation homes that have PLVs.⁸⁸

TABLE 3.7: DEPLOYMENT OF COMMUNITY PLVs IN JAILS/OBSERVATION HOMES (NALSA): SUMMARY

PLVs Trained	PLVs Deployed	PLVs Deployed at Jails/ Observations Homes
67,844	26,909	1,955

TABLE 3.8: APPOINTMENT OF CPLV & CoPLV: SUMMARY

JLAC	JLACs Which Appointed	JLACs Which Did Not Appoint	Not Responded	Not Provided	Total Number of Legal Aid Clinic Constituted
Convict PLV	214	259	135	1	609
Community PLV	86	167	10	346	

3.3.2 Appointment Letters

JVLs and PLVs appointed in JLACs are usually unaware about all the duties they are expected to undertake.

⁸⁸ Read more on recommended models for Jail Legal Aid Clinics in Bringing Justice Closer?, CHRI 2017 available at : <http://www.humanrightsinitiative.org/download/1536155776CHRI%20Prisons%20Legal%20Aid%20Pamphlet%202018.pdf>.

Therefore, appointment letters can play an important role to make them aware of their roles and responsibilities, the remuneration they would receive, and the reporting requirements. We have looked at the appointment letters of the JVLs and paralegals for various states. While we received appointment letters of JVLs from some districts of almost all the states, for the PLVs there were very few.

a. Jail Visiting Lawyers

Appointment letters for JVLs received from Kerala, Himachal Pradesh and Meghalaya were extremely detailed. These letters outline the duties of the JVLs, including the forms they have to fill and attendance registers they need to sign. The letters received from Andhra Pradesh, Arunachal Pradesh, Chandigarh, Delhi, Haryana, Manipur and Uttarakhand were vague and incomplete with limited or no information about the role of the lawyers and their reporting duties.

The detailed appointment letters issued by some of the districts may be replicated by other districts in their state and in other states. The appointment letter from Nagpur included the district's mandate for the visits by the lawyers and their duties. It specifically stated that they are required to maintain reports on the problems faced by prisoners and submit them to the DLSA regularly. The letter issued by the Hamirpur DLSA and the Rajahmundry DLSA were similar. The Rajahmundry DLSA also directed the JVLs to maintain registers, and submit them to the DLSA at the end of every month. The Thiruvananthapuram DLSA also provided a format for the monthly reporting of the work by the JVLs. Appointment letters from the Manjeri DLSA had a set number of questions that the JVLs are supposed ask during their visits to the sub jail, pertaining to the inmates in need of legal aid, and to take necessary steps. Interestingly, the appointment letter issued by the East Delhi DLSA, not only laid down the duties of the visiting lawyers, it also contained clear instructions on what not to do.

- ❖ A model appointment letter and duty note for JVLs have been prepared as Note 4.
- ❖ The format for letter for the work report of jail visiting lawyers has been prepared as Format 11.

b. Convict Paralegal Volunteers (CPLVs) and Community Paralegal Volunteers (CoPLVs)

Very few appointment letters for CPLVs were received. Most of them (Chandrapur, Deogarh and Srikakulam) were incomplete and contained no information regarding their duties, hours of work, etc. However, appointment letters received from Himachal Pradesh were detailed. The appointment letter for CPLVs provided by Shimla documented their duties, remuneration, and details about the registers that they have to maintain. Bilaspur had an office order dated 2015 that very clearly laid out the dos and don'ts for the PLVs and retainer lawyers, including reporting formats, duties, remuneration and tenure.

- ❖ The appointment letter and duty note for paralegal volunteers have been prepared as Note 5.
- ❖ The letter providing the format for the work report for paralegal volunteers has been prepared as Format 12.

3.3.3 Visits of Jail Visiting Lawyers

The NALSA 2011 Regulations allow the LSIs to decide the frequency of visits of lawyers to the clinics. Therefore, the mandate of JVLs to visit legal aid clinics in jails varies across states. The NALSA SOP 2016, in an attempt to standardise and streamline this, recommended that JVLs must visit the jails at least twice a week.

Of the DLSAs that responded to the RTI application, 91 shared the mandate on the frequency of visits and the actual number of visits made by the JVLs. Of these, 40% provided a mandate of twice a week and 37%, once a month. Four districts,⁸⁹ surprisingly, stated a mandate of once a year. Two districts, South West Delhi and Manjeri stated that JVLs are expected to visit prisons every day. If we compare the visits to the current NALSA mandate of twice a week visit, JVLs in less than 25% of the districts which responded were compliant.

⁸⁹ Bongaigaon, Champhai, SBS Nagar, Sitamarhi.

NALSA 2011 Regulations:

Regulation 7. Frequency of visit by lawyers in the legal services clinic

Subject to the local requirements and availability of financial resources, the legal services institution having territorial jurisdiction may decide the frequency of the lawyers' visit in the legal services clinics and if the situation demands for providing continuous legal services, such legal services institution may consider arranging frequent visits of lawyers in the legal services clinic.

NALSA SOP 2016:

3) From amongst the panel lawyers, some lawyers should be earmarked as jail visiting lawyers. Visits to the jails must be made at least twice every week.

7) The jail visiting lawyers from the District Legal Services Authorities shall regularly interact with the inmates and especially the new inmates to find out if they are represented by any lawyer and if not, they should inform the inmate about their right to get a legal aid lawyer. They should also inform the District Secretary so that a legal aid lawyer can be appointed to represent the inmate in court.

8) The jail visiting lawyers should prepare a brief summary of each interaction and send the same to the Secretary, District Legal Services Authority along with contact details of the family of the accused, if available so that the panel lawyer can coordinate with them.

14) The jail visiting lawyers shall communicate to the Secretary, District Legal Services Authority whenever bail application has to be filed on behalf of an inmate or if subsequently, it comes to their notice that an undertrial is not being represented by a lawyer in the court, who shall issue appropriate directions for a lawyer to be appointed in the case. They should also bring to the notice of the Secretary, District Legal Services Authority cases where bail orders have been issued but bail bonds could not be furnished due to various reasons.

3.3.4 Registers Maintained by Jail Legal Aid Clinics

As per the NALSA 2011 Regulations, there shall be register(s) in every legal services clinic to record the attendance and work done. These registers shall be under the control of the LSIs. As and when the LSIs call for these registers, they shall be handed over to them. Regular reviewing of these registers help the LSIs ascertain the activities of the clinic.

Only 35% of the DLSAs (93 of 251 districts) mentioned that the JLAC in their district maintained registers. The rest either did not maintain them, or did not respond to the query. In Uttar Pradesh, registers were usually not maintained in legal aid clinics. All the Delhi DLSAs responded that they do not maintain any information about registers in the legal aid clinics and some of them suggested that information be sought from the jails. Most jails which maintained registers, shared the format they use.

In Punjab, all jails followed a standardised format of the legal aid clinic register shared by the SLSA. On the other hand, most of the registers shared by Haryana were handwritten. The register maintained by Rewari was impressive, as it mentioned details of the problems faced by the inmates and the advice provided by the JVLs.

While most jails maintained only two registers, Khagaria Jail in Bihar and Chandigarh Jail had many more to offer. The legal aid clinic in Chandigarh Jail maintains five registers: Diary, Dispatch, File, Attendance and the Work Register where the number of inmates visiting on a particular day are maintained. Khagaria district, interestingly has classified inmates into separate categories and maintained a separate register for each of these categories. These registers include: a) Attendance Register (Upasthati Panji), b) Defense Panel Advocate Register (Sarkari Adhivakta Panji), c) Benefit under Section 436A CrPC Register (U/S 436A se Samandhit Panji), d) Compoundable Offences Register (Compoundable Apradh Panji), e) Juveniles Register (Kishor Bandi Panji), f) Legal Compromise (Vidhik Samjhauta Panji), g) Absence of Bailor Registers (Jamantdar Abhav Panji), h) Ill Prisoners Register (Bimar Bandi se Sambandhit Panji) and interestingly, i) Confession Register (Apradh Svikarokti Panji).

NALSA SOP 2016 Point 17.

The Legal Services Clinic in the jail shall coordinate with the Jail Superintendent and the panel lawyer through the Secretary, District Legal Services Authority to keep itself updated on the status of the legal aided cases of each inmate, including the next date of hearing and the purpose. The status of the case shall be recorded in the registers to be maintained by the Clinic and shall also be communicated to the concerned inmate and the Jail Superintendent.

Some districts in Rajasthan also shared registers. Interestingly, the response by Jaipur Metro to the RTI application stated that no legal aid application was received in the past six months, but the work registers indicated otherwise.

Regulation 20 of NALSA 2011 Regulations

20. Maintenance of records and registers

- (1) Lawyers and paralegal volunteers rendering service in the legal services clinic shall record their attendance in the register maintained in the legal services clinic.
- (2) There shall be a register in every legal services clinic for recording the names and addresses of the persons seeking legal services, name of the lawyer or paralegal volunteer who tenders services in the legal services clinic, nature of the service rendered, remarks of the lawyer or paralegal volunteer and signature of persons seeking legal services.
- (3) The records of the legal services clinics shall be under the control of the Chairman or the Secretary of the legal services institution having territorial jurisdiction over it.
- (4) The District Legal Services Authority may require the legal services clinic to maintain other registers also, as may be required.
- (5) It shall be the duty of the paralegal volunteers and the lawyers in the legal services clinic to hand over the registers to the legal services institution having territorial jurisdiction as and when called for.

Reviewing Registers

Of the 93 districts where JLAC maintained registers, 19 districts⁹⁰ never reviewed the registers. While 38 districts/DLSAs reviewed the registers once a month, the rest ranged between once a year to after every visit.

The Himachal Pradesh SLSA sent a circular to all DLSAs with the subject “Maintaining Record in Legal Services Clinic in Jail” on 14 March 2016 stating that records need to be maintained on the status and progress of cases, including the final result, and submitted monthly to the SLSA. However, jails in only four districts followed this monthly mandate. The appointment letter shared by the Tamil Nadu SLSA for both JVLs and PLVs directed them to maintain registers which were to be produced before the secretary of the DLSA on or before the fifth of the next month, along with the panel lawyer’s report. In Punjab, both, attendance and work registers are reviewed by the DLSAs every month and also during the respective DLSA Secretary’s visits to the jail. However, a letter⁹¹ provided by DLSA, Sri Muktasar Sahib, directs the panel lawyers appointed as JVLs to submit reports on the next date after their visit to the office of the Secretary, DLSA. In Andhra Pradesh, some DLSAs reviewed the registers after completion of every sitting made by the lawyers, some weekly or monthly and others as infrequently as three times a year. Visakhapatnam and Vizianagaram specifically stood out as they never called for the registers. Instead, the panel lawyers or PLVs submitted the registers only when filing for claims.

In Maharashtra, from the responses received, it appears that the DLSAs did not review the attendance and work reports at all. Nagpur responded with “time to time” and Chandrapur with “six times”, whilst the other districts responded with “nil” or “does not arise”. In Telangana, the frequency with which the DLSAs reviewed the attendance and work registers were mostly twice a month, but one district, Nizamabad, stated that they

90 Ajmer, Alwar, Araria, Baran, Bhand, Dhule, Dungarpur, Gaya, Gopalganj, Jaipur, Jaunpur, Kodagu, Koppal, Madhopur, Satna, Tonk, Varanasi, Vijayapura, Vizianagaram.

91 Letter No. 1122, dated 4 August 2014.

were only called for twice a year. In Mizoram, the attendance and work registers were called for by the DLSA for review from the prisons once a year.

DLSAs reviewed the attendance and work registers were mostly twice a month, but one district, Nizamabad, stated that they were only called for twice a year. In Mizoram, the attendance and work registers were called for by the DLSA for review from the prisons once a year.⁹²

The response from Kalburgi shows that the lawyers visiting the legal aid clinics had a problem regarding a shortage of police escorts and the same was communicated to the High Court. Thereafter, a letter was issued to the Superintendent of Police, Kalburgi to make necessary arrangements for escorts.

- ❖ The format for the legal aid clinic work register has been prepared as Document 9.
- ❖ The format for the legal aid clinic attendance register has been prepared as Document 10.

4. Monitoring Committee and Quality of Legal Aid

Monitoring committees (MCs) are expected to monitor the day-to-day progress of legal aid cases. It is expected to seek reports from the lawyers and case registers from the courts and maintain a record of this information. The committee is then expected to submit bi-monthly reports to the SLSA regarding the progress of legal aid cases and seek advice. Based on the advice received, they are expected to guide the panel lawyers to represent their client. The minutes of the meetings of the committees, however, reflect that the committees do not review the cases. These are used more for trouble shooting/addressing challenges faced by the LSI in general or to settle payment of legal aid providers.

RTI Query:

Details about the setting up of the Monitoring Committee under Regulation 10 of the NALSA 2010 Regulations, preferably as per the table below:

Legal Services Institution	Date of constitution of the Monitoring Committee	Tenure of the Monitoring Committee	b) The place where monitoring committee meetings are held	c) Name and designation of the members	d) No. of staff personnel and details of infrastructure provided to the monitoring committee
Response					

4.1 Constitution of Monitoring Committees (MC)

Out of the 293 districts that responded, two-thirds (179) constituted a MC. While 68 either did not respond or provide the information, 46 districts said they did not constitute a MC. Without a MC, tracking the progress of legal aid cases, and thus the quality of legal representation in these districts would be a serious challenge.

MC Constituted	MC Not Constituted	Not Provided	Not Responded	Total
179	46	6	56	293

92 The response mentions that this only happens in Aizawl, which has two jail legal aid clinics.

Table 4.1: Constitution of Monitoring Committees: State-Wise

States	Number of DLSAs	Total DLSAs that Responded to the RTI	MC Constituted	MC Not Constituted	Not Provided/ Responded	Percentage of MC Constituted of those DLSAs which Responded
Andhra Pradesh	13	7	7	-	-	100.0
Arunachal Pradesh	20	1	-	1	-	0.0
Assam	22	5	3	-	2	60.0
Bihar	37	16	14	1	1	87.5
Chandigarh	1	1	-	-	1	0.0
Chhattisgarh	22	15	8	-	7	73.3
Dadra & Nagar Haveli	1	2	1	1	-	50.0
Daman & Diu	2	2	-	2	-	0.0
Delhi	11	11	11	0	0	100.0
Haryana	22	10	8	-	2	80.0
Himachal Pradesh	11	11	7	-	4	63.6
Jharkhand	24	20	12	2	6	60.0
Karnataka	30	23	2	13	8	8.7
Kerala	14	8	3	3	2	37.5
Madhya Pradesh	50	27	10	3	14	37.0
Maharashtra	33	24	16	2	6	66.7
Manipur	9	Cumulative	Cumulative	-	-	100.0
Meghalaya	11	Cumulative	Cumulative	-	-	100.0
Mizoram	8	8	8	-	-	100.0
Odisha	30	11	5	3	3	45.5
Puducherry	1	1	-	-	1	0.0
Punjab	22	16	10	4	2	62.5
Rajasthan	35	29	28	-	1	96.6
Sikkim	4	1	1	-	-	100.0
Tamil Nadu	32	Cumulative	1	-	-	100.0
Telangana	11	10	7	-	3	80.0
Uttar Pradesh	71	9	4	4	1	44.4
Uttarakhand	13	12	3	7	2	25.0
West Bengal	19	9	8	-	2	100.0
Total	579	293	179	46	68	63.1

All DLSAs in Delhi, Manipur, Meghalaya and Mizoram constituted MCs. In Rajasthan, 28 of the 29 DLSAs that responded to the RTI application, constituted the committee. In Karnataka, out of the 23 districts that responded, only two constituted the committee. Similarly, Uttarakhand and Uttar Pradesh did not constitute MCs in most districts.

4.2 Monitoring Committees: Year of Constitution

179 districts provided information on the date of the constitution of the MCs. Of these 179 districts, 98 committees were constituted in 2015 and 2016, much after the year the regulations were framed in 2010. Andhra Pradesh and Telangana were the only states where MCs were constituted in 2010.

Table 4.2: Year of Constitution of Monitoring Committees: Summary

Year	2010	2011	2012	2013	2014	2015	2016	2017	Not Provided	Total
No. of MCs	10	17	9	21	24	50	48	1	-	179

Table 4.3: Year of Constitution of Monitoring Committees: State-Wise

State/Year	2010	2011	2012	2013	2014	2015	2016	2017	Not Provided	Total
Andhra Pradesh	5	1	1	-	-	-	-	-	-	7
Assam	-	1	-	-	-	2	-	-	-	3
Bihar	-	1	-	1	8	-	4	-	-	14
Chhattisgarh	-	1	1	3	2	1	-	-	-	8
Dadra & Nagar Haveli	-	-	-	-	1	-	-	-	-	1
Delhi	-	-	-	-	-	5	6	-	-	11
Haryana	-	5	2	-	1	-	-	-	-	8
Himachal Pradesh	-	-	-	-	5	-	2	-	-	7
Jharkhand	-	-	-	10	-	-	2	-	-	12
Karnataka	-	-	-	-	-	-	1	-	1	2
Kerala	-	-	1	2	-	-	-	-	-	3
Madhya Pradesh	-	-	-	-	1	4	3	-	2	10
Maharashtra	-	-	1	-	1	2	12	-	-	16
Manipur	-	-	-	-	-	-	1	-	-	1
Meghalaya	-	-	-	-	-	-	1	-	-	1
Mizoram	-	-	-	-	-	8	-	-	-	8
Odisha	-	2	2	-	-	1	-	-	-	5
Punjab	-	2	1	3	2	-	2	-	-	10
Rajasthan	-	-	-	-	1	26	1	-	-	28
Sikkim	-	-	-	-	-	-	-	-	1	1
Tamil Nadu	-	-	-	-	-	-	-	-	1	1
Telangana	5	2	-	-	-	-	-	-	-	7
Uttar Pradesh	-	1	-	-	2	-	-	1	-	4
Uttarakhand	-	-	-	-	-	-	3	-	-	3
West Bengal	-	-	-	-	-	-	8	-	-	8
Grand Total	10	16	9	19	24	49	46	1	5	179

4.3 Staff of the Monitoring Committees & Registers Maintained by the Committees

MCs are expected to track day-to-day proceedings in legal aid cases. This entails maintaining a record of the cases called upon and received from lawyers, the registers received from the courts and the reports sent to and advice received from the SLSA. Therefore, the NALSA 2010 Regulations prescribe that the committees should have a separate staff and maintain its own registers.* However, a quarter of the districts did not respond to this query. While 80% of those who did, said that they did not maintain separate staff, some of them said that the same staff of the LSI that work on other matters take up the MC work as an extra responsibility. The LSI staff is already overburdened and therefore this would further affect the quality of work.

Of the 179 MCs, only 42 maintained registers. The rest either did not maintain any register or did not provide this information. Some districts in Punjab surprisingly said that this information pertains to courts. Districts from Haryana, Andhra Pradesh and Rajasthan shared copies of their registers. In Andhra Pradesh, the registers were maintained day-wise and not case-wise which would make periodic tracking of cases difficult. Haryana too maintained day-wise registers, however the formats maintained by the DLSAs in Haryana were the best compared to any other state. The Mandleshwar DLSA in Madhya Pradesh maintained the register case-wise and not date-wise and the register shows that the cases in this district were reviewed regularly.

Table 4.4: Appointment of Separate Staff for Monitoring Committees: State-Wise

States	Appointed Separate Staff	No Separate Staff Appointed	Not Responded	Total
Andhra Pradesh	2	2	3	7
Assam	2	-	1	3
Bihar	4	5	5	14
Chhattisgarh	1	4	3	8
Dadra & Nagar Haveli	-	1	-	1
Delhi	1	8	2	11
Haryana	3	5	-	8
Himachal Pradesh	-	4	3	7
Jharkhand	2	5	5	12
Karnataka	-	1	1	2
Kerala	-	3		3
Madhya Pradesh	1	6	3	10
Maharashtra	3	6	7	16
Manipur	-	1	-	1
Meghalaya	-	1	-	1
Mizoram	-	8	-	8
Odisha	-	-	5	5
Punjab	1	5	4	10
Rajasthan	5	18	5	28
Sikkim	-	-	1	1
Tamil Nadu	-	1	-	1
Telangana	1	5	1	7
Uttar Pradesh	-	3	1	4
Uttarakhand	-	3	-	3
West Bengal	-	7	1	8
Total	26	102	51	179

* The NALSA 2010 Regulations states that “ The Legal Services Institution shall provide adequate staff and infrastructure to the Monitoring Committee for maintaining the records of the day-to-day progress of the legal aided cases.” Therefore the Regulations does not specify appointment of a separate staff for monitoring committees. However, given the existing shortage of staff at legal service institutions and the quantum of work required for the smooth functioning of the committee, a separate staff would be needed.

4.4 Bi-Monthly Reports Submitted by Monitoring Committee to the SLSA:

The MC is expected to submit bi-monthly reports to the SLSA. So, when calculated 179 DLSAs would have to send 1,074 reports (179*6) per year to the SLSAs. The 179 committees submitted only 233 bi-monthly reports. This means 21% of the number of reports they ought to have submitted. In fact, a majority of the states (15) have not even sent a single bi-monthly report to the SLSA. Chhattisgarh, Haryana and Telangana were the only states where some reports have been submitted.

4.5 Reporting of Primary Legal Aid Providers:

RTI Question:

The last five completion reports received by the DLSA from panel lawyers (Regulation 14(3) of the NALSA Regulations, 2010)

With respect to the reporting of the remand and bail lawyers:

- a. Number of the attendance certificates regarding the regular attendance of the remand and bail lawyers concerned received from 1 May 2016 to 30 June 2016.
- b. Certified copies of the last two attendance certificates received.

With respect to the monitoring of the scheme:

- a. Number of reports submitted by the remand and bail lawyer to the court/legal services institution, from 1 May 2016 to 30 June 2016.
- b. Certified copies of the format for the work reports used.

a. Panel & Retainer Lawyers

Panel and retainer lawyers are mandated to send periodic reports to the MC on the progress of the legal aid cases they have taken up, as and when asked by the committee. They are also expected to submit completion reports after the conclusion of a case.

In the districts that responded to the RTI application, more than 20 thousand panel and retainer lawyers have been appointed and they had taken up about 26,500 cases. Criminal cases go on for years, and even if conservatively five reports were sought in a year that would mean about 130,000 progress reports. However, as per the information received, only 852 reports were submitted by the lawyers to the MC, not even 1% of the number of reports that should have been submitted. It gets worse: 88% of this small number of reports are from just five states.⁹³

Regarding completion reports, only 2,925 completion reports were received by the LSIs. Lawyers from Punjab (625), Tamil Nadu (536), West Bengal (408) and Haryana (215) submitted the maximum number of completion reports. The copies of the completion reports shared by some of the districts also reveal that a copy of the judgement usually substitutes the completion report. So, it is the proof of completion and not the report on completion that is usually submitted by the lawyers.

While there is no specific mandate for the reporting of retainer lawyers, Rajasthan SLSA in a letter directed that retainer lawyers will get their attendance recorded at the DLSA/TLSC every day. The retainer lawyer will maintain a diary which records all the work done and show the diary to the DLSA/TLSC.

