



Early Access to Justice at Pre-Arrest, Arrest and Remand Stage

National Legal Services Authority

12/11 Jam Nagar House, New Delhi,
www.nalsa.gov.in , e-mail: www.nalsa-dla@nic.in

1. Introduction:-

1.1. Background

Right to free legal aid and assistance is an essential ingredient of reasonable, fair, and just procedure for a person accused of any offence. It is implicit in the guarantee of Article 21. It is, therefore, essential that Access to Justice is available at all stages of the criminal process. Access to Justice during the early stages of the criminal process has its importance. It ensures, amongst other things, protection of the rights of people when they are most vulnerable. It strengthens the criminal justice system.

While availability of services of a trained lawyer at the stage of trial in a criminal prosecution and inferentially, of free legal aid for those who cannot afford a lawyer on their own, is already the norm in most jurisdictions, legal aid during pre-trial stages has its own importance. It ensures amongst other things, protection of the rights of people when they are most vulnerable and thereby strengthens the criminal justice system.

United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems provides for the right to legal aid of any person who is "detained, arrested, suspected of, or charged

with a criminal offence punishable by a term of imprisonment or the death penalty" at all stages of the criminal justice process¹.

In India, the framework of procedural law and the judgements of the Supreme Court of India provide for legal assistance at early stages of the criminal process. The Supreme Court of India has in various judgements recognized the right to legal assistance to persons in custody and 'near custodial interrogation'. The Hon'ble Supreme Court in *Nandini Sathpathy v P.L Dani*², observed as follows concerning the need for providing legal assistance at early stages:

The spirit and sense of Art. 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. Moreover, the observance of the right against self-incrimination is best promoted by conceding to the accused the right to consult a legal practitioner of his choice

In the year 2009, section 41D was introduced in the Code of Criminal Procedure in order to give statutory recognition to the right to legal assistance to a person when he is arrested and interrogated.

Further, with the introduction of Section 41(A) in Code of Criminal Procedure, a suspect can be called to the police station for

¹ Principle 3, Clause 20, Resolution No. 67/187, United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems (2012) available at http://www.unodc.org/documents/justice-and-prisonreform/UN_principles_and_guidlines_on_access_to_legal_aid.pdf

² AIR 1978 SC 1025

questioning/interrogation.

The terms 'custody' and 'arrest' have not been defined in the Code. However, it has been held by the Supreme Court that "in every arrest, there is custody but not vice versa and that both the words 'custody' and 'arrest' are not synonymous terms."³ Moreover, "police custody" does not commence only when the accused is formally arrested but "would commence from the moment when his movements are restricted and he is kept in some sort of direct or indirect police surveillance⁴." Thus, it also covers an accused who is called for questioning pursuant to a notice of appearance. Therefore, right to a lawyer/legal aid lawyer of suspects arises before questioning, when they become aware that they are the subject of investigation, and are in custodial settings.

Although, a robust framework of rights of suspects and arrested persons exists in India, many of those arrested or detained being poor, ill-educated or disadvantaged for some other reasons, are unaware of such protection. In India, a study estimated that 80 percent of those in prison had only a primary school education or

³ Directorate of Enforcement v Deepak Mahajan (1994) 3 SCC 440. Also see State of UP v Deoman Upadhyaya AIR 1960 SC 1125;

⁴ Paramhansa Jadab v State AIR 1964 Ori 144.

were illiterate.⁵ They often lack the knowledge or experience needed to understand and navigate the criminal justice system. They have limited financial resources. The way in which suspects and accused persons are treated has a significant impact on the efficiency and effectiveness of the criminal justice system.⁶ Legal assistance is therefore, as important at pre-arrest stage, during the period between arrest and production in the court and at the stage of Remand, as that at the stage of trial.

1.2 Early stages of legal assistance

Pre-arrest Stage : The inclusion of Section 41A to the CrPC has created a pre-arrest stage, thereby, necessitating the enforcement of the right to legal aid even prior to arrest when a suspect can be issued a notice of appearance to appear before the police for questioning. In *Arnesh Kumar Vs State of Bihar*⁷ the Hon'ble Supreme Court with regard to section 41A CrPC observed as follows:-

" Aforesaid provision makes it clear that in all cases where the arrest of a person is not required under Section 41(1), Cr.PC, the police officer is required to issue notice directing the accused to appear before him at a specified place and time. Law obliges such an accused to appear before the police officer and it further mandates that if such an accused complies with the terms of notice he shall not be arrested, unless for reasons to be recorded, the police office is of

⁵ See Open Society foundations and United Nations Development Programme, The Socioeconomic Impact of Pretrial Detention, p. 23

⁶ UNDOC's "Early access to legal aid in criminal justice processes: a handbook for policymakers and practitioners" 2014.

⁷ 2014) 8 SCC 273,

the opinion that the arrest is necessary.”

Most of the persons called for interrogation to the police station on suspicion of having committed a criminal offence are inherently vulnerable to factors such as- the environment of the police station and the uncertainty of what may happen to them. Providing of legal assistance to such persons can entail following benefits:

- a. Making the suspect feel less isolated or intimidated
- b. Safeguarding his welfare and rights during interrogation.
- c. Providing a check on police aggression.
- d. Avoiding unnecessary arrests

Arrest Stage: The presence of a lawyer at the stage of arrest can make a huge difference to how the accused is treated in police custody. A lawyer at this stage can ensure that the police respect the rights of the accused and prevent unwarranted harm to the accused. It reduces the possibility of beating, torture, coercion for disclosures, wrongful detention, fabrication, false implication and much more. A prompt legal assistance by lawyer at the time a person is arrested by the police may provide :-

- a. Assistance to understand why he has been arrested
- b. Protection against intimidation, ill-treatment and torture
- c. Assistance to understand and navigate the criminal

justice process

- d. Actualization of procedural rights
- e. Ensuring bail in Bailable offences at the police station itself.

Remand stage: Similarly, at the remand stage, efficient representation to unrepresented arrestees is quite imperative to ensure that unnecessary arrests are challenged, bail applications are filed , unnecessary remands are resisted and procedural rights are protected.

2. Objectives :-

Early access to justice framework is devised primarily with the following objectives:

- i. To provide legal assistance to needy suspects and arrestees during interrogation and other early stages of investigation.
- ii. To decrease the vulnerabilities of suspects and arrestees.
- iii. To assist in avoiding unnecessary arrests.
- iv. To assist the arrestees in filing bail applications and furnishing bail bonds.

3. Role of State Legal Services Authorities:-

- All persons in custody, which would obviously include detention at

pre-arrest stage and, between arrest and production in the Court, are entitled to free legal services by virtue of section 12 of the Legal Services Authorities Act, 1987. Since a large number of them do not have an opportunity or means to engage a lawyer on their own, Legal Services Authorities have an important role to play in reaching out to them.

- Effective implementation of early access to justice framework requires coordination between the police authorities and legal services authorities. In this regard, State Legal Services Authority shall take up the matter at the highest level with the State Department of Home and Director General of Police to mutually workout the modalities for effective implementation of the framework. So that the right of legal representation at the early stages of criminal justice system is promoted and secured.
- It is also important that wide publicity is given to the rights of persons at pre-arrest, arrest and at remand stage including the right to avail free legal aid from Legal Services Institutions. In this regard, State Legal Services Authorities shall get prepared quality IEC material including the leaflets referred to in the present framework. Hoardings enumerating such rights and phone numbers and addresses of Legal Services Authorities shall be put up by State Legal Services Authorities at public places, particularly

at police stations, in coordination with local authorities. Workshops may be organized for Police and other Investigating agencies on rights of the arrestees and corresponding duties of the Investigating officers.

- Panel Lawyers have a significant role to play in the entire process of early access to Justice. In such a scenario, capacity building programs for panel lawyers specifically touching upon essential aspects of law pertaining to Arrest, Remand and Bail be planned and implemented by State Legal Services Authorities.

4. A framework of providing Legal Assistance at Pre-Arrest, Arrest and Remand Stage:-

4.1 Legal assistance at the pre-arrest stage:

In Sheela Barse v State of Maharashtra AIR 1983 SC 378, the Hon'ble Supreme Court of India held:

"..... whenever a person is arrested by the police and taken to the police lock up, the police will immediately give an intimation of the fact of such arrest to the nearest Legal Aid Committee and such Legal Aid Committee will take immediate steps for the purpose of providing legal assistance to the arrested person at State cost provided he is willing to accept such legal assistance."

In view of the fact that the pre-arrest stage has settings of custody, there is

no reason why the above mandate to the police to notify the Legal Aid Committee (Now, the DLSA) should not be applicable at this stage also. The framework for providing legal assistance at this stage would therefore be as follows :

4.1.1 Notifying the suspect of the right to a lawyer:- In view of the Satapathy case, supra and section 41 D Cr.P.C, the police is to notify the suspect of his right to have legal assistance during interrogation. Moreover, the mandate of Sheela Barse will remain ineffective unless the suspect is apprised of this right. The police has ,therefore, to inform the suspect that free legal assistance can be availed from the Legal Services Authorities. It is essential to inform the suspect called for interrogation of the following rights which can be given in the form of leaflet of rights by the police so that the suspect can make informed decision of his right to avail legal assistance:-

Your Rights

1. You have the right to know why the police has called you for interrogation.
2. You have the right to know what the police think you have

done.

3. You have the right not to answer the questions which have the effect of self-incrimination. However, you have to give accurate details of your name, address and identity.
4. You have the right to have a lawyer present if the police interview you. You may avail free legal assistance from the nearest legal services authority.
5. You have the right to medical help if you are ill or injured.

All suspects shall be given a copy of a leaflet of rights upon arrival at the police station and shall be allowed to keep it with them for the duration of their stay. The person to be interrogated must be given adequate opportunity to read and understand the information. Legal Services Authorities shall provide enough leaflets to police stations.

4.1.2 Deputing a lawyer to the police station: Upon receiving the intimation of the request of the suspect to have free legal assistance during interrogation, the legal services authorities as per the duty roaster prepared with regard to various police stations, shall inform the deputed lawyer. Since, duty roasters are expected to be given in advance to the police stations so that

police authorities may be able to directly intimate the lawyer.

Upon intimation, the lawyer shall go to the concerned police station for providing legal assistance.

4.1.3 Role of the lawyer: The work of a lawyer in advising and assisting the suspect in the police station can often be difficult and demanding. A lawyer has the following role to play at the police station at pre arrest stage:

- a) The lawyer shall apprise himself of the allegations against the person called for interrogation.
- b) He shall explain the alleged offence and the matter for which the person has been called for interrogation.
- c) He shall provide legal advice and assistance as sought and required in the situation.
- d) He shall not interrupt or obstruct interrogation.
- e) He shall appropriately advise the police, if it proceeds to arrest the suspect unnecessarily and without any basis. In this regard, he shall put the position of law before police officials keeping in view the circumstance of the case.
- f) In case the suspect is a foreigner, the duty lawyer shall inform the police to intimate the concerned High Commission, Embassy/Consulate.

- g) In case, the suspect does not understand the language then arrangement be made for an interpreter, the expenses of which may be borne by the DLSA from Grants in Aid.
- h) He shall ensure that women are not called to the police station or to any place other than their place of residence for questioning.
- i) In case a child has been called to the Police Station, the lawyer shall take necessary steps to safeguard his rights as provided under Juvenile Justice(Care and Protection Act) 2015.

4.2 Legal assistance at the arrest stage:

4.2.1 Notifying the suspect of his right to legal assistance:- In view of *Nandini Sathpathy and Sheela Barse* cases supra and sections 41 A to 41 D Cr.P.C, police is to intimate the arrestee of his right to have legal assistance. A letter of rights in the form of a leaflet may be given to the arrestee. It may contain the following:-

Rights of an Arrested Person

1. The right to a lawyer on being arrested (Article 22 (1) & Section 41(D) CrPC.
2. The right to have the arrest memo prepared as per Section 41B and scrutinized by the Magistrate

3. The right to be informed of the grounds of arrest and of the right to bail (Section 50)
4. The right of information to any friend, relative or any other person nominated by the arrested person about the arrest and the place of detention (Section 50 A)
5. The right to medical examination by a medical officer/registered medical practitioner soon after arrest; by a female medical practitioner in the case of a female accused (Section 54)
6. The right against self incrimination (Article 20 (3))
7. The right to be produced before a competent Magistrate within 24 hours, excluding the time taken for the journey to the Magistrate (Section 56 read with Section 57)

In case the arrestee wants to avail the legal assistance, an intimation of such requirement shall be given by the police to DLSA and the duty lawyer. In case of women and children in conflict with law, intimation in all cases be given to the DLSA and duty lawyer.

4.2.2 Role of DLSA:-

Upon receiving the intimation or request of the arrestee to have free legal assistance during interrogation or interview, the legal services authorities shall inform the deputed lawyer, as per the duty register. Since, duty roasters are expected to be given in advance to the police stations so police authorities shall also directly intimate the duty lawyer. Upon intimation, the lawyer shall go to the concerned police station for providing of legal assistance.

4.2.3 Role of a Duty Lawyer:-

A lawyer has an vital role to perform at this stage. His entire functions shall revolve around providing appropriate legal assistance within the permissible limits to the arrestee without disturbing the investigative process and functions of police officers. The role of Duty Lawyer at the police station is enumerated below:

- a. He shall apprise himself of the allegations against the accused and the grounds of arrest.
- b. He shall explain to the Arrestee, the alleged offence and the grounds of arrest.
- c. He shall provide legal advice and assistance as sought and

required in the situation.

- d. He shall not interrupt or obstruct interrogation.
- e. In case of bailable offences, he shall take necessary steps for securing the bail of the arrestee at the police station itself. Wherever necessary and feasible, family members or friends of the arrestee be contacted through PLVs for this purpose.
- f. In case the arrestee is a foreigner, the duty lawyer shall inform the police to intimate the High Commission, Embassy/Consulate.
- g. In case, the arrestee does not understand the language then arrangement be made for interpreter, the expenses of which may be borne by the DLSA from Grant in Aid.
- h. He shall ensure that the distinctive needs of women arrestees are met by seeking to ensure that procedures of criminal Justice are complied with. This may include ensuring that they are detained separately from males and that female police officer remains present during interrogation.
- i. In case arrested persons apparently appears to be a child, the lawyer shall take necessary steps to safeguard his rights as provided under Juvenile Justice(Care and Protection Act) 2015.

4.3 Legal Assistance at Remand Stage:-

The Hon'ble Supreme Court of India in Mohd. Ajmal, Amir Kasab v. State of Maharashtra⁸ held as follows:

“ The right to access to legal aid, to consult and to be defended by a legal practitioner, arises when a person arrested in connection with a cognizable offence is first produced before a magistrate.”

The Hon'ble Supreme Court further held

“We, accordingly, hold that it is the duty and obligation of the magistrate before whom a person accused of committing a cognizable offence is first produced to make him fully aware that it is his right to consult and be defended by a legal practitioner and, in case he has no means to engage a lawyer of his choice, that one would be provided to him from legal aid at the expense of the state. The right flows from Articles 21 and 22 (1) of the Constitution and needs to be strictly enforced.”

Thus, arrested person has a right to be represented during remand.

4.3.1 Role of DLSA :

- ✓ DLSA shall depute Remand Advocates in the Magisterial Courts, Sessions Court and also in the courts of Executive Magistrate as per the requirement. In other words, deputing of Remand Advocate should be proportionate to the actual requirement which should be periodically reviewed. One lawyer may be deputed for two or more courts keeping in view the workload.

⁸ (2012) 9 SCC 1

- ✓ Duty rosters may be sent to the police stations and to the courts so as to give prior information of the Remand Advocates.
- ✓ DLSA shall ensure that duty lawyers attend to the remand work even during holidays and after court hours as and when unrepresented arrestee is produced for remand.

4.3.2 Role of the Lawyer:-

- a) **Copy of application for remand:-** Before proceeding to represent an unrepresented arrestee, it is quite essential to obtain a copy of the application moved by the prosecution for seeking the remand of an accused. The contents of the application can indicate to the remand lawyer the gist of the allegations and the reasons which the prosecution is putting forth for seeking remand. If prosecution does not supply the copy of an application, request be made to the concerned court for providing the copy of application for effective representation of the accused. After obtaining the copy of the remand application and the copies of the documents which the prosecution may be relying upon, the remand lawyer shall go through the contents of the same.

- b) **Interaction with arrestee** : Remand Advocate shall in every case, before representing the arrestee, interact with the

arrestee. This shall be done with an objective to inform an arrestee about the allegations against him and the grounds being put by the prosecution for seeking remand. It is also required for seeking any information regarding the allegations, date of arrest etc. Interaction can give inputs about many important aspects including the local roots of the arrested person.

- c) **Challenge arrest:** It may happen that the police has arrested a person unnecessarily in a routine manner. In such a scenario, keeping in view section 41 (A) of Code of Criminal Procedure read with important judgements of the Hon'ble Supreme Court such as *In Arnesh Kumar Vs State of Bihar,(2014) 8 SCC 273* and *Joginder Kumar v State of UP [1994 SCC (4) 260]*, the arrest shall be challenged by a Remand Advocate before the court.
- d) **Bail application:-** Remand advocate shall file bail applications in appropriate cases. Arrestee be also apprised of the bail application and the next date if the matter is postponed by the court for hearing arguments. In case of grant of bail, the Remand Advocate shall also assist in furnishing of bail bonds. Wherever necessary, family members be also contacted through PLVs, for filing of bail bonds. In case of rejection of

the bail, intimation be given to the office of DLSA. Arrestee be also informed about his right to move Higher courts. In case the arrestee takes informed decision for availing the said right, LSA shall provide legal services for filing matter in Higher courts.

e) **Submission with regard to surety**:- If the arrestee is a resident of some other place and obtaining of local surety may be difficult for him, a submission may be made before the court not to order furnishing of local sureties. In this regard reference can be made to the observations of the Hon'ble Supreme Court in **Moti Ram & Ors vs State Of M.P , 1978 AIR 1594, 1979 SCR (1) 335.**

f) **Translation of documents**: In case the arrestee or the lawyer does not understand the language in which the documents have been prepared by the police, submission be made before the court to provide the translated documents so that arrestee may understand the allegations and the case of the prosecution against him. This will also facilitate effective interaction with arrestee.

g) **In the case of foreigner arrestee**: In case the arrestee is a foreigner, the remand lawyer shall request the court to direct the police to intimate the concerned High Commission,

Embassy/Consulate.

- h) **Non-production of accused on a subsequent remand** :- If a person in judicial custody is neither produced in person nor through video conferencing on a subsequent remand then the submission may be made before the court to give remand only on production. The submission be made before the court concerned to direct the concerned authorities to produce the accused.
- i) **In case of Remand through video conference:** During remand by way of video conferencing, Remand Advocate shall inform the accused through VC only that he is representing him. In case accused wants to interact before the remand with a lawyer, permission be sought from the court for such interaction. In case remand is given by the court, the next date be intimated to the inmate. In this regard information be also given to the jail clinic.
- j) **Representation during preventive detention proceedings:-**
Persons who are produced before Executive Magistrates for the purpose of detention be effectively represented, in case legal aid is required by any such person. In such a case, interaction with such persons, obtaining the copy of application and other documents, preparing a case for resisting

preventive detention are some of the pre-requisite steps for effective representation. If the order for preventive detention is passed, the detainee be apprised of his rights to move higher authorities/courts. In case the legal aid is required for moving higher courts, the requisite steps be taken by Legal Services Authorities in this regard.

- k) **Child arrestees** :- Remand Advocates shall be duly trained in Juvenile Justice Law. In case arrested person apparently appears to be child in conflict with law, submission be made before the Magistrate to take the steps as per Juvenile Justice Law. Application in this regard be moved before the court. Efforts be also made in coordination with the family members of such person to collect the documents reflecting about his date of birth.

- l) **Persons of unsound mind and mental retardation:**
Whenever a person of unsound mind is produced for a remand, the Remand Lawyer shall take steps in accordance with chapter XXV of Code of Criminal Procedure of 1973. Submission for his bail be made in accordance with section 330 CrPC. His rights provided under Mental Healthcare Act,2017 be also secured such as right to access Mental Healthcare, right to protection from cruel, inhuman and degrading treatment. In

this regard office of DLSA shall be duly intimated so that the protections under Mental Healthcare Act,2017 be actualized.

5. Other roles of Legal Services Authorities:-

- (i) **Awareness:** Legal Services Authorities shall spread effective legal awareness amongst the public about the right to free legal assistance at prearrest, arrest and remand stage. Awareness shall also be spread about the rights of the arrestees and also about the framework envisaged under Sections 41(A) to 41(D) of Code of Criminal Procedure. Leaflets, hoardings and any other tool may be used for spreading awareness. Hoardings in coordination with police authorities be affixed in the police stations at conspicuous places. Hoardings shall mention phone numbers and addresses of the nearest Legal Services Authorities. Leaflets as envisaged under the present framework be also provided at the police station.
- (ii) **Training :** Legal Services Authorities shall impart specialized training to the duty lawyers engaged for providing legal assistance at pre arrest, arrest and remand stage. Refresher trainings be also organized periodically for the duty lawyers. Trainings may cover topics such as Rights

of the arrested persons, jurisprudence of section 41, 41 (A) to 41(D) , important judgments of the Hon'ble Supreme Court on Arrest Law, Juvenile Justice Act etc.

- (iii) **Duty Roasters:** Legal Services Authorities have to frame fortnightly or monthly duty roasters of advocates and PLVs in such a manner that all the police stations are covered. The Advocates and/or PLVs on duty may make random visits to the respective Police Stations and be available on call on the day of their duty. It need to be ensured that engagement of duty lawyers shall be proportionate to the requirement. Duty Roasters may also spell out the duties at different periods of the day i.e. during office hours and non-office hours.
- (iv) **Honorarium:** Honorarium to duty lawyers be paid timely. The Executive Chairman, SLSA shall decide the amount of honorarium including reimbursement of travelling expenses.
- (v) **Documentation :** It is quite imperative to document the services provided at investigative stage to needy. Accurate and effective documentation will not only help in making effective review but will also reflect about the impact made by such legal assistance.
- (vi) **Periodical review:** Legal Services Authorities shall periodically review the early access to justice framework so

as to identify the gaps and taking timely and appropriate corrective measures for improving the structure.





“Legal Services Camp Module”

NATIONAL LEGAL SERVICES AUTHORITY

12/11 JAM NAGAR HOUSE, SHAHJAHAN ROAD, NEW DELHI

Website: www.nalsa.gov.in, E-mail: nalsa-dla@nic.in

INDEX

S.No.	Particulars	Page No.
1	INTRODUCTION	1
2	STATUTORY MANDATE	1-2
3	OBJECTIVES OF LEGAL SERVICES CAMP	3
4	SUGGESTED THEMES/ ISSUES WHICH MAY BE COVERED IN A LEGAL SERVICES CAMP	3-5
5	<p><u>PRE-CAMP STEPS</u></p> <p>5.1 Identification of target population 5.2 Formation of team for connecting with the intended beneficiaries 5.3 Identification of specific welfare schemes and departments implementing them 5.4 NALSA Schemes 5.5 Holding of pre-camp preparatory meetings with stakeholders 5.6 Identification of venue for the camp 5.7 Field visits by outreach teams in the district/adjoining areas 5.8 Publicising the organisation of legal services camp 5.9 Identifying of presenters by participatory government departments/ministries during the camp. 5.10 Physical lay-out of the Camp</p>	5-11
6	DURING CAMP	12
7	AFTER CAMP ACTIVITY	13
8	SOME OTHER IMPORTANT POINTS	14
9.	<p>Follow up guidelines</p> <ol style="list-style-type: none"> 1. Background and Rationale 2. Follow- up on what 3. How to follow up 4. Methods of feedback 5. Format for maintain the data 6. Submission of Report to NALSA 	15-22

10.	<p>Post Camp Assessment</p> <ol style="list-style-type: none"> 1. Rationale 2. About the Post Camp Assessment 3. Steps in Post Camp Assessment <ol style="list-style-type: none"> 3.1 Step1- planning a post camp assessment 3.2 Step 2 – conducting post camp assessment 3.3 Step 3: preparing report & sharing the post camp assessment. 	23-26
-----	--	-------

1. INTRODUCTION:

Access to justice is essential for rule of law. Access to justice, enable citizens to have their voices heard, exercise their rights and challenge discrimination. Access to Justice is not confined to court based legal services. It extends to making people aware about their entitlements under various enactments and welfare schemes and programmes and strengthening their access to the same. Some Legal Awareness Camps are being held by the State Legal Services Authorities to make people aware about their entitlements and apprise them about the availability of free legal services. In most of the camps, it has been observed, only creating of awareness is focussed on. There is a need to effect paradigm shift from awareness to empowerment. For this to happen, a new Model of holding Legal Services Camp is required which would not only make people aware about their entitlements and procedural aspects relating to the same but also connect them to the welfare schemes meant for them. Delivery based Model for holding Legal Services Camp is required.

2. STATUTORY MANDATE

Legal Services Authorities Act, 1987 was passed with an objective to provide free and competent legal services to weaker sections of the society so that they do not remain deprived of justice due to economic or other disabilities. This Act has created Legal Services Authorities primarily with an aim to provide legal services to weaker and marginalised sections of the society.

Section 4 provides the various functions of the Central Authority. One of the functions spelt out in Section 4(l)

“take appropriate measures for spreading legal literacy and legal awareness amongst the people and, in particular, to educate weaker section of the society about the rights, benefits and privileges guaranteed by social welfare legislations and other enactments as well as administrative programmes and measures” .

This itself reflects that apart ensuring Access to lawyers and legal advice, the mandate of the Legal Services Authorities also extends to educate the weaker sections of the society about the rights, benefits and privileges guaranteed by social welfare legislations and other enactments as well as administrative programmes and measures.

In view of the Section 4(b) of the Legal Services Authorities Act, NALSA has promulgated the following schemes as strategic and preventive programmes and to educate the weaker sections of the society about their entitlements and empower them to get redressed their grievances in accordance with the law of the land.

One of the functions as per Section 4(e) of National Legal Services Authority is to organise Legal Aid Camps especially in rural areas, slums, labour colonies with the dual purpose of educating weaker sections of the

society as to their right as well as encouraging the settlement of disputes through Lok Adalats.

3. OBJECTIVES OF LEGAL SERVICES CAMP:

The Legal Services camp must aim to achieve the following objectives:-

3.1 To spread awareness about welfare legislations and schemes, and strengthen the community's access to the schemes being implemented by the Legal Services Authority and other departments of government.

3.2 Identifying and connecting people to welfare schemes to ensure that fruits of welfare schemes are passed to eligible people.

3.3 To understand legal needs of people and address legal problems of people by giving appropriate legal advice and taking other necessary steps.

4. SUGGESTED THEMES/ ISSUES WHICH MAY BE COVERED IN A LEGAL SERVICES CAMP

4.1 Labour

- Connecting unorganised sector workers to welfare schemes.
- Issues of construction / agricultural labour.
- Availing benefit under Centre and State Schemes.
- Legal Services in any other issues relating to entitlements under labour laws.

4.2 Persons with disabilities

- Addressing disconnect between welfare schemes and persons with disabilities.
- Taking steps to connect beneficiaries with schemes such as Niramaya and Gyan Prabha run by National Trust.
- Ensuring legal services in any other issues.

4.3 Children related issues

- Addressing educational rights of children aged between 6-14.

- Child Marriage.
- Child Labour.
- Issues related to rights under Food Security Act.
- Establishment of Legal Literacy Clubs in Higher Secondary and Senior Secondary Schools.

4.4 Transgenders

- Ensuring benefits of welfare legislations/schemes. Issues dealt in NALSA vs. Union of India & Ors. (W.P.(C) No.400/2012).

4.5 Prisoners

- Ensuring representation before court.
- Availability of legal services for inmates.
- Digitisation of legal services clinics in jails.
- Adoption of E-Prison Portal by Jails.

4.6 Issues relating to SC/STs

- Ending discrimination.
- Partnering with State Commission of SC/ST on all issues pertaining to them.

4.7 Senior Citizens

- Ensuring benefits of welfare legislations/schemes.
- Availability of legal services including issues relating to Maintenance and Welfare of Parents & Senior Citizens Act, 2007.
- Senior Citizens Pension issues, if any.
- Elderly abuse, neglect and abandonment.

4.8 Beggars and homeless

- Exploring facilities available for them.
- Identifying abuse, trafficking etc.

4.9 Road Safety and accident

- Awareness about road safety signs.
- Protection to good Samaritans.

4.10 Victims of Disasters

- Problems/legal issues faced by people affected by drought/flood/industrial disasters. Short term and long term planning.
- Minimizing the impact of flood etc. A mechanism for drought stricken and sustenance to victim.

4.11 Victims of Trafficking

- Identifying causes/areas.
- Rehabilitation and repatriation issues.
- Helping to connect with schemes such as Ujjawala run by Ministry of Women and Child.
- Addressing legal issues relating to victims, particularly under Immoral Traffic (Prevention) Act, 1956 or any other law.

4.12 Any other eligible/category.

5. PRE-CAMP STEPS

5.1 Identification of target population

State Legal Services Authority shall identify cluster of villages in any particular district where categories of persons coming within the ambit of any particular NALSA Scheme are living. After identifying cluster of such villages, the scheme sought to be implemented shall form the core theme for the camp. The core theme, as per the conditions prevailing in the area and to touch particular section of society, may be further broken down to specific themes such as labour rights or rights of senior citizens or rights of women etc.

5.2 Formation of team for connecting with the intended beneficiaries

Teams of Panel Lawyers and Para Legal Volunteers be formed. NGOs working in the field of selected core theme , be identified. NGOs having credible reputation only to be identified and associated with teams. Any other expert having expertise in the subject matter of core theme can also be associated with the teams to connect with the target population so as to make

them aware about the organisation of Legal Services Camp and to ensure that benefits arranged at the Camp reaches them.

5.3 Identification of specific welfare schemes and departments implementing them

Welfare Schemes and legislations pertaining to core theme be identified. Government departments related to the said core theme be identified. Departments who are even remotely related to the sections of people of core theme be also identified so that multi-dimensional and holistic approach is adopted to ensure access to justice in a meaningful and effective manner. For instance, if the core theme is rights of labourers then, regarding that core theme, the relevant departments/entities would be Department of Labour, Department of Social – Welfare, Department of Health, Department of Women and Child, Ministry of Skill Development, Common Services Centres. These said departments/entities would be the main Departments. Main focus of the camp shall be to connect people with the schemes being run by the main departments related to core theme. Apart from those main departments, other entities and departments which can provide benefit to labourers on the day of camp be also identified. In the given illustration, another department can be department of education to take care of the educational rights of children of labourers etc. Services at Common Services Centres may be availed.

5.4 NALSA Schemes

1. Scheme for Para-Legal Volunteers
2. Schemes for Legal Services to Disaster Victims through Legal Services Authorities
3. NALSA (Victims of Trafficking and Commercial Sexual Exploitation) Scheme, 2015
4. NALSA (Legal Services to the Workers in the Unorganized Sector) Scheme, 2015
5. NALSA (Child Friendly Legal Services to Children and their Protection) Scheme, 2015
6. NALSA (Legal Services to the Mentally Ill and Mentally Disabled Persons) Scheme, 2015
7. NALSA (Effective Implementation of Poverty Alleviation Schemes) Scheme, 2015
8. NALSA (Protection and Enforcement of Tribal Rights) Scheme, 2015
9. NALSA (Legal Services to the Victims of Drug Abuse and Eradication of Drug Menace), Scheme, 2015
10. NALSA (Legal Services to Senior Citizens) Scheme, 2016
11. NALSA (Legal Services to Victims of acid attacks)Scheme, 2016

5.5 Holding of pre-camp preparatory meetings with stakeholders

Before conducting camp, workshop for teams be conducted to make them aware about the camp design and government welfare schemes and the method to connect sections of community related to core theme with welfare schemes /programmes. In the said workshop, officials of the government departments and NGOs be also requested to participate so that coordinated

efforts are made to benefit the marginalized sections of the society. They be apprised about the objectives of the legal services camp, pre-camp steps and activities during camp etc.

5.6 Identification of venue for the camp

Open Space be also identified where legal services camp can be held for identified villages. It should be kept in view that the space must be large enough to accommodate around 1500/2000 people and setting up of stalls, LED screen etc.

5.7 Field visits by outreach teams in the district/adjoining areas

Teams in association with NGOs, if any, shall make field visits to identify people related to the core theme. Field visits must start at least fifteen days prior to holding of camp. Teams must identify targeted people related to core them. They must also interact with those people to apprise them about the welfare schemes/programmes related to them. Teams shall disseminate information about camp such as its importance/objectives and relevance to their lives to let people know about the importance of camp. People be also told to bring necessary identity documents required for filling up forms related to schemes. Sarpanches/ Panchayat members of the identified villages be also requested to come on the day of camp. They be also requested to mobilise people related to core theme of the camp. Presence of

Sarpanches and Panchayat members is also required as while submitting forms identification of applicant is required to be made.

5.8 Publicising the organisation of legal services camp

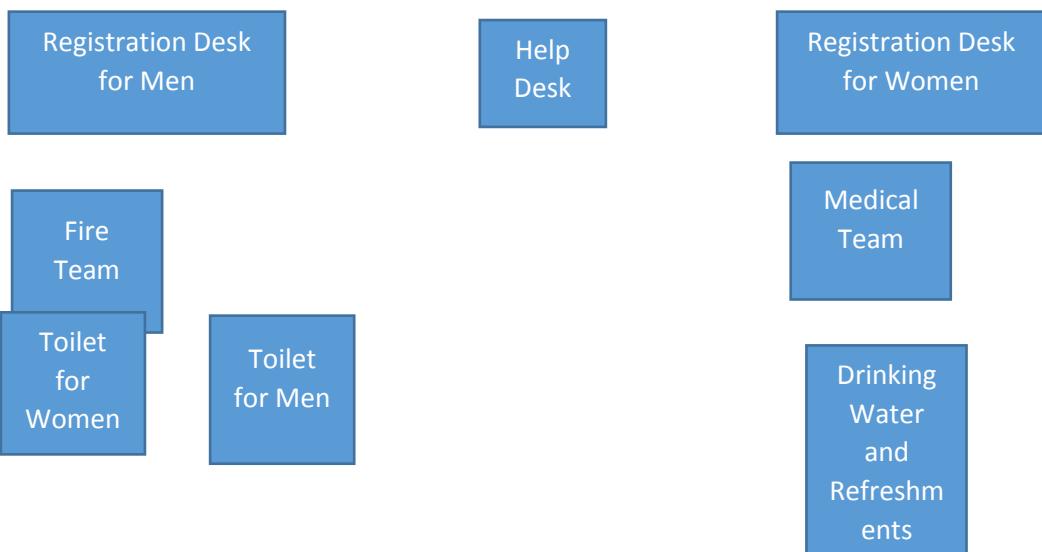
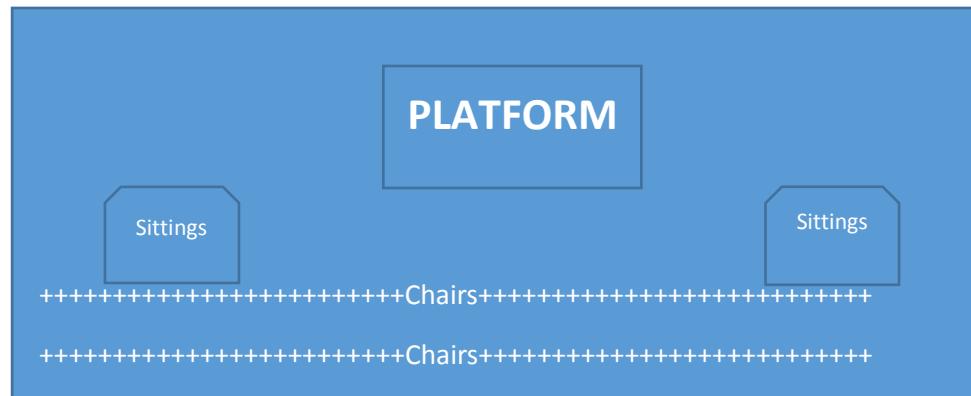
Before holding camp, mobilization be also done through community meetings and by door-to-door visits of field teams to disseminate information about camp. Information about details of the camp through loud speakers and community radio be also disseminated. Adequate number of hoardings be also placed at public places to give information to public about the venue and date of legal services camp.

5.9 Identifying of presenters by participatory government departments/ministries during the camp.

Meetings with the Officers of the concerned departments be held to chalk out strategies for conducting Legal Services Camp on the core theme. They be apprised about the objectives of the camp, pre-camp steps etc. They be also requested to have adequate pamphlets, booklets, application forms etc. relating to welfare schemes/programmes of their departments in vernacular language on the day of camp. They be also requested to nominate presenting officers who will give very brief presentation about the welfare schemes to people on the day of camp in local language.

5.10 Physical lay-out of the Camp

Camp's physical lay- out be also designed for the convenience of the villagers/participants. Separate registration stalls for males and females be put. Stalls for different departments including that of Legal Services Authority be also planned in coordination with the government departments. Two/three stalls be kept for NGOs and team members to fill up the forms for getting people connected with schemes. Arrangement for photocopier and adequate stationary be made in the said two/three stalls of the team members and NGOs. Power supply be also ensured to those stalls and LED. LED be placed at a place visible to participants. LED Screen is required so that the NALSA theme song and any other documentary relating to legal services authorities may be shown. The suggested camp design is as follows:



6. DURING CAMP

6.1 Short presentation by the Departments/Ministries

The main Departments relating to core theme shall give presentation in local language about the relevant welfare schemes of their Department. They shall briefly spell out the eligibility criteria under the Schemes. Each Department shall not take more than five minutes for the said purpose.

6.2 Real time registration of beneficiaries during the Camp.

After overview by Departments about various schemes, people shall be visiting the stalls of Departments including that of Legal Services Authority. The Officers of Departments at the stalls shall not only apprise people about the welfare schemes and distribute pamphlets regarding the same but shall also fill up the forms so that the same are processed further for getting people connected with the schemes.

6.3 For the purpose of filling up forms under different schemes, people may be referred to the stalls of NGOs/teams who shall fill up forms and attach necessary documents with the form. The teams/NGOs at the end of the programme shall submit the said forms to the different concerned departments.

7. AFTER CAMP ACTIVITY

7.1 Preparation of Camp Report

A detailed report be prepared regarding the Legal Services Camp. It shall, inter-alia, spell out the activities done at the different stalls, application forms filled up with regard to different schemes etc. Lessons learnt from the camp also be clearly indicated so that improvements are made in upcoming camps to effectively reach out to people and getting them connected with the welfare schemes/legislations.

7.2 Follow up of all registrations done during the Camp.

Follow up action be taken on the various application forms submitted during the camp and the applications/representations written of the visitors relating to various issues.

7.3 Clearance of Camp Bills.

Bills of agencies whose services are taken for arranging the camp be cleared preferably within a week. Bills of Panel Advocates and PLVs associated in pre-camp activities and also during camp be also cleared within a week.

7.4 Maintenance of Cleanliness

Clearance of garbage etc. at the place where camp was held be also ensured.

8. SOME OTHER IMPORTANT POINTS

8.1 The duration of the camp shall be of 4-6 hours.

8.2 The time for opening Legal Services Camp be decided keeping in view weather condition and any other local conditions.

8.3 Adequate Drinking Water arrangements be made at the camp.

8.4 Refreshments including tea/biscuits be arranged for participants/villagers.

8.5 To deal with any emergency, Medical Team and Fire Fighting Team be also kept on standby.

8.6 Local police be also requested to put adequate number of policemen on duty at the camp site to avoid any chaos at the spot and to deal with any emergency.

8.7 Legal Services Camp should not be given the shape of a seminar, and, hence, inaugural sessions/speeches must be avoided. The focus should be to deliver by connecting people with the identified schemes and redress their problems.

8.8 Arrangements be also made for cord-less mics and standing mics.

8.9 Help Desks be also set up to help people during the camp by guiding them to the different stalls.

8.10 Adequate number of Registration Stalls be put up so that long queues are not formed and delay is avoided in registration of the participants.

Legal Services Camp

Follow-up Guidelines

1. Background and Rationale

Legal Services Camp Module, devised by NALSA, spells out delivery based Model of legal services camp with an objective to bring empowerment of weaker sections of society. The operational framework of legal service camp, as per the Module, consist of three parts i.e. Pre-Camp Stage, Activities during Camp and Post-Camp Activities. All the three parts are inter-related and integral to success of legal services camp. The fruitful organization of legal services camp depends upon the successful completion of all the three parts. In the Legal Services Camp Module, under the head, 'After-Camp Activites' follow-up action is stipulated. Follow-up action is imperative to ensure that identifies beneficiaries get what they are entitled to under welfare laws and various Central and State schemes. The objectives of empowering the disadvantaged by using the tool of Legal Services Camp can be fulfilled only if effective follow-up action is undertaken systematically and expeditiously. In the absence of follow-up, the entire exercise of organizing camp may fail to deliver desired results.

2. Follow-up on what?

During Pre-Camp stage, teams formed by Legal Services Authorities visit the selected villages/areas for identifying beneficiaries in consonance with the selected theme. During the course of said visits, beneficiaries are identified

beneficiaries with welfare schemes being implemented by various departments. Apart from this, some of the applications pertain to seeking of legal advice or pursuing of legal remedies in the courts of Law. Data is supposed to be maintained of the identified beneficiaries and their applications, forms etc. Some of the applications/forms are submitted during pre-camp activities itself with the various departments so that the departments may be able to process the said applications/forms and deliver the benefits on the day of the camp. Some forms/applications need more documentation which includes attaching copies of identity documents, etc., without which it cannot be submitted/processed during the pre-camp stage. The said applications/forms are submitted with the various departments either on the day of camp or after the camp. Apart from this, applications/forms are received on the day of the camp by the various participating government departments who put up stalls at the camps. Applications/forms are also received on the day of the camp at the stall of Legal Services Authority. PLVs and panel lawyers deputed at the stall help visitors in drafting application and filling up forms. Participating NGOs also receive applications etc. from people.

2.1 Keeping in view the aforesaid, follow-up action is required on the following aspects:

- a) Applications/Forms submitted of identifies beneficiaries to the various departments at the pre-camp stage, but benefits were not delivered on the day of the camp to said beneficiaries.

- b) Beneficiaries identified at pre-camp stage but their applications/forms not submitted to the various departments at pre-camp stage.
- c) Applications/forms received of intended beneficiaries at the stalls of Legal Services Authority on the day of camp.
- d) Applications/forms received and registrations entered by various departments at their stalls on the day of camp.
- e) Applications received by participating NGOs but benefits not delivered on the day camp.

3. How to carry out follow up:

For effective and proper follow-up, a team may be constituted which shall focus on follow-up points. The team may consists of members who were engaged during the pre-camp activities and who were deputed on the day of the camp. The said team may be headed by a responsible officer who may be a Secretary, District Legal Services Authority. The suggestive follow-up action is mentioned in the table below:

S.No.	Follow-up points	Follow-up action required
1.	Applications/Forms submitted of identified beneficiaries of identified beneficiaries to the various departments at the pre-camp stage, but benefits were not delivered on the day of the camp to said beneficiaries	<p>a) Matter be pursued with the relevant departments to Know about the status of applications/forms.'</p> <p>b) If further processing of the application/forms requires some documents then the follow up team must get in touch with the</p>

		<p>beneficiaries so that copies of the relevant documents are submitted to the concerned departments.</p> <p>c) Feedback be given to the beneficiaries about the status of their applications/forms.</p> <p>d) Follow up shall continue till such time the benefit actually reaches the intended beneficiary.</p>
2.	Beneficiaries identified at pre-camp stage but their applications/forms not submitted to the various departments at pre-camp stage.	<p>a) Forms/applications be submitted to the concerned departments. If before submission, copies of documents are required from the beneficiaries then they be contacted and apprised of the same.</p> <p>b) After submitting forms/applications with various departments, feedback be given of the said step to the beneficiaries</p>
3.	Applications/forms received of intended beneficiaries at the stalls of Legal Services Authority on the day of camp.	<p>a) If the applications/forms relate to the welfare schemes being implemented by the Government Departments, the said applications be submitted to the concerned departments.</p> <p>b) If before submission, copies of documents are required from the beneficiaries, then they may be contacted and apprised of the same.</p> <p>c) After submission of the forms/applications with various departments, feedback be given of the said</p>

		<p>step to the beneficiaries.</p> <p>d) If the applications pertain to the filing or defending any case in the court or seeking of some legal advices, the same without delay be dealt with by the office of DLSA, and action taken on the said application be intimated to the beneficiary.</p> <p>e) Follow up shall continue till such time the benefit actually reaches the intended beneficiary.</p>
4.	Applications/forms received and registrations entered by various departments at their stalls on the day of camp	<p>a) Data be collected from the Government Departments who had put up stall on the day of the camp, about applications/forms received and registration entered by them.</p> <p>b) Regarding those applications/forms matter be pursued with the departments as to the action taken by those departments on the said applications/forms.</p> <p>c) Feedback be given to the beneficiaries about the status of their applications/forms.</p> <p>d) Follow up shall continue till such time the benefit actually reaches the intended beneficiary.</p>
5.	Applications received by participating NGOs but benefits not delivered on the day camp.	<p>a) Matter be pursued with the NGOs and if required micro follow-up camp for delivering the benefits may be organized so that NGO delivers the benefits in the</p>

		<p>said follow-up micro camp. This is primarily necessitated in case of NGO providing prosthetic limbs.</p> <p>b) Applicants be accordingly informed of the said follow-up and organization of micro level follow-up camp.</p>
--	--	--

4. Methods of feedback

1. If the intended beneficiary has then feedback may be given through a telephonic call.
2. If the intended beneficiary does not have a phone, as is particularly the scenario in remote areas, then the team members of the follow-up team may visit the villages and give face to face feedback.

5. Format

Separate format sheets can be used for different Ministries/Departments. The suggestive format for maintaining data including follow-up action is as follows:

FORMAT

S.No.	Name of beneficiary	Address and phone number of beneficiary	Action taken on application/form	Follow-up action	Feedback to beneficiary (Yes/No)

Submission of Report to NALSA:

The report in the following format be submitted to NALSA after the conclusion of the camp which necessarily includes follow-up action:

1.	Name of SLSA	
2.	Venue of Legal Services Camp	
3.	Number of Villages/Urban areas covered	
4.	Number of beneficiaries identified at the pre-camp stage	
5.	Number of beneficiaries whose applications were dealt/forwarded at pre camp stage to concerned departments	
6.	Number of beneficiaries to whom benefit given on the day of the camp	
7.	Number of new beneficiaries who submitted applications/forms on the day of the camp to legal services Authority or other participating departments	
8.	Number of beneficiaries whose applications were dealt with including forwarding of	

	applications to various departments during and after the camp	
9.	Number of beneficiaries qua whom follow-up action was taken.	
10.	No. of applications who are yet to be delivered desired benefits.	

POST CAMP ASSESSMENT

1. Rationale

Legal Services Camps are being organized by State Legal Services Authority by following the operational framework spelt out in the Legal Services Camp Module devised by NALSA. It is quite imperative to assess as to whether Legal Services Camps are achieving the contemplated objectives or not. After completion of the camp, assessment is also required to identify and learn from successes and failures. Primarily, with this in view, a post camp assessment framework is required so that post camp assessments are carried out by Legal Services Authorities to capture the lessons learnt from past success and failures, with the goal of improving future performance.

2. About Post Camp Assessment

Organizational learning requires that there is continuous assessment of performance to identify and learn from successes and failures. Post camp Assessment is a tool that facilitates this assessment with regard to Legal Services Camps. It is a structured approach for reflecting upon the Legal Services Camp and identifying strength, weakness and areas for improvement.

Post Camp Assessment shall revolve around the following

- What was expected to happen?
- What actually occurred?
- What went well and why?
- What can be improved and how?

3. Steps in Post Camp Assessment

3.1 STEP 1 – PLANNING A POST CAMP ASSESSMENT

The success of meeting for post camp assessment often depends upon the amount of time spent in planning for the meeting.

- I. Schedule the Post Camp Assessment ideally, within two weeks of completion of Legal Services Camp.
- II. Select the facilitator who may be the Secretary, DLSA. Facilitator's job is to keep the meeting focussed and moving.
- III. For the best results:
 - Plan to conduct the team meeting in person, rather than by phone.
 - Ensure participation of all team members.
 - It is recommended that a time equal to 10 minutes per team member is set aside. If necessary, the assessment can be continued on second day meeting.
- iv) **Note taker:** Assign a team member to take notes on the flip charts. If the post Camp Assessment is an hour or longer, consider having team members rotate this job so everyone can participate fully.
- V) **Timekeeper:** Assign times to the sections of the Post Camp Assessment in advance and ask someone to play the role of time keeper (this is important- it is easy for groups to get lost in conversion and not have time to cover all sections of the assessment).

3.2 STEP-2 – CONDUCTING POST CAMP ASSESSMENT

(i) Introducing the Post Camp Assessment-

The task of the facilitator is to guide the group through assessment of the Legal Services Camp, using a standard set of questions:

- What was expected to happen?
- What actually occurred?
- What went well and Why?
- What can be improved and how?

Start by reminding the team of the purpose and context of the meeting.

The following points need to be kept in view:

- The post Assessment Camp does not grade success or failure.
- There are always weakness to improve and strengths to sustain.
- Participants should share honest observations about what actually happened (objective data) without assigning blame or praise.
- No one has all the information or answers. Everybody has something important to contribute.
- Set an atmosphere of openness. If necessary facilitator can introduce ground rules or expectations for the session.

(ii) Closing the Post Camp Assessment

- a. To close the Post Camp Assessment, summarise key points identified during the discussion. The session should end on a positive note, linking observations to recommendations for future improvements.
- b. Assign role for follow up: The Facilitator should discuss in advance the process for writing up the post camp assessment report.

3.3 STEP 3 : PREPARING REPORT & SHARING THE POST CAMP ASSESSMENT

Report shall be prepared. The following points may be kept in view:

- (i) Provide a clear summary of concrete and actionable recommendations that will improve the process.
- (ii) Identifying tasks and topics requiring leadership attention.
- (iii) Share the Post Camp Assessment Report with DLSAs.

The greatest benefit of a post Camp Assessment comes from applying the lessons learned to future work and teams. The conclusions drawn must be applied in future camps so as to make them more effective.

4. KEY POINTS AND PRACTICAL TIPS

- ✓ Post the questions on flipchart sheets prior to the session. Write answers on the sheet as the session progresses.
- ✓ The Facilitator should prepare some lead-in questions and may have to directly solicit answers.
- ✓ If there are issues with either openness or time, it may be worthwhile to gather individual ideas first and then facilitate a group discussion.
- ✓ Actionable recommendations should be as specific as possible.
- ✓ Participants of a Post Camp Assessment should include all members of the team.
- ✓ Post Camp Assessment should be carried out immediately, while the team is still available and memories are fresh.

ITEM NO.61

COURT NO.4

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Writ Petition(s)(Civil) No(s).565/2012

NIPUN SAXENA & ANR.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(IA No.23394/2018-EXEMPTION FROM FILING O.T.)

WITH

W.P.(C) No. 568/2012 (PIL-W)

W.P.(Crl.) No. 1/2013 (PIL-W)

W.P.(C) No. 22/2013 (PIL-W)

W.P.(C) No. 148/2013 (PIL-W)

SLP(Crl.)...CRLMP No. 16041/2014 (II-A)

Date : 11-05-2018 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MADAN B. LOKUR
HON'BLE MR. JUSTICE DEEPAK GUPTA

Ms. Indira Jaising, Sr. Adv. (A.C.)
Ms. Sangeeta Madan, Adv.
Mr. P.S. Tripathi, AOR
Ms. Vani Vyas, Adv.
Mr. Mukesh Kumar Singh, Adv.
Ms. Aanchal Singh, Adv.
Mr. Ravi Chandra Prakash, Adv.
Mr. Abhishek Tripathi, Adv.
Ms. Ajita Sharma, Adv.

For Petitioner(s)

Ms. Ankita Chaudhary, Adv.
Mr. Nipun Saxena, Petitioner-in-person
Mr. Aditya P. Arora, Adv.
Mr. Namit Saxena, Adv.

Mr. Prashant Chaudhary, AOR

Mr. R. P. Gupta, AOR

Mr. E.C. Agrawala, AOR

Signature Not Verified

Digitally signed by
MEENAKSHI KOHLI
Date: 2018-05-14
17:06:29 IST
Reason:

For Respondent(s)

Ms. Pinky Anand, ASG
 Mr. Ashok Kumar Panda, Sr. Adv.
 Mr. Sachin Sharma, Adv.
 Ms. Sushma Verma, Adv.
 Mr. Raj Bahadur, Adv.
 Mrs. Anil Katiyar, Adv.
 Mr. S.A. Haseeb, Adv.
 Ms. Bhakti Pasrija Sethi, Adv.
 Mr. M.P. Gupta, Adv.
 Ms. Kirti Dua, Adv.
 Mr. B.V. Balaram Das, Adv.
 Mr. Ajay Kumar Singh, Adv.
 Mr. Shailinder Saini, Adv.
 Mr. R.K. Rathor, Adv.
 Ms. Rashmi Malhotra, Adv.
 Ms. Sunita Sharma, Adv.
 Mr. R.R. Rajesh, Adv.
 Ms. Saudamini Sharma, Adv.
 Mr. S. Wasim A. Qadri, Adv.
 Mr. Zaid Ali, Adv.
 Mr. Tamim Qadri, Adv.
 Mr. Saeed Qadri, Adv.
 Mr. G.S. Makker, Adv.
 Mr. Arun Kumar, Adv.
 Ms. Aishi Singh, Adv.

**For States of
Assam**

Mr. Debojit Borkakati, Adv.
 Ms. Diksha Rai, Adv.
 Mr. M. Balashivudu, Adv.

Andhra Pradesh

Mr. Guntur Prabhakar, Adv.
 Ms. Prerna Singh, Adv.

Bihar

Mr. Gopal Singh, AOR
 Mr. Manish Kumar, Adv.

Chhattisgarh

Mr. Jugal Kishore Gilda, Adv. Gen.
 Mr. A.P. Mayee, Adv.
 Mr. Avnish M. Oza, Adv.
 Mr. Chirag Jain, Adv.

Goa

Mr. A.N.S. Nadkarni, ASG
 Ms. Ruchira Gupta, Adv.
 Mr. Santosh Rebello, Adv.
 Mr. Anurag Sharma, Adv.
 Ms. Nivedita Nair, Adv.

Gujarat

Ms. Hemantika Wahi, AOR
 Ms. Jesal Wahi, Adv.
 Ms. Mamta Singh, Adv.
 Ms. Shodhika Sharma, Adv.

Haryana	Mr. Sanjay Kumar Visen, Adv.
H.P.	Mr. Ajay Marwah, Adv. Mr. Mool Singh, Adv.
Jharkhand	Mr. Tapesh Kumar Singh, Adv. Mr. Mohd. Waquas, Adv. Mr. Aditya Pratap Singh, Adv.
J&K	Mr. M. Shoeb Alam, Adv. Ms. Fauzia Shakil, Adv. Mr. Ujjwal Singh, Adv. Mr. Mojahid Karim Khan, Adv.
Karnataka	Mr. V.N. Raghupathy, Adv. Mr. Parikshit P. Angadi, Adv.
Kerala	Mr. C.K. Sasi, Adv.
M.P.	Ms. Prachi Mishra, Adv. Mr. Arjun Garg, Adv. Ms. Pragya Garg, Adv.
Maharashtra	Mr. Nishant Ramakantrao Katneshwarkar, AOR
Manipur	Mr. Leishangthem Roshman, Adv. Ms. Maibam Babina, Adv.
Meghalaya	Mr. Ranjan Mukherjee, Adv. Mr. K.V. Kharlyngdoh, Adv. Mr. Daniel Stone Lyngdoh, Adv.
Mizoram	Mr. K.N. Madhusoodhanan, Adv. Mr. T. G. Narayanan Nair, AOR
Nagaland	Ms. K. Enatoli Sema, AOR Mr. Edward Belho, Adv. Mr. Amit Kumar Singh, Adv. Mr. K. Luikang Michael, Adv.
Punjab	Mr. Karan Bharihoke, Adv. Ms. Zahra Khan, Adv.
Rajasthan	Mr. Nalin Kohli, AAG Mr. Ankit Roy, Adv. Mr. Indrajeet Singh, Adv. Ms. Nimisha Menon, Adv. Mr. Milind Kumar, Adv.
Sikkim	Ms. Aruna Mathur, Adv. Mr. Avneesh Arputham, Adv.

**Ms. Anuradha Arputham, Adv.
Ms. Simran Jeet, Adv.
for M/s Arputham Aruna & Co.**

Tamil Nadu	Mr. M. Yogesh Kanna, Adv. Mrs. Sujatha Bagadhi, Adv.
Telangana	Mr. S. Udaya Kumar Sagar, AOR Mr. Mrityunjai Singh, Adv.
Uttar Pradesh	Ms. Aishwarya Bhati, AAG Mr. Aviral Saxena, Adv. Mr. Pradeep Misra, Adv.
Uttarakhand	Ms. Rachana Srivastva, Adv. Ms. Monika, Adv. Ms. Sudipta Sarkar, Adv.
West Bengal	Mr. Suhaan Mukerji, Adv. Mr. Vishal Prasad, Adv. Ms. Astha Sharma, Adv. Mr. Amjid Maqbool, Adv. Mr. Amit Verma, Adv. For PLR Chambers & Co.
A&N Islands	Mr. Bhupesh Narula, Adv. Mr. K.V. Jagdishvaran, Adv. Mrs. G. Indira, AOR
Chandigarh	Ms. Kamakshi S. Mehlwal, Adv. Mr. Sanveer Mehlwal, Adv. Ms. Geetanjali Mehlwal, Adv.
Dadar & Nagar Haveli	Mr. A.K. Panda, Sr. Adv. Ms. Sushma Verma, Adv. Mr. R.R. Rajesh, Adv. Mr. Sachin Sharma, Adv. Mr. Amit Pratap Singh, Adv. Mr. Arun Kumar, Adv.
NCT of Delhi	Mr. Chirag M. Shroff, AOR
Puducherry	Mr. V.G. Pragasam, Adv. Mr. Prabu Ramasubramanian, Adv. Mr. S. Manuraj, Adv.
	Mr. T.N. Rama Rao, Adv. Mr. Hitesh Kumar Sharma, Adv. Mr. T. Veera Reddy, Adv.
	Mr. Ardhendumauli Kumar Prasad, Adv. Ms. Taruna Ardhendumauli Prasad, Adv.

Mr. Namit Saxena, Adv.
Ms. Tajinder Virdi, Adv.

Ms. Bina Madhavan, Adv.
for M/s. Lawyer's Knit & Co.

**UPON hearing the counsel the Court made the following
O R D E R**

Pursuant to orders passed by us from time to time, NALSA has framed the "Compensation Scheme for Women Victims/Survivors of Sexual Assault/other Crimes - 2018.

In this context the order passed by us on 15th February, 2018 was communicated by the Ministry of Women and Child Development of the Government of India to all the Principal Secretaries/Administrators of the States/Union Territories.

The order dated 15th February, 2018 reads as follows:

"In spite of all talks, discussions and intents expressed about gender justice and safety of women, we find that there are 24 States / UTs that have not even bothered to file an affidavit in terms of our order dated 09.01.2018.

On 09.01.2018, we had required all the State Governments / UTs to file an affidavit within a period of four weeks indicating the amount received by each State Government / UT under the Nirbhaya Fund towards victim compensation, the amount disbursed from the Nirbhaya Fund and even otherwise and to the number of victims of sexual assault.

This simple information could not be filed as mentioned above by following 24 States / UTs:

1. Andhra Pradesh
2. Arunachal Pradesh
3. Assam
4. Chhattisgarh
5. Goa
6. Haryana
7. Himachal Pradesh

8. Jammu & Kashmir
9. Kerala
10. Maharashtra
11. Manipur
12. Meghalaya
13. Mizoram
14. Rajasthan
15. Tamil Nadu
16. Telangana
17. Tripura
18. Uttar Pradesh
19. Uttarakhand
20. West Bengal
21. Dadra and Nagar Haveli
22. Daman and Diu
23. Delhi
24. Lakshadweep

The affidavits be now filed by these State Governments / UTs within four weeks from today, if they are at all interested in looking after the welfare of women in their States/Uts.

List the matters on 27.03.2018.

The Learned *Amicus* has finalized a draft of the Victim Compensation Scheme with the assistance of NALSA. It is stated that this will be put on the portal of NALSA for inviting suggestions and comments."

Thereafter, on 9th March, 2018, NALSA put up a notice on its website which reads as follows:

"09.03.2018

To

**State Legal Services Authorities
Ministries/Government Departments
Law Universities and NGOs.**

Sub: Suggestions invited on the Model "Victim Compensation for Survivors of Sexual Assault and Acid Attack - 2018" - reg.

Sir/Madam,

Whereas vide order dated 12.10.2017, Hon'ble Supreme Court of India had directed NALSA to set up a Committee for preparation of Model "Victim Compensation Scheme for Survivors of Sexual offences and Acid Attack". The Committee formed by NALSA has now come with a Draft to be added in the State Victim Compensation Scheme titled "Victime Compensation for Survivors of Sexual Assault and Acid Attach - 2018".

As per order dated 15.02.2018, NALSA is now uploading the Draft on its website so that suggestions can come from SLSAs, various Governments, NGOs and other stakeholders.

Suggestions, if any, can be e-mailed to NALSA on nalsa-dla@nic.in in the next two weeks on or by 25.03.2018.

Yours faithfully,

Surinder S. Rathi"

We are informed that 14 responses from the State Legal Services Authorities were received to the notice of this Model Victim Compensation Scheme.

After all the objections were considered, a Committee comprising the following members was constituted for preparation of the Model Scheme. The members of the Committee are as follows:

**"Ms. Pinky Anand
Additional Solicitor General**

**Shri Rakesh Srivastava
Secretary, Ministry of Women and Child Development, Government of India**

**Shri T.V.S.N. Prasad, Adv.
Additional Secretary, Ministry of Home Affairs
Government of India**

**Ms. Indira Jaising
Senior Advocate, Supreme Court of India**

**Shri Alok Agarwal
Member Secretary, NALSA**

**Shri Surinder S. Rathi,
Director, NALSA**

**Ms. Anju Rathi Rana,
Joint Secretary,
Department of Legal Affairs,
Ministry of Law and Justice, Govt. of India**

**Shri K.L. Sharma,
Joint Secretary
National Commission for Women**

**Ms. Bharti Ali
Co-Director,
HAQ: Centre for Child Rights**

We have gone through the Scheme prepared by NALSA with the assistance of learned *amicus curiae* and we are of the view that it contains the best practices of all similar schemes and should be implemented by all the State Governments and Union Territory Administrations.

A copy of the Scheme should be sent by the Ministry of Women and Child Development, Government of India to the Principal Secretaries of the State Governments and Union Territory Administrations within two weeks from today for implementation.

We make it clear that the Scheme postulates only the minimum requirements. This does not preclude the State Governments and Union Territory Administrations from adding to the Scheme. However, nothing should be taken away from the Scheme.

For other issues, list the matter on 25th July, 2018.

(SANJAY KUMAR-I)
AR-CUM-PS

(CHANDER BALA)
COURT MASTER

THE NATIONAL LEGAL SERVICES AUTHORITY (LOK ADALAT) REGULATIONS, 2009

**(As amended vide notification F.No. L/28/09/NALSA dated 28.08.2019
published in the Gazette of India on 6.9.2019)**

In exercise of the powers conferred by Section 29 of the Legal Services Authorities Act, 1987, the Central Authority hereby makes the following regulations, namely:

1. Short title and commencement. – (1) These regulations may be called National Legal Services Authority (Lok Adalats) Regulations, 2009.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions. - In these Regulations, unless the context otherwise requires –

(a) ‘Act’ means the Legal Services Authorities Act, 1987 (39 of 1987).

(b) ‘Lok Adalat’ means Lok Adalats to be organized under Section 19 of the Act

¹(ba) ‘Pre-Litigation matter’ means a dispute between the parties which is not filed before the court.

(c) All other words and expressions used but not defined in these regulations and defined in the Legal Services Authorities Act, 1987(39 of 1987) or the National Legal Services Authority Rules, 1995 shall have the meanings respectively assigned to them in the said Act or rules.