⁹³ Bihar, Kerala, Haryana, Himachal Pradesh and Rajasthan.

Table 4.5: Completion Reports & Progress Reports Submitted by Panel Lawyers: State-Wise

State	Number of Accused Represented by Panel Lawyers	Number of Completion Reports Filed by Panel Lawyers	Number of Reports Received from Panel Lawyers to the Monitoring Committee
Andhra Pradesh	135	25	21
Assam	96	0	0
Bihar	1,685	4	110
Dadra & Nagar Haveli	51	0	0
Delhi	6,330	178	0
Haryana	2,253	215	291
Himachal Pradesh	109	2	56
Jharkhand	619	63	0
Karnataka	216	34	0
Kerala	671	114	74
Madhya Pradesh	1,104	215	30
Maharashtra	873	64	0
Manipur	52	5	30
Meghalaya	955	0	0
Mizoram	1,020	56	0
Odisha	30	0	0
Punjab	2,658	625	0
Rajasthan	2,689	53	219
Sikkim	109	59	0
Tamil Nadu	2,065	536	0
Telangana	18	2	10
Telangana	61	17	6
Uttar Pradesh	351	1	0
Uttarakhand	443	249	0
West Bengal	2,114	408	5
Grand Total	26,707	2,925	852

Thus, the reporting of panel and retainer lawyers appears to be a serious challenge. This could be either because the lawyers are not aware of their duty to report or are unaware of the mechanism of reporting, or just do not wish to report. It could also be that the LSI is not aware of the reporting mechanism, or does not have the resources to monitor.

- ❖ The format for the progress report of panel lawyers has been prepared as Format 2.
- ❖ The format for the completion report of panel lawyers has been prepared as Format 5.

b. Remand Lawyers

Remand lawyers should submit monthly attendance certificates⁹⁴ to the LSI. Also, in order to evaluate the work done, work reports must be submitted to the LSI. We received information from 169 districts which appointed 3,078 remand lawyers. Of the 169 districts, 71 districts provided no response with respect to attendance

⁹⁴ Regulation 3(vii) of the Model Scheme for “legal aid counsel” in all the courts of Magistrates: “Legal Aid functionaries may insist on an attendance certificate issued by the court to the legal aid counsel before making payments for remand hours.” While the scheme does not provide specific periodicity for submission of certificates, it mentions that the attendance certificates should be submitted before settling the monthly bills and therefore, it would be reasonable to expect them to be submitted monthly.

certificates of remand lawyers. Of the remaining 93 districts, in 54 districts, not even a single attendance certificate was submitted. In the remaining 39 districts, 861 attendance certificates were submitted.

With respect to work reports of remand lawyers, of the 169 districts, 104 districts provided no response. Of the remaining 65 districts, in 30 districts, not even a single work report was submitted. In the remaining 35 districts, 702 work reports were submitted.

Table 4.6: Attendance Certificates & Work Reports Submitted by Panel Lawyers: State-Wise

State	Districts	Number of the Attendance Certificates Submitted Regarding the Attendance of Remand Lawyers	Number of Reports Submitted by Remand Lawyers
Andhra Pradesh	7	41	10
Assam	2	0	0
Bihar	5	0	0
Dadra & Nagar Haveli	1	0	0
Delhi	10	111	20
Haryana	10	71	42
Himachal Pradesh	11	22	299
Jharkhand	10	0	0
Karnataka	14	1	1
Kerala	3	0	168
Madhya Pradesh	13	0	0
Maharashtra	12	13	32
Manipur	1	5	5
Meghalaya	1	0	0
Mizoram	6	0	0
Odisha	4	0	0
Puducherry	1	0	0
Punjab	11	15	5
Rajasthan	25	363	40
Sikkim	1	0	0
Tamil Nadu	1	209	65
Telangana	7	1	0
Uttar Pradesh	3	0	2
Uttarakhand	5	0	0
West Bengal	5	9	13
Grand Total	169	861	702

- ❖ The format for the work report of remand lawyers has been prepared as Format 15.
- ❖ The format for the court attendance register of remand lawyers has been prepared as Format 14.

4.6 Complaints Against Legal Aid Providers

RTI Question

The information relating to the conduct of panel lawyers as mentioned below:

- a) The number of cases where a complaint was received for any fees or consideration sought by the panel lawyer in a legal aid case as per Regulation 8 (14) of the NALSA Regulations 2010 from 1 July 2015 to 30 June 2016.
- b) The number of lawyers who have been removed from the panel as per Regulation 8(15) of the NALSA Regulations 2010 from 1 July 2015 to 30 June 2016.

The information relating to conduct of remand and bail lawyers as mentioned below:

- a) The number of cases where a complaint was received for any fees or consideration sought by the panel lawyer in a legal aid case from 1 July 2015 to 30 June 2016.
- b) The number of lawyers who have been removed from the panel from 1 July 2015 to 30 June 2016.

Legal aid lawyers may be removed from the panel if they are not performing satisfactorily or have acted contrary to the object and spirit of the LSA Act and the NALSA 2010 Regulations. In total, 256 complaints were received by the LSIs for fees/considerations being sought by legal aid lawyer during the year. Of these, 179 complaints were from Delhi and 30 from Madhya Pradesh and Andhra Pradesh. Other than these three states, in the entire country there were only 17 such complaints. This may be due to the fact that most inmates are either not aware of their right to free legal aid, or even if they are aware, they do not know the mechanism to make the complaint, or they are afraid/ it is not conducive for them to make these complaints.

These complaints led to the removal of 65 lawyers. Interestingly none of them were from Delhi. There were 29 removals from Uttarakhand, and surprisingly 12 removals from Haryana without any complaint recorded.

The NALSA SOP 2016⁹⁵ has tried to address the issue by directing the setting up of a suggestion/complaint box in each JLAC which “should be opened once a week in the presence of the panel lawyer and the Jail Superintendent and the cases requiring attention should be brought to the notice of the Secretary, District Legal Services Authority”. NALSA also developed an SOP⁹⁶ for redressal of complaints/public grievances. While it is not specifically for complaints by persons in custody, it includes redress of complaints about the quality of legal aid received.

95 Point 19, NALSA Standard Operating Procedure for Persons in Custody, available at: <https://nalsa.gov.in/sites/default/files/document/SOP-%20Persons%20in%20Custody.pdf>.

96 NALSA SOP for redressal of complaints available at :<https://nalsa.gov.in/sites/default/files/document/SOP-%20COMPLAINT%20REDRES-SAL%20MECHANISM.pdf>.

ADVOCATES ACT, 1961 AND PUNISHMENT FOR MISCONDUCT

35. Punishment of advocates for misconduct:

(1) Where on receipt of a complaint or otherwise a State Bar Council has reason to believe that any advocate on its roll has been guilty of professional or other misconduct, it shall refer the case for disposal to its disciplinary committee. 1[(1A) The State Bar Council may, either of its own motion or on application made to it by any person interested, withdraw a proceeding pending before its disciplinary committee and direct the inquiry to be made by any other disciplinary committee of that State Bar Council.]

(2) The disciplinary committee of a State Bar Council shall fix a date for the hearing of the case and shall cause a notice thereof to be given to the advocate concerned and to the Advocate-General of the State.

(3) The disciplinary committee of a State Bar Council after giving the advocate concerned and the Advocate-General an opportunity of being heard, may make any of the following orders, namely: (a) dismiss the complaint or, where the proceedings were initiated at the instance of the State Bar Council, direct that the proceedings be filed; (b) reprimand the advocate; (c) suspend the advocate from practice for such period as it may deem fit; (d) remove the name of the advocate from the state roll of advocates.

(4) Where an advocate is suspended from practice under clause (c) of sub-section (3), he shall, during the period of suspension, be debarred from practising in any court or before any authority or person in India.

Neither the Advocates Act nor the Bar Council of India Rules, defines misconduct. The Law Commission in its 266th Report suggested that there is a need to define misconduct and therefore defines it as follows: “‘misconduct’ includes an act of an advocate whose conduct is found to be in breach of, or in non-observance of the standard of professional conduct or etiquette required to be observed by the advocate; or a forbidden act; or an unlawful behaviour; or disgraceful and dishonourable conduct; or neglect; or not working diligently and criminal breach of trust; or any of his conduct incurring disqualification under Section 24A”.

Table 4.7: Complaint Against Panel Lawyers and Removal from the Panel: State-Wise

States	Number of Complaints Received for Fees or Considerations Sought by the Panel Lawyer in a Legal Aid Cases		Number of Lawyers Removed from the Panel	
	Panel lawyer	Remand Lawyer	Panel Lawyer	Remand Lawyer
Andhra Pradesh	0	30	0	0
Arunachal Pradesh	0	0	0	0
Assam	0	0	0	0
Bihar	0	1	0	0
Chandigarh	0	0	0	0
Chhattisgarh	0	0	0	0
Dadra & Nagar Haveli	0	0	0	0
Daman & Diu	0	0	0	0
Delhi	94	85	0	0
Haryana	0	0	0	12
Himachal Pradesh	0	0	0	0
Jharkhand	0	0	0	0
Karnataka	0	0	0	0
Kerala	1	1	0	4
Madhya Pradesh	30	0	0	0
Maharashtra	0	0	1	0
Manipur	0	0	0	0
Meghalaya	0	0	0	0
Mizoram	0	0	0	0
Odisha	0	0	0	0

Puducherry	0	0	0	0
Punjab	0	0	0	10
Rajasthan	0	0	7	0
Sikkim	0	0	0	0
Tamil Nadu	0	0	0	0
Telangana	0	0	0	0
Uttar Pradesh	7	0	0	0
Uttarakhand	1	0	29	0
West Bengal	3	3	0	2
Total	136	120	37	28

5. Early Access to Legal Aid

There is no specific NALSA scheme on legal aid at police stations in India. However, there are two schemes that do have provisions for legal aid at police stations. The NALSA Paralegal Scheme directs the visit of PLVs to the police station, when the PLV receives information about the arrest of a person in the locality. They have to ensure that the arrested person gets legal assistance, if necessary, through the nearest LSI. Also, there is a possibility of the lawyers appointed under the Model Remand and Bail Scheme to visit the police station attached to the court they have been assigned. Their presence at the police station would help them oppose police remand and seek bail. Therefore, we asked whether the Remand Scheme mandated them to provide legal aid at police stations. While 147 districts (65%) said that the Scheme did not, 41 districts responded that the Scheme also applied to police stations. According to these districts 1,044 people were represented at police stations by legal aid lawyers. However, these 1,044 people were from just eight districts. In total, 248 persons were granted bail at the police station under the Scheme. Interestingly, there were some states which did not have a lawyer at the police station but they provided data on bail releases at police station under the Scheme.

RTI Question

Total number of persons represented and released from police stations and under the Remand and Bail Lawyers Scheme in the district courts from 1 July 2015 to 30 June 2016 in the format provided below:

Total Number of Accused Persons Represented	Total Number of Persons Who Were Granted Bail	Total Number of Persons Who Were Actually Released On Bail
At Police Station	At Police Station	At Police Station

Does the Remand and Bail Legal Aid Scheme mandate legal aid at police station? (Yes/No) Please specify

Certified copy of the latest letter/ any form of written communication to the police stations mentioning the name and phone number of the appointed remand and bail lawyers.

Table 5.1: Appointment of Remand Lawyers at Police Station: State-Wise

State/UTs	Appointed	Not Appointed	Information Not Provided	Not Asked	Total
Andhra Pradesh	3	5			8
Arunachal Pradesh	1				1
Assam		2	2		4
Bihar	1	9	4		14
Chandigarh		2			2
Dadra & Nagar Haveli	1				1
Daman & Diu		1			1

Delhi	-	6	5	-	11
Haryana	2	8	-	-	10
Himachal Pradesh	3	5	3	-	11
Jharkhand	4	8	3	-	15
Karnataka	3	18	1	-	22
Kerala	4	1	1	-	6
Madhya Pradesh	2	17	5	-	24
Maharashtra	4	10	2	-	16
Manipur	-	1	-	-	1
Meghalaya	-	1	-	-	1
Mizoram	-	6	-	-	6
Odisha	1	10	-	-	11
Puducherry	-	-	1	-	1
Punjab	3	15	-	-	18
Rajasthan	-	-	-	30	30
Sikkim	-	-	-	-	0
Tamil Nadu	-	1	-	-	1
Telangana	2	6	1	-	9
Uttar Pradesh	2	10	5	-	17
Uttarakhand	2	4	4	-	10
West Bengal	3	1	2	-	6
Grand Total	41	147	39	30	257

Representation & Bail at Police Station

Table 5.2: Representation and Bail at Police Stations: State-Wise

State	Number of Persons Represented at Police Stations	Number of Persons Granted Bail at Police Stations	Specific Districts (Representation)
Andhra Pradesh	14	8	Kurnool (14)
Arunachal Pradesh	0	1	-
Assam	0	4	-
Bihar	34	12	Katihar (34)
Chandigarh	0	2	-
Chhattisgarh	0	0	-
Dadra & Nagar Haveli	0	-	-
Daman & Diu	0	1	-
Delhi	0	11	-
Haryana	51	10	Narnaul (51)
Himachal Pradesh	0	10	-
Jharkhand	0	15	-
Karnataka	36	21	Tumakuru (36)
Kerala	0	7	-
Madhya Pradesh	40	23	Gwalior (40)
Maharashtra	562	15	Nagpur (562)
Manipur	0	-	-
Meghalaya	0	1	-

Mizoram	304	6	Aizawl (304)
Odisha	0	11	-
Puducherry	0	1	-
Punjab	0	18	-
Rajasthan	3	27	Balotra (3)
Sikkim	0	1	-
Tamil Nadu	0	1	-
Telangana	0	9	-
Uttar Pradesh	0	17	-
Uttarakhand	0	10	-
West Bengal	0	6	-
Total	1044	248	-

6. Timely Access to Legal Aid

The details of the last 5 cases in which panel lawyers were appointed for a person in custody preferably as per the table below:

a) Case Number	b) Date of admission to jail	c) Date of signature on Form I	d) Date of dispatch of application for legal aid from the prison to the DLSA	e) Date of receipt of application for legal aid to DLSA	f) Date of appointment of panel lawyer	g) Date of dispatch of letter of appointment from the DLSA to the prison

Does the Remand and Bail Legal Aid Scheme mandate legal aid at police station? (Yes/No) Please specify Certified copy of the latest letter/ any form of written communication to the police stations mentioning the name and phone number of the appointed remand and bail lawyers.

In order for legal aid to be effective it must also be prompt. The time taken from application to assignment of a legal aid lawyer, can make a world of difference not only in the perception of justice for the accused, but also on the outcome of the case. The questions for the RTI were framed keeping this in mind, and an analysis made of the responses received.

Most of the states mentioned below have an increased average delay arising from delays made in individual cases, and do not have an overall delay, with the exception of Rajasthan. The time taken in assignment of lawyers in Rajasthan has been the most worrisome, with the exclusion of a few districts (such as Kota and Merta). In fact, 30 of the 109 reported cases took over 50 days. In 12 cases appointments were made after 100 days. On the other hand, states such as Arunachal Pradesh, Kerala and Madhya Pradesh have exhibited impressive average figures for assignment (all within an average time period of 2 days).

Table 6.1: Time Taken in Assignment of Cases to Panel Lawyers: State-Wise

State	Legal Aid Cases Taken up	Average Assignment Time
Arunachal Pradesh	5	0.00
Kerala	44	1.43
Madhya Pradesh	50	1.64
Delhi	36	2.39
Karnataka	57	2.67
Uttarakhand	47	2.83
Sikkim	5	3.00
Maharashtra	71	3.85
Andhra Pradesh	16	3.94
Uttar Pradesh	14	4.00
West Bengal	54	4.33
Daman	8	4.63
Punjab	52	4.65
Telangana	25	5.28
Haryana	45	5.47
Bihar	53	8.08
Jharkhand	84	8.15
Meghalaya	1	18.00
Himachal Pradesh	23	20.13
Assam	15	20.27
Rajasthan	109	48.17
Grand Total	804	11.15

States such as Karnataka, Kerala, Madhya Pradesh and Maharashtra have the maximum number districts where legal aid appointments have been made on the same day (7 districts for Maharashtra, 6 in Madhya Pradesh and 5 districts each in Karnataka and Kerala).

The NALSA 2010 Regulations allow the Scrutiny and Evaluation Committee eight weeks to assign legal aid lawyers. For persons in custody, this is completely unacceptable. Unfortunately, in some cases, the assignment has taken even longer. Persons in custody need legal representation at the earliest and an average of 11 or even five days is too long.

7. Legal Aid Budget

CHRI filed an RTI application to NALSA in April 2017 to seek information on funds allocated and utilised by NALSA and the SLSAs. NALSA provided some information and the SLSAs provided the rest. This section contains information collated from all the states and NALSA. The last table on expenditure made with NALSA funds is obtained from NALSA's website. The data for the legal aid budget suggests that the allocation of funds is far from optimum. While some states have high proportions of under-spending, others have spent way beyond their allocations. A major proportion of the funds are spent on payment to lawyers and organising lok adalats. Spending on legal aid clinics and persons in custody is limited. For three consecutive years, NALSA's budgets were sanctioned at about 1.4 billion rupees. However, the estimates were reduced substantially on revisions.

Table 7.1: Budget Estimates for NALSA: 2014-2017

NALSA - Budget granted						
Year	Budget Sanctioned/ Estimated (INR)	Revised Estimates (INR)	Total Funds Received from the Ministry (INR)	Total Funds Received from any other Sources (Cost) (INR)	Total Funds (INR)	Funds left
2014-2015	14200,00,000	13700,00,000	8265,42,296	1,25,893	8266,68,189	2664,55,581.00
2015-2016	14500,00,000	9394,00,000	6797,00,000	6,52,394	6803,52,394	737,91,076.00
2016-2017	14200,00,000	8395,00,000	6367,00,000	51,50,200	6418,50,200	(-)488649140

In 2016-17, while NALSA's sanctioned budget was 1.42 billion rupees, the revised estimates were 0.83 billion rupees. Out of this 0.79 billion rupees were allocated to the states. Funds are allocated by NALSA to SLSAs for implementation of various legal aid schemes under the Legal Services Authorities Act, 1987. The SLSAs, are however also allocated funds by their respective state governments as well.

Of the total funds allocated* to SLSAs (2.57 billion), NALSA allocated 31% (.79 billion) of the total funds, the state governments 61% (1.56 billion) and the miscellaneous funds accounted for 8% (200 million). Kerala, Maharashtra and Sikkim in total were allocated a third of the entire amount. While the Andhra Pradesh, Kerala, and Punjab SLSAs received most allocations from NALSA; the Bihar, Sikkim and Uttar Pradesh SLSAs received the most funds from the state governments.

Table 7.2: SLSA Funds Allocation and Utilisation: 2016- 2017

NAME OF THE SLSA	Funds Allocated in 2016-2017 (INR) By:				Funds Utilised (INR)
	NALSA	State Government	Miscellaneous Fund	Total Funds Allocated	
Andhra Pradesh	850,98,359	24,49,000	-	875,47,359	497,01,321
Bihar	-	1575,17,000	-	1575,17,000	505,14,100
Chandigarh	100,00,000	230,00,000	-	330,00,000	327,19,220
Chhattisgarh	300,00,000	-	-	300,00,000	197,36,560
Dadra and Nagar Haveli	-	-	-	-	3,52,623
Delhi	29,00,000	96,00,000	-	125,00,000	1206,00,000
Gujarat	100,00,000	-	-	100,00,000	357,55,859
Haryana	733,00,000	-	-	733,00,000	571,00,000
Himachal Pradesh	400,00,000	4,00,000	-	404,00,000	434,46,089
Jammu & Kashmir	200,00,000	-	-	200,00,000	184,75,892
Jharkhand	200,00,000	99,85,000	8,46,500	308,31,500	248,83,586
Karnataka	250,00,000	555,75,000	-	805,75,000	897,64,305
Kerala	800,00,000	1556,99,000	-	2356,99,000	2147,39,000
Maharashtra	645,37,397	1291,76,469	392,41,859	2329,55,725	1687,93,678
Manipur	40,90,384	40,90,384	-	81,80,768	280,61,047
Meghalaya	-	-	2,28,518	2,28,518	26,56,202
Mizoram	150,00,000	156,00,000	125,48,000	431,48,000	351,86,642

* This information pertains to allocations for both legal aid delivery and infrastructure.

Madhya Pradesh	-	296,63,550	1465,00,000	1761,63,550	1907,63,338
Odisha	200,00,000	1310,62,000	3,29,320	1513,91,320	1387,10,216
Puducherry	18,73,010	110,00,000	-	128,73,010	179,23,717
Punjab	762,78,498	-	-	762,78,498	1394,34,218
Rajasthan	396,75,000	-	-	396,75,000	2045,87,000
Sikkim	100,00,000	3622,55,000	19,82,000	3742,37,000	392,30,472
Tamil Nadu	600,00,000	300,00,000	76,41,061	976,41,061	878,03,213
Telangana	-	1380,12,000	-	1380,12,000	1242,63,163
Tripura	250,00,000	160,00,000	-	410,00,000	345,52,032
Uttarakhand	367,42,177	941,33,000	-	1308,75,177	579,85,673
Uttar Pradesh	493,63,226	1936,17,000	-	2429,80,226	1603,14,813
Total	79,88,58,051	15688,34,403	2093,17,258	25770,09,712	22013,87,139

The SLSAs utilised 2.2 billion rupees of the 2.57 billion rupees allocated to them in 2016-17 (i.e. 14% under-utilisation). Bihar, Sikkim and Uttarakhand utilised less than half the funds allocated to them. Andhra Pradesh and Uttar Pradesh also underspent by more than a third. At the other end of the spectrum, Delhi, Gujarat, Punjab, Rajasthan and a few others spent more funds during the year than were allocated to them. On average, one-sixth of the funds utilised by the SLSAs have been on lok adalats, legal awareness and legal representation. In some states, this proportion is much higher. In Himachal Pradesh, these three activities accounted for 99.5% of all the expenditures, whereas in Haryana it accounted for 77%.

Table 7.3: SLSA Fund Utilisation: 2016-2017

State	Funds Utilised by SLSA on Lok Adalat, Legal Representation and Awareness (INR)	Funds Utilised by SLSA (INR)	Proportion of Expenditure on Awareness, Representation and Lok Adalats
Andhra Pradesh	170,61,803	497,01,321	34.33
Bihar	192,27,569	505,14,100	38.06
Chandigarh	20,62,166	327,19,220	6.30
Chhattisgarh	-	197,36,560	0.00
Dadra and Nagar Haveli	65,551	3,52,623	18.59
Delhi	-	1206,00,000	0.00
Gujarat	-	357,55,859	0.00
Haryana	442,94,462	571,00,000	77.57
Himachal Pradesh	432,30,314	434,46,089	99.50
Jammu & Kashmir	24,82,409	184,75,892	13.44
Jharkhand	50,70,224	248,83,586	20.38
Karnataka	130,06,243	897,64,305	14.49
Kerala	439,32,000	2147,39,000	20.46
Maharashtra	-	1687,93,678	0.00
Manipur	135,33,598	280,61,047	48.23
Meghalaya	11,91,350	26,56,202	44.85
Mizoram	68,33,023	351,86,642	19.42
Madhya Pradesh	158,47,081	1907,63,338	8.31
Odisha	136,52,091	1387,10,216	9.84
Puducherry	-	179,23,717	0.00
Punjab	201,68,202	1394,34,218	14.46

Rajasthan	231,37,000	2045,87,000	11.31
Sikkim	28,54,382	392,30,472	7.28
Tamil Nadu	497,62,459	878,03,213	56.67
Telangana	82,09,795	1242,63,163	6.61
Tripura	75,30,472	345,52,032	21.79
Uttarakhand	36,47,390	579,85,673	6.29
Uttar Pradesh	56,02,241	1603,14,813	3.49
Total	3624,01,825	22013,87,139	16.46

Between lok adalats, legal awareness and expenditure on persons in custody, the most (60%) of the funds were spent on adalats, 30% on legal awareness and only 10% on persons in custody. Himachal Pradesh, Jharkhand, Manipur and Sikkim spent a considerable portion of their funds on legal awareness. Also Rajasthan stood out in spending close to half its funds on persons in custody.

Table 7.4: SLSA Fund Utilisation: 2016- 2017

Name of the State	Expenditure (IRs)				Percentage of Funds Spent on		
	On Lok Adalat	On Legal Awareness	On Persons in Custody	Total	On Lok Adalat	On Legal Awareness	On Persons in Custody
Andhra Pradesh	1,26,35,981	24,09,373	20,16,449	1,70,61,803	74.1	14.1	11.8
Bihar	192,27,569	0	Not available	192,27,569	100.0	0.0	-
Chandigarh	6,31,186	14,30,980	-	20,62,166	30.6	69.4	0.0
Chhattisgarh	0	0	-	-	-	-	-
Dadra & Nagar Haveli	61,105	4,446	-	65,551	93.2	6.8	-
Delhi	0	0	-	-	-	-	-
Gujarat	0	0	-	-	-	-	-
Haryana	4,41,00,000	1,94,462	NA	4,42,94,462	99.6	0.4	-
Himachal Pradesh	61,01,865	3,14,73,124	56,55,325	4,32,30,314	14.1	72.8	13.1
Jammu & Kashmir	15,47,030	9,24,379	11,000	24,82,409	62.3	37.2	0.4
Jharkhand	6,22,481	34,42,040	10,05,703	50,70,224	12.3	67.9	19.8
Karnataka	1,01,19,051	28,87,192	-	1,30,06,243	77.8	22.2	0.0
Kerala	3,40,84,000	98,48,000	-	4,39,32,000	77.6	22.4	0.0
Maharashtra	0	0	-	-	-	-	-
Manipur	21,49,270	104,91,513	8,92,815	135,33,598	15.9	77.5	6.6
Meghalaya	5,74,353	2,45,428	3,71,569	11,91,350	48.2	20.6	31.2
Mizoram	14,41,527	31,81,102	22,10,394	68,33,023	21.1	46.6	32.3
Madhya Pradesh	149,18,295	9,28,786	-	158,47,081	94.1	5.9	0.0
Odisha	73,21,006	63,31,085	-	136,52,091	53.6	46.4	0.0
Puducherry	0	0	-	-	-	-	-
Punjab	66,99,230	63,05,190	71,63,782	201,68,202	33.2	31.3	35.5
Rajasthan	50,02,000	55,80,000	1,25,55,000	231,37,000	21.6	24.1	54.3
Sikkim	5,63,516	16,25,287	6,65,579	28,54,382	19.7	56.9	23.3
Tamil Nadu	3,24,76,811	142,14,892	30,70,756	497,62,459	65.3	28.6	6.2

Telangana	60,76,472	6,27,569	15,05,754	82,09,795	74.0	7.6	18.3
Tripura	28,97,037	37,20,001	9,13,434	75,30,472	38.5	49.4	12.1
Uttarakhand	17,60,856	12,94,910	5,91,624	36,47,390	48.3	35.5	16.2
Uttar Pradesh	56,02,241	0		56,02,241	100.0	0.0	0.0
Total	21,66,12,882	10,71,59,759	3,86,29,184	36,24,01,825	59.8	29.6	10.7

In total, 0.96 billion rupees were spent from the NALSA fund in 2016-17. The biggest chunk of expenditure, and rightly so, was on payments made to lawyers, which accounted for 28% of the total expenditure. One-fifth of the funds were spent on payment to PLVs and on lok adalats. Only 3% was spent on training the functionaries.

Table 7.5: SLSA Fund Utilisation: 2016- 2017

Expenditure	Amount (IRs)	Percentage
Payments made to Lawyers	269,518,415	28
Payments made to PLVs	183,481,165	19
Expenses on Training and Honorarium	30,796,579	3
Expenses on Awareness Programmes (Excluding Lawyers and PLVs)	90,959,485	9
Expenses for Legal Services Clinics Only	15,590,916	2
Expenses for Lok Adalats & Honorarium to Judges and Staff	203,850,887	21
Expenses Incurred for Mediation & Honorarium to Mediators	17,240,470	2
Other Activities	152,620,908	16
Total Expenditure out of NALSA Fund during 2016-17	966,211,779	100

VI. FORMATS OF LETTERS, REPORTS REGISTERS & DUTY NOTES

The legal aid schemes and regulations developed by the National Legal Services Authority are extremely comprehensive and detailed. It is the responsibility of the legal aid providers-lawyers and paralegals to implement these schemes to ensure access to justice for all. NALSA has a workforce of more than 60,000 panel lawyers and 70,000 paralegal volunteers. To be able to reach out and communicate, to ensure that these legal aid providers are aware of their responsibilities and to avoid any ambiguities about their role, duty notes can play a crucial role. It would also serve as a ready reckoner to remember what is expected from them in the course of their tenure.

6.1: APPOINTMENT LETTERS AND DUTY NOTES

NOTE 1: PANEL LAWYER - APPOINTMENT LETTER AND DUTY NOTE

From,
Secretary
District Legal Services Authority

To
Mr. Shahid Azmi
Advocate, Delhi

You are appointed as a panel lawyer of the South Delhi District for the period 1 June 2018 to 1st June 2020. You would be assigned cases by the legal services institutions and court. You are bound by/ the provisions of the Advocates Act 1961 and the Bar Council of India Rules. Specifically, you are expected to maintain the standards of Professional Conduct and Etiquette as laid down in Chapter 2 of Part VI of the Bar Council of India Rules. You are expected to conduct yourself professionally and uphold the interests of your client by all fair and honourable means.

You are also expected to follow the NALSA (Free and Competent Legal Services) Regulation 2010. The relevant guidelines and a duty note based on the guidelines has been appended with this letter. You are expected to report to the legal aid authorities about the work undertaken. You are mandated to regularly meet your client.

Secretary,
District Legal Services Authority

Duty Note of Panel Lawyers

1. To represent persons in court when assigned by the legal service institutions.
2. To submit reports whenever called for by the monitoring committee of the concerned LSI in the prescribed format.
3. If your client is in prison, then to visit him/her in prison regularly. Efforts should be made to visit such clients every 15 days in between hearings to apprise them of the progress in their cases and ascertain their well-being while in detention
4. To submit the report of completion of proceedings in prescribed format after the conclusion of each case.
5. To state reasons to the Member Secretary/Secretary of the LSI if desirous of withdrawing from a case assigned.
6. Not ask for or receive any fee or consideration from your client assigned to you through LSI or court.

NOTE 2: RETAINER LAWYER - APPOINTMENT LETTER AND DUTY NOTE

From,
Secretary
District Legal Services Authority

To
Mr. Shahid Azmi
Advocate, Delhi

You are appointed as a retainer lawyer of the South Delhi District for the period 1 June 2018 to 1st June 2020. You are expected to discharge all functions as provided by the NALSA (Free and Competent Legal Services) Regulations 2010 and other relevant regulations. The relevant guidelines and a duty note based on the guidelines have been appended with this letter. You are expected to regularly report to the legal aid authorities, in the manner prescribed, about the work undertaken.

Secretary
District Legal Services Authority

Duty Note of Retainer Lawyers

1. To be present at the Front Office of the LSI as per the roster.
2. To render services like drafting of applications, notices, written statements, provide free legal advice, render legal opinions etc. to persons approaching LSI for assistance.
3. To abide by the provisions of the NALSA (Free and Competent Legal Services) Regulations 2010.
4. To assist the LSI in setup of legal literacy clubs and implementation of other legal aid schemes by the LSI.
5. If assigned, to attend court during remand hours and assist undertrials who are unrepresented where remand lawyer has not been appointed).
6. To assist the legal service institutions in mentoring and evaluating the work of PLVs and dealing with legal aid work at the front office.
7. To assist the Monitoring Committee of the LSI in its functioning.
8. To record presence with the LSI on a daily basis.
9. To maintain a diary and maintain a record of work undertaken and submit the report of the work to the legal service institutions by the 10th of each month as per prescribed format.

NOTE 3: REMAND LAWYER - APPOINTMENT LETTER AND DUTY NOTE

From,
Secretary
District Legal Services Authority

To
Mr. Shahid Azmi
Advocate, Delhi

You are appointed as a remand advocate of the South Delhi District for the period 1 June 2018 to 1st June 2020. You are assigned ACJM –II court and have to be present in court during remand hours. You would be required to oppose remand, file bail applications and any other applications/petitions as required. You are bound by/ the provisions of the Advocates Act 1961 and the Bar Council of India Rules. Specifically, you are expected to maintain the standards of professional conduct and etiquette as laid down in Chapter 2 of Part VI of the Bar Council of India Rules. You are expected to conduct yourself professionally and uphold the interests of your client by all fair and honourable means.

You are also expected to follow the NALSA Legal Aid Counsel in all Courts of Magistrates Scheme. The relevant guidelines and a duty note based on the guidelines has been appended with this letter. You are expected to report to the legal aid authorities about the work undertaken.

Secretary
District Legal Services Authority

Duty Note of Remand Lawyer

1. To be present in the Court during remand hour or any other hour of the day as directed by the Court.
2. To ensure that your name and contact details are displayed in the court assigned.
3. To oppose unnecessary remand and to regularly question the type and duration of remand.
4. To ensure that cases where your client= was not produced within 24 hours & lawyer was not provided during interrogation, should be brought to notice of judge.
5. To sign the attendance register maintained in the court.
6. To submit monthly report of the work done to the LSI, as per format prescribed.
7. To co-ordinate with the police/ court staff for any productions taking place at the magistrate's residence, and ensure presence during such productions as well.
8. To co-ordinate with the backup remand lawyer in case you are unavailable for any reason.
9. To co-ordinate with the police station within the jurisdiction of the concerned LSI to ascertain the arrests conducted on a daily basis.
10. To visit the police station at least twice a week to ensure that inmates are produced to the magistrate within 24 hours.

NOTE 4: JAIL VISITING LAWYER – APPOINTMENT LETTER AND DUTY NOTE

From,
Secretary
District Legal Services Authority

To
Mr. Shahid Azmi
Advocate, Delhi

You are appointed as a jail visiting lawyer of the South Delhi District for the period 1 June 2018 to 1st June 2020. You would be assigned cases by the legal services institutions and court. You are bound by the provisions of the Advocates Act 1961 and the Bar Council of India Rules. Specifically, you are expected to maintain the standards of Professional Conduct and Etiquette as laid down in Chapter 2 of Part VI of the Bar Council of India Rules. You are expected to conduct yourself professionally and uphold the interests of your client by all fair and honourable means. You are also expected to follow the NALSA (Legal Services Clinics) 2011 Regulations and the NALSA Standard Operating Procedures for Representation of Persons in Custody 2016. The relevant guidelines and a duty note based on the guidelines has been appended with this letter.

You are required to provide legal services like filing bail applications, appearing on behalf of undertrial prisoners, , timely filing of the appeals for convicts , preparing applications for remission, parole etc.

Secretary
District Legal Services Authority

Duty Note of Jail Visiting Lawyer

1. To visit the Jail legal aid clinic (JLAC) at-least twice a week.
2. To identify cases eligible for release under the mandate of the Undertrial Review Committee (UTRC). To interact with inmates identified by the paralegal volunteers and provide legal advice.
3. To draft applications and petitions for parole/juvenility/bail etc. for the undertrials and convicts present in the clinic.
4. To ensure filling of legal aid application form for those who need legal aid lawyers and submit the same to the legal aid authorities.
5. To conduct legal awareness camps inside jails including apprising new entrants to prison about the free legal services provided by SDLSC, DLSA, HCLSC and SCLSC.
6. To train the paralegal volunteers and oversee the effective functioning of the JLAC. To regularly inform the inmates about the status of their cases.
7. To communicate to the panel lawyers any pertinent information that an inmate has requested to be shared with his/her lawyer.
8. To be acquainted with the jail manual and the other rules regulations relating to prisons.
9. To ensure that the registers are filled by the paralegals accurately.
10. To record attendance and work in the registers available at the prison.
11. To also represent the inmates in courts in some cases, if appointed by the LSI.
12. To submit a monthly report of the work to the legal service institutions by 5th of every month.
13. To also submit a copy of the register of beneficiaries maintained at the clinic.
14. To ensure that copy of charge sheet or any document taken from any prisoner is returned.
15. To not canvass or solicit for any case in your private capacity.
16. To prioritise and focus on personal interactions with the inmates in the JLAC during the visit and then document and prepare the petitions.
17. To send intimation to the LSI in advance if you are unable to visit the JLAC on a particular day.
18. Shall assist the UTRC by co-ordinating with the inmates and the courts on cases eligible for release.
19. Should follow the directions given under NALSA SOP for representing persons in custody

**NOTE 5: CONVICT/ COMMUNITY PARALEGAL VOLUNTEERS –
APPOINTMENT LETTER AND DUTY NOTE**

From,
Secretary
District Legal Services Authority

To
Ms. Lakshmi Dutta
PLV, Jodhpur
<Address>

You are appointed as a paralegal volunteer of the Jodhpur Central jail for the period 1 June 2018 to 1st June 2020. You are expected to abide by the NALSA (Free and Competent Legal Services) Regulations 2010 and NALSA Standard Operating Procedures on Representation of Persons in Custody 2016. You are expected to conduct legal aid clinics at least twice a week, provide basic legal counselling to inmates, assist the jail visiting lawyer and periodically report to the legal aid authorities about the work undertaken, as per prescribed formats. The relevant guidelines and a duty note based on the guidelines has been appended with this letter.

Sd/-
Secretary
District Legal Services Authority

Duty Note of Convict/Community Paralegal Volunteers

1. To hold/conduct legal aid clinics inside jails, at least twice each week.
2. To take steps towards identification of inmates who are in need of legal assistance. This would involve reaching out to all prisoners, especially the new entrants.
3. To seek permission from the prison authorities to visit the wards of prisoners to ascertain that no one is unrepresented.
4. To fill out the legal aid application form and promptly send it to the concerned DLSA/SDLSC & also ensure that the prisoners interact with jail visiting lawyer on his next visit to prison.
5. To coordinate and assist the jail-visiting lawyers in providing legal advice and aid. They would also give update on the case of the inmates.
6. To counsel inmates and explain any legal provision pertaining to their case. Where there are doubts, then refer the case to the Jail Visiting Lawyer.
7. To receive legal aid lawyer appointment letters, replies from legal service institution and other authorities, maintain record and give copies to the concerned prisoner.
8. If you come across a prisoner who claims to be juvenile at the time of commission of offence or at arrest, to draft an application to bring the case to the attention of the concerned Legal Services Authority, Juvenile Justice Board and the Child Welfare Committee.
9. To submit monthly reports to the DLSA and the Undertrial Review Committee on cases eligible under section 436/436A Cr.P.C.
10. To write to the concerned LSI about any queries, grievances or for shortage of any basic requirements for the smooth functioning of the clinic.
11. In case of community PLV to contact the family members of the inmates so as to intimate about his detention and if needed facilitate interviews with family members
12. To keep track of non-production of any inmate in the court as per the date given and inform the Secretary, DLSA/TLSC.
13. To assist the inmate in filing any complaint or grievances relating to their stay in prison.
14. To maintain the registers in the clinics. The Paralegal Volunteers should maintain registers recording name, fathers name, age, date of admission, offences charged under, case ref & concerned court, details of lawyer, status of case, next production.
15. To regularly update the registers. In particular document each prison clinic, record information on all cases, and assist in follow up of cases such as case status, bail, lawyer appointment, next date of hearing, communicating client instructions.
16. To keep a record of the letters, applications, and petitions written through jail and sent to relevant agencies and similarly keep a record of the documents received.
17. To send reminders/ letters to corresponding Legal Services Authority to seek information regarding status of case, name and contact details of the assigned legal aid lawyer.
18. To send monthly report of their work to the Secretary of the DLSA/TLSC by 5th of every next month.
19. To submit a copy of the legal aid register for review to the Secretary of the DLSA/TLSC every month.
20. To not seek any money/ benefits for the work done from the inmates or their families.

6.2: FORMATS

This study looked at registers and reports used by legal aid authorities, lawyers and paralegals across the country and recommends the best practices identified for monitoring and reporting the work of legal aid providers. Standardising these formats across the country, could ease the work of the SLSAs in monitoring the work of the DLSAs & TLSCs and the DLSAs & TLSCs in reviewing the work of the legal aid lawyers.

NATIONAL LEGAL SERVICES AUTHORITY (FREE AND COMPETENT LEGAL SERVICES) REGULATIONS, 2010

FORMAT 1: LEGAL AID REGISTER

(To be placed at Front Office, LSI: maintained by PLVs/ Retainer Lawyers)

Table 1: LEGAL AID REGISTER FOR PERSONS IN CUSTODY (Reg-3; NALSA 2010)									
Legal Aid Case No.	Name of the Accused & Father's Name	Police Station/ Court/Case Ref No./ Offence u/s	Date of Receipt of Application	Date of Assignment of Lawyer	Date of Intimation Letter for Assignment/ Rejection to the applicant	Outcome of Case	Date of Conclusion of the Case	Amount of Fees Paid	Date & Mode of Remittance

FORMAT 2: PROGRESS REPORT

From,
Mr Shahid Azmi
Advocate, Delhi

To
Secretary
East District DLSA

Dear Committee,

I was assigned the legal aid lawyer in the case of Ravi Kumar vs State on 6th January 2018. Please find the progress in the case in the month of March 2018.

PROGRESS REPORT					
R. 11(5) of NALSA 2010 Regulations: Legal Aid Lawyers to submit report of progress to Monitoring Committee					
Date	Name of the Inmate	Case Details Case Ref. Number & Offence	Last Date of Hearing	Next Date of Hearing	MC Reference No.
Progress of the Case: (Status, Strategy, Challenges)					

(To be submitted to the Monitoring Committee and maintained at Front Office)

Mr Shahid Azmi
Advocate, Delhi

NALSA's Legal Services Card may also be used as progress reports.

FORMAT 3: THE LEGAL SERVICES CARD

Name of Court _____

Name of Legal Aid Counsel _____

Contact Number _____ Address _____

Name of Legal Aid Person _____

Title of Case _____

Nature of Case _____

FIR No _____ Date _____ U/S _____ PS _____

S.No.	Date	Proceedings taken place	Next Date	Purpose	Sign of Advocate

FORMAT 4: MONITORING COMMITTEE REGISTER

(To be placed at Front Office, LSI, maintained by staff assigned to MC)

a) Option 1

Table 2B: MONITORING COMMITTEE REGISTER (Reg - 11(4); NALSA 2010)							
The Register should be prepared Case-wise and not date-wise							
Name of the Accused & Father's Name	Name & Contact details of the Lawyer Assigned	Case Details		Information about the accused- First time offender/ Repeat offender, age, any other information			MC Reference No.
		(PS/Court/Case Ref No/Offence u/s)					
S. No	Date of Hearing	Summary of Proceedings	Progress Report from the Lawyer (Submitted- Y/N)	Documents from the court (Received Y/N)	Comments of the MC	Comments of the SLSA	Suggested Action for the next hearing

b) Option 2

Table 2B: MONITORING COMMITTEE REGISTER (Reg - 11(4); NALSA 2010)							
The Register should be prepared Case-wise and not date-wise							
Name of the Accused & Father's Name	Name & Contact details of the Lawyer Assigned	Case Details		Information about the accused- First time offender/ Repeat offender, age, any other information			MC Reference No.
		(PS/Court/Case Ref No/ Offence u/s)					
S. No	Date of Hearing	Progress of the case	Advise or other services if any, provided by the Monitoring Committee or Panel Lawyer	Assessment on the progress of each case	Assessment on the performance of the Panel / Retainer Lawyer	Other observations if any, of the MC	Recommendations of the Monitoring Committee if any

FORMAT 5: MONITORING COMMITTEE REPORT

(To be prepared by PLVs/ Retainer Lawyers)

a) Option 1 (Based on format maintained by Machilipatnam)

Legal Aid Case Number	Name of the applicant for legal aid	Case number & Court Number	Name of the panel lawyer provided	Whether day to day posting and its result is mentioned in the Register at Monitoring Committee	Progress of the case before the courts	Advise or other services if any, provided by the Monitoring Committee or Panel Lawyer	Individual Assessment on the progress of each case	Individual assessment on the performance of the Panel & Retainer Lawyer	Result of the case	Other observations if any, of the Monitoring Committee	Recommendations of the Monitoring Committee if any

b) Option 2 (Based on format maintained by Haryana)

Name of the Applicant	Mother's/ Father's name	Category of Applicant out of persons mentioned in S. 12 of the LSA	Panel Lawyer/ Retainer assigned to the applicant	Date of Appointment	Progress of each and every legal aid case	Particulars of Case	Name of Court	Performance of Panel/ Retainer	Remarks if any	Other observations if any, of the Monitoring Committee	Recommendations of the Monitoring Committee if any
					Date fixed by the Court	Work Done on that day	Next Date				

c) Option 3 (Based on format maintained by Jodhpur, Rajasthan)

Monitoring Committee Report					
Date	Name of the Inmate	Case Details Case Ref number & Offence	Last Date of Hearing	Next Date of Hearing	MC Reference No.
Progress of the Case: (Status, Strategy, Challenges)					
Monitoring Committee's Comments:					
SLSA's Feedback :					

FORMAT 6: COMPLETION REPORT

From,
Mr Shahid Azmi
Advocate, Delhi

To
Secretary
East District DLSA

Dear Committee,

I was assigned the legal aid lawyer in the case of _____ on 6th January 2016. The case was concluded on 26th March 2018. I have submitted the progress reports on a monthly basis. Please find the details of the case below:

COMPLETION REPORT					
R. 14(3) of NALSA 2010 Regulations: Legal Aid Lawyers to submit report of completion at the conclusion of the case					
Name of the Inmate	Case Duration (Initiation Date & Last date)	Case Details Court/PS/Case ref no/ Offence	Expenses Incurred	Outcome of the Case	MC Reference No.
Summary of the Case: (Strategy, Challenges)					

Sd/- -
Mr Shahid Azmi
Advocate, Delhi

**FORMAT 7: ASSIGNMENT LETTER TO THE PANEL LAWYER & INTIMATION
LETTER TO ACCUSED**

From
The Secretary,
District Legal Services Authority

To
Ajay Verma
Advocate, Delhi

Subject: Letter of Assignment for conducting case no..... of

Dear Sir/Madam,

You are hereby appointed lawyer for conducting the case on the person mentioned above pending / to be instituted in the Court of _____ and / or take such steps as you deem fit and proper for initiating for further clarification and discussion in this regard. You are requested to report the progress of the case to the undersigned from time to time.