3. Procedure for organising Lok Adalats:- (1) Lok Adalat may be organised by the State Authorities or District Authorities or Supreme Court Legal Services Committee or High Court Legal Services Committee or, as the case may be, the Taluk Legal Services Committees at regular intervals and such Lok Adalats shall be organised for a definite geographical area as the aforesaid Authorities or Committees think fit:

Provided that, Special Lok Adalats shall be organised for all Family Courts at regular intervals.

(2) The Member-Secretary or Secretary of the High Court Legal Services Committee or District Authority, or the case may be, the Chairman of the Taluk Legal Services Committee may associate the members of the legal profession, college students, social organisations, charitable and philanthropic institutions and other similar organisations for organizing the Lok Adalats.

4. Intimation to the State Authority:- The Secretary of the High Court Legal Services Committee or District Authority or Chairman of the Taluk Legal Services Committee, as the case may be, shall inform the State Authority about the proposal to organize the Lok Adalat,

¹ Inserted vide notification dated 22/10/2018, published in the Gazette of India on 25/10/2018.

well before the date on which the Lok Adalat is proposed to be organized, and furnish the following information to the State Authority, namely:-

- (i) the place and the date on which the Lok Adalat is proposed to be organized;
- (ii) whether any of the organisations as referred to in sub-regulation(2) of regulation 3 above have agreed to associate themselves with Lok Adalat;
- (iii) categories and nature of cases,viz., pending cases or pre-litigation disputes, proposed to be placed before the Lok Adalat;
- (iv) number of cases proposed to be brought before the Lok Adalat in each category;
- (v) any other information relevant to the convening and organizing of the Lok Adalat.

5. Notice to parties concerned:- The Member Secretary or Secretary of the High Court Legal Services Committee or District Authority or, as the case may be, the Chairman of the Taluk Legal Services Committee convening and organizing the Lok Adalat shall inform every party concerned whose case is referred to the Adalat, well in time so as to afford him an opportunity to prepare himself for the Lok Adalat:

Provided that such notice may be dispensed with, if the Court while referring the case to the Lok Adalat fixes or informs the date and time of the Lok Adalat in the presence of the parties, or their advocates:

Provided further that if a party is not willing to refer their case to Lok Adalat, the case may be considered on its merits by the Court concerned.

6. Composition of Lok Adalat:- (a) **At State Authority Level.**- The Member Secretary organising the Lok Adalat shall constitute benches of the Lok Adalats, each bench comprising of a sitting or retired Judge of the High Court or a serving or retired judicial officer and any one or ²two of the following:-

- (i) a member of the legal profession;
- (ii) a social worker of repute who is engaged in the upliftment of the weaker sections of the people, including the Scheduled Castes, the Scheduled Tribes, women, children, rural and urban labour and interested in the implementation of legal services schemes or programmes.
- ³(iii) a professional from the field related to the subject matter of the Lok Adalat; and
- ⁴(iv) a mediator or a professional or a serving or retired senior executive.

(b) **At High Court Level:-** The Secretary of the High Court Legal Services Committee organizing the Lok Adalat shall constitute benches of the Lok Adalats, each bench comprising of a sitting or retired Judge of the High Court or a serving or retired Judicial Officer and any one or ²two of the following: -

- (i) a member of the legal profession;

² Substituted vide notification dated 22/10/2018, published in the Gazette of India on 25/10/2018.

³ Inserted vide notification dated 22/10/2018, published in the Gazette of India on 25/10/2018.

⁴ Inserted vide notification dated 22/10/2018, published in the Gazette of India on 25/10/2018.

- (ii) a social worker belonging to the category as mentioned in item (ii) of sub-para (a) above;
- ³(iii) a professional from the field related to the subject matter of the Lok Adalat; and
- ⁴(iv) a mediator or a professional or a serving or retired senior executive.

(c) At District Level:- The Secretary of the District Authority organizing the Lok Adalats shall constitute benches of the Lok Adalats, each bench comprising of a sitting or retired judicial officer and any one or ²two of the following:-

- (i) a member of the legal profession;
- (ii) a social worker belonging to the category as mentioned in item(ii) of sub-para (a) above or a person engaged in para-legal activities of the area, preferably a woman;
- ³(iii) a professional from the field related to the subject matter of the Lok Adalat; and
- ⁴(iv) a mediator or a professional or a serving or retired senior executive.

(d) At Taluk Level :- The Chairman of the Taluk Legal Services Committee organizing the Lok Adalat shall constitute benches of the Lok Adalat, each bench comprising of a sitting or retired judicial officer and any one or two of the following:-

- (i) a member of the legal profession;
- (ii) a social worker belonging to the category as mentioned in item(ii) of sub-para (a) above or a person engaged in para-legal activities of the area, preferably a woman;
- ³(iii) a professional from the field related to the subject matter of the Lok Adalat; and
- ⁴(iv) a mediator or a professional or a serving or retired senior executive.

⁵6 A. Payment of Special Duty Allowance:- If the Lok Adalat is organised on a holiday or organised beyond court hours on a working day, the ⁶presiding judges, other members and staff assisting the Lok Adalat shall be paid Special Duty Allowance as may be fixed by the concerned State Legal Services Authority:

Provided that such Special Duty Allowance shall not be less than the allowance recommended by the National Legal Services Authority.

7. Allotment of cases to Lok Adalats:- (1) The Member Secretary, the Secretary of the High Court Legal Services Committee, the District Authority or Chairman of the Taluk Legal Services Committee, as the case may be, shall assign specific cases to each bench of the Lok Adalat.

(2) The Member Secretary, the Secretary of the High Court Legal Services Committee

⁵ Inserted vide notification dated 22/10/2018, published in the Gazette of India on 25/10/2018.

⁶ Substituted vide notification dated 28/08/2019, published in the Gazette of India on 06/09/2019.

or the District Authority or Chairman of the Taluk Legal Services Committee, as the case may be, may prepare a cause list for each bench of the Lok Adalat and intimate the same to all concerned at least two days before the date of holding of the Lok Adalat.

(3) Every bench of the Lok Adalat shall make sincere efforts to bring about a conciliated settlement in every case put before it without bringing about any kind of coercion, threat, undue influence, allurement or misrepresentation.

8. Holding of Lok Adalats. - Lok Adalats may be organised at such time and place and on such days, including holidays as the State Authority, High Court Legal Services Committee, District Authority, or the Taluk Legal Services Committee, as the case may be, organising the Lok Adalat deems appropriate.

9. Jurisdiction of Lok Adalats.- Lok Adalats shall have the power only to help the parties to arrive at a compromise or settlement between the parties to a dispute and, while so doing, it shall not issue any direction or order in respect of such dispute between the parties.

10. Reference of cases and matters. - (1) Lok Adalat shall get jurisdiction to deal with a case only when a court of competent jurisdiction orders the case to be referred in the manner prescribed in Section 20 of the Act or under Section 89 of the Code of Civil Procedure, 1908 (5 of 1908).

⁷(1A) A pre-litigation matter may be referred to the Lok Adalat by the concerned Legal Services Institution on the request of any of the parties after giving a reasonable opportunity of being heard to the other party.

(2) A mechanical reference of pending cases to Lok Adalat shall be avoided and the referring court shall, *prima facie* satisfy itself that there are chances of settlement of the case through Lok Adalat and the case is appropriate to be referred to Lok Adalat:

Provided that matters relating to divorce and criminal cases which are not compoundable under the Code of Criminal Procedure, 1973 (2 of 1974) shall not be referred to Lok Adalat.

(3) In a pending case where only one of the parties had made application to the court for referring the case to Lok Adalat, or where the court *suo motu* is satisfied that the case is appropriate to take cognizance by Lok Adalat, the case shall not be referred to the Lok Adalat except after giving a reasonable opportunity of being heard to the parties.

⁸(4) The need based continuous Lok Adalats may be constituted in order to facilitate regular reference and timely disposal of cases.

11. Summoning of records and the responsibility for its safe custody. - (1) The Member Secretary, the Secretary of the High Court Legal Services Committee, the District Authority or, as the case may be, the Chairman of the Taluk Legal Services Committee may

⁷ Inserted vide notification dated 22/10/2018, published in the Gazette of India on 25/10/2018.

⁸ Inserted vide notification dated 22/10/2018, published in the Gazette of India on 25/10/2018.

call for the judicial records of pending cases which are referred to the Lok Adalat under Section 20 of the Act from the courts concerned.

(2) The officer duly authorised by the Member Secretary, the Secretary of the High Court Legal Services Committee, the District Authority or the Chairman of the Taluk Legal Services, as the case may be, shall be responsible for the safe custody of records from receiving of the same from court till they are returned.

(3) The judicial records shall be returned within ten days of the Lok Adalat irrespective of whether or not the case is settled by the Lok Adalat with an endorsement about the result of proceedings:

Provided that wherever it is appropriate, the court concerned from where the records are called may permit the records to be retained beyond the period of ten days.

(4) Every judicial authority is expected to co-operate in transmission of the judicial records.

12. Pre-Litigation matters. - (1) In a Pre-litigation matter it may be ensured that the court for which a Lok Adalat is organised has territorial jurisdiction to adjudicate in the matter.

(2) Before referring a Pre-litigation matter to Lok Adalat the Authority concerned or Committee, as the case may be, shall give a reasonable hearing to the parties concerned.

Provided that the version of each party, shall be obtained by the Authority concerned or, as the case may be, the Committee for placing it before the Lok Adalat,

(3) An award based on settlement between the parties can be challenged only on violation of procedure prescribed in section 20 of the Act by filing a petition under articles 226 and 227 of the Constitution of India.

13. Procedure in Lok Adalats.- (1) Members of Lok Adalat have the role of statutory conciliators only and have no judicial role and they, *mutatis mutandis*, may follow the procedure laid down in sections 67 to 76 of the Arbitration and Conciliation Act, 1996 (26 of 1996).

(2) Members of Lok Adalat shall not pressurise or coerce any of the parties, to compromise or settle cases or matters, either directly or indirectly.

(3) In a Lok Adalat the members shall discuss the subject matter with the parties for arriving at a just settlement or compromise and such members of the Lok Adalat shall assist the parties in an independent and impartial manner in their attempt to reach amicable settlement of their dispute:

Provided that if it found necessary the assistance of an independent person or a trained mediator may also be availed of by the Lok Adalat.

(4) Members of Lok Adalat shall be guided by principles of natural justice, equity, fairplay, objectivity, giving consideration to, among other things, the rights and obligations of the parties, custom and usages and the circumstances surrounding the dispute.

(5) The Lok Adalat may conduct the proceedings in such a manner as it considers appropriate taking into account the circumstances of the case, wishes of the parties including any request by a party to the Lok Adalat to hear oral statements, and the need for a speedy settlement of the dispute.

(6) The Lok Adalat shall not determine a reference, at its own instance, but shall determine only on the basis of a compromise or settlement between the parties by making an award in terms of the compromise or settlement arrived at:

Provided that no Lok Adalat has the power to hear the parties to adjudicate their dispute as a regular court:

Provided further that the aware of the Lok Adalat is neither a verdict nor an opinion arrived at by any decision making process.

14. Administrative assistance. - Administrative assistance for facilitating Lok Adalat proceedings may be arranged by suitable institutions or persons engaged in providing legal services.

15. Formulating compromise or settlements. - The Lok Adalat may, at any stage of the proceedings, make proposal for a settlement of the dispute and such proposal need not be accompanied by a statement of the reasons therefor.

16. Communication between Lok Adalat and parties. - (1) A Lok Adalat may invite the parties to meet it or may communicate with it orally or in writing and it may meet or communicate with the parties together or with each of them separately. The factual information concerning the dispute received from a party may be disclosed to the other party in order that the other party may have the opportunity to present any explanation:

Provided that the Lok Adalat shall not disclose any information, if one of the party desires to keep it confidential.

(2) Each party may on his own initiative or at the invitation of the Lok Adalat, submit suggestions for settlement of the dispute.

(3) When it appears to the Lok Adalat that there exists elements of a settlement which may be acceptable to the parties, the terms of a possible settlement may be formulated by the Lok Adalat and given to the parties for their observations and modifications, if any, suggested by the parties can be taken into consideration and terms of a possible settlement may be re-formulated by the Lok Adalat.

(4) If the parties reach a compromise or settlement of the dispute, the Lok Adalat may draw up or assist the parties in drawing up the compromise or settlement.

17. Award. – (1) Drawing up of the award is merely an administrative act by incorporating the terms of settlement or compromise agreed by parties under the guidance and assistance from Lok Adalat.

(2) When both parties sign or affix their thumb impression and the members of the Lok Adalat countersign it, it becomes an award. (see a specimen at Appendix-I) Every award of the

Lok Adalat shall be categorical and lucid and shall be written in regional language used in the local courts or in English. It shall also contain particulars of the case viz., case number, name of court and names of parties, date of receipt, register number assigned to the case in the permanent Register (maintained as provided under Regulation-20) and date of settlement. Wherever the parties are represented by counsel, they should also be required to sign the settlement or award before the members of the Lok Adalat affix their signature.

(3) In cases referred to Lok Adalat from a court, it shall be mentioned in the award that the plaintiff or petitioner is entitled to refund of the court fees remitted.

(4) Where the parties are not accompanied or represented by counsel, the members of the Lok Adalat shall also verify the identity of parties, before recording the settlement.

(5) Member of the Lok Adalat shall ensure that the parties affix their signatures only after fully understanding the terms of settlement arrived at and recorded. The members of the Lok Adalat shall also satisfy themselves about the following before affixing their signatures:

- (a) that the terms of settlement are not unreasonable or illegal or one-sided; and
 - (b) that the parties have entered into the settlement voluntarily and not on account of any threat, coercion or undue influence.
- (6) Members of the Lok Adalat should affix their signatures only in settlement reached before them and should avoid affixing signatures to settlement reached by the parties outside the Lok Adalat with the assistance of some third parties, to ensure that the Lok Adalats are not used by unscrupulous parties to commit fraud, forgery, etc.
- (7) Lok Adalat shall not grant any bail or a divorce by mutual consent.
- (8) The original award shall form part of the judicial records (in pre-litigation matter, the original award may be kept with the Legal Services Authority or committee, concerned) and a copy of the award shall be given to each of the parties duly certifying them to be true by the officer designated by the Member-Secretary or Secretary of the High Court Legal Services Committee or District Legal Services Authority or, as the case may be, the Chairman of Taluk Legal Services Committees free of cost and the official seal of the Authority concerned or Committee shall be affixed on all awards.

18. Confidentiality.—(1) The members of the Lok Adalat and the parties shall keep confidential all matters relating to the proceedings in the Lok Adalat and the members of the Lok Adalat shall not be compelled to disclose the matter which took place in the Lok Adalat proceedings before any court of law, except where such disclosure is necessary for purposes of implementation and enforcement of the award.

(2) The views expressed and discussions made by parties during the proceedings of Lok Adalat in respect of the possible settlement of a dispute and the proposals made by the members of Lok Adalat or admission made by any party or the conduct of the parties in the course of the proceeding before Lok Adalat shall not be brought in evidence or made use of in other court or arbitral proceedings.

(3) Members of the Lok Adalat shall not record the statement of any of the parties or record any conduct of the parties or express any opinion in such a manner as it would prejudice such party in any other proceedings before a court or arbitrator.

(4) If any member of the Lok Adalat violates the confidentiality and the ethical concerns which are akin to any other judicial proceedings, such member shall be removed from the panel of members of Lok Adalat.

19. Failure of Lok Adalat proceedings. – If a pre-litigation matter is not settled in the Lok Adalat, the parties may be advised to resort to other Alternative Dispute Resolution (ADR) techniques or to approach a court of law and in appropriate cases they may be advised about the availability of legal aid.

20. Compilation of results. – At the conclusion of session of the Lok Adalat, the officer designated by the Member-Secretary, the Secretary of the High Court Legal Services Committee, the District Authority or the Chairman of the Taluk Legal Services Committee, as the case may be, shall compile the results for submission to the State Authority in the proforma given in Appendix-II.

21. Maintenance of panel of names of Lok Adalat Members. – The Member-Secretary or Secretary of the High Court Legal Services Committee or District Authority or, as the case may be, the Chairman of the Taluk Legal Services Committee shall maintain a panel of names of retired judicial officers, advocates and social workers to work in Lok Adalats.

22. Procedure for maintain record of cases referred under Section 20 of the Act or otherwise. – (1) The officer designated by the Member-Secretary, the Secretary of the High Court Legal Services Committee, the District Authority or the Chairman of the Taluk Legal Services Committee, as the case may be, shall maintain a permanent register wherein all the cases and pre-litigation matters received by him by way of reference to the Lok Adalat shall be entered giving particulars of:

- (i) date of receipt;
- (ii) nature of the case or pre-litigation matter;
- (iii) other particulars, if any;
- (iv) date of compromise or settlement and the manner in which the case or matter was finally disposed of; and
- (v) date of return of the case file.

(2) A copy of the award, if passed, duly certified in the manner stated in regulation 17 shall be kept in the office of the Authority or Committee, as the case may be, as a permanent record.

(3) Records other than the original of the awards of pre-litigation Lok Adalats may be destroyed after a period of three years from the date of disposal of the matter by Lok Adalat.

23. Appearance of lawyers and the procedure to be followed in the cases before Lok Adalat. – The appearance of lawyers on behalf of the parties at the Lok Adalat shall not be barred and an effort shall be made to encourage the parties to be present personally. The lawyers may be advised to avoid wearing their robes and bands during the proceedings before the Lok Adalat.

24. Application of regulation. – The above regulations shall be applicable in the same manner with appropriate changes to the Lok Adalats organised by the National Legal Services and the Supreme Court Legal Services Committee.

APPENDIX-I

BEFORE THE LOK ADALAT

HELD AT _____

[Organized by _____ Authority/ _____ Committee under Section 19, of Legal Services Authorities Act 1987(Central Act)]

Petitioner/Plaintiff/Complainant : _____

Defendant/Respondent : _____

No. of proceedings of the _____ **Court/Authority/Committee**

Present:-

**Name of Judicial Officer /
Retired Judicial Officer** : _____

Name of Members: (1) _____

(2) _____

AWARD

The dispute between the parties having been referred for determination to the Lok Adalat and the parties having compromised/settled the case/matter, the following award is passed in terms of the settlement :

.....
.....
.....
.....

The parties are informed that the court fee, if any, paid by any of them shall be refunded.

Petitioner/Plaintiff/Complainant

Defendant/Respondent

Judicial Officer

Member

Member

Date:

(Seal of the Authority/Committee)

APPENDIX-II

**PROFORMA
DISPOSAL OF CASES IN LOK ADALAT**

Place:			Date:		
Sl.No.	Case No.	Name of parties	Nature of Cases disposed of		
			Civil	Claims	Criminal
Total					

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

(As amended vide notification F.No. L/61/10/NALSA dated 28.08.2019 and Addendum dated 18.9.2019 published in the Gazette of India on 06.09.2019 and 19.9.2019 respectively)

- 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;

¹(ea) “Monitoring and Mentoring Committee” means the Committees set up under regulation 10;

(eb) “Panel Lawyer” means a legal practitioner empanelled as a Panel lawyer under regulation 8;

(f) “Para-Legal Volunteer” means a para-legal volunteer trained ²under the ‘National Legal Services Authority Scheme for Para Legal Volunteers’ and empanelled by a Legal Services Institution;

¹ Substituted vide notification dated 22/10/2018, published in the Gazette of India on 25/10/2018.

² Inserted vide notification dated 22/10/2018, published in the Gazette of India on 25/10/2018.

³(fa) “Retainer Lawyer” means a Panel Lawyer designated as the Retainer Lawyer under sub-regulation (9) of regulation 8;

(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 ⁴[a Retainer Lawyer on rotational basis and] one or more para-legal volunteers available during office hours.

⁵Provided that persons with the qualification of Masters degree in Social Work or Diploma or Masters’ degree in psychiatry or psychology from any recognised institute or university may also be called to the front office as and when necessary.

⁶(1A) The Front Offices shall act as one stop centres for legal aid seekers to receive legal aid and advice and all information about their cases and all legal services provided by the

³ Inserted vide notification dated 31/07/2012, published in the Gazette of India on 25/8/2012.

⁴ Inserted vide notification dated 22/10/2018, published in the Gazette of India on 25/10/2018.

⁵ Inserted vide notification dated 31/07/2012, published in the Gazette of India on 25/8/2012.

⁶ Inserted vide notification dated 28/08/2019, published in the Gazette of India on 06/09/2019.

Legal Services Institutions.

⁷(2) *****

⁸(3) *****

⁹(4) The Para-Legal Volunteers or the panel lawyer or the retainer lawyer, as the case may be, in the front office may obtain secretarial assistance from the staff of the Legal Services Institutions.

¹⁰(5) *****

¹¹5. Proof of entitlement of free legal services. – A self-certificate of the applicant, along with self-attested copy of relevant documents or certificates, if any, that he falls under the categories of persons entitled to free legal services under Section 12 of the Act shall ordinarily be sufficient.

¹²(2) *****

¹³(3) *****

6. Consequences of false or untrue details furnished by the applicant. –The applicant shall be informed that if free legal services have 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.

¹⁴7. Scrutiny and evaluation of the application for free legal services.- (1) The application for legal services, for eligibility of the applicant and existence of a prima facie case to prosecute or to defend, shall be scrutinised by the Member-Secretary or Secretary, as the case may be, or any officer, deputed by him:

Provided that a defendant in a civil case and an accused or a convict in a criminal case shall be deemed to have prima facie case to defend or to file an appeal against his conviction and sentence:

Provided further that in case, there is some difficulty to determine the prima facie case to prosecute, the Member-Secretary or Secretary may for this purpose, seek opinion from a panel lawyer having more than seven years standing at the Bar:

⁷ Omitted vide notification dated 22/10/2018, published in the Gazette of India on 25/10/2018.

⁸ Omitted vide addendum dated 18/09/2019, published in the Gazette of India on 19/09/2019.

⁹ Inserted vide notification dated 31/7/2012, published in the Gazette of India on 25/8/2012.

¹⁰ Omitted vide notification dated 22/10/2018, published in the Gazette of India on 25/10/2018.

¹¹ Substituted vide notification dated 22/10/2018, published in the Gazette of India on 25/10/2018.

¹² Omitted vide notification dated 22/10/2018, published in the Gazette of India on 25/10/2018.

¹³ Omitted vide notification dated 22/10/2018, published in the Gazette of India on 25/10/2018.

¹⁴ Substituted vide notification dated 22/10/2018, published in the Gazette of India on 25/10/2018.

Provided further that in case of the Supreme Court Legal Services Committee, the Secretary shall seek opinion from an Advocate having more than fifteen years standing at the Bar.

(2) A decision on application for legal services shall be taken immediately, but not more than seven days from the date of receipt of the application.

(3) 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.

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

(5) Any person aggrieved by the decision or order of the Member-Secretary or the Secretary, as the case may be, he may prefer appeal to the Executive Chairman or Chairman of the Legal Services Institution and the decision or order in appeal shall be final.

(6) In case the Member-Secretary or Secretary of the Legal Services Institution decides to provide legal services through a panel lawyer, the choice of the panel lawyer, if expressed by the applicant, may be considered.

¹⁵**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 District and Taluka level] and the Monitoring and Mentoring Committee set up under regulation 10:

Provided that the Executive Chairman or Chairman of the Legal Services Institution may also suo moto empanel any legal practitioner;

¹⁶Provided further that the size of panel should be optimised so that each lawyer can be allotted sufficient cases.

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

¹⁵ Substituted vide notification dated 22/10/2018, published in the Gazette of India on 25/10/2018.

¹⁶ Inserted vide notification dated 28/08/2019, published in the Gazette of India on 06/09/2019.

(4) District Legal Services Authorities and Taluk Legal Services Committees shall get the panel approved from the Executive Chairman of the State Legal Services Authority.

(5) The Executive Chairman or Chairman of the Legal Services Institution shall take into consideration the competency, integrity, suitability, and experience of lawyers for the empanelment.

(6) There may be representation of the Scheduled Castes, the Scheduled Tribes, women and differently abled lawyers in the panel.

(7) 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, Juvenile Justice, etc.

(8) The Member-Secretary or Secretary, as the case may be, may assign a case to a panel lawyer of a subject matter other than for which he has been empanelled.

(9) 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.

(10) 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.

¹⁷(11) The number of Retainer lawyers in the panel of each Legal Services Institution, should not exceed the minimal requirement as determined by the Executive Chairman or the Chairman, as the case may be.

(12) The honorarium payable to Retainer lawyer shall not be less than, -

- (a) rupees forty thousand per month in the case of Supreme Court Legal Services Committee;
- (b) rupees twenty five thousand per month in the case of State Legal Services Authority or High Court Legal Services Committee;
- (c) rupees fifteen thousand per month in the case of District Legal Services Authority;
- (d) rupees ten thousand 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.

¹⁸Provided further that the State Legal Services Authority may decide to make the payment of honorarium to the Retainer Lawyers on the basis of number of days they man the

¹⁷ Substituted vide notification dated 28/08/2019, published in the Gazette of India on 06/09/2019.

¹⁸ Inserted vide notification dated 28/08/2019, published in the Gazette of India on 06/09/2019.

Front Office. In such cases the honorarium so payable shall not be less than Rs. 1500 per day of sitting at the district and taluka court level and Rs. 2500 at the High Court level.

(13) The panel prepared under sub-regulation (2) for the period of three years shall also be reviewed and updated periodically by the Executive Chairman or the Chairman, as the case may be, keeping in view the performance of the panel lawyers.

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

(15) If a panel lawyer is desirous of withdrawing from a case he shall state the reasons thereof to the Member-Secretary or the Secretary, as the case may be, and the panel lawyer may be permitted to do so by an order.

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

(17) 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.

(18) The panel lawyers shall undergo training periodically as per modules prepared by the National Legal Services Authority and the State Legal Services Authority.

(19) The participation in the training programme shall be a relevant consideration for the retention or continuation of panel lawyers.

¹⁹9. Legal services by way of legal advice, consultation, drafting and conveyancing. - (1) The Executive Chairman or Chairman of the Legal Services Institution may 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 Executive Chairman or Chairman of the Legal Services Institution, as the case may be, may maintain a separate panel of retired senior bureaucrats, senior executives, retired police officials, doctors, engineers, psychiatrists, marriage counsellors, chartered accountants, educationists and other experts of the specialised field for legal services and honorarium payable to them shall be decided by the Executive Chairman of State Legal Services Authority or the Chairman of the Supreme Court Legal Committee, as the case may be.

(3) The Member-Secretary may send a request to Senior Advocates to volunteer their pro bono professional services for rendering advice as and when required.”.

²⁰10. Monitoring and Mentoring Committee. - (1) Every Legal Services Institution shall set up a Monitoring and Mentoring Committee for close monitoring of the court based legal services

¹⁹ Substituted vide notification dated 22/10/2018, published in the Gazette of India on 25/10/2018.

²⁰ Substituted vide notification dated 22/10/2018, published in the Gazette of India on 25/10/2018.

rendered and the progress of the cases in the legal aided matters and to guide and advise the panel lawyers.

(2) The Monitoring and Mentoring Committee at the level of the Supreme Court shall consist of, -

- (i) ²¹a Senior Advocate or an Advocate of at least 15 years of standing as nominated by the Chairman, Supreme Court Legal Services Committee;
- (ii) Secretary, Supreme Court Legal Services Committee;
- (iii) a renowned Academician or an Advocate-on-Record having ten years of practice to be nominated by the Chairman of the Supreme Court Legal Services Committee;
- (iv) The Legal Service Counsel-cum-Consultant, Supreme Court Legal Services Committee.

(3) The Monitoring and Mentoring Committee at the level of the High Court shall consist of, -

- (i) ²²a Senior Advocate or an Advocate of at least 15 years of standing as nominated by the Chairman, High Court Legal Services Committee;
- (ii) Secretary, High Court Legal Services Committee.

(4) The Monitoring and Mentoring Committee at the State or District Legal Services Authority shall consist of, -

- (i) Member-Secretary or Secretary of the Legal Services Institution, as the case may be;
- (ii) one serving judicial officer from the State Higher Judicial Service;
- (iii) one retired judicial officer or one Advocate of fifteen years' standing or more.

(5) The Monitoring and Mentoring Committee at the Taluk Legal Services Committee shall consist of, -

- (i) Chairman of the Taluk Legal Services Committee;
- (ii) one retired judicial officer ²³or;
- (iii) one advocate of 10 years standing or more.

(6) The members of the Monitoring and Mentoring Committee shall render their services on the days as may be required and fixed by the Executive Chairman or Chairman of the Legal

²¹ Substituted vide notification dated 28/08/2019, published in the Gazette of India on 06/09/2019.

²² Substituted vide notification dated 28/08/2019, published in the Gazette of India on 06/09/2019.

²³ Inserted vide notification dated 28/08/2019, published in the Gazette of India on 06/09/2019.

Services Institution and the members except serving Judicial Officers shall be paid the honorarium as fixed by the Executive Chairman.

²⁴**11. Procedure of the Monitoring and Mentoring Committee.** - (1) Whenever court based legal aid is provided to an applicant, the Member-Secretary or Secretary as the case may be, shall send the details in Form II to the Monitoring and Mentoring Committee at the earliest.

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

(3) The Monitoring and Mentoring Committee shall assist the Legal Services Institution in organising training programmes for panel lawyers from time to time to enhance the skill of the panel lawyers.

(4) The Monitoring and Mentoring Committee shall mentor the panel lawyers and guide them in providing quality legal services.

(5) The Monitoring and Mentoring Committee shall maintain a register for legal aided cases for monitoring the day-to-day 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 every month by the Member-Secretary or Secretary or the Chairman, as the case may be.

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

(7) The Monitoring and Mentoring Committee shall keep a watch on the progress of the case by calling for reports from the panel lawyers within such time as may be determined by the Committee.

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

(9) The Committees shall meet at least once in a fortnight.

(10) The Monitoring and Mentoring Committee may meet as and when the meeting is convened by the Member-Secretary or the Secretary as the case may be.

12. Monitoring and Mentoring Committee to submit bi-monthly reports. - (1) The Monitoring and Mentoring 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.

²⁴ Substituted vide notification dated 22/10/2018, published in the Gazette of India on 25/10/2018.

(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 and Mentoring 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

15. Special engagement of senior advocates in appropriate cases. - (1) If the Monitoring and Mentoring 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 Chairman of the Legal Services Institution may decide the honorarium of such senior advocate.

²⁵[*****]

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 and Mentoring 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 and Mentoring Committees to their Patron-in-Chief.

²⁵ Omitted vide notification dated 6/8/2014, published in the Gazette of India on 18/10/2014.

(3) The District Legal Services Authorities and Taluk Legal Services Committees shall submit copies of the bi-monthly reports of their Monitoring and Mentoring 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.

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 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 and Mentoring Committee about the legal Services provided

- (i) Name of the Legal Services Institution :
- (ii) 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

A SCHEME FOR LEGAL SERVICES TO DISASTER VICTIMS THROUGH LEGAL SERVICES AUTHORITIES

1. Background

Sub clause (e) of Section 12 Legal Services Authorities Act, 1987 makes the victims of disasters who are under circumstances of undeserved want as a result of such disaster eligible for free legal services to file or defend a case. But in a disaster of catastrophic nature whether it is natural or manmade, the victims are often taken unawares and are subjected to face the grim situation of loss of life, becoming homeless, destruction of property or damage to or degradation of environment and subject to human sufferings and damage beyond the coping capacity of the community of the affected area.

Even though it is the duty of the Government and the Administration of the locality to come to the help of the victims of disasters, Legal Services Authorities by virtue of sub-clause (e) of Section 12 can play an effective role by coordinating the activities of the State Administration in the disaster management by way of strategic interventions in an integrated and sustainable manner, reducing the gravity of the crisis and to build a platform for early recovery and development. The Legal Services Authorities shall endeavour to help the victims and the administration for reducing risk and assisting them to adopt disaster mitigation policies and strategies, reducing the vulnerabilities of the geographical and social situation and strengthening their capacities for managing human made and natural disasters at all levels.

2. Name of the Scheme.

This Scheme shall be called the Scheme for Legal Services to the victims of disasters through Legal Services Authorities.

3. Objective

The objective of the scheme is to provide legal services to the victims of disaster - both manmade and natural - who are under circumstances of undeserved want being victims of mass disaster, ethnic violence, caste atrocities, flood, drought, earth-quake or industrial disasters.

The intervention of Legal Services Authorities should be for coordinating the integrated, strategic and sustainable development measures taken by the Government

and Disaster management Authorities for reducing the period of crises and for building a platform for early recovery and development. The thrust of the efforts for by the State Legal Services Authorities shall be for strengthening the capacity of the victims for managing the disaster at all levels and to coordinate with the Government departments and non-governmental organisations and also for providing legal aid to the victims.

4. Strategic Intervention by the State Legal Services Authorities.

The strategy for intervention by the Legal Services Authorities for helping the victims of disasters shall be on the following lines:

1. Ensuring immediate help by Governmental and Non-Governmental Agencies to the victims.
2. Coordinating the activities of different departments of the Government and the NGOs for bringing immediate relief.
3. Supervising the distribution of relief materials.
4. Supervising the construction of temporary shelter or transporting the victims to a safer place.
5. Supervising the reunion of families.
6. Supervising the health care and sanitation of the victims and preventing the spread of epidemics.
7. Supervising the needs of women and children.
8. Ensuring the availability of food, medicine and drinking water.
9. Supervising the reconstruction of damaged dwelling houses.
10. Supervising the restoration of cattle and chattel.
11. Legal Awareness Programmes in the relief camps on the legal rights of the victims.
12. Organising Legal Aid Clinics in the affected areas for assisting in reconstruction of valuable documents.
13. Assisting the victims to get the benefits of the promises and assurances announced by the Government and Ministers.
14. Assisting in the rehabilitation, care and future education of orphaned children.
15. Taking steps for appropriate debt relief measures for the victims.

16. Assisting in the rehabilitation of the old and disabled who lost their supporting families.
17. Assisting in the problems relating to Insurance Policies.
18. Arranging Bank Loans for restarting the lost business and avocations.
19. Arranging for psychiatrist's help / counselling to the victims who are subjected to physiological shock and depression on account of the disaster.

5. Machinery for Legal Services.

The State Legal Services Authorities shall establish a Core group in all districts under the control of the District Legal Services Authorities to spring into action in the event of a disaster, whether manmade or natural.

The Core group shall consist of a senior judicial officer, young lawyers including lady lawyers selected in consultation with the local bar association, Medical Doctors nominated by the local branch of the Indian Medical Association and the NGOs by accredited by the State Legal Services Authority. The Secretary of the District Legal Services Authority shall maintain a Register containing the Telephone numbers and the cell numbers of the members of the Core group.

STRATEGY FOR LEGAL AID TO THE VICTIMS

6. Ensuring immediate help by Governmental and Non-Governmental agencies to the victims.

The nodal agency for responding to a disaster shall be the State and District Disaster Management Authorities set up under the Disaster Management Act, 2006. The State Legal Services Authority should immediately alert the District Legal Services Authority concerned who in turn shall get in touch with the Disaster Management Authority of the State and District and gather the details of the steps taken by the latter.

- (a) The Core group set up the District Legal Services Authority shall immediately proceed to the area where the disaster has occurred and get involved in the work of relief.

- (b) The District Legal Services Authority and the Core team shall coordinate the activities of the relief operations by involving themselves and without causing any hindrance to the smooth flow of the relief operations.

7. Coordinating different departments of the government and the NGOs for bringing immediate relief.

The State Legal Services Authority at the apex level shall get in touch with the State Disaster Management Authority / Department to ensure that all the departments of the State Government including health, finance, social welfare and police are involved in the relief operations. The State Legal Services Authorities shall coordinate the implementation of the Plan of Action, if any, prepared by the Disaster Management Authorities.

- (a) The State and District Legal Services Authorities shall obtain a copy of the disaster management plan, if any, prepared by the State Disaster Management Authority / District Disaster Management Authority.
- (b) The State Legal Services Authority / District Legal Services Authority shall as far as practicable follow the aforesaid plan and, if necessary, make suggestions to the state administration or Disaster Management Authorities for improving the quality of relief operations.

8. Supervising the distribution of relief materials.

In the event of a disaster, the first and foremost step to be taken is to ensure that the victims are provided with adequate support to tide over their undeserved wants. This includes provision of food, safe drinking water and transferring the victims to safe shelters. The District Legal Services Authority in coordination with the Disaster Management Authority and State Government Departments, shall supervise effective and timely supply of relief materials to the victims of the disaster.

9. Supervising the construction of temporary shelters or transporting victims to safer place.

District Legal Services Authority and the Core team shall supervise construction of temporary shelters and transportation of victims to such shelters to other safer places. Any lapses can be reported to the government officer incharge to ensure that the lapses are remedied immediately.

10. Supervising the reunion of families.

A disaster may result in sudden disruption of the cohesive unit of families. Members of the family are likely to get separated on account of the disaster or by reason of the rescue operations or on account of medical emergencies. Separation can occur due to loss of life also.

The Core team shall visualise such probable traumatic situations in the families affected by the disaster and shall take necessary steps for consoling the victims and shall take earnest search for the missing members of the families.

11. Supervising the health care of the victims and preventing the spread of epidemics.

The District Legal Services Authority shall take prompt steps for coordinating with the District Medical Officer for ensuring that the victims of the disaster are given proper medical care. The injured victims shall be given prompt treatment.

- (a) When a large number of affected persons are congregated in relief camps, adequate sanitation has to be ensured. Steps shall be taken to ensure that the public health authorities are performing cleaning and sanitation of the camps on a regular basis.
- (b) The District Legal Services Authority shall ensure that adequate preventive measures are taken by the health authorities against outbreak of contagious and infectious diseases and water-born diseases can occur in the relief camps.
- (c) Right to health being a concomitant to the Right to Life guaranteed under Article 21 of the Constitution of India, the disaster victims are entitled to adequate health facilities and the Legal Services Authorities are duty-bound to ensure the same through appropriate measures.

12. Supervising the needs of women and children.

Women and children are beneficiaries of free legal aid under Section 12 of Legal Services Authorities Act. They are the most vulnerable group amongst the victims of any disaster. Safety of women and children in the camps and their valuables like ornaments and personal belongings are to be protected. The District Legal Services

Authority shall ensure that the Police takes necessary steps for preventing theft and anti-social activities. Legal Services Authorities shall coordinate with the Police Officers to ensure the safety of women and children.

13. Ensuring the availability of food, drinking-water and medicine.

The need for food, safe drinking water and medicine are basic human needs and hence are attributes of the Right to life under Article 21 of the Constitution of India. Legal Services Authorities can therefore rightfully intervene and coordinate with the State Government, District Administration and Health Authorities to ensure the availability of food, safe drinking-water and medicine to the victims living in the shelters.

14. Supervising the reconstruction of damaged dwelling houses.

Housing is one of the important problems faced by the victims of disasters. Partial or total damage may occur to houses in disasters like earthquake, flood and communal riots. Assurances given by the Ministers and Government officials ex-gratia payment and funds for reconstruction of damaged houses of the victims may go unfulfilled or forgotten due to passage of time. Efforts shall be taken by the Legal Services Authorities to ensure that such promises are fulfilled and the promised funds or other relief measures are disbursed to the victims without delay.

15. Supervising the restoration of cattle and chattel.

Loss of cattle, chattel and household articles are concomitant with all mass disasters. Thieves, looters and anti-socials have a field day during riots and ethnic violence and also during the havocs like flood, drought, pestilence and earth-quake. The District Legal Services Authority in coordination with the Police or Armed Forces shall ensure that the valuables belonging to the victims are not looted or stolen houses. Similarly, steps shall be taken to protect livestocks and chattel also. The Legal Services Authorities shall coordinate with the animal-husbandry department of the government to save the livestock.

16. Legal Awareness Programmes in the relief camps on the legal rights of the victims.

Once the victims are relieved from the immediate shock and impact of the disaster, the Legal Services Authority may chose a convenient time and place near the relief

camps for imparting legal awareness to the victims. Women lawyers may be entrusted with the job of conducting informal legal awareness programme, mainly related to the rights of the disasters victims to avail of the relief measures from the authorities. The legal remedies available and the mode in which the benefits of the offers and schemes announced by the government are to be availed of also may be included as topics. Legal Awareness Programmes shall not be conducted in a ceremonial manner. Inaugural function and other formalities shall be totally avoided. The ambience of disaster and the mood of grief stricken victims should be fully taken in to account by the resource persons and the steps for legal awareness shall be taken in such a manner as to go along with the measures for consolation and redressal of the grievances of the victims. Visits by women lawyers to the camps and homes of the victim will be desirable.

17. Organising Legal Aid Clinics in the affected areas for assisting in the reconstruction of valuable documents.

It is likely that the victims of disaster have lost their valuable documents like titled deeds, ration cards, identity cards, school and college certificates, certificate of date and birth, passport, driving licence etc. The District Legal Services Authority shall organise legal aid clinics in the affected areas and assist the victims to get duplicate certificate and documents by taking up the matter with the authorities' concerned. Arrangements for issuing Death Certificates of the deceased victims also shall be made.

18. Taking care of the rehabilitation and the future care and education of the orphaned children.

Orphaned children are the living monuments of disasters. Loss of childhood, paternal affection are likely to haunt them for the rest of their lives. At times, the orphaned children may get affected with psychiatric problems also.

The Legal Services Authority shall seek the help of voluntary organisations large business houses and Corporates for the educational needs and accommodation of such children till they attain the age of maturity. In appropriate cases, the Legal Services Authority may assist such children to be taken care of under provisions of the Juvenile Justice (care and protection) Act.

19. Taking steps for appropriate debt relief measures for the victims.

Rehabilitation of disaster victims will be a gigantic challenge for any administration. The adequate funds should be made available to the victims who lost everything in their life for rebuilding their avocation, buying agricultural implements and other implements required for their avocations in which they were engaged prior to the disaster. Victims belonging to fisherman community may require huge amounts for buying nets, boats and outboard engines. Such measures of rehabilitation may require the assistance of government departments concerned. The State Legal Services Authority shall coordinate with Public Sector Banks, Social Welfare Department and other departments concerned for helping the victims to re-start their avocations. In appropriate cases, provisions in the laws relating to debt relief shall be invoked.

20. Rehabilitation of the old and disabled who lost their supporting families.

Persons with disabilities as defined in Clause (e) of Section 2 of Disabilities (Equal Opportunity) Protection of Rights and Full Participation Act, 1995 are entitled to free legal aid under Section 12 of the Legal Services Authorities Act. Senior citizens are entitled to certain benefits under the provisions of Maintenance and Welfare of Parents and Senior Citizen Act. The senior citizens and disabled persons who lost their support on account of disasters shall be identified and appropriate legal aid shall be given to them.

21. Problems relating to Insurance Policies.

The Legal Services Authorities shall take up the insurance claims of the disaster victims with the Insurance Companies for settlement of such claims. Negotiations may be undertaken with the Insurance Company officials for a settlement favourable to the victims. In appropriate cases the service of Insurance Ombudsman also may be availed of.

22. Arranging Bank Loans for restarting the lost business and avocations.

The victims who suffered substantial loss of their business and implements used in their avocations shall be helped by adopting proper restorative measures. For this

purpose, efforts shall be made to make available financial assistance of nationalised banks and other public sector financial institutions. The Legal Services Authorities shall persuade the officials of such financial institutions to raise to the occasion for helping the victims.

23. Arranging for the services psychologists / psychiatrists help for counselling the victims suffering from psychological shock and depression on account of the disaster.

Mental shock and the related psychiatric manifestations are usually seen associated with the traumatic effects of disasters on the victims and their family members. Sudden loss of human life and the horrifying experiences of the trauma of the disasters can result in mental shock and psychiatric problems not only to the victims but also to their family members. The District Legal Services Authority shall in coordination with the District Medical Officer make necessary arrangements for the services of psychiatrists and psychologists.

The District Authority shall ensure the presence of the members of the Core group at the relief camps everyday till the victims are rehabilitated.

24. District Legal Services Authority shall collect reports from the Core Group.

District Legal Services Authority shall collect daily reports from the Core group working at the location of the disaster. Copies of such reports shall be sent to the State Legal Services Authority. The State Legal Services Authority shall consolidate the reports and send a comprehensive report to the National Legal Services Authority and copies thereof shall also be sent to the District Management Authorities of the State and District. Copies of the report shall be placed before the Patron-in-Chief of the State Authorities and also in the meeting of the State Authority.

If any difficulty arises in giving effect to this Scheme, the State Legal Services Authority and District Legal Services Authority or the Core group may seek guidance from the Executive Chairman of the State Authority.

NALSA (Child Friendly Legal Services to Children and their Protection) Scheme, 2015

1. Introduction and Background

"It cannot be questioned that children are amongst the most vulnerable sections in any society. They represent almost one-third of the world's population, and unless they are provided with proper opportunities, the opportunity of making them grow into responsible citizens of tomorrow will slip out of the hands of the present generation....." The said observation made in **Salil Bali Vs.: Union of India (UOI) and Anr, 2013VII AD (S.C.)** by Supreme Court goes on to show that it is our obligation to the young generation to open up all opportunities including the legal services for every child to unfold its personality and rise to its full stature, physical, mental, moral and spiritual.

2. International Commitments

- 2.1 While adopting the declaration of the Rights of the Child on 20th November, 1959, the General assembly of the United Nations laid down ten principles designed to enable children, irrespective of race, colour, sex, language , religion or origin, to develop physically, mentally, morally, spiritually and socially in a healthy and normal manner and in conditions of freedom and dignity.
- 2.2 The United Nations standard minimum rules for the administration of Juvenile Justice(" The Beijing Rules," 1985) call on States to ensure that throughout the proceedings the Juvenile shall have the right to be represented by a Legal Advisor or to apply for free legal aid where there is provision for such aid in the country.
- 2.3 The United Nations Convention on the Rights of the Child (UNCRC) is a comprehensive, internationally binding agreement on the rights of children, adopted by the UN General Assembly in 1989. The purpose of the UNCRC is to outline the basic human rights that should be afforded to children. There are four broad classifications of these rights. These four categories cover all civil,

political, social, economic and cultural rights of every child which are as follows:-

- (a) Survival rights: include the child's right to life and the needs that are most basic to existence, such as nutrition, shelter, an adequate living standard, and access to medical services
- (b) Development rights: include the right to education, play, leisure, cultural activities, access to information, and freedom of thought, conscience and religion.
- (c) Protection rights: ensure children are safeguarded against all forms of abuse, neglect and exploitation, including special care for refugee children; safeguards for children in the criminal justice system; protection for children in employment; protection and rehabilitation for children who have suffered exploitation or abuse of any kind.
- (d) Participation rights: encompass children's freedom to express opinions, to have a say in matters affecting their own lives, to join associations and to assemble peacefully. As their abilities develop, children are to have increasing opportunities to participate in the activities of their society, in preparation for responsible adulthood.

3. Constitutional Assurances

- 3.1** The framers of our Constitution were well aware of the fact that the development of the nation can be achieved by the development of the children of the nation & it is necessary to protect the children from exploitation as well. The Indian constitution accords rights to children as citizens of the country, and in keeping with their special status the State has even enacted special laws. The Constitution, promulgated in 1950, encompasses most rights included in the UN Convention on the Rights of the Child as Fundamental Rights and Directive Principles of State Policy.
- 3.2** It is the constitutional right of every citizen under Article 22 of Constitution of India to be defended by a legal practitioner of his choice. One of the fundamental principles to be followed in the

administration of Juvenile Justice is ensuring Legal services at the State expenses. It is a mandatory duty of Legal Services Authority that free legal aid service be made available to every Juvenile.

The following are the provisions of the Indian Constitution relating to children:

- (a) Article 14 provides that the State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.
- (b) Article 15(3) provides that nothing in this Article shall prevent the State from making any special provision for women and children.
- (c) Article 21 provides that no person shall be deprived of his life or personal liberty except according to procedure established by law.
- (d) Article 21A provides that the State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine.
- (e) Article 23(1) provides that traffic in human beings and begar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.
- (f) Article 24 provides that no child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment.
- (g) Article 29(2) provides that no citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them.
- (h) Article 39(e) provides that the state shall, in particular, direct its policy towards securing that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength.

- (I) Article 39(f) provides that the state shall, in particular, direct its policy towards securing that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.
- (j) Article 45 provides that the State shall endeavour to provide early childhood care and education for all children until they complete the age of six years.
- (k) Article 47 provides that the State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties.
- (l) Article 51A(k) provides that it shall be the duty of every citizen of India who is a parent or guardian to provide opportunities for education to his child or, as the case may be, ward between the age of six and fourteen years.

4. Other Legislations

Apart from the Constitution there are a number of legislations which deals with children. The following are some of them:

- (a) The Guardian and Wards Act 1890

This Act deals with the qualifications, appointment & removal of guardians of children by the courts & is applicable to all children irrespective of their religion.

- (b) The Child Labour (Prohibition And Regulation) Act 1986

This Act came into force to prohibit the engagement of children in certain employments and to improve the conditions of work of children in certain other employments. Under the act "Child" means a person who has not completed his fourteenth year of age. The Act is intended to ban the employment of children i.e., those who have not completed their 14 years in specified occupations and processes.

(c) The Pre-Natal Diagnostic Technique (Regulation and Prevention of Misuse) Act 1994

This Act provides for the regulation of the use of pre-natal diagnostic techniques for the purpose of detecting genetic or metabolic or chromosomal abnormalities or certain congenital malformation or sex-linked disorders & for the prevention of the misuse of such techniques for the purpose of pre-natal sex determination leading to female foeticide.

(d) JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2000

This Act deals with the law relating to juveniles in conflict with law & children in need of care & protection, by providing for proper care, protection & treatment by catering to their development needs & by adopting a child-friendly approach in the adjudication & disposition of matters in the best interest of children & for their ultimate rehabilitation through various institutions established under the Act.

(e) THE COMMISSIONS FOR PROTECTION OF CHILD RIGHTS ACT, 2005

This Act provides for the constitution of a National Commission and State Commissions for Protection of Child Rights and Children's Courts for providing speedy trial of offences against children or of violation of child rights and for matters connected therewith or incidental thereto.

(f) THE PROHIBITION OF CHILD MARRIAGE ACT, 2006

This Act restrains the solemnization of child marriages by laying down the minimum age for both boys & girls. According to Section 2(a) of the Prohibition of Child Marriage Act, 2006, a "child" means a person who, if a male, has not completed twenty-one years of age, and if female, has not completed eighteen years of age.

(g) THE RIGHT OF CHILDREN TO FREE AND COMPULSORY EDUCATION ACT, 2009

Article 21A of the Constitution, provides that the State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine. Parliament has made the law contemplated by Article 21A by enacting the Right of Children to Free and Compulsory Education Act, 2009 . This Act provides for free and compulsory education to all children of the age of six to fourteen years.

(h) THE PROTECTION OF CHILDREN FROM SEXUAL OFFENCES ACT, 2012

An Act to protect children from offences of sexual assault, sexual harassment and pornography and provide for establishment of Special Courts for trial of such offences and for matters connected therewith or incidental thereto.

5. Entitlement to Legal Services

- 5.1 Children are the beneficiaries of legal services under the Legal Services Authorities Act, 1987. The Act was enacted to constitute legal services authorities for providing free and competent legal services to the weaker sections of the society to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.
- 5.2 Under section 12(c) of Legal Services Authorities Act, 1987 a child who has to file or defend a case is entitled to legal services. Therefore, it is the duty of various State Legal Service Institutions to provide free legal aid to juvenile in conflict with law and work towards speedy disposal of cases.
- 5.3 In this background, the Scheme has been drawn up for the legal services institutions (State Legal Services Authorities, District Legal Services Authorities, Taluk Legal Services Committees, High

Court Legal Services Committees, Supreme Court Legal Services Committee) to be followed while they deal with legal services to the children.

6. Name of the Scheme

This Scheme shall be called "**NALSA (Child Friendly Legal Services to Children and their Protection) Scheme, 2015**".

7. Definitions

In this scheme unless the context otherwise requires,

- a) "Act" means the Legal Services Authorities Act, 1987 (39 of 1987).
- b) "JJ Act" means The Juvenile Justice (Care and Protection of Children)Act, 2000 (56 of 2000).
- c) "JJ rules " means Juvenile Justice (Care and Protection of Children) Rules, 2007.
- d) "Legal Service" has the same meaning as defined under section 2(c) of Legal Services Authorities Act 1987.
- e) Legal Services Clinic means a clinic as defined under regulation 2 (c) of National Legal Services Authority (Legal Services Clinics) Regulations 2011.
- f) Legal Services Institution means a State Legal Service Authority, Supreme Court Legal Services Committee, High Court Legal Services Committee, District Legal Service Authority or Taluk Legal Service committee, as the case may be.
- g) Panel Lawyer means the panel lawyer selected under Regulation 8 of the National Legal Services Authority (Free and Competent Legal Services) Regulations 2010.
- h) Para Legal Volunteers means a Para Legal Volunteer defined and trained under the NALSA Scheme for Para Legal Volunteers (Revised) and Module for the Orientation – Induction – Refresher Courses for PLV Training and engaged as such by a legal services institution.

- i) All other words and expressions used but not defined in this Scheme and defined in the Legal Services Authorities Act, 1987 (39 of 1987) or the National Legal Services Authorities Rules ,1995 or National Legal Services (Free and Competent Legal Services) Regulations, 2010 shall have the same meaning respectively assigned to them in the said Act or Rules or Regulations.

8. Objective

- 8.1 In Delhi, 16-year-old 'X' is accused of stealing a cell phone. In Mumbai, 12- year-old 'Y' is the victim of sexual abuse. In Calcutta , 10-year-old 'Z's parents are fighting over his custody. In Chennai, 13-year old 'S' was rescued from a factory who found to be trafficked. Everyday children such as these come in contact with the justice system, where formal and informal justice providers make decisions that have the potential to influence the future course of their lives. What rights do these children have when they come in contact with the law? Are they entitled to any type of legal assistance? If so, how might those services best be made available and actually reach children in crisis or in need? How can legal services be made "child-friendly" given logistical and financial limitations? And how does the concept of child-friendly justice play out in informal justice systems? The purpose of this Scheme is to suggest a conceptual and practical framework for addressing these questions, with the ultimate goal to provide children with meaningful, effective, affordable, and age-appropriate legal assistance "on the ground."

8.2 The main objectives of the Scheme are:-

- i) To outline the basic rights and benefits that should be afforded to children.
- ii) To ensure legal representation to the children in need of care and protection and children in conflict with law at all levels;
- iii) To strengthen legal services, institutional care, counselling and support services at the national, state , district and Taluka levels;

- iv) To create an environment in the juvenile justice system, in which children are valued, encouraged and affirmed and have their rights respected and are treated as individuals.
- v) To enhance capacities at all levels, of all functionaries including, PLVs, Panel Lawyers, counsellors , service providers, NGOs, local bodies, police, judiciary and other concerned departments of State Governments, to undertake responsibilities for providing child friendly legal services;
- vi) To ensure that mandatory authorities and institutions, like JJBs, CWCs, other welfare committees, observation and shelter homes, psychiatric hospital or psychiatric nursing home, commissions, boards, office of probation officers etc. under various child friendly legislations have been set up;
- vii) To have database of all the existing central or state schemes, policies, regulations, SOPs, police directives, conventions, rules, declarations, comments, and reports etc. available for child welfare and protection;
- viii) To organise awareness programmes to educate public at large including all stakeholders i.e. PLVs, Panel Lawyers, member of JJBs and CWCs, welfare officers, counsellors, probation officers, police , public prosecutor, judicial officers, care takers of various homes, educational and medical institutions etc., on child rights and their protection on available child protection services, schemes and structures at all levels;
- ix) To undertake and organise training, orientation and sensitization programs, for senior police officers, SJPU, JWOs, panel lawyers, PLVs, member of JJBs and CWCs, welfare officers, counsellors, probation officers, public prosecutor, judicial officers, care takers of various homes for their skill enhancement and for creating a sense of responsibility amongst them;
- x) To organize seminars, colloquia, workshops and conferences relating to law and schemes on child rights and allied fields.

- xi) To develop effective coordination and interface with all Govt. Bodies or functionaries, Institutions, Authorities, NGOs and other Organisations concerning or entrusted with the responsibilities relating to child rights;
- xii) To Undertake research and documentation to study the various schemes, laws etc. to find out the gaps and then to make suggestions to the appropriate authorities;

9. The key principles that should be kept in mind by legal services institutions at all levels are:-

- 9.1 Best interests of the child:- Every child has the right to have his or her best interests given primary consideration while providing legal services to the children in need of care and protection and child in conflict with law.
- 9.2 Welfare of the child:- The welfare of children must always come first, regardless of all other considerations. Early intervention and support should be available to promote the welfare of the child.
- 9.3 Right to dignity:- Every child has the right to be treated with dignity and compassion and its worth is to be respected and protected.
- 9.4 Right to equality and no discrimination:- A child shall be treated without discrimination of any kind, irrespective of the child's cast, race, religion, beliefs, age, family status, culture, language, ethnicity, disabilities if any or place of birth.
- 9.5 Principle of right to be heard- Every child has right to be informed, right to be heard and to express views and concerns freely .
- 9.6 Principle of right to safety- Every child has right to safety at all stages and he or she shall not be subjected to any harm, abuse or neglect etc.
- 9.7 Principle of confidentiality- The privacy of a child shall be protected by legal services institutions at all levels.

10. Plan of Action

10.1 Constitution of boards, committees, commissions, etc.

- (a) Under section 4 of JJ Act the State Government has been authorized to constitute Juvenile Justice Board in every district. SLSAs shall ensure that Juvenile Justice Board is established in each district separate from the regular court and where no such board has been set up, SLSA will take up the matter on urgent basis with State Government so that JJB is established in every district.
- (b) Section 29 JJ Act allows the State Government to form Child Welfare Committees in relation to child in need of care in every district. Such committees will consist of a Chairperson and four other members appointed by the State government including one woman. SLSAs shall ensure that Child Welfare Committees are established in each district and where no such committee has been set up, SLSA will take up the matter on urgent basis with State Government so that committee is established in every district.
- (c) JJ Act contemplates constitution of Special Juvenile Police Unit (SJPU) to deal with Juvenile in conflict with law. In every police station at least one police officer specially instructed and trained is required to be designated as Juvenile/Child Welfare officer to deal with the Juvenile. (section 63, JJ Act and rule 11 of JJ Rules). SLSAs shall ensure that such Special Juvenile Police Unit has been established.
- (d) SLSAs shall ensure that list of designated Juvenile Welfare Officers and members of SJPU's with contact details be prominently displayed in every police station in the state.
- (e) Under section 62A of JJ Act, every state government shall constitute a child protection unit for the state and for every district to take up the matters relating to children in need of care and protection. SLSAs shall ensure that such child protection Unit has been established.
- (f) Under section 17 of Commission for Protection of Child Rights Act

2005, State is under obligation to constitute State Commissions. SLSAs shall ensure that such commission u/s 17 of Commission for Protection of Child Rights Act 2005 has been constituted and working effectively.(**Re. Exploitation of Children in Orphanages in the State of Tamil Nadu Vs. Union of India (UOI) and Ors. (2014)2SCC180**).

- (g) Under section 16 of The Prohibition Of Child Marriage Act, 2006, the State Government is authorised to appoint for the whole State, or such part thereof as may be, an officer or officers to be known as the Child Marriage Prohibition Officer to prevent child marriage and to deal the matters connected thereto. SLSA shall take up the matter with state for appointment of the Child Marriage Prohibition Officer, wherever they have not been appointed.

10.2 Observation and Shelter Homes

- (a) Juvenile in conflict with law are kept in a home and not in jail or lockup . There are two categories of homes for juveniles in conflict with law , namely observation homes and special homes. Juvenile is kept in the Observation Home pending inquiry against him by the Board and such home are to be established and maintained by the State Government in every district or group of districts (section 8 of JJ Act r/w rule 16(1) of JJ Rules).
- (b) Similarly, special homes are to be set up in every district or group of district separately for boys and girls to house juveniles, if found guilty on conclusion of inquiry (section 9 of JJ Act r/w rule 16(1) of JJ Rules).
- (c) Under section 34 of JJ Act, State Governments have been empowered to establish and maintain either by themselves or in association with voluntary organizations, children homes in every district or a group of districts for the reception of child in need of care and protection during the pendency of any inquiry and subsequently for their care, treatment, education, training, development and rehabilitation

- (d) SLSAs shall keep the updated record of as to how many institutions i.e. children homes, shelter homes and observation homes, either run by the State Governments or by Voluntary Organisations for Children in need care and protection or children in conflict with law are there in the state.
- (e) All such homes or institutions run by the State Governments or by Voluntary Organisations for Children in need care and protection have to be registered under the provisions of Section 34 of JJ Act, read with Rule 71 of the said Act.
- (f) Any unregistered institutions for children in need of care and protection are there then they have to be shut down or taken over by the State Governments. **(Re. Exploitation of Children in Orphanages in the State of Tamil Nadu Vs. Union of India (UOI) and Ors. (2014)2 SCC 180)**. In this regard SLSAs shall take up the matter with the state Government so that needful could be done in respect of unregistered institutions.
- (g) SLSAs shall ensure that there are observation homes, shelter homes and child care homes in sufficient numbers registered with the government to house the juvenile in conflict with law and child in need of care and protection.
- (h) Each SLSA shall constitute a committee namely "Observation and Children Home Committee" for every district in the state comprising of District Secretary as chairperson, one panel lawyer and probation officer as members. The committee so constituted shall formulate a calendar of its visit to each of home situated in the district at least once in a month.
- (i) Broadly the functions of the committee would be to see that observation homes , special homes and children homes are child friendly and it should not look like a jail or lockup and should have a good quality of care and facilities. It should have sanitation and hygiene, clothing and bedding , meals and diet, medical and mental health care, tie up with local primary health centre,

maintaining the health record etc. if anything deficient is noted by the committee then SLSA will take up the matter with concerned authorities for necessary action at their end and shall follow up the matter.

10.3 Legal Services Clinics

- (a) SLSAs shall set up Legal Services Clinic at every Juvenile Justice Board and Child Welfare Committee in each district in the state.
- (b) Opening of Legal Services Clinic shall be communicated to all Government bodies, department including Police, NGOs along with relevant contact numbers and addresses of the clinics.
- (c) PLV's shall be deputed in such clinics.
- (d) SLSAs shall display the contact number and the other information of the clinic in its all offices at state, district and Taluka service level.
- (e) The legal services clinics so established shall be governed by the National Legal Services Authority (Legal aid clinics) regulation 2011 in respect of their functioning, infrastructural facilities, maintenance of record and register , visit of panel lawyers , deputing of PLVs and control over such clinic.
- (f) All DLSAs shall set up legal literacy club in each of the schools in the District under the control of DLSA with co-ordination with the principals.

10.4 Legal Representations.

Statutory provisions

- (a) Under section 12(1)(c) of the Act every child who has to file or defend a case is entitled to free legal services.
- (b) The Board is to ensure free legal aid to all juvenile through State Legal Aid Services Authority or recognized voluntary legal services organisations or the University legal services clinics. [Rule 3.I (d) (iii) r/w 14(2)of JJ Rules].

- (c) The Legal Officer in the District Child Protection Unit and the State Legal Aid Services Authority shall extend free legal services to all the Juveniles. [Rule 14(3) of JJ Rules].
- (d) Under section 40 of Protection of Children from Sexual Offences Act, 2005, the Legal Services Authority shall provide a lawyer to the family or the guardian of the child, if they are unable to afford a legal counsel.

Role of SLSAs

- (a) To meet the requirement of law, SLSAs shall constitute a separate panel of trained and committed advocates to represent child /Juvenile before every forum i.e JJBs, CWCs etc., so that meaningful and effective legal services could be provided at the ground level.
- (b) SLSAs shall ensure that legal services provided to child or Juvenile is of high quality and that it is effective which requires competent and dedicated panel lawyers at JJB and CWC's.
- (c) SLSAs shall supervise and monitor the working of Panel lawyers and have mechanism of surprise check.
- (d) The remuneration to the panel lawyer may be released on the basis of work done report countersigned by the JJB or CWCs wherever the panel lawyer is deputed.
- (e) SLSA shall ensure an effective coordination between legal officer, panel lawyer and Legal Services clinic established at JJBs and CWCs so that every child is legally represented and provided free legal aid and other necessary support.

10.5 Training and orientation programme

- (a) All SLSAs shall strictly adhere to various guidelines already issued by NALSA for training the designated juvenile / child welfare officers attached to every police station and the members of the special juvenile police unit and also for legal services in juvenile justice institutions in connection with the compliance of the order dated 12.10.2011 and 19.08.2011 of Hon'ble supreme court of

India in **Sampurna Behrua v. Union of India & Ors.** in Writ Petition (C) No.473/2005).