In case the appointment is accepted by you, you are requested to return the declaration annexed after being duly signed by you.

Yours faithfully,
Secretary
DLSA

Declaration

1. Appointment made wide Memo No..... dated
2. Case No.
3. I understand that in conducting the case, I am to abstain from doing anything that might prejudice the interest of the said person.
4. I understand that I am to abide by the terms and decisions of the Committee which are final
5. I understand that I will be given remuneration at the rates fixed by the committee on submission of bills
6. I understand that the bill must be accompanied with a certificate from the presiding officer of the court regarding my attendance on the dates mentioned in the bills.

From

The Secretary,
District Legal Service Authority

To
The Superintendent
Prison

Dear Sir/Madam,

With reference to Case No... , I am directed to inform you that Advocate has been appointed for the accused to defend his/her case. His/her case details are as follows.....A copy of the appointment letter is annexed for your perusal. The advocate can be contacted at

This is with reference to your letter dated 7 June 2016

Yours faithfully

Secretary
DLSA

FORMAT 8A: MONITORING COMMITTEE MONTHLY STATEMENT

(To be prepared by PLVs/ Retainer Lawyers and submitted to SLSA monthly)

Monthly Statement regarding Monitoring Committee					
Number of meetings held in the month	Total number of court based legal aid cases in the district	Number of cases reviewed	Number of Acquittals during the month	Number of convictions during the month	Number of Bail Releases during the month

FORMAT 8B: MONITORING COMMITTEE FUNCTIONING TRACKER AT SLSA

(To be prepared by PLVs/ Retainer Lawyers and submitted to SLSA every quarter/ six months)

Monthly Statement regarding Monitoring Committee							
District & Taluka LSI	MC Constituted (Y/N)	MC Register Maintained (Y/N)	MC Separate Staff Maintained (Y/N)	Mentor Appointed	Senior Lawyer / Retired Judge Appointed	Monthly/ Bi-monthly reports Submitted	Challenges, if any

THE NALSA (LEGAL SERVICES CLINICS) REGULATIONS, 2011

FORMAT 9: LEGAL AID CLINIC WORK REGISTER

Action Taken Column to be reviewed weekly. In case of closure, to mark the case in red.

Date	S. No.	Convict/ UT	Name of the Inmate	Case Details	Date of Admission to jail	Assistance Required & Signature	Action Taken	Comments

FORMAT 10: LEGAL AID CLINIC ATTENDANCE REGISTER

Date & Time	Jail Visiting Lawyer	Convict Paralegal Volunteer	Community Paralegal Volunteer

FORMAT 11: JAIL VISITING LAWYER WORK REPORT

From,
Mr Mukul Sinha
Advocate, Delhi

To
Secretary
East District DLSA

Dear Sir/Madam,

I was assigned the jail visiting lawyer for the Tihar Jail Number 4 prison. Please find the details of the work undertaken in January 2017:

Monthly Work Report- Jail Visiting lawyer			
Tasks	Number	Name of inmates	Case Reference Number
Bail Applications drafted			
Parole Applications drafted			
Legal Aid Applications drafted			
Other Applications			
Legal Advice Given			
Comments:			

Mr Mukul Sinha

Advocate, Delhi

FORMAT 12: CONVICT PARALEGAL WORK REPORT

From,
Mr Anisha Paul
Convict PLV, Tihar Jail -4

To
Secretary
East District DLSA

Dear Sir/Madam,

I am the convict paralegal volunteer at the Tihar Jail Number 4 prison. Please find the details of the work undertaken in January 2018:

WORK REPORT- Convict Paralegal Volunteer	
Number of days the clinic was operational	
Number of days Jail Visiting Lawyer was present	
Number of Beneficiaries	
Total number of applications drafted	
Number of Bail Applications drafted	
Number of Legal Aid Applications filled	
Number of cases where legal aid lawyer was appointed	
Status of Stationary	
Comments:	

Please find attached photocopy of the legal aid register maintained for January 2018.

Ms. Anisha Paul

Convict PLV, Tihar Jail - 4

FORMAT 13: JAIL LEGAL AID CLINICS TRACKER

(To be maintained by the SLSA, reviewed every quarter/ six months)

Mr Anisha Paul

Convict PLV, Tihar Jail -4

District	Number of Jails	Number of Jail Legal Aid Clinic	Number of Jails with Jail Visiting Lawyer appointed	Number of Jails with Convict Paralegal Volunteer	Number of Jails where Convict Paralegal Volunteers are trained	Number of Jail Legal Aid Clinics which maintain registers

NALSA LEGAL AID COUNSEL IN ALL COURTS OF MAGISTRATES SCHEME 1998

FORMAT 14: DAILY ATTENDANCE REGISTER OF REMAND LAWYERS

(Placed in Court, maintained by Court staff)

Attendance Register of Remand lawyers					
Date	Name of the Assigned Lawyer	Absence/ Presence during remand hours/ when called	Names of the accused represented by remand lawyer	Case Ref. No.	Signature of the lawyer

FORMAT 15: REMAND LAWYER'S WORK REPORT

From,

Mr Shahid Azmi

Advocate, Delhi

To

Secretary

East District DLSA

Dear Sir/Madam,

I was assigned as a remand lawyer for the ACJM-2 court. Please find the details of the cases in which I appeared below:

Monthly Work Report- Remand Lawyer						
S. No	Name of the Client, Father's Name & Case Ref. Number	Date of Hearing	Whether Remand opposed?	Whether Bail Application moved?	Whether Bail granted?	Status of the Case

(To be the submitted by Remand Lawyer to the LSI every month)

Mr Shahid Azmi

Advocate, Delhi

FORMAT 16: STEP-BY-STEP GUIDE ON THE FUNCTIONING OF LEGAL AID CLINICS IN JAILS

Step 01

- Mechanism to be set in place to ensure that every inmate is aware of their right to free legal aid when in custody.
- PLVs should visit wards once a week and ensure that no inmate is unrepresented.
- Inmates may approach the welfare officer/PLVs/JVL for legal assistance
- If PLVs are not available, then the welfare officer or any other designated officer should note the details in the register.

Step 02

- PLVs must interact and record basic case details of inmates as per the prescribed format and note it in the register.
- PLVs should note down client instructions and document them so that they may be handed over to the JVL or lawyer appointed in that case.

Step 03

- PLVs to take appropriate action in each case. For example:
- In case further advice is required from JVL/legal aid lawyer, the inmate must be informed of the date and time of the lawyer's visit.
- File applications for the appointment of a legal aid lawyer.
- Regularly inform inmates about details of the lawyers appointed, case progress and provide continued assistance.

Step 04

- Where community PLV is available, he should communicate cases to the DLSA/SDLSC office. In his absence, the JVL should collect cases from the convict PLV and communicate the same to the SDLSC/DLSA office.
- JVL to interact with inmates and provide legal counsel and advice as required.

Step 05

- Community PLV/JVL to communicate name and details of lawyers appointed by DLSA/SDLSC. Convict PLV should record details such as name, date of appointment and contact details in the register and inform the inmates.
- It should be the PLV's duty to ensure that copies of basic case records including client instructions are shared with JVL/lawyer appointed to represent the case in court.

Step 06

- JVL must update the PLVs on the progress of the cases during the next visit to the correctional home.
- PLVs to update inmates regarding progress of their cases, as well as update information in the basic case record documents/register/case trackers.
- Where lawyer is appointed to represent an inmate is different from the JVL, the legal aid lawyer should update the JVL on the progress of the case, so that he can intimate the PLV and the inmate.
- Upon conclusion of a case or release on bail, PLV should record it in the register and update the basic case record.

VII. A SEPARATE SCHEME FOR PERSONS IN CUSTODY

Section 12 of the Legal Services Authorities Act, 1987 provides for the categories of people who are eligible for legal aid. Other than those who are eligible under the means test, there are seven categories such as, trafficking victims, members of Scheduled Castes and Tribes, etc. who are eligible. While NALSA has prepared a separate scheme for six of these seven categories, there is no separate scheme which governs legal aid for persons in custody from the point of arrest till appeal. NALSA SOP 2016 also only provides for legal aid for prisoners and not across the entire process. There is a need to have one comprehensive scheme which brings together elements of legal aid at police stations, first productions, subsequent productions, commencement of trial, duration of trial, completion of trial, appeal in high court, appeal in Supreme Court.

	Section 12 of the Legal Services Act 1987	Corresponding NALSA Schemes
a)	A member of a Scheduled Caste or Scheduled Tribe.	NALSA (Protection and Enforcement of Tribal Rights) Scheme, 2015.
b)	A victim of trafficking in human beings or begar as referred to in Article 23 of the Constitution.	NALSA (Victims of Trafficking and Commercial Sexual Exploitation) Scheme, 2015.
c)	A woman or a child.	NALSA (Child Friendly Legal Services to Children and their Protection) Scheme, 2015.
d)	A mentally ill or otherwise disabled person.	NALSA (Legal Services to the Mentally Ill and Mentally Disabled Persons) Scheme, 2015.
e)	A person under circumstances of undeserved want such as being a victim of a mass disaster, ethnic violence, caste atrocity, flood, drought, earthquake or industrial disaster.	Schemes for Legal Services to Disaster Victims through Legal Services Authorities.
f)	An industrial workman.	NALSA (Legal Services to the Workers in the Unorganized Sector) Scheme, 2015.
g)	In custody, including custody in a protective home within the meaning of Clause (g) of Section 2 of the Immoral Traffic (Prevention) Act, 1956 (104 of 1956); or in a juvenile home within the meaning of Clause (j) of Section 2 of the Juvenile Justice Act, 1986 (53 of 1986); or in a psychiatric hospital or psychiatric nursing home within the meaning of Clause (g) of Section 2 of the Mental Health Act, 1987(14 of 1987).	NO CORRESPONDING SCHEME
h)	In receipt of annual income less than rupees nine thousand or such other higher amount as may be prescribed by the state government, if the case is before a court other than the Supreme Court, and less than rupees twelve thousand or such other higher amount as may be prescribed by the central government, if the case is before the Supreme Court.	NALSA (Free and Competent Legal Services) Regulations, 2010.

Other NALSA	<ul style="list-style-type: none"> • NALSA (Effective Implementation of Poverty Alleviation Schemes) Scheme, 2015.
Other NALSA Schemes	<ul style="list-style-type: none"> • NALSA (Legal Services to the Victims of Drug Abuse and Eradication of Drug Menace), Scheme, 2015. • NALSA (Legal Services to Senior Citizens) Scheme, 2016. • NALSA (Legal Services to Victims of acid attacks) Scheme, 2016. • NALSA Scheme for Para-Legal Volunteers.

VIII. ANNEXURES

- 1. Functions of The Legal Aid Authority: UN Model Law and Indian Law**
- 2. Important Documents received through RTI applications**
 - 2 A. NALSA 2016 Letter on the Role of Remand Lawyers
 - 2 B. NALSA 2015 Letter on constitution of Legal Aid Clinics in Jail
 - 2 C. Delhi SLSA Letter on Production of Accused at residence of Duty Magistrate
 - 2 D. Shimla DLSA Letter on Legal Aid Beneficiaries at Police Stations
 - 2 E. Moga DLSA Guidelines on Functioning of Jail Legal Aid Clinics
 - 2 F. Sample Legal Services Card used in Narnaul DLSA as progress report
 - 2 G. Sample Monitoring Committee Register maintained by Rohtak DLSA
 - 2 H. Format of Monitoring Committee Report of Jodhpur DLSA
 - 2 I. Order for Appointment of Jail Visiting Lawyers in East Delhi District clearly laying down the dos and the don'ts
- 3. NALSA Appointed Committee's Suggestions on Minimum Fees for Panel Lawyers**
- 4. Legal Aid Regulations for Persons in Custody**
 - 4 A. NALSA Standard Operating Procedure for Representation of persons in custody 2016
 - 4 B. National Legal Services Authority (Free And Competent Legal Services) Regulations, 2010
 - 4 C. The NALSA (Legal Services Clinics) Regulations, 2011
 - 4 D. Model Scheme For "Legal Aid Counsel" in all the Courts of Magistrates
- 5. CHRI's Right to Information Applications**
 - 5 A. RTI on National Legal Services Authority (Free and Competent Legal Services) Regulations, 2010.
 - 5 B. RTI on The NALSA (Legal Services Clinics) Regulations, 2011
 - 5 C. RTI on National Legal Service Authority's Model Scheme for 'Legal Aid Counsel' In All Courts of Magistrates
 - 5 D. RTI on Legal Aid Budgets and Infrastructure.

1. FUNCTIONS OF THE LEGAL AID AUTHORITY: UN MODEL LAW AND INDIAN LAW

	UN MODEL LEGAL AID LAW	INDIAN LAW ON LEGAL AID
	Article 26. Functions of the Legal Aid Authority	
26.1	The Legal Aid Authority shall be responsible for managing, coordinating and monitoring the provision of legal aid.	LSA, S. 4 (i): Monitor and evaluate the implementation of the legal aid programmes at periodic intervals and provide for independent evaluation of programmes and schemes implemented in whole or in part by funds provided under this Act. LSA, S. 4 (n): Coordinate and monitor the functioning of state authorities, district authorities, Supreme Court Legal Services Committee, High Court Legal Services Committees, taluk legal services committees and voluntary social services institutions and other legal services organisations and give general directions for the proper implementation of the legal services programmes.
26.2	For the purpose of managing the provision of legal aid, the Legal Aid Authority shall have the following functions:	
26.2.1	Establishing and publishing financial eligibility standards that must be satisfied in order for an applicant to meet the means test provided for under Article 33 of this law. The legal aid authority shall be responsible for the periodic review of the financial eligibility standards and adjust them to account for changes in the cost of living index and other relevant factors.	LSA, S. 12. Every person who has to file or defend a case shall be entitled to legal services under this Act if that person is: LSA, 12 (h): In receipt of an annual income less than rupees nine thousand or such other higher amount as may be prescribed by the state government, if the case is before a court other than the Supreme Court, and less than rupees twelve thousand or such other higher amount as may be prescribed by the central government, if the case is before the Supreme Court.
26.2.2	Receiving, reviewing and deciding on applications for legal aid.	NALSA 2010, R 7: Scrutiny and evaluation of the application for free legal services: (1) There shall be a committee to scrutinise and evaluate the application for legal services.
26.2.3	Conducting the means test provided for under Article 33 of the this law for the purpose of determining an applicant's financial eligibility to receive legal aid.	NALSA 2010, R 7 (4): The Committee shall scrutinise and evaluate the application and decide whether the applicant is entitled to the legal services or not within a period of eight weeks from the date of receipt of the application.
26.2.4	Determining the circumstances and amount of an applicant's contribution, pursuant to Article 33.3 of this law.	Not applicable. The LSI pay the entire amount.
26.2.5	Administering the Legal Aid Fund established under Article 40 of this law.	LSA, S. 4 (c): Utilise the funds at its disposal and make appropriate allocations of funds to the state authorities and district authorities.
26.3.	For the purpose of coordinating the provision of legal aid, the legal aid authority shall have the following functions:	
26.3.1	Accrediting and employing public defenders, pursuant to article 27 of this law.	Not Applicable. India does not have a public defender model of legal aid delivery.

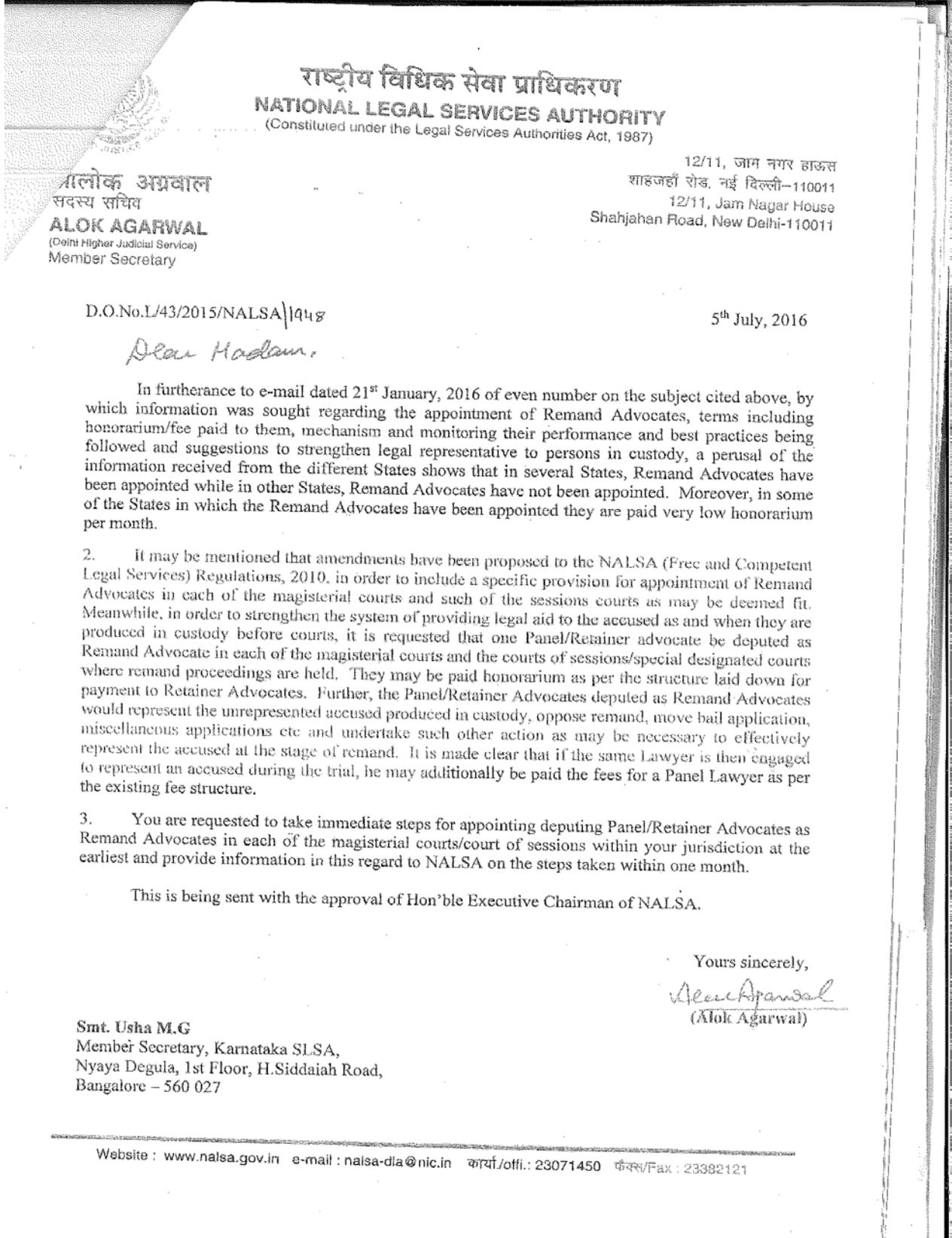
26.3.2	Accrediting private legal practitioners, non-governmental organisations, community-based organisations, faith-based organisations, law clinics and paralegals as providers of legal aid, pursuant to Article 27 of this law;	<p>NALSA 2010, R 9: Legal services by way of legal advice, consultation, drafting and conveyancing. - (1) The Executive Chairman or Chairman of the LSI shall maintain a separate panel of senior lawyers, law firms, retired judicial officers, mediators, conciliators and law professors in the law universities or law colleges for providing legal advice and other legal services like drafting and conveyancing.</p> <p>NALSA 2010, R 7(6): The legal services institution shall maintain a list of such agencies, institutions or persons who have expressed willingness to render free legal services.</p>
26.3.3	Entering into contract agreements for the provision of legal aid with private legal practitioners, public defender organisations, non-governmental organisations, community-based organisations, faith-based organisations, law clinics and paralegals on such terms and conditions as regulated by the legal aid authority.	
26.3.4	Establishing legal fees for the remuneration of contracted legal aid providers and regulating the reimbursement of expenses.	NALSA 2010, R 14: Payment of fee to the panel lawyers: (1) Panel lawyers shall be paid fees in accordance with the schedule of fees, as approved under the state regulations.
26.3.5	Designing programmes to promote the establishment of law clinics in institutions of higher education and encouraging the participation of law students in the provision of legal aid services, as deemed appropriate, to promote a culture of volunteerism during students' formative years.	LSA, S. 4 (k) Develop, in consultation with the Bar Council of India, programmes for clinical legal education and promote guidance and supervise the establishment and working of legal services clinics in universities, law colleges and other institutions.
26.4.	For the purpose of monitoring the provision of legal aid, the legal aid authority shall have the following functions:	
26.4.1	Developing, publishing and disseminating through appropriate channels, information on the right to legal aid and access to legal aid, including distribution at police stations, detention centres, courts, local government offices, educational and religious institutions; through public service announcements; over the Internet; at community meetings; and by other appropriate means. In developing and disseminating such information, the legal aid authority shall ensure that the needs of isolated and marginalized groups are appropriately catered for and that geographical areas and economically and socially disadvantaged populations with large numbers of potentially eligible applicants are effectively targeted.	LSA, S. 4 (l): Take appropriate measures to spread legal literacy and legal awareness amongst the people and, in particular, to educate weaker sections of society about the rights, benefits and privileges guaranteed by social welfare legislations and other enactments as well as administrative programmes and measures.

26.4.2	Directly, and through contracts with monitoring and evaluation organisations, compiling and analysing data on such matters as: applications received, granted and denied; stage of the criminal justice process when legal aid was provided; response times; number and type of services provided; number and profile of legal aid providers; quality and effectiveness of legal services provided; legal aid providers' compliance with ethical standards; and administration of funds.	LSA, S. 4 (g) Undertake and promote research in the field of legal services with special reference to the need for such services among the poor.
26.4.3	Monitoring, in cooperation with bar associations, the provision of legal aid services at all stages of the criminal justice process, including by regulating, recording and verifying legal aid provision, for the purpose of ensuring transparency and accountability in the provision of legal aid.	
26.4.4.	Receiving reports on the activities of accredited legal aid providers pursuant to Article 20.1.12. The legal aid authority shall keep any information received about case details confidential.	
26.4.5	Providing, or making appropriate arrangements for, regular and mandatory training to legal aid providers for the purpose of constantly ensuring competence and innovation in the provision of legal aid, including specialised training for lawyers providing legal aid services to children.	
26.4.6	Introducing and implementing appropriate mechanisms for the supervision, support and training of legal aid authority staff members.	
26.4.7	Undertaking research, studies and investigations, including by entering into agreements with non-governmental organisations, consultancy firms and universities, into all aspects of legal aid, including early access to legal aid, types of services offered, providers, target populations and methods of financing, to develop and experiment with effective ways of delivering legal aid.	The Remand Scheme does not yet address Early Access to Legal Aid.
26.4.8	Monitoring and developing effective mechanisms for delivering good quality legal aid services as well as compiling and sharing the best practices in the provision of legal aid.	

26.4.9	Receiving and investigating disciplinary complaints against legal aid providers and taking disciplinary action against legal aid providers that the legal aid authority finds acted in a negligent or incompetent way or in violation of their duties under Article 20 of this law, and, where relevant, referring legal aid providers to their employers and relevant professional bodies for disciplinary action.	NALSA 2010, R 15: If the panel lawyer engaged is not performing satisfactorily or has acted contrary to the object and spirit of the Act and these regulations, the legal services institution shall take appropriate steps including withdrawal of the case from such lawyer and his removal from the panel.
26.4.10	Reporting on the activities, operation and budget spending of the legal aid authority, pursuant to Article 41 of this law; Part I. Chapter 4. The Legal Aid Authority.	<p>LSA, S 18 (1) The Central authority, state authority or the district authority (hereinafter referred to in this section as 'the authority'), as the case may be, shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the income and expenditure account and the balance sheet in such form and in such manner as may be prescribed by the central government in consultation with the Comptroller and Auditor General of India.</p> <p>LSA, S 5(3): Annual General Meeting of the State Authority shall be convened ordinarily in the month of April every year or in such other month as may be directed by the Executive Chairman. Besides other business annual statement of accounts, annual progress of performance report about the plans, programmes and schemes of the State Authority shall be placed before the State Authority for consideration and approval.</p>
26.4.11	Carrying out any other activity contributing to the achievement of the purposes of the legal aid authority.	Multiple activities undertaken by NALSA.

2. IMPORTANT DOCUMENTS RECEIVED THROUGH RTI APPLICATIONS

NALSA 2016 LETTER ON THE ROLE OF REMAND LAWYERS



2 A. NALSA 2015 LETTER ON CONSTITUTION OF LEGAL AID CLINICS IN JAIL

From: NALSA <nalsa-dla@nic.in>

To: All SLSAs

Date: 21.5.2015

Subject: Setting up of Legal Service Clinics in each jail and electronic link between jail and LSAs

Sir/Madam,

I am directed to convey that in the Central Authority (NALSA) meeting held on 21.3.15, at Ranchi, it was resolved that all the SLSAs shall set up Legal Service Clinics in each one of the jails in their respective States within a period of 3 months. It was also resolved that all SLSAs will develop and put in piece electronic link between jail and Legal Services Authorities borrowing from the model used in Karnataka.

You are, therefore, requested to kindly take steps for compliance of the above decision and a compliance report may be sent to the Authority within three months

With regards,

Yours sincerely,
(Rajesh Kumar Goel)

Director

NATIONAL LEGAL SERVICES AUTHORITY,
12/11, JAM NAGAR HOUSE,
SHAHJAHAN ROAD, NEW DELHI: 110011
PH NO: 011-23302778

2 B. DELHI SLSA LETTER ON PRODUCTION OF ACCUSED AT
RESIDENCE OF DUTY MAGISTRATE



DELHI STATE LEGAL SERVICES AUTHORITY

(Constituted Under the 'Legal Services Authorities Act, 1987', an Act of Parliament)

Under the Administrative Control of High Court of Delhi

Central Office, Patiala House Courts Complex, New Delhi - 110001

Ph. : 23384781, Fax : 23387267, Email : dslsa-phc@nic.in



Ref.No. DSLSA/Legal Aid Wing/2016/ 3969 To 3980

Dated: 12.04.2016

To

The Secretaries,
District Legal Services Authorities,
New Delhi/Delhi.

Sub.: Production of Accused at the residence of Duty Magistrate -- Provision for Legal Aid

Dear All,

You would appreciate that a person in police custody has a constitutional right of free legal aid. I am made to understand that a person after fresh arrest, on public holidays is duly represented by a Remand Advocate, appointed by the DLSAs in this regard, as and when he is produced before the Ld. Duty Magistrate in the Court room. However, at times due to various reasons, police is constrained to produce the person arrested before the Ld. Duty Magistrate in wee hours at his residence. Invariably, in such situations the person in custody is not represented through a counsel. The mandate of law obligates legal aid to the arrestee even during such production before the Ld. Duty Magistrate.

Therefore, it is advised that you may take up the matter with the Ld. Chief Metropolitan Magistrate/Metropolitan Magistrates of your respective District and to make them reconscious of their duties to ensure the availability of legal aid to the person in custody. The Ld. Metropolitan Magistrates may kindly be requested to ensure that the remand advocate is also duly informed through the concerned SHO/Investigating Officer/the staff of the Court about the probable time of the production of any such person so that the Remand Advocate from DLSA can also attend the proceedings at the residence of the Ld. Duty Magistrate and legal aid is available to arrested person across temporal and spatial limitations.

It is further suggested that relative distance from the residence of Remand Advocate and the concerned Duty Magistrate may also be considered while preparing the duty roster for appointment of Remand Advocates so that there is no unnecessary inconvenience to the Remand Advocate in reaching the residence of the Ld. Duty Magistrate.

You are accordingly requested to initiate appropriate action in this regard so as to ensure that the constitutional mandate and directions of the Hon'ble Apex Court in the matter titled, "*Ajmal Kasab Mohd. Ajmal Amir Kasab v. State of Maharashtra, Criminal Appeal Nos. 1899-1900 of 2011*" is followed in true letter and spirit.

Thanking you,

Yours faithfully,

(Dharmender Rana)
Project Officer, DSLSA

Attended 1 mail copy.
23/11/16
South-West District Legal Services Authority,
5A, Ground Floor, Administrative Block
Dwarka Courts Complex, New Delhi

2 C. SHIMLA DLSA LETTER ON LEGAL AID BENEFICIARIES AT POLICE STATIONS

9

Annexure - B

No. DLSA/Sr. Asstt/SML/2016-1147

OFFICE OF THE DISTRICT AND SESSIONS JUDGE-CUM-CHAIRMAN
DISTRICT LEGAL SERVICES AUTHORITY, SHIMLA, HIMACHAL PRADESH.

Dated: Shimla, the 28th June, 2016.

To ✓ All the Civil Judge(Sr./Jr. Divns)
of Civil and Sessions Division,
Shimla, H.P.

Subject:- Regarding updation of information to legal aid
beneficiaries, displayed at various Police Stations in Shimla
Division

Sir/Madam,

'Jai Hind'

As you are aware that classes of the persons entitled for free legal aid under section 12 of the Legal Services Authorities Act, 1987, has been amended. It has however been observed that some police stations in shimla Division are still displaying the unamended list. You are therefore, requested to kindly direct Station House Officers of the Police Stations falling under your respective jurisdictions to update the said list of legal aid beneficiaries displayed in their respective Police Stations (Amended list of the legal aid beneficiaries under section 12 of the Act ibid is annexed herewith for ready reference). SHOs may also be directed to display the names and contact numbers of concerned remand counsel and PLVs visiting their Police Station. They may also be directed to display the name and contact number of Chairman and Secretary, District Legal Services Authority, Shimla, in their respective Police Stations.

DFAS

Chairman
DLSA, Shimla

Seen
Supdt. J. Divn
for info.

Staff Judge (Jr. Divn)
Date: 29/6/16

Further, it has also been observed that names and contact number of the members of Special Juvenile Police Unit constituted under section 63 JJ A have not been displayed in some Police Stations falling under Shimla Division. You are therefore requested to direct the SHOs of the Police Stations falling under your respective jurisdictions to prominently display and to regularly update the names and contact numbers of the Special Juvenile Police Unit and designated Juvenile Welfare Officers of their respective Police Stations. Compliance report of the above directions may also be sought from the concerned SHOs.

Public Information Officer,
H.P. State Legal Services Authority,
SHIMLA - 9

Yours sincerely
Chairman
District Legal Services Authority

**DISTRICT LEGAL SERVICES AUTHORITY (NORTH)
ROOM NO. 402 4th Floor, ROHINI COURTS, DELHI**

Ref. DLSA/Rem. Adv./Oct-Dec/N/R/2016/1803-1808 23th Sep, 2016

OFFICE ORDER

The Hon'ble Supreme Court of India in case titled "Mohd. Ajmal @ Mohammad Amir Kasab @ Abu Mujahid Vs. State of Maharashtra" AIR 2012 SC 3565 has passed various detailed directions including a direction to ensure that each arrested person has the right to access to legal aid, to consult and to be defended by a legal practitioner in connection with a cognizable offence right from the time of first production before a Magistrate/Court. Accordingly, in view of the directions of the Hon'ble Supreme Court and in compliance of the circular No. DSLSA/MSO/13/242-250 dated 15th January, 2013, following advocates are appointed as Remand Advocates in District Legal Services Authority (North) for the courts of North District for the month of "October, November & December 2016" as per the list given below:

Column I S.No.	Column II Name of the Court	Column III Name of Remand Advocate
1. <i>29/9/16</i>	Sh. Manu Rai Sethi Ld. Judge NDPS Room No 207	Mr. Ankur Sharma Adv. <i>Ashish</i> Mob.9868434948
2. <i>29/9/16</i>	Sh. Gautam Manan, Ld. ASJ (POCSO) Room No. 201	
3. <i>29/9/16</i>	Mr. Ashish Aggarwal, Ld. CMM Room No. 115	Mr. Vivek Gautam Adv. Mob 9873339533
4. <i>29/9/16</i>	Mr. Manish Khurana, Ld. ACMM Room No. 117	Mr. P. P. Rathi Adv. Mob 9891018009, 9996828833
5. <i>29/9/16</i>	Mr. Vikram, Ld. MM Room No. 116	Mr. Rahul Sharma Adv. Mob 9953075719
6. <i>29/9/16</i>	Mr. Virender Singh, Ld. MM Room No. 319	Mr. Sudeep Yadav Adv. Mob 9650565959
7. <i>29/9/16</i>	Mr. Sunil Kumar, Ld. MM Room No. 213	Mr. Pitamber Singh Adv. (for October month only) Mob 9211321127 Mr. Siddharth Sharma Adv.(for Nov- Dec) Mob 9899729221, 9958724846
8. <i>29/9/16</i>	Ms. Kadambari Awasthi, Ld. MM Room No. 110	Mr. Gopal Krishna Mangla Adv. Mob 9818013208
9. <i>29/9/16</i>	Mr. Jitendra Pratap Singh, Ld. MM Room No. 114	Mr. Ashish Sehrawat Adv. Mob 9891743681
10. <i>29/9/16</i>	Ms. Richa Manchanda, Ld. MM Room No.103	Ms. Shivali Gautam Adv. Mob 9891249161
11. <i>29/9/16</i>	Sh. Kapil Kumar, Ld. MM Room No. 320	Mr. Nathu Ram Adv. Mob 9868317586

(1)

**DISTRICT LEGAL SERVICES AUTHORITY (NORTH)
ROOM NO. 402 4th Floor, ROHINI COURTS, DELHI**

Terms and Conditions:

1. The Remand Advocates as mentioned in Column no. III shall remain present in the courts mentioned in Column No. II on all the working days as well as on Sundays and Holidays, if the court concerned, to which they remand advocate has been attached, is working during the said period.
2. If the courts as mentioned in the Column No. II happens to be working as Duty MM on a particular day; the Remand Advocate attached to that court shall also remain present along with the concerned Ld. MM in the video conferencing room during the electronic video linkage remand sessions. The copy of the Duty Roaster of the Magistrate Court shall be made available to the Remand Advocates by this office.
3. Analogous to the patterns of the Link Magistrates, the Remand Advocates shall also work as the Link Remand Advocates. The Link Roaster for the Remand Advocates shall be the same as that being followed by the concerned courts. In order to ensure the presence in the Link Courts, the Remand Advocates shall be provided with the Link Roaster of the Magistrates.
4. If any Remand Advocate happens to be on leave or is unable to appear in the court for unavoidable circumstance, the remand work of the said court shall be attended by the Remand Advocate deputed in the first Link Court. If, the Remand Advocate deputed in the First Link Court is also on leave or not available, the remand work shall be attended by the Remand Advocate deputed in the Second Link Court and so on.
5. In case, any Remand Advocate is on leave or is unable to attend the court, he shall send prior intimation not only to this office and the concerned court but also his Link Remand Advocate as per the Link Roaster. Failure of any Remand Advocate to do so shall be viewed as dereliction of duty.
6. Ld. Presiding Officer are requested to intimate this authority forthwith in case a Remand Advocate is not present to attend U.T.P. who has no private Advocate.

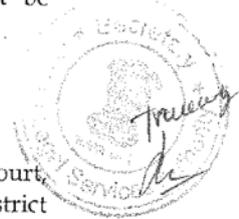
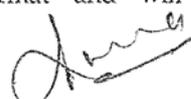
(2)



DISTRICT LEGAL SERVICES AUTHORITY (NORTH)
ROOM NO. 402 4th Floor, ROHINI COURTS, DELHI

7. Any case assigned to the Remand Advocate by the court concerned shall be dealt with by the counsel as per law irrespective of the rescheduling of the work in future. He shall also keep the office informed regarding the progress of the case as well as the next date of hearing.
8. The Remand Advocate in MM panel shall be paid Rs. 7500/- (Rs. Seven Thousand five Hundred only) and in Session Panel shall be paid 6500/- (Rs. Six Thousand Five Hundred only) per month for discharging duties as Remand Advocate. He/she may move the appropriate application on behalf of the accused at the time of remand; however, no separate fees for filing any such application shall be paid. Generally the Remand Advocate shall not be entitled to claim/raise bill for attending the remand work of the Link Remand Advocate. But if a Link Remand Advocate attended such work for more than 3 days in a month, then appropriate order may be passed by the undersigned.
9. The Remand Advocates shall prepare a separate daily diary of the work done as Remand Advocate.
10. The Remand Advocates shall also obtain a certificate for attendance on month to month basis from the court concerned and shall submit the same to this office along with their bills.
11. Further Remand Advocate are directed to produce their daily attendance sheet signed by the presiding officer of court concerned in format enclosed herewith as Annexure 'A'.
12. The Remand Advocates shall submit their bills in this office latest by 7th of each month and in any eventuality, the bill shall not be considered after the expiry of three months.
13. In case of appointment in any of the case by the order of the Court, concerned legal aid advocate is directed to inform the office of District Legal Services Authority (North) in proper format and will

(3)



DISTRICT LEGAL SERVICES AUTHORITY (NORTH)
ROOM NO. 402 4th Floor, ROHINI COURTS, DELHI

continuously appear in that court and will update the Office of District Legal Services Authority (North) regarding the progress of the case and next date of hearing.

14. The performance of Remand Advocate shall be assessed on monthly basis in consultation with the Ld Presiding Officer of the Concerned Court and adverse report against the Remand Advocate by the Concerned Court shall be given weight age.
15. *The remand advocates appointed by this duty roaster are directed that they shall not appear for the accused persons for whom the remand advocates have already been appointed by the Hon'ble Courts and the appointment letter have been issued by the DLSA (North). The earlier remand advocates shall continue to appear for the accused for whom they have already been appointed.*
16. *The Hon'ble Courts are requested to call the earlier remand advocates earlier appointed to pursue the case and if the earlier remand advocates are not appearing, the same be brought to the notice to the Secretary, DLSA (North), and thereafter, the appropriate decision shall be taken by the Secretary, DLSA (North) whether to appoint the current remand advocate for the accused or not. The current remand advocates shall also bring the same to the notice of Hon'ble Court.*
17. *Further each remand advocate is directed to bring to the notice of this authority for the next date of hearing and other details of all case "committed" to Session Court. By Ld. MM court, at earliest, so that DLSA panel advocate can be appointed timely to unrepresented U.T.P.*

1. Mr. Sudeep Yadav, Adv. Mob: 9650565959, shall look after the remand work of the Court of:-

- Sh. Virender Kumar Bansal, Ld. ASJ (North), Room No. 205, Rohini Courts.



4



SCHEME FOR SETTING UP OF LEGAL AID CLINICS IN CENTRAL, DISTRICT AND SUB JAILS

In order to implement the National Plan of Action for the year 2012-2013, issued by National Legal Services Authority, New Delhi, Hon'ble Mr. Justice Jasbir Singh, Acting Chief Justice and Executive Chairman, Punjab Legal Services Authority has issued the guidelines for setting up of Legal Aid Clinics in Central, District and Sub Jail as per the scheme mentioned below:

- a) All the District Legal Services Authorities are directed to identify at least three female and six male, long term convicts in Central jails and at least two female and three male, long term convicts in District jails and in Sub jails, as per availability of long term convicts, to train them as Para Legal Volunteers, who shall be paid honorarium @ Rs. 250/- per day as per the National Legal Services Authority, (Legal Aid Clinic) Regulations 2011.
- b) Only those long term convicts may be trained as PLV's who are willing to help other inmates, to get legal aid and the consent of such long term convicts may be obtained in writing for their appointment as PLV's.
- c) The convicts to be selected as PLV's should be able to read and write and if possible, the persons possessing higher qualification may be selected and trained as Para Legal Volunteers.
- d) After imparting Para Legal Volunteer training to these convicts, they may be engaged in legal aid clinics established in that particular jail for rendering legal

Secretary
District Legal Services Authority

16/11/16 Mogha

Point 3(b)

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- services to under-trials/convicts. These long term convicts may not be issued identity cards.
- e) The District Legal Services Authorities to depute Retainer Lawyers/Panel Lawyers depending upon the availability, on rotation basis to visit legal aid clinics in jails for providing free legal services. The Panel Lawyers/Retainer Lawyers who receive the application on prescribed Proforma for getting Legal Aid, to file or defend his case, shall forward the same to the Secretary, District Legal Services Authority/ Sub-Divisional Legal Services Committee. The Model Proforma for obtaining Legal Aid is enclosed as Annexure 'A'.
 - f) A Register be maintained in each Legal Aid Clinic to record the names and particulars of the inmates alongwith the detail of Legal Aid provided. The Proforma of the register to be maintained is enclosed as Annexure 'B'.
 - g) All the District Legal Services Authorities to send monthly performance report of the Legal Aid Clinics established in jails on the Proforma enclosed herewith as Annexure 'C'.


Secretary
District Legal Services Authority
16/11/16
Mon

4

Reg. No. 078.....				Legal Aid			
(Monitoring) Register				Page No.037.....			
Month				Month			
Sr. No.	Title of the case	Name of Legal Aid Counsel	Name of the Party to Whom Legal Aid Given	Brief summary of Legal Aid Given	Brief summary of the proceedings	Next Date	Purpose to Which Adjournd for Next Date
317.	Shikha vs Unknown	Sh. Sandeep Kumar, Adv.	Shikha s/o Sh. Balbir Singh	Legal aid given on 14/12/16			
318.	Rajbiri vs Unknown	Ms. Usha Grestog, Adv.	Rajbiri s/o Sh. Brijender Singh		I appeared in this Court and filed the power of Attorney	17/12/16	Reply
319.	Neelam vs Unknown	Sh. Parveen Kumar, Talsan, Adv.	Neelam w/o Sh. Satbir Singh.				
320.	Soni Kumar vs Unknown	--do--	Soni s/o Phool Chand	15.12.16			
321.	Mohit Verma vs Unknown	--do--	Mohit s/o Sh. Tek Chand Verma.				
322.	Sumesh vs Unknown.	Sh. Mukesh Vaid Adv.	Sumesh s/o Sh. Madan Lal.		Evidence	22-12-16	Cont.
323.	Neelam vs Unknown	Sh. Parveen Kumar, Talsan, Adv.	Neelam w/o Sh. Satbir Singh.				
324.	Sherali vs Unknown	Sh. Mukesh Vaid, Adv.	Sherali s/o Sh. Ishwar Singh		Written Statement	16-12-16	Cont.
	Sh. Anil Sharma, Adv.	Sh. Anil Sharma, Adv.	Dharmbal s/o Sh. Nav Singh.				

Chief Judicial Magistrate
 District Legal Services
 Authority, Rohtak

2 H. FORMAT OF MONITORING COMMITTEE REPORT OF JODHPUR DLSA

क्र.	नियुक्ति तिथि	आवेदक का नाम	न्यायालय का नाम	प्रकरण संख्या	धाराएं	अनवान	नियुक्त अधिवक्ता का नाम
5	29/4/16	विनोद विश्वास पुत्र महानन्द	ACMM (Rly)	Case No. 1/16	3 RP UP Act		श्री श्यामसिंह गादेरी

अधिवक्ता की रिपोर्ट :-

मुझे दो बार Railway कोर्ट जाकर भाया परन्तु भ्रष्टाचार प्रथा में समाधान नहीं मिला। पत्राचार जमाने के कारण वकालतगण व प्रकरणों में देरी हो रही है। सभी मामलों को पत्राचार के माध्यम से सुचारु रूप से चलाया जा रहा है।
 अधिवक्ता के हस्ताक्षर व एनरोलमेंट नं. 599/99

कमेटी की रिपोर्ट :-

1. C.C. to write to Jail authorities and inquire exact case no.
2. Ld. Adv. is asked to file detailed report within 15 days.
3. Adv. attending Jail be asked to meet accused personally.

(सदस्य अधिवक्ता) *[Signature]* (पूर्णकालिक सचिव) *[Signature]* (अध्यक्ष) *[Signature]*

क्र. सं.	नियुक्ति तिथि	आवेदक का नाम	न्यायालय का नाम	प्रकरण संख्या	धाराएं	अनवान	नियुक्त अधिवक्ता का नाम
6	29/4/16	भुवनेश पुत्र कान्तिलाल	MM-1	Case No. 30/16	4/25 Arms Act		श्री ताहीर अहमद

अधिवक्ता की रिपोर्ट :- 29/4/16 को DLSA के फॉर्म भरकर न्यायालय में उपस्थित होने पर प्रत्यक्ष कि अधिवक्ता के द्वारा निम्न अधिवक्ता, न जमाना पर मिलने के बाद अधिवक्ता विनोद विश्वास पुत्र को भी कोर्ट जाकर भाया पर प्रत्यक्ष पत्राचार के माध्यम से सुचारु रूप से चलाया जा रहा है।
 अधिवक्ता के हस्ताक्षर व एनरोलमेंट नं. 1/2016

कमेटी की रिपोर्ट :-

Accused shall be informed and application be rejected and filed accordingly.