- (b) Every State Legal Services Authority shall coordinate with the head of the concerned Police Department to ensure that a Standing Order outlining the roles, responsibilities and functions of Special Juvenile Police Units and Juvenile/ Child Welfare Officers is issued. Such Standing Order shall be based on the JJ Act, JJ Rules / the applicable Rules (If State Government has notified its own Juvenile Justice Rules) and the judgement of the Hon'ble Supreme Court in ***Sheela Barse V. Union of India (1986 SCALE (2) 230): (1987)3SC50***. State Legal Services Authority shall render assistance in drafting and preparing such Standing Order. State Legal Services Authority shall also ensure that such Standing Order is translated into local language and is made available at all the Police Stations.
- (c) In order to be effective, the concepts and potential of legal service to serve children must be communicated effectively. This requires that Legal Service Providers, whether they are lawyers, PLVs, Police Officer or Judicial Officers require effective training in how to communicate with children.
- d) Children legal service providers, judicial officer, panel lawyers, police officers, JJB's, CWCs whether or not formally trained with the law, should receive on-going training in the areas of relevance to the rights of the children.
- (e) To the extent possible, training in substantive legal concepts and applicable laws, regulations and rules as well as skills training in advocacy should be problem based and interactive.
- (f) Law relating to Juveniles is comprised of constitutional provisions, legislations, schemes, reports, international convention, rules. The challenge is how to convey this information in meaningful way to those who are working on the ground on behalf of the children. Therefore, the training material for such functionaries should contain all important information which is necessary for solving the problem of children.

10.6 Legal Awareness

- (a) All SLSAs shall publish booklets/pamphlets/legal service manual containing the details of the available schemes pertaining to the child rights. Copies of booklets/pamphlets/ legal service manual shall be kept available in all front offices, legal services clinics, JJBs, CVCs, police stations etc.
- (b) Information regarding the above details should also be disseminated through Doordarshan, All India Radio and Community Radio.
- (c) All SLSAs shall spread awareness amongst the public about children rights and their protection in collaboration with educational institutions , State Commission for Protection of Child Rights , NGOs etc.
- (d) Essay competitions, street play competitions, poster making competitions, painting competitions and even debate are other means of spreading awareness of child rights amongst school and college students.
- (e) PLVs may be asked to create an effective outreach campaign through the distribution of posters using child appropriate messaging.
- (f) In addition to informing individual children about their right to legal assistance, it is also important to engage in outreach to communities and public and private agencies as a way of building support for legal empowerment and an effective working relationship with Legal Service providers .
- (g) Many children in need of legal service live in remote rural areas. As a result, the children often find it impossible to physically access legal services where they live. To overcome this barrier, SLSAs may take some initiative including mobile clinic and one Stop Centre programmes offering a range of legal services to the children at the same location.

- (h) DLSAs can take the services of PLVs deputed at each police station, in compliance of the direction in Bachpan Bachao Aandolan vs Union Of India, for conducting initial interviews and investigations, to provide counselling and to work as a link between the children and his or her family.
- (i) Each SLSA shall take up the matter with the State Government so that child rights could be included in the school curriculum of all schools to enable children to know their rights.
- (j) SLSAs shall spread awareness about the newly added provisions of section 357 A CrPC and any Victim Compensation Scheme of the State so that immediate compensation is released to the children.
- (k) Each SLSA shall develop directory on legal services which must be available ready with all key stakeholders.
- (l) Each SLSA shall organize intensive legal awareness campaigns at all levels about children's right to education as well as fundamental duties of parents to send their children to schools.
- (m) There is a need for creating awareness about the availability of non-institutional services such as adoption, sponsorship and foster care for children.
- (n) SLSAs shall endeavour the accreditation of NGOs having sound credentials and involved in matters of children who are in need of care and protection.
- (o) To initiate awareness programme that enable community mobilisation and outreach to change social norms perception and attitudes and to educate the villagers and communities about the harm caused to children on account of child marriages especially on their health and personality and also on their future productivity.
- (p) To have greater social community engagements through PLVs to prevent young girls from being coerced into early marriage

- (q) Each SLSA shall take up necessary step to solve the problem of Child Labour by working in villages with the help of PLVs to sensitize families about the long term benefits of education and to make them aware that child labour is not acceptable.
- (r) There should be awareness programme at all levels for the effective prohibition of all forms of labour for children upto 14 years of age and to effectively address the issues of trafficking of children.
- (s) Each SLSA should work together with the State Government for strengthening existing framework so that the promise of free and equality education to children between the age of 6 and 14 can be implemented across the State.
- (t) Vulnerability to trafficking for Child Labour or destitution increases during disasters and natural calamities. Therefore, the core group constituted by the SLSAs under the NALSA scheme i.e "A Scheme For Legal Services To Disaster Victims Through Legal Services Authorities", must ensure that all measures are taken to protect the rights of these children and for their welfare.
- (u) SLSAs must draw an action plan so that the problem of Child Labour is systematically eliminated from the society.
- (v) To eliminate the menace of child labour and to effectuate the mandate of the Constitution, Supreme Court had given a large number of mandatory directions in **M.C. Mehta v. State of Tamil Nadu** reported as **(1996) 6 SCC 756**. One of the important directions was to direct an employer to pay a compensation of Rs. 20,000/- for having employed a child below the age of 14 years in hazardous work in contravention of Child Labour (Prohibition & Regulation) Act, 1986 . The appropriate Government was also directed to contribute a grant/deposit of Rs. 5,000/- for each such child employed in a hazardous job. The said sum of Rs. 25,000/-

was to be deposited in a fund to be known as Child Labour Rehabilitation-cum- Welfare Fund and the income from such corpus was to be used for rehabilitation of the rescued child.

A LSAs originate with police, labour department and other authorities concerned for compliance of the aforesaid directions and follow up the matter.

11. Database

All SLSAs shall have database of all the existing central or state schemes, policies, regulations, SOPs, police directives, conventions, rules, declarations, comments, and reports etc. available for child welfare and protection so that same may be used as and when required for legal awareness and for providing legal services to the Juveniles.



COMPENDIUM OF SCHEMES

NATIONAL LEGAL SERVICES AUTHORITY

12/11, Jam Nagar House, Shahjahan Road, New Delhi-110011
Ph: No.011-23382778, 23382121, Website: www.nalsa.gov.in

Index

S.No.	Scheme	Page No.
1.	NALSA (Legal Services to Disaster Victims Through Legal Services Authorities) Scheme, 2010	1-12
2.	NALSA (Victims of Trafficking and Commercial Sexual Exploitation) Scheme, 2015	13-24
3.	NALSA (Legal Services to the Workers in the Unorganized Sector) Scheme, 2015	25-37
4.	NALSA (Child Friendly Legal Services to Children and their Protection) Scheme, 2015	39-60
5.	NALSA (Legal Services to the Mentally Ill and Mentally Disabled Persons) Scheme 2015	61-76
6.	NALSA (Effective Implementation of Poverty Alleviation Schemes) Scheme, 2015	77-86
7.	NALSA (Protection and Enforcement of Tribal Rights) Scheme, 2015	87-108
8.	NALSA (Legal Services to the Victims of Drug Abuse and the Eradication of the Drug Menace) Scheme, 2015	109-124
9.	NALSA (Legal Services to Senior Citizens) Scheme, 2016	125-142
10.	NALSA (Legal Services to Victims of Acid Attack) Scheme, 2016	143-156



NALSA
(Legal Services
to
Disaster Victims Through
Legal Services Authorities)
Scheme, 2010





NALSA (Legal Services to Disaster Victims Through Legal Services Authorities), Scheme, 2010

1. Background

Sub clause (e) of Section 12 Legal Services Authorities Act, 1987 makes the victims of disasters who are under circumstances of undeserved want as a result of such disaster eligible for free legal services to file or defend a case. But in a disaster of catastrophic nature whether it is natural or manmade, the victims are often taken unawares and are subjected to face the grim situation of loss of life, becoming homeless, destruction of property or damage to or degradation of environment and subject to human sufferings and damage beyond the coping capacity of the community of the affected area.

Even though it is the duty of the Government and the Administration of the locality to come to the help of the victims of disasters, Legal Services Authorities by virtue of sub-clause (e) of Section 12 can play an effective role by coordinating the activities of the State Administration in the disaster management by way of strategic interventions in an integrated and sustainable manner, reducing the gravity of the crisis and to build a platform for early recovery and development. The Legal Services Authorities shall endeavour to help the victims and the administration for reducing risk and assisting them to adopt disaster mitigation policies and strategies, reducing the vulnerabilities of the geographical and social situation and strengthening their capacities for managing human made and natural disasters at all levels.

2. Name of the Scheme.

This Scheme shall be called the NALSA (Legal Services to the victims of disasters through Legal Services Authorities) Scheme, 2010

3. Objective

The objective of the scheme is to provide legal services to the victims of disaster - both manmade and natural - who are under circumstances of undeserved want being victims of mass disaster, ethnic violence, caste atrocities, flood, drought, earth-quake or industrial disasters.

The intervention of Legal Services Authorities should be for coordinating the integrated, strategic and sustainable development measures taken by the Government and Disaster management Authorities for reducing the period of crises and for building a platform for early recovery and development. The thrust of the efforts for by the State Legal Services Authorities shall be for strengthening the capacity of the victims for managing the disaster at all levels and to coordinate with the Government departments and non-governmental organisations and also for providing legal aid to the victims.

4. Strategic Intervention by the State Legal Services Authorities.

The strategy for intervention by the Legal Services Authorities for helping the victims of disasters shall be on the following lines:

1. Ensuring immediate help by Governmental and Non-Governmental Agencies to the victims.
2. Coordinating the activities of different departments of the Government and the NGOs for bringing immediate relief.
3. Supervising the distribution of relief materials.

4. Supervising the construction of temporary shelter or transporting the victims to a safer place.
5. Supervising the reunion of families.
6. Supervising the health care and sanitation of the victims and preventing the spread of epidemics.
7. Supervising the needs of women and children.
8. Ensuring the availability of food, medicine and drinking water.
9. Supervising the reconstruction of damaged dwelling houses.
10. Supervising the restoration of cattle and chattel.
11. Legal Awareness Programmes in the relief camps on the legal rights of the victims.
12. Organising Legal Aid Clinics in the affected areas for assisting in reconstruction of valuable documents.
13. Assisting the victims to get the benefits of the promises and assurances announced by the Government and Ministers.
14. Assisting in the rehabilitation, care and future education of orphaned children.
15. Taking steps for appropriate debt relief measures for the victims.
16. Assisting in the rehabilitation of the old and disabled who lost their supporting families.
17. Assisting in the problems relating to Insurance Policies.
18. Arranging Bank Loans for restarting the lost business and avocations.

19. Arranging for psychiatrist's help / counselling to the victims who are subjected to physiological shock and depression on account of the disaster.

5. Machinery for Legal Services.

The State Legal Services Authorities shall establish a Core group in all districts under the control of the District Legal Services Authorities to spring into action in the event of a disaster, whether manmade or natural.

The Core group shall consist of a senior judicial officer, young lawyers including lady lawyers selected in consultation with the local bar association, Medical Doctors nominated by the local branch of the Indian Medical Association and the NGOs accredited by the State Legal Services Authority. The Secretary of the District Legal Services Authority shall maintain a Register containing the Telephone numbers and the cell numbers of the members of the Core group.

STRATEGY FOR LEGAL AID TO THE VICTIMS

6. Ensuring immediate help by Governmental and Non-Governmental agencies to the victims.

The nodal agency for responding to a disaster shall be the State and District Disaster Management Authorities set up under the Disaster Management Act, 2006. The State Legal Services Authority should immediately alert the District Legal Services Authority concerned who in turn shall get in touch with the Disaster Management Authority of the State and District and gather the details of the steps taken by the latter.

- (a) The Core group set up the District Legal Services Authority shall immediately proceed to the area where the disaster has occurred and get involved in the work of relief.
- (b) The District Legal Services Authority and the Core team shall coordinate the activities of the relief operations by involving

themselves and without causing any hindrance to the smooth flow of the relief operations.

7. Coordinating different departments of the government and the NGOs for bringing immediate relief.

The State Legal Services Authority at the apex level shall get in touch with the State Disaster Management Authority / Department to ensure that all the departments of the State Government including health, finance, social welfare and police are involved in the relief operations. The State Legal Services Authorities shall coordinate the implementation of the Plan of Action, if any, prepared by the Disaster Management Authorities.

- (a) The State and District Legal Services Authorities shall obtain a copy of the disaster management plan, if any, prepared by the State Disaster Management Authority / District Disaster Management Authority.
- (b) The State Legal Services Authority / District Legal Services Authority shall as far as practicable follow the aforesaid plan and, if necessary, make suggestions to the state administration or Disaster Management Authorities for improving the quality of relief operations.

8. Supervising the distribution of relief materials.

In the event of a disaster, the first and foremost step to be taken is to ensure that the victims are provided with adequate support to tide over their undeserved wants. This includes provision of food, safe drinking water and transferring the victims to safe shelters. The District Legal Services Authority in coordination with the Disaster Management Authority and State Government Departments, shall supervise effective and timely supply of relief materials to the victims of the disaster.

9. Supervising the construction of temporary shelters or transporting victims to safer place.

District Legal Services Authority and the Core team shall supervise construction of temporary shelters and transportation of victims to such shelters to other safer places. Any lapses can be reported to the government officer incharge to ensure that the lapses are remedied immediately.

10. Supervising the reunion of families.

A disaster may result in sudden disruption of the cohesive unit of families. Members of the family are likely to get separated on account of the disaster or by reason of the rescue operations or on account of medial emergencies. Separation can occur due to loss of life also.

The Core team shall visualise such probable traumatic situations in the families affected by the disaster and shall take necessary steps for consoling the victims and shall take earnest search for the missing members of the families.

11. Supervising the health care of the victims and preventing the spread of epidemics.

The District Legal Services Authority shall take prompt steps for coordinating with the District Medical Officer for ensuring that the victims of the disaster are given proper medical care. The injured victims shall be given prompt treatment.

- (a) When a large number of affected persons are congregated in relief camps, adequate sanitation has to be ensured. Steps shall be taken to ensure that the public health authorities are performing cleaning and sanitation of the camps on a regular basis.
- (b) The District Legal Services Authority shall ensure that adequate preventive measures are taken by the health authorities against

outbreak of contagious and infectious diseases and water-born diseases can occur in the relief camps.

- (c) Right to health being a concomitant to the Right to Life guaranteed under Article 21 of the Constitution of India, the disaster victims are entitled to adequate health facilities and the Legal Services Authorities are dutybound to ensure the same through appropriate measures.

12. Supervising the needs of women and children.

Women and children are beneficiaries of free legal aid under Section 12 of Legal Services Authorities Act. They are the most vulnerable group amongst the victims of any disaster. Safety of women and children in the camps and their valuables like ornaments and personal belongings are to be protected. The District Legal Services Authority shall ensure that the Police takes necessary steps for preventing theft and anti-social activities. Legal Services Authorities shall coordinate with the Police Officers to ensure the safety of women and children.

13. Ensuring the availability of food, drinking-water and medicine.

The need for food, safe drinking water and medicine are basic human needs and hence are attributes of the Right to life under Article 21 of the Constitution of India. Legal Services Authorities can therefore rightfully intervene and coordinate with the State Government, District Administration and Health Authorities to ensure the availability of food, safe drinking-water and medicine to the victims living in the shelters.

14. Supervising the reconstruction of damaged dwelling houses.

Housing is one of the important problems faced by the victims of disasters. Partial or total damage may occur to houses in disasters like earthquake, flood and communal riots. Assurances given by the

Ministers and Government officials ex-gratia payment and funds for reconstruction of damaged houses of the victims may go unfulfilled or forgotten due to passage of time. Efforts shall be taken by the Legal Services Authorities to ensure that such promises are fulfilled and the promised funds or other relief measures are disbursed to the victims without delay.

15. Supervising the restoration of cattle and chattel.

Loss of cattle, chattel and household articles are concomitant with all mass disasters. Thieves, looters and anti-socials have a field day during riots and ethnic violence and also during the havocs like flood, drought, pestilence and earth-quake. The District Legal Services Authority in coordination with the Police or Armed Forces shall ensure that the valuables belonging to the victims are not looted or stolen houses. Similarly, steps shall be taken to protect livestocks and chattel also. The Legal Services Authorities shall coordinate with the animal-husbandry department of the government to save the livestock.

16. Legal Awareness Programmes in the relief camps on the legal rights of the victims.

Once the victims are relieved from the immediate shock and impact of the disaster, the Legal Services Authority may chose a convenient time and place near the relief camps for imparting legal awareness to the victims. Women lawyers may be entrusted with the job of conducting informal legal awareness programme, mainly related to the rights of the disasters victims to avail of the relief measures from the authorities. The legal remedies available and the mode in which the benefits of the offers and schemes announced by the government are to be availed of also may be included as topics. Legal Awareness Programmes shall not be conducted in a ceremonial manner. Inaugural function and other formalities shall be totally avoided. The ambience of disaster and the mood of grief stricken victims should be fully taken in to

account by the resource persons and the steps for legal awareness shall be taken in such a manner as to go along with the measures for consolation and redressal of the grievances of the victims. Visits by women lawyers to the camps and homes of the victim will be desirable.

17. Organising Legal Aid Clinics in the affected areas for assisting in the reconstruction of valuable documents.

It is likely that the victims of disaster have lost their valuable documents like titled deeds, ration cards, identity cards, school and college certificates, certificate of date and birth, passport, driving licence etc. The District Legal Services Authority shall organise legal aid clinics in the affected areas and assist the victims to get duplicate certificate and documents by taking up the matter with the authorities' concerned. Arrangements for issuing Death Certificates of the deceased victims also shall be made.

18. Taking care of the rehabilitation and the future care and education of the orphaned children.

Orphaned children are the living monuments of disasters. Loss of childhood paternal affection are likely to haunt them for the rest of their lives. At times, the orphaned children may get affected with psychiatric problems also.

The Legal Services Authority shall seek the help of voluntary organisations, large business houses and Corporates for the educational needs and accommodation of such children till they attain the age of maturity. In appropriate cases, the Legal Services Authority may assist such children to be taken care of under provisions of the Juvenile Justice (Care and Protection) Act.

19. Taking steps for appropriate debt relief measures for the victims.

Rehabilitation of disaster victims will be a gigantic challenge for any administration. The adequate funds should be made available to the victims who lost everything in their life for rebuilding their avocation, buying agricultural implements and other implements required for their avocations in which they were engaged prior to the disaster. Victims belonging to fisherman community may require huge amounts for buying nets, boats and outboard engines. Such measures of rehabilitation may require the assistance of government departments concerned. The State Legal Services Authority shall coordinate with Public Sector Banks, Social Welfare Department and other departments concerned for helping the victims to re-start their avocations. In appropriate cases, provisions in the laws relating to debt relief shall be invoked.

20. Rehabilitation of the old and disabled who lost their supporting families.

Persons with disabilities as defined in Clause (e) of Section 2 of Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 are entitled to free legal aid under Section 12 of the Legal Services Authorities Act. Senior citizens are entitled to certain benefits under the provisions of Maintenance and Welfare of Parents and Senior Citizen Act. The senior citizens and disabled persons who lost their support on account of disasters shall be identified and appropriate legal aid shall be given to them.

21. Problems relating to Insurance Policies.

The Legal Services Authorities shall take up the insurance claims of the disaster victims with the Insurance Companies for settlement of such claims. Negotiations may be undertaken with the Insurance Company officials for a settlement favourable to the victims. In appropriate cases the service of Insurance Ombudsman also may be availed of.

22. Arranging Bank Loans for restarting the lost business and avocations.

The victims who suffered substantial loss of their business and implements used in their avocations shall be helped by adopting proper restorative measures. For this purpose, efforts shall be made to make available financial assistance of nationalised banks and other public sector financial institutions. The Legal Services Authorities shall persuade the officials of such financial institutions to raise to the occasion for helping the victims.

23. Arranging for the services of psychologists / psychiatrists help for counselling the victims suffering from psychological shock and depression on account of the disaster.

Mental shock and the related psychiatric manifestations are usually seen associated with the traumatic effects of disasters on the victims and their family members. Sudden loss of human life and the horrifying experiences of the trauma of the disasters can result in mental shock and psychiatric problems not only to the victims but also to their family members. The District Legal Services Authority shall in coordination with the District Medical Officer make necessary arrangements for the services of psychiatrists and psychologists.

The District Authority shall ensure the presence of the members of the Core group at the relief camps everyday till the victims are rehabilitated.

24. District Legal Services Authority shall collect reports from the Core Group.

District Legal Services Authority shall collect daily reports from the Core group working at the location of the disaster. Copies of such reports shall be sent to the State Legal Services Authority. The State Legal Services Authority shall consolidate the reports and send a

comprehensive report to the National Legal Services Authority and copies thereof shall also be sent to the District Management Authorities of the State and District. Copies of the report shall be placed before the Patron-in-Chief of the State Authorities and also in the meeting of the State Authority.

If any difficulty arises in giving effect to this Scheme, the State Legal Services Authority and District Legal Services Authority or the Core group may seek guidance from the Executive Chairman of the State Authority.

* * * * *



NALSA
(Victims of Trafficking
and
Commercial Sexual Exploitation)
Scheme, 2015





NALSA (Victims of Trafficking and Commercial Sexual Exploitation) Scheme, 2015

BACKGROUND

Under Section 4 (b) of the Legal Services Authorities Act, 1987, the “Central Authority”, i.e. the National Legal Services Authority, has been obligated to “frame the most effective and economical schemes for the purpose of making legal services available under the provisions of the Act”. The Preamble of the Legal Services Authorities Act, 1987, underscores that the legal services authorities are concerned with the weaker sections of the society and imposes a duty on them to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.

There can be no doubt that victims of commercial sexual exploitation, whether trafficked or voluntary sex workers are by far a highly marginalised group. Their rights are forgotten; their conditions of life and living are not anybody's concern; what happens to them and their children interest no-one. Yet they are all entitled to benefits of the various schemes of the government by the mere fact of who they are. By their much marginalised existence they are entitled to all benefits that accrue to them as are available to other marginalised sections of the society.

Victims of trafficking for commercial sexual exploitation face a great deal of trauma not just following such trafficking but also after their rescue. They need to be protected against the traffickers who would want them to come back or not pursue their case. There are also livelihood issues and if a viable alternative is not given, chances of being re-

trafficked are high.

In the case filed by PRAJWALA, being Writ Petition (C) No.56 of 2004 the NALSA has given a report in the Supreme Court to take the following actions in respect of victims of trafficking for commercial Sexual Exploitation and sex workers:

“The role of the legal services authorities as set out in the preliminary report is reiterated as follows:

- (a) Provide legal assistance to the victims of trafficking and sexual exploitation at the time of rescue and thereafter during trial.
- (b) Facilitate the accessing of the District Legal Services Authorities (DLSAs) for award of victim compensation under Section 357A Cr.P.C
- (c) To monitor and act as social auditors of the existing facilities available for rehabilitation of rescued victims of sexual exploitation and trafficking.
- (d) DLSAs can spread awareness in the community through the panel lawyers and para-legal volunteers about the issues of trafficking particularly in vulnerable areas and among vulnerable groups.
- (e) The DLSAs can act as converging nodes to ensure that the government schemes meant for the marginalized actually reach them as such access to the government support does have a positive impact in preventing trafficking and falling prey to traffickers.
- (f) Initiate steps to sensitize the corporate world to support rehabilitation measures for trafficked victims including skill building and employment under the head of CSR.

- (g) SLSAs can also assist in the training and sensitization of stakeholders, like police, lawyers including legal services lawyers, prosecutors, government servants and the judiciary.
- (h) SLSAs may also collaborate with the local educational institutions and civil society organisations and NGOs working in this field.

The NALSA believes that it is necessary to draw up a scheme to give a framework for the legal services authorities at different levels to put into action the undertaking given to the Supreme Court. To that end the present Scheme has been drawn up. It is expected that the Legal services authorities at all levels would be able to render legal services effectively to these vulnerable people by following the present scheme.

NAME OF THE SCHEME

The Scheme shall be called the Scheme for Victims of Trafficking and Commercial Sexual Exploitation.

OBJECTIVES

The objective of the Scheme is to provide legal services to address the concerns of victims of trafficking including women of all age groups and at every stage: ie prevention, rescue and rehabilitation.

The thrust of the scheme is to provide economic and social pathways for these marginalised groups so that they are socially included and thus get all social protections available to an ordinary citizen. The interventions of the legal services authorities should be to ensure the protection of the dignity of the victims which is as much their fundamental right to a life as of any other citizen.

In order that the already marginalised voluntary sex workers are not excluded from the assistance of the legal services authorities, they are

also considered victims of commercial sexual exploitation, apart from those children and adults who are trafficked for the purpose.

The terms PLVs, Legal Services Clinics, Front Office , Panel Lawyers and Retainer Lawyers will mean the same as defined under the National Legal Services Authority (Free and Competent Legal Services) Regulations, 2010 and National Legal Services Authority (Legal Services Clinics) Regulations, 2011 and the NALSA Scheme for Para Legal Volunteers (Revised) and Module for the Orientation – Induction – Refresher Courses for PLV Training.

STRATEGY FOR LEGAL SERVICES TO THE VICTIMS

The strategy of the legal services must be guided by a 360 degree approach. Thus, children, young adults of whatever sex, adolescent girls, young women and older women should all be included in the action plan. The legal services authorities must also develop an action plan for prevention, rescue and rehabilitation and not merely for one of these aspects. Further the legal services authorities must document each case and carry out a follow up at least for three years so that reintegration of the victim into the society is complete.

Enabling trafficked women to get their entitlements by completing all due diligence processes

The action plan must be to use the existing welfare schemes of the Government, both Central as well as the State, with a life-cycle approach to strengthen social security, social development and welfare in order to cover prevention of trafficking and rehabilitation of the victims. DLSA can request NGOs/CBOs to use tools such as micro planning and surveys to ascertain the demand for schemes and thereafter set up Help Desks across the district to facilitate registration for the schemes. Simultaneously the victims/community members could be motivated

and educated about how to apply for schemes they wish to enroll or register for.

The DLSA, with the support of the concerned department could facilitate the applicant to fulfil the procedures stipulated under each scheme and comply with all the due diligence processes. This would include enabling the applicant to get the supportive documents that are required to be furnished in order to establish eligibility for the benefits under a scheme, such as getting proof of residence, age certificate, nativity certificate, income certificate, etc. Once all the due diligence is over and the scheme sanctioned, DLSA should provide support to the community till the scheme gets delivered or the benefit reaches the beneficiary.

The Available Schemes

1. ICDS or Childcare development ---0-6 years, pregnant women and lactating mothers (as care givers)
2. Food security or ration cards
3. Social security or Pension for the elderly women
4. Educational schemes including midday meal, bridge schools, residential schools of Sarva Shiksha Abhiyan, Sabala; scholarships for the primary, secondary and higher education from Social Welfare Department for adolescents and specifically girls
5. Livelihood- Skill Development, Financial Inclusion, Micro Enterprise -from SC/ST/BC/Minority and Women's Development Corporation and CSR funds from government and public sector undertakings
6. Housing or Subsidy for Construction and Land Pattas from Urban Development, Housing Corporation

7. Universal entitlements-Jan Dhan, Aadhar, Voter Card, SHG membership
8. Legal aid Schemes- Legal Literacy, Para Legal Volunteers, Legal services clinics to ensure free legal aid and protection

Role of LSAs

The most important role of the SLSAs/DLSAs is to maintain convergence oversight. While the administrative convergence for all the schemes no doubt will be under the District Collector, the protection convergence will have to be overseen by the SLSAs and the DLSAs. To converge social and legal protection for marginalized women SLSAs and DLSAs will provide the oversight on the process of convergence by bringing together the administrative convergence provided by the District Collector and those generated by the structures or community organizations that are facilitating the process on the ground and are rooted in the community and its realities and have played significant roles in preventing HIV, trafficking and violence against women and girls.

In this background, the role of the SLSAs/DLSAs would be in:

Bridging the Gap- between all departments and trafficked women, women in sex work and those vulnerable to trafficking and extreme violence

Enhancing Engagement- Scheme Education Drive Organized by DLSA bringing together Community organizations and its members and government-department-district and sub-district administration

Facilitating Participation and Ownership- Led by DLSA in collaboration with community organizations through community meetings and camps

Sensitization- Enabling all departments and institutions to learn about dynamics of community, remove misconceptions

Strengthening Accountability- Through an MIS capturing all processes from identifying entitlement holder to scheme delivery.

Forging Partnerships- At the more micro level the collaborations will be with Community Organizations and NGOs working with sex workers and victims of trafficking and sexual exploitation. They will facilitate the process of reaching out to the many hidden members of the community and shape the process of community mobilization.

At the meso level, the partnership should be with and between district administrative mechanisms such as Department of Women and Child Development (especially Child Protection/Welfare Committees and Anti Human Trafficking Units) and the DLSA. This will highlight initiatives at the ground level with the community or beneficiaries.

The third level of partnership will be at the macro level with the Department of Women and Child Development which implements many schemes for victims of trafficking and also runs shelter homes for those rescued; Ministry of Home Affairs, Ministry of Social Justice and Empowerment and Rural Livelihood Mission which also the mandate of prevention of human trafficking and will be vital partner to strengthen protection and safety nets to the beneficiaries.

Action Plan

The first step that the DLSA should take is to reach out to the Non Governmental Organisations and Community Based Organisations (CBOs) working in the field. To do this, the SLSAs must contact the UNICEF or UNODC. State Agencies such as, Department of Women and Child Development, Rural Livelihood Missions . They must also

seek the assistance of the National Aids Control Organisation (NACO) and the State and District Aids Control Societies (SACS & DACS). Thus the SLSAs/DLSAs would be able to obtain information about trafficking as well as sex workers.

The second step would be to catalyse inter departmental convergence both at the State and further down to the district level so that an all inclusive and comprehensive response from all concerned departments and stakeholders emerges and essential inter-sectoral linkages, processes and mechanisms get established.

Trafficking: As regards trafficking, from the Anti Human Trafficking units in the State and with the help of the NGOs/CBOs, the DLSA should map out the vulnerable areas and the vulnerable populations within its jurisdiction. Then preventive strategies can be put into motion. These would be spreading information about schemes and connecting the vulnerable people to such schemes so that they benefit from them. This would also include spreading awareness about the law and about the dangers posed by prospective traffickers. The children and adolescent children could be made aware of the dangers of strangers befriending them and the parents cautioned about the falsity of promises made to them of better education for their children in cities. Young adults could similarly be warned about false promises of jobs and better lives.

The SLSAs/DLSAs should create a team of panel lawyers and social workers to spread awareness about the welfare schemes of the government. The PLVs should be used to ensure that all the due diligence processes including eligibility documents and proofs are collected to enable the vulnerable communities to access the various schemes. The DLSA should use their PLVs and their offices wherever necessary to interact with the Administrative heads such as the District Collector or Chief Secretary to ensure the final realisation of the scheme.

The PLVs attached to or assigned to a police station in compliance of the orders of the Supreme Court of India to handle cases of missing children should be given special training by the SLSAs /DLSAs to sensitise them on children's issues as well as trafficking issues, so that they are responsive. These PLVs must inform the SLSAs/DLSAs whenever such a case of trafficking is reported or arrest of a sex worker occurs at the police station.

Sex Workers: One method of understanding community needs is to organise meetings between the Member Secretary SLSA or Full Time Secretary DLSA and the community leaders where the community leaders can explain the difficulties they face in accessing social entitlements especially the social security schemes such as widow and old age pension schemes even though they fall under eligible category.

The other method is to organize public hearings where community members would “depose”, or in other words relate their experience with governance at all levels. The “jury” should be made up of DLSA Chairperson and /or Full time secretary , other judicial officers wherever possible, high government functionaries such as DC, Principal Secretaries or Chief Secretaries, police officers and protection officers. The SLSAs/DLSAs should also involve senior advocates and panel lawyers in such programmes.

After the deposition, the Member Secretary /Secretary, as the case maybe, or the panel advocate should explain to the community about the legal services available in the Legal Services Authority and encourage them to file complaints and seek free legal aid whenever their rights are infringed or they have a legal problem such inheritance etc. The Legal Services Authority can enable the target groups to redress the violence and harassment they face in their day to day life. In cases of violence from partners or husbands, the DLSA along with Protection Officers can provide legal aid and counselling services.

The DLSAs can accredit Para legal volunteers drawn from the community and train them as per the NALSA module. These PLVs can then act as the front line workers of the Authority as far as the community is concerned. The effort must be to ensure “saturation coverage” by having representation from all the blocks of the district and ultimately the entire State.

Once again, the DLSAs should assess the need for schemes in the community and facilitate the access of the community to the various welfare schemes of the government in the manner as mentioned hereinbefore.

Prevention: While ensuring the implementation of government welfare schemes, the SLSAs/DLSAs should pay attention to the structure already available under the Integrated Child Protection Scheme, particularly the setting up of the Village Level Child Protection Committees (VLCP). These Committees are made up of Panchayat members, school teachers, students and parents from the community. Special awareness programmes should be organized for the VLCP to keep a watch on the children in the village. The teachers should be sensitized to keep a watch for children missing from school and report them, so that further enquiries about their well being are promptly made.

A similar awareness and sensitization programme should be organized for the Anganwadi and Health workers for younger children and adolescent girls. Again, the SLSAs/DLSAs must ensure that children remaining absent are followed up and reported immediately.

PLVs drawn from the VLCPs and Anganwadis as well as teachers should be trained with special emphasis on the issues of trafficking and sexual exploitation. The work of these PLVs must be closely monitored. At the same time these PLVs must be given effective mentors and support so that any incident reported is given full and complete attention by the SLSA/DLSA concerned.

Student Legal Literacy Clubs should be encouraged to write about and talk and discuss about trafficking issues. These clubs could play the role of peer educators about the dangers of growing up and how to keep oneself safe.

The SLSAs/DLSAs should strengthen groups who are working to prevent child marriages and empowerment of women. Many times, child and forced marriages are a prelude to trafficking for sexual exploitation. Apart from spreading awareness, student groups should be formed in vulnerable areas and communities to report on child marriages and initiate preventive action.

While dealing with women already in sex work, the SLSAs/DLSAs should focus on the livelihood alternatives to help these women come out of the profession and prevent their children entering it. Women could be encouraged to save money and channelize the money into entrepreneurship which would ensure their social recognition and assimilation. The SLSAs/DLSAs should help the women to protect themselves from domestic violence and provide legal assistance to follow up court cases. They should help these women access all government schemes as mentioned above.

Strategies of prevention and protection of victims of trafficking implemented by the Rural Livelihood Missions should also be understood and explored so as to replicate some of the successful methods and establish collaborative efforts.

Rescue and Rehabilitation: The protocol for the One Stop Crisis Centre would no doubt be available for the rescued victims of trafficking. Apart from ensuring compliance of the directions of the Supreme Court in Prajwala's case, the SLSAs/DLSAs must also follow up with the rehabilitation of the victim chiefly through access to government schemes to provide a stable alternate livelihood for the victims. The DLSAs should ensure that panel lawyers and PLVs help the victims to get

their FIR registered and are present during remand proceedings to oppose bail etc. The Panel lawyers should obtain court orders for protection of witnesses wherever necessary and to counsel the victims before deposition and be present during trial including recording of the statement of the victim. The panel lawyers and PLVs should also help the victim to apply to the DLSAs for release of compensation under the Victims Compensation Scheme and also to access other welfare schemes of the Govt. meant for the rehabilitation of such victims.

Management Information Systems: The SLSAs and DLSAs will have to develop a sound MIS so that every activity under this scheme is recorded, followed up and assessed. Similarly, the assistance of the PLVs and the Panel lawyers given to the victims will have to be recorded and monitored closely by the Secretary DLSA. Where the DLSA has facilitated the rehabilitation, there must be a tracking of the person for at least three years so that the rehabilitation is complete and there is no danger of retrafficking.

Transgenders: The provisions of this scheme will be applicable to all Transgenders as well.



NALSA
(Legal Services
to the
Workers in
the Unorganized Sector)
Scheme, 2015





NALSA (Legal Services to the Workers in the Unorganized Sector) Scheme, 2015

1. Background

- 1.1 One of the major characteristics of the Indian economy is the contribution of a vast majority of labour employed in the unorganised sector. The economic survey of India (2007-2008) and National Sample Survey for unorganized sector (2009-2010) have estimated the employment in this sector at about 93-94% of the total workforce. Its contribution to the GDP is estimated to be more than 50%.
- 1.2 Majority of unorganised workers (about 52 per cent) are employed in agriculture. Other major categories include construction workers, workers in small enterprises, workers employed through contractors even in large enterprises, artisans/craftsman, home based workers, workers depending upon forest produce, fisheries, self-employed workers like rickshaw pullers, auto drivers, coolies etc.
- 1.3 The distinguishing feature of the unorganised sector is non-applicability of most of the labour laws and other regulations providing for decent working conditions, job security and social security to the workers. The unorganised workers lack collective bargaining power and are therefore susceptible to excessive exploitation. They work under poor working conditions and receive far lower wages/remuneration as compared to the organised sector, even for comparable jobs. Most of the

employment in this sector is seasonal and the workers therefore have no job guarantee. This also leads to large scale migration of workers from one place to another leading to un-stability of work and residence which further often leads to discontinuity of the education of their children. In cities, they live in slums without proper housing and sanitation. Health care and maternity benefits which are statutorily available in the organised sector are not available for them. The legislations providing for social securities for old-age, health-care and assistance in the event of death, marriage and accidents etc., like the Workmen's Compensation Act, 1923; Employees State Insurance Act, 1948; Maternity Benefits Act, 1961; Industrial Disputes Act, 1974; Payment of Gratuity Act, 1972; Employees' Provident Fund and Miscellaneous Provisions Act, 1952 etc., do not apply to them. The combined effect of the above factors is that many of them are generally, forced to lead an undignified and servile life.

1.4 Existing Legal Frame Work

Although there are a large number of categories of employment in the unorganized sector, legislation providing for working conditions etc., have been enacted only in respect of few categories like:-

- Dock Workers (Regulation of Employment) Act, 1948;
- Beedi and Cigar Workers (Conditions of Employment) Act, 1966;
- Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979;
- Cine-Workers and Cinema Theatre Workers (Regulation of Employment) Rules, 1984;
- Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996;
- Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act, 2013.

1.5 In order to provide for social security to all categories of unorganised workers, the Central Government has also enacted an umbrella legislation by the name of Unorganised Workers Social Security Act, 2008. Various social security schemes have been/are required to be floated for the benefit of the workers under the Building and Construction Workers Act, 1996 and Unorganised Workers Social Security Act, 2008.

2. Scheme for providing legal services.

2.1 The enactment of the few statutes as mentioned herein above does not appear to have made any appreciable difference to the lives of the workers inter-alia, for the following reasons:-

- a) The Unorganised Workers Social Security Act, 2008 does not statutorily provide any mechanism to implement the schemes and there appears to be no sanction against a refusal of the concerned authorities to extend the benefits of the schemes to eligible workers.
- b) Very few States have constituted the Social Security Boards and have framed rules as envisaged under Section 14 of the Act. The result is that in many States, no welfare schemes are being administered and even where the schemes are in place, there is no effective monitoring. Similarly, all the States have not yet established the Building and other Construction Workers Welfare Boards as mandated under the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 and consequently, no security schemes have been floated for these workers.
- c) Although cess is being collected by many States under Building and Other Construction Workers Welfare Cess Act 1996, utilisation of cess amount for the benefit of the workers is

abysmally low. This may be due to very low registration of workers and / or non extension of benefits even to the registered workers.

- d) The schemes and the benefits available thereunder are not being sufficiently publicised. Workers in the unorganized sector being generally uneducated and not unionised are mostly unaware of the schemes.
 - e) Workers Facilitation Centres as envisaged under section 19 of the Social Security Act 2008 have not been set up by any State.
 - f) There is no responsibility of the employer /contractor to get their workers registered under any of the schemes. It is for the workers to apply for the same and they are unable to do so due to lack of awareness and complexity of the procedure.
 - g) Separate registration is required for each scheme which makes it difficult for workers to avail benefits under all the schemes available to them in case of need.
 - h) The registration under the scheme is generally non-portable and therefore, workers in most of the categories being migrant workers are unable to avail the benefits and are therefore reluctant to register themselves under the scheme.
- 2.2 The Legal Services Institutions can play an important role in bridging the gap between the implementing authorities and target beneficiaries. With this object in view, the National Legal Services Authority had adopted the Scheme i.e. National Legal Services Authority (Legal Services to the Workers in the Unorganised Sector) Scheme, 2010 in the meeting of the Central Authority of NALSA held on 08.12.2010.
- 2.3 However, the magnitude of the problem and the fact that the benefits of the legislations are still elusive to the needy workers

even after several years of their enactment has given rise to the need for more focused attention to this sector. The present revised scheme is meant to achieve this purpose.

The terms PLVs, Legal Services Clinics, Front Office , Panel Lawyers and Retainer Lawyers will mean the same as defined under the National Legal Services Authority (Free and Competent Legal Services) Regulations, 2010 and National Legal Services Authority (Legal Services Clinics) Regulations, 2011 and the NALSA Scheme for Para Legal Volunteers (Revised) and Module for the Orientation – Induction – Refresher Courses for PLV Training.

3. Name of the Scheme

The Scheme shall be called “National Legal Services Authority (Legal Services to the Workers in the Unorganised Sector) Scheme 2015”.

4. Objectives

1. To institutionalize essential legal services to all unorganized workers.
2. To get the gaps in legislation/implementation plugged through coordination with government authorities and by initiating public interest litigation.
3. To mobilize the machinery of the State Government and the District Administration to identify and register all unorganized workers in all categories and to extend the benefits of all government schemes, as applicable to them.
4. To spread awareness among the employers regarding the statutory provisions and the need for providing decent working conditions, living wages and social security to the workers.

5. To disseminate information among the workers regarding their entitlements under the existing legislations and schemes.
6. To provide counselling and assistance to all categories of unorganized workers for their registration with the concerned authorities under the schemes available for their category.
7. To assist the workers in availing the benefits of the scheme for which they are registered as per their need/entitlements.

5. Guiding Principles

The following principles shall be borne in mind by all Legal Service Institutions while implementing the scheme for the unorganized workers:-

- 5.1 The Preamble to the Constitution of India assures equality of status and opportunity to all citizens and to promote among them fraternity, assuring the dignity of the individual. Article 42 mandates that the State shall make provision for securing just and humane conditions of work and for maternity relief. By virtue of Article 43, the State is obliged to secure to all workers, work, a living wage, condition of work ensuring a decent standard of life and full enjoyment of leisure, social and cultural opportunities.
- 5.2 The Preambular promise of upholding the dignity of the individual cannot be fulfilled unless the dignity of labour is ensured.
- 5.3 The unorganized sector is one of the marginalized sections of the society and they, as citizen of the country, are equally entitled to the right to work, just and humane conditions of work, living wages, maternity relief and a decent standard of life. It is the statutory mandate of the Legal Services Authorities to facilitate realization of this Constitutional assurance.

The Legal Services Authorities have to act as watchdogs against administrative inaction.

- 5.4 The welfare measures initiated by the Government in the form of legislations or schemes etc. require the intended beneficiaries or the victims to mobilize the system for realization of their rights/entitlements. The workers in the unorganized sector belonging as they do, to the deprived and vulnerable sections of the society do not possess the capacity to mobilize the system. It is the job of the Legal Services Authorities to provide them support in getting justice to their doorsteps.
- 5.5 The large number of categories of the unorganized workers,, large population in each category and their vast geographical spread necessitates a project-approach to the issue of providing legal services to them. An institutionalized setup, committed work force and sustained efforts for a considerable period of time are required to be able to make them capable of realizing their constitutional rights.

Plan of Action

1. Setting up of Special Cells

- 6.1 In order to provide effective legal services to the workers in this sector, each State Legal Services Authority (SLSA) shall constitute a special cell focusing exclusively on these services. The cell shall be manned by one panel lawyer specialising in Labour Laws, one counsellor/consultant having requisite qualification/experience in relevant field, wherever feasible, representative of an NGO doing demonstrably good work in the area and such number of Para Legal Volunteers, as the SLSA may prescribe .

- 6.2 The functions of the special cell shall be:
- i) to organize and conduct Legal Awareness/Literacy programmes, training programmes and seminars for unorganized workers;
 - ii) to co-ordinate with government authorities in relation with registration and extentions of the benefits of the schemes to the unorganized workers;
 - iii) to facilitate and provide assistance in filing , processing and furnishing application form for registration and in availing benefits of the schemes to the unorganized workers;
 - iv) to provide legal assistance and legal aid to the unorganized workers in respect of any claim or defence before any court or other authority;
 - v) any other function that the State Authority may prescribe for them.
- 6.3 The special cell shall work under the guidance of the Member Secretary or any other officer of the Authority, as nominated by the State Authority, and shall file periodic reports of the progress of its assigned duties with him.
- 6.4 The members of the cell shall be paid honorarium for each of the duties at such rates, as may be fixed by the State Authority.

7 **Identification of Unorganized Workers**

- 7.1 The first job for the Legal Services Institutions is to identify the categories and population of unorganised workers operating in their respective areas, by seeking the data available with the Labour Department/Social Welfare Department of the State and if necessary, conducting surveys either themselves or in collaboration with law students and NGOs operating in the area.

- 7.2 In the process of identification, special efforts should also be made to identify any child labour or bonded labour and in case any workers in the said prohibited categories are found, the Legal Services Authorities shall inform the concerned authorities and facilitate their rescue, release and rehabilitation, as provided under the Bonded Labour System (Abolition) Act 1976, The Child Labour (Prohibition and Regulation) Act 1986 and Juvenile Justice Act, 2000.
- 7.3 The State Authority may fix timelines for identification of all categories depending upon the area, population and other relevant factors in each state.

8 Conditions of work and minimum wages

The State and District Legal Service Authorities shall, in collaboration with the State and District Administration and local NGOs, assess the need of statutory regulation of conditions of work and minimum wages etc., for the categories of Unorganized Workers particularly, of Domestic Workers and if found necessary, the State Legal Services Authority shall take the requisite steps to get the same notified.

9 Setting up of State Social Security Board and Building & Other Construction Workers Welfare Boards

Wherever the Social Security Board and Building & Other Construction Workers Welfare Boards have yet not been set up, the State Legal Services Authorities shall coordinate with the State Government and, if necessary, institute, with the approval of the Hon'ble Executive Chairman, SLSA, Public Interest Litigation in the respective High Courts for getting these boards set up, as soon as possible.

10 Utilisation of Cess

State Legal Services Authorities shall coordinate with the Building and Constructions Workers Welfare Boards to ensure that the cess collected by them does not keep lying in fixed deposits and is actually utilised for the benefit of the needy workers as per the schemes available. The State Authorities shall seek relevant information from the boards, encourage the workers to apply for the benefits and then, coordinate with the boards to provide the said benefits.

In case of denial of due benefits to any worker, legal remedies can be prosecuted on his behalf by the State Legal Services Authority through the Special Cell for Unorganized Workers.

11 Government Schemes under the statutes

Legal Services Authorities shall move the State Governments to notify the schemes relevant to the category of unorganised sector operating in the States. This also, if necessary, can be achieved through institution of Public Interest Cases, with the approval of the Hon'ble Executive Chairman.

12 Legal Awareness

- 12.1 After identification of the unorganised workers in each category, legal awareness programmes may be organised about the different schemes and social security measures available for such categories. The special cells for unorganized workers shall organize legal literacy camps for this purpose preferably, at their place of work itself or at community centres etc.
- 12.2 All State Legal Services Authorities shall publish booklets/pamphlets containing the details of the available schemes, their

eligibility criteria and procedure for registration for obtaining the benefits as per the requirements of the workers. Copies of the booklets/pamphlets shall be kept available in all Front Offices, Legal Services Clinics and the place of sitting of the Special Cell and shall be distributed in the legal awareness/literacy programmes.

- 12.3 Information regarding the abovesaid details should also be disseminated through Doordarshan, All India Radio and Community Radio.
- 12.4 The Labour and Social Welfare Departments of the State should be requested to display the telephone numbers and helpline numbers of the Legal Services Institutions and the members of the Special Cell.

13 Specialised Training for PLVs

State Legal Services Authorities shall conduct specialized training programs for the paralegal volunteers focusing on the needs of the particular categories of Unorganised Workers as are operating in that area and the benefits which they can avail from the government schemes. PLVs should be trained inter-alia to educate the workers, help them identify the benefits they should seek and to liaise with the authorities for making the said benefits available to the needy workers.

14 Workers Facilitation Centres

State Legal Services Authorities shall coordinate with the Labour Departments of the State for setting up of worker's facilitation centres as envisaged under Section 9 of the 2008 Act. They may also set up legal services clinics manned by specially trained PLVs/NGOs, to be attached to such centres.

15 Decent Working Conditions

Some of the Statutes like the Building and Other Construction Workers (Conditions of Service) Act and Beedi and Cigar Workers (Conditions of Employment) Act have provisions to regulate the minimum working conditions for all workers employed in the said sectors. Even in other sectors where the statutory provisions are not available, the requirement of having proper wages and humane work conditions cannot be over emphasized.

State Legal Services Authorities may launch campaigns, in collaboration with law students and suitable NGOs to ensure that the employers provide decent conditions of work to the unorganised sector workers, abiding by all the statutory provisions laid down for this purpose.

16 Seminars for Employers

State Legal Service Authority and the Special Cell for unorganized sector shall organize seminars/colloquia for making employers aware of their statuary duties and the need to fulfill the genuine requirements of the workers.

17 Rehabilitation Schemes

Certain statutes provide for rehabilitation of workers like in Section 13 of the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013. State Legal Services Authorities shall coordinate with the concerned State authorities either themselves or through coordinating with NGOs to frame rehabilitation schemes for the erstwhile manual scavengers as per the provisions of the said Acts.

18 Legal Assistance and Legal Representation

The special cell for Unorganized Workers shall provide counselling, legal assistance and legal aid by way of legal representation before any court or other authority, as required, to all Unorganized Workers.



NALSA
(Child Friendly Legal Services
to
Children and their Protection)
Scheme, 2015





NALSA (Child Friendly Legal Services to Children and their Protection) Scheme, 2015

1. Introduction and Background

“It cannot be questioned that children are amongst the most vulnerable sections in any society. They represent almost one-third of the world's population, and unless they are provided with proper opportunities, the opportunity of making them grow into responsible citizens of tomorrow will slip out of the hands of the present generation.....” The said observation made in Salil Bali Vs.: Union of India (UOI) and Anr, 2013VII AD (S.C.) by Supreme Court goes on to show that it is our obligation to the young generation to open up all opportunities including the legal services for every child to unfold its personality and rise to its full stature, physical, mental, moral and spiritual.

2. International Commitments

- 2.1 While adopting the declaration of the Rights of the Child on 20th November, 1959, the General assembly of the United Nations laid down ten principles designed to enable children, irrespective of race, colour, sex, language, religion or origin, to develop physically, mentally, morally, spiritually and socially in a healthy and normal manner and in conditions of freedom and dignity.
- 2.2 The United Nations standard minimum rules for the administration of Juvenile Justice (“The Beijing Rules,” 1985) call on States to ensure that throughout the proceedings the

Juvenile shall have the right to be represented by a Legal Advisor or to apply for free legal aid where there is provision for such aid in the country.

- 2.3 The United Nations Convention on the Rights of the Child (UNCRC) is a comprehensive, internationally binding agreement on the rights of children, adopted by the UN General Assembly in 1989. The purpose of the UNCRC is to outline the basic human rights that should be afforded to children. There are four broad classifications of these rights. These four categories cover all civil, political, social, economic and cultural rights of every child which are as follows:-
- (a) **Survival rights:** include the child's right to life and the needs that are most basic to existence, such as nutrition, shelter, an adequate living standard, and access to medical services
 - (b) **Development rights:** include the right to education, play, leisure, cultural activities, access to information, and freedom of thought, conscience and religion.
 - (c) **Protection rights:** ensure children are safeguarded against all forms of abuse, neglect and exploitation, including special care for refugee children; safeguards for children in the criminal justice system; protection for children in employment; protection and rehabilitation for children who have suffered exploitation or abuse of any kind.
 - (d) **Participation rights:** encompass children's freedom to express opinions, to have a say in matters affecting their own lives, to join associations and to assemble peacefully. As their abilities develop, children are to have increasing opportunities to participate in the activities of their society, in preparation for responsible adulthood.

3. Constitutional Assurances

- 3.1 The framers of our Constitution were well aware of the fact that the development of the nation can be achieved by the development of the children of the nation and it is necessary to protect the children from exploitation as well. The Indian Constitution accords rights to children as citizens of the country, and in keeping with their special status the State has even enacted special laws. The Constitution, promulgated in 1950, encompasses most rights included in the UN Convention on the Rights of the Child as Fundamental Rights and Directive Principles of State Policy.
- 3.2 It is the constitutional right of every citizen under Article 22 of Constitution of India to be defended by a legal practitioner of his choice. One of the fundamental principles to be followed in the administration of Juvenile Justice is ensuring Legal services at the State expenses. It is a mandatory duty of Legal Services Authority that free legal aid service be made available to every Juvenile.

The following are the provisions of the Indian Constitution relating to children:

- (a) **Article 14** provides that the State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.
- (b) **Article 15(3)** provides that nothing in this Article shall prevent the State from making any special provision for women and children.
- (c) **Article 21** provides that no person shall be deprived of his life or personal liberty except according to procedure established by law.

- (d) **Article 21A** provides that the State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine.
- (e) **Article 23(1)** provides that traffic in human beings and begar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.
- (f) **Article 24** provides that no child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment.
- (g) **Article 29(2)** provides that no citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them.
- (h) **Article 39(e)** provides that the State shall, in particular, direct its policy towards securing that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength.
- (i) **Article 39(f)** provides that the State shall, in particular, direct its policy towards securing that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.
- (j) **Article 45** provides that the State shall endeavour to provide early childhood care and education for all children until they complete the age of six years.

- (k) **Article 47** provides that the State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties.
- (l) **Article 51A(k)** provides that it shall be the duty of every citizen of India who is a parent or guardian to provide opportunities for education to his child or, as the case may be, ward between the age of six and fourteen years.

4. **Other Legislations**

Apart from the Constitution there are a number of legislations which deal with children. The following are some of them:

(a) The Guardian and Wards Act, 1890

This Act deals with the qualifications, appointment and removal of guardians of children by the courts and is applicable to all children irrespective of their religion.

(b) The Child Labour (Prohibition And Regulation) Act, 1986

This Act came into force to prohibit the engagement of children in certain employments and to improve the conditions of work of children in certain other employments. Under the act "Child" means a person who has not completed his fourteenth year of age. The Act is intended to ban the employment of children i.e., those who have not completed their 14 years in specified occupations and processes.

(c) The Pre-Natal Diagnostic Technique (Regulation and Prevention of Misuse) Act 1994

This Act provides for the regulation of the use of pre-natal diagnostic techniques for the purpose of detecting genetic or

metabolic or chromosomal abnormalities or certain congenital malformation or sex-linked disorders and for the prevention of the misuse of such techniques for the purpose of pre-natal sex determination leading to female foeticide.

(d) JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2000

This Act deals with the law relating to juveniles in conflict with law and children in need of care and protection, by providing for proper care, protection and treatment by catering to their development needs and by adopting a child-friendly approach in the adjudication and disposition of matters in the best interest of children and for their ultimate rehabilitation through various institutions established under the Act.

(e) THE COMMISSIONS FOR PROTECTION OF CHILD RIGHTS ACT, 2005

This Act provides for the constitution of a National Commission and State Commissions for Protection of Child Rights and Children's Courts for providing speedy trial of offences against children or of violation of child rights and for matters connected therewith or incidental thereto.

(f) THE PROHIBITION OF CHILD MARRIAGE ACT, 2006

This Act restrains the solemnization of child marriages by laying down the minimum age for both boys & girls. According to Section 2(a) of the Prohibition of Child Marriage Act, 2006, a "child" means a person who, if a male, has not completed twenty-one years of age, and if female, has not completed eighteen years of age.

(g) THE RIGHT OF CHILDREN TO FREE AND COMPULSORY EDUCATION ACT, 2009

Article 21A of the Constitution, provides that the State shall

provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine. Parliament has made the law contemplated by Article 21A by enacting the Right of Children to Free and Compulsory Education Act, 2009 . This Act provides for free and compulsory education to all children of the age of six to fourteen years.

(h) THE PROTECTION OF CHILDREN FROM SEXUAL OFFENCES ACT, 2012

An Act to protect children from offences of sexual assault, sexual harassment and pornography and provide for establishment of Special Courts for trial of such offences and for matters connected therewith or incidental thereto.

5. Entitlement to Legal Services

- 5.1 Children are the beneficiaries of legal services under the Legal Services Authorities Act, 1987. The Act was enacted to constitute legal services authorities for providing free and competent legal services to the weaker sections of the society to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.
- 5.2 Under section 12 (c) of Legal Services Authorities Act, 1987, a child who has to file or defend a case is entitled to legal services. Therefore, it is the duty of various State Legal Service Institutions to provide free legal aid to juvenile in conflict with law and work towards speedy disposal of cases.
- 5.3 In this background, the Scheme has been drawn up for the legal services institutions (State Legal Services Authorities, District Legal Services Authorities, Taluk Legal Services Committees, High Court Legal Services Committees, Supreme Court Legal Services Committee) to be followed while they deal with legal services to the children.

6. Name of the Scheme

This Scheme shall be called National Legal Services Authority (Child Friendly Legal Services to Children and their Protection) Scheme, 2015

7. Definitions

In this scheme unless the context otherwise requires,

- a) “Act” means the Legal Services Authorities Act, 1987 (39 of 1987).
- b) “JJ Act” means The Juvenile Justice (Care and Protection of Children) Act, 2000 (56 of 2000).
- c) “JJ rules ” means Juvenile Justice (Care and Protection of Children) Rules, 2007.
- d) “Legal Service” has the same meaning as defined under section 2(c) of Legal Services Authorities Act 1987.
- e) Legal Services Clinic means a clinic as defined under regulation 2 (c) of National Legal Services Authority (Legal Services Clinics) Regulations, 2011.
- f) Legal Services Institution means a State Legal Service Authority, Supreme Court Legal Services Committee, High Court Legal Services Committee, District Legal Service Authority or Taluk Legal Service committee, as the case may be.
- g) Panel Lawyer means the panel lawyer selected under Regulation 8 of the National Legal Services Authority (Free and Competent Legal Services) Regulations 2010.
- h) Para Legal Volunteers means a Para Legal Volunteer defined and

trained under the NALSA Scheme for Para Legal Volunteers (Revised) and Module for the Orientation – Induction – Refresher Courses for PLV Training and engaged as such by a legal services institution.

- i) All other words and expressions used but not defined in this Scheme and defined in the Legal Services Authorities Act, 1987 (39 of 1987) or the National Legal Services Authorities Rules, 1995 or National Legal Services (Free and Competent Legal Services) Regulations, 2010 shall have the same meaning respectively assigned to them in the said Act or Rules or Regulations.

8. Objective

- 8.1 In Delhi, 16-year-old 'X' is accused of stealing a cell phone. In Mumbai, 12-year-old 'Y' is the victim of sexual abuse. In Calcutta, 10-year-old 'Z's parents are fighting over his custody. In Chennai, 13-year old 'S' was rescued from a factory who found to be trafficked. Everyday children such as these come in contact with the justice system, where formal and informal justice providers make decisions that have the potential to influence the future course of their lives. What rights do these children have when they come in contact with the law? Are they entitled to any type of legal assistance? If so, how might those services best be made available and actually reach children in crisis or in need? How can legal services be made "child friendly" given logistical and financial limitations? And how does the concept of child friendly justice play out in informal justice systems? The purpose of this Scheme is to suggest a conceptual and practical framework for addressing these questions, with the ultimate goal to provide children with meaningful, effective, affordable, and age appropriate legal assistance "on the ground."

8.2 The main objectives of the Scheme are:-

- i) To outline the basic rights and benefits that should be afforded to children.
- ii) To ensure legal representation to the children in need of care and protection and children in conflict with law at all levels;
- iii) To strengthen legal services, institutional care, counselling and support services at the national, state , district and taluka levels;
- iv) To create an environment in the juvenile justice system, in which children are valued, encouraged and affirmed and have their rights respected and are treated as individuals.
- v) To enhance capacities at all levels, of all functionaries including, PLVs, Panel Lawyers, counsellors, service providers, NGOs, local bodies, police, judiciary and other concerned departments of State Governments, to undertake responsibilities for providing child friendly legal services;
- vi) To ensure that mandatory authorities and institutions, like JJBs, CWCs, other welfare committees, observation and shelter homes, psychiatric hospital or psychiatric nursing home, commissions, boards, office of probation officers etc. under various child friendly legislations have been set up;
- vii) To have database of all the existing central or state schemes, policies, regulations, SOPs, police directives, conventions, rules, declarations, comments, and reports etc. available for child welfare and protection;
- viii) To organise awareness programmes to educate public at large including all stakeholders i.e. PLVs, Panel Lawyers, member of JJBs and CWCs, welfare officers, counsellors, probation officers, police , public prosecutor, judicial officers, care takers of various homes, educational and medical institutions etc., on child rights

- and their protection on available child protection services, schemes and structures at all levels;
- ix) To undertake and organise training, orientation and sensitization programs, for senior police officers, SJPUs, JWOs, panel lawyers, PLVs, member of JJBs and CWCs, welfare officers, counsellors, probation officers, public prosecutor, judicial officers, care takers of various homes for their skill enhancement and for creating a sense of responsibility amongst them;
 - x) To organize seminars, colloquia, workshops and conferences relating to law and schemes on child rights and allied fields.
 - xi) To develop effective coordination and interface with all Govt. Bodies or functionaries, Institutions, Authorities, NGOs and other Organisations concerning or entrusted with the responsibilities relating to child rights;
 - xii) To undertake research and documentation to study the various schemes, laws etc. to find out the gaps and then to make suggestions to the appropriate authorities;
9. **The key principles that should be kept in mind by legal services institutions at all levels are:-**
- 9.1 **Best interests of the child**:- Every child has the right to have his or her best interests given primary consideration while providing legal services to the children in need of care and protection and child in conflict with law.
 - 9.2 **Welfare of the child**:- The welfare of children must always come first, regardless of all other considerations. Early intervention and support should be available to promote the welfare of the child.
 - 9.3 **Right to dignity**:- Every child has the right to be treated with

dignity and compassion and its worth is to be respected and protected.

- 9.4 **Right to equality and no discrimination:-** A child shall be treated without discrimination of any kind, irrespective of the child's cast, race, religion, beliefs, age, family status, culture, language, ethnicity, disabilities if any or place of birth.
- 9.5 **Principle of right to be heard-** Every child has right to be informed, right to be heard and to express views and concerns freely .
- 9.6 **Principle of right to safety-** Every child has right to safety at all stages and he or she shall not be subjected to any harm, abuse or neglect etc.
- 9.7 **Principle of confidentiality-** The privacy of a child shall be protected by legal services institutions at all levels.

10. Plan of Action

10.1 Constitution of boards, committees, commissions, etc.

- (a) Under section 4 of JJ Act, the State Government has been authorized to constitute Juvenile Justice Board in every district. SLSAs shall ensure that Juvenile Justice Board is established in each district separate from the regular court and where no such board has been set up, SLSA will take up the matter on urgent basis with State Government so that JJB is established in every district.
- (b) Section 29 JJ Act allows the State Government to form Child Welfare Committees in relation to child in need of care in every district. Such committees will consist of a Chairperson and four other members appointed by the State government including one woman. SLSAs shall ensure that Child Welfare Committees are

established in each district and where no such committee has been set up, SLSA will take up the matter on urgent basis with State Government so that committee is established in every district.