(सदस्य अधिवक्ता) *[Signature]* (पूर्णकालिक सचिव) *[Signature]* (अध्यक्ष) *[Signature]*

2 I. ORDER FOR APPOINTMENT OF JAIL VISITING LAWYERS IN EAST DELHI DISTRICT CLEARLY LAYING DOWN THE DOS AND THE DON'TS

RTI - F.No-2/DLSA/East/RTI/16/12

EAST DISTRICT LEGAL SERVICES AUTHORITY

(Constituted under the 'Legal Services Authorities Act, 1987', an Act of Parliament)

Under the Administrative Control of High Court of Delhi

Room No.36, Ground Floor, Karkardooma Courts, Delhi
Ph. : 22101336, Fax : 22382490, Email : east-dlsa@nic.in



Ref. No. DLSA/KKD/East/Jail Visit/16/1254-1255

Dated: 28.05.2016

OFFICE ORDER

In continuation of Office Order Ref. No.301/DLSA/Admn./JV/10/5184 dated 4th May, 2010 and as per direction of Ld. Member Secretary the following advocates are appointed as Jail Visiting Advocates as detailed below w.e.f. 01.06.2016 to 31.07.2016:-

S.No	Name of the Advocates with Court Complex	Jail No.	Days to visit
01.	Sh. Charan Jeet, Ch. No G-601, KKD Courts, Mob. No. 9711574560	8	Mon-Weds <i>31/5/16</i>
02.	Sh. Dinesh Yaduvanshi Adv. (KKD East District), Ch. No.E-313, KKD Courts, Delhi, Mob. No. 9891340344	9	Thu-Sat <i>Waryans</i>
03.	Sh. Shyam Nandan Jha. (KKD East District), Ch. No. D-723, KKD, Mob. No. 9711114697	9	Mon-Wed <i>Shyam Nandan Jha 31/5/16</i>
04.	Sh Praveen Thukral, Adv. Ch. No. E-53, KKD, Mob. No. 9811849054	8	Thu-Sat <i>Praveen Thukral 31/5/16</i>

It is hereby impressed upon all the jail visiting advocates that:-

1. They shall not take copy of chargesheet or any kind of documents from the under trial prisoners for any reason whatsoever, for taking it with them.
2. They shall not canvass any case in their private capacity.
3. They shall handover the petition to the Jail Superintendent after drafting and signing.
4. They shall not draft any Furlough application which is not maintainable as per the Parole Furlough guidelines such as the convict lodged in NDPS cases or habitual offenders etc.
5. They shall spread awareness amongst the new UTPs about the free legal services being provided by DLSA, DHCLSC and SCLSC.
6. They shall focus on personal interactions with the inmates rather than preparing the petition there itself. Petitions may be drafted later on at LSA's Chamber as per notes taken and bill if any be raised to DLSA concerned.
7. They shall hold awareness programme on any day of their duty in a month in jail on plea bargaining and other legal topics.
8. Where a requisition of stationery is sent/forwarded by Jail Visiting Advocate, he/she has to specify if any requisition in this regard has been sent to the Jail Administration prior to such requisition or not and how much of stationery is supplied by the Jail Administration against that earlier requisition.

(Bhawani Sharma),
Secretary (DLSA)/East

Copy to:

1. The Ld. Member Secretary, DLSA, Patiala House Court, New Delhi
2. The Suptd. Jail Section.
3. Concerned Advocate
4. Office Order file.

*Provide to all RTI Act, 2005.
PIO (DLSA)/East
18.11.16.*

(Bhawani Sharma),
Secretary (DLSA)/East

3. NALSA APPOINTED COMMITTEE'S SUGGESTIONS ON MINIMUM FEES FOR PANEL LAWYERS

A. Subordinate Courts at all levels including Tribunals

- i. Drafting of substantive pleading such as Suit, Matrimonial Proceedings such as Divorce, Maintenance, Custody, Restitution etc., Succession, Probate, Memo of Appeal, Revision, Written Statement, Reply, Rejoinder, Replication etc.-Rs.1,200/.
- ii. Drafting of Miscellaneous applications such as stay, bail, direction and exemption etc. - Rs. 400/- per application subject to maximum of Rs. 800/- for all applications.
- iii. Appearance-Rs 750/- per effective hearing and Rs 500/- for non-effective hearing subject to a maximum of Rs. 7500/- (per case).

B. High Court

- i. Drafting of substantive pleading such as Writ Petition, Counter Affidavit, Memo of Appeal, Revision, Reply, Rejoinder, Replication-Rs. 1500/-.
- ii. Drafting of Miscellaneous applications such as stay, bail, direction, exemption etc.-Rs. 500/- per application subject to maximum of Rs. 1000/- for all applications.

4. LEGAL AID REGULATIONS FOR PERSONS IN CUSTODY

4 A. NALSA STANDARD OPERATING PROCEDURE FOR REPRESENTATION OF PERSONS IN CUSTODY 2016

NATIONAL LEGAL SERVICES AUTHORITY

One of the core areas of activity of the LSI is providing legal aid. Under Section 12 of the Legal Services Authorities Act, 1987, all persons in custody are entitled to legal aid. However, the system of providing representation to those in custody is not uniform across the country. The frequency of visits by JVLs to the jails is also not standardised with lawyers visiting only once a month in some places while at others, they may visit twice a week. The jail visiting lawyers are often not clear what is expected of them to do. Clearly the system of interaction with the inmates in jails and their representation in courts needs to be strengthened.

In several districts across the country, the persons in custody are not produced before the courts for days together. This happens even at the stage where the charge sheet has still not been filed. There are many cases where the accused was produced before the court after arrest and was remanded to custody but thereafter was not produced on several dates meant for remand. The reasons given for the same are generally non availability of sufficient number of armoured vehicles and of personnel to produce the persons in custody before the courts and that at times the accused are required to be produced in other courts. This is contrary to the mandate of Code of Criminal Procedure and also violates the basic rights of the persons in custody as enshrined in the Constitution and enunciated by the Hon'ble Apex Court in several landmark cases and most importantly is an impediment to their liberty. Due to non-production of the persons in custody before the courts at regular intervals, the courts are unable to consider whether the persons in custody are facing any problems. Legal representation to them cannot also be ensured in such circumstances.

The persons in custody continue to languish in jails without bail applications being moved on their behalf. Even where bail orders have been granted, they continue to languish in jails as bail bonds are not furnished and the courts find it difficult to communicate with the persons in custody due to their non-production before the courts. Such cases need to be brought to the notice of the court. Further the persons in custody do not get timely information about the status of their cases and their rights. As such, there is an urgent need to bridge the gap between the accused persons and legal services to them.

Several initiatives have already been taken such as setting up of legal services clinics in the jails across the country, identifying and training PLVs who could communicate with the inmates in the prisons but much more needs to be done.

For this purpose, the district legal services authorities should take the following steps:

- 1) Panel lawyers should be deputed as remand advocates in each of the magisterial courts and also, in the courts of sessions where required.
- 2) Work of the legal service clinics in the jails should be streamlined with clearly demarcated space for such clinics. Requisite infrastructure should be made available, if need be as per the Regulations in this regard for the efficient functioning of such clinics.
- 3) From amongst the panel lawyers, some lawyers should be ear marked as jail visiting lawyers. Visits to the jails must be made at least twice every week.
- 4) The possibility of taking the services of retired judicial officers as jail visiting lawyers may be explored and honorarium for them can be fixed by the Hon'ble Executive Chairmen of the SLSAs.
- 5) Sufficient number of PLVs, from amongst the convicts serving long sentences should be identified and they should be trained suitably, where not already done, so that they interact with the inmates, especially the new entrants and can bring to the notice of the jail visiting lawyers or the Secretary of the District Legal Services Authority, the cases requiring attention.
- 6) The PLVs should maintain the record mentioning the date a person was brought into the jail, the offence alleged against him, stage of case, next date of hearing and the name of the court.

- 7) The jail visiting lawyers from the district legal services authorities shall regularly interact with the inmates and especially the new inmates to find out if they are represented by any lawyer and if not, they should inform the inmate about their right to get a legal aid lawyer. They should also inform the District Secretary so that a legal aid lawyer can be appointed to represent the inmate in court.
- 8) The Jail visiting lawyers should prepare a brief summary of each interaction and send the same to the Secretary, district legal services authority along with contact details of the family of the accused, if available so that the panel lawyer can coordinate with them.
- 9) The Secretary, district legal services authority may take up a case brought to his notice which needs immediate attention with the district judge or the jail inspecting judge.
- 10) The Jail Superintendent should be called upon to send a list of inmates in jail every fortnight which should be reviewed by the Secretary of the district legal services authority, who can take up the cases requiring attention with the concerned authorities.
- 11) The PLVs and the Jail visiting lawyers should also keep track of non-production of any inmate in the court as per the date given or of the cases where no next date is available and inform the Secretary, district legal services authority.
- 12) If it comes to the notice of the District Secretary that for certain reasons, the persons in custody are not produced before the court on a particular day, he should bring the same to the notice of the concerned chief judicial magistrate or the chief metropolitan magistrate who may take appropriate action and for the time being may designate a magistrate to go to the jails for doing the remand work for that day.
- 13) The matter of making available requisite armoured vehicles and personnel for taking the persons in custody to the courts for production should be taken up with the appropriate government.
- 14) The Jail visiting lawyers shall communicate to the Secretary, district legal services authority whenever bail application has to be filed on behalf of an inmate or if subsequently, it comes to their notice that an undertrial is not being represented by a lawyer in the court, who shall issue appropriate directions for a lawyer to be appointed in the case. They should also bring to the notice of the Secretary, District Legal Services Authority cases where bail orders have been issued but bail bonds could not be furnished due to various reasons.
- 15) The Secretary, district legal services authority shall place the cases of undertrial prisoners who are eligible under Section 436A Cr.P.C. before the Undertrial Review Committee of the District promptly.
- 16) The panel lawyer who is appointed to represent a person in custody in the court should interact with the person in custody to have a better understanding of the case in hand. The panel lawyer assigned a particular case shall inform the next date of hearing and the purpose of the same to the Secretary, district legal services authority within 3 days of the date of hearing in the court.
- 17) The legal services clinic in the jail shall coordinate with the Jail Superintendent and the panel lawyer through the Secretary, district legal services authority to keep itself updated on the status of the legal aided cases of each inmate, including the next date of hearing and the purpose. The status of the case shall be recorded in the registers to be maintained by the clinic and shall also be communicated to the concerned inmate and the Jail Superintendent.
- 18) Regular awareness camps should be organised in the jails to create awareness on legal issues and specifically on the rights of the persons in custody.
- 19) Suggestion/complaint box should be available in each legal service clinic in the jail which should be opened once every week in the presence of the panel lawyer and the Jail Superintendent and the cases requiring attention should be brought to the notice of the Secretary, District Legal Services Authority.
- 20) Where possible, video conferencing may be used to enable communication with the jail inmates.

The Member Secretaries are requested to take up the above issue urgently.

It would be appropriate if the Member Secretaries of all the states get an inspection done of all the jails in their states to identify cases of persons who have not been produced in courts for several dates and thereafter to direct the secretaries, district legal services authorities to get applications moved in that regard in the concerned courts. Similar steps should be taken where bail applications have to be moved or for modification of bail conditions etc. The Member Secretaries should review the working of the legal service clinics in the jails on a regular basis.

All out efforts should be made to ensure that the persons in custody are effectively represented in the courts and to make them aware of their rights and availability of legal aid.

4 B. NATIONAL LEGAL SERVICES AUTHORITY (FREE AND COMPETENT LEGAL SERVICES) REGULATIONS, 2010

New Delhi, dated 9th September, 2010

No.L/61/10/NALSA. - In exercise of the powers conferred by section 29 of the Legal Services Authorities Act, 1987 (39 of 1987) and in pursuance of the provisions in section 4 of the Act to make available free and competent legal services to the persons entitled thereto under section 12 of the said Act, the Central Authority hereby makes the following regulations, namely: -

1. **Short title, extent and commencement.** - (1) These regulations may be called the National Legal Services Authority (Free and Competent Legal Services) Regulations, 2010.
 - (2) They shall be applicable to Supreme Court Legal Services Committee, State Legal Services Authorities, High Court Legal Services Committees, District Legal Services Authorities and Taluk Legal Services Committees in India.
 - (3) They shall come into force from the date of their publication in the Official Gazette.
2. **Definitions.** - (1) In these regulations, unless the context otherwise requires, -
 - (a) "Act" means the Legal Services Authorities Act, 1987 (39 of 1987);
 - (b) "Form" means a Form annexed to these Regulations;
 - (c) "front office" means a room in the Legal Services Institution where legal services are made available;
 - (d) "legal practitioner" shall have the meaning assigned to it in clause (i) of section 2 of the Advocates Act, 1961 (25 of 1961);
 - (e) "Legal Services Institution" means the Supreme Court Legal Services Committee, a State Legal Services Authority, the High Court Legal Services Committee, District Legal Services Authority or the Taluk Legal Services Committee, as the case may be;
 - (f) "Para-Legal Volunteer" means a para-legal volunteer trained as such by a Legal Services Institution;
 - (g) "Secretary" means the Secretary of the Legal Services Institution;
 - (h) "section" means the section of the Act;
 - (i) "State regulation" means regulation made by the State Authorities under the Act.

2. All other words and expressions used but not defined in these regulations shall have the same meanings assigned to them in the Act.
3. **Application for legal services.**- (1) An application for legal services may be presented preferably in Form-I in the local language or English.
 - (2) The applicant may furnish a summary of his grievances for which he seeks legal services, in a separate sheet along with the application.
 - (3) An application, though not in Form-I, may also be entertained, if reasonably explains the facts to enable the applicant to seek legal services.
 - (4) If the applicant is illiterate or unable to give the application on his or her own, the Legal Services Institutions may make arrangement for helping the applicant to fill up the application form and to prepare a note of his or her grievances.
 - (5) Oral requests for legal services may also be entertained in the same manner as an application under sub-regulation (1) and (2).
 - (6) An applicant advised by the para-legal volunteers, legal aid clubs, legal aid clinics and voluntary social service institutions shall also be considered for free legal services.

(7) Requests received through e-mails and interactive on-line facility also may be considered for free legal services after verification of the identity of the applicant and on ensuring that he or she owns the authorship of the grievances projected.

4. Legal Services Institution to have a front office.- (1) All Legal Services Institutions shall have a front office to be manned by a panel lawyer and one or more para-legal volunteers available during office hours.

(2) In the case of court based legal services, such lawyer shall after consideration of the application, forward the same to the Committee set up under regulation 7 and for other types of legal services, the panel lawyer in the front office may provide such legal services.

(3) The panel lawyer in the front office shall render services like drafting notices, sending replies to lawyers' notices and drafting applications, petitions etc.

(4) The panel lawyer in the front office may obtain secretarial assistance from the staff of the Legal Services Institutions.

(5) In case of urgent matters, the panel lawyer in the front office may in consultation with the Member-Secretary or Secretary of the Legal Services Institutions provide legal assistance of appropriate nature:

Provided that the Committee set up under regulation 7 may consider and approve the action taken by the panel lawyer in the front office.

5. Proof of entitlement of free legal services. -- (1) An affidavit of the applicant that he falls under the categories of persons entitled to free legal services under section 12 shall ordinarily be sufficient.

(2) The affidavit may be signed before a Judge, Magistrate, Notary Public, Advocate, Member of Parliament, Member of Legislative Assembly, elected representative of local bodies, Gazetted Officer, teacher of any school or college of Central Government, State Government or local bodies as the case may be.

(3) The affidavit may be prepared on plain paper and it shall bear the seal of the person attesting it.

6. Consequences of false or untrue details furnished by the applicant. - The applicant shall be informed that if free legal services has been obtained by furnishing incorrect or false information or in a fraudulent manner, the legal services shall be stopped forthwith and that the expenses incurred by the Legal Services Institutions shall be recoverable from him or her.

7. Scrutiny and evaluation of the application for free legal services. - (1) There shall be a Committee to scrutinise and evaluate the application for legal services, to be constituted by the Legal Services Institution at the level of Taluk, District, State and above.

(2) The Committee shall be constituted by the Executive Chairman or Chairman of the Legal Services Institution and shall consist of, -

(i) the Member Secretary or Secretary of the Legal Services Institution as its Chairman and two members out of whom one may be a Judicial Officer preferably having working experience in the Legal Services Institution and;

(ii) a legal professional having at least fifteen years' standing at the Bar or Government pleader or Assistant Government Pleader or Public Prosecutor or Assistant Public Prosecutor, as the case may be.

(3) The tenure of the members of the Committee shall ordinarily be two years which may be further extended for a maximum period of one year and the Member Secretary or Secretary of the Legal Services Institution shall, however, continue as the ex-officio Chairman of the Committee.

(4) The Committee shall scrutinise and evaluate the application and decide whether the applicant is entitled to the legal services or not within a period of eight weeks from the date of receipt of the application.

(5) If the applicant is not covered under the categories mentioned in section 12, he or she shall be advised to seek assistance from any other body or person rendering free legal services either voluntarily or under any other scheme.

(6) The Legal Services Institution shall maintain a list of such agencies, institutions or persons who have expressed willingness to render free legal services.

(7) Any person aggrieved by the decision or order of the Committee, he or she may prefer appeal to the

Executive Chairman or Chairman of the Legal Services Institution and the decision or order in appeal shall be final.

8. Selection of legal practitioners as panel lawyers. - (1) Every Legal Services Institution shall invite applications from legal practitioners for their empanelment as panel lawyers and such applications shall be accompanied with proof of the professional experience with special reference to the type of cases which the applicant-legal practitioners may prefer to be entrusted with.

(2) The applications received under sub-regulation (1) shall be scrutinised and selection of the panel lawyers shall be made by the Executive Chairman or Chairman of the Legal Services Institution in consultation with the Attorney-General (for the Supreme Court), Advocate-General (for the High Court), District Attorney or Government Pleader (for the District and Taluk level) and the respective Presidents of the Bar Associations as the case may be.

(3) No legal practitioner having less than three years' experience at the Bar shall ordinarily be empanelled.

(4) While preparing the panel of lawyers the competence, integrity, suitability and experience of such lawyers shall be taken into account.

(5) The Executive Chairman or Chairman of the Legal Services Institution may maintain separate panels for dealing with different types of cases like, Civil, Criminal, Constitutional Law, Environmental Law, Labour Laws, Matrimonial disputes etc.

(6) The Chairman of the Legal Services Institution may, in consultation with the Executive Chairman of the State Legal Services Authority or National Legal Services Authority as the case may be prepare a list of legal practitioners from among the panel lawyers to be designated as Retainers.

(7) The Retainer lawyers shall be selected for a period fixed by the Executive Chairman on rotation basis or by any other method specified by the Executive Chairman.

(8) The strength of Retainer lawyers shall not exceed, -

(a) 20 in the Supreme Court Legal Services Committee;

(b) 15 in the High Court Legal Services Committee;

(c) 10 in the District Legal Authority;

(d) 5 in the Taluk Legal Services Committee.

(9) The honorarium payable to Retainer lawyer shall be, -

(a) Rs.10,000 per month in the case of Supreme Court Legal Services Committee;

(b) Rs.7,500 per month in the case of High Court Legal Services Committee;

(c) Rs.5,000 per month in the case of District Legal Services Authority;

(d) Rs.3,000 per month in the case of the Taluk Legal Services Committee:

Provided that the honorarium specified in this sub-regulation is in addition to the honorarium or fee payable by the Legal Services Institution for each case entrusted to the Retainer lawyer.

(10) The panel lawyers designated as Retainers shall devote their time exclusively for legal aid work and shall be always available to deal with legal aid cases and to man the front office or consultation office in the respective Legal Services Institution.

(11) The panel prepared under sub-regulation (2) shall be re-constituted after a period of three years but the cases already entrusted to any panel lawyer shall not be withdrawn from him due to re-constitution of the panel.

(12) The Legal Services Institution shall be at liberty for withdrawing any case from a Retainer during any stage of the proceedings.

(13) If a panel lawyer is desirous of withdrawing from a case he shall state the reasons thereof to the Member-Secretary or the Secretary and the latter may permit the panel lawyer to do so.

(14) The panel lawyer shall not ask for or receive any fee, remuneration or any valuable consideration in any manner, from the person to whom he had rendered legal services under these regulations.

(15) If the panel lawyer engaged is not performing satisfactorily or has acted contrary to the object and spirit of the Act and these regulations, the Legal Services Institution shall take appropriate steps including withdrawal of the case from such lawyer and his removal from the panel.

9. Legal services by way of legal advice, consultation, drafting and conveyancing. - (1) The Executive Chairman or Chairman of the Legal Services Institution shall maintain a separate panel of senior lawyers, law firms, retired judicial officers, mediators, conciliators and law professors in the law universities or law colleges for providing legal advice and other legal services like drafting and conveyancing.

(2) The services of the legal aid clinics in the rural areas and in the law colleges and law universities shall also be made use of.

10. Monitoring Committee. - (1) Every Legal Services Institution shall set up a Monitoring Committee for close monitoring of the court based legal services rendered and the progress of the cases in legal aided matters.

(2) The Monitoring Committee at the level of the Supreme Court or the High Court, as the case may be, shall consist of, -

(i) the Chairman of the Supreme Court Legal Services Committee or Chairman of the High Court Legal Services Committee;

(ii) the Member-Secretary or Secretary of the Legal Services Institution;

(iii) a Senior Advocate to be nominated by the Patron-in-Chief of the Legal Services Institution.

(3) The Monitoring Committee for the District or Taluk Legal Services Institution shall be constituted by the Executive Chairman of the State Legal Services Authority and shall consist of, -

(i) the senior-most member of the Higher Judicial Services posted in the district concerned, as its Chairman;

(ii) the Member-Secretary or Secretary of the Legal Services Institution;

(iii) a legal practitioner having more than fifteen years' experience at the local Bar-to be nominated in consultation with the President of the local Bar Association:

Provided that if the Executive Chairman is satisfied that there is no person of any of the categories mentioned in this sub-regulation, he may constitute the Monitoring Committee with such other persons as he may deem proper.

11. Functions of the Monitoring Committee. - (1) Whenever legal services are provided to an applicant, the Member-Secretary or Secretary shall send the details in Form-II to the Monitoring Committee at the earliest.

(2) The Legal Services Institution shall provide adequate staff and infrastructure to the Monitoring Committee for maintaining the records of the day-to-day progress of the legal aided cases.

(3) The Legal Services Institution may request the Presiding Officer of the court to have access to the registers maintained by the court for ascertaining the progress of the cases.

(4) The Monitoring Committee shall maintain a register for legal aided cases for recording the day-to-day postings, progress of the case and the end result (success or failure) in respect of cases for which legal aid is allowed and the said register shall be scrutinised by the Chairman of the Committee every month.

(5) The Monitoring Committee shall keep a watch of the day-to-day proceedings of the court by calling for reports from the panel lawyers, within such time as may be determined by the Committee.

(6) If the progress of the case is not satisfactory, the Committee may advise the Legal Services Institution to take appropriate steps.

12. Monitoring Committee to submit bi-monthly reports. - (1) The Monitoring Committee shall submit bi-monthly reports containing its independent assessment on the progress of each and every legal aid case and the performance of the panel lawyer or Retainer lawyer, to the Executive Chairman or Chairman of the Legal Services Institution.

(2) After evaluating the reports by the Committee, the Executive Chairman or Chairman of the Legal Services Institution shall decide the course of action to be taken in each case.