- (c) JJ Act contemplates constitution of Special Juvenile Police Unit (SJPU) to deal with Juvenile in conflict with law. In every police station at least one police officer specially instructed and trained is required to be designated as Juvenile/Child Welfare officer to deal with the Juvenile. (section 63, JJ Act and rule 11 of JJ Rules). SLSAs shall ensure that such Special Juvenile Police Unit has been established.
- (d) SLSAs shall ensure that list of designated Juvenile Welfare Officers and members of SJPU's with contact details be prominently displayed in every police station in the state.
- (e) Under section 62A of JJ Act, every state government shall constitute a child protection unit for the state and for every district to take up the matters relating to children in need of care and protection. SLSAs shall ensure that such child protection Unit has been established.
- (f) Under section 17 of Commission for Protection of Child Rights Act 2005, State is under obligation to constitute State Commissions. SLSAs shall ensure that such commission u/s 17 of Commission for Protection of Child Rights Act 2005 has been constituted and working effectively.(Re. Exploitation of Children in Orphanages in the State of Tamil Nadu Vs. Union of India (UOI) and Ors. (2014)2SCC180).
- (g) Under section 16 of The Prohibition Of Child Marriage Act, 2006, the State Government is authorised to appoint for the whole State, or such part thereof as may be, an officer or officers to be known as the Child Marriage Prohibition Officer to prevent child marriage and to deal the matters connected thereto. SLSA shall take up the matter with State for appointment of the Child

Marriage Prohibition Officer, where ever they have not been appointed.

10.2 Observation and Shelter Homes

- (a) Juvenile in conflict with law are kept in a home and not in jail or lockup. There are two categories of homes for juveniles in conflict with law, namely observation homes and special homes. Juvenile is kept in the Observation Home pending inquiry against him by the Board and such home are to be established and maintained by the State Government in every district or group of districts (section 8 of JJ Act r/w rule 16(1) of JJ Rules).
- (b) Similarly, special homes are to be set up in every district or group of district separately for boys and girls to house juveniles, if found guilty on conclusion of inquiry (section 9 of JJ Act r/w rule 16(1) of JJ Rules).
- (c) Under section 34 of JJ Act, State Governments have been empowered to establish and maintain either by themselves or in association with voluntary organizations, children homes in every district or a group of districts for the reception of child in need of care and protection during the pendency of any inquiry and subsequently for their care, treatment, education, training, development and rehabilitation
- (d) SLSAs shall keep the updated record of as to how many institutions i.e. children homes, shelter homes and observation homes, either run by the State Governments or by Voluntary Organisations for Children in need care and protection or children in conflict with law are there in the State.
- (e) All such homes or institutions run by the State Governments or by Voluntary Organisations for Children in need care and protection have to be registered under the provisions of Section 34 of JJ Act, read with Rule 71 of the said Act.

- (f) Any unregistered institutions for children in need of care and protection are there then they have to be shut down or taken over by the State Governments. (Re. Exploitation of Children in Orphanages in the State of Tamil Nadu Vs. Union of India (UOI) and Ors. (2014)2 SCC 180). In this regard, SLSAs shall take up the matter with the state Government so that needful could be done in respect of unregistered institutions.
- (g) SLSAs shall ensure that there are observation homes, shelter homes and child care homes in sufficient numbers registered with the government to house the juvenile in conflict with law and child in need of care and protection.
- (h) Each SLSA shall constitute a committee namely “ Observation and Children Home Committee” for every district in the State comprising of District Secretary as chairperson, one panel lawyer and probation officer as members. The committee so constituted shall formulate a calendar of its visit to each of home situated in the district at least once in a month.
- (i) Broadly, the functions of the committee would be to see that observation homes , special homes and children homes are child friendly and it should not look like a jail or lockup and should have a good quality of care and facilities. It should have sanitation and hygiene, clothing and bedding , meals and diet, medical and mental health care, tie up with local primary health centre, maintaining the health record etc. if anything deficient is noted by the committee then SLSA will take up the matter with concerned authorities for necessary action at their end and shall follow up the matter.

10.3 Legal Services Clinics

- (a) SLSAs shall set up Legal Services Clinic at every Juvenile Justice Board and Child Welfare Committee in each district in the State.
- (b) Opening of Legal Services Clinic shall be communicated to all Government bodies, departments including Police, NGOs along with relevant contact numbers and addresses of the clinics.
- (c) PLVs shall be deputed in such clinics.
- (d) SLSAs shall display the contact number and the other information of the clinic in all its offices at state, district and Taluka service levels.
- (e) The legal services clinics so established shall be governed by the National Legal Services Authority (Legal Aid Clinics) Regulations, 2011 in respect of their functioning, infrastructural facilities, maintenance of record and register , visit of panel lawyers , deputing of PLVs and control over such clinic.
- (f) All DLSAs shall set up legal literacy club in each of the schools in the District under the control of DLSA with co-ordination with the principals.

10.4 Legal Representations.

Statutory provisions

- (a) Under section 12(1) (c) of the Act every child who has to file or defend a case is entitled to free legal services.

- (b) The Board is to ensure free legal aid to all juvenile through State Legal Services Authority or recognized voluntary legal services organisations or the University Legal Services clinics. [Rule 3.I (d) (iii) r/w 14(2) of JJ Rules].
- (c) The Legal Officer in the District Child Protection Unit and the State Legal Services Authority shall extend free legal services to all the Juveniles. [Rule 14(3) of JJ Rules].
- (d) Under section 40 of Protection of Children from Sexual Offences Act, 2005, the Legal Services Authority shall provide a lawyer to the family or the guardian of the child, if they are unable to afford a legal counsel.

Role of SLSAs

- (a) To meet the requirement of law, SLSAs shall constitute a separate panel of trained and committed advocates to represent child /Juvenile before every forum i.e JJBs, CWCs etc., so that meaningful and effective legal services could be provided at the ground level.
- (b) SLSAs shall ensure that legal services provided to child or Juvenile is of high quality and that it is effective which requires competent and dedicated panel lawyers at JJB and CWCs.
- (c) SLSAs shall supervise and monitor the working of Panel lawyers and have mechanism of surprise check.
- (d) The remuneration to the panel lawyer may be released on the basis of work done report countersigned by the JJB or CWCs wherever the panel lawyer is deputed.
- (e) SLSA shall ensure an effective coordination between legal officer, panel lawyer and Legal Services clinic established at JJBs

and CWCs so that every child is legally represented and provided free legal aid and other necessary support.

10.5 Training and orientation programme

- (a) All SLSAs shall strictly adhere to various guidelines already issued by NALSA for training the designated juvenile / child welfare officers attached to every police station and the members of the special juvenile police unit and also for legal services in juvenile justice institutions in connection with the compliance of the order dated 12.10.2011 and 19.08.2011 of Hon'ble supreme court of India in Sampurna Behrua v. Union of India & Ors. in Writ Petition © No.473/2005).
- (b) Every State Legal Services Authority shall coordinate with the head of the concerned Police Department to ensure that a Standing Order outlining the roles, responsibilities and functions of Special Juvenile Police Units and Juvenile/ Child Welfare Officers is issued. Such Standing Order shall be based on the JJ Act, JJ Rules / the applicable Rules (If State Government has notified its own Juvenile Justice Rules) and the judgement of the Hon'ble Supreme Court in Sheela Barse V. Union of India (1986 SCALE (2) 230): (1987)3SC50. State Legal Services Authority shall render assistance in drafting and preparing such Standing Order. State Legal Services Authority shall also ensure that such Standing Order is translated into local language and is made available at all the Police Stations.
- (c) In order to be effective, the concepts and potential of legal service to serve children must be communicated effectively. This requires that Legal Service Providers, whether they are lawyers, PLVs, Police Officer or Judicial Officers require effective training in how to communicate with children.

- d) Children legal service providers, judicial officer, panel lawyers, police officers, JJB's, CWCs whether or not formally trained with the law, should receive on-going training in the areas of relevance to the rights of the children.
- (e) To the extent possible, training in substantive legal concepts and applicable laws, regulations and rules as well as skills training in advocacy should be problem based and interactive.
- (f) Law relating to Juveniles is comprised of constitutional provisions, legislations, schemes, reports, international convention, rules. The challenge is how to convey this information in meaningful way to those who are working on the ground on behalf of the children. Therefore, the training material for such functionaries should contain all important information which is necessary for solving the problem of children.

10.6 Legal Awareness

- (a) All SLSAs shall publish booklets/pamphlets/legal service manual containing the details of the available schemes pertaining to the child rights. Copies of booklets/pamphlets/ legal service manual shall be kept available in all front offices, legal services clinics, JJBs, CVCs, police stations etc.
- (b) Information regarding the above details should also be disseminated through Doordarshan, All India Radio and Community Radio.
- (c) All SLSAs shall spread awareness amongst the public about children rights and their protection in collaboration with educational institutions , State Commission for Protection of Child Rights , NGOs etc.
- (d) Essay competitions, street play competitions, poster making competitions, painting competitions and even debate are other

means of spreading awareness of child rights amongst school and college students.

- (e) PLVs may be asked to create an effective outreach campaign through the distribution of posters using child appropriate messaging.
- (f) In addition to informing individual children about their right to legal assistance, it is also important to engage in outreach to communities and public and private agencies as a way of building support for legal empowerment and an effective working relationship with Legal Service providers .
- (g) Many children in need of legal service live in remote rural areas. As a result, the children often find it impossible to physically access legal services where they live. To overcome this barrier, SLSAs may take some initiative including mobile clinic and one Stop Centre programmes offering a range of legal services to the children at the same location.
- (h) DLSAs can take the services of PLVs deputed at each police station, in compliance of the direction in Bachpan Bachao Aandolan vs Union Of India, for conducting initial interviews and investigations, to provide counselling and to work as a link between the children and his or her family.
- (I) Each SLSA shall take up the matter with the State Government so that child rights could be included in the school curriculum of all schools to enable children to know their rights.
- (j) SLSAs shall spread awareness about the newly added provisions of section 357 A CrPC and any Victim Compensation Scheme of the State so that immediate compensation is released to the children.

- (k) Each SLSAs shall develop directory on legal services which must be available ready with all key stake holders.
- (l) Each SLSAs shall organize intensive legal awareness campaigns at all levels about children's right to education as well as fundamental duties of parents to send their children to schools.
- (m) There is a need for creating awareness about the availability of non-institutional services such as adoption, sponsorship and foster care for children.
- (n) SLSAs shall endeavour the accreditation of NGOs having sound credentials and involved in matters of children who are in need of care and protection.
- (o) To eliminate the menace of child labour and to effectuate the mandate of the Constitution, Supreme Court had given a large number of mandatory directions in M.C. Mehta v. State of Tamil Nadu reported as (1996) 6 SCC 756. One of the important directions was to direct an employer to pay a compensation of Rs. 20,000/- for having employed a child below the age of 14 years in hazardous work in contravention of Child Labour (Prohibition & Regulation) Act, 1986. The appropriate Government was also directed to contribute a grant/deposit of Rs. 5,000/- for each such child employed in a hazardous job. The said sum of Rs. 25,000/- was to be deposited in a fund to be known as Child Labour Rehabilitation-cum- Welfare Fund and the income from such corpus was to be used for rehabilitation of the rescued child.

All LSAs shall co-ordinate with police, labour department and other authorities concerned for compliance of the aforesaid directions and follow up the matter.

11. Database

All SLSAs shall have database of all the existing central or state schemes, policies, regulations, SOPs, police directives, conventions, rules, declarations, comments, and reports etc. available for child welfare and protection so that same may be used as and when required for legal awareness and for providing legal services to the Juveniles.



NALSA
(Legal Services to the
Mentally Ill
and Mentally Disabled Persons)
Scheme, 2015





NALSA (Legal Services to the Mentally Ill and Mentally Disabled Persons) Scheme, 2015

BACKGROUND

Persons with disabilities, especially those suffering from mental illness and other barriers like mental retardation are usually not those who catch the attention of the authorities that be. They are sidelined and are viewed only from the prism of the paternalistic “social welfare” which looks upon them merely as persons who are in need of special protection by the State and the society. India is a signatory to the UN Convention on the Rights of Persons with Disabilities (CRPD) 2008 and since our country has ratified the Convention, it is obligatory for our legal system to ensure that human rights and fundamental freedoms of persons with disability (including mentally ill persons and persons with mental disabilities) are enjoyed on equal basis with others and to ensure that they get equal recognition before the law and equal protection of the law. The Convention further requires us to ensure effective access to justice for persons with disabilities on an equal basis with others.

Under Section 12 of the Legal Services Authorities Act, 1987, persons who are disabled as defined in clause (i) of Section 2 of the Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act,1995 and those in a psychiatric hospital or in a psychiatric nursing home within the meaning of clause (q) of Section 2 of the Mental Health Act,1987 are entitled to legal services. Hence, NALSA had drawn up a scheme to provide effective legal services to the mentally ill and mentally disabled, in 2010, in terms of its mandate under S.4 (b) of the Legal Services Authorities Act, 1987.

Though the Scheme was first launched in 2010, from the reports received from all the States on its implementation, it appears that there is a need to review the scheme to strengthen the services rendered by the State Legal Services Authorities/Legal Services Institutions to these marginalised people to enable them to access justice. There is imperative need for a proactive outreach to these people. So far, the SLSAs/DLSAs seem to be concerned only with matters reaching them. Even then, there remains much to be done in court related activities.

It is in this background, that this new Scheme for Legal Services to the Mentally Ill and Mentally Disabled persons has been drawn up as “ NALSA (Legal Services to the Mentally Ill and Mentally Disabled Persons) Scheme, 2015”.

OBJECTIVES

This Scheme includes fresh guidelines to the Legal Services Institutions (State Legal Services Authorities, District Legal Services Authorities, Taluk Legal Services Committees, High Court Legal Services Committees, Supreme Court Legal Services Committee) to be followed while they render legal services to the mentally ill and persons with mental disabilities. The objective is to ensure that the mentally ill or mentally disabled are not stigmatized and they are dealt with as individuals who are to be helped to enforce all rights they are entitled to and as assured to them by law.

The terms PLVs, Legal Services Clinics, Front Office , Panel Lawyers and Retainer Lawyers will mean the same as defined under the National Legal Services Authority (Free and Competent Legal Services) Regulations, 2010 and National Legal Services Authority (Legal Services Clinics) Regulations, 2011 and the NALSA Scheme for Para Legal Volunteers (Revised) and Module for the Orientation – Induction – Refresher Courses for PLV Training.

PART-I:

PRINCIPLES

While dealing with Mentally Ill or Mentally Disabled Persons, the Legal Services Institutions must keep in mind the following factors:-

- (1) **Mental illness is curable** – The Legal Services Institutions shall keep in mind the fact that mental illness is curable on proper medication and care.
- (2) **Mentally disabled persons are not mentally ill persons** – Mentally disabled persons are suffering from mental disabilities due to developmental disorders. Mental Retardation (MR) is of permanent nature and is not curable. So also Autism and Cerebral Palsy. They are, therefore, treated as persons with disabilities under Section 2 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (PWD Act). The statutory provisions for the welfare of mentally disabled persons are (i) PWD Act, 1995 and; (ii) National Trust for the Welfare of Persons with Autism, Cerebral Palsy Mental Retardation and Multiple Disabilities Act, 1999 .
- (3) **Mentally ill and Mentally disabled persons are entitled to all human rights and fundamental freedoms** – While dealing with mentally ill and mentally disabled persons for rendering legal services it shall be the prime concern of the legal services institutions to promote, protect and ensure the full and equal enjoyment of human rights and fundamental freedoms of these persons.
- (4) **Respect for the inherent dignity of mentally ill and mentally disabled persons** - The legal services institutions shall promote respect for the inherent dignity, individual autonomy including

independence of mentally ill and mentally disabled persons.

- (5) **Non-discrimination** – The legal services institutions shall not discriminate mentally ill and mentally disabled persons merely because of his/her state of mental health. Rather, they are to be dealt with greater sensitivity and care.
- (6) **Reasonable Accommodation**–The legal services institutions shall make provisions including reasonable accommodation to ensure that persons with mental illness or mental disabilities have equal access to any scheme, programme, facility or service offered.
- (7) **The right of mentally ill persons to get treatment**– Right to treatment and to get proper health care, emanating from Article 21 of the Constitution of India is equally applicable to all mentally ill persons. Mentally ill persons are deprived of treatment either due to lack of information or due to illegal confinement because of superstition or lack of means or stigma. Therefore the legal services institutions shall ensure that such persons are able to access treatment facilities available in the psychiatric hospitals or psychiatric nursing homes by invoking the provisions in chapter IV of the Mental Health Act, 1987.
- (8) **Informed consent for treatment** – Legal services institutions shall ensure that when a person is subjected to treatment for mental illness, his / her informed consent is obtained. If any person is incapable of giving such consent, the informed consent of his / her relatives or friend and in their absence, the satisfaction of the court under Part II Chapter V of Mental Health Act, 1987 shall be ensured.
- (9) **Prevention of exploitation and abuse of mentally disabled persons**– Mentally disabled persons, particularly female

mentally disabled, are one of the vulnerable groups most likely to be exploited. Therefore, the legal services institutions shall come to the assistance of mentally disabled persons in preventing their exploitation including sexual abuse and also for taking legal action against the abusers and exploiters.

- (10) Mentally disabled persons and, by and large, mentally ill persons, cannot fruitfully utilize information, because of their mentally challenged situation. Hence, they cannot be imparted with optimum legal literacy to empower them to access justice. Therefore, legal service institutions should assess and audit their eligibilities and needs, in terms of the laws, on collective as well as individual basis, and such requirements shall be addressed by extending legal services.

PART-II

LEGAL SERVICES TO THE MENTALLY ILL AND MENTALLY DISABLED PERSONS IN PSYCHIATRIC HOMES, HOSPITALS AND OTHER SIMILAR FACILITIES AND IN JAILS

The Mentally Ill and Mentally disabled persons used to be kept in jails under the head of “non-criminal lunatics”. Through directions of the Hon'ble Supreme Court of India in Sheela Barse Vs. Union of India and others (Criminal Petition No.237/1989) the Supreme Court deprecated this practice and declared that the admission of the non-criminal mentally ill persons in the jails was illegal and unconstitutional. The Supreme Court further directed that henceforth only Judicial Magistrates and no Executive Magistrate shall send a person who is mentally ill to places of safe custody for treatment. The Judicial Magistrates are also obligated to first seek the advice of a professional or psychiatrist before doing so. The Judicial Magistrates are also required to, as per the directions of the Supreme Court of India to send quarterly

reports to the High Court setting out the number of cases sought to be screened and sent to places of safe custody and the action taken by the Judicial Magistrates thereon.

The Supreme Court of India transferred the records of the case to each High Court requesting the High Courts to register the records so received as a Public Interest Litigation treating the High Court Legal Services Committee as the Petitioner, to assist the High Court in the matter of monitoring compliance of the orders and directions of the Supreme Court of India and the orders of the High Court which may be passed from time to time.

In order to comply with the directions of the Supreme Court of India, the following actions need to be taken:

At Jails:

- The SLSAs will have to first ensure that the Public Interest Litigation is registered in the High Court and an Hon'ble Judge is designated to deal with the matter, as directed by the Supreme Court of India.
- The SLSAs will carry out inspection of all jails with the assistance of the State Mental Health Authority (SMHA) or any other team constituted by the High Court or under the directions of the High Court to ascertain whether there are any mentally ill and mentally disabled persons in the jails and if there are, to immediately seek appropriate directions from the High Court with regard to their shifting out and their treatment.
- The SLSAs will in coordination with the SMHA constitute a team of psychiatrists/psychologists /counsellors to visit the jails and assess the state of mental health of the inmates in jail. Depending on the need assessment by the team, SLSAs will initiate

corrective measures necessary to facilitate the treatment of the jail inmate by psychologists or psychiatrists.

- In compliance of the orders of the Supreme Court of India, the Judicial Magistrates should also send quarterly reports to the High Court setting out the number of cases screened and sent to places of safe custody and the action taken by the Judicial Magistrates thereon. Intimation regarding every such reporting shall be given by the Judicial Magistrate to the SLSA, which, in turn, shall ensure that the said quarterly report gains prompt attention of the designate Hon'ble Judge and shall seek such directions and orders as may be found necessary; either general in nature, or as regards any particular individual or issue. SLSA shall, in the event of any such direction or order being issued, notify the DLSA/TLSC concerned to aid and monitor its compliance, and shall also bring to the notice of the designate Hon'ble Judge any non-compliance or deficiency in compliance of any such direction or order.

At psychiatric hospitals, homes and facilities:

- The SLSAs should request the High Court for the constitution under Section 37 of the Act a Board of Visitors for all psychiatric hospitals, homes and similar facilities, whether government run or privately run in the State, in which the Member Secretary/Full Time Secretary, SLSAs/DLSAs should also be a Member. The Board of Visitors should regularly visit these to assess the living conditions of the inmates in these facilities, homes or hospitals.
- The SLSAs/ Board of Visitors should review the persons in these hospitals, homes and facilities to ascertain whether there are any cured persons staying there whose families appear reluctant to take them back or are themselves not able to contact their families. Whenever the SLSAs/DLSAs or Board of Visitors find such

inmates, the VSLSAs/DLSAs must take all steps to facilitate restoration, including providing legal representation in court to seek orders for restoration of the cured person with the family.

- Legal services institutions shall during their visits to the psychiatric hospitals or homes or facilities ascertain through interaction with inmates , doctors and staff as to whether any of the persons admitted there are victims of forced admission or not. In such cases, legal services shall be given to such persons for their release from the psychiatric hospitals or homes or facilities.
- SLSAs/DLSAs should setup Legal Services Clinics at the psychiatric hospitals, homes and facilities in order to provide legal assistance wherever required to the Mentally Ill/ mentally disabled persons and their families to address legal issues concerning the mentally ill and mentally disabled persons.
- Such a legal clinic should be manned by Para Legal Volunteers and Panel Lawyers who are sensitive to such issues and persons.
- It would be quite appropriate to train the doctors, nurses and other para medical staff/administrative staff at the mental health facilities as Para Legal Volunteers so that the best legal services can be provided keeping in mind the welfare of the mentally ill / mentally disabled persons.
- The Clinic should also help in ensuring that the homes meant for the mentally ill and mentally disabled persons have all facilities, including for learning appropriate skills for independent and/or assisted living and earning. The legal services institutions may approach the Government, and if necessary the High Court for appropriate directions, to ensure the availability of such facilities.
- The Legal Services Institutions should also connect the mentally disabled persons with the National Trust for Welfare of Persons

with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities so that benefits provided under the “National Trust For Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999” are assured to these persons and their families.

- Legal Services Institutions should involve through the PLVs the para medical staff/administrative staff and doctors at the mental health facilities to identify the relatives and homes of those patients in relation to whom such facts are not available on record and take appropriate steps through the different legal services institutions to reach to the relatives of the patients to facilitate re-union of the patients with the near and dear ones.
- Patients, who are housed in mental health centres, homes and facilities, away from their domicile and home, must be considered for providing legal assistance to ensure their transit to mental health centres, homes and facilities nearer to their native place. This can be done with the involvement of SLSAs and DLSAs.

LEGAL SERVICES TO THE MENTALLY ILL AND MENTALLY DISABLED PERSONS WHO ARE WANDERING HOMELESS AND DESTITUTES

Under sector 23 of the Mental Health Act, 1987, the officer in charge of a police station can take or cause to be taken into protection a wandering mentally ill person or a dangerous mentally ill person within the limits of his station and produce such person before the Magistrate under Section 24 for passing reception orders authorizing the detention of the said person as an inpatient in a psychiatric hospital or psychiatric nursing home for purposes of treatment.

Similarly, under Section 25 , a police officer or a private person who has reason to believe that a mentally ill person within the limits of his station is not under proper care and control or is ill-treated or neglected by relatives or other the persons having charge of such mentally ill person, can report the matter before the Magistrate .

The Magistrate can pass an order of reception or even fine the person who is responsible for neglecting the mentally ill.

In the case of the homeless or destitute mentally disabled person, ordinarily the matter must be reported to the Local Level Committee through a registered organization as prescribed under the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 and Rules and Regulations thereunder. It is the Local Level Committee which would pass appropriate directions for the care of the neglected or destitute mentally disabled person.

Action to be taken by legal services institutions

- The legal services institutions must draw up a panel of sensitive and sensitized legal services lawyers to represent the best interests of the mentally ill person at the time of the production of the person under Section 24 or Section 25 of the Mental Health Act,

1987 and assist the Magistrate while passing an order that would be in the welfare of the mentally ill person.

- The legal services institutions must assist the police through its PLVs assigned to the police stations to refer the mentally disabled persons, who are neglected, homeless or destitute to the Local Level Committee set up under Section 13 of the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 so that orders such as the appointment of guardian, whether individual or

institutional, for the care and rehabilitation of the mentally disabled person is ensured.

- Legal services institutions must devise sensitization programmes with the junction of mental health officials including doctors, police officials and judicial magistrates dealing with inquisition proceedings to evolve locally conducive mode to ensure that wandering mentally ill persons are identified and dealt with securing their human rights by obtaining appropriate judicial orders as may be found necessary in each case.

LEGAL SERVICES TO THE MENTALLY ILL AND MENTALLY DISABLED PERSONS DURING COURT PROCEEDINGS

The two statutes governing the rights of the mentally ill persons and the mentally disabled persons are the Mental Health Act, 1987 and the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999. Both entail a hearing before the passing of appropriate orders by the Magistrate or the Local Level Committee, as the case may be. It is important that the legal services institutions participate in them through the PLVs or the Panel lawyers.

- It shall be the duty of the legal services institutions to depute its retainer/panel lawyer to the court where an application for reception orders has been moved or is under consideration under Section, 19, 20, 22, 24, 25, 26, 27 or 28 of the Mental Health Act, 1987.
- The legal services institutions may request the Magistrates who deal with such applications to give notice to the legal services institutions in all cases, for protecting the interest of the mentally ill persons in relation to whom the application for reception or discharge order is being made.
- The retainer/panel lawyer shall gather the details of the

circumstances and shall liaise with the relatives of the alleged mentally ill persons, doctors in the psychiatric hospitals or psychiatric nursing homes or any other competent person to ensure that the condition of the person against whom the application for reception/discharge order has been made warrants such an order from the court.

- The legal services institutions having local jurisdiction shall keep a list of the mentally ill persons against whom reception orders have been passed by the courts and shall monitor the progress of treatment of the mentally ill persons in the psychiatric hospitals or psychiatric nursing homes where the mentally ill persons is detained as per the reception order.
- The legal services institutions shall bring to the notice of the Magistrate concerned about any cured mentally person remaining in the psychiatric hospitals or psychiatric nursing homes where such mentally ill person has been sent as per the reception order.
- The legal services institutions should through the PLVs/ panel/retainer lawyers help the cured voluntary patients for moving requests for discharge under Section 18 or by an involuntary patient under Section 19.
- The legal services institutions should through the clinics or as part of the Board of Visitors always keep track of admissions under Section 19 (1) of the Act so that detention beyond the period of the first ninety days is only on the orders of the court.
- The legal services institutions shall also keep track of cases under Section 20 of the Act, so that no cured patient is allowed to remain in the psychiatric hospital, home or facility by default. They must move applications for discharge as soon as the patient is cured.
- The legal services institutions shall also keep track of cases under Section 23 read with Section 25 of the Act, in relation to

wandering or destitute mentally ill persons, so that the requirements under Section 28 of the Act, of a ten day review by the Magistrate of the need to keep a person under observation is strictly complied with and no person is detained longer than needed for the issuance of the certificate of mental illness under Section 24 (2) (a) of the Act.

- The legal services institutions through their legal services clinics and PLVs and panel/retainer lawyers should keep track of discharge of patients and wherever necessary should aid and assist the patient to move the application for discharge to the medical officer in charge or to the court which had passed the reception orders.
- The legal services clinics and PLVs and panel/retainer lawyers should also render assistance to inpatients to obtain leave of absence as provided under Section 45 and Section 46 of the Act. They should also assist the filing of appeals as provided for under Section 49 of the Act.
- The legal services institutions shall also participate in inquisition proceedings under Section 50 of the Act to protect the interests of the mentally ill person. A request must be made to the District Judge to issue notice to the legal services institution whenever an application under Section 50 comes before it.
- Where an alleged mentally ill person is possessed of property and if no persons mentioned in Clauses (a) to (d) of Sub-section (1) of Section 50 of Mental Health Act is coming forward with an application for holding judicial inquisition under Chapter VI of the Mental Health Act, the legal services institutions shall take appropriate steps for initiating judicial inquisition regarding the mental condition of the alleged mentally ill persons, custody of his/her person and management of his/her property. For this

purpose the Legal Services Institutions may contact any of the aforesaid persons referred to in Clauses (a) to (d) of Sub-section (1) of Section 50 of Mental Health Act, 1987 in writing and may also take up the matter with the Advocate General of the State or with the Collector of the appropriate District in terms of Clause (d) of Sub-section (1) of section 50 of that Act. Legal Services institutions must extend legal aid to the mentally ill persons involved in such matters by providing effective assistance as may be appropriate and requested for by the Collector concerned to aid and assist in preparing and processing such proceedings.

- The legal services institutions should follow up every case where a guardian of the person is appointed under Section 53 and /or the manager of the property has been appointed under Section 54 or an order of maintenance has been passed under Section 71 and Section 79 of the Act and take every step to protect the interests of the mentally ill person.
- The legal services institutions should render all help to pursue appeals as provided under Section 76 of the Act.
- The legal services institutions should through the legal services clinics and PLVs and through visits including as Member of the Board of Visitors that there are no transgression of the human rights of the inmates and whenever such transgressions are noticed, shall bring it to the notice of the High Court.
- As the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act 1999, is a comprehensive Act to provide for the care of the mentally disabled, including assistance in care to parents of the mentally disabled and also for arranging the care and finances of the mentally disabled after the death of the parents through appointment of guardians, it is important that legal services institutions inform the public of the Act and further help them to

benefit from it. The PLVs and the legal services clinics should come to the assistance of the mentally disabled and their families in the matter of appointment of guardians.

- Legal services institutions shall come to the help of mentally ill and the mentally disabled in protecting their rights of inheritance, owning properties and enjoying financial rights. The persons with mental illness or mental disability have rights with others to inherit property, both movable as well as immovable, and also have a right to control their financial affairs and have access to bank loans, mortgages and other forms of financial credit, which can be accessed by them personally or through a support person who has no interest in conflict to the person with mental illness or mental disability. Legal services institutions should render all legal help in realizing this.
- Legal services institutions shall assist the mentally disabled for obtaining all benefits under The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.
- The legal services institutions shall find out the different beneficial schemes for the mentally disabled and their families. The legal services institutions shall assist the mentally disabled and their families to avail the benefits under such schemes.

AWARENESS AND SENSITISATION PROGRAMME

- The legal services institutions shall organize awareness programmes especially in rural areas, to educate people that mental illness is curable and there is no stigma attached to mental illness or mental disabilities.

- The legal services institutions should explain the need for equal treatment of mentally ill with other persons in the society. In such special legal awareness camps, the presence of psychiatrists, lawyers and social workers can help the participants to clear their doubts and misconception about mental illness and mental disabilities.
- The legal services lawyer in such camps may educate the public and families on the property and other legal rights and the other provisions of law relating to the mentally ill and mentally disabled persons.
- The State Legal Services Authority / District Legal Services Authority may organize training programmes in association with the Judicial Academy to sensitize the judicial officers about the socio-legal problems faced by the mentally ill and mentally disabled persons, their parents, relatives and family members.
- Similar programmes may be organized with the help of the bar associations to sensitize the panel lawyers and the other members of the legal profession.
- The legal services institutions shall co-ordinate with NGOs and other volunteer social organizations for dealing with the issues relating to the mentally ill and mentally disabled persons.



NALSA
(Effective Implementation of
Poverty Alleviation Schemes)
Scheme, 2015





NALSA (Effective Implementation of Poverty Alleviation Schemes) Scheme, 2015

1) Background

Under Section 4 (l) of the Legal Services Authorities Act, 1987, the National Legal Services Authority envisaged as the Central Authority under the Act, is obligated to “take appropriate measures for spreading legal literacy and legal awareness amongst the people and, in particular, to educate weaker sections of the society about the rights, benefits and privileges guaranteed by social welfare legislations and other enactments as well as administrative programmes and measures”. The Preamble of the Legal Services Authorities Act, 1987, underscores that the legal services authorities are concerned with the weaker sections of the society and imposes a duty on them to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.

Very often intended beneficiaries of poverty alleviation and social security measures are unable to access the benefits due to severe lack of capabilities, social structures, economic marginalisation and exploitation, social values, cultural norms, discrimination etc. In this context, the role of legal services authorities must be a proactive one where measures designed to alleviate poverty must be brought to the attention of the intended beneficiaries. Further, legal services authorities are very well suited to facilitating access to such poverty alleviation measures due to their last mile presence. Therefore this scheme lays down a mechanism for identification of poverty alleviation and social security measures, a framework for facilitating access to such measures

by intended beneficiaries and a model for effective review of these processes. In designing this scheme, the concern that there could be local variations and requirements have been particularly considered and sufficient flexibility has been built in for local legal aid authorities to adapt this national scheme according to their needs.

This scheme is built on the foundation that poverty is a multi-dimensional experience and is not limited to issues of income. Multi-dimensional poverty include issues like health (including mental health), housing, nutrition, employment, pension, maternal care, child mortality, access to water, education, sanitation, subsidies and basic services, social exclusion, discrimination, etc. Further, in identifying the specific schemes for implementation at the state and district level, legal services authorities are expected to be cognisant of the fact various vulnerable and marginalised groups experience poverty in myriad and unique ways.

2) Name of the Scheme

This Scheme shall be called National Legal Services Authority (Effective Implementation of Poverty Alleviation Schemes), Scheme 2015

3) Definitions

- 1) “Act” means the Legal Services Authorities Act, 1987.
- 2) “Central Authority” means the National Legal Services Authority constituted under Section 3 of the Act.
- 3) “Complainant Beneficiary” refers to any Scheme Beneficiary who files a complaint against any designated authority or officer who is identified as the designated authority or officer under any of the Poverty Alleviation Schemes.

- 4) "District Authority" means a District Legal Services Authority constituted under section 9 of the Act.
- 5) "Legal Services Officer" refers to any person who is designated as such for the purpose of this Scheme.
- 6) "Para-legal volunteers" refers to 'PLV' as defined and trained under the NALSA Scheme for Para Legal Volunteers (Revised) and Module for the Orientation – Induction – Refresher Courses for PLV Training.
- 7) "Poverty Alleviation Schemes" refer to any scheme/ programme/ launched either by the Central Government, or the State Government, that is aimed at addressing any dimension of poverty. They also include social security measures.
- 8) "Scheme Beneficiaries" include:
 - a. Scheduled Castes or Scheduled Tribes;
 - b. all persons eligible for applying under the Poverty Alleviation Schemes; and
 - c. other persons for whom special economic, social or political measures are taken including but not limited to children, women and transgenders.
- 9) "State Authority" means State Legal Services Authority constituted under Section 6 of the Act.
- 10) "Taluka Legal Services Committee" means a Taluka Legal Services Committee constituted under section 11-A of the Act.
- 11) The terms Legal Services Clinics, Front Office, Panel Lawyers and Retainer Lawyers will mean the same as defined under the National Legal Services Authority (Free and Competent Legal Services) Regulations, 2010 and National Legal Services Authority (Legal Services Clinics) Regulations, 2011.

4) Objectives of the Scheme

The main objectives of the Scheme are as follows:

- 1) To ensure access to basic rights and benefits afforded to socially or economically weaker sections of society;
- 2) To strengthen legal aid and support services at the national, state, district and taluka levels for persons belonging to socially or economically weaker sections in accessing Poverty Alleviation Schemes;
- 3) To spread awareness about the Poverty Alleviation Schemes through the members of the District Authority, Taluka Legal Services Authority, panel of lawyers, social workers, para-legal volunteers, and students in legal aid clinics;
- 4) To create a database of all the existing central or state schemes, policies, regulations, policy directives, conventions, rules, and reports available concerning Poverty Alleviation Schemes along with the latest funding information on these schemes;
- 5) To undertake and organise training and orientation programs, for panel lawyers, para-legal volunteers, officers under Poverty Alleviation Schemes, student volunteers in legal aid clinics for their skill enhancement and for developing a sense of deeper engagement amongst them for implementing this Scheme; and
- 6) To develop effective coordination and interface with all government bodies or functionaries, institutions, authorities, NGOs and other organisations concerning or entrusted with the responsibilities relating to welfare of socially/ economically weaker sections of the society.

- 5) Identification of Poverty Alleviation Schemes**
- 1) Every State Authority shall identify the existing and active Poverty Alleviation Schemes applicable in the State and circulate a list of the same every twelve months to all the District Legal Services Authorities in the State. The list shall include the following:
- a. Poverty Alleviation Schemes applicable in that State along with the names of the specific districts in which they are applicable in that year;
 - b. The intended beneficiaries under each of the Poverty Alleviation Schemes;
 - c. The name of the designated authority or the designated officer to be approached to access each of the Poverty Alleviation Schemes, as identified under each of them;
 - d. The list of documents required to access each of the Poverty Alleviation Schemes, as identified under each of them;
 - e. The benefits under each of the Poverty Alleviation Schemes, as provided for in each of them;
 - f. The amount of funds allocated to each of the Poverty Alleviation Schemes by the Central Government, or the State Government, or both of them, as the case maybe, for the particular year;
- 2) The list prepared by every State Authority under sub-clause (1) shall be circulated annually to all the District Authorities. A copy shall also be sent to the Central Authority.

- 3) The State Authority shall also upload the list under sub-clause (1) on their web-site.
- 4) Every District Authority shall, on the receipt of the list prepared under sub-clause (1), within 7 days of receipt of the list, send a copy of the list to the following functionaries:
 - a. All Taluka Legal Services Committees in the district;
 - b. All the village panchayats in the district;
 - c. People working in legal services clinics, members of Panchayats, law students and other para-legal volunteers who volunteer to assist in the implementation of the Scheme.

6) **Organisation of Awareness programmes**

- 1) The State Authorities in collaboration with concerned District Authorities shall take steps for conducting awareness programmes to generate awareness about various Poverty Alleviation Schemes available in that District. Steps shall also be taken by Taluka Legal Services Committees to create awareness regarding the availability of legal services for accessing Poverty Alleviation Schemes, in Panchayat meetings, town hall meetings, Pulse Polio camps, festival gatherings or other village gatherings.
- 2) All State Authorities shall send a list of such programmes organised in their respective jurisdictions every six months to the Central Authority.

7) **Legal Services Officers and Para-legal Volunteers**

- 1) Every District Authority and Taluka Legal Services Authority shall designate at least three panel lawyers as Legal Services Officers for the purpose of this Scheme.

- 2) District Authorities shall constitute teams of PLVs under a Legal Services Officer to implement this Scheme and the Legal Services Officer will supervise and mentor the PLVs in his team to help the beneficiaries access the various schemes of the Govt.
- 3) District Authorities shall conduct specialised training programs for panel of lawyers, members working in legal services clinics, members of panchayats, law students and other para-legal volunteers to assist in the implementation of the Scheme, to sensitise them regarding the needs of persons belonging to socially and economically weaker sections and the benefits that they can avail through Poverty Alleviation Schemes.

8) **Legal assistance for access to Poverty Alleviation Schemes**

Legal assistance must be provided to all the Scheme Beneficiaries seeking access to Poverty Alleviation Schemes. Legal services to be provided by

Legal Services Officers or volunteers under this Scheme includes, inter alia:

- 1) Informing the Scheme Beneficiaries about each of the Poverty Alleviation Schemes to which they are entitled, and the benefits thereunder
- 2) Assisting the Scheme Beneficiary in procuring the documents required for availing the benefits under any of the Poverty Alleviation Schemes
- 3) Informing the Scheme Beneficiary of the name and the address of the designated authority or the officer to be approached for registration under any of the Poverty Alleviation Schemes

- 4) Offering to send para-legal volunteers including from the legal services clinics with Scheme Beneficiaries to the office of the designated authority or the officer to be approached under any of the Poverty Alleviation Schemes
- 5) Informing the Scheme Beneficiary of her option to register a complaint with the Legal Services Officer or para-legal volunteer, about any designated authority or officer under any of the Poverty Alleviation Schemes who refuses to cooperate with a Scheme Beneficiary in providing her access to the benefits that she is entitled to under the Poverty Alleviation Scheme.
- 6) Maintaining a record of all the complaints received under sub-clause (5).
- (7) Providing Scheme Beneficiaries with the contact number, if available, of the Legal Services Officer, and availability of the Legal Services Officer on call during working hours for such Scheme Beneficiaries to whom contact number is provided

9 Action by Legal Services Officers on complaints

- 1) On receiving complaints under sub-clause (5) of clause 8, each Legal Services Officer shall herself personally accompany the Complainant Beneficiary to the office of the designated authority or officer, and assist the Complainant Beneficiary in availing the benefit that she is entitled to under the Poverty Alleviation Scheme.
- 2) In case the designated authority or officer fails to register the Complainant Beneficiary in the Poverty Alleviation Scheme, the Legal Services Officer shall submit a complaint to the District Authority. The letter of complaint shall describe the conduct of the designated authority or officer who refused to register the Complainant Beneficiary under the Poverty Alleviation Scheme,

and circumstances of such refusal and whether refusal was despite submission of all necessary documents.

10) Action by District Authority and State Authority on complaints

- 1) On receiving a complaint regarding the designated authority or officer, the District Authority shall seek a report from the concerned officer regarding the reasons for denying the benefits under the Poverty Alleviation Scheme to the Complainant Beneficiary. In the event that sufficient reason is not provided by the concerned officer for refusal to register the Complainant Beneficiary in the Poverty Alleviation Scheme or to provide benefits under the Poverty Alleviation Scheme, the District Authority shall immediately communicate to the superior officer in the department the details of the refusal to provide access to the Poverty Alleviation Scheme.
- 2) If the superior officer, in the opinion of the District Authority, also withholds the benefit under the Poverty Alleviation Scheme without sufficient cause, the District Authority shall then communicate the same to the State Authority.
- 3) On receiving such communication from the District Authority, the State Authority may choose to further pursue the matter with the concerned department or file appropriate legal proceedings to ensure that the Complainant Beneficiary receives the benefit under the Poverty Alleviation Scheme.
- 4) The District Authority, through para-legal volunteers or legal services clinics, shall provide regular updates to the Complainant Beneficiary about the status of the complaint.

- 1) Evaluation of the Scheme**
- 1) Every Legal Services Officer shall follow-up with each Scheme Beneficiary who sought legal assistance under this Scheme and record:
 - a. if such person was able to register under the Poverty Alleviation Scheme sought to be registered under and whether such benefits were being received
 - b. any grievances experienced by the Scheme Beneficiaries in getting registered and availing benefits under the various Poverty Alleviation Schemes.
 - 2) The District Authority shall compile the observations made under sub-clause (1) for all the Legal Services Officers working under the Scheme in the district, and shall send a copy of such observations in a compiled document to the State Authority every six months.
 - 3) The State Authority shall consolidate the compiled documents received from all the District Authorities under sub-clause (2), and hold a meeting every 6 months to review the functioning and effectiveness of this Scheme. The minutes of such meeting shall be recorded and published as a public document.
 - 4) If in the meeting under sub-clause (3), the State Authority finds a substantive or procedural defect in any of the Poverty Alleviation Schemes which makes seeking benefits under the scheme a problem for the Scheme Beneficiaries, such defect must be brought to the notice of the Central Government or the State Government, as the case may be, for improving the specific Poverty Alleviation Scheme and/or its effective implementation.



NALSA
(Protection and Enforcement
of Tribal Rights)
Scheme, 2015





NALSA (Protection and Enforcement of Tribal Rights) Scheme, 2015

BACKGROUND

Although the Census of India 2011 enumerates the total population of Scheduled Tribes at 10,42,81,034 persons, constituting 8.6 per cent of the population of the country, the tribal communities in India are enormously diverse and heterogeneous. There are wide ranging diversities among them in respect of languages spoken, size of population and mode of livelihood. As per the Census of India 2011, the number of individual groups notified as Scheduled Tribes is 705.

The North Eastern States are not a homogeneous block, because of the diversities amongst themselves. There are about 220 ethnic groups with equal number of languages and dialects. These groups can be broadly categorised into three main groups of Tibeto-Burman, Mon-Khmer and Indo-European.

Certain tribes have been characterised as Particularly Vulnerable Tribal Groups (PVTGs) (earlier known as Primitive Tribal Groups) on the basis of their greater 'vulnerability' even among the tribal groups. PVTGs, currently include 75 tribal groups, who have been identified as such on the basis of the following criteria: 1) forest-dependent livelihoods, 2) pre-agricultural level of existence, 3) stagnant or declining population, 4) low literacy rates and 5) a subsistence-based economy. As per the 2001 census, these 75 PVTGs had a total population of 27,68,322. The majority of the PVTG population lives in the seven States of Maharashtra, Madhya Pradesh, Chhattisgarh, Jharkhand,

Odisha, Andhra Pradesh and Tamil Nadu. The PVTGs among the tribes need special attention due to their vulnerability.

Up till independence the tribal population lived in comparative isolation from the national scene and lived almost a self-sufficient life in the remote and rugged forested tracts. The interactions of the colonial administrative machinery with the tribes in India were largely of authoritarian and exploitative nature. They were largely interested to let them remain isolated and had no intention to integrate them with mainstream of national life.

After independence, the India Constitution adopted many provisions to provide tribal people with special status and Parliament through various protective legislations made conscious efforts to safeguard their interest. Planning Commission of India through its development initiative adopted Tribal Sub Plan (TSP) approach and under Panchayati Raj Institutions the Provisions of the Panchayats (Extension to Scheduled Areas) Act 1996 (PESA) was legislated.

Despite all these efforts made to improve the socio-economic conditions of tribes it is still a fact that the life situations of Scheduled Tribes (STs) have improved only marginally. The Human Development Index (HDI) of the STs is much lower than the rest of the population. The gap in the literacy rate is high. There are more ST families below the poverty line than those from other communities. Their percentage in government jobs is not in proportion to their population despite the provision of reservation. Their condition, thus, is far worse than that of the rest of the population and they have not been able to reach the envisaged level of development, where they could benefit from the opportunities offered by a fast expanding economy.

It was in this background that the NALSA felt the need to draw up a Scheme for the Tribal People. To facilitate this, a Committee was constituted to study the issue and come up with suggestions.

The Committee submitted a comprehensive report to the Hon'ble Executive Chairman, NALSA on 9.8.2015 on the occasion of World Tribal Day. The present Scheme is based on the Report of the Committee.

The Scheme may be called the " NALSA (Protection and Enforcement of Tribal Rights) Scheme, 2015".

OBJECTIVES

The Scheme is aimed at ensuring access to justice to the Tribal People in India. The access to justice would be facilitated in all its connotations, i.e. access to rights, benefits, legal aid, other legal services, etc., so that the assurance of the Constitution of justice social, economic and political, is meaningfully experienced by the tribal population in the country.

Several legal rights are guaranteed to the tribal people under:

- The Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 – (FRA)
- The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989,
- The Right of children to Free and Compulsory Education Act, 2009,
- The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013,
- Panchayats (Extension to Scheduled Areas) Act 1996 – (PESA) and
- Fifth and Sixth Schedule of the Constitution of India.

These provisions are not implemented stringently, leading to violation of their legal rights. Such violations are one of the prime reasons for the marginalization of the tribal people.

This scheme is intended that these legal rights are not violated.

The terms PLVs, Legal Services Clinics, Front Office , Panel Lawyers and Retainer Lawyers will mean the same as defined under the National Legal Services Authority (Free and Competent Legal Services) Regulations, 2010 and National Legal Services Authority (Legal Services Clinics) Regulations, 2011 and the NALSA Scheme for Para Legal Volunteers (Revised) and Module for the Orientation – Induction – Refresher Courses for PLV Training.

Part I : An overview of the issues of Tribal people

A. Vulnerability Issues

1. The lack of literacy amongst the tribal people is a crucial issue. As a consequence, the tribes remain unaware of their fundamental, legal and statutory rights. They also lack knowledge about the welfare schemes run by the government for their well-being, thereby resulting in lack of participation from their side.
2. Non implementation of the schemes introduced by the government to resolve the problems is another major concern. However, non-implementation of programmes for tribal welfare is also due to lack of skilled work force in the tribal areas.
3. Numerous armed conflicts affect large parts of tribal areas in contemporary India spanning the central region to the North East, leading to severe problems in accessing legal and administrative mechanisms and in the implementation of beneficial schemes.

4. In the recent years the state police and the paramilitary forces have been accused of grave human rights violations in the tribal areas including of alleged fake encounters and rape.
5. A number of tribal people are put in jails allegedly as Maoists. There have been cases of people staying in Jail for days, without their name in the charge-sheet. Bails are not granted as cases are serious such as waging war against India, sedition and so on.
6. The unfamiliar judicial processes make the tribal people dread the court, even if they are the ones who are suffering from lawlessness. They feel that the laws like Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 do not exist for the protection of tribal people.
7. Migrating tribes face difficulties in accessing the welfare schemes run by the government. Some are totally devoid of any access.
8. There are preconceived notions or assumptions regarding the 'primitivism' and 'backwardness' of the PVTGs. It is essential for government bodies to shed assumptions of tribal backwardness and savagery and devaluation of the culture and traditions of these communities.
9. Many PVTGs and Scheduled Tribes (STs) are forest dwellers and depend heavily on land and forest resources for their subsistence. Over time, their habitat has been declared as Reserved Forest, Protected Forest, leaving them vulnerable to displacement and eviction without compensation.
10. All tribes in the list of PVTGs have not been granted ST status, thereby increasing the vulnerability of these tribes, who lack the protections and rights offered by the Fifth Schedule and the Provisions of Panchayat (Extension to Scheduled Areas) Act, 1996.

11. For PVTGs, the implementation of FRA has been poorest since their habitat rights are not clearly defined or understood by the Forest Department. No disaggregated information and data at the national level on status of the implementation of the provision for rights of PVTGs particularly of habitat rights under the FRA are available.
12. The North Eastern States share a large area of international boundary with the neighbouring countries of Bhutan, China, Myanmar and Bangladesh which makes it a very fertile ground for cross border terrorism, drug smuggling, arms smuggling, infiltration, etc.
13. Another issue which is of serious concern is human trafficking. Tribal people from central India and Assam appear particularly prone to trafficking.
14. Another issue is that till recently there has been no division of executive and judiciary. The institutions set up under the Sixth Schedule apply customary laws which have their own issues as they are not codified.
15. Due to insurgency and law and order problems in the North East, there is absence of faith in the system. There has been a tendency of the public to take law into their hands, in what amounts to “mob justice” by dismantling/destroying houses of the suspected/accused persons and ostracising the family which leads to serious social problems. Even doctors and hospitals have not been spared for their alleged negligence in treatment of patients.
16. In the remote areas and villages, large numbers of tribal people still believe in “Witch hunting” .

17. Tribal people are not treated with dignity and so feel alienated. For instance, the Jarawas tribes in Andaman Islands are treated like animals by the tourists. They are teased and tormented as if they are monkeys/animals and fun derived from their angry responses. Similar experiences were earlier common in Bastar where cultural mores were never understood.

B. **Land Related Problems**

1. Forest and hills are the main source of tribal identity. It is in this context that the devastation of lives of tribal people caused by loss of access to forest and involuntary displacement from their land has to be understood. Dispossession takes place both directly by depriving tribal communities of their land, habitat, livelihood, political system, culture, values and identity and indirectly through denials of benefits of development and of their rights.
2. Under the Resettlement and Rehabilitation (R&R) programme, land is not replaced and there is meagre reconstitution of livelihoods. Almost all the R&R colonies lack proper public health facilities, protected drinking water, marketing, schools and transportation.
3. Dependence on forests for food in the form of shifting cultivation, fruits and flowers, small game, tubers for medicines, fodder, material for house building, raw material for traditional art and crafts income by selling firewood, leaf-plates, fruits etc. is substantial. This loss, due to displacement is not compensated and also affects food security.
4. A major portion of land falls under forest areas. Most of the tribal people of the interior areas are staying on forest lands without having any right, title, interest on those lands and there are no such legal provisions for those homeless tribal people for

protection and enforcement of their rights under “The Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006”.

5. Another major problem with tribal people is a result of development projects viz. construction of dams, Forest sanctuaries, mining operations, etc. These developments lead to an influx of non-tribal people, seeking employment in these areas forcing the tribal people to migrate. Hence, the tribal people have not been able to reap the benefits of development projects.
6. Growing indebtedness contributes as one of the most important reasons for and alienation and displacement of tribal people. Tribal indebtedness (they are often tricked into accepting loans with exorbitant interests) often leads to situations of bonded labour.
7. Further, there have been violations of PESA which endow Gram Sabha “the power to prevent land alienation of land in the Scheduled Areas and to take appropriate action to restore any unlawful alienated land of a Scheduled Tribe.” In case of acquisition of forest lands, it is mandatory to consult with Gram Sabha of the affected area and obtain their free consent. However, often Gram Sabhas are neither sent notices for consultation, nor are their consent signatures taken.
8. The compensation given to the tribal people under The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 is meagre and the living conditions that are provided on resettlement are very poor.
9. Another problem with tribal people is that instead of individual rights in the land, they believe in community rights and thus written proof of ownership are mostly not available in cases of

litigation relating to land. The claims of tribal people in this respect are mostly based on oral evidences with consequential difficulties in establishing individual rights.

C. Legal Issues

The legal issues faced by the tribal people are as follows:

1. The recognition of rights of tribal people before their displacement from Protected Areas (PAs) is not being completed. Tribal people are evicted before verification and settlement of claims under the FRA. This has caused a decline in the economic status, as well as erosion in their customary forest practices.
2. Incorrect assumption by the Forest departments with regard to the FRA has led to violation of their legal rights. For instance, at some of the Forest Departments, it was believed, contrary to the provisions of section 4 (2) of the FRA that rights under FRA could not be claimed in Protected Areas (PAs) and that FRA is not applicable in Tiger Reserves.
3. Some problems that arise for tribal communities in claiming habitat rights include:
 - * lack of clarity over definition and interpretation of what is entailed in habitat rights;
 - * multiple interpretations of habitat, especially if the user rights of other, non-PVTG groups sharing the same territory are involved;
 - * if the traditional habitat boundaries of PVTGs overlap with wildlife habitats; and
 - * a lack of awareness among such communities about the terms in which to articulate such claims.

4. There has been little perceptible effort to create awareness among women regarding the process of claim making, verification and the rules relating to it provided under the FRA.
5. Claims filed by tribal people under the FRA are being rejected without assigning reasons, or based on wrong interpretation of the Other Traditional Forest Dwellers (OTFD) definition and the 'dependence' clause, or simply for lack of evidence or 'absence of GPS survey' (a lacuna which only requires the claim to be referred back to the lower-level body), or because the land is wrongly considered as 'not forest land', or because only forest offence receipts are considered as adequate evidence.
6. The rejections are not being communicated to the claimants, and their right to appeal is not being explained to them nor its exercise facilitated. There is a need for awareness amongst tribal people, so that they can protect their legal rights against such practices.
7. Section 3 (1) (m) of the FRA, regarding the rights of persons illegally displaced or evicted by development projects without proper compensation, has not been implemented at all.
8. Lack of effective consultations with Gram Sabha and recognition of their rights of ownership in farm produce.

D. Other legal issues

1. Criminal charges are filed, maliciously, against the tribal people, and in some cases non-tribal people, who protest against the acquisition of land and thereby against the establishment of developmental projects. It has been found that between 2005 and 2012, over 95 percent of the cases were found to be baseless and ended in acquittal.

2. Discrimination, violence and police brutality is experienced at regular intervals by the people belonging to the De-Notified Tribes because of the Habitual Offenders Act, 2000.
3. In Andaman and Nicobar, the 'Jarawa' tribe face incidents of sexual exploitation. Also, the people of the tribe were asked to give their blood samples for DNA testing without their informed consent.
4. A study for the Planning Commission revealed that 43.6 percent of the rehabilitated bonded labourers belong to Scheduled Tribes. This suggests that many tribal families are trapped in bondage. The main reason for bondage that is cited is indebtedness and food.

E. Issues related to education

The scenario of education in India regarding the tribal people has improved, but there are some problems which still persist. The issues relating to education are as follows:

1. There are a large number of schools which do not have minimum facilities.
2. Even where there is reasonable infrastructure and student enrolment, regular school attendance is a problem in the tribal areas, due to distances and poverty.
3. Teacher absenteeism is high.
4. There is poor level of student learning and high drop-out rate at class X. A possible explanation for this is the failure of tribal students to cope up.

5. There is a marked gender gap. There is a need for greater gender focus and social mobilization to encourage education of girls.
6. Once the tribal students manage to take admission, they are humiliated in various ways that they are demoralized. This leads to a high school drop out rate. Derogatory names being given to tribal students from the North East are well-known.
7. There are residential schools for tribal girls which are often in the news for corruption, bad maintenance of facilities and sexual exploitation of resident girls.
8. As nomadic tribes are always on the move, their children miss out on education provided by the government for free.
9. Most of the tribal communities in India have their own mother tongue. But in most of the States, official/regional languages are used for classroom teaching and these are not understood by the tribal children particularly at primary level of schooling.
10. There is a need of familiarity for teachers teaching tribal children with tribal culture and language so that learning is hassle-free. For instance, most of the district officials, being from outside do not understand the languages of the people like Gondi and Halbi. Even the teachers in schools do not understand these languages.
11. Tribal children are not at ease in structured class rooms due to their affinity to nature causing them to lose interest in formal education as is presently provided.
12. The main reason of illiteracy amongst tribal people is low involvement of parents and community in education of tribal children and inadequate quality schools in Tribal areas. The Tribal Community is mostly unaware about the benefits of education.

F. Health issues

The tribal population face several health issues:

1. The national health model is primarily designed for the non-tribal areas. It does not take into account the different belief system, different disease burden and health care needs as well as the difficulties in delivering health care in a geographically scattered, culturally different population surrounded by forests and other natural forces.
2. There is a lack of health care human resource that is willing, trained and equipped to work in tribal areas. Though buildings are built and health care institutions created in the form of health sub-centres, PHCs and CHCs, they often remain dysfunctional. This is further compounded by inadequate monitoring, poor quality of reporting, and accountability.
3. Factors such as unfriendly behaviour of the staff, language barrier, large distances, poor transport, low literacy and low health care seeking, lead to lower utilization of the existing health care institutions in tribal areas.
4. The absence of participation of ST people or their representatives in shaping policies, making plans or implementing services in the health sector often ends up targeting wrong priorities.
5. The tribal population is seriously affected by high consumption of alcohol and smoking, often resulting in addiction. Immediate and serious corrective policy measures to curb the same are necessary.
6. Child marriage among the different tribal communities is still prevalent as illiterate tribal people follow their old customs without understanding the laws of the land which results in poor health.

7. Tribal people seek treatment modes based upon their customary beliefs without resorting to any modern medicines even when they contract modern day illnesses leading to high mortality even in curable situations.
8. The Jarawas remain vulnerable to outside diseases to which they have little or no immunity. When the tourists enter their areas, they contract new diseases because of them. Their women and girls are also being sexually abused which result in many diseases for which the tribal people have no cure.
9. The immunisation programme of the governments has not reached the tribal areas.
10. Tribal populations are highly malnourished. PVTGs inhabit areas that are inaccessible by road, and therefore they cannot travel easily to Anganwadi centres, where food is prepared. Moreover, their hamlets are considered too small to open an Anganwadi centre. The result is that their children do not get the nourishment provided under the government schemes.
11. Rules have been framed to prohibit the killing of forest animals without giving an alternative to tribal people who traditionally hunt them for food, leading to loss of nutrient food to these communities.
12. The tribal areas face acute water problems including water pollution and tribal health suffers as a consequence.
13. A very pernicious effect of violence and killing, is the rise in mental disorder cases.
14. In areas of high literacy, as in the North East, lack of employment amongst skilled youth has resulted in mental depression and high suicidal tendencies.

15. Health issues arising out of drug use such as HIV AIDS and mental disorder is high in the North Eastern states located in close proximity to the “Golden Triangle”. Drugs such as Ketamine, pseudoephedrine, etc. are being smuggled into these regions with catastrophic effect on the families of drug users.

H. Livelihood

1. Due to absence of modern day skills and education, tribal people mainly depend on their traditional skills for livelihood, which is not profitable.
2. Although very few are landless, the land that tribal people possess is not very productive.
3. Due to language and cultural barriers, they lack modern skills of agriculture and agriculture based activities.
4. Further as a result of their living in difficult terrain and their aloofness from others they are not able to get adequate prices of their produce and products.
5. Inadequate transportation and communication facilities in their areas compounded by their reluctance in using such means also lead to failure to obtain good prices for their produce.
6. Adherence to traditional practices such as jhum cultivation for livelihood is an important reason that they live below poverty line.
7. When land is taken away from them for development work or they alienate their land, or they are denied access to forests for collecting forest produce, tribal people are left with no means of survival and are reduced to impoverishment and starvation.

Part II :Role of Legal Services Authorities

As is evident from the issues listed above, the State Legal Service Authorities have an important role to play in assisting tribal people in access to justice. The State Legal Services Authorities (SLSAs) will have to bridge the divide between the tribal communities and the Government and Judiciary. The SLSAs will have to ensure that Rule of law prevails. Restoring faith in the legal system, efficacy of rule of law is of prime importance amongst the tribal people. The SLSAs should explore activities in these areas.

The SLSAs should take the following initiatives:

- A. **Litigation related**
 - 1. They should constitute an exclusive panel of lawyers drawn from the tribal communities who should be paid good fees.
 - 2. The Tribal people should be given suitable legal aid in litigation and in appropriate cases, senior lawyers should be engaged on their behalf even if on payment of special fee, so that the rights and interests of tribal people are protected.
 - 3. The Judiciary operates in Hindi and English, leaving poor tribal people at the mercy of lawyers and judges from outside their community. They are the ones who need access to justice and should be supported by SLSAs.
 - 4. Panel lawyers must sincerely represent the tribal people in the courts, explaining to them the process and the law so that distrust of the system is eliminated and there would be greater understanding of the processes of the court.

5. Panel lawyers must assist the tribal people in clarifying areas of confusion or overlapping of jurisdiction of the normal courts and the traditional village authority courts at the village level and help people in the smooth functioning of the justice system.
6. Panel lawyers must visit jails and set up legal services clinics in jails to tackle long term imprisonment without bail and also follow up cases where there are no charges made out so that there is early release from prison.
7. Panel lawyers should, with the help of para legal volunteers, facilitate the tribal people for getting compensation of their acquired land and assist them for rehabilitation.
8. The issues, requirements and legal needs as well as availability of educational and medical facilities in tribal areas must be identified with the assistance of PLVs and action for judicial redressal initiated in appropriate cases.
9. The full time Secretaries/judicial officers should interact with the persons of such area in order to identify their problems and needs and in order to assure them that they will be given suitable assistance and services for their genuine legal and other requirements and rights.
10. Where any tribal person is facing prosecution in a court of law, he should be identified and given proper legal aid and assistance by legal services authority from the inception of the proceedings against him, that is from the time of his interrogation.
11. The SLSAs must open legal services clinics wherever feasible to be visited by tribal lawyers.

12. The SLSAs must make use of the Multi Utility Vehicles to reach out to sparsely populated tribal areas not only for spreading awareness but also to extend prompt legal assistance to the tribal people who may have criminal, civil , revenue or forest rights issues.
13. The SLSAs must co-ordinate with government departments such as the forest department to settle habitat claims and compensation claims through the mobile lok adalats.
14. Legal assistance must be promptly given to the tribal people to approach the High Court under its writ jurisdiction both for civil as well as criminal matters. The High Court Legal Services Committees must empanel committed lawyers who are tribal people themselves or have a good understanding of tribal issues and are able to personally communicate with tribal people.
15. Social Justice Litigation with the approval of Hon'ble Executive Chairman, SLSA may be initiated whenever required.

B. Para legal volunteers (PLVs)

1. Each District Legal Services Authority, with the help of statistical and other Government department should identify the areas of the districts where there are tribal population and reach out to them through the Para Legal Volunteers.
2. In order to gain trust of the tribal communities, to know the problems of each such community and also to communicate with them effectively during awareness programmes it is necessary that para legal volunteers must be selected from amongst such tribal people. The SLSAs should prepare exclusive panel of para legal volunteers (PLVs) from these communities under the direct mentorship and control of the Full Time Secretary of DLSAs.

3. Such PLVs should be properly trained in respect of their roles to reach out proactively to the tribal people and to become the 'go to person' for the tribal community he/she is assigned to serve.
4. The SLSAs through the PLVs should help the illiterate tribal people requiring legal assistance in filling up forms and filing applications for getting benefits of various schemes made by Government to do so for their getting such benefits.
5. Legal Services Authority could play a vital role in providing medical help with assistance of Para Legal Volunteers from amongst the tribal community. The needy persons may be identified with the help of Para Legal Volunteers and with assistance of the local Legal Services Authority, such tribal people may be facilitated in getting suitable medical assistance and medicines as well as benefits of medical schemes.
6. The PLVs must be the voice of the tribal people to communicate to the concerned authorities when there are issues relating the schools, absence of teachers, and harassment of tribal children etc as listed in Part 1 of this scheme.
7. The PLVs may be useful in the matters of human trafficking for identifying the victims of trafficking and taking suitable action for obtaining victim compensation and accessing various rehabilitation schemes.
8. The PLVs must assist the trafficked children when they are rescued and produced before the Child Welfare Committees (CWCs). They should help the CWCs in tracking out the families of the victims.
9. The PLVs must hand hold the victims when they have to testify in the Court.

10. The PLVs must be the bridge between the tribal people and the panel lawyers and must assist both the tribal person as well as the lawyer so that the case of the tribal is effectively understood and heard by the court.
11. The PLVs must also be the connect between the government departments and the tribal people to ensure that the food and rations meant for the tribal people reach them even when they live in remote and sparsely populated areas in the State.
12. Documentary proof of land is mostly not available with tribal people. The tribal people may, in such cases, need legal assistance for getting proper compensation and rehabilitation. PLVs should help the tribal people to collect all documents and other evidence so that displaced tribal people may be rehabilitated properly.
13. The PLVs must visit jails and interact with inmates to find out about their cases and report to the Full Time Secretary of the DLSA about them so that immediate follow up can be taken for their release on bail or expeditious hearing of their cases.

C. Awareness

1. Legal Awareness in Tribal area should be different than the ordinary mode of awareness programmes. Audio Visual Mode will be more useful in this respect. Awareness may be through organising cultural programmes such as dances, dramas etc. in which the involvement of tribal people must be ensured. Folk Songs and dances of such tribal people may be utilised for effectively conveying messages to them. The awareness programme in tribal area must be carefully carried out by persons having full knowledge of their problem and solutions.

2. There is requirement for spreading legal awareness amongst tribal people about forest laws and consequences of infringing the provisions of law.
3. The SLSAs should organise intensive legal awareness programme in tribal areas enlightening the Tribal community about the benefits of education, their rights and entitlements under various government schemes and benefits of modern technology which may be helpful in improving their occupational works.
4. The Tribal Community may be informed that education to their children may secure their future because such children may get jobs in public or private sector where reservation policy is applicable.
5. School legal literacy clubs should be started in tribal dominated areas to reach out to tribal children to encourage them to stay in school, while at the same time sensitising other students and teachers of the special needs of tribal children.
6. The SLSAs with the assistance of Govt. agencies and NGOs may organise training programmes by audio visual mode and also by showing them practical demonstrations of modern technology for gainful agricultural work.
7. Medical awareness programmes may be organised in tribal areas to teach them the benefits of safe drinking water, nutrition and care of pregnant women as well as immunisation programme with NGOs working in the field.
8. The SLSAs should take other initiatives like establishing a community radio in the villages to bridge linguistic divide.



NALSA
(Legal Services to the Victims
of Drug Abuse and the
Eradication of the Drug Menace)
Scheme, 2015





NALSA (Legal Services to the Victims of Drug Abuse and the Eradication of the Drug Menace) Scheme, 2015

1 Background:

- 1.1. The phenomenal rise in drug trafficking and drug abuse amongst the youth, children and adolescents has serious implications, adversely affecting national health and economy. Curbing it is the highest priority for the State as well as the society.
- 1.2. It is an open secret that drugs have spread their dreaded tentacles on innocent children, adolescents, youth and women. The horrible dimension, which this menace has acquired, can be gauged from the average age of initiation of drugs which is as low as nine-ten years. Recent empirical studies reveal that about 7 crore people in India are involved in substance abuse, out of whom about 17% are addicts.
- 1.3. The illicit cultivation of plants wherfrom the substances/drugs are derived is an area of major concern. Generally, people are unaware of the ill effects of such cultivation. In order to prevent illicit cultivation of substances, participation of Panchayati Raj Institutions and Local Bodies is necessarily required.
- 1.4. Although many agencies of the State as well as Non-Governmental Organizations are working in the field for eradication of drug trafficking and drug abuse, there is lack of coordination amongst them. Individual efforts of different

functionaries and agencies have not achieved the desired results. Experience shows that the victims of drug abuse have no idea how to tackle the issues of treatment and rehabilitation.

- 1.5. Considering the fact that Legal Services Institutions can contribute a lot to curb this menace, a resolution was passed in the 13th All India Meet of State Legal Services Authorities held at Ranchi (Jharkhand), concluding that Drug Addiction and Drug Abuse should be a major area of concern for all Legal Services Institutions and a necessity was felt to examine the issue therein.

2 Existing Legal Provisions

- 2.1 The efforts to combat the menace of Narcotic Drugs and Trafficking started at the International level with Single Convention on Narcotic Drugs by the United Nations in March, 1961 and thereafter a protocol amending the resolution of this Convention was adopted in March, 1972. The United Nations Convention on Psychotropic Substances was held in 1971, followed by United Nations Convention against Illicit Trafficking in Narcotic Drugs & Psychotropic Substances, 1988. India is signatory to all such Conventions.
- 2.2 Article 47 of the Constitution of India mandates that State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health.
- 2.3 The growing trend of illicit drug traffic and drug abuse, at the National level, has led to the passing of comprehensive legislations: (i) The Drugs and Cosmetics Act, 1940 and (ii) The Narcotic Drugs and Psychotropic Substances Act, 1985, for prohibition, control, regulation, cultivation, manufacture, sale transportation, consumption etc. of narcotic drugs and

psychotropic substances. Despite tough laws, illicit drug trade, in an organized manner, is growing manifold.

- 2.4 It is in this background that it was felt by NALSA, that Legal Services Institutions have a significant role to play in supply and demand reduction and de-addiction and rehabilitation. A Committee was constituted for the purpose of understanding the dimensions of the problem and defining the role of the Legal Services Institutions to effectively address the problem. This Scheme has been framed on the deliberations of the Committee based on the inputs received at the Regional Conference on the 'Drug Menace in India – Overview, Challenges and Solutions' at Manali, Himachal Pradesh.

3 **Name of the Scheme**

The Scheme shall be called “National Legal Services Authority (Legal Services to the Victims of Drug Abuse and the Eradication of Drug menace) Scheme, 2015”. (hereinafter referred to as “the Scheme”).

4 **Definitions**

In this scheme unless the context otherwise requires,

- a) “Act” means the Legal Services Authorities Act, 1987 (39 of 1987)
- b) “NDPS Act” means The Narcotic Drugs and Psychotropic Substances Act,1985 (Act no.61 of 1985)
- c) “Legal Service” means as defined under section 2(c) of Legal Services Authorities Act 1987.

- d) Legal Services Clinic means a clinic as defined under regulation 2 of National Legal Services Authority (Legal Services Clinics) Regulations 2011.
- e) Legal Services Institution means a State Legal Service Authority, Supreme Court Legal Services Committee, High Court Legal Services Committee, District Legal Service Authority or Taluk Legal Service committee, as the case may be.
- f) Panel Lawyer means the panel lawyer selected under regulation 8 of the National Legal Services Authority (Free and Competent Legal Services) Regulations 2010.
- g) Para Legal Volunteer means a Para Legal Volunteer defined and trained under the NALSA Scheme for Para Legal Volunteers (Revised) and Module for the Orientation – Induction – Refresher Courses for PLV Training. trained as such by a legal services institution.
- h) All other words and expressions used but not defined in this scheme and defined in the Legal Services Authorities Act, 1987 (39 of 1987) or the National Legal Services Authorities Rules, 1995 or National Legal Services Authority (Free and Competent Legal Services) Regulations, 2010 shall have the same meaning respectively assigned to them in the said Act or Rules or Regulations.

5 **The Objectives of the Scheme**

- 5.1 To disseminate awareness amongst the general masses regarding the Legal Provisions, various Policies, Programmes and Schemes, in respect of Narcotic Drugs and Psychotropic Substances as well as to create awareness about the ill effects of drug abuse amongst the children in schools and colleges, street

children, urban slum children, injective drug user(s), families, prisoners, workers in unorganized Sector, Chemists, drug pedlars, sex workers and general masses etc.

- 5.2 Organizing literacy camps for sensitizing the farmers who are carrying out permissible cultivation of various substances/source plants about the adverse health and life threatening effects of consumption of such drugs and substances.
- 5.3 To spread awareness amongst the parents, teachers and students about the ill effects of the substance abuse.
- 5.4 To sensitize the various stakeholders viz; Judiciary, Prosecution, Members of Bar, Police, Forensic Laboratories, De-addiction Centres, Corrective Homes, Rehabilitation Centres, School, College and University administration, Children Homes, Old-age Homes, NariNiketans, Schools for Special Children, Ministerial Staff of Courts, etc. about the drug menace and effective measures to curb it.
- 5.5 To mobilize the available infrastructure in identifying the victims of drug abuse, their treatment and post detoxification rehabilitation.
- 5.6 To tap the potential of the Panchayati Raj Institutions/Local Bodies at grassroot level for intervention and prevention of drug abuse and destruction of illicit cultivation of plants used to derive the drugs/ substances.
- 5.7 To maintain effective coordination with the Drug De-Addiction Centres. and Rehabilitation Centres etc. for better facilities and respect for the rights of the victims and to intervene, if any, breach is noticed.

- 5.8 To coordinate the activities of various stakeholders working in the field.
- 5.9 To ensure essential legal services to the victims of drug trafficking and drug abuse.

Plan of Action

6 Establishment of Special Units

- 6.1 The State Legal Services Authority (hereinafter referred to as SLSA) shall, within one month of the communication of this scheme, establish Special Units in all the Talukas/ Mandals/ Sub Divisions in the State, consisting of Judicial Officer(s), young lawyer(s) to be nominated by the Chairman, DLSA, Medical Officer(s) to be nominated by the Chief Medical Officer concerned, a Revenue/Police/Forest Officer(s) nominated by the Chief Secretary, social worker, Para Legal volunteer and a representative of NGO(s) having done substantial work for eradication of drug menace or rehabilitation and de-addiction, and accredited with SLSA. The Special Units shall be headed by the Chairman of the Taluka/ Mandal/ Sub Divisional Legal Services Committee (hereinafter referred to as TLSC), under the overall supervision of the Chairman, DLSA.
- 6.2 Such Special Units shall comprise of not more than ten members. The Secretary, DLSA shall be the Nodal Officer for the District. The Secretary, Taluka Legal Services Committee shall be Secretary of the Special Units.
- 6.3 After the constitution of the Special Units, the DLSAs shall conduct training programmes for members of the Special Units, as per module of NALSA.

- 6.4 The Special Units shall submit regular action taken reports to the SLSA through Chairman, DLSA, who will forward it along with his/her comments.
- 6.5 The Special Units shall, in terms of the scheme, within 15 days of its constitution, prepare a Micro Level Programme to be carried out/Performed in their respective areas for tackling, intervention and prevention of drug abuse.
- 6.6 Such programme(s) shall be forwarded by the Chairman of the DLSA to the Member Secretary of the SLSA, who, in turn, shall place the same for approval, before the Executive Chairman. The Executive Chairman SLSA, may accord sanction with or without amendments, within 15 days.
- 6.7 Apart from the functions assigned to them under the provisions of this scheme, the Special Units shall also perform any other function, which SLSA may assign from time to time.

7 **Creation of Database**

- (a) The SLSAs shall create a Database of all the existing Policies, Schemes, Regulations, Directives, Preventions, Rules, Declarations and Reports available for effective prevention, protection, rehabilitation, elimination of Narcotic Drugs and Psychotropic Substances and upload the same on its website and share the same with NALSA.

8 Implementation of various schemes.

- (a) The SLSAs shall take all steps to disseminate the information regarding policies, schemes, programmes to the general public and in particular, to the victims of Drug abuse, their families and the functionaries of De-addiction / Rehabilitation Centers
- (b) The Special Units shall display such information prominently in their offices and shall get suitable booklets/pamphlets/placards etc, printed, as approved by the SLSA.

9 Destruction of Illicit cultivation

The SLSAs shall coordinate with the State Governments for the destruction of illicit cultivation of cannabis and opium as well as any other plant used to derive Narcotic and Psychotropic Substances. The SLSAs may also urge the State Government to include such destruction as admissible work under MNREGA Scheme. This will pave the way for the destruction of illicit plants on a large scale besides, encouraging community involvement in the entire campaign.

10 Participation of Local Bodies/Panchayati Raj Institutions at grassroot level

The participation of these institutions shall be in the following manner:-

- (a) Special Units shall coordinate with the Panchayati Raj Institutions to identify areas, where substances such as charas/ganjaetc are being illegally cultivated. Reports so prepared by the Special Units shall be forwarded to the SLSA through the Chairman DLSA and with the approval of the Executive Chairman, SLSA, the matter shall be taken up with the concerned authorities for appropriate action.

- (b) The Special Units shall seek assistance of Panchayati Raj Institutions to identify the drug addicts and injective drug user (s) for making arrangements for their treatment and rehabilitation.
- (c) The Special Units shall also seek assistance of the Panchayati Raj Institutions for spreading awareness about ill effects of drugs in the rural areas.
- (d) The Special Units should as far as is possible associate the Mahila Mandals and Yuvak Mandals or other similar self help groups of the area in such campaigns

11. Awareness

11.1 Awareness in Schools/Colleges

The Special Units shall coordinate with Legal Literacy Clubs in schools and Legal Services Clinics in colleges to conduct awareness and sensitization programmes in the Schools and Colleges, to make students aware of the ill effects of drugs.

- (a) The awareness and sensitization programmes could be conducted through various modes, such as;
 - i. Starting awareness campaign in the school/cluster of schools under the banner of “run against drug abuse” by associating the “Icons” of the area.
 - ii. Awareness camps
 - iii. Holding regular Parents-Teachers meetings.
 - iv. Through Mass Literacy campaigns
 - v. Through Symposiums. Seminars, Debates, etc.

- vi. Organizing quiz and essay writing competitions about the ill effects of drug abuse
 - vii. Nukkad Nataks; Any other similar and innovative manner
- (b) The teachers in the schools/colleges should also be involved in awareness/sensitization programmes.
- (c) Pamphlets/booklets prepared by the NALSA/SLSA should be distributed to the students in awareness/sensitization programmes.
- (d) Such pamphlets/booklets will also be distributed at all awareness camps and also help at front offices and legal services clinics
- (e) Inclusion of Chapter on Drug Abuse in School and College Curriculum-An endeavour for compulsorily getting a chapter on drug abuse included in the curriculum of Schools and Colleges, by taking up the matter with respective Education Boards and Universities

11.2 Awareness to the families of the victims of Drug Abuse

Children generally become victims of drug abuse in those families where the affectionate bond between children and parents is either loosened or obliterated or where parents or family members consume drugs /substances.

- (a) The Special Units should identify the families of victims of drug abuse and the parents who are habituated to either one or other forms of addiction and shall sensitize them to build parental bonds with their children. The focus will be on persuading the parents to interact with children, supervise their activities and to talk to the teachers about their children and their behaviour and that drug addiction can be cured.

- (b) Awareness must be raised to aid in the de-stigmatization of addiction as well as the mental illnesses arising out of it, in order for addiction to be recognised as any other health problem and treated at the earliest

11.3 Awareness amongst Street Children

- a) Large number of victims of drug abuse are the street children. They are the most neglected and vulnerable class, generally abandoned and left out by their families. Hence, there is a greater need to ensure their safety along with NGOs working with street children.
- (b) The Special Units shall identify the addicted street and urban slum children and make arrangement for admitting them to De-Addiction Centre(s) or Rehabilitation Centre(s), as the case may be.

11.4 Awareness amongst the victims of drug abuse

With the identification of the drug addicts, Special Units shall conduct regular sensitization programme(s) for them by associating Psychologists and Doctors. Role Models and the persons who have achieved success in the field of Sports, Cinema, Literature etc. may be associated in such programmes.

11.5 Awareness Programmes for sex workers

The Special Units shall organize strategic awareness programmes in the red-light areas, targeting the sex workers and their children about the ill effects of drug abuse.

11.6 Awareness Programmes in Jails.

The Legal Services Institutions shall organize periodical awareness and sensitization programmes for inmates of jails and jail staff about the ill-effects of the narcotic drugs.

11.7 Awareness amongst General Public

- a) The Special Units shall periodically organize Legal Literacy Camps on NDPS Act in the areas where farmers are permitted to cultivate opium or other such plants with special focus on spreading awareness about the ill effects of illegal sale or consumption of narcotic substances.
- (b) The general public shall be made aware of the fact that giving secret information to police about illegal possession, transportation, sale or cultivation etc. of drugs or prohibited and banned drugs is protected under law and their identity is kept secret.
- c) The Special Units shall also organize regular Legal Literacy Camps for transporters and taxi operators for educating them about the consequences and ill effects of drugs.
- d) The Legal Services Institutions Special Units shall display sign boards, hoardings etc. about the stringent provisions of the NDPS Act and ill effects of drug abuse at public places such as Bus-Stands, Railway Stations, Airports, Public and Private Schools, Universities, Panchayat Bhawans, Courts, District Collectorates, SDM offices etc.
- (e) The Special Units shall organize awareness camps in Villages, Fairs and Festivals about the ill effects of the drug abuse.
- (f) The Special Units shall organize awareness camps in resettlement colonies, residential areas, market places by involving various organizations/ associations.

- (g) The SLSAs will endeavour to involve Postal Authorities, Courier Agencies, and Financial Institutions to sensitize their staff about the drugs being transported clandestinely through these agencies.

11.8. Awareness amongst Chemists and Peddlers

- (a) The Special Units shall sensitize the chemists and druggists about the ill effects of the drugs.
- (b) Chemists may be trained to watch out for children and youth who are buying prescription drugs on a regular basis and refuse to sell them such drugs.
- (c) The Drug Peddlers shall be identified and similar sensitization programmes shall also be conducted for them.
- (d) Police could also be sensitized to be involved in the prevention of addiction by keeping a watch on suspicious activities by street vendors, paan stalls etc.

11.9 Awareness through Electronic and Print Media.

SLSAs should organize regular Radio talks and Television programmes on harmful effects of drugs and means to curb the same. Judicial Officers, Lawyers, Psychologists, Psychiatrists, Police Officers, Icons etc. shall be associated in these programmes.

12. Co-ordination with De-addiction/Rehabilitation Centres

- (a) The Special Units shall visit the Rehabilitation and De-addiction Centre (s) situated within their jurisdiction at least once in a month. The Special Units will draw up a list of rehabilitation and de-addiction centres in the Taluk and will continuously update the information. It shall also forward the list to the SLSA along with details of who is running the same and their background

- (b) The Special Units will inspect the facilities at the rehabilitation/de-addiction centre(s) to assess the adequacy of the facilities
- (c) The Special Units shall inspect the record regarding visits of the counselor, psychologist and Doctors.
- (d) The Special Units will check the staff ratio to see that there is no shortage of staff and staff strength is commensurate to the number of victims at the drug rehabilitation centres.
- (e) Whenever the Special Units find inadequacy in staff, infrastructure or facilities, the Special Units will make appropriate recommendations in this regard to the DLSA, who shall take up the matter with the concerned authorities and ensure that the deficiencies are removed.
- (f) In case, the Special Unit comes across any violation of human rights of victims, it shall promptly file a report with the Chairman, TLSC who shall look into the report and apply his mind before initiating legal proceedings. The TLSC will also grant legal assistance where such proceedings are to be initiated on behalf of the victim.
- (g) The Special units shall gather information from the rehabilitation centre(s) and shall send monthly report to the DLSA concerned, mentioning therein, the details of victims, activities undertaken and visits of Psychologist(s) and Doctor(s) and the corrective measures, if any, taken on the report of the Special Units.
- (h) The Special Units will arrange and organize periodical awareness camps for the victims. Cultural and other Socially Active Groups shall be associated in such awareness camps with an aim to bring the victims to the main stream of the society.

13. Training/Refresher Courses for Stakeholders

The SLSAs shall arrange and organise either by themselves or along with the State Judicial Academies, sensitization programmes, refresher courses, special trainings and conferences for Judicial Officers, Prosecutors, members of the bar, police officers and ministerial staff of the Courts.

14. Observance of International Day against Drug Abuse on 26th June

All Legal Services Institutions with the help of Special Units shall organize awareness programmes on 26th June every year for observing “International Day against Drug Abuse and Illicit Trafficking” for creating awareness about drug abuse and its consequences.

15. Association of Reformed Drug Addicts.

The Special Units shall identify former drug addicts in their areas and associate them in the awareness camps to share their experiences.

16. Anti Drug Clubs

- (a) The School and College authorities shall be requested and involved by Special Units for opening Anti Drug Clubs in the School(s)/College(s) so that the students become role models and make their colleagues aware of ill effects of drugs.
- (b) The Special Units shall organize sensitization programmes through Anti Drug Clubs in School(s)/College(s). Legal literacy clubs and legal services clinics should be used for this as mentioned earlier.

17. Involvement of Para Legal Volunteers

The Para-Legal Volunteers shall be imparted training about various Schemes, who in turn shall visit different areas and make aware and sensitize people about the ill-effects of the Narcotic Drugs and Psychotropic Substances.

18. Recognition of Good Work

At the end of every financial year, the SLSA should commend outstanding work done by the members of the best Special Units in the State.



NALSA
(Legal Services to Senior Citizens)
Scheme, 2016





NALSA (Legal Services to Senior Citizens) Scheme, 2016

1. BACKGROUND

- 1.1 The Senior Citizens constitute a class in themselves. They are a reservoir of experience and knowledge, yet in many cases they are marginalised and almost wished away by the younger sections of the society as a burden on the society. The senior citizens do not constitute a homogenous group, the differences being based on the age gap amongst the senior citizens themselves, level of physical and mental alertness, their ability to work and such like.
- 1.2 Over the years, with advancement in science, there has been a substantial increase in life expectancy. As mentioned in the National Policy on Senior Citizens, 2011, “the demographic profile depicts that in the years 2000-2050, the overall population in India will grow by 55% whereas population of people in their 60 years and above will increase by 326% and those in the age group of 80+ by 700% - the fastest growing group.” 1/8th of the world's elderly population lives in India. In real terms the population of elderly persons has increased from nearly 2 crores in 1951 to 7.2 crores in 2001 to 10.38 crores in 2011. Thus about 8% of the population is above 60 years. The highest percentage of people aged above 60 years is found in Kerala with the elderly constituting 12.55% of the population of the state. The number of females is larger in the category of 60+ age group with the number of females being 5, 27, 77, 168 to 5, 10, 71, 872 males as per the Census of 2011.

- 1.3 Senior citizens face a myriad of challenges- social, physical, mental and economic which are unique to them. The economic problems could be on account of loss of employment with a consequent loss of income and economic insecurity. Physical problems include health and medical problems. Social problems could be lack of familial support and social maladjustment. Security is another major issue for the older persons. The problem is made more acute with the break-up of the joint family system and more and more elderly persons being left to fend for themselves. There is migration of productive members of the family from the rural to urban areas. As such the women and the older persons in rural areas face greater problems.
- 1.4 There is also evidence of systematic and continuous abuse of the elderly i.e. infliction of physical, emotional or psychological harm on the older persons. Half of the elderly population reportedly experience abuse besides disrespect and neglect. According to the report of the National Crime Records Bureau (NCRB), a total of 8,973 cases were registered as crimes against senior citizens from January 2014 to October, 2014. As such every society and State recognizes certain rights of the senior citizens, distinct from the rest of the society.
- 1.5 The issue of ageing has been raised at the United Nations from time to time since 1948. The World Assembly on Ageing was held in Vienna in 1982 where an International Plan of Action on Ageing was adopted with the objective to strengthen the ability of individual countries to deal effectively with the ageing in their population, keeping in mind the special concerns and needs of the elderly. In 1991, the UN General Assembly adopted certain principles aimed at independence, participation, care, self-fulfilment and dignity of the older persons. 1st October has been declared as the International Day for the Elderly, now known as the International Day of the Older Persons.

Note: For the purposes of this Scheme, the persons above the age of 60 years are referred to as 'senior citizens' and the terms 'older persons', 'elder persons' are used synonymously.

2. CONSTITUTIONAL GUARANTEES

- 2.1 The Constitution of India guarantees the right to life and liberty of every individual under Article 21. This has been interpreted to include the right to live with dignity and would encompass the right to live with dignity of the senior citizens. Article 41 of the Constitution lays down that the State shall, within the limits of economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want. Article 46 also imposes a positive obligation on the State to promote with special care the economic interests of the weaker sections of the people and to protect them from social injustice and all forms of exploitation. Articles 41 and 46 are included in the Directive Principles of State Policy which are not enforceable in any court of law, nevertheless, they impose positive obligations on the State and are fundamental in the governance of the country.
- 2.2 Entry 9 in the State List and entries 20, 23 and 24 of the Concurrent List in the Seventh Schedule to the Constitution relate to old age pension, social security and social insurance and economic and social planning. Entry 24 in the Concurrent List specifically deals with the 'Welfare of labour, including conditions of work, provident funds, liability for workmen's compensation, invalidity and old age pension and maternity benefits.' Thus, there are several constitutional entries relating to old age.

3. LEGISLATIVE FRAMEWORK

- 3.1 Most of the legislation as exists relates to making provision for maintenance for the parents and does not refer to senior citizens specifically. Hindu Law has recognized the obligation of the sons to maintain the parents, who were not able to maintain themselves

since ancient times. Under the Hindu Adoption and Maintenance Act, 1956, aged or infirm parents are entitled to maintenance from son and daughter provided the parents are unable to maintain himself/herself out of his/her own earnings or other property. The Muslim Personal Law places an obligation on children in easy circumstances to maintain their parents, even if the latter are able to earn something for themselves. A person is also bound to maintain his paternal and maternal grandfathers and grandmothers, if they are poor and not otherwise, to the extent as he is bound to maintain his poor father.

- 3.2 Sections 125 to 128, Code of Criminal Procedure, 1973 enable the father or mother, who is unable to maintain himself or herself to claim maintenance from his/her major son/daughter, if they neglect or refuse to maintain the parents. This is a secular law and applies across all religions. If the person against whom the order has been passed fails to pay the amount of maintenance without any sufficient reason, execution proceedings can be filed and the court may even issue a warrant imposing fines for the breach of the order and the person may be imprisoned. Similarly, the mother may file a petition against her son under the Protection of Women from Domestic Violence Act if she is subjected to domestic violence and claim various reliefs provided under the Act.
- 3.3 Considering the need to protect the rights of senior citizens and to further the constitutional objectives, the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 was enacted. Under this Act, an application for maintenance can be made by (a) 'Parent', i.e., father or mother whether biological, adoptive or step father or step mother; and (b) 'Senior Citizen', i.e. a person who has attained the age of 60 years or above. The application for maintenance can be made by (a) parent or grand-parent, against one or more of his/her children, i.e., son, daughter, grandson and grand-daughter, not being a minor; and (b) childless senior

citizen, against his/her relative, i.e. legal heir, not being a minor, who is in possession of or would inherit his property after his death. The Act provides for the setting up of one or more Tribunals for each sub-division for the purpose of adjudicating and deciding upon the order of maintenance and for the constitution of Appellate Tribunal for each district to hear the appeal against the order of the Tribunal. Importantly, under the Act, the right to receive maintenance is enforceable against transferee of property of the parent/senior citizen, if the transferee has notice of the right, or if the transfer is gratuitous though the same is not enforceable against the transferee for consideration and without notice of right. The Tribunal may even declare transfer of property by a senior citizen as void at the option of the transferor where a senior citizen has transferred the property by way of gift or otherwise, subject to the condition that the transferee shall provide the transferor with basic amenities and basic physical needs, and such transferee refuses or fails to provide such amenities and physical needs.

- 3.4 Another important feature of the Act is that abandoning of senior citizen by anyone having care or protection of such senior citizen is an offence punishable for a maximum period of 3 months or fine upto Rs.5000/- or with both. This is a very important provision for protecting the life and property of senior citizens and to prevent their being abandoned at places from where they could not be found. The Act also provides:

-for the establishment of Old Age Homes for Indigent Senior Citizens i.e. senior citizens who do not have sufficient means.

-that the State Government has to ensure that the Government hospitals or hospitals funded fully or partially by the Government shall provide beds for all senior citizens; separate queues are arranged for senior citizens and that facility for treatment of chronic, terminal and degenerative diseases is expanded for senior citizens.

4. GOVERNMENTAL SCHEMES FOR SENIOR CITIZENS

- 4.1 Different Ministries under the Central Government have come up with different Schemes for senior citizens. The National Policy on Senior Citizens focusses on mainstreaming senior citizens, especially older women, promoting the concept of 'ageing in place' or ageing in own home, housing, income security and homecare services, old age pension and access to healthcare insurance schemes and other programmes and services to facilitate and sustain dignity in old age. The Schemes for Senior Citizens include:
- i) Integrated Programme for Older Persons under which financial assistance upto 90% of the project cost is provided to NGOs for establishing and maintaining Old Age Homes, Day Care Centres, Mobile Medicare Units and to provide non-institutional services to older persons.
 - ii) Rebate in income tax, deduction in respect of medical insurance premium upto Rs.30,000/- under section 80D of Income Tax Act, 1961, deduction under section 80D for treatment of specified ailment is Rs.60,000/- for senior citizens, separate counters for senior citizens at the time of filing the income tax returns and on the spot assessment facility.'
 - iii) Senior Citizens Saving Scheme' under which the citizens of 60 years and above can deposit Rs.1000/- or its multiples in post offices doing savings bank work which carries an interest of 9% per annum and the maturity period of the deposit is five years, extendable by another three years. For senior citizens i.e. those having the age of 65 years and above, higher rates of interest on saving schemes are available.

- iv) Under the Indira Gandhi National Old Age Pension Scheme, central assistance is given towards pension at the rate of Rs.200/- per month to persons above 60 years and at the rate of Rs.500/- per month to senior citizens of 80 years and above belonging to a household below the poverty line and the same is expected to be supplemented by at least an equal contribution by the States.
- v) Discount on basic fare for domestic flights in economy class and priority in boarding the flights.
- vi) Concession for senior citizens in all classes and trains, priority for lower berths, separate counters for senior citizens for purchase/ booking or cancellation of tickets, wheel chairs for use of senior citizens are available at all junctions, District Headquarters and other important stations.
- vii) Reservation of two seats in the front rows of buses of State Road Transport Undertakings for senior citizens and even fare concession.
- viii) Separate queues for older persons in hospitals for registration and clinical examination and concessions to senior citizens in treatment of diseases like kidney problem, cardiac problem, diabetes and eye problem.
- ix) Under the Antyodaya Scheme, the Below Poverty Line families which include older persons are provided food grains i.e. 35 kgs per family per month at concessional rates. The persons above 60 years from the BPL category were given priority for identification.
- x) Under the Annapoorna Scheme being implemented by the States/ UT Administration, 10 kgs of food grains per

beneficiary per month are provided free of cost to those senior citizens who remain uncovered under the old age pension scheme.

- xii) Priority in issuance of ration to ration card holders who are over 60 years of age in Fair Price Shops.
 - xiii) Priority in giving telephone connections by the Ministry of Telecommunications and priority to faults/ complaints of senior citizens by registering them under senior citizens category with a VIP Flag which is a priority category.
- 4.2 Priority is also given to cases of senior citizens in the courts with a view to expeditious disposal.Under the Right to Information Act, second appeals filed by senior citizens are taken on a high priority basis.
- 4.3 Several States have come out with their own Schemes and Programmes for the benefit of the senior citizens especially to provide security to senior citizens.
- 4.4 Despite the existence of various legal provisions and Schemes for senior citizens, their benefits have reached very few senior citizens. Often the senior citizens are unaware of their entitlements and/ or they are in too destitute a condition to be able to access the said benefits. They are not only deprived of their properties but also subjected to all forms of abuse ripping them off their dignity as well.For the widows who are senior citizens or for the retired senior citizens, it often becomes a herculean task to get their pension and other benefits. The laws and the Schemes lay down the entitlements of the senior citizens and if the senior citizens have any difficulty in availing their entitlements under the laws and the Schemes, it is felt by NALSA that Legal Services Institutions have a significant role to play and they can play a pivotal role in ensuring access to the benefits of the Schemes and the legal provisions to the senior citizens.

4.5 The Preamble of the Legal Services Authorities Act, 1987 emphasises that the legal services authorities are concerned with the weaker sections of the society and imposes a duty on them to ensure that opportunities for securing justice are not denied to any citizen by reason or economic or other disabilities. Under Section 4(b) of the Legal Services Authorities Act, 1987, the “Central Authority” i.e. the National Legal Services Authority has been obligated to “frame the most effective and economical schemes for the purpose of making legal services available under the provisions” of the Act. Further Section 4(l) enjoins the “Central Authority” to take appropriate measures for spreading legal literacy and legal awareness amongst the people and, in particular, to educate weaker sections of the society about the rights, benefits and privileges guaranteed by social welfare legislations and other enactments as well as administrative programmes and measures. Likewise, under Section 7(c) it is the function of the State Authority i.e. the State Legal Services Authority to undertake preventive and strategic legal aid programmes. Thus the Act itself casts a duty upon the Legal Services Authorities to spread legal awareness about the laws and various administrative measures and programmes and to undertake preventive and strategic programmes.

5. **NAME OF THE SCHEME**

- 5.1 The Scheme shall be called “NALSA (Legal Services to Senior Citizens) Scheme, 2016”. In this scheme, the persons above the age of 60 years would be regarded as senior citizens.
- 5.2 The terms PLVs, Legal Services Clinics, Front Office, Panel Lawyers and Retainer Lawyers will mean the same as defined under the National Legal Services Authority (Free and Competent Legal Services) Regulations, 2010 and National Legal Services Authority (Legal Services Clinics) Regulations, 2011 and the NALSA Scheme for Para Legal Volunteers (Revised).

6. OBJECTIVES OF THE SCHEME

The main objectives of the Scheme are as follows:

- 1) To outline the basic rights and benefits that should be accorded to senior citizens;
- 2) To strengthen legal aid and representation at the national, state, district and taluka levels for senior citizens who are entitled under Section 12 of the Legal Services Authorities Act, 1987 in availing the benefits of the various legal provisions which exist;
- 3) To ensure access to various Governmental Schemes and programmes to the senior citizens;
- 4) To ensure that the authorities and institutions such as the Tribunals and the Appellate Tribunals under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, old age homes for senior citizens have been established;
- 5) To create and spread awareness about the rights and entitlements of the senior citizens under the various laws and Governmental Schemes and programmes through the District Legal Services Authorities, Taluka Legal Services Committees, panel lawyers, para-legal volunteers, students and legal services clinics;
- 6) To enhance capacities at all levels of panel lawyers, para-legal volunteers, volunteers in legal services clinics, government officers tasked with the implementation of the various schemes, service providers, police personnel, non-governmental organizations by organizing training, orientation and sensitization programmes; and
- 7) To undertake research and documentation to study the various schemes, laws etc. to find out the gaps, the needs and to make suggestions to the appropriate authorities.

The ultimate objective of the Scheme is to ensure that the senior citizens live a life of dignity and enjoy all the benefits and facilities which are due to them.

7. PLAN OF ACTION

7.1 Establishment of Tribunals, Appellate Tribunals etc.

As a precursor to the senior citizens being able to enforce their rights, it is essential that the institutions contemplated under the law for providing relief to them are set up.

- a) Section 7 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, provides for the setting up of one or more Tribunals for each sub-division for the purpose of adjudicating and deciding upon the order of maintenance. Section 15 of the Act also provides for the constitution of an Appellate Tribunal for each district to hear appeals against the orders of the Tribunal. The SLSAs and the DLSAs shall take up the issue of constitution of Tribunals and Appellate Tribunals as per the mandate of the Act on an urgent basis with the State Government.
- b) Section 19 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 provides for the establishment of Old Age Homes for Indigent Senior Citizens i.e. senior citizens who do not have sufficient means, as determined by the State Government, from time to time to maintain themselves. The SLSAs and DLSAs will take up with the State Government, the matter of establishment of sufficient number of Old Age Homes for Indigent Senior Citizens. The SLSAs and DLSAs may also explore the possibility of setting up of Old Age Homes for Senior Citizens under Corporate Social Responsibility.

Note: For the purposes of grant of legal aid, the eligibility criteria is laid down in Section 12 of the Legal Services Authorities Act, 1987. All women including those who are senior citizens would be entitled to legal aid under Section 12 of the Act and all those who fall in any of the categories enumerated in Section 12 including senior citizens would be entitled to legal aid. However, other services such as assistance in availing benefits under Governmental schemes, legal awareness may be provided across the spectrum to all senior citizens.

- c) SLSAs should carry out regular visits to the old age homes to ensure that the senior citizens have adequate facilities and that they are treated with dignity.

7.2 Legal Services Clinics

- a) SLSAs shall set up Legal Services Clinics at every Tribunal and Appellate Tribunal established under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 and also in old age homes.
- b) While at present there is a bar to lawyers appearing before the said Tribunals, it shall be ensured that trained para-legal volunteers are available in the Legal Services Clinics to assist the senior citizens in making applications and carrying out other procedural requirements.
- c) Opening of the Legal Services Clinics shall be communicated to all the Government bodies and departments including the police, NGOs.
- d) The Legal Services Clinics so established shall be governed by the National Legal Services Authority (Legal Services Clinics) Regulations, 2011 in respect of their functioning, infrastructural facilities, maintenance of records and registers, deputing of PLVs and control over such clinics.
- e) The SLSAs and DLSAs shall encourage the students in Legal Services Clinics set up in colleges and universities to visit old age homes and provide legal services to senior citizens in the community.
- f) The Legal Services Clinics shall also facilitate the widows and senior citizens in getting pensionary benefits and other entitlements.

7.3 Legal Representation

- a) All senior citizens who are entitled to legal aid under Section 12 of the Legal Services Authorities Act, 1987 shall be provided legal aid on a priority basis.
- b) It is essential that the Legal Services Institutions are accessible in terms of physical infrastructure for the senior citizens, otherwise access to justice would become meaningless for them. Accordingly, steps should be taken by Legal Services Institutions to ensure accessibility such as having the front office on the ground floor.
- c) SLSAs shall ensure that the senior citizens do not have to face any kind of discomfort in procedural wrangles.
- d) Every District Legal Services Authority and Taluka Legal Services Committee shall designate at least three panel lawyers as Legal Services Officers for the purpose of this Scheme.
- e) The District Legal Services Authorities shall also depute sufficient number of PLVs for the implementation of this Scheme and for this purpose they shall draw upon PLVs who are trained to attend to the problems of senior citizens. Efforts should also be made to identify and train PLVs from amongst the senior citizens, both men and women.
- f) The PLVs shall act as the interface between the senior citizens in the community who are unable to access the Legal Services Institutions and the Legal Services Institutions. Where it is not possible for the senior citizens to reach the Legal Services Institutions on account of their conditions, the Legal Services Institutions shall reach out to them through panel lawyers and PLVs.

g) SLSAs shall provide training to panel lawyers to enable them to sensitively deal with cases of senior citizens. The SLSAs shall ensure that the legal services provided to senior citizens are of the highest quality so that meaningful and effective legal services can be provided to them.

7.4 Identification of issues affecting senior citizens

- a) SLSAs and DLSAs shall make an endeavour to identify the core issues which affect the senior citizens in a particular area and deal with them accordingly. While some issues may be common across geographical barriers, there may be some issues which are unique to some areas such as in some areas, the senior citizens being on their own may be a major issue as their families may have migrated to cities or other countries. Certain health problems may be more acute in a particular area.
- b) SLSAs and DLSAs shall then seek solutions to the issues that arise on regional basis and use their resources to implement the solutions, including through coordination with the concerned governmental agencies.
- c) SLSAs and DLSAs should facilitate the setting up of self-help groups of senior citizens to encourage community support and to reduce a sense of dependency on the part of the senior citizens.

7.5 Database

- a) All SLSAs shall have database of all the existing Central or State Schemes, policies, regulations, policy directives concerning senior citizens and the same may also be published in the form of pamphlets or booklets to be used in dissemination of information and creating awareness about the rights of the senior citizens.
- b) SLSAs and DLSAs shall publish information booklets in regional languages explaining in simple terms:

- 1) provisions of law such as on maintenance, Wills, social welfare schemes;
- 2) details about access to remedies; and
- 3) contact details of helpline numbers available across the state.

Such information booklets may be distributed to senior citizens and used during awareness programmes.

- c) DLSAs shall also maintain a database of hospitals, medical centres and other facilities which may be available for senior citizens in their area.
- d) The information maintained by DLSAs shall be circulated to the Taluka Legal Services Committees, village panchayats, legal services clinics and PLVs.
- e) SLSAs/ DLSAs shall also upload the data collected on their website.
- f) DLSAs shall prepare a database of senior citizens in their area so that PLVs may be deputed for their assistance as and when necessary. Such database may also be shared with law enforcement agencies to address the security concerns of senior citizens. This would also enable the DLSAs to provide immediate assistance to persons in distress by coordinating with the concerned departments such as, health or police departments.

7.6 Implementation of various Schemes

- a) SLSAs shall take all steps to disseminate information regarding the policies, schemes, programmes to the senior citizens and government functionaries.

- b) SLSAs shall ensure that such information is prominently displayed in old age homes, hospitals and other places which are frequented by senior citizens.
- c) Various States have special schemes for security of senior citizens such as registration of senior citizens with the concerned police stations. SLSAs may liaise with the law enforcement authorities to address the security concerns of senior citizens and to enhance the interface between the police and the senior citizens such as through increased patrolling, maintaining regular contact with senior citizens once every week or every fortnight. SLSAs and DLSAs may depute PLVs to assist in the registration of senior citizens with the police stations, in getting servant and tenant verifications done and such other matters which concern the security of the senior citizens.
- d) Legal services to be provided would include informing the beneficiaries about the different government schemes to which they are entitled and the benefits thereunder; assisting the beneficiaries to procure the documents required for availing the benefits under the schemes; informing the beneficiaries of the name and address of the designated authority or the officer who may be approached for availing the benefits under the schemes; offering to send para-legal volunteers with the beneficiaries to the office of the designated authority or to the officer concerned under any of the schemes.
- e) SLSAs shall develop effective coordination and interface with all the governmental bodies or functionaries, non-governmental organizations and other organizations concerning the welfare of senior citizens to ensure that the benefits of the various schemes that exist for senior citizens reach the senior citizens.

7.7 Awareness

- a) SLSAs shall draw up yearly programme for creating awareness on the rights of senior citizens and should endeavour to create a culture which is sensitive to the rights and needs of senior citizens.
- b) The Legal Services Institutions shall organize awareness programmes to sensitize people to the needs of the senior citizens and that it is the moral duty of children to take care of senior citizens and not to leave them in a destitute condition in their old age.
- c) The Legal Services Institutions should explain the need to treat the senior citizens with dignity.
- d) SLSAs along with DLSAs shall conduct awareness programmes to generate awareness about the entitlements of the senior citizens under various laws and government schemes.
- e) SLSAs, DLSAs and Taluka Legal Services Committees shall also create awareness regarding the availability of legal services for senior citizens to facilitate access to their entitlements.
- f) Special awareness drives may be undertaken in old age homes or other places frequented by senior citizens and PLVs and students may be encouraged to actively participate in such programmes.
- g) While organising awareness programmes, the DLSAs and Taluka Legal Services Committees may also coordinate with the relevant health department to organise special health or check-up camps for senior citizens such as general health camps, eye check-up camps etc. or with the police to have a special registration drive of senior citizens.

- h) All possible methods of spreading awareness should be used such as Doordarshan, All India Radio, private TV channels, hoardings, organising cultural programmes and setting up stalls at religious fairs, festivals.
- i) SLSAs should engage with senior citizens and actively avail of their services in carrying out awareness programmes on various issues as the senior citizens may have greater credibility and appeal in an area.

7.8 Training and Orientation Programmes

SLSAs shall conduct training and orientation programmes for panel lawyers and PLVs to sensitize them on how to deal with cases of senior citizens and to build their capacity, knowledge and skill. Sensitization programmes should also be organized for other stakeholders such as the government functionaries, police personnel and NGOs.

7.9 Observance of the International Day for the Older Persons

All Legal Services Institutions shall observe 1st October of every year as the International Day for the Older Persons and organize awareness programmes on that day for creating awareness of the rights and entitlements of the senior citizens.



NALSA
(Legal Services to Victims of Acid Attack)
Scheme, 2016





NALSA (Legal Services to Victims of Acid Attacks) Scheme, 2016

1. BACKGROUND

- 1.1 Acid attacks are the most pernicious form of violence that is resorted to and is mostly gender specific. While acid attacks are reported in many parts of the world, the incidents of acid attacks in India have been on the rise. As per the data maintained by National Crime Records Bureau, the number of incidents of acid attacks reported in 2011 were 83, 85 in 2012 and 66 in 2013 though according to the Acid Survivors Foundation India (ASFI), at least 106 such attacks were reported in 2012, 122 in 2013 and 309 in 2014 and according to the activists, the figure rose to 500 in 2015. However, according to the National Crime Records Bureau, 222 cases of acid attacks were reported in 2015. The figures may vary but the number of acid attacks have been on the rise. There are also many unreported cases of acid attacks, especially in the rural areas and some such incidents may even result in the death of the victims. Many incidents are not reported due to fear of backlash from the perpetrators.
- 1.2 The incidents of acid attacks in India show that they are generally against the women. Quite often they are a result of a rejection of the marriage proposal or sexual advances. Conflicts related to dowry can also result in acid attacks. The acid attacks are also resorted to as a means of taking revenge or due to family or land disputes or over inheritance and other property issues. Occasionally, acid attacks may occur due to social or political or religious beliefs. The Justice Verma Committee constituted by the

Central Government in 2013 in the aftermath of the Nirbhaya case to suggest reforms in the criminal justice system dealt with the issue of acid attacks and observed:

“We understand that a most heinous form of attack on women, which is commonplace in several Asian and African countries is the throwing of acid on women for a multitude of reasons, including alleged adultery, turning down advances from men, and also as a form of domestic violence. Acids and other corrosive substances are thrown on women or administered to them, thereby causing death or physical and psychological damage with unfathomable consequences. The 226th Report of the Law Commission of India, which dealt particularly with this offence stated:

“Though acid attack is a crime which can be committed against any man or woman, it has a specific gender dimension in India. Most of the reported acid attacks have been committed on women, particularly young women for spurning suitors, for rejecting proposals of marriage, for denying dowry etc. The attacker cannot bear the fact that he has been rejected and seeks to destroy the body of the woman who has dared to stand up to him.”

5. In a certain sense, the aggressor is conscious that self-worth and self-esteem of a woman often lies in her face, which is a part of her personality. The dismemberment of the face or the body is not merely an offence against the human body but will cause permanent psychological damage to the victim. What happens when there is permanent physical and psychological damage to a victim, is a critical question and law makers have to be aware that offences are not simply based on the principle of what might be called offence against the body, i.e., damage of the body, but they must take into account the consequences on the right to live with dignity which survives the crime. This is an

important consideration both in the fields of criminology and also in the field of sociology.”

The factors which lead to acid attacks were thus discussed in both the Justice Verma Committee Report and in the 226th Report of the Law Commission as also the effects of acid attacks. Apart from lifelong bodily disfigurement and physical challenges often requiring life-long treatment, the psychological challenges are greater and deeply affect the victims apart from affecting the employability of the victims. It is also seen that there are limited medical facilities available in the country for acid victims with the number of specialised burn hospitals being limited and it becomes a herculean task for the victim to get admitted in a hospital, much less to get treatment which may often span from a few months to several years. The treatment may also involve huge costs for the victims and their families. The rehabilitation of the victims also becomes an important issue.

2. CONSTITUTIONAL GUARANTEES

- 2.1 The Constitution of India guarantees the right to life and liberty of every individual under Article 21. This has been interpreted to include the right to live with dignity and would encompass the right to live with dignity of all including victims of acid attacks. Article 41 of the Constitution lays down that the State shall, within the limits of economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want. Article 15(3) of the Constitution also empowers the State to make special provisions for women.

3. LEGISLATIVE FRAMEWORK

- 3.1 In the absence of any specific provisions to deal with incidents of acid attacks, such cases were generally dealt with under Section 326 of the IPC and other provisions. However, the Justice Verma Committee recommended that acid attacks be defined as an offence in the IPC and observed:

“9. The gender specificity and discriminatory nature of this offence does not allow us to ignore this offence as yet another crime against women. We recommend that acid attacks be specifically defined as an offence in the IPC, and that the victim be compensated by the accused. However in relation to crimes against women, the Central and State governments must contribute substantial corpus to frame a compensation fund. We note that the existing Criminal Law (Amendment) Bill, 2012, does include a definition of acid attack.”

Thus a recommendation was made not only for the inclusion of a specific offence in respect of acid attacks but also for providing compensation to the victims of acid attacks.

- 3.2 By virtue of Criminal law (Amendment Act), 2013, Sections 326A and 326B were inserted in the Indian Penal Code providing for punishment to anyone who causes permanent or partial damage or deformity to, or burns or maims or disfigures or disables, any part or parts of the body of a person or causes grievous hurt by throwing acid on or by administering acid to that person, or by using any other means with the intention of causing or with the knowledge that he is likely to cause such injury or hurt or who throws or attempts to throw acid on any person or attempts to administer acid to any person, or attempts to use any other means, with the intention of causing permanent or partial damage or deformity or burns or maiming or disfigurement or disability or

grievous hurt to that person. “Acid” was defined to include any substance which has acidic or corrosive character or burning nature that is capable of causing bodily injury leading to scars or disfigurement or temporary or permanent disability.

- 3.3 The issue of acid attacks also came up before the Supreme Court and in its order dated 18.7.2013 in Laxmi v. Union of India, W.P. (Crl.) No.129/2006, the Supreme Court directed that over the counter sale of acid would be completely prohibited unless the seller maintained a log/ register recording the sale of acid which would contain the details of the person(s) to whom acid(s) is/ are sold and the quantity sold. Further the acid would be sold only after the buyer had shown a photo ID issued by the Government which also had the address of the person and the reason/ purpose for procuring acid was specified. It was also directed that no acid shall be sold to any person who was below 18 years of age. Directions were also issued for educational institutions, research laboratories, hospitals, Government Departments and departments of Public Sector Undertakings who were required to keep and store acid. In the final order dated 10.4.2015, it was reiterated that an appropriate notification banning the sale of acid across the counter should be issued within three months from the date of the order. Further the Supreme Court in Parivartan Kendra and Anr. V. Union of India and Ors. WP (Civil) No.867 of 2013 decided on 7.12.2015 directed that stringent action be taken against those erring persons supplying acid without proper authorization and also the concerned authorities be made responsible for failure to keep a check on the distribution of the acid.
- 3.4 Regarding proper treatment, after care and rehabilitation of the victims of acid attack, a direction was issued by the order dated 10.4.2015 to the State Governments/ Union Territories to take up the matter with all the private hospitals to the effect that private

hospitals should not refuse treatment to victims of acid attack and that full treatment should be provided to such victims including medicines, food, bedding and reconstructive surgeries. It was also observed that action may be taken against hospital/ clinic for refusal to treat victims of acid attacks and other crimes in contravention of the provisions of Section 357C of the Code of Criminal Procedure, 1973. A direction was also issued that the hospital, where the victim of an acid attack was first treated should give a certificate that the individual is a victim of an acid attack which may be utilized by the victim for treatment and reconstructive surgeries or any other scheme that the victim may be entitled to with the State Government or the Union Territory, as the case may be.

- 3.5 Taking note of the fact that acid attack victims need to undergo a series of plastic surgeries and other corrective treatments, the Supreme Court in its order dated 18.7.2013 directed that the acid attack victims shall be paid compensation of at least Rs.3 lakhs by the concerned State Government/ Union Territory as the after care and rehabilitation cost, out of which a sum of Rs.1 lakh would be paid to the victim within 15 days of the occurrence of such incident (or being brought to the notice of the State Government/ Union Territory) to facilitate immediate medical attention and expenses in this regard. While disposing off the said writ petition on 10.4.2015, it was directed that the Member Secretary of the State Legal Services Authority take up the issue with the State Government so that the orders passed by the Court were complied with and a minimum of Rs.3,00,000/- was made available to each victim of acid attack. The Member Secretaries of the State Legal Services Authorities were also directed to give wide and adequate publicity in the State/ Union Territory to the Victim Compensation Scheme so that each acid attack victim could take the benefit of the Victim Compensation Scheme. It was also directed that in case of any compensation claim made by any acid

attack victim, the matter would be taken up by the District Legal Services Authority, which would include the District Judge and such other co-opted persons who the District Judge felt would be of assistance, particularly the District Magistrate, the Superintendent of Police and the Civil Surgeon or the Chief Medical Officer of that District or their nominee and the said body would function as the Criminal Injuries Compensation Board for all purposes. The matter also came up before the Supreme Court in Parivartan Kendra and Anr. V. Union of India and Ors. WP (Civil) No.867 of 2013 decided on 7.12.2015 where it was observed that the State and Union Territory concerned can give even more amount of compensation than Rs.3,00,000/- as was directed in Laxmi's case. An important direction given in this case was that all the States and Union Territories should consider the plight of such victims and take appropriate steps with regard to inclusion of their names under the disability list.

- 3.6 It is thus seen that acid attacks by themselves have been recognised as offences under the Indian Penal Code for which punishment is prescribed. Besides, Section 357A Cr.P.C. provides for a Scheme being drawn up by the State Government in coordination with the Central Government for providing funds for the purpose of compensation to the victim and such Schemes have been drawn up in most States and Union Territories which also provide for compensation to victims of acid attacks. The Central Government has issued the Central Victim Compensation Fund Guidelines with an objective to support and supplement the Victim Compensation Schemes of the States and Union Territories. A corpus of Rs.200 crores has been fixed for the purpose. One of the admissible activities under the Central Victim Compensation Fund is "to promote special financial assistance upto Rs.5 lakhs to the victims of acid attack to meet treatment expenses over and above the compensation paid by the State/Union Territory." However there is need for greater awareness

about the availability of compensation for victims of acid attacks. Despite specific directions to hospitals to provide treatment to victims of acid attacks, it is still not easy for them to get proper treatment. Over the counter sale of acid still remains rampant. It is thus felt by NALSA that Legal Services Institutions have a significant role to play and they can play a pivotal role in ensuring access to the benefits of the Victim Compensation Scheme to the victims of acid attacks and to the medical and other facilities.

4. Role of Legal Services Institutions

- 4.1 The Preamble of the Legal Services Authorities Act, 1987 emphasises that the legal services authorities are concerned with the weaker sections of the society and imposes a duty on them to ensure that opportunities for securing justice are not denied to any citizen by reason or economic or other disabilities. Under Section 4(b) of the Legal Services Authorities Act, 1987, the “Central Authority” i.e. the National Legal Services Authority has been obligated to “frame the most effective and economical schemes for the purpose of making legal services available under the provisions” of the Act. Further under Section 4(l) enjoins the “Central Authority” to take appropriate measures for spreading legal literacy and legal awareness amongst the people and, in particular, to educate weaker sections of the society about the rights, benefits and privileges guaranteed by social welfare legislations and other enactments as well as administrative programmes and measures. Likewise, under Section 7(c) it is the function of the State Authority i.e. the State Legal Services Authority to undertake preventive and strategic legal aid programmes. Thus the Act itself casts a duty upon the Legal Services Authorities to spread legal awareness about the laws and various administrative measures and programmes and to undertake preventive and strategic programmes. Besides, under Section 12 of the Act, all women are entitled to legal services as

also a person with disability as defined in clause (i) of section 2 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

5. NAME OF THE SCHEME

- 5.1 The Scheme shall be called “NALSA (Legal Services to Victims of Acid Attacks) Scheme, 2016”.
- 5.2 The terms PLVs, Legal Services Clinics and Panel Lawyers will mean the same as defined under the National Legal Services Authority (Free and Competent Legal Services) Regulations, 2010 and National Legal Services Authority (Legal Services Clinics) Regulations, 2011 and the NALSA Scheme for Para Legal Volunteers (Revised).

6. OBJECTIVES OF THE SCHEME

The main objectives of the Scheme are as follows:

- 1) To strengthen legal aid and representation at the national, state, district and taluka levels for victims of acid attacks in availing the benefits of the various legal provisions and schemes for compensation which exist;
- 2) To enable the victims of acid attacks to get access to medical facilities and rehabilitative services;
- 3) To create and spread awareness about the entitlements of the victims of acid attacks through the District Legal Services Authorities, Taluka Legal Services Committees, panel lawyers, para-legal volunteers and legal services clinics;
- 4) To enhance capacities at all levels of panel lawyers, para-legal volunteers, volunteers in legal services clinics, government officers tasked with the implementation of the various schemes,

service providers, police personnel, non-governmental organizations by organizing training, orientation and sensitization programmes; and

- 5) To undertake research and documentation to study the various schemes, laws etc. to find out the gaps, the needs and to make suggestions to the appropriate authorities.

The ultimate objective of the Scheme is to ensure that the victims of acid attacks are appropriately rehabilitated in the society and live a life of dignity.

7. PLAN OF ACTION

7.1 Legal Representation

- a) All victims of acid attacks shall be provided legal aid on a priority basis in order to enable them to get the benefit of the Victim Compensation Scheme.
- b) SLSAs and DLSAs shall ensure that the victims of acid attacks do not have to face any kind of delay in procedural wrangles and the interim compensation is awarded at the earliest.
- c) Support persons and legal representation shall be provided to victims of acid attacks during the recording of their statement under section 164 Cr.P.C., giving evidence etc.
- d) Every District Legal Services Authority and Taluka Legal Services Committee shall designate at least one panel lawyer as Legal Services Officer for the purpose of this Scheme.
- e) The District Legal Services Authorities shall also depute sufficient number of PLVs for the implementation of this Scheme.
- f) The PLVs shall act as the interface between the victims of acid

attacks and the Legal Services Institutions. All out endeavour shall be made to reach out to the acid attack victims.

7.2 Legal Services Clinics

- a) SLSAs shall set up Legal Services Clinics at hospitals having specialized facilities for treatment of burns where victims of acid attacks may be referred for treatment. The PLVs and panel lawyers deputed to such Legal Services Clinics shall be in regular touch with the victims of acid attacks and their relatives and ensure all possible help to them in securing appropriate medical help and treatment.
- b) The PLVs shall provide assistance and support to the families of victims of acid attacks and where possible counselling for them may be arranged so as to bring them out of trauma occasioned by the incident of acid attack.
- c) The PLVs shall also assist the victims of acid attack in obtaining from the hospital where the victim was first treated a certificate that the individual is a victim of an acid attack which may be utilized by the victim for treatment and reconstructive surgeries or any other scheme that the victim may be entitled to with the State Government or the Union Territory, as directed by the Supreme Court in the order dated 10.4.2015.
- d) The PLVs shall ensure that the victims of acid attacks are able to avail of various rehabilitative services that may be available for them.
- e) The Legal Services Clinics shall ensure that action is taken against hospitals which deny treatment to victims of acid attacks on superficial grounds.
- f) Opening of the Legal Services Clinics shall be communicated to

all the Government bodies and departments including the police, NGOs.

- g) The Legal Services Clinics so established shall be governed by the National Legal Services Authority (Legal Services Clinics) Regulations, 2011 in respect of their functioning, infrastructural facilities, maintenance of records and registers, deputing of PLVs and control over such clinics.

7.3 Co-ordination with the Government Departments

- a) The SLSAs shall coordinate with the States and Union Territories to amend the respective Victim Compensation Schemes to bring the same in line with the directions issued by the Supreme Court.
- b) The SLSAs shall remain in touch with the concerned governmental agencies to ensure that adequate funds are always available for disbursal as compensation to victims of acid attacks.

The SLSAs shall take up the matter with the concerned States and Union Territories for taking appropriate steps with regard to inclusion of the names of the victims of acid attacks under the disability list and thereafter to ensure that they get the benefit of all the schemes which are available for persons with disability

7.4 Database

- a) All SLSAs shall have database of the existing Central or State Schemes, policies, regulations, policy directives concerning victims of acid attacks and the same may also be published in the form of pamphlets or booklets to be used in dissemination of information and creating awareness.
- b) All SLSAs shall have database of the hospital where specialized facilities for treatment of burn victims are available.

- c) The lists prepared shall be circulated annually to all the District Legal Services Authorities which shall further circulate the same to the Taluka Legal Services Committees, village panchayats, legal services clinics and PLVs.
- d) SLSA shall also upload the list on their website.

7.5 Implementation of various Schemes

- a) SLSAs shall take all steps to disseminate information regarding the policies, schemes, programmes that exist for the victims of acid attacks.
- b) Legal services to be provided would include informing the beneficiaries about the different government schemes to which they are entitled and the benefits thereunder; assisting the beneficiaries to procure the documents required for availing the benefits under the schemes; informing the beneficiaries of the name and address of the designated authority or the officer who may be approached for availing the benefits under the schemes; offering to send para-legal volunteers with the beneficiaries to the office of the designated authority or to the officer concerned under any of the schemes.
- c) SLSAs shall develop effective coordination and interface with all the governmental bodies or functionaries, non-governmental organizations and other organizations concerning the welfare of victims of acid attacks to ensure that the benefits of the various schemes especially schemes for rehabilitation reach them.

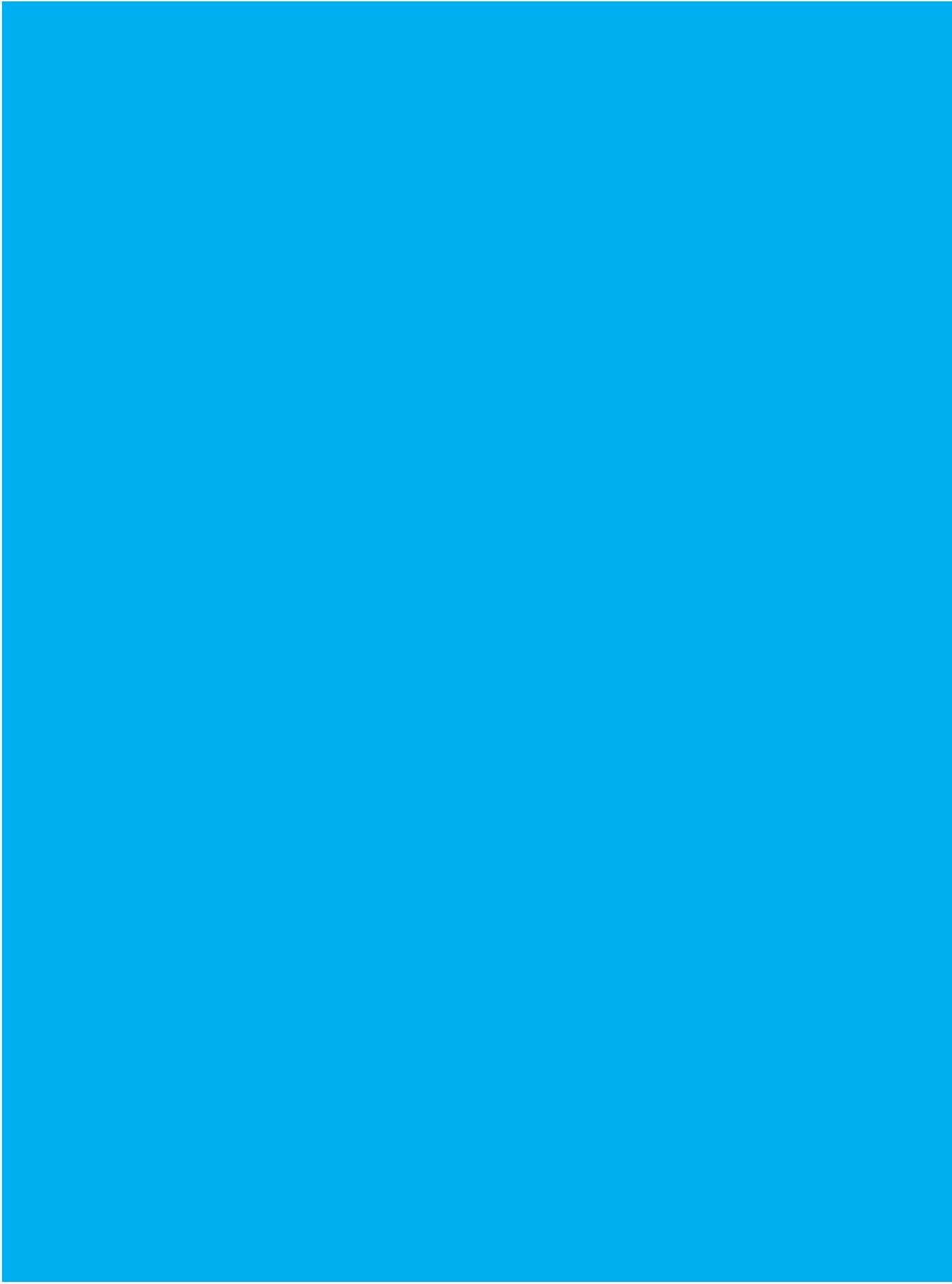
7.6 Awareness

- a) The Legal Services Institutions shall organize awareness programmes to sensitize people to the needs of the victims of acid attacks so that the community provides support to them which is essential for their rehabilitation.