(3) It shall be the duty of the Member-Secretary or Secretary of the Legal Services Institution to place the reports of the Monitoring Committee before the Executive Chairman or Chairman of the Legal Services Institution and to obtain orders.

13. Financial assistance. – (1) If a case for which legal aid has been granted requires additional expenditure like payment of court fee, the fee payable to the court appointed commissions, for summoning witnesses or documents, expenses for obtaining certified copies etc., the Legal Services Institution may take urgent steps for disbursement of the requisite amount on the advice of the panel lawyer or Monitoring Committee.

(2) In the case of appeal or revision the Legal Services Institution may bear the expenses for obtaining certified copies of the judgment and case records.

14. Payment of fee to the panel lawyers. - (1) Panel lawyers shall be paid fee in accordance with the Schedule of fee, as approved under the State regulations.

(2) The State Legal Services Authority and other Legal Services Institution shall effect periodic revision of the honorarium to be paid to panel lawyers for the different types of services rendered by them in legal aid cases.

(3) As soon as the report of completion of the proceedings is received from the panel lawyer, the Legal Services Institution shall, without any delay, pay the fees and expenses payable to panel lawyer.

15. Special engagement of senior advocates in appropriate cases. – (1) If the Monitoring Committee or Executive Chairman or Chairman of the Legal Services Institution is of the opinion that services of senior advocate, though not included in the approved panel of lawyers, has to be provided in any particular case the Legal Services Institution may engage such senior advocate. (2) Notwithstanding anything contained in the State regulations, the Executive Chairman or Chairmen of the Legal Services Institution may decide the honorarium for such senior advocate:

Provided that special engagement of senior advocates shall be only in cases of great public importance and for defending cases of very serious nature, affecting the life and liberty of the applicant.

16. Evaluation of the legal aid cases by the National Legal Services Authority and State Legal Services Authorities. – (1) The Supreme Court Legal Services Committee shall send copies of the bi-monthly reports of the Monitoring Committee of the Supreme Court Legal Services Committee to the Central Authority.

(2) The High Court Legal Services Committees, the State Legal Services Authorities shall submit copies of the bi-monthly reports of their Monitoring Committees to their Patron-in-Chief.

(3) The District Legal Services Authorities and Taluk Legal Services Committees shall submit copies of the bi-monthly reports of their Monitoring Committees to the Executive Chairman of the State Legal Services Authority.

(4) The State Legal Services Authorities shall also send consolidated half- yearly reports of the Monitoring Committees, indicating the success or failure of each of the legal aided cases, to the Central Authority.

(5) In appropriate cases, the Executive Chairman of the National Legal Services Authority may nominate and authorise the members of its Central Authority to supervise, monitor or advise the Legal Services Institution for effective and successful implementation of these regulations.

(U. Sarathchandran)
Member-Secretary

Form -I

National Legal Services Authority

(Free and Competent Legal Services) Regulations, -2010

(see regulation-3)

The Form of Application for Legal Services

(this may be prepared in the regional language)

Registration No. :

1. Name :

2. Permanent Address :

3. Contact Address with phone no. if any,
e-mail ID, if any. :

4. Whether the applicant belongs to the category
of persons mentioned in section -12 of the Act :

5. Monthly income of the applicant :

6. Whether affidavit/proof has been produced
in support of income/eligibility u/s 12 of the Act :

7. Nature of legal aid or advise required :

8. A brief statement of the case, if court based
legal services is required. :

Signature of the applicant

Place:

Date:

Form-II

National Legal Services Authority

(Free and Competent Legal Services) Regulation, 2010

(see regulation-11)

Information furnished to the Monitoring Committee about the legal Services provided

- (i) Name of the Legal Services Institution. :
- (i) Legal aid application number and date on which legal aid was given. :
- (iii) Name of the legal aid applicant. :
- (iv) Nature of case (civil, criminal, constitutional law etc,). :
- (v) Name and roll number of the lawyer assigned to the applicant. :
- (vi) Name of the Court in which the case is to be filed / defended. :
- (vii) The date of engaging the panel lawyer. :
- (viii) Whether any monetary assistance like, court fee, advocate commission fee, copying charges etc. has been given in advance? :
- (ix) Whether the case requires any interim orders or appointment of commission? :
- (x) Approximate expenditure for producing records, summoning of witnesses etc. :
- (xi) The expected time for conclusion of the proceedings in the Court. :

MEMBER-SECRETARY / SECRETARY

Dated:

4 C. NATIONAL LEGAL SERVICES AUTHORITY (LEGAL SERVICES CLINICS) REGULATIONS, 2011

New Delhi, dated 10th August, 2011

In exercise of the powers conferred by Section 29 of the Legal Services Authorities Act, 1987 (39 of 1987) and in pursuance of the provisions in Section 4 of the said Act the Central Authority hereby makes the following regulations, namely: -

1. **Short title and commencement.**- (1) These regulations may be called the National Legal Services Authority (Legal Services* Clinics) Regulations, 2011.
(2) They shall come into force from the date of their publication in the Official Gazette.
**Substituted by Noti" No. L/08/11 NALSA, dated 18-11-2014(w.e.f.6-72-2014).*
2. **Definitions.** – (1) In these regulations, unless the context otherwise requires, -
 - (a) "Act" means the Legal Services* Authorities Act, 1987 (39 of 1987);
 - (b) "District ADR centre" means the District Alternative Dispute Resolution Centre established established under the 13th Finance Commission and includes any other similar facilities like Nyaya Seva Sadans at the district level where facilities for Counseling, Mediation, Lok Adalat and Legal Services are provided under a single roof*];
 - (c) "legal Services clinic" means the facility established by the District Legal Services Authority to provide basic legal services to the people with the assistance of Para Legal Volunteers or Lawyers, as the point of first contact for 1 / 9 help and advice and includes legal services clinics set up under Regulation 3 and Regulation 24* ;
 - (d) "legal services institution" means a State Legal Services Authority, District Legal Services Authority or the Taluk Legal Services Committee, as the case may be;
 - (e) "panel lawyer" means the panel lawyer selected under regulation 8 of the National Legal Services Authority (Free and Competent Legal Services) Regulations 2010;
 - (f) "para-legal volunteer" means a para-legal volunteer trained as such by a legal services institution;
 - (g) "retainer lawyer" means a retainer lawyer selected under regulation 8 of the National Legal Services Authority (Free and Competent Legal Services) Regulations 2010;
 - (h) "section" means the section of the Act;(2) All other words and expressions used in these regulations but not defined shall have the same meanings as assigned to them in the Act.
3. **Establishment of Legal Services clinic*.-**, Subject to the financial resources available, the District Legal Services Authority shall establish legal Services clinics in- (a) all villages, or for a cluster of villages, depending on the size of such villages, which shall be called the village Legal Care and Support Centre; and (b) jails, educational institutions, community centres, protection homes, Courts, juvenile justice boards and other areas, especially where the people face geographical, social and other barriers for access to the legal services institutions.
4. **Eligibility criteria for free legal services in the legal Services clinic.**- Every person who fulfills the criteria specified in section 12 shall be eligible to get free legal services in the legal Services clinics.
5. **The personnel manning the legal Services clinic.**- (1) Every legal Services clinic established under regulation 3 shall have at least two para-legal volunteers available during the working hours of the legal Services clinics.
 - (2) The legal services institution having territorial jurisdiction or the District Legal Services Authority may depute trained para-legal volunteers to the legal Services clinics.

- (3) When lawyers are deputed to the legal Services clinic, it shall be the duty of the para-legal volunteers engaged in such clinic to assist the lawyers in drafting petitions, applications, pleadings 2 / 9 and other legal documents.
 - (4) The State Legal Services Authority may encourage para-legal volunteers to obtain diploma or degree in law for betterment of their prospects in the long run.
6. **Deputing lawyers to the legal Services clinic.** – (1) The nearest legal services institution having territorial jurisdiction may depute its panel lawyers or retainer lawyers to the legal Services clinic.
- (2) If the matter handled by any such lawyer requires follow-up and continuous attention for a long duration, the same lawyer who had handled the matter may be entrusted to continue the legal services.
7. **Frequency of visit by lawyers in the legal Services clinic.** – Subject to the local requirements and availability of financial resources, the legal services institution having territorial jurisdiction may decide the frequency of the lawyers’ visit in the legal Services clinics and if the situation demands for providing continuous legal services, such legal services institution may consider arranging frequent visits of lawyers in the legal Services clinic.
8. **Selection of lawyers for manning the legal Services clinics.**– (1) The Panel lawyers or retainer lawyers with skills for amicable settlement of disputes, shall alone be considered for being deputed to the legal Services clinic:
- Provided that preference shall be given to women lawyers having practice of at least three years.
9. **Legal services in the legal Services clinic.** - (1) Legal services rendered at the legal Services clinic shall be wide ranging in nature.
- (2) The legal Services clinic shall work like a single-window facility for helping the disadvantaged people to solve their legal problems whenever needed.
 - (3) Besides legal advice, other services like preparing applications for job card under the Mahatma Gandhi National Rural Employment Guarantee (MGNREG) Scheme, identity card for different government purposes, liaison with the government offices and public authorities, helping the common people who come to the clinic for solving their problems with the government officials, authorities and other institutions also shall be part of the legal services in the legal Services clinic:
- Provided that the legal Services clinic shall provide assistance by giving initial advice on a problem, assistance in drafting representations and notices, filling up of forms for the various benefits available under different government schemes, public distribution system and other social security schemes: 3 / 9
- Provided further that, in appropriate cases, the legal services sought for by the applicants in the legal Services clinic shall be referred to the legal services institutions for taking further action.
10. **Functions of para-legal volunteers in the legal Services clinic.**– (1) The para-legal volunteers engaged in the legal Services clinic shall provide initial advice to the persons seeking legal service, help such people, especially the illiterate, in drafting petitions, representations or notices and filling-up the application forms for various benefits available under the government schemes.
- (2) para-legal volunteers shall, if necessary, accompany the persons seeking legal services to attend the government offices for interacting with the officials and for solving the problems of such persons.
 - (3) If services of a lawyer is required at the legal Services clinic, the para-legal volunteers shall, without any delay, contact the nearest legal services institution to make available the services of a lawyer.
 - (4) In case of emergency, the para-legal volunteers may take the persons seeking legal services in the legal Services clinic to the nearest legal services institutions.
 - (5) para-legal volunteers shall distribute pamphlets and other materials in Services of legal education and literacy to the persons seeking legal services in the legal Services clinic.
 - (6) para-legal volunteers shall take active part in the legal awareness camps organised by the legal services institutions in the local area of the legal Services clinic.

11. **Location of legal Services clinic.** – (1) Legal Services clinics shall be located at places where the people of the locality can have easy access.
- (2) The legal services institutions may request the local body institutions, such as the village panchayat, to provide a room for establishing legal Services clinics:
- Provided that if no such rooms are available, the District Legal Services Authority may take a room on rent till alternative accommodation is available for establishing the legal Services clinic.
- Provided that if no such rooms are available, the District Legal Services Authority may take a room on rent till alternative accommodation is available for establishing the legal aid clinic.
12. **Assistance of the local body institutions in obtaining a convenient room for the legal Services clinic.** – (1) The State Legal Services Authority shall call upon the local body institutions like the village panchayat, mandal or block panchayat, municipality and corporation etc, to provide space for the functioning of the legal Services clinic.
- (2) Since the legal Services clinic is for the benefit of the people in the locality, the State Legal Services Authority may impress upon the local body institution and the district administration the 4 / 9 need to co-operate with the functioning of the legal Services clinics.
13. **Sign-board exhibiting the name of the legal Services clinic.** – (1) There shall be a signboard, both in English and in the local language, depicting the name of the legal Services clinic, working hours and the days on which the legal Services clinic shall remain open.
- (2) Working hours of the legal Services clinic shall be regulated by the legal services institution having territorial jurisdiction, in consultation with the District Legal Services Authority:
- Provided that subject to the local conditions and requirements of the people in the locality, legal Services clinics shall function on all Sundays and holidays.
14. **Infrastructure in the legal Services clinic.** – (1) Every legal Services clinic shall have at least the basic and essential furniture like a table and 5 to 6 chairs.
- (2) If the legal Services clinic is established in the building of the local body institutions, such local bodies may be requested to provide the essential furniture for use in the legal Services clinic.
- (3) If the legal Services clinic is established in hired premises, the District Legal Services Authority may provide the furniture required in the legal Services clinic:
- Provided that if the District Legal Services Authority has its own building to establish legal Services clinic, the infrastructural facilities shall be provided by such Authority.
15. **Publicity.** – (1) Local body institutions shall be persuaded to give adequate publicity for the Legal Services clinic.
- (2) The elected representatives of the local body institutions may be persuaded to spread the message of the utility of Legal Services clinic to the people in his or her constituency or ward.
16. **Para-legal volunteers or lawyers in the Legal Services clinic shall attempt to resolve disputes amicably.**–
- (1) The para-legal volunteers or the lawyers engaged in the Legal Services clinics shall attempt to amicably resolve the pre-litigation disputes of the persons brought to the Legal Services clinics.
- (2) If the para-legal volunteers or the lawyers feel that such dispute can be resolved through any of the ADR mechanisms, they may refer such disputes to the legal services institution having territorial jurisdiction or to the District ADR centre.
17. **Honorarium for the lawyers and para-legal volunteers rendering services in the Legal Services clinics.**- (1) Subject to the financial resources available, the State Legal Services Authority in consultation with the National Legal Services Authority may fix the honorarium of 5 / 9 lawyers and para-legal volunteers engaged in the Legal Services clinics:
- Provided that such honorarium shall not be less than Rs. 500/- per day for lawyers and Rs. 250/- per day for the para-legal volunteers.

- (2) Special consideration may be given in cases where the Legal Services clinic is situated in difficult terrains and in distant places where transport facilities are inadequate.
18. **The nearest legal services institutions to organise lok adalats at the Legal Services clinic or near to its premises.** – (1) The nearest legal services institution having territorial jurisdiction or the District Legal Services Authority may organise lok adalats for pending* and prelitigation disputes at the Legal Services clinic or in its vicinity.
- (2) The lok adalats organised for pre-litigation settlement of the disputes sent from the Legal Services clinic shall follow the procedure prescribed in sub-section (2) of section 20 and also the provisions in the National Legal Services Authority (Lok Adalats) Regulations, 2009.
19. **Administrative control of the Legal Services clinic.**– (1) Legal Services clinics shall be under the direct administrative control of the District Legal Services Authority
- (2) The State Legal Services authority shall have the power to issue instructions and guidelines on the working of the Legal Services clinics.
20. **Maintenance of records and registers.**– (1) lawyers and para-legal volunteers rendering service in the Legal Services clinic shall record their attendance in the register maintained in the Legal Services clinic.
- (2) There shall be a register in every Legal Services clinic for recording the names and addresses of the persons seeking legal services, name of the lawyer or para-legal volunteer who renders services in the Legal Services clinic, nature of the service rendered, remarks of the lawyer or paralegal volunteer and signature of persons seeking legal services.
- (3) The records of the Legal Services clinics shall be under the control of the Chairman or the Secretary of the legal services institution having territorial jurisdiction over it.
- (4) The District Legal Services Authority may require the Legal Services clinic to maintain other registers also, as may be required.
- (5) It shall be the duty of the para-legal volunteers and the lawyers in the Legal Services clinic to hand over the registers to the legal services institution having territorial jurisdiction as and when called for. 6 / 9
21. **Use of mobile lok adalat vehicle.** – (1) The lawyers rendering legal services in the Legal Services clinic or the para-legal volunteers may request the District Legal Services Authority to send the mobile lok adalat van with members of the lok adalat bench to the Legal Services clinic for settlement of the disputes identified by them.
- (2) The mobile lok adalat van fitted with the facilities for conducting the proceedings of the lok adalat may also be used for conducting lok adalat at the Legal Services clinic or at a place near to it or even at village congregations such as melas and other festive occasions.
22. **Legal Services clinics run by the law students.** – The above regulations shall mutatis mutandis be applicable to the student Legal Services clinics set up by the law colleges and law universities:
Provided that students of law colleges and law universities also may make use of the Legal Services clinics established under these regulations with the permission of the District Legal Services Authority.
23. **Law students may adopt a village for Legal Services camps.** – (1) Law students of the law colleges or law universities may adopt a village, especially in the remote rural areas and organize Legal aid camps in association with the Legal Services clinic Village Legal Care and Support System Centre established under these regulations.
- (2) The law students may, with the assistance of the para-legal volunteers engaged in the Legal Services clinics, conduct surveys for identifying the legal problems of the local people.
- (3) The surveys referred to in sub-regulation (2) may include gathering information relating to the existing litigations and unresolved pre-litigation disputes also.

- (4) The surveys referred to sub-regulation (2) may also focus on the grievances of the local people which would enable the National Legal Services Authority to take necessary steps by way of social justice litigation as provided in clause (d) of section 4.
 - (5) The law students conducting such surveys shall send reports to the State Legal Services Authorities with copies to the legal services institutions having territorial jurisdiction and also to the District Legal Services Authority.
24. **Legal Services clinics attached to the law colleges, law universities and other institutions.** – (1) The law colleges, law universities and other institutions may set up Legal Services clinics, as envisaged in clause (k) of section 4 attached to their institutions as a part of the clinical legal education. 7 / 9
- (2) The law colleges, law universities and other institutions establishing such Legal Services clinic shall inform the State Legal Services Authority about the establishing of such Legal Services clinic.
 - (3) The State Legal Services Authority shall render the required technical assistance for the operation of such Legal Services clinics and shall take measures to promote the activities of such Legal Services clinics.
 - (4) The law students in the final year classes may render legal services in such Legal Services clinics under the supervision of the faculty member of their institution.
 - (5) The State Legal Services Authority may organise alternative dispute resolution camps, including lok adalats, to resolve the problems of the people who seek Legal Services in such Legal Services clinics.
 - (6) The District Legal Services Authority may issue certificates to the students who complete their assignment in such Legal Services clinics.
25. **Services of para-legal volunteers trained by the Legal Services Authorities may be made available in the Legal Services clinics run by the Law Colleges, Law Universities etc.** – Trained para-legal volunteers may be deputed to the Legal Services clinics established under regulation 24 for assisting the persons seeking free legal services and for interacting with the students and the members of the faculty.
26. **The State Legal Services Authorities to conduct periodical review of the functioning of Legal Services clinics.**- (1) The State Legal Services Authority shall collect monthly reports from the District Legal Services Authorities, law colleges and law universities on the functioning of Legal Services clinics working in their jurisdiction.
- (2) The State Legal Services Authority shall conduct periodical review of the working of such Legal Services clinics at least once in three months or more frequently.
 - (3) The State Legal Services Authority may issue directions from time to time for improving the services in the Legal Services clinics to ensure that members of the weaker sections of the society are provided legal services in an efficient manner.
 - (4) The State Legal Services Authority shall send quarterly reports about the functioning of the Legal Services Clinics within their jurisdiction to the National Legal Services Authority.

File No.L/08/11/NALSA

(U.Sarathchandran)
Member Secretary
National Legal Services Authority

4 D. MODEL SCHEME FOR “LEGAL AID COUNSEL” IN ALL THE COURTS OF MAGISTRATES

According to Section 12(g) of the Legal Services Authorities Act, 1987 (as amended in 1994), any person in custody, including custody in a protective home or in juvenile home or psychiatric hospital or psychiatric nursing home, is entitled to legal services for filing or defending a case. A large number of under trial prisoners who are not in a position to engage lawyers for defending them, feel handicapped in their defence and remain incarcerated for long periods. Therefore, His Lordship Hon’ble Dr. Justice A.S. Anand, Judge, Supreme Court of India & Executive Chairman, National Legal Services Authority has invited suggestions/ views from all the Chief Justice of the High Courts (Patrons -in-Chief of State Legal Services Authorities) on a scheme for legal aid and assistance to the prisoners in custody. His Lordship has pointed out that Legal Aid Counsel may be attached to all the courts of Magistrates in the country who should give legal assistance to the persons in custody, for opposing remand applications, securing orders for bail and moving miscellaneous applications as may be required. According to His Lordship, Legal Aid Counsel should be under an obligation to remain present in the court assigned to him during the remand hour and such other hours as may be directed by the Court. Thereafter when a challan is filed against the accused in custody in the court assigned to such advocate, the case should be entrusted to him for defence also. The appeals or revisions arising out of such challans should also be ordinarily entrusted to him. His Lordship is of the view that this system can go a long way in providing effective and meaningful legal assistance to under trial prisoners, who feel handicapped in their defence on account of lack of resources or other dis-abilities and cannot engage a counsel to defend them. His Lordship has desired that this Scheme be followed throughout the country.

2. The Scheme lays emphasis for legal aid and assistance to the persons in custody at the following three stages:-
 - a) When in custody during investigation of the cases and need legal assistance for getting released on bail and opposing remand application;
 - b) Legal assistance during trial for defence; and
 - c) Legal assistance for preferring appeals or revisions in case of adverse orders.

3. In terms of the directions issued by His Lordship, a model scheme has been formulated which may be adopted by the States with suitable modifications as required under the prevailing circumstances and needs of the respective States as under:-
 - i. The first step should be to identify all the Courts of Magistrates in each District for attaching Legal Aid Counsel. In case the workload in a particular court or courts is too little, one Legal Aid Counsel may be attached to two courts even.
 - ii. State Legal Services Authority or District Legal Services Authority to which the implementation of the Scheme is entrusted, may prepare a panel of Legal Aid Counsel preferably with a minimum standing of five years on criminal side. The Advocates from this panel may be attached to the Courts of Magistrates and may be called “ Legal Aid Counsel”.
 - iii. The remuneration and fee to be paid to Legal Aid Counsel may be determined by State Legal Services Authority or District Legal Services Authority, as the case may be. The remuneration / fee may be fixed under the following courts:-
 - a. For attending the Court during remand hour every day (the remuneration for attending the court during remand hour may be fixed at Rs.500/- per month or more depending upon the work load) ;
 - b. Fee schedule for acting as defence counsel for aided persons may be drawn. It may be on the basis of effective hearings in warrant as well as summon trial cases with a ceiling of maximum fee;
 - c. Fixed fee with incidental expenditure for filing and contesting an appeal or revision. The appeals and revisions may be permitted to be filed with the approval of the Member Secretary of the State Legal Services Authority or Secretary, District Legal Services Authority, as the case may be.

(All payments to Legal Aid Counsel may be made after obtaining certificates from the concerned Judicial Officers regarding attendance of the counsel at the time of remand or conduct of trial/ appeal / revision).