- b) SLSAs along with DLSAs shall conduct awareness programmes to generate awareness about the Victim Compensation Scheme and the entitlements under the same and various laws and government schemes.
- c) SLSAs, DLSAs and Taluka Legal Services Committees shall also create awareness regarding the availability of legal services for victims of acid attacks to facilitate access to their entitlements.
- d) SLSAs, DLSAs and Taluka Legal Services Committees shall organize awareness drives to highlight that over the counter sale of acids stands prohibited. The PLVs may inform the concerned department or DLSAs if they come across any incidents of sale of acids so that appropriate action can be taken immediately.
- e) All possible methods of spreading awareness should be used such as Doordarshan, All India Radio, distribution of pamphlets, leaflets.

7.7 Training and Orientation Programmes

- a) SLSAs shall conduct training and orientation programmes for panel lawyers and PLVs to sensitize them on how to deal with cases of victims of acid attacks and to build their capacity, knowledge and skill. Sensitization programmes should also be organized for other stakeholders such as the government functionaries, police personnel, medical officers and NGOs.
- b) SLSAs shall, in coordination with the State Judicial Academies, plan and conduct training/ sensitization programmes for Judicial Officers with a view to ensuring quick and adequate award of compensation, including interim compensation, and a fair and dignified treatment of the victims of acid attacks during trial of cases.



NALSA (Effective Implementation of Poverty Alleviation Schemes) Scheme, 2015

1) Background

Under Section 4 (I) of the Legal Services Authorities Act, 1987, the National Legal Services Authority envisaged as the Central Authority under the Act, is obligated to “take appropriate measures for spreading legal literacy and legal awareness amongst the people and, in particular, to educate weaker sections of the society about the rights, benefits and privileges guaranteed by social welfare legislations and other enactments as well as administrative programmes and measures”. The Preamble of the Legal Services Authorities Act, 1987, underscores that the legal services authorities are concerned with the weaker sections of the society and imposes a duty on them to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.

Very often intended beneficiaries of poverty alleviation and social security measures are unable to access the benefits due to severe lack of capabilities, social structures, economic marginalisation and exploitation, social values, cultural norms, discrimination etc. In this context, the role of legal services authorities must be a proactive one where measures designed to alleviate poverty must be brought to the attention of the intended beneficiaries. Further, legal services authorities are very well suited to facilitating access to such poverty alleviation measures due to their last mile presence. Therefore this scheme lays down a mechanism for identification of poverty alleviation and social security measures, a framework for facilitating access to such measures by intended beneficiaries and a model for effective review of these processes. In designing this scheme, the concern that there could be local variations and requirements have been particularly considered and sufficient flexibility has been built in for local legal aid authorities to adapt this national scheme according to their needs.

This scheme is built on the foundation that poverty is a multi-dimensional experience and is not limited to issues of income. Multi-dimensional poverty include issues like health (including mental health), housing, nutrition, employment, pension, maternal care, child mortality, access to water, education, sanitation, subsidies and basic services, social exclusion, discrimination etc. Further, in identifying the specific schemes for implementation at the state and district level, legal services authorities are expected to be cognisant of the fact various vulnerable and marginalised groups experience poverty in myriad and unique ways.

2) Name of the Scheme

This Scheme shall be called "**NALSA (Effective Implementation of Poverty Alleviation Schemes) Scheme, 2015**".

3) Definitions

- 1) "Act" means the Legal Services Authorities Act, 1987.
- 2) "Central Authority" means the National Legal Services Authority constituted under Section 3 of the Act.
- 3) "Complainant Beneficiary" refers to any Scheme Beneficiary who files a complaint against any designated authority or officer who is identified as the designated authority or officer under any of the Poverty Alleviation Schemes.
- 4) "District Authority" means a District Legal Services Authority constituted under section 9 of the Act.
- 5) "Legal Services Officer" refers to any person who is designated as such for the purpose of this Scheme.
- 6) "Para-legal volunteers" refers to 'PLV' as defined and trained under the NALSA Scheme for Para Legal Volunteers (Revised) and Module for the Orientation – Induction – Refresher Courses for PLV Training.

- 7) "Poverty Alleviation Schemes" refer to any scheme/ programme/ launched either by the Central Government, or the State Government, that is aimed at addressing any dimension of poverty. They also include social security measures.
- 8) "Scheme Beneficiaries" include:
 - a. Scheduled Castes or Scheduled Tribes;
 - b. all persons eligible for applying under the Poverty Alleviation Schemes; and
 - c. other persons for whom special economic, social or political measures are taken including but not limited to children, women and transgenders.
- 9) "State Authority" means State Legal Services Authority constituted under Section 6 of the Act.
- 10) "Taluka Legal Services Committee" means a Taluka Legal Services Committee constituted under section 11-A of the Act.
- 11) The terms Legal Services Clinics, Front Office, Panel Lawyers and Retainer Lawyers will mean the same as defined under the National Legal Services Authority (Free and Competent Legal Services) Regulations, 2010 and National Legal Services Authority (Legal Services Clinics) Regulations, 2011.

4) Objectives of the Scheme

The main objectives of the Scheme are as follows:

- 1) To ensure access to basic rights and benefits afforded to socially or economically weaker sections of society;
- 2) To strengthen legal aid and support services at the national, state, district and taluka levels for persons belonging to socially or economically weaker sections in accessing Poverty Alleviation Schemes;

- 3) To spread awareness about the Poverty Alleviation Schemes through the members of the District Authority, Taluka Legal Services Authority, panel of lawyers, social workers, para-legal volunteers, and students in legal aid clinics;
- 4) To create a database of all the existing central or state schemes, policies, regulations, policy directives, conventions, rules, and reports available concerning Poverty Alleviation Schemes along with the latest funding information on these schemes;
- 5) To undertake and organise training and orientation programs, for panel lawyers, para-legal volunteers, officers under Poverty Alleviation Schemes, student volunteers in legal aid clinics for their skill enhancement and for developing a sense of deeper engagement amongst them for implementing this Scheme; and
- 6) To develop effective coordination and interface with all government bodies or functionaries, institutions, authorities, NGOs and other organisations concerning or entrusted with the responsibilities relating to welfare of socially/ economically weaker sections of the society.

5) Identification of Poverty Alleviation Schemes

- 1) Every State Authority shall identify the existing and active Poverty Alleviation Schemes applicable in the state and circulate a list of the same every twelve months to all the District Legal Services Authorities in the state. The list shall include the following:
 - a. Poverty Alleviation Schemes applicable in that State along with the names of the specific districts in which they are applicable in that year;
 - b. The intended beneficiaries under each of the Poverty Alleviation Schemes;
 - c. The name of the designated authority or the designated officer to be approached to access each of the Poverty Alleviation Schemes, as identified under each of them;

- d. The list of documents required to access each of the Poverty Alleviation Schemes, as identified under each of them;
 - e. The benefits under each of the Poverty Alleviation Schemes, as provided for in each of them;
 - f. The amount of funds allocated to each of the Poverty Alleviation Schemes by the Central Government, or the State Government, or both of them, as the case maybe, for the particular year;
- 2) The list prepared by every State Authority under sub-clause (1) shall be circulated annually to all the District Authorities. A copy shall also be sent to the Central Authority.
- 3) The State Authority shall also upload the list under sub-clause (1) on their web-site.
- 4) Every District Authority shall, on the receipt of the list prepared under sub-clause (1), within 7 days of receipt of the list, send a copy of the list to the following functionaries:
- a. All Taluka Legal Services Committees in the district;
 - b. All the village panchayats in the district;
 - c. People working in legal services clinics, members of Panchayats, law students and other para-legal volunteers who volunteer to assist in the implementation of the Scheme.

6) Organisation of Awareness programmes

- 1) The State Authorities in collaboration with concerned District Authorities shall take steps for conducting awareness programmes to generate awareness about various Poverty Alleviation Schemes available in that District. Steps shall also be taken by Taluka Legal Services Committees to create awareness regarding the availability of legal services for accessing Poverty Alleviation Schemes, in Panchayat meetings, town hall meetings, Pulse Polio camps, festival gatherings or other village gatherings.

- 2) All State Authorities shall send a list of such programmes organised in their respective jurisdictions every six months to the Central Authority.

7) Legal Services Officers and Para-legal Volunteers

- 1) Every District Authority and Taluka Legal Services Authority shall designate at least three panel lawyers as Legal Services Officers for the purpose of this Scheme.
- 2) District Authorities shall constitute teams of PLVs under a Legal Services Officer to implement this Scheme and the Legal Services Officer will supervise and mentor the PLVs in his team to help the beneficiaries access the various schemes of the Govt.
- 3) District Authorities shall conduct specialised training programs for panel of lawyers, members working in legal services clinics, members of panchayats, law students and other para-legal volunteers to assist in the implementation of the Scheme, to sensitise them regarding the needs of persons belonging to socially and economically weaker sections and the benefits that they can avail through Poverty Alleviation Schemes.

8) Legal assistance for access to Poverty Alleviation Schemes

Legal assistance must be provided to all the Scheme Beneficiaries seeking access to Poverty Alleviation Schemes. Legal services to be provided by Legal Services Officers or volunteers under this Scheme includes, *inter alia*:

- 1) Informing the Scheme Beneficiaries about each of the Poverty Alleviation Schemes to which they are entitled, and the benefits thereunder

- 2) Assisting the Scheme Beneficiary in procuring the documents required for availing the benefits under any of the Poverty Alleviation Schemes
 - 3) Informing the Scheme Beneficiary of the name and the address of the designated authority or the officer to be approached for registration under any of the Poverty Alleviation Schemes
 - 4) Offering to send para-legal volunteers including from the legal services clinics with Scheme Beneficiaries to the office of the designated authority or the officer to be approached under any of the Poverty Alleviation Schemes
 - 5) Informing the Scheme Beneficiary of her option to register a complaint with the Legal Services Officer or para-legal volunteer, about any designated authority or officer under any of the Poverty Alleviation Schemes who refuses to cooperate with a Scheme Beneficiary in providing her access to the benefits that she is entitled to under the Poverty Alleviation Scheme.
 - 6) Maintaining a record of all the complaints received under sub-clause (5).
 - 7) Providing Scheme Beneficiaries with the contact number, if available, of the Legal Services Officer, and availability of the Legal Services Officer on call during working hours for such Scheme Beneficiaries to whom contact number is provided
- 9) Action by Legal Services Officers on complaints**
- 1) On receiving complaints under sub-clause (5) of clause 8, each Legal Services Officer shall herself personally accompany the Complainant Beneficiary to the office of the designated authority or officer, and assist the Complainant Beneficiary in availing the benefit that she is entitled to under the Poverty Alleviation Scheme.
 - 2) In case the designated authority or officer fails to register the Complainant Beneficiary in the Poverty Alleviation Scheme, the

Legal Services Officer shall submit a complaint to the District Authority. The letter of complaint shall describe the conduct of the designated authority or officer who refused to register the Complainant Beneficiary under the Poverty Alleviation Scheme, and circumstances of such refusal and whether refusal was despite submission of all necessary documents.

10) Action by District Authority and State Authority on complaints

- 1) On receiving a complaint regarding the designated authority or officer, the District Authority shall seek a report from the concerned officer regarding the reasons for denying the benefits under the Poverty Alleviation Scheme to the Complainant Beneficiary. In the event that sufficient reason is not provided by the concerned officer for refusal to register the Complainant Beneficiary in the Poverty Alleviation Scheme or to provide benefits under the Poverty Alleviation Scheme, the District Authority shall immediately communicate to the superior officer in the department the details of the refusal to provide access to the Poverty Alleviation Scheme.
- 2) If the superior officer, in the opinion of the District Authority, also withholds the benefit under the Poverty Alleviation Scheme without sufficient cause, the District Authority shall then communicate the same to the State Authority.
- 3) On receiving such communication from the District Authority, the State Authority may choose to further pursue the matter with the concerned department or file appropriate legal proceedings to ensure that the Complainant Beneficiary receives the benefit under the Poverty Alleviation Scheme.
- 4) The District Authority, through para-legal volunteers or legal services clinics, shall provide regular updates to the Complainant Beneficiary about the status of the complaint.

11) Evaluation of the Scheme

- 1) Every Legal Services Officer shall follow-up with each Scheme Beneficiary who sought legal assistance under this Scheme and record:
 - a. if such person was able to register under the Poverty Alleviation Scheme sought to be registered under and whether such benefits were being received
 - b. any grievances experienced by the Scheme Beneficiaries in getting registered and availing benefits under the various Poverty Alleviation Schemes.
- 2) The District Authority shall compile the observations made under sub-clause (1) for all the Legal Services Officers working under the Scheme in the district, and shall send a copy of such observations in a compiled document to the State Authority every six months.
- 3) The State Authority shall consolidate the compiled documents received from all the District Authorities under sub-clause (2), and hold a meeting every 6 months to review the functioning and effectiveness of this Scheme. The minutes of such meeting shall be recorded and published as a public document.
- 4) If in the meeting under sub-clause (3), the State Authority finds a substantive or procedural defect in any of the Poverty Alleviation Schemes which makes seeking benefits under the scheme a problem for the Scheme Beneficiaries, such defect must be brought to the notice of the Central Government or the State Government, as the case may be for improving the specific Poverty Alleviation Scheme and/or its effective implementation.



NALSA

ENSURING ACCESS TO JUSTICE
FOR
WIDOWS LIVING IN SHELTER HOMES

NATIONAL LEGAL SERVICES AUTHORITY
12/11 JAM NAGAR HOUSE, SHAHJAHAN ROAD, NEW DELHI-110011

Ensuring Access to Justice for widows living in Shelter Homes.

Background:

As per the 2011 census, there are 5.6 crore widowed persons in India.

Women outnumber men accounting for nearly 78 % i.e 4.36 crore of total widowed population. Many widows live life as social and economic outsiders, denigrated and abandoned. Often illiterate, the widows themselves are unable access any beneficial government Scheme or Justice System. They are not even aware of their entitlements under the welfare schemes. They are not aware of their inheritance and land rights.

NALSA, keeping in view the same, filed the Writ Petition titled “National Legal Services Authority Vs. Union of India” W.P. (Civil) No. 133/2012, in Hon’ble Supreme Court of India for protection of rights of the widows. Various orders were passed with regard to the widows living in the Shelter Homes of Vrindavan, Uttar Pradesh. Work was carried out for the welfare of Widows accordingly.

In a related matter (WP (C) 659 of 2007), Hon’ble Supreme Court passed judgment dated 11.08.2017. In the said judgment as many as 18 reports on the plight of widows all over the nation have been mentioned. Also a separate Committee has been constituted to scan through the reports and suggest and prefer an Elaborate Action Plan. However as per the inputs received by Hon’ble Supreme Court on Agreed Action Plan is put forth whereby NALSA is mandated to create a mechanism to provide Legal Services at Shelter Homes where Widowed women reside.

Hence, in view of the same, the following protocol has been devised.

(1) **Database of Homes housing widows:-**

State Legal Services Authorities shall help Ministry of Woman and Child Development (WCD) and State Commission for Woman(SCW) prepare a common database of Shelter Homes, run by Government or NGOs providing shelter to widows. In this process, help from the Police Departments as well as other Government departments may be sought for compiling correct data base. Data shall include the name and address of the home, total number of inmates and the organization which runs it.

(2) **Database of Widows:-**

After identification of the homes, SLSAs shall assist WCD and SCW to prepare a data base of the, data base of the widows residing therein with the help of special teams constituted with Government representatives. The information shall contain the following:

- i. Name of the widow.
- ii. Name of her deceased husband, if any.
- iii. Age.
- iv. Particulars of address where she lived with her husband (last family).
- v. The number and particulars of her children, if any.

(3) **Compilation of Welfare Schemes:-**

The State Legal Services Authorities shall make compilation of welfare schemes run by Department of Woman and Child Development or State Commission for Woman or any other Department of Central or State Government which are applicable to the widows. Poverty alleviation schemes particularly be identified and

complied. The said compilation be sent to the District Legal Services Authorities.

(4) **Constitution of Teams & Training:**

The District Legal Services Authority shall constitute a team of five members consisting of 4 Para Legal Volunteers (PLVs) and 1 Panel Lawyer. Preferably team shall be comprised of women PLVs and Panel Lawyers, if feasible one representative of DWCD and SCW as well. Credible NGOs already working in the field may be also associated with the team.

After formation of the team, a workshop be conducted for the team so as to apprise the team members about the various welfare schemes, programmes and policies related to the Widows. They be also apprised about Woman laws and law regarding inheritance. Request be made to the Department of Woman and Child Development, Department of Social Welfare, State Commission for Woman and other concerned departments to provide necessary training so that the team constituted know the various applicable welfare schemes and the formalities/process required to be completed before submitting form/application to the concerned department.

(5) **Sensitization and visits to homes:-**

The team shall also be sensitized about the objective of the visits. The following objectives of visits shall be kept in view:

- i. Verify if such widow has identification documents like Aadhar Card, Voter Card etc.
- ii. Examining as to whether widows are connected to welfare schemes meant for them, if not how to ensure it.

- iii. To identify as to whether they have been denied any right in the property to which they are entitled, if so proper litigation.
- iv. To ascertain as to whether any offence has been committed against any widowed woman, if so remedial action.
- v. To understand the legal needs of widows and suggest remedies.
- vi. To spread awareness about their entitlements under law and welfare schemes.
- vii. Whether they have Bank Account in their personal names.

Wherever and whenever deemed appropriate, Secretary, DLSA shall accompany the team during the visit. The team shall also be sensitized that their visits shall not cause unnecessary interference in the day to day working of the Home. The visits shall be accordingly devised and executed so as to cause the least interference and at the same time fulfil the objectives effectively and meaningfully.

(6) **Remedying the disconnect :-**

- i. The team shall visit the identified homes once in a fortnight.
- ii. Teams shall spread awareness amongst the inmates about the availability of free legal services and relevant welfare schemes.
- iii. The teams during their visits shall examine as to whether each of the inmates of the Home is linked to the welfare schemes or not.
- iv. They shall also determine as to whether inmates have their bank accounts and the documents such as Aadhar Card and Voter Card.
- v. In case the inmates are not having such documents and not connected to the welfare schemes then appropriate steps such as

filling of forms, writing applications and submission of forms etc.

be taken

- vi. Facilitate the making of Aadhar Card, Voter Card, opening of bank account etc. and connecting the said identified inmates with the welfare schemes.
- vii. The report in this regard be sent to the office of District Legal Services Authorities. The District Legal Services Authority shall overview the entire process.

(7) **Abandonment and denial of rights in property:-**

- i. The team shall also determine as to whether the inmates have been deprived of the self-earned or inherited property to which they are legally entitled. In such a case, the matter be reported to the office of DLSA. If matter comes within the area of operation of the concerned/local DLSA then immediately steps will be taken by DLSA for providing legal advice and assistance for institution of appropriate proceedings, if required
- ii. If the matter pertains to other DLSAs or other SLSAs, the matter be reported to the State Legal Services Authority. The State Legal Services Authority shall accordingly refer the matter to the concerned Legal Services Institution.
- iii. It be ensured that appropriate proceedings are instituted and the inmate is kept informed of the proceedings instituted and the next date of hearing etc.
- iv. In case of abandonment, steps be taken to initiate appropriate legal proceedings under Maintenance of Parents and Senior Citizens Act, 2007 against the offenders.

(8) **Facilitating remarriages of widows:-**

Widows of marriageable age be identified in the Shelter Homes. Steps be taken to promote their remarriage to bring them in main stream society. In this regard, NGOs already working in the field, may also be associated.

(9) **Identification of Mentally ill or other associated problems:-**

If in the house, the team come across any inmate who appears to be suffering from mental illness or any other associated problem, the matter be taken up with the Health Department so that the concerned department does the requisite for remedying the health problem.

(10) **Report :**

The State Legal Services Authorities shall submit compiled reports in the format annexure ‘A’ to the National Legal Services Authorities on quarterly basis.

ANNEXURE ‘A’

Database of Shelter Homes housing widow

NAME OF SLSA: _____

Period/quarter: _____

S.NO	NAME OF HOME (ADDRESS BE MENTIONED)	NUMBER OF INMATES	INMATES CONNECTED WITH WELFARE SCHEMES	INMATES PROVIDED LEGAL ADVICE	INMATES PROVIDED LEGAL AID IN INSTITUTING PROCEEDINGS BEFORE COURT OF LAW/AUTHORITY	AWARENESS CAMPS HELD

Guidelines Issued by National Legal Services Authority (NALSA) for Legal Services in Juvenile Justice Institutions in connection with the compliance of the order dated 19.08.2011 of Hon'ble Supreme Court of India in Sampurna Behrua v. Union of India & Ors. W.P.No. (C) No. 473/2005 to establish legal aid centres attached to JJBs.

1. When a child is produced before Board by Police, Board should call the legal aid lawyer in front of it, should introduce juvenile / parents to the lawyer , juvenile and his/her family/parents should be made to understand that it is their right to have legal aid lawyer and that they need not pay any fees to anyone for this.
2. JJB should give time to legal aid lawyer to interact with juvenile and his/her parents before conducting hearing.
3. Juvenile Justice Board should mention in its order that legal aid lawyer has been assigned and name and presence of legal aid lawyers should be mentioned in the order.
4. Board should make sure that a child and his parents are given sufficient time to be familiar with legal aid counsel and get time to discuss about the case before hearing is done.
5. Juvenile Justice Board should make sure that not a single juvenile's case goes without having a legal aid counsel.
6. Juvenile Justice Board should issue a certificate of attendance to legal aid lawyers at the end of month and should also verify their work done reports.
7. In case of any lapse or misdeed on the part of legal aid lawyers, Board should intimate the State Legal Services Authority and should take corrective step.
8. Juvenile Justice Board and the legal Aid lawyers should work in a spirit of understanding, solidarity and coordination. It can bring a sea-change.
9. Legal Aid Lawyer should develop good understanding of Juvenile Justice Law and of juvenile delinquency by reading and participating in workshops/ trainings on Juvenile Justice.

- 10.Legal Aid Lawyer should maintain a diary at center in which dates of cases are regularly entered.
- 11.If a legal aid lawyer goes on leave or is not able to attend Board on any given day, he/she should ensure that cases are attended by fellow legal aid lawyer in his/her absence and that case is not neglected.
- 12.Legal Aid lawyer should not take legal aid work as a matter of charity and should deliver the best.
- 13.Legal Aid Lawyer should raise issues/ concerns/ problems in monthly meeting with District Legal Services Authority.
- 14.Legal Aid Lawyer should maintain file of each case and should make daily entry of proceeding.
- 15.Legal Aid lawyer should not wait for JJB to call him/her for taking up a case. There should be effort to take up cases on his/her own by way of approaching families who come to JJB.
- 16.Legal Aid Lawyer should inspire faith and confidence in children/ their families who cases they take up and should make all possible efforts to get them all possible help.
- 17.Legal Aid lawyer should abide by the terms and conditions of empanelment on legal Aid Panel.
- 18.Legal Aid lawyer should tender his/her monthly work done report to JJB within one week of each month for verification and should submit it to concerned authority with attendance certificate for processing payments.
- 19.Legal Aid Lawyer must inform the client about the next date of hearing and should give his/her phone number to the client so that they could make call at the time of any need.

Member-Secretary,
National Legal Services Authority.



A QUICK OVERVIEW

STATUS OF JUVENILE JUSTICE SYSTEM

Structures, Mechanisms & Processes

JANUARY, 2019



NATIONAL LEGAL SERVICES AUTHORITY

12/11 JAM NAGAR HOUSE, NEW DELHI
website: www.nalsa.gov.in, e-mail: nalsa-dla@nic.in
Cont. 011-23382778



A QUICK OVERVIEW

STATUS OF JUVENILE JUSTICE SYSTEM

Structures, Mechanisms & Processes

JANUARY, 2019



NATIONAL LEGAL SERVICES AUTHORITY

12/11 JAM NAGAR HOUSE, NEW DELHI
website: www.nalsa.gov.in, e-mail: nalsa-dla@nic.in
Cont. 011-23382778



STATUS OF JUVENILE JUSTICE SYSTEM

©National Legal Services Authority-2019

ISBN No. 978-81-939706-7-6

*Madan B. Lokur
Judge
Supreme Court of India*



*4, Akbar Road
New Delhi-110011
Phone : 23014102
Fax : 23014107
E-mail : madanolokur@nic.in*

FOREWARD

Child rights have been given little or no importance in the overall development plans by just about every Government. This is unfortunate, particularly if we view children as the future of our country. Therefore, if we don't recognise the rights of our children and look after them today, we are effectively endangering the future of our country.

It is true that there are laws that recognise the rights of children and protect those rights but unless these laws are implemented with sincerity and commitment, it would only amount to paper recognition. Who are the authorities that should ensure that the laws for children are meaningfully interpreted and implemented? The Juvenile Justice (Care and Protection of Children) Act, 2015 establishes and constitutes several authorities. Unfortunately, there are so many of them that it is difficult to keep a track of all of them. As a first step, the National Legal Services Authority (NALSA) has identified the structures and mechanisms established under the law. This by itself is a very welcome and useful exercise.

However, what is more important is that NALSA has also sought and obtained information which gives a clear idea of the actual working of these institutions—are these institutions following the mandate of the law and are they monitoring the effective implementation of the Juvenile Justice (Care and Protection of Children) Act? The efforts put in by NALSA are commendable and the results are significant. They focus, without comment, on the deficiencies and strengths in the implementation of the law. This is really the first step in a long journey in the effective implementation of the rights of children and the protection and preservation of those rights.

The Efforts of NALSA must be carried forward by civil society organisations who must crosscheck the information provided to NALSA. It is very well to report to NALSA that all institutions are functioning as required by law but it is another thing to actually validate the reports given. Presently, this is beyond the scope of NALSA's activities and that is why it is necessary for civil society organisations and non-government organisations to chip in with accountability efforts so that we can ensure a better life for the children of our country and thereby ensure a better future for all of us.

My compliments to the NALSA team for taking a giant step forward in recognition of the rights of children. With continued coordinated teamwork, for which NALSA is well known, I'm sure that massive and much deserved changes can be brought about in providing legal aid and services to disadvantaged and deprived sections of society and access to justice for all coupled with appropriate remedial action. Hopefully, this will soon become a reality, particularly for children.



December 29, 2018

(Madan B. Lokur)

PREFACE

The provisions of the Indian Constitution lay down that children should be developed in a healthy manner and in conditions of freedom and dignity, free from exploitation and against moral and material abandonment. Deriving its roots therefrom and the welfare of the children being of paramount importance, the Juvenile Justice (Care and Protection of Children) Act, 2000 was enacted to consolidate and amend the law relating to children alleged and found to be in conflict with law and children in need of care and protection.

Despite the enactment of such constitutional and statutory provisions, it was felt that the rights of the children were not properly secured, in-as-much-as, it was found that the conditions of some of the children of the country were pitiable and that they neither had any source nor means to improve the same.

In the case of Sampurna Behura v Union of India, a writ petition was filed to highlight the ineffective implementation of the laws relating to the protection of children.

On 26th September, 2005 the Supreme Court took up for consideration and found that the States had failed to implement some of the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2000. The Right to Life provision of the Constitution of India was being violated as the children were deprived of their basic rights. The Act of 2000 has since been repealed and what is now in force is the Juvenile Justice (Care and Protection of Children) Act, 2015.

Based on the directions from the Hon'ble Supreme Court in 2011 in the said case, NALSA prepared and presented a report relating to the implementation of the provisions of the Act of 2000 in all the states. The Supreme Court further passed a direction to NALSA in the order dated 9-12-2017 to furnish a report regarding the implementation of the Juvenile Justice (Care and Protection of Children) Act, 2015 and Rules, 2016.

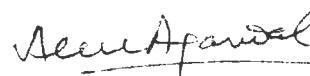
In pursuance to the said direction NALSA has prepared the present report highlighting the status of the implementation of the Juvenile Justice (Care and Protection of Children) Act, 2015 and the Juvenile Justice (Care and Protection of Children) Rules, 2016. The report also presents a glimpse of the Juvenile Justice Institutions, mechanisms and structures across the country.

In the said report a detailed analysis was carried out based on the responses provided by the State Legal Services Authorities (SLSAs) to the questionnaire prepared by NALSA as on 30th June, 2018 for the purpose of ascertaining the status of implementation of the Juvenile Justice Institutions in different parts of the country.

The present report gives a glimpse of the status of the structures and mechanisms established under the Juvenile Act Across the country.

We gratefully acknowledge all the State Legal Services Authorities (SLSAs) for extending the much needed help and cooperation in collecting the required information from the authorities concerned and making the same available to NALSA in a short span of time. The information collected formed the very basis of this work.

We express our heartiest gratitude to the team of the Bachpan Bachao Andolan (BBA) for providing valuable inputs for devising the questionnaire for the present work. We also express our profound gratitude to Ms. Bharti Ali, co-founder & director of HAQ: Centre for Child Rights, for her invaluable support by carrying out the proof reading and editing of the work and putting it in a presentable form. Her efforts have enriched the work. Our law researchers Miss Debaborninee Devi and Miss Chetana Singha made meticulous efforts in compiling the information sent by different states, analyzing and presenting the same to NALSA and to all concerned who have worked hard to complete the work and make it a successful one.



Alok Agarwal
Member Secretary
National Legal Services Authority

CONTENT

S. No.	Topic	Page No.
	Abbreviations	
1.	INTRODUCTION	1-2
2.	JUVENILE JUSTICE SYSTEM: STRUCTURES AND MECHANISMS ESTABLISHED UNDER THE JUVENILE JUSTICE ACT	3-5
3.	MIS: STATE AND DISTRICT LEVEL DATABASE MAINTAINED BY SCPS AND DCPUs	6-10
4.	CHILD CARE INSTITUTIONS	11-18
4.1	Observation Homes	11-12
4.2	Special Homes	13
4.3	Place of Safety	14-15
4.4	Children's Homes	15-16
4.5	Open Shelters	16-17
4.6	Fit Facilities	17-18
5.	MANAGEMENT COMMITTEES IN CCIs	19
6.	CHILDREN'S COMMITTEES IN CCIs	20-22
7.	INDIVIDUAL CARE PLANS	23-24
8.	FOLLOW-UP POST RESTORATION AND RELEASE	25
9.	ALTERNATIVE CARE	26
9.1	Adoption	27
9.2	Foster Care	27
9.3	Fit Person	27-28
9.4	After Care	28
10.	TRAINING & CAPACITY BUILDING	29-31
10.1	Induction Training for Statutory Bodies	29
10.2	Training for Police	30
10.3	Training of Staff in CCIs	30-31
11.	AWARENESS ABOUT JJ ACT & ICPS	32-33

Abbreviations

CCI - Child Care Institution

CICL - Children in conflict with the law

CNCP - Children in need of care and protection

CWPO - Child Welfare Police Officer

DCPU - District Child Protection Society

DLSA - District Legal Services Authority

etc. - etcetera

i.e. - that is

ICP - Individual Care Plan

ICPS - Integrated Child Protection Scheme

JJ Act / JJA - Juvenile Justice (Care and Protection of Children) Act, 2015

JJ Model Rules - Juvenile Justice (Care and Protection of Children) Model Rules, 2016

JJF - Juvenile Justice Fund

MIS - Management Information System

NALSA - National Legal Services Authority

NIMHANS - National Institute of Mental Health & Neuro Sciences

NIPCCD - National Institute of Public Cooperation and Child Development

SAA - Specialised Adoption Agency

SCPS - State Child Protection Society

SJPU - Special Juvenile Police Unit

SLSA - State Legal Services Authority

UNICEF - United Nations Children's Fund

UT - Union Territory

viz. - that is to say, namely / videlicet (in Latin)

wrt - with respect to

1.

INTRODUCTION

State being the guardian of children and all persons under legal disability has the primary duty to protect their interests. While legal reform in matters concerning children date back to the colonial period, Independent India framed its first special law on juvenile justice in the year 1986. It has since been amended from time to time in compliance with India's constitutional as well as international human rights obligations and as per directions of the apex court, with the aim to improve the administration of juvenile justice. The law as applicable now is called the Juvenile Justice (Care and Protection of Children) Act, 2015.

India's law on juvenile justice is unique in many ways. Unlike most countries in the world, it covers two categories of children, namely, children in need of care and protection (CNCP) and children in conflict with the law (CICL), giving importance to both preventing and protecting children from vulnerabilities of varied nature. There are distinct and separate judicial as well as administrative mechanisms to provide for and deal with both these categories of children. This report is an attempt to look at some of these measures. It finds its basis in the directions issued for the National Legal Services Authorities (NALSA) by the Hon'ble Supreme Court in Sampurna Behura v. Union of India & Ors., vide order dated 09-02-2018. Data was collected by the District Legal Services Authorities (DLSAs) and compiled by the concerned State Legal Services Authorities (SLSAs) as per a detailed questionnaire developed by NALSA. The report is a collation and analysis of the responses thus collected and compiled. It provides a quick overview to the reader on the implementation of the following provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015 and the Juvenile Justice (Care and Protection of Children) Model Rules, 2016 in all the States and Union Territories (UTs), except Jammu & Kashmir.

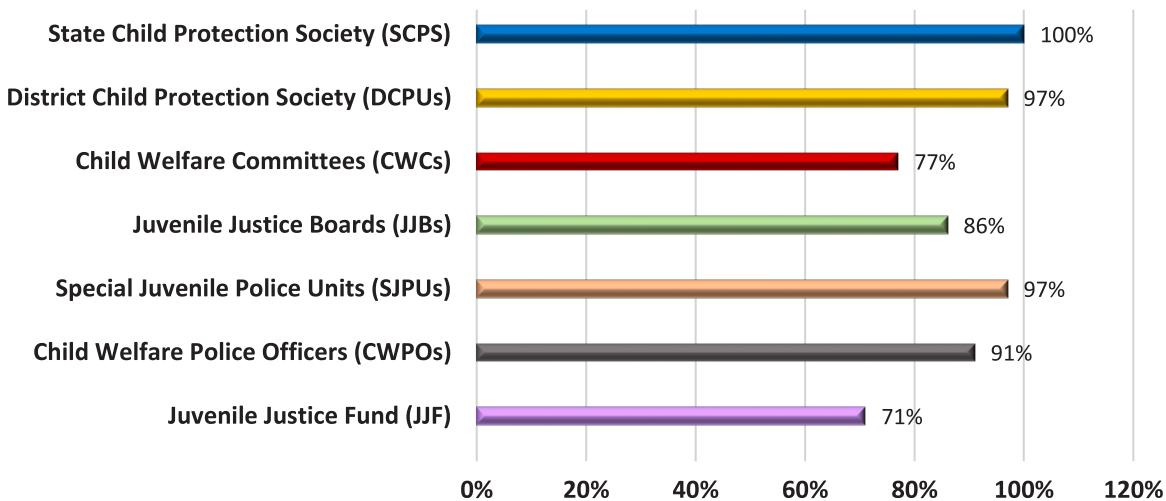
Structures/Mechanisms/ Processes/Functions	JJ Act, 2015	JJ Model Rules, 2016
Administrative structures and mechanisms under the law		
State Child Protection Society (SCPS)	Section 106	Rule 2 (xx) and 84
Juvenile Justice Fund (JJF)	Section 105	Rule 83
District Child Protection Units (DCPUs)	Section 2 (26) and 106	Rule 85
Judicial / Quasi-judicial bodies		
Juvenile Justice Boards (JJBs)	Section 2 (10) and 4	Rule 3 and 4
Child Welfare Committees (CWCs)	Section 2 (22) and 27	Rule 15
Law Enforcement		
Special Juvenile Police Units (SJPUs)	Section 2 (55), 107 (2) and 107 (4)	Rule 86

Child Welfare Police Officers (CWPOs)	Section 2 (18) and 107(1)	Rule 86
MIS and Data Management		
State level data management by SCPS		Rule 84 (1) (ix), (x), (xi) and (xii)
District level data management by DCPUs		Rule 85 (1) (viii), (ix), (xviii), (xix) and (xx)
Child Care Institutions		
Observation Homes	Section 2 (40) and 47	Rule 29 (1) (i)
Special Homes	Section 2 (56) and 48	Rule 29 (1) (ii)
Place of Safety	Section 2 (46) and 49	Rule 29 (1) (iii)
Children's Homes	Section 2 (19) and 50	Rule 29 (1) (iv)
Open Shelters	Section 2 (41) and 43	Rule 22
Fit Facilities	Section 2 (27) and 51	Rule 27
Functioning of CCIs		
Maintenance of Registers in CCIs		Rule 77
Management Committee	Section 53 (2)	Rules 29 (4) and 39
Children's Committee(s)	Section 53 (3)	Rule 40
Rehabilitation Restoration and Release		
Individual Care Plans	Section 53 (1) (x)	Rule 2 (ix), 69 (l) (iii) and 73 (3) (xxi)
Follow-up post restoration and release		Rule 39 (4) (xii), 39 (4) (xv), 69 (K) (i), 73 (3) (xxi), 82 (9), 82 (10) and 85 (1) (iii)
Alternative Care Measures		
Adoption – Specialised Adoption Agencies	Section 2 (57) and 65	Rule 85 (1) (xviii)
Foster care	Section 2 (29) and 44	Rule 23, 85 (1) (xvii) and 85 (1) (xviii)
Fit person	Section 2 (28) and 52	Rule 28
After care	Section 2 (5) and 46	Rule 25
Training and Awareness		
Training and Capacity Building of JJBs, CWCs, SJPUs, CWPOs, Staff in CCIs	Section 4 (5), 27 (1), 107 (3) and 108 (b)	Rule 4 (5), 15 (5), 26 (11), 86 (3), 89
Awareness about the Act	Section 108	Rule 84 (1) (xiv) and 85 (1) (xxi)

2. JUVENILE JUSTICE SYSTEM

STRUCTURES AND MECHANISMS ESTABLISHED UNDER THE JUVENILE JUSTICE ACT

Percentage of States and UTs with Basic Structures and Mechanisms under the JJ Act



17 out of the 35 States and Union Territories (UTs) have all of the following basic structures and mechanisms required under the juvenile justice system in place:

State Level:

State Child Protection Society and Juvenile Justice Fund (JJF)

District Level:

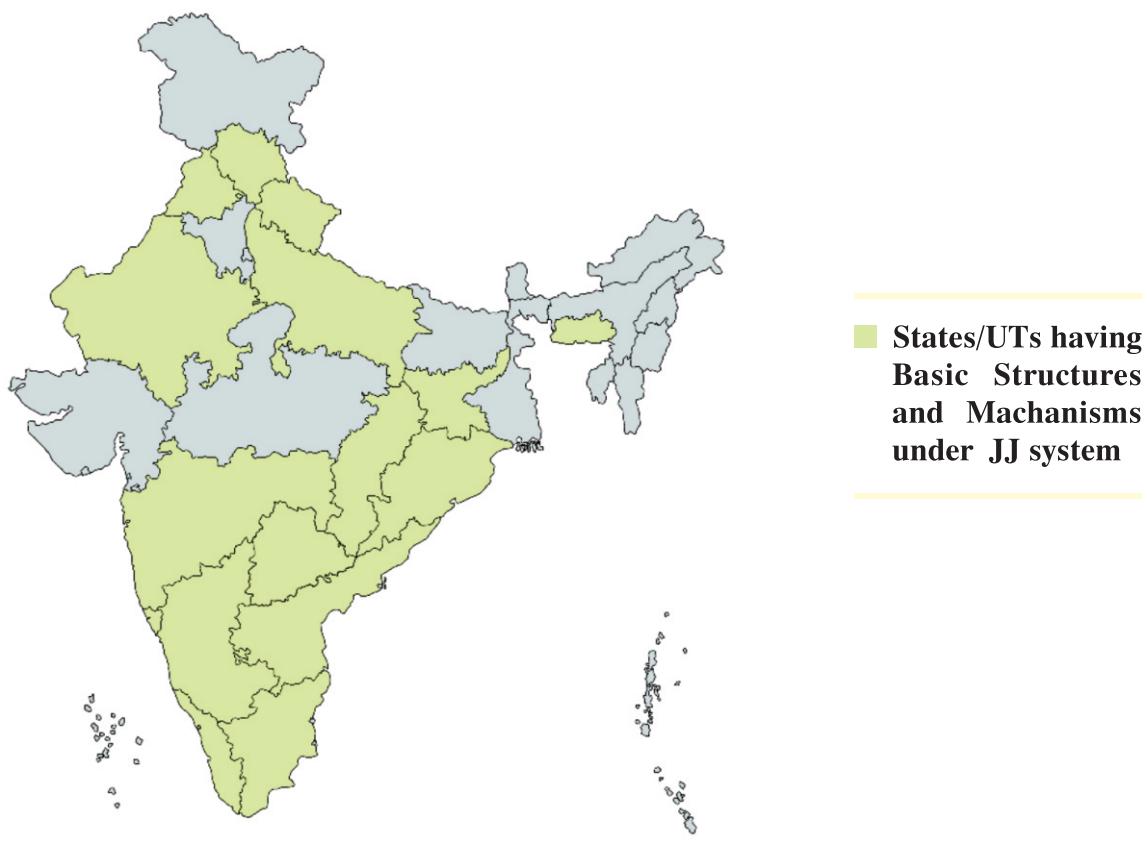
District Child Protection Units (DCPUs),
Child Welfare Committees (CWCs),
Juvenile Justice Boards (JJBs) and
Special Juvenile Police Units (SJPUs)

Police Station Level:

Designated Child Welfare Police Officers (CWPOs)

States/UTs without the Basic Structures and Mechanisms of the Juvenile Justice System in place

DCPUs	Lakshadweep
CWCs	Andaman & Nicobar Islands, Arunachal Pradesh, Assam, Bihar, Haryana, Dadra & Nagar Haveli, Puducherry, West Bengal.
JJBs	Andaman & Nicobar Islands, Assam, Delhi, Gujarat and Haryana
SJPUs	Clear information was not available from Arunachal Pradesh
CWPOs	Arunachal Pradesh, Mizoram and Nagaland
JJ Fund	Andaman & Nicobar Islands, Arunachal Pradesh, Assam, Dadra & Nagar Haveli, Daman & Diu, Lakshadweep, Madhya Pradesh, Mizoram, Sikkim and Tripura



All States and Union Territories have a State Child Protection Society (SCPS) to roll out the Integrated Child Protection Scheme and ensure implementation of the JJ Act in the State / UT.

Despite constitution of SCPS in the States and UTs, only 37% reported that the SCPS maintained complete datasets and information required.

Around 97% of the States and UTs have constituted a DCPU in every district.

However, only 51% States and UTs reported that the DCPUs maintained full information with regard to their various functions.

77% of the States and UTs (28 out of 35) have constituted a Child Welfare Committee (CWC) in every district.

However, only in 13 States and UTs they have been constituted as per law, having a Chairperson and four Members, of whom one is a woman. These are - Arunachal Pradesh, Chandigarh, Chhattisgarh, Daman & Diu, Goa, Himachal Pradesh, Jharkhand, Lakshadweep, Meghalaya, Mizoram, Nagaland, Telangana and Tripura.

In 20 out of 35 States, District Magistrates are carrying out quarterly review of CWCs.

The 12 States and UTs where quarterly review of CWCs is not taking place are – Andaman and Nicobar Islands, Chandigarh, Dadra & Nagar Haveli, Delhi, Haryana, Manipur, Mizoram, Nagaland, Puducherry, Rajasthan, Sikkim and Tripura.

86% of the States and UTs (28 out of 35) have constituted a Juvenile Justice Board (JJB) in every district.

However, only in 13 States and UTs the JJBs sit for 20 or more days in a month. These are - Bihar, Chandigarh, Delhi, Jharkhand, Lakshadweep, Maharashtra, Manipur, Odisha, Rajasthan, Sikkim, Tamil Nadu, Uttar Pradesh and West Bengal.

97% States and UTs have constituted SJPUs in every district and 91% have constituted CWPOs in every police station.

SJPU in 30 States and UTs and CWPOs in 28 States and UTs have complete list of CWCs, JJBs and CCIs. While in Lakshadweep, SJPU and CWPOs do not have complete information about CWCs and JJBs, in Goa, Nagaland and Uttarakhand, they do not have complete list of CCIs. In Puducherry and Sikkim, SJPU has complete information about CWCs and JJBs but CWPOs don't and in Daman & Diu the situation is reverse.

71% States and UTs have a JJ Fund.

In Andaman & Nicobar Islands, Rules for JJ Fund have been notified, but fund is yet to be created. 19 out of 25 States and UTs that have a JJ Fund have not disbursed anything to DCPUs from the Fund. These are - Andhra Pradesh, Bihar, Chhattisgarh, Delhi, Goa, Gujarat, Haryana, Jharkhand, Maharashtra, Meghalaya, Nagaland, Odisha, Puducherry, Punjab, Rajasthan, Telangana, Uttar Pradesh, Uttarakhand and West Bengal.

2.

MIS:

STATE AND DISTRICT LEVEL DATABASE MAINTAINED BY SCPS AND DCPUs

Database maintained by SCPS and DCPUs in the 35 States and UTs	Percentage of States and UTs where SCPS has maintained state level database	Percentage of States and UTs where DCPUs have maintained district level database
Children in institutional care and family based non institutional care	86%	86%
<p>All States and UTs except Assam, Daman & Diu, Goa and Lakshadweep, reported the SCPS and DCPUs to have maintained state and district level database of children in institutional and non institutional family based care. Karnataka acknowledged that though the required data is maintained, it is yet to be digitised into an MIS. Assam reported its DCPUs to have maintained database of both children in institutional and non-institutional family based care, while the SCPS has not. Uttar Pradesh on the other hand reported the other way round, SCPS having maintained data base on both categories of children, while DCPUs only have database for children in institutional care.</p>		
Child Care Institutions (CCIs)	94%	94%
<p>Daman & Diu and Lakshadweep are the only two UTs where neither the SCPS nor the DCPUs have maintained database on all Child Care Institutions (CCIs) at the state and the district level respectively.</p>		
Specialized Adoption Agencies	91%	94%
<p>Dadra & Nagar Haveli and Lakshadweep are the two UTs where neither the SCPS nor the DCPUs have maintained database on Specialized Adoption Agencies (SAAs) at the state and district level respectively. Daman & Diu however, reported maintenance of district level database of SAAs by the DCPUs, but absence of state level database on SAAs required to be maintained by the SCPS.</p>		
Open Shelters	77%	80%

4 UTs and 2 States, viz., Andaman & Nicobar Islands, Chandigarh, Daman & Diu, Lakshadweep, Arunachal Pradesh and Mizoram have no Open Shelters and hence neither the SCPS nor the DCPUs have maintained such database. Telangana however, reported that the SCPS has not maintained state level database on Open Shelters though the DCPUs have done it at the district level. Karnataka's SCPS and DCPUs are yet to digitise the database for state and district level.

Fit Persons and Fit Facilities	49%	63%
--------------------------------	-----	-----

In 5 States, viz., Himachal Pradesh, Jharkhand, Madhya Pradesh, Tripura and West Bengal, no state level database of Fit Persons and Fit Facilities is reported to have been maintained by the concerned SCPS, though the district level data is being maintained by the DCPUs. Bihar stated that the SCPS has only maintained the number of Fit Persons and Fit Facilities in the state, while the DCPUs have maintained all details in this regard at the district level. Considering that Fit Persons and Fit Facilities are recognised at the district level, it is difficult to understand how Sikkim reported the SCPS to have maintained state level database in this regard, while the DCPUs are reported to have not done the needful. In Goa, such database is reported to be maintained by the CWCs and not by the DCPUs. In Karnataka and Mizoram, addition of state and district level database on Fit Persons and Fit Facilities into the MIS is under progress. The 10 States and UTs that do not seem to be using the provision of recognising Fit Persons and Fit Facilities under the JJ Act are: Andaman & Nicobar Islands, Arunachal Pradesh, Assam, Dadra & Nagar Haveli, Lakshadweep, Maharashtra, Nagaland, Odisha, Puducherry and Rajasthan.

Database maintained by SCPS and DCPUs in the 35 States and UTs	Percentage of States and UTs where SCPS has maintained state level database	Percentage of States and UTs where DCPUs have maintained district level database
Registered Foster Parents	31%	46%

Database on registered foster care parents is largely maintained at the district level by the DCPUs and/or the CWCs. In Bihar and Punjab for example, the SCPS has maintained only number of registered foster parents, while DCPUs are reported to have maintained detailed database. District level database on registered foster parents is maintained in 19 States and UTs, of which 2 states, viz., Karnataka and Mizoram are yet to add the data into the MIS. In Goa, such data is reported to be maintained by the CWCs instead of the DCPUs. 8 States and UTs do not have a foster care programme, hence no such database is maintained by the SCPS or the DCPUs. These are: Dadra & Nagar Haveli, Daman & Diu, Delhi, Lakshadweep, Maharashtra, Manipur, Odisha and West Bengal.

Sponsors	37%	51%
15 States and UTs do not have a sponsorship programme. These are: Andaman and Nicobar Islands, Arunachal Pradesh, Bihar, Chhattisgarh, Dadra & Nagar Haveli, Daman & Diu, Delhi, Himachal Pradesh, Lakshadweep, Maharashtra, Odisha, Puducherry, Rajasthan, Sikkim and West Bengal. Of the 18 States and UTs that seem to have a sponsorship programme, district level database of sponsors is reported to be maintained by the DCUPs since it is primarily a function of DCUPs. Punjab is the only exception where the SCPS is reported to have maintained state level figure for number of sponsors. Uttar Pradesh reported that it is in the process of identifying sponsors at the state level, although at the district level a database has been maintained in this regard by the DCUPs.		
After Care organisations and other institutions	63%	66%
25 States and UTs seem to have after care organisations. 20 of these reported both SCPS and DCUPs to have maintained database in this regard at the state and district level respectively. Another 3 States, viz., Gujarat, Odisha and Uttarakhand, reported such data to have been maintained by the DCUPs at the district level. While in West Bengal, only the SCPS is reported to have maintained such data, in Karnataka both the SCPS and DCUPs have maintained state and district level database on after care organisations, but it is yet to be added to the MIS. In Bihar, district level database for after care organisations is reported to have been maintained only for one district.		
Medical and Counselling Centres at the State/UT level	51%	69%
17 States and UTs (almost 49%) reported the SCPS and DCUPs to have maintained state and district level database on medical and counselling centres. In another 8 States and UTs (almost 23%), such database has not been maintained by the SCPS and DCUPs. 7 States and UTs reported only DCUPs to have maintained district level database on such facilities. Karnataka is the only state where information regarding medical and counselling centres at state and district level is available, but not added to the MIS. Daman & Diu reported state level database to have been maintained by SCPS, but not the district level database required to be maintained by DCUPs. Uttar Pradesh clearly stated that such data is maintained by the health department in the state and the districts, not indicating whether the SCPS and DCUPs are keeping such information or look for it as and when the need arises, as in the case of Bihar.		

Database maintained by SCPS and DCPUs in the 35 States and UTs	Percentage of States and UTs where SCPS has maintained state level database	Percentage of States and UTs where DCPUs have maintained district level database
De-addiction Centres	43%	49%
In 15 States and UTs, the SCPS and DCPUs have maintained database on de-addiction centres at the state and district level respectively. Another 2 States, viz., Telangana and Uttarakhand reported only district level database to have been maintained by the DCPUs. Andaman & Nicobar Islands and Gujarat have no such centres in the state and the districts, hence no database. The SCPS and DCPUs in Odisha and Uttar Pradesh have not maintained such data as they are reported to be relying on other Departments for such services. It is however, not clear whether they have access to database of those Departments or they approach them as and when needed.		
Hospitals	49%	71%
16 States and UTs reported that the SCPS and DCPUs have maintained a list of hospitals at state and district level respectively. In 8 States and UTs, neither the SCPS nor the DCPUs have maintained such a list and in another 8 States and UTs, while the SCPS has not maintained such database, the DCPUs have. Bihar clearly stated that such database is maintained at the district level by the DCPUs. Odisha and Karnataka stated that the SCPS coordinates with the district hospitals of the concerned districts for providing medical facilities to children.		
Education Facilities	49%	71%
Education facilities 49%71%In 16 States and UTs both SCPS and DCPUs are reported to have maintained database of education facilities at the state/UT and district level respectively. These are: Andaman and Nicobar Islands, Andhra Pradesh, Chandigarh, Dadra & Nagar Haveli, Daman & Diu, Delhi, Gujarat, Haryana, Himachal Pradesh, Kerala, Manipur, Puducherry, Punjab, Rajasthan, Sikkim and Tripura. In Madhya Pradesh, while the SCPS has database of state level education facilities, all DCPUs do not have the district level database. Punjab clearly specified that the SCPS and DCPUs have database of only government education facilities. Among the States and UTs where the SCPS and DCPUs have not maintained such database, Goa, Karnataka and Uttar Pradesh said that it is available with the Education Department. Andhra Pradesh claimed convergence at the state level between SCPS and the Education Department for state level database of education facilities, but response for district level database is a clear NO. In Bihar, the response for SCPS is a clear NO, while DCPUs are reported to have maintained such database partially.		

Apprenticeship and Vocational Training Programmes	54%	66%
---	-----	-----

In 16 States and UTs both the SCPS and DCPUs have maintained state and district level database respectively of programmes and facilities providing apprenticeship and vocational training / skill development opportunities. These are: Andaman and Nicobar Islands, Andhra Pradesh, Arunachal Pradesh, Chandigarh, Chhattisgarh, Delhi, Gujarat, Haryana, Himachal Pradesh, Jharkhand, Kerala, Manipur, Sikkim, Tamil Nadu, Telangana, Tripura. There are 7 States / UTs where the DCPUs are reported to have maintained district level database of such programmes and facilities, but not the SCPS. While Odisha has stated that such information is maintained in the districts, Punjab responded that the SCPS has maintained database of only the courses offered by the Department of Social Security and Welfare and Women and Child Development. Karnataka and Uttar Pradesh said that such information is maintained by the concerned departments and the SCPS and DCPUs rely on their database. In Madhya Pradesh, the DCPUs do not have such database for all districts and Bihar stated that the district level database maintained by DCPUs is partial.

Facilities for Children with Special Needs and other such facilities	66%	71%
--	-----	-----

State and district level database on facilities for children with special needs are reported to have been maintained by the SCPS and DCPUs respectively in 21 States and UTs. The 8 States and UTs where neither the SCPS nor DCPUs have maintained such database are Arunachal Pradesh, Goa, Jharkhand, Karnataka, Lakshadweep, Maharashtra, Mizoram and Uttar Pradesh. Of these, Karnataka and Uttar Pradesh stated that information is available with the concerned departments. In Madhya Pradesh and Nagaland, while the SCPS have maintained such database, the DCPUs are reported to be lagging behind. DCPUs in Madhya Pradesh do not have information for all districts and in Nagaland none of the DCPUs have the district level database for facilities for children with special needs.

4. CHILD CARE INSTITUTIONS

Although institutionalisation should be a measure of last resort, at any given point of time there are a number of children requiring institutional care and protection. The juvenile justice law divides children into two categories, viz., children in conflict with the law (CICL) and children in need of care and protection (CNCP) and hence prescribes different kinds of institutions for both categories. While some institutions such as observation homes, special homes and children's homes are required to be set up in every district or for a group of districts, every state and UT must have at least one place of safety. Open shelters and fit facilities are to be set up/recognised as per need.

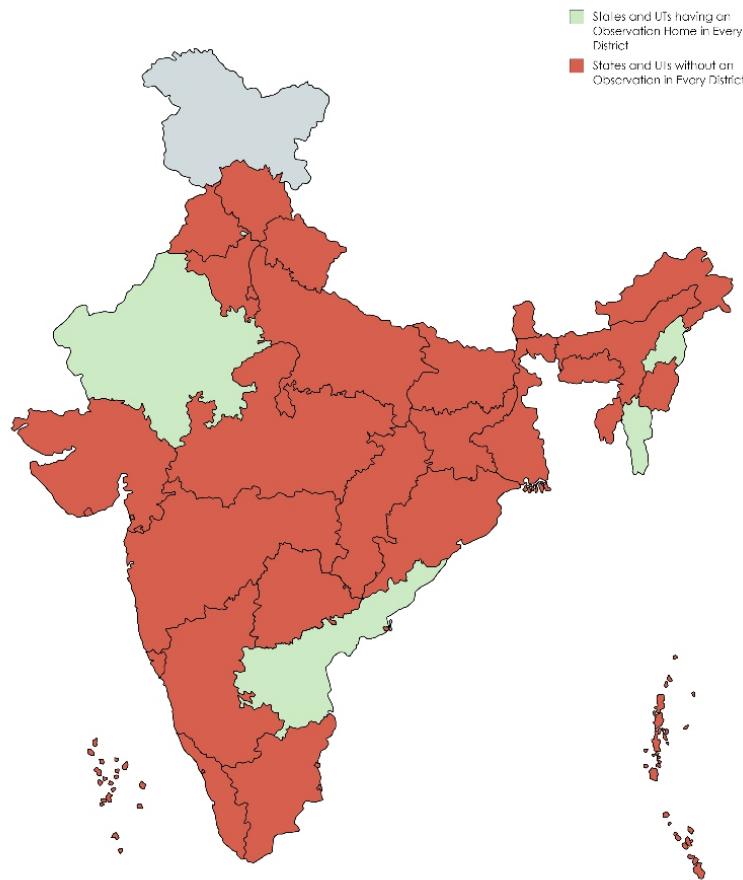
Institutions for Children in Conflict with the Law are:

- Observation Homes
- Special Homes
- Place of Safety

Institutions for Children in Need of Care and Protection are:

- Children's Homes
- Open Shelters
- Fit Facilities

4.1 Observation Homes



Created with mapchart.net ®

Only 14% of the States and UTs have an Observation Home in every district.

These are:

- Andhra Pradesh
- Chandigarh
- Mizoram
- Nagaland
- Rajasthan

28 States and UTs do not have an observation home in every district. Maharashtra is very close to compliance as 35 out of 36 districts have an observation home, the exception being Gondia district. Lakshadweep on the other hand stated that it has no children in conflict with the law.

5 States and UTs have no Observation Home for Girls.

While Bihar, Dadra & Nagar Haveli, Daman & Diu reported no observation home for girls, Andaman & Nicobar Islands and Lakshadweep reported no cases of girls in conflict with the law. Information in this regard was not available from Sikkim.

Almost 83% of the States and UTs follow age segregation.

The exceptions include 3 UTs and 1 State, viz., Andaman & Nicobar Islands, Lakshadweep, Daman & Diu and Mizoram. Information from Dadra & Nagar Haveli and Sikkim was not available.

80% of the States and UTs reported to have adequate infrastructure at the Observation Homes.

While no information was available from Sikkim, the rest admitted shortfall in infrastructure.

Another 88.6% States and UTs felt that the Observation Homes met the minimum standards of care in terms of services and facilities such as clothing, bedding, toiletries etc.

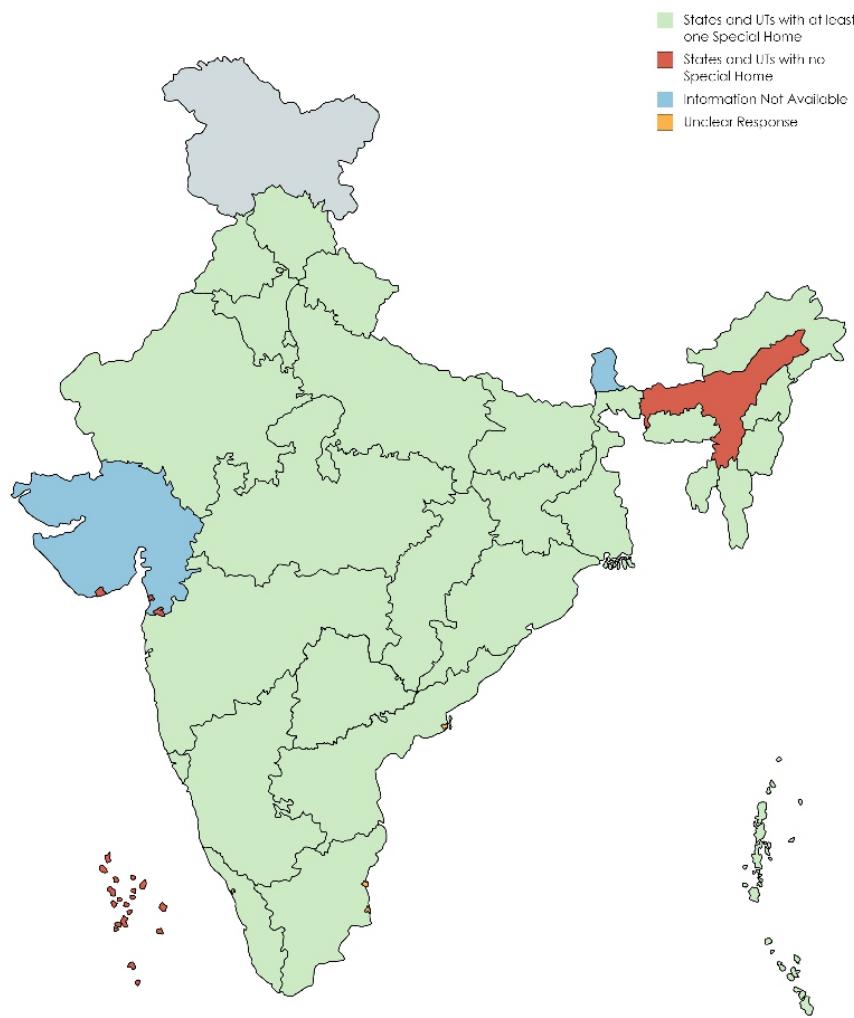
While Daman & Diu admitted lack of minimum standards of care, Lakshadweep has no children in conflict with the law, and information from Dadra & Nagar Haveli and Sikkim was not available.

31 States and UTs (88.6%) have undergone monitoring visits of Observation Homes by different officials and authorities.

Lakshadweep and Daman & Diu are the only two exceptions and the former does not have an Observation Home. No information was available from Dadra & Nagar Haveli and Sikkim.

Principal Magistrates of JJBs, DCPUs, SCPS or the concerned Department in the State / UT, State Inspection Committee, DLSA and Monitoring Committees of the District Courts emerged as the authorities conducting monitoring visits.

4.2 Special Homes



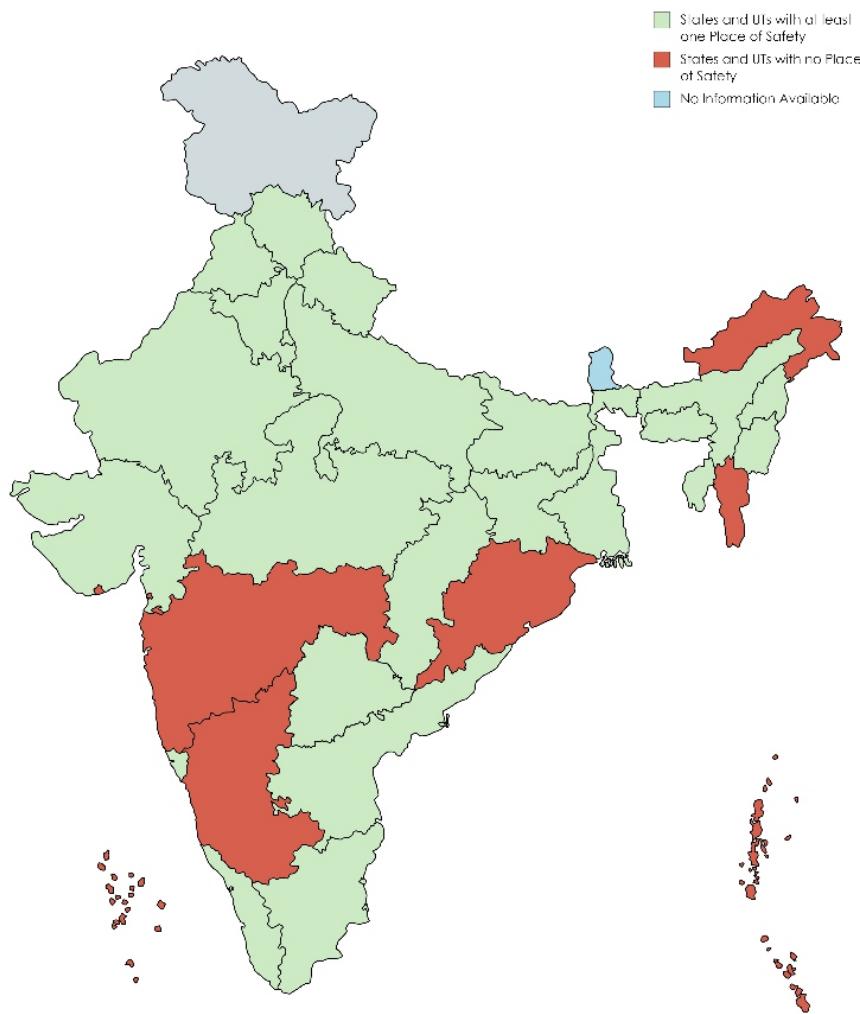
80% or 28 out of 35 States and UTs have at least one Special Home.

60% of these (21 out of 35) have at least one special home each for boys and girls in the state and another 20% (7 out of 35) have a special home for boys, but none for girls. These are Andaman and Nicobar Islands, Bihar, Delhi, Haryana, Jharkhand, Manipur and Nagaland. Andaman and Nicobar Islands stated it has no girls in conflict with the law. States and UTs without any special home include Assam, Dadra & Nagar Haveli, Daman & Diu, Lakshadweep and Puducherry. No information was available from Gujarat and Sikkim.

24 States and UTs having an Observation Home follow age segregation.

States and UTs that do not follow age segregation in special homes are Andaman & Nicobar Islands, Manipur, Mizoram and Nagaland. While Assam does not have a special home, it has a special unit attached to an observation home that keeps children held guilty and this unit is reported to be following age segregation. Response from Puducherry was not clear as it mentioned a children's home in response to the question on special home and reported that age segregation is followed. No information was available from Gujarat and Sikkim in this regard.

4.3 Place of Safety



71% or 25 States and UTs have at least one Place of Safety.

While no information was available from Sikkim, 9 States and UTs do not have such a facility. These are Andaman & Nicobar Islands, Arunachal Pradesh, Dadra & Nagar Haveli, Daman & Diu, Karnataka, Lakshadweep, Maharashtra, Mizoram and Odisha. Andaman & Nicobar Islands stated that no child has been transferred to a place of safety. In Karnataka, a place of safety was sanctioned in 2017-18, but is yet to be set up, and in Telangana, place of safety is reported to be established as part of the 30 observation homes, one special home and one girl's home.

Among States and UTs having a place of safety, 88% (22 out of 25) also reported having separate place for children in conflict with the law undergoing inquiry and those held guilty.

The exceptions are Assam, Goa and Tamil Nadu. Even though Arunachal Pradesh and Tamil Nadu do not have a place of safety, they have reported existence of separate place for children undergoing inquiry and those held guilty.

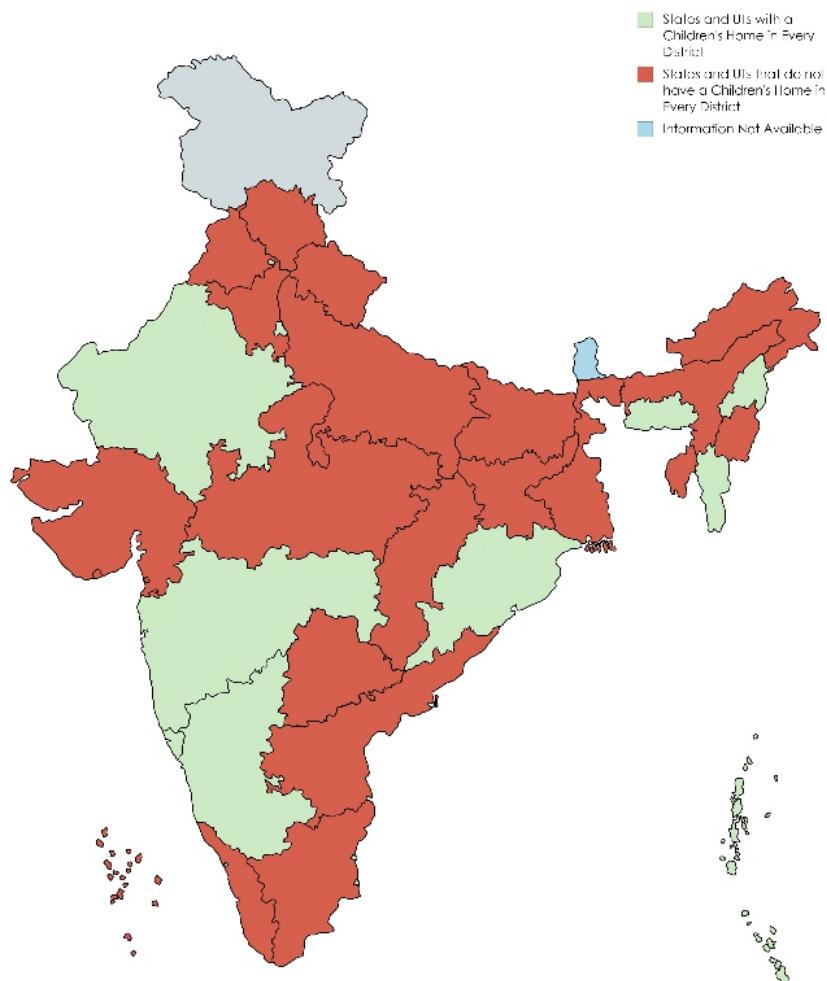
Minimum standards of care are reported to be followed in the place of safety in 96% States and UTs (24 out of 25) having such a facility.

Assam is the only state to admit no compliance on minimum standards of care in place of safety such as clothing, bedding, toiletries and other services, etc. Assam has one place of safety that is attached to the observation home.

Only 18 States and UTs having a place of safety (72%) maintain necessary registers as required under the law.

Interestingly, while Haryana reported compliance on minimum standards of care in the one and only place of safety it has in Madhuban, Karnal, it did not find the question on maintenance of registers applicable to it on the grounds that no child has been transferred to the place of safety. Despite acknowledging existence of place of safety, Kerala also felt that the question did not apply to the state. The States and UTs having a place of safety, which do not maintain registers, are Assam, Puducherry, Tamil Nadu, Telangana and Tripura.

4.4 Children's Homes



Only 34% of the States and UTs (12 out of 35) have a children's home in every district.

These are Andaman and Nicobar Islands, Chandigarh, Delhi, Goa, Karnataka, Maharashtra, Meghalaya, Mizoram, Nagaland, Odisha, Puducherry and Rajasthan. Gujarat is close to compliance as a children's home exists in 31 out of 33 districts. No information was available from Sikkim.

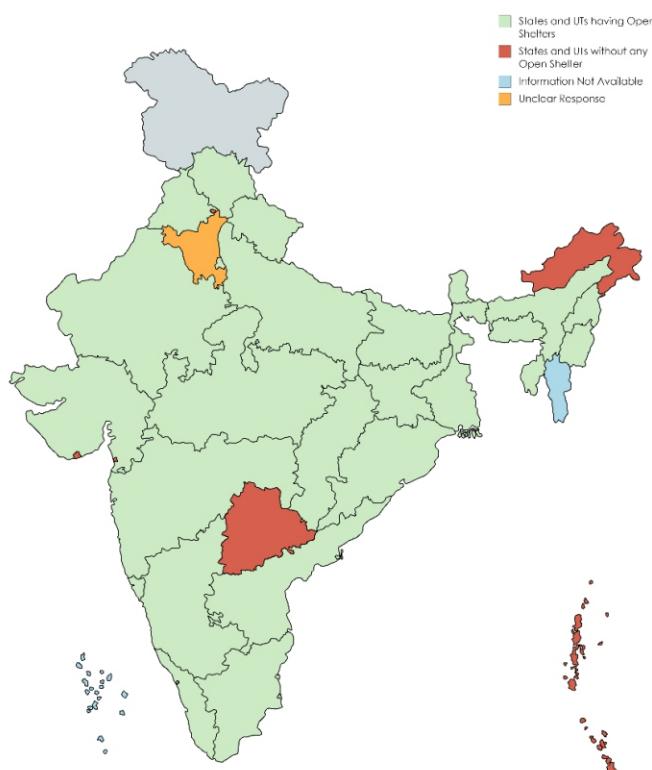
Around 88.6% States and UTs (31 out of 35) have registered children's homes under the JJ Act.

Dadra & Nagar Haveli, Daman & Diu and Lakshadweep reported non-existence of children's homes in the UT and Sikkim provided no information in this regard. Registration of 5 children's homes was reported to be under process by Haryana. In Maharashtra, although all CCIs are registered under the JJ Act, the state is currently in the process of starting online registration.

In 88.6% States and UTs (31 out of 35) regular monitoring visits are made to the children's homes.

Yet, all of them do not follow the norms with respect to infrastructure, standards of care, and maintenance of registers. While all 31 States and UTs reported compliance on minimum standards of care being followed in the children's homes, 26 reported having adequate infrastructure, the exceptions being Maharashtra, Mizoram and Rajasthan. In Uttar Pradesh, infrastructure is reported to be adequate only in the newly constructed homes and Bihar reported partial compliance due to non-availability of space in every home. On maintenance of registers, Bihar is the only exception that reported partial compliance while the rest reported full compliance.

4.5 Open Shelters



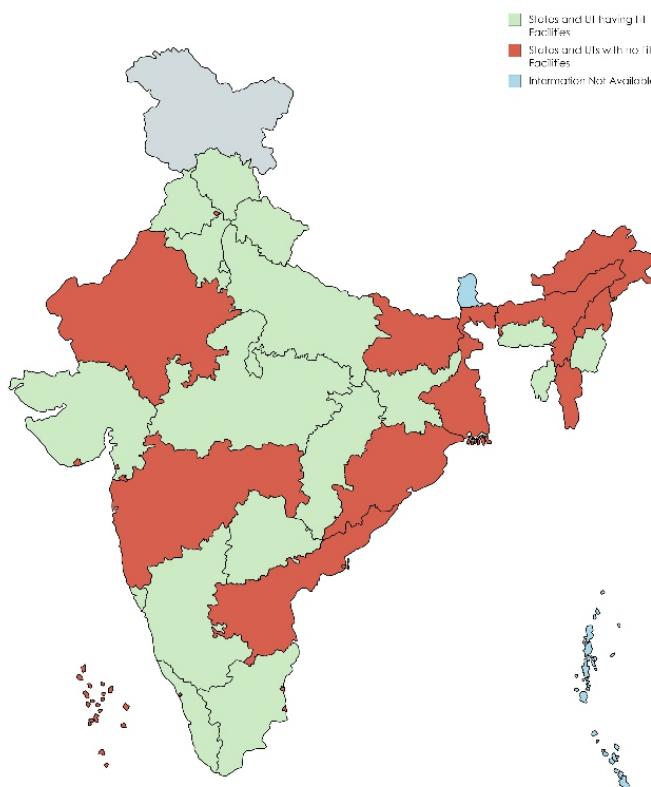
80% of the States and UTs (28 out of 35) have open shelters.

The response from Haryana was not clear as it mentioned 25 children in each open shelter but did not provide the number of open shelters in the state. The 5 States and UTs that do not have any open shelter are - Andaman & Nicobar Islands, Arunachal Pradesh, Chandigarh, Daman & Diu, and Telangana. Andaman & Nicobar Islands stated that they have no destitute children and hence no requirement for open shelters. Information was not available from Lakshadweep and Mizoram. Sikkim only reported existence of open shelters in the state but did not provide further information sought on different aspects pertaining to open shelters.

27 States and UTs having open shelters reported adherence to norms and standards vis-à-vis sharing information about children in these shelters with CWCs and DCPUs, following minimum standards of care and maintaining registers.

Sikkim did not provide information on any of these aspects. Gujarat is the only state to have reported sharing of information about children in open shelters with the DCPUs but not with the CWCs, and Odisha reported sharing on monthly basis.

4.6 Fit Facilities



51% of the States and UTs (18 out of 35) have fit facilities to provide temporary shelter, care and protection to children.

The 14 States and UTs that are not recognising fit facilities are Andhra Pradesh, Assam, Bihar, Chandigarh, Dadra & Nagar Haveli, Daman & Diu, Lakshadweep, Maharashtra, Mizoram, Nagaland, Odisha, Puducherry, Rajasthan and West Bengal. Andhra Pradesh stated that there has been no request for recognition of fit facilities from the stakeholders. While no information was available from Andaman & Nicobar Islands and Sikkim, Arunachal Pradesh stated that the question did not apply to the state.

In most States and UTs having Fit Facilities, necessary registers are maintained by these facilities, standards of care are followed and various services are provided to children such as mental health interventions, medical facilities, formal and age appropriate education, recreation and sports.

The defaulting States and UTs on all or some of these aspects are Chandigarh, Madhya Pradesh and Punjab, as can be seen in the table that follows.

State/UT	Minimum standards of care not followed	Mental Health Interventions like Counselling not available	Medical Facilities including First Aid, Facilitated Specialised Treatment not available	Formal Age Appropriate Education, continuing education and life skill education not available	Recreation, Sports, Fine Arts and Group work not available	Registers not maintained
Chandigarh						
Madhya Pradesh						
Punjab						

5. MANAGEMENT COMMITTEES IN CCIs

Information regarding monthly meetings of Management Committees was collected only for observation homes and children's homes.

Compliance wrt Monthly Meetings of Management Committees	Observation Homes (in per cent)	Children's Homes (in per cent)
Full Compliance	74.3	82.9
No Compliance	11.4	2.9
Partial Compliance	2.9	5.7
Information Not Available	5.7	2.9
Question Not Applicable	5.7	5.7

26 States and UTs (74.3%) reported regular monthly meetings of the Management Committee in the Observation Homes.

No information was available in this regard from Arunachal Pradesh and Sikkim. Dadra & Nagar Haveli and Lakshadweep do not have observation homes hence the question of monthly meetings of the management committees did not arise. Daman & Diu, Kerala, Mizoram and Tripura reported no compliance, while Bihar reported partial compliance.

29 States and UTs (almost 83%) reported regular monthly meetings of the Management Committee in the Children's Homes.

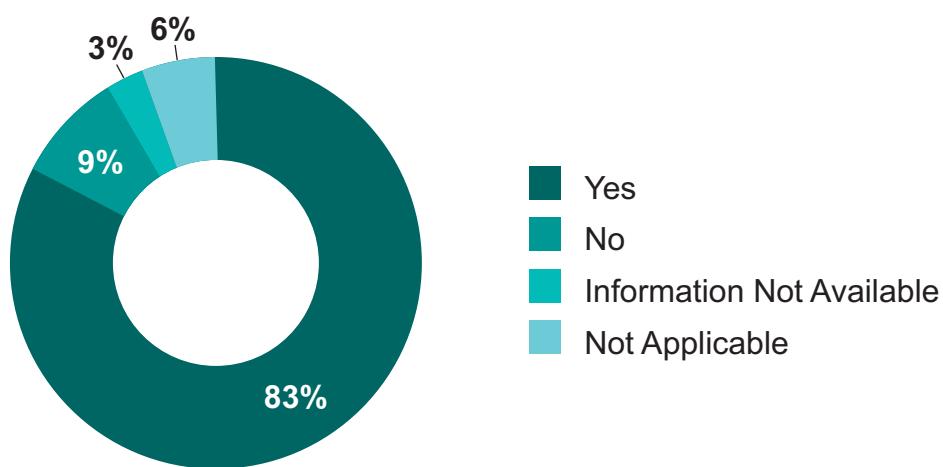
While no information was available from Sikkim, the question did not apply to Dadra & Nagar Haveli and Lakshadweep as they do not have any children's homes and Daman & Diu reported no compliance. Partial compliance was reported by Bihar and Mizoram. According to Mizoram, it is not possible to hold monthly meetings of managements committees in districts with more than 20 CCIs.

6.

CHILDREN'S COMMITTEES IN CCIs

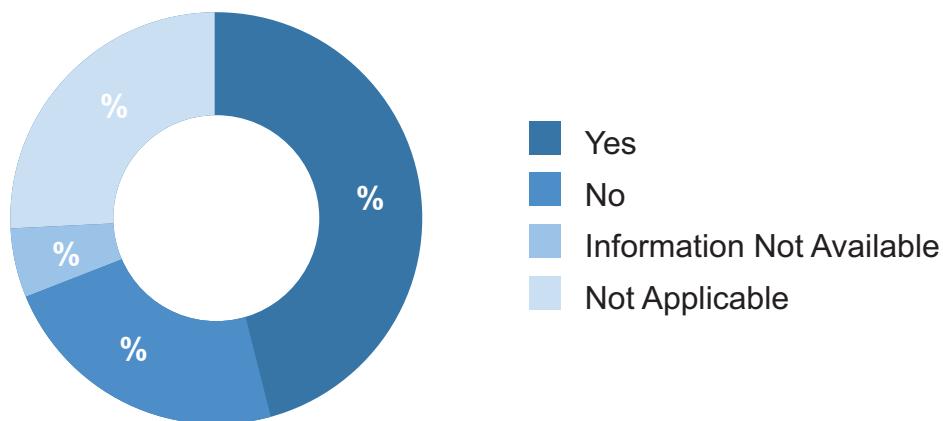
Children's Committees have been formed in the observation homes in 29 States and UTs. The exceptions are Andaman & Nicobar Islands, Daman & Diu, Kerala and Lakshadweep. While Lakshadweep has no observation homes, Andaman & Nicobar Islands reported only 1-2 children lodged in the observation home in South Andaman District.

Response from 35 States and UTs on Existence of Committees in Observation Homes (in per cent)



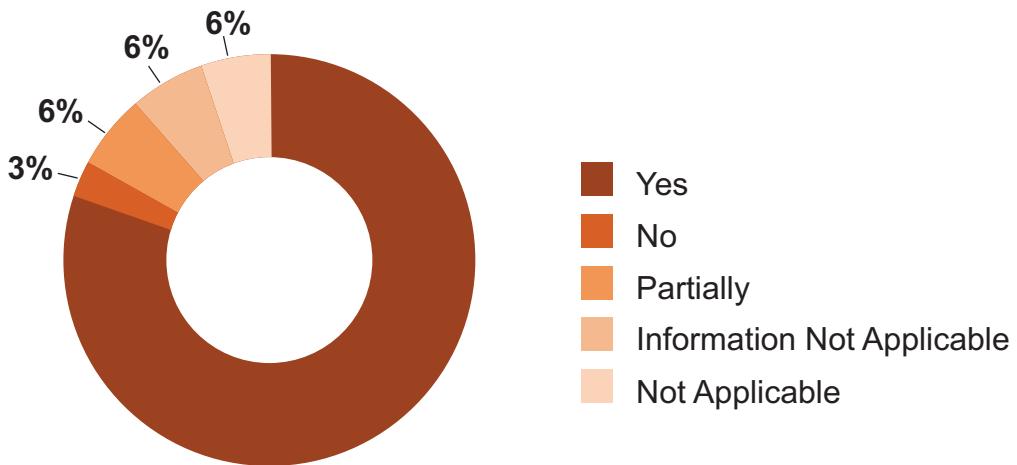
Of the 25 States and UTs that have at least one place of safety in the state/UT, 16 reported existence of children's committees in these facilities, 7 reported non existence of children's committees, Gujarat did not provide any information in this regard and Haryana mentioned that no child has been transferred to the place of safety. 9 States and UTs do not have a place of safety and therefore the question of having a children's committee does not arise. These are - Andaman and Nicobar Islands,

Response from 35 States and UTs on Existence of Committees in Place of Safety (in per cent)



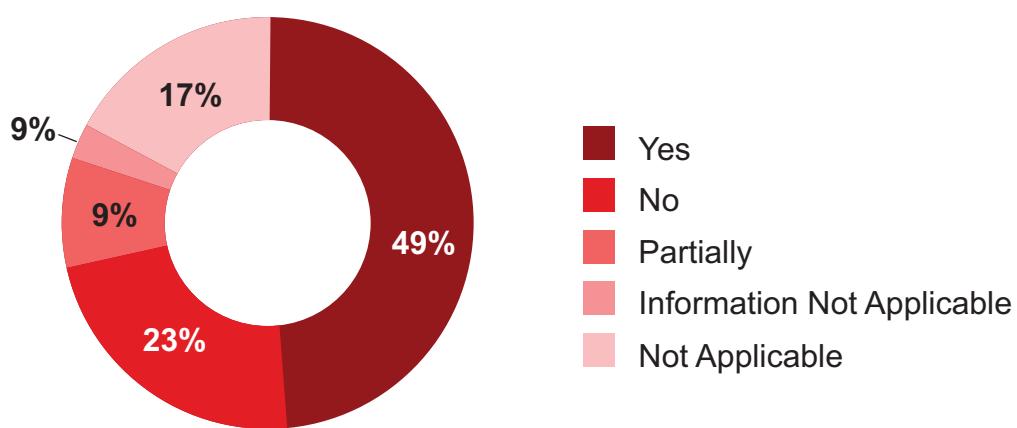
Arunachal Pradesh, Dadra & Nagar Haveli, Daman & Diu, Karnataka, Lakshadweep, Maharashtra, Mizoram and Odisha. No information was available from Sikkim.

Response from 35 States and UTs on Existence of Committees in Children's Homes (in per cent)



28 out of 35 States and UTs reported formation of children's committees in the children's homes. While Daman & Diu reported non existence of these committees in its children's homes, Andaman & Nicobar Islands and Tamil Nadu reported partial compliance as children's committees existed in some homes, but not all. There are no children's homes in Dadra & Nagar Haveli and Lakshadweep and therefore the question did not apply to these two UTs. Arunachal Pradesh and Sikkim did not furnish any information in this regard.

Response from 35 States and UTs on Existence of Committees in Open Shelters (in per cent)

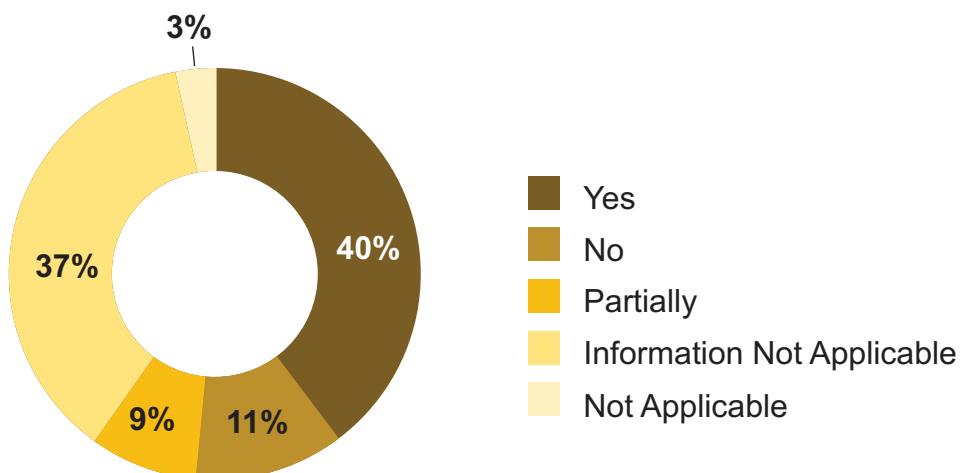


As regards existence of children's committees in open shelters, 17 States and UTs reported full compliance while 3 reported partial compliance, these being Bihar, Puducherry and Uttarakhand. 8 States and UTs do not have children's committees in the open shelter. These are - Assam, Dadra & Nagar Haveli, Delhi, Gujarat, Haryana, Lakshadweep, Nagaland and Punjab. While Sikkim did not respond to the question, 6 States and UTs do not have any open shleters and hence no children's

committees. Rather the question was not applicable to these 6 States and UTs, namely, Andaman and Nicobar Islands, Arunachal Pradesh, Chandigarh, Daman & Diu, Mizoram and Telangana.

Of the 18 States and UTs having fit facilities, 14 also have children's committees in these facilities. The 4 States and UTs that have fit facilities but do not have children's committees in place, are Chhattisgarh, Gujarat, Haryana and Punjab. Among the 14 States and UTs that do not have a fit facility, 12 also do not have a children's committee. Andhra Pradesh did not respond to the question and response from Dadra & Nagar Haveli was not clear as it stated monthly meetings of children's committees in the fit facilities that it does not have. No information was available from Andaman & Nicobar Islands and Sikkim for any of the questions relating to fit facilities.

Response from 35 States and UTs on Existence of Committees in Fit Facilities (in per cent)



7.

INDIVIDUAL CARE PLANS

Information was collected from the States and UTs on compliance with respect to developing and updating individual care plans (ICPs) in all child care institutions (CCIs) except special homes.

10 States and UTs reported full compliance on developing and updating individual care plans (ICPs) in all child care institutions (CCIs).

These are:

- | | |
|--------------------|-----------------|
| • Delhi | • Manipur |
| • Goa | • Meghalaya |
| • Gujarat | • Tripura |
| • Himachal Pradesh | • Uttar Pradesh |
| • Jharkhand | • Uttarakhand |

Overall Status of Compliance by States and UTs on Developing and Updating Individual Care Plans in Different CCIs

ICPs in CCIs in 35 States and UTs	Observation Homes	Place of Safety	Children's Homes	Open Shelters	Fit Facilities
Full Compliance	30	20	30	23	13
No Compliance	1	6	2	5	13
Partial Compliance	1	0	1	0	0
Information Not Available	2	4	2	1	9
Question Not Applicable	1	5	0	6	0

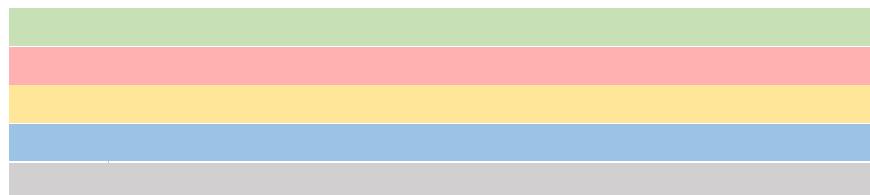
A significant 86% of the States and UTs reported development and update of Individual Care Plans in observation homes and children's homes.

Although open shelters keep children for a very short duration, it is surprising to find 23 States and UTs preparing care plans for children even in open shelters.

Individual Care Plans (ICPs) Developed and Updated by Different Types of CCIs Information obtained from States / UTs					
State / UT	Observation Homes	Place of Safety	Children's Homes	Open Shelters	Fit Facilities
Andaman and Nicobar Islands					
Andhra Pradesh					
Arunachal Pradesh					
Assam					
Bihar					
Chandigarh					
Chhattisgarh					
Dadra & Nagar Haveli					
Daman & Diu					
Delhi					
Goa					
Gujarat					
Haryana					
Himachal Pradesh					
Jharkhand					
Karnataka					
Kerala					
Lakshadweep					
Madhya Pradesh					
Maharashtra					
Manipur					
Meghalaya					
Mizoram					
Nagaland					
Odisha					
Puducherry					
Punjab					
Rajasthan					
Sikkim					
Tamil Nadu					
Telangana					
Tripura					
Uttar Pradesh					
Uttarakhand					
West Bengal					

Compliance scale

- Full Compliance
- No Compliance
- Partial Compliance
- Information Not Available
- Question Not Applicable



8. FOLLOW UP POST RESTORATION AND RELEASE

Rate of follow-up of children post restoration and release is higher for those leaving observation homes and children's homes as compared to children in other child care institutions.

Individual care plans need to be followed-up post restoration and release. Understandably, absence of such care plans also affects follow-ups that can go a long way in ensuring rehabilitation of children in the juvenile justice system. While some States and UTs appear to be carrying out follow-up irrespective of individual care plans, some others are falling short despite investing in development of care plans.

For example, in the case of observation homes, 3 States, viz., Goa, Maharashtra and Nagaland are not carrying out any follow-up of children post restoration and release even though they admit to preparing individual care plans. Bihar and Uttar Pradesh also develop individual care plans, but have reported partial compliance on follow-up in case of children released from observation homes. Uttar Pradesh in fact, responded by saying that they carry out follow-ups as far as possible, within local constraints.

Similarly, 4 States, viz., Bihar, Madhya Pradesh, Nagaland and West Bengal are not carrying out follow-up of children post restoration and release from place of safety even though they are developing individual care plans. With Punjab its the other way round as individual care plans are not prepared but follow-up post restoration and release from place of safety is reportedly being carried out. Uttar Pradesh maintained that it carries out follow-up as far as possible.

In the case of children's homes, 3 States, viz. Madhya Pradesh, Maharashtra and Rajasthan emerge as defaulters on follow-up post restoration though they do develop individual care plans. Bihar, Mizoram and Uttar Pradesh admitted partial follow-up despite care plans. Interestingly, in Mizoram, follow-up depends on the location of child post restoration, indicating none or poor follow-up if a child is restored to another state or a remote district.

Three States, viz., Maharashtra, Nagaland and West Bengal do not follow-up children post restoration and release from open shelters despite preparing care plans. On the other hand, Karnataka and Punjab carry out follow-up even though they do not prepare care plans for children in open shelters. Bihar and Uttar Pradesh reported partial compliance in this regard.

For children restored from a fit facility, follow-up post restoration is reported by all the States and UTs where individual care plans are prepared. In addition, 2 States, viz., Karnataka and Punjab reported follow-up post restoration irrespective of individual care plan for children leaving a fit facility.

9.

ALTERNATIVE CARE

States / UT	Adoption	Foster Care	Fit Persons	After Care
Andaman and Nicobar Islands				
Andhra Pradesh				
Arunachal Pradesh				
Assam				
Bihar				
Chandigarh				
Chhattisgarh				
Dadra & Nagar Haveli				
Daman & Diu				
Delhi				
Goa				
Gujarat				
Haryana				
Himachal Pradesh				
Jharkhand				
Karnataka				
Kerala				
Lakshadweep				
Madhya Pradesh				
Maharashtra				
Manipur				
Meghalaya				
Mizoram				
Nagaland				
Odisha				
Puducherry				
Punjab				
Rajasthan				
Sikkim				
Tamil Nadu				
Telangana				
Tripura				
Uttar Pradesh				
Uttarakhand				
West Bengal				

Status of Alternative Care Services / Programme - Scale

Available	
Not Available	
Partially Available	
Unclear	
Information Not Available	

9.1 Adoption

25 States and UTs have CCIs recognised as Specialised Adoption Agencies (SAA) and DCPUs in all except Dadra & Nagar Haveli have maintained database of SAAs. Another 8 States and UTs namely, Bihar, Gujarat, Jharkhand, Lakshadweep, Odisha, Punjab, Tamil Nadu and Uttarakhand did not provide information on recognition of SAAs. However, DCPUs in 7 of these are reported to have maintained database of SAAs, the exception being Lakshadweep. Interestingly, while the DCPUs in Daman & Diu and Assam are also reported to have maintained database of SAAs at district level, on the question of recognition of SAAs, Daman & Diu said it has not recognised any and Assam said that the question did not apply to them.

9.2 Foster Care

11 States and UTs have a foster care programme. These are - Andhra Pradesh, Chhattisgarh, Goa, Gujarat, Haryana, Himachal Pradesh, Karnataka, Meghalaya, Mizoram, Rajasthan and Uttarakhand. In 10 of these, the foster care programme is reported to be implemented by the DCPUs, Goa being the only one to have said no, despite reporting that their DCPUs have maintained district level database of foster parents. The 9 States and UTs that do not have a foster care programme and therefore responded to the question on implementation of the programme by DCPUs in the negative, are Andaman and Nicobar Islands, Arunachal Pradesh, Dadra & Nagar Haveli, Daman & Diu, Maharashtra, Odisha, Puducherry, Telangana and West Bengal. While another 6 States and UTs reported absence of foster care programme, 3 of them, viz., Jharkhand, Sikkim and Tripura mentioned that their DCPUs are implementing the foster care programme; Manipur and Nagaland did not provide response to the query on implementation by DCPUs; and Chandigarh stated that their DCPUs have put out an advertisement for foster care. As regards Assam, Bihar, Punjab and Uttar Pradesh, there are several contradictions in the responses to different questions around foster care. Information was not available from 5 States and UTs, namely, Delhi, Kerala, Lakshadweep, Madhya Pradesh and Tamil Nadu.

9.3 Fit Person

In 11 States and UTs the CWCs and JJBs have recognised fit persons and placed children under their care and protection. These are - Bihar, Daman & Diu, Delhi, Goa, Himachal Pradesh, Kerala, Meghalaya, Odisha, Tamil Nadu, Uttar Pradesh and Uttarakhand. However, not all of them get a police verification done for fit persons. In Tamil Nadu, verification is done by the Probation Officers of DCPUs and in Kerala, the DCPUs are reported to conduct a social investigation where necessary. No fit persons have been recognised in 18 States and UTs. These are - Andaman and Nicobar Islands, Andhra Pradesh, Assam, Chandigarh, Chhattisgarh, Dadra & Nagar Haveli, Jharkhand, Lakshadweep, Madhya Pradesh, Maharashtra, Manipur, Mizoram, Nagaland, Puducherry, Rajasthan, Sikkim, Telangana and Tripura. No information is available in this regard from Gujarat and Karnataka, while Arunachal Pradesh said that the question did not apply to the

State. The situation in Haryana, Punjab and West Bengal is not clear as both Haryana and Punjab stated that fit persons are decided by CWCs but no police verification has been done, while West Bengal only reported that details are maintained by CWCs and JJBs.

9.4 After Care

In 15 States and UTs information on organisations and individuals interested in providing after care is maintained and shared by DCPUs with the CWCs and JJBs. These are Andhra Pradesh, Chandigarh, Delhi, Gujarat, Haryana, Himachal Pradesh, Kerala, Maharashtra, Manipur, Meghalaya, Nagaland, Punjab, Tamil Nadu, Telangana and Uttar Pradesh. The 9 States and UTs that do not have any after care programme and hence their DCPUs do not maintain any such data are - Andaman and Nicobar Islands, Arunachal Pradesh, Chhattisgarh, Dadra & Nagar Haveli, Daman & Diu, Jharkhand, Lakshadweep, Puducherry and West Bengal. Bihar is reported to have information on after care maintained in one district. Response from another 10 States and UTs is not clear as there are contradictions when compared with the response received on district level database of after care organisations maintained by SCPS and DCPUs.

10.

TRAINING & CAPACITY BUILDING

Time and again the need for training and capacity building of members of the CWCs, JJBs, staff in CCIs, police and other actors in the child protection system has been stressed upon by the Supreme Court of India and various High Courts.

10.1 Induction Training for Statutory Bodies

The law requires induction training of Chairperson and Members of CWCs and Principal Magistrate and Social Worker Members of JJBs within 60 days of their appointment. Most States and UTs have complied with this requirement.

Induction Training for CWC Chairpersons and Members – 30 States and UTs have conducted induction training for newly appointed Chairpersons and Members of their Child Welfare Committees within sixty days of notification of their appointment. Among the 5 States and UTs that have not done the needful, Andaman & Nicobar Islands reported that the new Chairperson and Members are yet to be appointed and Odisha stated that not all new appointees have been trained. Bihar, Dadra & Nagar Haveli and Lakshadweep clearly said that they have not conducted induction trainings for CWCs.

Induction Training of Principal Magistrates and Social Worker Members of JJBs – In 27 States and UTs induction training was conducted for Principal Magistrates and Social Worker Members of JJBs within the stipulated period of sixty days from notification of their appointment. While induction trainings have been held in Puducherry, 4 Principal Magistrates were reported to be absent. In Uttarakhand, trainings were conducted after the stipulated period of sixty days. In Bihar, the Social Worker Members are yet to be trained as they are newly recruited. In Tripura on the other hand, Social Worker Members have been trained but not the Principal Magistrates. The 5 States and UTs yet to hold trainings for both Principal Magistrates and Social Worker Members of JJBs are - Andaman and Nicobar Islands, Lakshadweep, Maharashtra, Punjab and Sikkim. This is largely because the appointments were reported to be recent.

Statutory Bodies	Percentage of States/UTs that have conducted Induction Trainings for Statutory Bodies
Child Welfare Committees (CWCs)	85.7
Juvenile Justice Boards (JJBs)	82.9

The training agencies are largely Judicial Academies, State Legal Services Authorities, NIPCCD, National Law Universities, State Institutes of Public Administration, SCPS or the concerned Department and UNICEF. NIMHANS has been conducting trainings in Karnataka.

10.2 Training for Police

Police being the first official contact point for a child in conflict with the law or a child in need of care and protection, require extensive training and sensitisation programmes.

Training for SJPU officials – Officials in the SJPUs have been trained in 94% of the States and UTs. The only exceptions are Lakshadweep and Uttar Pradesh.

Training for CWPOs – Child Welfare Police Officers have been trained in 91% of the States and UTs, the exceptions being Lakshadweep, Sikkim and Uttar Pradesh.

Trainings for police are conducted by Police Training Academies and Colleges, State Legal Services Authorities, SCPS, DCPUs, NIPCCD and UNICEF.

10.3 Training of Staff in CCIs

Information on training of staff in CCIs and other institutions was collected for Observation Homes, Place of Safety, Open Shelters and Fit Facilities.

The Regional Units of NIPCCD emerge as the main agency conducting trainings for the staff of CCIs. The other agencies include SCPS, State Legal Services Authorities, Judicial Academies, State Institutes of Public Administration, UNICEF and NGOs.

Type of CCI	Percentage of States and UTs where at least one training for staff has been held
Observation Homes	68.6
Place of Safety	79.2
Open Shelters	75.0
Fit Facilities	38.9

Observation Homes – In 25 States and UTs trainings have been held for the staff of observation homes. These are - Andaman and Nicobar Islands, Andhra Pradesh, Arunachal Pradesh, Assam, Bihar, Chandigarh, Chhattisgarh, Delhi, Goa, Himachal Pradesh, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Manipur, Mizoram, Nagaland, Puducherry, Punjab, Rajasthan, Tamil Nadu, Telangana, Tripura, Uttar Pradesh and Uttarakhand. Information from Odisha is unclear as it reported 14 trainings for children in the observation homes and did not mention anything about staff training. Information from Gujarat, Haryana, Maharashtra, Meghalaya, Sikkim and West Bengal was not available in this regard.

Place of Safety – Of the 24 States and UTs that have a Place of Safety, information on training of staff is not available for Gujarat and West Bengal. Haryana is yet to appoint staff in the place of

safety, while Assam and Jharkhand have had no training for their place of safety staff. The 19 States and UTs that have a place of safety and have also held trainings for the staff are Andhra Pradesh, Bihar, Chandigarh, Chhattisgarh, Delhi, Goa, Himachal Pradesh, Kerala, Madhya Pradesh, Manipur, Meghalaya, Nagaland, Puducherry, Punjab, Rajasthan, Tamil Nadu, Tripura, Uttar Pradesh and Uttarakhand.

Open Shelters – In 21 States and UTs having open shelters, trainings have been held for the officials of these shelters. These are - Andhra Pradesh, Assam, Bihar, Chhattisgarh, Delhi, Himachal Pradesh, Jharkhand, Kerala, Madhya Pradesh, Maharashtra, Manipur, Meghalaya, Nagaland, Odisha, Puducherry, Punjab, Rajasthan, Tamil Nadu, Tripura, Uttar Pradesh and Uttarakhand. Dadra & Nagar Haveli and Haryana have open shelters but there has been no training of officials. Information was not available for Goa, Gujarat, Sikkim and West Bengal, and in the case of Karnataka it cannot be ascertained. 7 States and UTs do not have open shelters and hence no trainings have been held.

Fit Facilities – Of the 18 States and UTs that have fit facilities, training for the staff has been held in 7 States, namely, Delhi, Goa, Himachal Pradesh, Kerala, Manipur, Meghalaya and Uttarakhand. In another 6 States and UTs that have fit facilities, no training has been held. These are – Haryana, Jharkhand, Karnataka, Punjab, Telangana and Tripura. No information is available on training for fit facilities from Chhattisgarh, Gujarat and Madhya Pradesh although they have reported existence of fit facilities. Tamil Nadu and Uttar Pradesh stated that trainings for fit facilities are held as per need. States and UTs that do not have fit facilities and hence no trainings are - Andhra Pradesh, Arunachal Pradesh, Assam, Bihar, Chandigarh, Dadra & Nagar Haveli, Daman & Diu, Lakshadweep, Maharashtra, Mizoram, Nagaland, Odisha, Puducherry, Rajasthan and West Bengal. No information was available from Andaman & Nicobar Islands and Sikkim.

10.

AWARENESS ABOUT JJ ACT & ICPS

29 States and UTs have taken steps to publicise and spread awareness about the JJ Act and the Integrated Child Protection Scheme (ICPS).

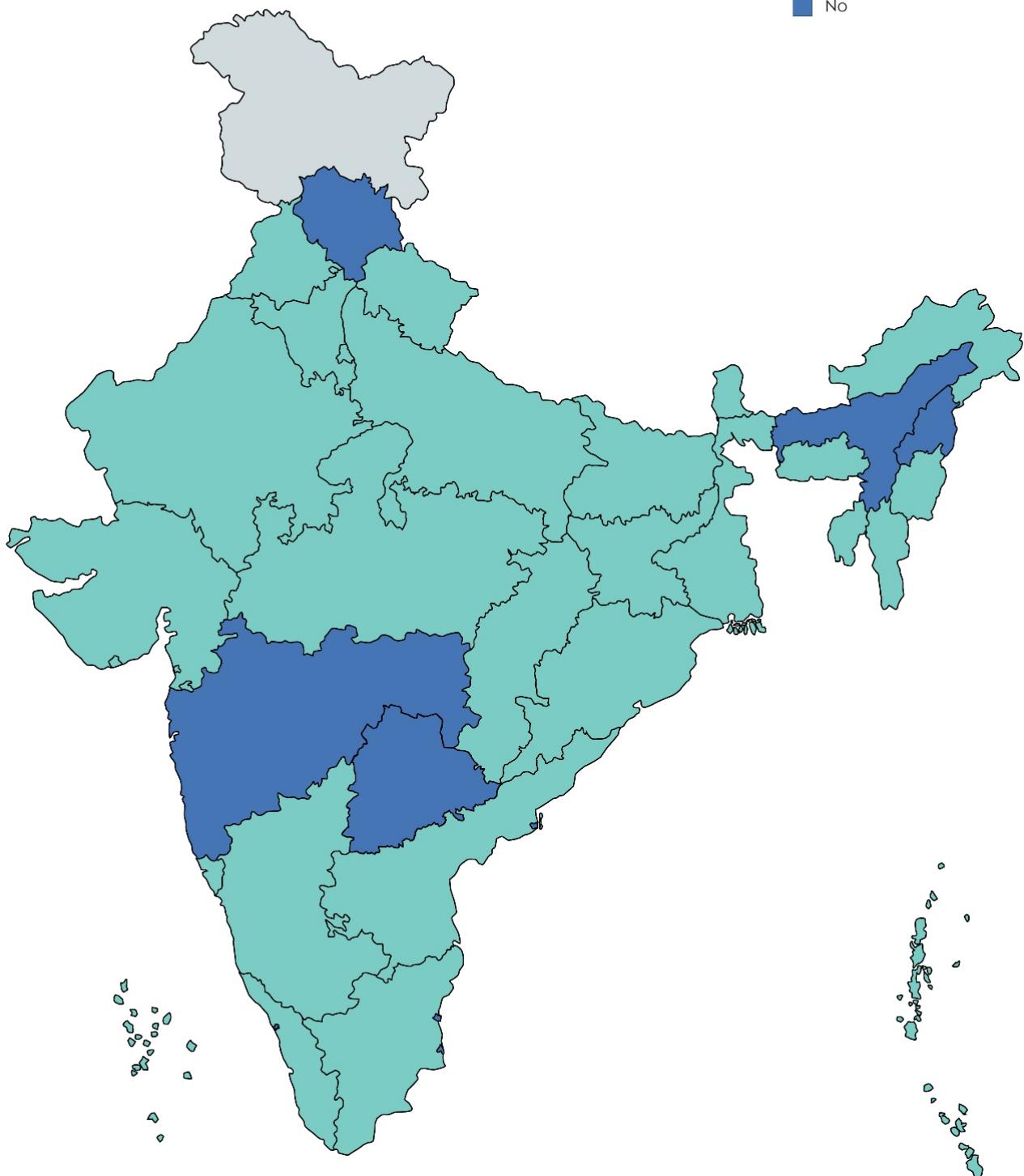


Various methods and awareness tools used

- Meetings with PRIs, teachers, school students, Aanganwadi workers
- Convergence meetings with CCIs and stakeholder departments
- Hoardings
- Justice
- Juvenile
- Advertisements in local newspapers regarding registration of CCIs, list of CWCs, adoption
- Advertisements in local newspaper on Section 77 and 78 of the JJ Act (only in Karnataka)
- Advertisement through video clipping on local cable networks
- Printing, public display and/or distribution of IEC materials such as pamphlets, handbills, wall posters, banners, hoardings, calendar, diary, contact numbers of CWCs, JJBs and important district officials
- Radio drama on provisions regarding legal adoption
- Broadcast on JJ Act on Red FM and AIR
- Talk show on implementation of JJA
- TV interviews on ICPS activities
- Street plays
- Awareness camps, trainings and workshops
- Translation of JJA in local language (only Mizoram reported this)

**Steps taken by States and UTs
to publicise JJ Act and ICPS**

Yes
No





NATIONAL LEGAL SERVICES AUTHORITY

12/11 JAM NAGAR HOUSE, NEW DELHI

website: www.nalsa.gov.in, e-mail: nalsa-dla@nic.in

Cont. 011-23382778

Modified Scheme 2022

Legal Aid Defense Counsel Scheme 2022

FOR PROVIDING LEGAL AID, ASSISTANCE & REPRESENTATION IN
CRIMINAL MATTERS IN LINE WITH “PUBLIC DEFENDER SYSTEM”



National Legal Services Authority

B- BLOCK, ADDITIONAL BUILDING, SUPREME COURT OF INDIA, NEW DELHI |

Email: nalsa-dla@nic.in, ms-nalsa@gov.in Website: www.nalsa.gov.in

INDEX

S. No.	Content(s)	Page No(s)
1.	Introduction	2
	Objectives	4
2.	Scope of work	4
3.	Infrastructure and Human Resource required in each Project district <ul style="list-style-type: none">• Infrastructure• Human Resource	5
4.	Selection Procedure	6
5.	Work Profile	9
6.	Termination of Service	11
7.	Code of Ethics	12
8.	Entitlement to Leave	13
9.	Role of State Legal Services Authority and District Legal Services Authority	13
10.	Engagement with law schools	14
11.	Monitoring and Evaluation	15
12.	Financial Outlay <ul style="list-style-type: none">• Honorarium (Retainership fee) and Salaries• Infrastructure expenditure• Miscellaneous expenses per annum.	15

1. Introduction

Legal Services Authorities provide legal services to accused/convicts, who are in custody or otherwise coming within the eligibility criteria spelt out in Section 12 of the Legal Services Authorities Act, 1987. Legal Services are being provided at pre-arrest, remand, trial and appellate stages in criminal matters. Legal representation is being provided by the Legal Services Authorities in approximately 2 lac criminal cases (trials) at the district level.

During Consideration of the Demands for Grants (2022-23) of the Department of Justice by the Department Related Parliamentary Standing Committee (DPRSC) on Personal, Public Grievances, Law and Justice observed in its 116th report that:

“NALSA has recently completed 25 years of its establishment; accordingly, it is also the right time to ponder over reforms which are required in NALSA and legal aid movement in India. Majority of Indians are eligible to receive legal aid, but the number of people actually receiving legal aid is a minuscule percentage of those entitled. In the previous chapter, the Committee has already recommended a significant increase in NALSA's budget and expects NALSA to make best use of it in performing its assigned mandate.”

At present, Assigned Counsel System of dispensation of Legal Aid is being followed in India. Under the said system, cases are assigned to panel lawyers by Legal Services Institutions. Such Panel lawyers to whom cases are assigned, also have private practices, and hence, they do not exclusively devote their time to the legal aid matters. Many times, their accessibility and availability remain an issue for timely client consultation and updating the legal aid seekers about the progress of their cases. There are few instances, wherein the lawyers were found harassing beneficiaries or demanding fee from them.

The system of Court based legal services needs to be strengthened for providing effective and efficient legal services to weaker and marginalised sections of the society. To achieve the same, several steps have been taken such as capacity building of lawyers, enhancing the structure and effective functioning of monitoring & mentoring committees, upgradation of Front Offices etc.

In the said process of strengthening and making legal services more professional, NALSA thought of adopting another legal aid delivery-based model i.e. '*Legal aid Defense Counsel System*' for proving legal aid in criminal matters on the lines of public defender system on pilot basis for a period of two years in some districts to see how effective and successful such changes in approach will be.

It is pertinent to mention that in most countries, Legal Aid Delivery Models are combination of the Public Defender System, Assigned Counsel System and Contract Services System. Examples of diverse legal aid delivery systems can be found, among other countries, in Israel, the Republic of Moldova, Sierra Leone, South Africa and the United States of America. A number of jurisdictions have adopted a public defender scheme with offices throughout the country, including Argentina, Chile, Georgia, Mexico, Paraguay, Peru, the Philippines, the Republic of Moldova and South Africa¹.

NALSA, decided to implement LADCS as pilot project in 17 states/UTs but the same was made functional in 13 states namely Andhra Pradesh, Chhattisgarh, Delhi, Gujarat, Jharkhand, Karnataka, Kerala, Maharashtra, Odisha, Rajasthan, Tamil Nadu, Uttarakhand, Uttar Pradesh.

As envisaged, Legal Aid Defense Counsel System involve full time engagement of lawyers with support system. The said unit deals exclusively with legal aid work in criminal matters at the district HQ, where it is established.

¹ *Model Law on Legal Aid in Criminal Justice Systems with Commentaries*(www.unodc.org)

Subject to feasibility, the services may be extended to Talukas or outline Courts. Initially, it was confined to cases before the Sessions, and now it will be expanded to all type of criminal courts with Lawyers engaged therein not allowed to take any private cases or any other retainership. This will create institutional capacity to effectively provide legal aid to poor and needy in criminal justice system. Some of the perceived advantages of the Legal aid Defense Counsel System vis-à-vis assigned counsel system may be mentioned as follows:

- Increase in Availability and accessibility of Legal Aid Defense counsels,
- Effective and efficient representation by experienced lawyers,
- Timely and lively Client Consultations,
- Effective monitoring and mentoring of legal aided cases,
- Professional management of legal aid work in criminal matters,
- Enhanced responsiveness leading to updating of legal aid seekers about the progress of their cases,
- Ensuring accountability on the part of the legal aid providers.

At the first instance, the Legal Aid Defense Counsel System was conceived to be implemented on a pilot project basis for providing legal aid in criminal matters in Sessions Courts in a few districts. After its success as a pilot project, it is being extended to other districts and to all criminal courts including Courts of executive Magistrates.

Objectives:

- To provide qualitative and competent legal services in criminal matters to all eligible persons.
- To manage and implement legal aid system in professional manner in criminal matters.

2. Scope of Work:

Legal Aid Defense Counsel Office shall be dealing exclusively with legal aided matters in criminal matters of the District or HQ, wherein it is established. It shall be providing legal services from the early stages of

criminal justice till appellate stage, and the same shall include visits to jails from catering to the legal needs of unrepresented inmates. Initially it shall not be dealing with all type of civil matters and cases of complainant, matters pending before Juvenile Justice Boards/CWCs, wherein present counsel assignment system (Panel Lawyers) will continue to be operational for the purpose but panels shall be resized according to work based model. The following end to end legal services shall be provided through the Legal Aid Defense Counsel Office:

- Legal Advice and Assistance to all individuals visiting the office,
- Representation/Conducting trials and appeals including all miscellaneous work in all criminal courts such as Sessions, Special and Magistrate Courts including executive courts,
- Handling Remand and Bail work,
- Providing legal assistance at pre-arrest stage as per need and also in accordance with NALSA's scheme for providing such assistance,
- Any other legal aid work related to District Courts or as assigned by the Secretary, DLSA,
- Periodic visit of Prisons of the district under the guidance of the Secretary, DLSA.

3. Infrastructure and Human Resource required in each Project district

- **Infrastructure:**

- Well-appointed office for Legal Aid Defense Counsels with separate cabin for Chief Legal Aid Defense Counsel and space for consultation.
- Space for ministerial staff, reception with waiting area.
- Total space requirement (suggestive):
 - Class **A** Cities 800 to 1000 sq. ft.
 - Class **B** Cities 700 to 800 sq. ft.
 - Class **C** Cities 500 to 600 sq. ft.

- Computers and printers with scanner, internet connection, telephone.

- Furniture consisting of tables, chairs, bookshelf and almirahs etc.
- **Human Resource:**

Human Resources for a Legal Aid Defense Counsel Office		
S. No.		No. required
1.	Chief Legal Aid Defense Counsel	01
2.	Deputy Chief Legal Aid Defense Counsel	01-03
3.	Assistant Legal Aid Defense Counsel	02-10
4.	Office Assistants/ Clerks	01-03
5.	Receptionist-cum-Data Entry Operator (Typist)	01 (optional)
6.	Office peon (Munshi/Attendant)	01 (optional)

Note: Number of Deputy and Assistant Legal aid Defense Counsel may be increased or decreased as per the requirement in individual districts, subject to prior approval of Hon'ble Executive Chairman, SLSA. Number of Legal Aid Defense Counsels shall be proportionate to the actual work and also requirement.

4. Selection Procedure:

After due publicity including public notice, applications will be invited and a fair, transparent and competitive selection process shall be adopted by DLSA under guidance of SLSA. Legal Aid Defence Counsels shall be engaged on contract basis in each place/district initially for a period of two years with a stipulation of extension on yearly basis subject to satisfactory performance. The performance of every human resource shall be assessed every six months by SLSA in consultation with DLSA concerned. The selection of Chief Legal Aid Defense Counsel, Deputy Chief Legal Aid Defense Counsels, Assistant Legal Aid Defense Counsels will be purely based on merit, taking into account the knowledge, skills, practice and experience of candidates. The selection shall be carried out by Selection committee under the Chairmanship of the Principal District & Sessions Judge (Chairman, DLSA) as envisaged in NALSA (Free and Competent Legal Services) Regulations 2010, subject to final approval by the Executive

Chairman, SLSA. In the selection committee at least three senior most judicial officers posted at HQ, dealing mainly with criminal cases preferably sessions cases shall be included. No person with conflict of interest shall be part of selection process. After approval by the Executive Chairman, SLSA, engagement contract shall be executed between the Secretary DLSA and the person so engaged.

The format of contract for engagement, as provided by NALSA to be used with required modifications.

The suggested eligibility criterions are as follows: -

a) Qualifications for Chief Legal Aid Defense Counsel:

- Practice in Criminal law for at least 10 years,
- Excellent oral and written communication skills,
- Excellent understanding of criminal law,
- Thorough understanding of ethical duties of a defense counsel,
- Ability to work effectively and efficiently with others with capability to lead,
- Must have handled at least 30 criminal trials in Sessions Courts, aforesaid condition of handling 30 criminal cases can be relaxed in appropriate circumstances,
- Knowledge of computer system is preferable.
- Quality to lead the team with capacity to manage the office.

b) Qualifications for Deputy Chief Legal Aid Defense Counsel:

- Practice in Criminal law for at least 7 years,
- Excellent understanding of criminal law,
- Excellent oral and written communication skills,
- Skill in legal research,
- Thorough understanding of ethical duties of defense counsel,

- Ability to work effectively and efficiently with others,
- Must have handled at least 20 criminal trials in Sessions Courts, may be relaxed in exceptional circumstances, by Hon'ble executive Chairman, SLSA,
- IT Knowledge with proficiency in work.

c) Qualification for Assistant Legal Aid Defense Counsel:

- Practice in criminal law from 0 to 3 years.
- Good oral and written communication skills.
- Thorough understanding of ethical duties of defense counsel.
- Ability to work effectively and efficiently with others.
- Excellent writing and research skills.
- IT Knowledge with high proficiency in work.

d) Qualification for Office Assistant/ Clerks:

- Educational Qualification: Graduation,
- Basic word processing skills and the ability to operate computer and skills to feed data,
- Good Typing speed with proper setting of petition,
- Ability to take dictation and prepare files for presentation in the Courts,
- File maintenance and processing knowledge.

e) Qualification for Receptionist-cum-Data Entry Operator

- Educational Qualification: Graduation,
- Excellent verbal and written communication skills,
- Word and data processing abilities,
- The ability to work telecommunication systems (telephones, fax machines, switchboards etc),
- Proficiency with good typing speed.

Note: Qualifications may be reasonably relaxed in case of exceptional candidate or circumstances after the approval of the Executive Chairman, SLSA.

5. Work Profiles:

a) Chief Legal Aid Defense Counsel

- Conducting trials and appeals and bail matters in courts along with deputy chief & assistant legal Aid Defense Counsels,
- Assigning duties to deputy legal Aid Defense Counsels in the office,
- Assigning duties of Assistant legal Aid Defence Counsel for assisting him and Deputy Chief legal Aid Defense Counsel and for other work including legal research,
- Ensure proper legal research, planning effective defence strategy and thorough preparation in each and every legal aided case,
- Ensure maintenance of complete files of legal aid seekers,
- Ensure proper documentation with regard to legal aid assistance provided, ensure maintenance of up-to-date record of legal aided cases,
- Will be overall in charge of administration of the office of Legal Aid Defense Counsel Office.
- Ensure quality legal aid,
- Consultation and ensuring updation of the case progress to the client and his/her relative(s),
- Any work/duty assigned by Legal Services Authority.

b) Deputy Chief Legal Aid Defense Counsel.

- Conducting trials/ appeals/ Remand work /Bail applications/visits to prisons etc., as assigned by Chief Legal Aid Defense Counsel.
- Filing and arguing appeals and bail applications in Courts.
- Maintaining complete case files.
- Doing legal research in legal aided cases and guiding assistant legal Aid Defense Counsel and law students attached with the office in legal research.
- Proper client interviews at various stages for quality research work and representation at remand, trial and appellate stage.

- All or any of the work of the Chief defence Counsel as per assignment,
- Any work/duty assigned by Legal Services Authority.

c) Assistant Legal Aid Defense Counsel.

- Filing of cases, conducting trials in Magistrate trial cases,
- Remand/bail and other miscellaneous work,
- legal research in legal aided cases,
- Visits to Prison and Legal aid Clinics as per directions,
- Providing assistance at pre-arrest stage to suspects,
- Assisting Chief Legal Aid Defense Counsel and Deputy Legal Aid Defense Counsel(s) in conduct of legal aid cases,
- Assisting in developing a defence strategy after sifting through all of the evidence collected by the prosecution and after hearing the accused's version of what happened during the alleged crime in question,
- Visiting location/area of alleged crime, having discussions with family members etc, for effective and meaningful input of defense strategy,
- Handling queries of legal aid seekers,
- Updating legal aid seekers about the progress of their cases,
- Assisting in maintaining complete files of legal aided cases,
- Handling legal queries relating to criminal matters on telephone,
- Any other work related to legal aid assigned by Chief Legal Aid Defense Counsel,
- Any work/duty assigned by Legal Services Authority,

d) Office Assistant

- Keeping updated record of legal aided cases,
- Uploading the updated record/progress of the legal aided cases on NALSA portal and digital platforms as per directions,
- Maintaining complete files of legal aided cases and keeping files with proper index in a systematic manner,
- Typing applications, petitions, appeals etc.,

- Doing ministerial work related to cases such as filing applications for copies of orders, judgement etc.,
- Any other task assigned by the Chief Legal Aid Defense Counsel,
- Any work/duty assigned by Legal Services Authority,
- All duties assigned to Receptionist cum data entry operator.

e) Receptionist-cum-Data Entry Operator

- Greeting clients and visitors and answering visitor inquiries,
- Answering and routing incoming calls on a multi-line telephone system,
- Scheduling and routing legal aid seekers,
- Maintaining the waiting area, lobby or other office areas,
- Scanning, photocopying, faxing,
- Collecting and routing mail and hand-delivered packages,
- Answering face-to-face enquiries and providing information when required,
- Uploading, at the initial point, legal aided cases on NALSA portal & other platforms and updating the information from time to time,
- Any work/duty assigned by Legal Services Authority.

f) Office peon (Munshi/Attendant)

- General work of MTS, Munshi or Peon,
- Cleaning the office before the commencement of office hours,
- Ensuring that all places in the office are kept clean,
- Bringing and serving water, beverages to the visitors in the office,
- Carrying dak, misc. work etc.
- Any other work assigned by Legal Services Authority.

6. Termination of Services:

Services of any human resource including legal aid defense counsel engaged in the office of Legal Aid Defense Counsel can be terminated at any time without any prior notice in the following cases by the Chairman, DLSA on recommendation of the Secretary DLSA or on the directions by SLSA in writing:

- i. He/she substantially breaches any duty or service required in the office, or
- ii. Seeks or accepts any pecuniary gains or gratification in cash or kind from the legal aid seekers or beneficiary or his friend or relative, or
- iii. Charged or Convicted for any offence by any court of law, or
- iv. Indulges in any type of political activities, or
- v. Found incapable of rendering professional services of the required standards, or
- vi. Failure to attend training programmes without any sufficient cause, or
- vii. Indulges in activities prejudicial to the working of legal aid defense counsel office, or
- viii. Uses his/her position in legal aid defense counsel office to secure unwarranted privileges or advantages for him/herself or others, or
- ix. Acts in breach of code of ethics, or
- x. Remains absent without leave for more than two weeks, or
- xi. If services are found unsatisfactory during the six-monthly performance review by the SLSA or DLSA.

7. Code of Ethics:

Personnel engaged in the office of Legal Aid Defense Counsel shall observe the following code of ethics:

- No personnel shall act in any matter in which he/she has a direct or indirect personal or financial interest.
- No personnel shall wilfully disclose or use, whether or not for the purpose of pecuniary gain, any information that he/she obtained, received or acquired during the fulfilment of his/her official duties and which is not available to members of the general public.
- No personnel within the office of Legal Aid Defense Counsel shall make use of his/her office or employment for the purpose of promoting or advertising any outside activity.
- No personnel within the office of Legal Aid Defense Counsel shall engage in any outside activity or act as an independent practitioner.

- No personnel within the office of Legal Aid Defense Counsel shall solicit, agree to accept or accept, whether directly or indirectly, any gift, favour, service, or other thing of value under circumstances from which it might be reasonably inferred that such gift, service, or other thing of value was given or offered for the purpose of influencing him/her in, or rewarding him/her for, the discharge of his/her official duties.
- Legal Aid Defense Counsel shall devote his/her full time to his/her duties for the office of Legal Aid Defense Counsel and shall not engage in private practice of law during the term of employment.
- Every Personnel of the office of Legal Aid Defense Counsel shall strive to preserve the public's confidence in the office's fair and impartial execution of its duties and responsibilities.
- Legal Aid Defense Counsel shall also follow the code of ethics prescribed by Bar Council of India for lawyers.

8. Entitlement to Leave:

- Chief Legal Aid Defense Counsel and Deputy Legal Aid Defense shall be eligible for 15 days' leave in a calendar year on pro-rata basis.
- Assistant Counsel Legal Aid Defense Counsel and other staff persons shall be eligible for 12 days' leave in a calendar year on pro-rata basis.
- No remuneration for the period of absence in excess of the admissible leave will be paid to the human resource of Legal Aid Defense Counsel Office. Un-availed leave shall neither be carried forward to next year nor encashed.

9. Role of State Legal Services Authority and District Legal Services Authority

- Office space planning, and providing infrastructure for office preferably inside or in proximity to court complex.
- Providing Office furniture, Office equipment including computers, printer, internet connectivity and other equipment.
- Purchasing office supplies on need basis.
- Engaging human resource requirement for Legal aid Counsel System Office.
- Ensuring proper functioning of Legal aid Counsel System Office.

- Ensuring effective monitoring and mentoring.
- Periodical evaluation of legal services delivered through Legal aid Counsel System Office.
- Regular trainings and refresher courses for legal aid counsel engaged in Legal aid Counsel System Office.
- Renovation of office space when necessary.
- Providing Books such as Bare Acts and Commentaries for Legal Aid Defense Counsel Office
- Providing Legal Research Software.
- Timely payment of monthly honorarium to legal aid counsel and all staff engaged for Legal aid defense counsel office.
- Payment with regard to expert witnesses, if their services are taken.
- Payment for incidental expenses such as travelling expenses etc.
- Information/promotional campaigns/programmes with regard to Legal aid Defense counsel office.