- iv. Name and address of the Legal Aid Counsel may be displayed outside the Court to which he is attached with requisite information as to who are eligible persons under the Legal Services Authorities Act and no payment is required to be made by them to Legal Aid counsel (in case of any complaint against a Legal Aid Counsel regarding demand of fee or any other charges from an aided person, prompt action by way of removal of his name from the panel may be taken).
- v. The Scheme of Legal Aid Counsel may be given wide publicity in the State. Hoardings in the police stations and jails may be affixed.
- vi. The Scheme can be more effectively implemented if printed proformas of appointment letters to be issued to Legal Aid Counsel, are handed over to the Courts of Magistrates with a request to issue the same in favour of the Legal aid Counsel who takes over the defence of any person in custody being produced before the Court. On the basis of this appointment letters legal aid functionaries to issue, required order allocating that case to Legal Aid Counsel to facilitate settlement of bills.
- vii. Ensure that the Legal Aid Counsel remains present in the Court during remand hour or any other hour of the day as directed by the Court. Legal Aid functionaries may insist for an attendance certificate issued by the Court to the Legal Aid Counsel before making him payment for remand hour.
- viii. Certificates of merit/awards may be given to those Legal Aid Counsel whose performance is found to be outstanding.

5. Right to Information Applications filed by CHRI

5 A. RTI ON NATIONAL LEGAL SERVICES AUTHORITY (FREE AND COMPETENT LEGAL SERVICES) REGULATIONS, 2010.

Date: 14th September 2016

From,

Raja Bagga

55-A, Third Floor, Siddharth Chambers-I

Kalu Sarai- 110016, New Delhi

To

The Public Information Officer

State Legal Services Authority

Sub: Application for seeking information regarding the implementation of the National Legal Services Authority (Free and Competent Legal Services) Regulations, 2010.

Respected Sir/Madam,

In reference to the National Legal Services Authority (Free and Competent Legal Services) Regulations, 2010 (hereinafter mentioned as 'NALSA Regulations 2010'), I request you to kindly provide me with the following information district-wise under Section 6(1) of the Right to Information Act:

- 1) The name and certified copy of the legal aid scheme/ regulation/ guideline/ letter/circular issued by the State Legal Services Authority to further the implementation of the National Legal Services Authority (Free and Competent Legal Services) Regulations, 2010.
- 2) The information on appointment of lawyers and others functionaries:
 - a) The number of lawyers appointed (Regulation 8 of the NALSA Regulations 2010) in the district courts as on 30 June 2016 as i) Panel Lawyers and ii) Retainer Lawyers
 - b) The number of senior lawyers, law firms, retired judicial officers, mediators and law professors in the panel appointed as on 30 June 2016 (Regulation 9 of the NALSA Regulations 2010)
 - c) Have separate panels been maintained for dealing with different kind of cases? If yes, list of the panels as on 30 June 2016. (Regulation 8(5) of the NALSA Regulations 2010)
- 3) The information about the scrutiny and evaluation committee constituted under Regulation 7 of NALSA 2010 Regulation from 1 July 2015 to 30 June 2016:
 - a) Whether the scrutiny and evaluation committee has been constituted? (Yes/ NO), Please specify.
 - b) Is a register maintained by the committee? If yes, certified copies of last two filled pages of the register.
- 4) The information about applications received by the legal services institutions from the prison and court:

Institution	A. Number of legal aid applications received	B. Number of cases in which legal aid lawyer was appointed	C. Number of cases in which legal aid lawyer was not appointed as he already had a lawyer	D. Number of cases in which legal aid lawyer was not appointed as there were deficiencies in the legal aid application
Prisons				
Court				

- 5) The total number of persons who were provided legal representation and its impact under the NALSA 2010 Regulations in the district courts from 1 July 2015 to 30 June 2016 through a) Panel Lawyers and b) Retainer Lawyers at each level, as per the table below:

Legal Services Institution	a) Number of accused represented by Panel Lawyers	b) Number of accused represented by Retainer Lawyers	c) No. of Form II issued	d) No. of Bail Releases	e) No. of Acquittals	f) No. of cases disposed	g) No. of completion reports filed by panel lawyers	h) No. of cases withdrawn by panel lawyers
Specific Regulations (R), if any	(R8 (1) of NALSA 2010)	(R8 (6) of NALSA 2010)	(R11(1) of NALSA 2010)				(R14(3) of NALSA 2010)	(R. 8(13) of NALSA 2010)
Response								

- 6) Details about the setting up of the Monitoring Committee under Regulation 10 of the NALSA 2010 Regulations, preferably as per the table below:

Legal Services Institution	Date of constitution of the Monitoring Committee	Tenure of the Monitoring Committee	b) The place where monitoring committee meetings are held	c) Name and designation of the members	d) No. of staff personnel and details of infrastructure provided to the Monitoring Committee
Response					

- 7) Details about the reporting and monitoring under the Monitoring Committee from 1 July 2015 to 30 June 2016 on the following points as per the table below:

Legal Services Institution	a) No. of senior advocates appointed by the Monitoring Committee	b) No. of reports received from panel lawyers to the monitoring committee	c) No. of Form-II received by the Monitoring Committee	d) No. of bi-monthly reports submitted by the monitoring committee
Specific Regulations (R), if any	(R15 of NALSA 2010)	(R11(5) of NALSA 2010)	(R11(1) of NALSA 2010)	(R12 of NALSA 2010)
Response				

- 8) Certified copy of the following documents:
- The last five filled pages of the register maintained by the Monitoring Committee for recording day – to-day progress of legal aid cases (Regulation 11(3) of the NALSA Regulations)
 - The last two Bi-monthly reports submitted by the monitoring committee to the Executive Chairman/ Chairman (Regulation 12(1) of the NALSA Regulations 2010)
 - The last two case progress reports received by the monitoring committee from panel lawyers
 - Are minutes of the meetings maintained for the monitoring committee?
 - The last five completion reports received by the DLSA from panel lawyers (Regulation 14(3) of the NALSA Regulations 2010)
- 9) The information relating to conduct of panel lawyers as mentioned below :
- The number of cases where a complaint was received for any fees or consideration sought by the

panel lawyer in a legal aid case as per Regulation 8 (14) of the NALSA Regulations 2010 from 1 July 2015 to 30 June 2016.

- b) The number of lawyers who have been removed from the panel as per Regulation 8(15) of the NALSA Regulations 2010 from 1 July 2015 to 30 June 2016.

- 10) The details of the last 5 cases in which a panel lawyer was appointed for a person in custody as per the table below:

a) Case Number	b) Name of the inmate(s)	c) Date of admission to jail	d) Date of receipt of application for legal aid	e) Date of appointment of panel lawyer/ Date when Form II was issued	f) No. of reports received from panel lawyers to the monitoring committee	g) No. of times and the dates on which court registers were sought by the monitoring committee to ascertain the progress of case

- h) Certified copy of the pages of the monitoring committee register maintaining the detail of the case
i) Certified copy of the pages of the bi-monthly report relevant for the case sent to the SLSA
j) Certified copy of the pages of the response received from SLSA on the case
k) If the case has been disposed, the certified copy of the completion report

- 11) The details of the honorarium paid to panel and retainer lawyers:

- a. Honorarium paid to panel and retainer lawyers
b. Frequency (monthly, quarterly, yearly, per hearing) of payment made to panel and retainer lawyers
c. Certified copies of any circulars/letters/guidelines issued by SLSA for the regulation of payment of fees for panel lawyers

I state that the information sought does not fall within the restrictions contained in Section 8 & 9 of the Act and to the best of my knowledge it pertains to your office.

I have also attached an IPO for Rs. 10/- towards payment of the prescribed application fee as under the section 6(1) of the Right to Information Act. I request you to kindly accept my application and provide me with the information requested above at my postal address as mentioned above.

Place: New Delhi

Raja Bagga

E-mail address, if any: bagga.raja@gmail.com

Tel. No. : 011-43180223

5 B. RTI ON THE NALSA (LEGAL SERVICES CLINICS) REGULATIONS, 2011

Date: 14 September 2016

From,

Raja Bagga

55-A, Third Floor, Siddharth Chambers-I

Kalu Sarai- 110016, New Delhi

To

The Public Information Officer

State Legal Services Authority

Respected Sir/Madam,

Sub: Application for seeking information regarding the implementation of the National Legal Services Authority (Legal Aid Clinics) Regulations, 2011, NALSA's letter dated 21st May 2015 to all SLSAs on Legal Aid Clinics in Jails and NALSA's Scheme for Para-legal Volunteers.

In reference to the National Legal Services Authority (Legal Aid Clinics) Regulations, 2011 (hereinafter mentioned as NALSA Regulations 2011), I request you to kindly provide me with the following information district-wise and jail-wise (as applicable) under section 6(1) of the Right to Information Act:

- 1) The name and certified copy of the legal aid scheme/ regulation/ guideline/ letter of the State Legal Services Authority to further the implementation of National Legal Services Authority (Legal Aid Clinics) Regulations, 2011.
- 2) The details of the legal aid clinics constituted in the jails in your district under Regulation 3 of NALSA REGULATIONS 2011 as per the table below:

Jails	a) Name of the Jail	b) Legal Aid Clinic constituted (Yes/No)	c) Date of constitution of the Legal Aid Clinic	d) No. of Jail Visiting Lawyers) as on 30 June 2016	e) No. of Prisoners para legal volunteer as on 30 June 2016	g) No. of Community para legal volunteer as on 30 June 2016
Central Jail						
District Jail						
Sub Jail 1						
Sub Jail 2						
Sub Jail 3						
Sub Jail 4						
Sub Jail 5						
Other Jails						
Other Jails						
Other Jails						

- 3) The details of the jail visiting lawyer appointed , their visits and payment under regulation 6 of NALSA REGULATIONS 2011 from 1 July 2015 to 30th June 2016. as below :

- a) Certified copy of one appointment letter of a jail visiting lawyer.
 - b) State Legal Services Authority/ District Legal Services Authority's mandate of the frequency of the visit of the Jail Visiting Lawyer to the jails.
 - c) Number of visits made by the Jail Visiting Lawyers (in each of the Central/ District, Sub and Other Jails) in the above mentioned period.
 - d) The total honorarium paid to Jail Visiting in each of the Central/ District, Sub and Other Jails) in the above mentioned period.
 - e) Number of Trainings organised by the District Legal Services Authorities for jail visiting in each of the Central/ District, Sub and Other Jails) in the above mentioned period.
- 4) The details of the prisoner para legal volunteers appointed, their visits and payment in the jails (Central/ District & Sub Jails) in your district between from 1 July 2015 to 30th June 2016, as below:
- a) Certified copy of one appointment letter of a long-term prisoner para legal volunteer.
 - b) State Legal Services Authority/ District Legal Services Authority's mandate of the number of days the jail legal aid clinic is supposed to be working in a month.
 - c) Number of days the jail legal aid clinic was conducted by the paralegal volunteers (in each of the Central/ District, Sub and Other Jails) in the above mentioned period.
 - d) Number of Trainings organised by the District Legal Services Authorities/Taluka Legal Services Committee for the prisoner para legal volunteers Lawyers (in each of the Central/ District, Sub and Other Jails) in the above mentioned period.
 - e) Format of the monthly reports submitted by the prisoner para legal volunteers.
 - f) The total honorarium paid to prisoner para legal volunteers (in each of the Central/ District, Sub and Other Jails) in the above mentioned period.
- 5) The details of the appointment of community para legal volunteers assigned to visit prison, their visits and payment in the jails (in each of the Central/ District, Sub and Other Jails) in your district between from 1 July 2015 to 30th June 2016, as below:
- a) Certified copy of one appointment letter of community para legal volunteer assigned to visit prison.
 - b) State Legal Services Authority/ District Legal Services Authority's mandate of the frequency of visits of the community para legal volunteer assigned to visit prison
 - c) Number of Trainings organised by the District Legal Services Authorities for the community para legal volunteers (in each of the Central/ District, Sub and Other Jails) in the above mentioned period
 - d) Format of reports submitted by the volunteers (in each of the Central/ District, Sub and Other Jails) in the above mentioned period.
 - e) The total honorarium paid to the volunteers (in each of the Central/ District, Sub and Other Jails) in the above mentioned period.
- 6) Information about the functioning of the Legal Aid Clinic as below :
- a) Name of the registers maintained by the Legal aid clinic (in the Central/ District, Sub Jails and Other Jails) in your district.
 - b) Certified copies of the format any one jail in each district maintained for the registers in the Legal aid clinic (in the Central/ District, Sub Jails and Other Jails) in your district.
 - c) Certified copy of the last two filled pages of the Attendance register any one jail in each district maintained in the Legal Aid clinic as per Regulation 20 (1) of NALSA REGULATIONS 2011 between from 1 June 2016 to 30 June 2016, from the (i) Central Jail/District Jails and (ii) Sub Jails in your district.
 - d) Certified copy of the last five pages of the Work register maintained in the Legal Aid clinic as per Regulation 20(2) of NALSA REGULATIONS from Central/ District, Sub Jails and Other Jails
 - e) The number of times attendance and work registers were called for by the DLSA for review from the prison 1 July 2015 to 30 June 2016.

- 7) Does the signboard displayed on the Jail Legal Aid Clinic mention the name, working hours and days of legal aid clinic in English and local language as per Regulation 13 of NALSA REGULATIONS 2011?
- 8) The details of the last 5 cases in which panel lawyers were appointed for a person in custody preferably as per the table below:

a) Case Number	b) Date of admission to jail	c) Date of signature of Form I	d) Date of dispatch of application for legal aid from the prison to the DLSA	e) Date of receipt of application for legal aid to DLSA	f) Date of appointment of panel lawyer	g) Date of dispatch of letter of appointment from the DLSA to the prison

I state that the information sought does not fall within the restrictions contained in Section 8 & 9 of the Act and to the best of my knowledge it pertains to your office.

I have also attached an IPO for Rs. 10/- towards payment of the prescribed application fee as under the section 6(1) of the Right to Information Act. I request you to kindly accept my application and provide me with the information requested above at my postal address as mentioned above.

Place: New Delhi

Raja Bagga

E-mail address, if any: bagga.raja@gmail.com

Tel. No. : 011-43180223

**5 C. RTI ON NATIONAL LEGAL SERVICE AUTHORITY'S MODEL SCHEME FOR
'LEGAL AID COUNSEL' IN ALL COURTS OF MAGISTRATES**

Date: 14 September 2016

From,

Raja Bagga

55-A, Third Floor, Siddharth Chambers-I

Kalu Sarai- 110016, New Delhi

To

The Public Information Officer

State Legal Services Authority

Respected Sir/Madam,

Sub: Application for seeking information regarding the implementation of National Legal Service Authority's Model Scheme for 'Legal Aid Counsel' In All Courts of Magistrates.

In reference to the National Legal Service Authority's Model Scheme for 'Legal Aid Counsel' In All Courts of Magistrates, I request you to kindly provide me with the following information district-wise under section 6(1) of the Right to Information Act:

1)

- a) The name and certified copy of the legal aid scheme/ regulation/ guideline/ letter issued by the State Legal Services Authority or High Court to further the implementation of the National Legal Service Authority's Model Scheme for 'Legal Aid Counsel' In All Courts of Magistrates, if any.
- b) Does the Remand and Bail Legal Aid Scheme mandate legal aid at police station? (Yes/No)

Please specify

- c) Is there any circular/order/notification/letter issued by the High Court or the State Legal Services Authority prescribing specific duration of remand hours? If yes, please provide the timings of the remand hour.

2) Certified copy of the latest letter/ any form of written communication to the police stations mentioning the name and phone number of the appointed remand and bail lawyers.

- 3)
 - a) Number of magistrate courts in the entire district
 - b) Number of magistrate courts that undertake remand hearings
 - c) Number of remand and bail lawyers appointed in the district as on 30th June 2016
 - d) The tenure of the appointment of these lawyers
 - e) Are remand and bail lawyers appointed for all remand magistrate courts? (Yes/No) Please specify
 - f) Have these remand and bail lawyers been trained by the legal services institutions? (Yes/No) Please specify
 - g) Certified copy of one appointment letter of a remand and bail lawyer.

4) Total number of persons represented and released from police station and jail under the Remand and bail lawyers Scheme in the district courts 1 July 2015 to 30th June 2016 in the format provided below:

TOTAL NUMBER OF ACCUSED PERSONS REPRESENTED		TOTAL NUMBER OF PERSONS WHO WERE GRANTED BAIL		TOTAL NUMBER OF PERSONS WHO WERE ACTUALLY RELEASED ON BAIL		TOTAL NUMBER OF PERSONS DISCHARGED
AT POLICE STATION	AT COURT	AT POLICE STATION	AT COURT	AT POLICE STATION	AT COURT	

- 5) The information relating to reports on the implementation of the Scheme from the DLSA to SLSA:
 - a. Whether the reports are being sent from DLSA to the SLSA? (Yes/No) Please specify
 - b. The frequency of the submission of these reports.
 - c. The copy of the format for the report, if any.
- 6) Measures taken by the District Legal Services Authorities to give wide publicity to the Scheme.
- 7) With respect to the reporting of the remand and bail lawyers:
 - a. Number of the attendance certificates regarding the regular attendance of the remand and bail lawyers concerned received from 1 May 2016 to 30 June 2016.
 - b. Certified copies of the last two attendance certificates received.
- 8) With respect to the monitoring of the Scheme:
 - a. Number of reports submitted by the remand and bail lawyer to the court/Legal services institution, from 1 May 2016 to 30 June 2016.
 - b. Certified copies of the format for the work reports used.
- 9) The information relating to conduct of remand and bail lawyers as mentioned below:
 - a) The number of cases where a complaint was received for any fees or consideration sought by the panel lawyer in a legal aid case 1 July 2015 to 30 June 2016
 - b) The number of lawyers who have been removed from the panel 1 July 2015 to 30 June 2016.
- 10) The total honorarium paid to Remand & Bail Lawyers from 1 July 2015 to 30 June 2016

I state that the information sought does not fall within the restrictions contained in Section 8 & 9 of the Act and to the best of my knowledge it pertains to your office.

I have also attached an IPO (bearing number) for Rs. 10/- towards payment of the prescribed application fee as under the section 6(1) of the Right to Information Act. I request you to kindly accept my application and provide me with the information requested above at my postal address as mentioned above.

Place: New Delhi

5 D. RTI ON LEGAL AID BUDGETS AND INFRASTRUCTURE.

Date: 10th April 2017

From,

Raja Bagga

55-A, Third Floor, Siddharth Chambers-I

Kalu Sarai- 110016, New Delhi

To

The Public Information Officer

National Legal Services Authority

12/11, Jam Nagar House,

New Delhi- 110011.

Sub: Application for seeking information regarding the budget and functioning of Legal Services Institutions

Respected Sir/Madam,

In reference to the functioning of the legal services institutions at the national, state, district and taluka level under the Legal Services Act 1987, I request you to kindly provide me with the following information under section 6(1) of the Right to Information Act:

1. Please provide NALSA's budget allocation and spending for the last three financial years:
 - a. Total Budget Estimate of NALSA
 - b. Total funds received from Ministry of Law and Justice
 - c. Total funds received from any other source(s)
 - d. Total expenditure during the year
 - e. Total funds left unspent at the end of the year

2. Please provide state-wise information regarding allocation and expenditure of funds for the last three financial years, preferably in the following format:

State/Uts	Budget Sanctioned/ Estimated	Funds allocated/disbursed			Budget Utilised
		By NALSA	By State Government	By any other Agencies/authorities/ miscellaneous fund	

2. Please provide state-wise information regarding expenditure of funds on the functioning of SLSAs, for the last three financial years, preferably in the following format:

State/ Uts	Funds spent on Lok Adalat	Funds spent on providing legal aid to persons in custody	Funds spent on Legal Awareness

3. Please provide information regarding the infrastructure of Legal Services Institutions as on 1st January 2017:

State/Uts	Number of High Court Legal Services Committees	Number of District Legal Services Authorities (DLSAs)	Number of Full Time Secretaries of DLSAs	Number of Taluka Legal Services Committees

4. Please provide certified copies of NALSA's annual budget for the last three financial years.
5. Please provide copies of NALSA's annual report for the last three years.
6. Please provide whether any fund has been allotted by NALSA specifically for training of legal service providers? (Yes/No)

I state that the information sought does not fall within the restrictions contained in Section 8 & 9 of the Act and to the best of my knowledge it pertains to your office.

I have also attached an IPO for Rs. 10/- towards payment of the prescribed application fee as under the section 6(1) of the Right to Information Act. I request you to kindly accept my application and provide me with the information requested above at my postal address as mentioned above.

Place: New Delhi

Raja Bagga
E-mail address, if any: bagga.raja@gmail.com
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CHRI PROGRAMMES

CHRI believes that the Commonwealth and its member countries must be held to high standards and functional mechanisms for accountability and participation. This is essential if human rights, genuine democracy and development are to become a reality in people's lives. CHRI furthers this belief through strategic initiatives and advocacy on human rights, access to justice and access to information. It does so through research, publications, workshops, information dissemination and advocacy. It has three principal programmes:

1. Access to Justice

Police Reforms: In too many countries the police are seen as an oppressive instrument of state rather than as protectors of citizens' rights, leading to widespread rights violations and denial of justice. CHRI promotes systemic reform so that the police act as upholders of the rule of law rather than as instruments of the current regime. In India, CHRI's programme aims at mobilising public support for police reform. In South Asia, CHRI works to strengthen civil society engagement on police reforms. In East Africa and Ghana, CHRI is examining police accountability issues and political interference.

Prison Reforms: CHRI's work is focused on increasing transparency of a traditionally closed system and exposing malpractices. A major area is focused on highlighting failures of the legal system that result in terrible overcrowding and unconscionably long pre-trial detention and prison overstay, and engaging in interventions to ease this. Another area of concentration is aimed at reviving the prison oversight systems that have completely failed. We believe that attention to these areas will bring improvements to the administration of prisons as well as have a knock-on effect on the administration of justice overall.

2. Access to Information

CHRI is acknowledged as one of the main organisations working to promote Access to Information across the Commonwealth. It encourages countries to pass and implement effective Right to Information laws. It routinely assists in the development of legislation and has been particularly successful in promoting Right to Information laws and practices in India, Sri Lanka, Afghanistan, Bangladesh and Ghana. In the latter CHRI is the Secretariat for the RTI civil society coalition. CHRI regularly critiques new legislation and intervenes to bring best practices into governments and civil society knowledge both at a time when laws are being drafted and when they are first being implemented. Its experience of working in hostile environments as well as culturally varied jurisdictions allows CHRI to bring valuable insights into countries seeking to evolve and implement new laws on right to information. In Ghana, for instance it has been promoting knowledge about the value of Access to Information which is guaranteed by law while at the same time pushing for introduction of an effective and progressive law.

3. International Advocacy and Programming

CHRI monitors commonwealth member states' compliance with human rights obligations and advocates around human rights exigencies where such obligations are breached. CHRI strategically engages with regional and international bodies including the Commonwealth Ministerial Action Group, the UN and the African Commission for Human and People's Rights. Ongoing strategic initiatives include: advocating for and monitoring the Commonwealth's reform; reviewing Commonwealth countries' human rights promises at the UN Human Rights Council, the Universal Periodic Review; advocating for the protection of human rights defenders and civil society space; and monitoring the performance of National Human Rights Institutions in the Commonwealth while advocating for their strengthening.



CHRI
Commonwealth Human Rights Initiative
working for the practical realisation of human rights in
the Commonwealth

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