10. Engagement with law schools

Law schools often send their students to legal Services Institutions for internship. Moreover, Clinics of Law Colleges also collaborate with Legal Services Institutions. Law students can be engaged with the Legal Aid Defense Counsel office as to give them meaningful exposure to practical aspects of criminal law including preparing a defense strategy and doing legal research in various factual scenarios. Law students may be so engaged in the following areas in Legal aid defense counsel office:

- Legal research in criminal cases,
- Visiting scenes of crimes,
- Interviewing accused and their family members and other relevant persons,
- Visits of Prisons and Legal Aid clinics,
- Associating in campaign undertaken,

- Assist in sifting through all of the evidence collected by the prosecution and providing effective input for preparing defense strategy.

The internship to law students can be offered for a period upto 3 months. The law students so engaged shall not be paid any stipend by the Legal Services Authorities but the certificate of work and period of work will be issued by the Chief Defense Counsel & Secretary, DLSA.

11. Monitoring and Evaluation

- The work and performance shall be closely monitored by the Secretary DLSA and a monthly review meeting will be organised under the chairmanship of the Chairman, DLSA. The Minutes of the meeting shall be sent to SLSA. A quarterly review meeting with every LADCS office and the Secretary, DLSA will also be organised by the Member Secretary, SLSA and minutes shall be sent to NALSA. On half yearly basis, review meeting shall be organised by NALSA. The formats for such data sharing will be shared at the time of launch. Monitoring shall be continuous process and at the end of six months the performance of every human resource shall be evaluated by the SLSA under the guidance of Hon'ble Executive Chairman, SLSA.
- Monitoring and Mentoring Committee shall monitor legal aid work of Legal Aid Defense Counsel Office.
- The Chief Legal Aid Defense Counsel shall be involved in monitoring & mentoring Legal Aid cases.

12. Financial Outlay

Primarily, finances are required for engaging Legal aid defense counsels, purchase of office furniture and equipment, monthly salaries, expenses incidental to litigation and other administrative expenses such as postal, stationary etc. Estimated outlay is given below:

A. Honorarium (Retainership fee) and salaries:**For Class-A towns (Population more than 10 lacs)**

1.	Chief Legal Aid Defense Counsel	₹ 70,000 to 1,00,000/-
2.	Deputy Chief Legal Aid Defense Counsel	₹ 50,000 to 75,000/- each
3.	Assistant Legal Aid Defense Counsel	₹ 25,000 to 45,000/- each
4.	Monthly salary of Office Assistants	₹ 18,000 to 25,000/- each
5.	Monthly salary of Receptionist-cum-Data Entry Operator (Optional)	₹ 18,000 to 20,000/-
6.	Monthly salary of Office peon	₹ 12,500 to 15,000/-

For Class-B towns (Population more than 2 lacs but below 10 lacs)

1	Chief Legal Aid Defense Counsel	₹ 65,000 to 80,000/-
2	Deputy Chief Legal Aid Defense Counsel	₹ 40,000 to 60,000/- each
3	Assistant Legal Aid Defense Counsel	₹ 20,000 to 35,000/- each
4	Monthly salary of Office Assistants	₹ 15,000 to 20,000/- each
5	Monthly salary of Receptionist-cum-Data Entry Operator (Optional)	₹ 15,000 to 17,000/-
6	Monthly salary of Office peon	₹ 10,000 to 12,000/-

For class-C (Population below 2 lacs) or Remaining places

1	Chief Legal Aid Defense Counsel	₹ 60,000 to 70,000/-
2	Deputy Chief Legal Aid Defense Counsel	₹ 30,000 to 50,000/- each
3	Assistant Legal Aid Defense Counsel	₹ 20,000 to 30,000/- each
4	Monthly salary of Office Assistants	₹ 12,500 to 15,000/- each

5	Monthly salary of Receptionist-cum-Data Entry Operator (Optional)	₹ 12,000 to 15,000/-
6	Monthly salary of Office peon	₹ 10,000 to 12,000/-

Note: Provisions of the Minimum wages Act and orders issued therein by the State/UT Government will be complied and monthly salary of Office Assistant, Receptionist-cum-Data Entry Operator and Office peon shall not be less than minimum wages payable to such category at the place of LADCS. Retired Court or DLSA employees including experienced outsourced/ contractual personnel, if otherwise suitable may be preferred for the posts of Office Assistant, Receptionist-cum-Data Entry Operator and Office peon.

B. Infrastructure expenditure (If already not available)

1.	Four to six Computers (50% all in one system)	2,50,000/-
2.	Three Printers (one of them would be photocopier & scanner)	1,00,000/-
3.	Furniture (as per need)	Upto 2,00,000/-
4.	Books	Upto 50,000/-
5.	Law software	Provided by NALSA
6.	Facilities/utility items	25,000/-

Note: Online and offline law software will be provided under directions of NALSA.

C. Miscellaneous expenses per month as per the requirement subject to the following cap

1.	Office supplies/stationery	10,000/-
2.	Postal, internet, phone and other misc. expenses	5,000/-

NALSA (Legal Services to the Mentally Ill and Mentally Disabled Persons) Scheme, 2015

BACKGROUND

Persons with disabilities, especially those suffering from mental illness and other barriers like mental retardation are usually not those who catch the attention of the authorities that be. They are sidelined and are viewed only from the prism of the paternalistic "social welfare" which looks upon them merely as persons who are in need of special protection by the State and the society. India is a signatory to the UN Convention on the Rights of Persons with Disabilities (CRPD) 2008 and since our country has ratified the Convention, it is obligatory for our legal system to ensure that human rights and fundamental freedoms of persons with disability (including mentally ill persons and persons with mental disabilities) are enjoyed on equal basis with others and to ensure that they get equal recognition before the law and equal protection of the law. The Convention further requires us to ensure effective access to justice for persons with disabilities on an equal basis with others.

Under Section 12 of the Legal Services Authorities Act, 1987, persons who are disabled as defined in clause (i) of Section 2 of the Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act,1995 and those in a psychiatric hospital or in a psychiatric nursing home within the meaning of clause (q) of Section 2 of the Mental Health Act,1987 are entitled to legal services. Hence NALSA had drawn up a scheme to provide effective legal services to the mentally ill and mentally disabled, in 2010, in terms of its mandate under S.4 (b) of the Legal Services Authorities Act, 1987.

Though the Scheme was first launched in 2010, from the reports received from all the States on its implementation, it appears that there is a need to review the scheme to strengthen the services rendered by the State Legal Services Authorities/Legal Services Institutions to these marginalised people to enable them to access justice. There is imperative need for a proactive outreach to these people. So far, the SLSAs/DLSAs

seem to be concerned only with matters reaching them. Even then, there remains much to be done in court related activities.

It is in this background, that this new Scheme for Legal Services to the Mentally Ill and Mentally Disabled persons has been drawn up as **"NALSA (Legal Services to the Mentally Ill and Mentally Disabled Persons) Scheme, 2015"**.

OBJECTIVES

This Scheme includes fresh guidelines to the Legal Services Institutions (State Legal Services Authorities, District Legal Services Authorities, Taluk Legal Services Committees, High Court Legal Services Committees, Supreme Court Legal Services Committee) to be followed while they render legal services to the mentally ill and persons with mental disabilities. The objective is to ensure that the mentally ill or mentally disabled are not stigmatized and they are dealt with as individuals who are to be helped to enforce all rights they are entitled to and as assured to them by law.

The terms PLVs, Legal Services Clinics, Front Office , Panel Lawyers and Retainer Lawyers will mean the same as defined under the National Legal Services Authority (Free and Competent Legal Services) Regulations, 2010 and National Legal Services Authority (Legal Services Clinics) Regulations, 2011 and the NALSA Scheme for Para Legal Volunteers (Revised) and Module for the Orientation – Induction – Refresher Courses for PLV Training.

PART- I:

PRINCIPLES

While dealing with Mentally Ill or Mentally Disabled Persons, the Legal Services Institutions must keep in mind the following factors:-

- (1) **Mental illness is curable** – The Legal Services Institutions shall keep in mind the fact that mental illness is curable on proper medication and care.

- (2) **Mentally disabled persons are not mentally ill persons** –Mentally disabled persons are suffering from mental disabilities due to developmental disorders. Mental Retardation (MR) is of permanent nature and is not curable. So also Autism and Cerebral Palsy. They are, therefore, treated as persons with disabilities under Section 2 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (PWD Act). The statutory provisions for the welfare of mentally disabled persons are (i) PWD Act, 1995 and; (ii) National Trust for the Welfare of Persons with Autism, Cerebral Palsy Mental Retardation and Multiple Disabilities Act, 1999 .
- (3) **Mentally ill and Mentally disabled persons are entitled to all human rights and fundamental freedoms** – While dealing with mentally ill and mentally disabled persons for rendering legal services it shall be the prime concern of the legal services institutions to promote, protect and ensure the full and equal enjoyment of human rights and fundamental freedoms of these persons.
- (4) **Respect for the inherent dignity of mentally ill & mentally disabled persons** - The legal services institutions shall promote respect for the inherent dignity, individual autonomy including independence of mentally ill & mentally disabled persons.
- (5) **Non-discrimination** – The legal services institutions shall not discriminate mentally ill & mentally disabled persons merely because of his/her state of mental health. Rather, they are to be dealt with greater sensitivity and care.
- (6) **Reasonable Accommodation** – The legal services institutions shall make provisions including reasonable accommodation to ensure that persons with mental illness or mental disabilities have equal access to any scheme, programme, facility or service offered.

- (7) **The right of mentally ill persons to get treatment –** Right to treatment and to get proper health care, emanating from Article 21 of the Constitution of India is equally applicable to all mentally ill persons. Mentally ill persons are deprived of treatment either due to lack of information or due to illegal confinement because of superstition or lack of means or stigma. Therefore the legal services institutions shall ensure that such persons are able to access treatment facilities available in the psychiatric hospitals or psychiatric nursing homes by invoking the provisions in chapter IV of the Mental Health Act, 1987.
- (8) **Informed consent for treatment –** Legal services institutions shall ensure that when a person is subjected to treatment for mental illness, his / her informed consent is obtained. If any person is incapable of giving such consent, the informed consent of his / her relatives or friend and in their absence, the satisfaction of the court under Part II Chapter V of Mental Health Act, 1987 shall be ensured.
- (9) **Prevention of exploitation and abuse of mentally disabled persons –** Mentally disabled persons, particularly female mentally disabled, are one of the vulnerable groups most likely to be exploited. Therefore, the legal services institutions shall come to the assistance of mentally disabled persons in preventing their exploitation including sexual abuse and also for taking legal action against the abusers and exploiters.
- (10) Mentally disabled persons and, by and large, mentally ill persons, cannot fruitfully utilize information, because of their mentally challenged situation. Hence, they cannot be imparted with optimum legal literacy to empower them to access justice. Therefore, legal service institutions should assess and audit their eligibilities and needs, in terms of the laws, on collective as well as individual basis, and such requirements shall be addressed by extending legal services.

PART-II

LEGAL SERVICES TO THE MENTALLY III AND MENTALLY DISABLED PERSONS IN PSYCHIATRIC HOMES, HOSPITALS AND OTHER SIMILAR FACILITIES AND IN JAILS

The Mentally III and Mentally disabled persons used to be kept in jails under the head of "non-criminal lunatics". Through directions of the Hon'ble Supreme Court of India in Sheela Barse Vs. Union of India and others (Criminal Petition No.237/1989) the Supreme Court deprecated this practice and declared that the admission of the non-criminal mentally ill persons in the jails was illegal and unconstitutional. The Supreme Court further directed that henceforth only Judicial Magistrates and no Executive Magistrate shall send a person who is mentally ill to places of safe custody for treatment. The Judicial Magistrates are also obligated to first seek the advice of a professional or psychiatrist before doing so. The Judicial Magistrates are also required to, as per the directions of the Supreme Court of India to send quarterly reports to the High Court setting out the number of cases sought to be screened and sent to places of safe custody and the action taken by the Judicial Magistrates thereon.

The Supreme Court of India transferred the records of the case to each High Court requesting the High Courts to register the records so received as a Public Interest Litigation treating the High Court Legal Services Committee as the Petitioner, to assist the High Court in the matter of monitoring compliance of the orders and directions of the Supreme Court of India and the orders of the High Court which may be passed from time to time.

In order to comply with the directions of the Supreme Court of India, the following actions need to be taken:

At Jails:

- The SLSAs will have to first ensure that the Public Interest Litigation is registered in the High Court and an Hon'ble Judge is designated to deal with the mater, as directed by the Supreme Court of India.

- The SLSAs will carry out inspection of all jails with the assistance of the State Mental Health Authority (SMHA) or any other team constituted by the High Court or under the directions of the High Court to ascertain whether there are any mentally ill and mentally disabled persons in the jails and if there are, to immediately seek appropriate directions from the High Court with regard to their shifting out and their treatment.
- The SLSAs will in coordination with the SMHA constitute a team of psychiatrists/psychologists /counsellors to visit the jails and assess the state of mental health of the inmates in jail. Depending on the need assessment by the team, SLSAs will initiate corrective measures necessary to facilitate the treatment of the jail inmate by psychologists or psychiatrists.
- In compliance of the orders of the Supreme Court of India, the Judicial Magistrates should also send quarterly reports to the High Court setting out the number of cases screened and sent to places of safe custody and the action taken by the Judicial Magistrates thereon. Intimation regarding every such reporting shall be given by the Judicial Magistrate to the SLSA, which, in turn, shall ensure that the said quarterly report gains prompt attention of the designate Hon'ble Judge and shall seek such directions and orders as may be found necessary; either general in nature, or as regards any particular individual or issue. SLSA shall, in the event of any such direction or order being issued, notify the DLSA/TLSC concerned to aid and monitor its compliance, and shall also bring to the notice of the designate Hon'ble Judge any non-compliance or deficiency in compliance of any such direction or order.

At psychiatric hospitals, homes and facilities:

- The SLSAs should request the High Court for the constitution under Section 37 of the Act a Board of Visitors for all psychiatric hospitals, homes and similar facilities, whether government run or privately run in the State, in which the Member Secretary/Full Time

Secretary, SLSAs/DLSAs should also be a Member. The Board of Visitors should regularly visit these to assess the living conditions of the inmates in these facilities, homes or hospitals.

- The SLSAs/ Board of Visitors should review the persons in these hospitals, homes and facilities to ascertain whether there are any cured persons staying there whose families appear reluctant to take them back or are themselves not able to contact their families. Whenever the SLSAs/DLSAs or Board of Visitors find such inmates the SLSAs/DLSAs must take all steps to facilitate restoration, including providing legal representation in court to seek orders for restoration of the cured person with the family.
- Legal services institutions shall during their visits to the psychiatric hospitals or homes or facilities ascertain through interaction with inmates , doctors and staff as to whether any of the persons admitted there are victims of forced admission or not. In such cases, legal services shall be given to such persons for their release from the psychiatric hospitals or homes or facilities.
- SLSAs/DLSAs should setup Legal Services Clinics at the psychiatric hospitals, homes and facilities in order to provide legal assistance wherever required to the Mentally Ill/ mentally disabled persons and their families to address legal issues concerning the mentally ill and mentally disabled persons.
- Such a legal clinic should be manned by Para Legal Volunteers and Panel Lawyers who are sensitive to such issues and persons.
- It would be quite appropriate to train the doctors, nurses and other para medical staff/administrative staff at the mental health facilities as Para Legal Volunteers so that the best legal services can be provided keeping in mind the welfare of the mentally ill / mentally disabled persons.
- The Clinic should also help in ensuring that the homes meant for the mentally ill and mentally disabled persons have all facilities,

including for learning appropriate skills for independent and/or assisted living and earning. The legal services institutions may approach the Government, and if necessary the High Court for appropriate directions, to ensure the availability of such facilities.

- The Legal Services Institutions should also connect the mentally disabled persons with the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities so that benefits provided under the “National Trust For Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999” are assured to these persons and their families.
- Legal Services Institutions should involve through the PLVs the para medical staff/administrative staff and doctors at the mental health facilities to identify the relatives and homes of those patients in relation to whom such facts are not available on record and take appropriate steps through the different legal services institutions to reach to the relatives of the patients to facilitate re-union of the patients with the near and dear ones.
- Patients, who are housed in mental health centres, homes and facilities, away from their domicile and home, must be considered for providing legal assistance to ensure their transit to mental health centres, homes and facilities nearer to their native place. This can be done with the involvement of SLSAs and DLSAs.

LEGAL SERVICES TO THE MENTALLY ILL AND MENTALLY DISABLED PERSONS WHO ARE WANDERING, HOMELESS AND DESTITUTES

Under the Mental Health Act, 1987, Section 23, the officer in charge of a police station can take or cause to be taken into protection a wandering mentally ill person or a dangerous mentally ill person within the limits of his station and produce such person before the Magistrate under Section 24 for passing reception orders authorizing the detention of the said person as an inpatient in a psychiatric hospital or psychiatric nursing home for purposes of treatment.

Similarly, under Section 25 , a police officer or a private person who has reason to believe that a mentally ill person within the limits of his station is not under proper care and control or is ill-treated or neglected by relatives or other the persons having charge of such mentally ill person, can report the matter before the Magistrate . The Magistrate can pass an order of reception or even fine the person who is responsible for neglecting the mentally ill.

In the case of the homeless or destitute mentally disabled person, ordinarily the matter must be reported to the Local Level Committee through a registered organization as prescribed under the National Trust For the Welfare of Persons with Autism, Cerebral Palsy Mental Retardation and Multiple Disabilities Act, 1999 and Rules and Regulations thereunder. It is the Local Level Committee which would pass appropriate directions for the care of the neglected or destitute mentally disabled person.

Action to be taken by legal services institutions

- The legal services institutions must draw up a panel of sensitive and sensitized legal services lawyers to represent the best interests of the mentally ill person at the time of the production of the person under Section 24 or Section 25 of the Mental Health Act, 1987 and assist the Magistrate while passing an order that would be in the welfare of the mentally ill person.
- The legal services institutions must assist the police through its PLVs assigned to the police stations to refer the mentally disabled persons, who are neglected, homeless or destitute to the Local Level Committee set up under Section 13 of the National Trust for the Welfare of Persons with Autism, Cerebral Palsy Mental Retardation and Multiple Disabilities Act, 1999 so that orders such as the appointment of guardian, whether individual or institutional, for the care and rehabilitation of the mentally disabled person is ensured.

- Legal services institutions must devise sensitization programmes with the junction of mental health officials including doctors, police officials and judicial magistrates dealing with inquisition proceedings to evolve locally conducive mode to ensure that wandering mentally ill persons are identified and dealt with securing their human rights by obtaining appropriate judicial orders as may be found necessary in each case.

LEGAL SERVICES TO MENTALLY ILL AND MENTALLY DISABLED PERSONS DURING COURT PROCEEDINGS

The two statutes governing the rights of the mentally ill persons and the mentally disabled persons are The Mental Health Act 1987 and the National Trust for the Welfare of Persons with Autism, Cerebral Palsy Mental Retardation and Multiple Disabilities Act, 1999. Both entail a hearing before the passing of appropriate orders by the Magistrate or the Local Level Committee as the case may be. It is important that the legal services institutions participate in them through the PLVs or the Panel lawyers.

- It shall be the duty of the legal services institutions to depute its retainer/panel lawyer to the court where an application for reception orders has been moved or is under consideration under Section 19, 20, 22, 24, 25, 26, 27 or 28 of the Mental Health Act, 1987.
- The legal services institutions may request the Magistrates who deal with such applications to give notice to the legal services institutions in all cases, for protecting the interest of the mentally ill persons in relation to whom the application for reception or discharge order is being made.
- The retainer/panel lawyer shall gather the details of the circumstances and shall liaise with the relatives of the alleged mentally ill persons, doctors in the psychiatric hospitals or psychiatric nursing homes or any other competent person to ensure that the condition of the person against whom the

application for reception/discharge order has been made warrants such an order from the court.

- The legal services institutions having local jurisdiction shall keep a list of the mentally ill persons against whom reception orders have been passed by the courts and shall monitor the progress of treatment of the mentally ill persons in the psychiatric hospitals or psychiatric nursing homes where the mentally ill persons is detained as per the reception order.
- The legal services institutions shall bring to the notice of the Magistrate concerned about any cured mentally person remaining in the psychiatric hospitals or psychiatric nursing homes where such mentally ill person has been sent as per the reception order.
- The legal services institutions should through the PLVs/panel/retainer lawyers help the cured voluntary patients for moving requests for discharge under Section 18 or by an involuntary patient under Section 19.
- The legal services institutions should through the clinics or as part of the Board of Visitors always keep track of admissions under Section 19 (1) of the Act so that detention beyond the period of the first ninety days is only on the orders of the court.
- The legal services institutions shall also keep track of cases under Section 20 of the Act, so that no cured patient is allowed to remain in the psychiatric hospital, home or facility by default. They must move applications for discharge as soon as the patient is cured.
- The legal services institutions shall also keep track of cases under Section 23 read with Section 25 of the Act, in relation to wandering or destitute mentally ill persons, so that the requirements under Section 28 of the Act, of a ten day review by the Magistrate of the need to keep a person under observation is strictly complied with and no person is detained longer than needed for the issuance of the certificate of mental illness under Section 24 (2) (a) of the Act.

- The legal services institutions through their legal services clinics and PLVs and panel/retainer lawyers should keep track of discharge of patients and wherever necessary should aid and assist the patient to move the application for discharge to the medical officer in charge or to the court which had passed the reception orders.
- The legal services clinics and PLVs and panel/retainer lawyers should also render assistance to inpatients to obtain leave of absence as provided under Section 45 and Section 46 of the Act. They should also assist the filing of appeals as provided for under Section 49 of the Act.
- The legal services institutions shall also participate in inquisition proceedings under Section 50 of the Act to protect the interests of the mentally ill person. A request must be made to the District Judge to issue notice to the legal services institution whenever an application under Section 50 comes before it.
- Where an alleged mentally ill person is possessed of property and if no persons mentioned in Clauses (a) to (d) of Sub-section (1) of Section 50 of Mental Health Act is coming forward with an application for holding judicial inquisition under Chapter VI of the Mental Health Act, the legal services institutions shall take appropriate steps for initiating judicial inquisition regarding the mental condition of the alleged mentally ill persons, custody of his/her person and management of his/her property. For this purpose the Legal Services Institutions may contact any of the aforesaid persons referred to in Clauses (a) to (d) of Sub-section (1) of Section 50 of Mental Health Act, 1987 in writing and may also take up the matter with the Advocate General of the State or with the Collector of the appropriate District in terms of Clause (d) of Sub-section (1) of section 50 of that Act. Legal Services institutions must extend legal aid to the mentally ill persons involved in such matters by providing effective assistance as may be appropriate and requested for by the Collector concerned to aid and assist in preparing and processing such proceedings.

- The legal services institutions should follow up every case where a guardian of the person is appointed under Section 53 and /or the manager of the property has been appointed under Section 54 or an order of maintenance has been passed under Section 71 and Section 79 of the Act and take every step to protect the interests of the mentally ill person.
- The legal services institutions should render all help to pursue appeals as provided under Section 76 of the Act.
- The legal services institutions should through the legal services clinics and PLVs and through visits including as Member of the Board of Visitors that there are no transgression of the human rights of the inmates and whenever such transgressions are noticed, shall bring it to the notice of the High Court.
- As the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act 1999, is a comprehensive Act to provide for the care of the mentally disabled, including assistance in care to parents of the mentally disabled and also for arranging the care and finances of the mentally disabled after the death of the parents through appointment of guardians, it is important that legal services institutions inform the public of the Act and further help them to benefit from it. The PLVs and the legal services clinics should come to the assistance of the mentally disabled and their families in the matter of appointment of guardians.
- Legal services institutions shall come to the help of mentally ill and the mentally disabled in protecting their rights of inheritance, owning properties and enjoying financial rights. The persons with mental illness or mental disability have rights with others to inherit property, both movable as well as immovable, and also have a right to control their financial affairs and have access to bank loans, mortgages and other forms of financial credit, which can be

accessed by them personally or through a support person who has no interest in conflict to the person with mental illness or mental disability. Legal services institutions should render all legal help in realizing this.

- Legal services institutions shall assist the mentally disabled for obtaining all benefits under The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.
- The legal services institutions shall find out the different beneficial schemes for the mentally disabled and their families. The legal services institutions shall assist the mentally disabled and their families to avail the benefits under such schemes.

AWARENESS AND SENSITISATION PROGRAMME

- The legal services institutions shall organize awareness programmes especially in rural areas, to educate people that mental illness is curable and there is no stigma attached to mental illness or mental disabilities.
- The legal services institutions should explain the need for equal treatment of mentally ill with other persons in the society. In such special legal awareness camps the presence of psychiatrists, lawyers and social workers can help the participants to clear their doubts and misconception about mental illness and mental disabilities.
- The legal services lawyer in such camps may educate the public and families on the property and other legal rights and the other provisions of law relating to the mentally ill and mentally disabled persons.
- The State Legal Services Authority / District Legal Services Authority may organize training programmes in association with

the Judicial Academy to sensitize the judicial officers about the socio-legal problems faced by the mentally ill and mentally disabled persons, their parents, relatives and family members.

- Similar programmes may be organized with the help of the bar associations to sensitize the panel lawyers and the other members of the legal profession.

The legal services institutions shall co-ordinate with NGOs and other volunteer social organizations for dealing with the issues relating to mentally ill and mentally disabled persons.

NALSA (Legal Services to the Victims of Drug Abuse and Eradication of Drug Menace) Scheme, 2015

1 Background:

- 1.1.** The phenomenal rise in drug trafficking and drug abuse amongst the youth, children and adolescents has serious implications, adversely affecting national health and economy. Curbing it is the highest priority for the State as well as the society.
- 1.2.** It is an open secret that drugs have spread their dreaded tentacles on innocent children, adolescents, youth and women. The horrible dimension, which this menace has acquired, can be gauged from the average age of initiation of drugs which is as low as nine-ten years. Recent empirical studies reveal that about 7 crore people in India are involved in substance abuse, out of whom about 17% are addicts.
- 1.3.** The illicit cultivation of plants wherefrom the substances/drugs are derived is an area of major concern. Generally, people are unaware of the ill effects of such cultivation. In order to prevent illicit cultivation of substances, participation of Panchayati Raj Institutions and Local Bodies is necessarily required.
- 1.4.** Although many agencies of the State as well as Non-Governmental Organizations are working in the field for eradication of drug trafficking and drug abuse, there is lack of coordination amongst them. Individual efforts of different functionaries and agencies have not achieved the desired results. Experience shows that the victims of drug abuse have no idea how to tackle the issues of treatment and rehabilitation.
- 1.5.** Considering the fact that Legal Services Institutions can contribute a lot to curb this menace, a resolution was passed in the 13th All India Meet of State Legal Services Authorities held at Ranchi (Jharkhand), concluding that Drug Addiction and Drug Abuse

should be a major area of concern for all Legal Services Institutions and a necessity was felt to examine the issue therein.

2 Existing Legal Provisions

- 2.1 The efforts to combat the menace of Narcotic Drugs and Trafficking started at the International level with Single Convention on Narcotic Drugs by the United Nations in March, 1961 and thereafter a protocol amending the resolution of this Convention was adopted in March, 1972. The United Nations Convention on Psychotropic Substances was held in 1971, followed by United Nations Convention against Illicit Trafficking in Narcotic Drugs & Psychotropic Substances, 1988. India is signatory to all such Conventions.
- 2.2 Article 47 of the Constitution of India mandates that State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health.
- 2.3 The growing trend of illicit drug traffic and drug abuse, at the National level, has led to the passing of comprehensive legislations: (i) The Drugs and Cosmetics Act, 1940 and (ii) The Narcotic Drugs and Psychotropic Substances Act, 1985, for prohibition, control, regulation, cultivation, manufacture, sale transportation, consumption etc. of narcotic drugs and psychotropic substances. Despite tough laws, illicit drug trade, in an organized manner, is growing manifold.
- 2.4 It is in this background that it was felt by NALSA, that Legal Services Institutions have a significant role to play in supply and demand reduction and de-addiction and rehabilitation. A Committee was constituted for the purpose of understanding the dimensions of the problem and defining the role of the Legal Services Institutions to effectively address the problem. This Scheme has been framed on the deliberations of the Committee based on the inputs received at the Regional Conference on the

'Drug Menace in India – Overview, Challenges and Solutions' at Manali, Himachal Pradesh.

3 Name of the Scheme

The Scheme shall be called "**NALSA (Legal Services to the Victims of Drug Abuse and Eradication of Drug Menace) Scheme, 2015**".(hereinafter referred to as "the Scheme").

4 Definitions

In this scheme unless the context otherwise requires,

- a) "Act" means the Legal Services Authorities Act, 1987 (39 of 1987)
- b) "NDPS Act" means The Narcotic Drugs and Psychotropic Substances Act,1985 (Act no.61 of 1985)
- c) "Legal Service" means as defined under section 2(c) of Legal Services Authorities Act 1987.
- d) Legal Services Clinic means a clinic as defined under regulation 2 (c) of National Legal Services Authority (Legal Services Clinics) regulations 2011.
- e) Legal Services Institution means a State Legal Service Authority, Supreme Court Legal Services Committee, High Court Legal Services Committee, District Legal Service Authority or Taluk Legal Service committee, as the case may be.
- f) Panel Lawyer means the panel lawyer selected under regulation 8 of the National Legal Services Authority (free and competent legal services) regulations 2010.
- g) Para Legal Volunteer means a Para Legal Volunteer defined and trained under the NALSA Scheme for Para Legal Volunteers (Revised) and Module for the Orientation – Induction – Refresher Courses for PLV Training. trained as such by a legal services institution.

- h) All other words and expressions used but not defined in this scheme and defined in the Legal Services Authorities Act, 1987 (39 of 1987) or the National Legal Services Authorities rules, 1995 or National Legal Services Authority (Free and Competent Legal Services) Regulations, 2010 shall have the same meaning respectively assigned to them in the said Act or Rules or Regulations.

5 The Objectives of the Scheme

- 5.1 To disseminate awareness amongst the general masses regarding the Legal Provisions, various Policies, Programmes and Schemes, in respect of Narcotic Drugs and Psychotropic Substances as well as to create awareness about the ill effects of drug abuse amongst the children in schools and colleges, street children, urban slum children, injective drug user(s), families, prisoners, workers in unorganized Sector, Chemists, drug pedlars, sex workers and general masses etc.
- 5.2 Organizing literacy camps for sensitizing the farmers who are carrying out permissible cultivation of various substances/source plants about the adverse health and life threatening effects of consumption of such drugs and substances.
- 5.3 To spread awareness amongst the parents, teachers and students about the ill effects of the substance abuse.
- 5.4 To sensitize the various stakeholders viz; Judiciary, Prosecution, Members of Bar, Police, Forensic Laboratories, De-addiction Centres, Corrective Homes, Rehabilitation Centres, School, College and University administration, Children Homes, Old-age Homes, NariNiketans, Schools for Special Children, Ministerial Staff of Courts, etc. about the drug menace and effective measures to curb it.
- 5.5 To mobilize the available infrastructure in identifying the victims of drug abuse, their treatment and post detoxification rehabilitation.

- 5.6 To tap the potential of the Panchayati Raj Institutions/Local Bodies at grassroot level for intervention and prevention of drug abuse and destruction of illicit cultivation of plants used to derive the drugs/substances.
- 5.7 To maintain effective coordination with the Drug De-Addiction Centres, and Rehabilitation Centres etc. for better facilities and respect for the rights of the victims and to intervene, if any, breach is noticed.
- 5.8 To coordinate the activities of various stakeholders working in the field.
- 5.9 To ensure essential legal services to the victims of drug trafficking and drug abuse.

Plan of Action

6 Establishment of Special Units

- 6.1 The State Legal Services Authority (hereinafter referred to as SLSA) shall, within one month of the communication of this scheme, establish Special Units in all the Talukas/ Mandals/ Sub Divisions in the State, consisting of Judicial Officer(s), young lawyer(s) to be nominated by the Chairman, DLSA, Medical Officer(s) to be nominated by the Chief Medical Officer concerned, a Revenue/Police/Forest Officer(s) nominated by the Chief Secretary, social worker, Para Legal volunteer and a representative of NGO(s) having done substantial work for eradication of drug menace or rehabilitation and de-addiction, and accredited with NALSA. The Special Units shall be headed by the Chairman of the Taluka/ Mandal/ Sub Divisional Legal Services Committee (hereinafter referred to as TLSC), under the overall supervision of the Chairman, DLSA.
- 6.2 Such Special Units shall comprise of not more than ten members. The Secretary, DLSA shall be the Nodal Officer for the District. The

Secretary, Taluka Legal Services Committee shall be Secretary of the Special Units.

- 6.3 After the constitution of the Special Units, the DLSAs shall conduct training programmes for members of the Special Units, as per module of NALSA.
- 6.4 The Special Units shall submit regular action taken reports to the SLSA through Chairman, DLSA, who will forward it along with his/her comments.
- 6.5 The Special Units shall, in terms of the scheme, within 15 days of its constitution, prepare a Micro Level Programme to be carried out/Performed in their respective areas for tackling, intervention & prevention of drug abuse.
- 6.6 Such programme(s) shall be forwarded by the Chairman of the DLSA to the Member Secretary of the SLSA, who, in turn, shall place the same for approval, before the Executive Chairman. The Executive Chairman SLSA, may accord sanction with or without amendments, within 15 days.
- 6.7 Apart from the functions assigned to them under the provisions of this scheme, the Special Units shall also perform any other function, which SLSA may assign from time to time.

7 Creation of Database

- (a) The SLSAs shall create a Database of all the existing Policies, Schemes, Regulations, Directives, Preventions, Rules, Declarations and Reports available for effective prevention, protection, rehabilitation, elimination of Narcotic Drugs and Psychotropic Substances and upload the same on its website and share the same with NALSA.

8 Implementation of various schemes.

- (a) The SLSAs shall take all steps to disseminate the information regarding policies, schemes, programmes to the general public

and in particular, to the victims of Drug abuse, their families and the functionaries of De-addiction / Rehabilitation Centers

- (b) The Special Units shall display such information prominently in their offices and shall get suitable booklets/pamphlets/placards etc, printed, as approved by the SLSA.

9 Destruction of Illicit cultivation

The SLSAs shall coordinate with the State Governments for the destruction of illicit cultivation of cannabis and opium as well as any other plant used to derive Narcotic and Psychotropic Substances. The SLSAs may also urge the State Government to include such destruction as admissible work under MNREGA Scheme. This will pave the way for the destruction of illicit plants on a large scale besides, encouraging community involvement in the entire campaign.

10 Participation of Local Bodies/Panchayati Raj Institutions at grassroot level

The participation of these institutions shall be in the following manner:-

- (a) Special Units shall coordinate with the Panchayati Raj Institutions to identify areas, where substances such as charas/ganjaetc are being illegally cultivated. Reports so prepared by the Special Units shall be forwarded to the SLSA through the Chairman DLSA and with the approval of the Executive Chairman, SLSA, the matter shall be taken up with the concerned authorities for appropriate action.
- (b) The Special Units shall seek assistance of Panchayati Raj Institutions to identify the drug addicts and injective drug user(s) for making arrangements for their treatment and rehabilitation.
- © The Special Units shall also seek assistance of the Panchayati Raj Institutions for spreading awareness about ill effects of drugs in the rural areas.

- (d) The Special Units should as far as is possible associate the MahilaMandals and YuvakMandals or other similar self helpgroups of the area in such campaigns

11. Awareness

11.1 Awareness in Schools/Colleges

The Special Units shall coordinate with Legal Literacy Clubs in schools and Legal Services Clinics in colleges to conduct awareness and sensitization programmes in the Schools and Colleges, to make students aware of the ill effects of drugs.

- (a) The awareness and sensitization programmes could be conducted through various modes, such as;
- i. Starting awareness campaign in the school/cluster of schools under the banner of "run against drug abuse" by associating the "Icons" of the area.
 - ii. Awareness camps
 - iii. Holding regular Parents-Teachers meetings.
 - iv. Through Mass Literacy campaigns
 - v. Through Symposiums. Seminars, Debates etc.
 - vi. Organizing quiz and essay writing competitions about the ill effects of drug abuse
 - vii. Nukkad Nataks; Any other similar and innovative manner
 - viii. Any other similar and innovative manner
- (b) The teachers in the schools/colleges should also be involved in awareness/sensitization programmes.
- © Pamphlets/booklets prepared by the NALSA/SLSA should be distributed to the students in awareness/sensitization programmes.

- (d) Such pamphlets/booklets will also be distributed at all awareness camps and also help at front offices and legal services clinics
- (e) Inclusion of Chapter on Drug Abuse in School and College Curriculum - An endeavour for compulsorily getting a chapter on drug abuse included in the curriculum of Schools and Colleges, by taking up the matter with respective Education Boards and Universities

11.2 Awareness to the families of the victims of Drug Abuse

Children generally become victims of drug abuse in those families where the affectionate bond between children and parents is either loosened or obliterated or where parents or family members consume drugs/substances.

- (a) The Special Units should identify the families of victims of drug abuse and the parents who are habituated to either one or other forms of addiction and shall sensitize them to build parental bonds with their children. The focus will be on persuading the parents to interact with children, supervise their activities and to talk to the teachers about their children and their behaviour and that drug addiction can be cured.
- (b) Awareness must be raised to aid in the de-stigmatization of addiction as well as the mental illnesses arising out of it, in order for addiction to be recognised as any other health problem and treated at the earliest

11.3 Awareness amongst Street Children

- a) Large number of victims of drug abuse are the street children. They are the most neglected and vulnerable class, generally abandoned and left out by their families. Hence, there is a greater need to ensure their safety along with NGOs working with street children.
- (b) The Special Units shall identify the addicted street and urban slum children and make arrangement for admitting them to De-Addiction Centre(s) or Rehabilitation Centre(s), as the case may be.

11.4 Awareness amongst the victims of drug abuse

With the identification of the drug addicts, Special Units shall conduct regular sensitization programme(s) for them by associating Psychologists and Doctors. Role Models and the persons who have achieved success in the field of Sports, Cinema, Literature etc. may be associated in such programmes.

11.5 Awareness Programmes for sex workers

The Special Units shall organize strategic awareness programmes in the red-light areas, targeting the sex workers and their children about the ill effects of drug abuse.

11.6 Awareness Programmes in Jails.

The Legal Services Institutions shall organize periodical awareness and sensitization programmes for inmates of jails and jail staff about the ill-effects of the narcotic drugs.

11.7 Awareness amongst General Public

- a) The Special Units shall periodically organize Legal Literacy Camps on ND&PS Act in the areas where farmers are permitted to cultivate opium or other such plants with special focus on spreading awareness about the ill effects of illegal sale or consumption of narcotic substances.
- (b) The general public shall be made aware of the fact that giving secret information to police about illegal possession, transportation, sale or cultivation etc. of drugs or prohibited and banned drugs is protected under law and their identity is kept secret.
- c) The Special Units shall also organize regular Legal Literacy Camps for transporters and taxi operators for educating them about the consequences and ill effects of drugs.

- d) The Legal Services Institutions Special Units shall display sign boards, hoardings etc. about the stringent provisions of the NDPS Act and ill effects of drug abuse at public places such as Bus-Stands, Railway Stations, Airports, Public and Private Schools, Universities, Panchayat Bhawans, Courts, District Collectorates, SDM offices etc.
- (e) The Special Units shall organize awareness camps in Villages, Fairs and Festivals about the ill effects of the drug abuse.
- (f) The Special Units shall organize awareness camps in resettlement colonies, residential areas, market places by involving various organizations/ associations.
- (g) The SLSAs will endeavour to involve Postal Authorities, Courier Agencies, and Financial Institutions to sensitize their staff about the drugs being transported clandestinely through these agencies.

11.8. Awareness amongst Chemists and Peddlers

- (a) The Special Units shall sensitize the chemists and druggists about the ill effects of the drugs.
- (b) Chemists may be trained to watch out for children and youth who are buying prescription drugs on a regular basis and refuse to sell them such drugs.
- (c) The Drug Peddlers shall be identified and similar sensitization programmes shall also be conducted for them.
- (d) Police could also be sensitized to be involved in the prevention of addiction by keeping a watch on suspicious activities by street vendors, paan stalls etc.

11.9 Awareness through Electronic and Print Media.

SLSAs should organize regular Radio talks and Television programmes on harmful effects of drugs and means to curb the same.

Judicial Officers, Lawyers, Psychologists, Psychiatrists, Police Officers, Icons etc. shall be associated in these programmes.

12. Co-ordination with De-addiction/Rehabilitation Centres

- (a) The Special Units shall visit the Rehabilitation and De-addiction Centre(s) situated within their jurisdiction at least once in a month. The Special Units will draw up a list of rehabilitation and de-addiction centres in the Taluk and will continuously update the information. It shall also forward the list to the SLSA along with details of who is running the same and their background
- (b) The Special Units will inspect the facilities at the rehabilitation/de-addiction centre(s) to assess the adequacy of the facilities
- (c) The Special Units shall inspect the record regarding visits of the counselor, psychologist and Doctors.
- (d) The Special Units will check the staff ratio to see that there is no shortage of staff and staff strength is commensurate to the number of victims at the drug rehabilitation centres.
- (e) Whenever the Special Units find inadequacy in staff, infrastructure or facilities, the Special Units will make appropriate recommendations in this regard to the DLSA, who, shall take up the matter with the concerned authorities and ensure that the deficiencies are removed.
- (f) In case, the Special Unit comes across any violation of human rights of victims, it shall promptly file a report with the Chairman, TLSC who shall look into the report and apply his mind before initiating legal proceedings. The TLSC will also grant legal assistance where such proceedings are to be initiated on behalf of the victim.
- (g) The Special units shall gather information from the rehabilitation centre(s) and shall send monthly report to the DLSA concerned, mentioning therein, the details of victims, activities undertaken and

visits of Psychologist(s) and Doctor(s) and the corrective measures, if any, taken on the report of the Special Units.

- (h) The Special Units will arrange and organize periodical awareness camps for the victims. Cultural and other Socially Active Groups shall be associated in such awareness camps with an aim to bring the victims to the main stream of the society.

13. Training/Refresher Courses for Stakeholders

The SLSAs shall arrange and organise either by themselves or along with the State Judicial Academies, sensitization programmes, refresher courses, special trainings and conferences for Judicial Officers, Prosecutors, members of the bar, police officers and ministerial staff of the Courts.

14. Observance of International Day against Drug Abuse on 26th June

All Legal Services Institutions with the help of Special Units shall organize awareness programmes on 26th June every year for observing "International Day against Drug Abuse and Illicit Trafficking" for creating awareness about drug abuse and its consequences.

15. Association of Reformed Drug Addicts.

The Special Units shall identify former drug addicts in their areas and associate them in the awareness camps to share their experiences.

16. Anti Drug Clubs

- (a) The School and College authorities shall be requested and involved by Special Units for opening Anti Drug Clubs in the School(s)/College(s) so that the students become role models and make their colleagues aware of ill effects of drugs.
- (b) The Special Units shall organize sensitization programmes through Anti Drug Clubs in School(s)/College(s). Legal literacy

clubs and legal services clinics should be used for this as mentioned earlier.

17. Involvement of Para Legal Volunteers

The Para-Legal Volunteers shall be imparted training about various Schemes, who in turn shall visit different areas and make aware and sensitize people about the ill-effects of the Narcotic Drugs and Psychotropic Substances.

18. Recognition of Good Work

At the end of every financial year, the SLSA should commend outstanding work done by the members of the best Special Units in the State.

NALSA (Legal Services to the Workers in the Unorganized Sector) Scheme, 2015

1. Background

- 1.1 One of the major characteristics of the Indian economy is the contribution of a vast majority of labour employed in the unorganised sector. The economic survey of India (2007-2008) and National Sample Survey unorganized sector (2009-2010) have estimated the employment in this sector at about 93-94% of the total workforce. Its contribution to the GDP is estimated to be more than 50%.
- 1.2 Majority of unorganised workers (about 52 per cent) are employed in agriculture. Other major categories include construction workers, workers in small enterprises, workers employed through contractors even in large enterprises, artisans/craftsman, home based workers, workers depending upon forest produce, fisheries, self-employed workers like rickshaw pullers, auto drivers, coolies etc.
- 1.3 The distinguishing feature of the unorganised sector is non-applicability of most of the labour laws and other regulations providing for decent working conditions, job security and social security to the workers. The unorganised workers lack collective bargaining power and are therefore susceptible to excessive exploitation. They work under poor working conditions and receive far lower wages/remuneration as compared to the organised sector, even for comparable jobs. Most of the employment in this sector is seasonal and the workers therefore have no job guarantee. This also leads to large scale migration of workers from one place to another leading to un-stability of work and residence which further often leads to discontinuity of the education of their children. In cities, they live in slums without proper housing and sanitation. Health care and maternity benefits which are statutorily available in the organised sector are not available for them. The

legislations providing for social securities for old-age, health-care and assistance in the event of death, marriage and accidents etc., like the Workmen's Compensation Act, 1923; Employees State Insurance Act, 1948; Maternity Benefits Act, 1961; Industrial Disputes Act, 1974; Payment of Gratuity Act, 1972; Employee Provident Fund and Miscellaneous Provisions Act, 1952 etc., do not apply to them. The combined effect of the above factors is that many of them are generally, forced to lead an undignified and servile life.

1.4 Existing Legal Frame Work

Although there are a large number of categories of employment in the unorganized sector, legislation providing for working conditions etc., have been enacted only in respect of few categories like:-

- Dock Workers (Regulation of Employment) Act, 1948;
 - Beedi and Cigar Workers (Condition of Employment) Act, 1966;
 - Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979;
 - Cine-Workers and Cinema Theatre Workers (Regulation of Employment) Rules, 1984;
 - Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996;
 - Prohibition Of Employment As Manual Scavengers And Their Rehabilitation Act, 2013.
- 1.5 In order to provide for social security to all categories of unorganised workers, the Central Government has also enacted an umbrella legislation by the name of Unorganised Workers Social Security Act, 2008. Various social security schemes have been/are required to be floated for the benefit of the workers under the Building and Construction Workers Act, 1996 and Unorganised Workers Social Security Act, 2008.

2. Scheme for providing legal services.

- 2.1 The enactment of the few statutes as mentioned herein above does not appear to have made any appreciable difference to the lives of the workers inter-alia, for the following reasons:-
- a) The Social Security Act,2008 does not statutorily provide any mechanism to implement the schemes and there appears to be no sanction against a refusal of the concerned authorities to extend the benefits of the schemes to eligible workers.
 - b) Very few States have constituted the Social Security Boards and have framed rules as envisaged under Section 14 of the Act. The result is that in many states, no welfare schemes are being administered and even where the schemes are in place, there is no effective monitoring. Similarly, all the states have not yet established the Building and other Construction Workers Welfare Boards as mandated under the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act,1996 and consequently, no security schemes have been floated for these workers.
 - c) Although cess is being collected by many states under Building and Other Construction Workers Welfare Cess Act 1996, utilisation of cess amount for the benefit of the workers is abysmally low. This may be due to very low registration of workers and / or non extension of benefits even to the registered workers.
 - d) The schemes and the benefits available thereunder are not being sufficiently publicised. Workers in the unorganized sector being generally uneducated and not unionised are mostly unaware of the schemes.
 - e) Workers Facilitation Centres as envisaged under section 19 of the Social Security Act 2008 have not been set up by any State.
 - f) There is no responsibility of the employer /contractor to get their workers registered under any of the schemes. It is for the workers

to apply for the same and they are unable to do so due to lack of awareness and complexity of the procedure.

- g) Separate registration is required for each scheme which makes it difficult for workers to avail benefits under all the schemes available to them in case of need.
 - h) The registration under the scheme is generally non-portable and therefore, workers in most of the categories being migrant workers are unable to avail the benefits and are therefore reluctant to register themselves under the scheme.
- 2.2 The Legal Services Institutions can play an important role in bridging the gap between the implementing authorities and target beneficiaries. With this object in view, the National Legal Services Authority had adopted the Scheme i.e. National Legal Services Authority (Legal Services to the Workers in the Unorganised Sector) Scheme, 2010 in the meeting of the Central Authority of NALSA held on 08.12.2010.
- 2.3 However, the magnitude of the problem and the fact that the benefits of the legislations are still elusive to the needy workers even after several years of their enactment has given rise to the need for more focused attention to this sector. The present revised scheme is meant to achieve this purpose.

The terms PLVs, Legal Services Clinics, Front Office , Panel Lawyers and Retainer Lawyers will mean the same as defined under the National Legal Services Authority (Free and Competent Legal Services) Regulations, 2010 and National Legal Services Authority (Legal Services Clinics) Regulations, 2011 and the NALSA Scheme for Para Legal Volunteers (Revised) and Module for the Orientation – Induction – Refresher Courses for PLV Training.

3. Name of the Scheme

The Scheme shall be called "**NALSA (Legal Services to the Workers in the Unorganized Sector) Scheme, 2015**".

4. Objectives

1. To institutionalize essential legal services to all unorganized workers.
2. To get the gaps in legislation/implementation plugged through coordination with government authorities and by initiating public interest litigation.
3. To mobilize the machinery of the State Government and the District Administration to identify and register all unorganized workers in all categories and to extend the benefits of all government schemes, as applicable to them.
4. To spread awareness among the employers regarding the statutory provisions and the need for providing decent working conditions, living wages and social security to the workers.
5. To disseminate information among the workers regarding their entitlements under the existing legislations and schemes.
6. To provide counselling and assistance to all categories of unorganized workers for their registration with the concerned authorities under the schemes available for their category.
7. To assist the workers in availing the benefits of the scheme for which they are registered as per their need/entitlements.

5. Guiding Principles

The following principles shall be borne in mind by all Legal Service Institutions while implementing the scheme for the unorganized workers:-

- 5.1 The Preamble of the Constitution of India assures equality of status and opportunity to all citizens and to promote among them fraternity, assuring the dignity of the individual. Article 42, mandates that the State shall make provision for securing just and humane conditions of work and for maternity relief. By virtue of

Article 43, the State is obliged to secure to all workers, work, a living wage, condition of work ensuring a decent standard of life and full enjoyment of leisure, social and cultural opportunities.

- 5.2 The Preambular promise of upholding the dignity of the individual cannot be fulfilled unless the dignity of labour is ensured.
- 5.3 The unorganized sector is one of the marginalized sections of the society and they, as citizens of the country, are equally entitled to the right to work, just and humane conditions of work, living wages, maternity relief and a decent standard of life. It is the statutory mandate of the Legal Services Authorities to facilitate realization of this Constitutional assurance. The Legal Services Authorities have to act as watchdogs against administrative inaction.
- 5.4 The welfare measures initiated by the Government in the form of legislations or schemes etc. require the intended beneficiaries or the victims to mobilize the system for realization of their rights/entitlements. The workers in the unorganized sector belonging as they do, to the deprived and vulnerable sections of the society do not possess the capacity to mobilize the system. It is the job of the Legal Services Authorities to provide them support in getting justice to their doorsteps.
- 5.5 The large number of categories of the unorganized workers,, large population in each category and their vast geographical spread necessitates a project-approach to the issue of providing legal services to them. An institutionalized setup, committed work force and sustained efforts for a considerable period of time are required to be able to make them capable of realizing their constitutional rights.

Plan of Action

6. Setting up of Special Cells

- 6.1 In order to provide effective legal services to the workers in this sector, each State Legal Services Authorities (SLSAs) shall

constitute a special cell focusing exclusively on these services. The cell shall be manned by one panel lawyer specialising in Labour Laws, one counsellor/consultant having requisite qualification/experience in relevant field, wherever feasible, representative of an NGO doing demonstrably good work in the area and such number of Para Legal Volunteers, as the SLSA may prescribe .

6.2 The functions of the special cell shall be:

- I) to organize and conduct Legal Awareness/Literacy programmes, training programmes and seminars for unorganized workers;
- ii) to co-ordinate with government authorities in relation with registration and extention of the benefits of the schemes to the unorganized workers;
- iii) to facilitate and provide assistance in filing , processing and furnishing application form for registration and in availing benefits of the schemes to the unorganized workers;
- iv) to provide legal assistance and legal aid to the unorganized workers in respect of any claim or defence before any court or other authority;
- v) any other function that the State Authority may prescribe for them.

6.3 The special cell shall work under the guidance of the Member Secretary or any other officer of the Authority, as nominated by the State Authority, and shall file periodic reports of the progress of its assigned duties with him.

- 6.4 The members of the cell shall be paid honorarium for each of the duties at such rates, as may be fixed by the State Authority.

7 Identification of Unorganized Workers

- 7.1 The first job for the Legal Services Institutions is to identify the categories and population of unorganised workers operating in their respective areas, by seeking the data available with the Labour Department/Social Welfare Department of the State and if necessary, conducting surveys either themselves or in collaboration with law students and NGOs operating in the area.
- 7.2 In the process of identification, special efforts should also be made to identify any child labour or bonded labour and in case any workers in the said prohibited categories are found, the Legal Services Authorities shall inform the concerned authorities and facilitate their rescue, release and rehabilitation, as provided under the Bonded Labour System (Abolition) Act 1976, The Child Labour (Prohibition and Regulation) Act 1986 and Juvenile Justice Act 2000.
- 7.3 The State Authority may fix timelines for identification of all categories depending upon the area, population and other relevant factors in each state.

8 Conditions of work and minimum wages

The State and District Legal Service Authorities shall, in collaboration with the State and District Administration and local NGOs, assess the need of statutory regulation of conditions of work and minimum wages etc., for the categories of Unorganized Workers particularly, of Domestic Workers and if found necessary, the State Legal Services Authority shall take the requisite steps to get the same notified.

9 Setting up of State Social Security Board and Building & Other Construction Workers Welfare Boards

Wherever the Social Security Board and Building & Other Construction Workers Welfare Boards have yet not been set up, the State Legal Services Authorities shall coordinate with the State Government and, if necessary, institute, with the approval of the Hon'ble Executive Chairman, SLSA, Public Interest Litigation in the respective High Courts for getting these boards set up, as soon as possible.

10 Utilisation of Cess

State Legal Services Authorities shall coordinate with the Building and Constructions Workers Welfare Boards to ensure that the cess collected by them does not keep lying in fixed deposits and is actually utilised for the benefit of the needy workers as per the schemes available. The State Authorities shall seek relevant information from the boards, encourage the workers to apply for the benefits and then, coordinate with the boards to provide the said benefits.

In case of denial of due benefits to any worker, legal remedies can be prosecuted on his behalf by the State Legal Services Authority through the Special Cell for Unorganized Workers.

11 Government Schemes under the statutes

Legal Services Authorities shall move the State Governments to notify the schemes relevant to the category of unorganised sector operating in the States. This also, if necessary, can be achieved through institution of Public Interest Cases, with the approval of the Hon'ble Executive Chairman.

12 Legal Awareness

- 12.1 After identification of the unorganised workers in each category, legal awareness programmes may be organised about the different schemes and social security measures available for such categories. The special cells for unorganized workers shall

organize legal literacy camps for this purpose preferably, at their place of work itself or at community centres etc.

- 12.2 All State Legal Services Authorities shall publish booklets/pamphlets containing the details of the available schemes, their eligibility criteria and procedure for registration for obtaining the benefits as per the requirements of the workers. Copies of the booklets/pamphlets shall be kept available in all Front Offices, Legal Services Clinics and the place of sitting of the Special Cell and shall be distributed in the legal awareness/literacy programmes.
- 12.3 Information regarding the abovesaid details should also be disseminated through Doordarshan, All India Radio and Community Radio.
- 12.4 The Labour and Social Welfare Departments of the State should be requested to display the telephone numbers and helpline numbers of the Legal Services Institutions and the members of the Special Cell.

13 Specialised Training for PLVs

State Legal Services Authorities shall conduct specialized training programs for the paralegal volunteers focusing on the needs of the particular categories of Unorganised Workers as are operating in that area and the benefits which they can avail from the government schemes. PLVs should be trained inter-alia to educate the workers, help them identify the benefits they should seek and to liaise with the authorities for making the said benefits available to the needy workers.

14 Workers Facilitation Centres

State Legal Services Authorities shall coordinate with the Labour Departments of the State for setting up of worker's facilitation centres as envisaged under Section 9 of the 2008 Act. They may also set up legal services clinics manned by specially trained PLVs/NGOs, to be attached to such centres.

15 Decent Working Conditions

Some of the Statutes like the Building and Other Construction Workers (Conditions of Service) Act and Beedi and Cigar Workers Conditions of Employment Act have provisions to regulate the minimum working conditions for all workers employed in the said sectors. Even in other sectors where the statutory provisions are not available, the requirement of having proper wages and humane work conditions cannot be over emphasized.

State Legal Services Authorities may launch campaigns, in collaboration with law students and suitable NGOs to ensure that the employers provide decent conditions of work to the unorganised sector workers, abiding by all the statutory provisions laid down for this purpose.

16 Seminars for Employers

State Legal Service Authority and the Special Cell for unorganized sector shall organize seminars/colloquia for making employers aware of their statutory duties and the need to fulfill the genuine requirements of the workers.

17 Rehabilitation Schemes

Certain statutes provide for rehabilitation of workers like in Section 13 of the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013. State Legal Services Authorities shall coordinate with the concerned State authorities either themselves or through coordinating with NGOs to frame rehabilitation schemes for the erstwhile manual scavengers as per the provisions of the said Acts.

18 Legal Assistance and Legal Representation

The special cell for Unorganized Workers shall provide counselling, legal assistance and legal aid by way of legal representation before any court or other authority, as required, to all Unorganized Workers.

RECOMMENDATION OF NALSA ABOUT MINIMUM FEE PAYABLE TO THE PANEL LAWYERS BY SLSAs.

"A. High Court

- i. Drafting of substantive pleading such as Writ Petition, Counter Affidavit, Memo of Appeal, Revision, Reply, Rejoinder, Replication- Rs.1,500/-.
- ii. Drafting of Miscellaneous applications such as stay, bail, direction, exemption etc. – Rs.500/- per application subject to maximum of Rs.1,000/- for all applications.
- iii. Appearance – Rs.1,000/- per effective hearing and Rs.750/- for non-effective hearing subject to maximum of Rs.10,000/- (per case).

B. 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, 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.7,500/- (per case).
- It is also recommended that the fee structure should be reconsidered by NALSA and All State Legal Services Authorities every three years.”



NALSA (LEGAL SERVICES TO SENIOR CITIZENS) SCHEME, 2016



NATIONAL LEGAL SERVICES AUTHORITY

NALSA (LEGAL SERVICES TO SENIOR CITIZENS) SCHEME, 2016

1. BACKGROUND

1.1 The Senior Citizens constitute a class in themselves¹. They are a reservoir of experience and knowledge, yet in many cases they are marginalised and almost wished away by the younger sections of the society as a burden on the society. The senior citizens do not constitute a homogenous group, the differences being based on the age gap amongst the senior citizens themselves, level of physical and mental alertness, their ability to work and such like.

1.2 Over the years, with advancement in science, there has been a substantial increase in life expectancy. As mentioned in the National Policy on Senior Citizens, 2011, “the demographic profile depicts that in the years 2000-2050, the overall population in India will grow by 55% whereas population of people in their 60 years and above will increase by 326% and those in the age group of 80+ by 700% - the fastest growing group.” 1/8th of the world's elderly population lives in India. In real terms the population of elderly persons has increased from nearly 2 crores in 1951 to 7.2 crores in 2001 to 10.38 crores in 2011. Thus about 8% of the population is above 60 years. The highest percentage of people aged above 60 years is found in Kerala with the elderly constituting 12.55% of the population of the state. The number of females is larger in the category of 60+ age group with the number of females being 5,27,77,168 to 5,10,71,872 males as per the Census of 2011.

1.3 Senior citizens face a myriad of challenges- social, physical, mental and economic which are unique to them. The economic problems could be on account of loss of employment with a consequent loss of income and economic insecurity. Physical problems include health and medical problems. Social problems could be lack of familial support and social maladjustment. Security is another major issue for the older persons. The problem is made more acute with the break-up of the joint family system and more and more

¹Note: For the purposes of this Scheme, the persons above the age of 60 years are referred to as 'senior citizens' and the terms 'older persons', 'elder persons' are used synonymously.

elderly persons being left to fend for themselves. There is migration of productive members of the family from the rural to urban areas. As such the women and the older persons in rural areas face greater problems.

1.4 There is also evidence of systematic and continuous abuse of the elderly i.e. infliction of physical, emotional or psychological harm on the older persons. Half of the elderly population reportedly experience abuse besides disrespect and neglect. According to the report of the National Crime Records Bureau (NCRB), a total of 8,973 cases were registered as crimes against senior citizens from January 2014 to October, 2014. As such every society and State recognizes certain rights of the senior citizens, distinct from the rest of the society.

1.5 The issue of ageing has been raised at the United Nations from time to time since 1948. The World Assembly on Ageing was held in Vienna in 1982 where an International Plan of Action on Ageing was adopted with the objective to strengthen the ability of individual countries to deal effectively with the ageing in their population, keeping in mind the special concerns and needs of the elderly. In 1991, the UN General Assembly adopted certain principles aimed at independence, participation, care, self-fulfilment and dignity of the older persons. 1st October has been declared as the International Day for the Elderly, now known as the International Day of the Older Persons.

2. CONSTITUTIONAL GUARANTEES

2.1 The Constitution of India guarantees the right to life and liberty of every individual under Article 21. This has been interpreted to include the right to live with dignity and would encompass the right to live with dignity of the senior citizens. Article 41 of the Constitution lays down that the State shall, within the limits of economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, *old age*, sickness and disablement, and in other cases of undeserved want. Article 46 also imposes a positive obligation on the State to promote with special care the economic interests of the weaker

sections of the people and to protect them from social injustice and all forms of exploitation. Articles 41 and 46 are included in the Directive Principles of State Policy which are not enforceable in any court of law, nevertheless, they impose positive obligations on the State and are fundamental in the governance of the country.

2.2 Entry 9 in the State List and entries 20, 23 and 24 of the Concurrent List in the Seventh Schedule to the Constitution relate to old age pension, social security and social insurance and economic and social planning. Entry 24 in the Concurrent List specifically deals with the 'Welfare of labour, including conditions of work, provident funds, liability for workmen's compensation, invalidity and old age pension and maternity benefits.' Thus, there are several constitutional entries relating to old age.

3. LEGISLATIVE FRAMEWORK

3.1 Most of the legislation as exists relates to making provision for maintenance for the parents and does not refer to senior citizens specifically. **Hindu Law** has recognized the obligation of the sons to maintain the parents, who were not able to maintain themselves since ancient times. Under the **Hindu Adoption and Maintenance Act, 1956** aged or infirm parents are entitled to maintenance from son and daughter provided the parents are unable to maintain himself/herself out of his/her own earnings or other property. The **Muslim Personal Law** places an obligation on children in easy circumstances to maintain their parents, even if the latter are able to earn something for themselves. A person is also bound to maintain his paternal and maternal grandfathers and grandmothers, if they are poor and not otherwise, to the extent as he is bound to maintain his poor father.

3.2 **Sections 125 to 128, Code of Criminal Procedure, 1973** enable the father or mother, who is unable to maintain himself or herself to claim maintenance from his/her major son/daughter, if they neglect or refuse to maintain the parents. This is a secular law and applies across all religions. If the person against whom the order has been passed fails to pay the amount of maintenance without any sufficient reason, execution proceedings can be filed

and the court may even issue a warrant imposing fines for the breach of the order and the person may be imprisoned. Similarly, the mother may file a petition against her son under the **Protection of Women from Domestic Violence Act, 2005** if she is subjected to domestic violence and claim various reliefs provided under the Act.

3.3 Considering the need to protect the rights of senior citizens and to further the constitutional objectives, the **Maintenance and Welfare of Parents and Senior Citizens Act, 2007** was enacted. Under this Act, an application for maintenance can be made by (a) 'Parent', i.e., father or mother whether biological, adoptive or step father or step mother; and (b) 'Senior Citizen', i.e. a person who has attained the age of 60 years or above. The application for maintenance can be made by (a) parent or grand-parent, against one or more of his/her children, i.e., son, daughter, grandson and granddaughter, not being a minor; and (b) childless senior citizen, against his/her relative, i.e. legal heir, not being a minor, who is in possession of or would inherit his property after his death. The Act provides for the setting up of one or more Tribunals for each sub-division for the purpose of adjudicating and deciding upon the order of maintenance and for the constitution of Appellate Tribunal for each district to hear the appeal against the order of the Tribunal. Importantly, under the Act, the right to receive maintenance is enforceable against transferee of property of the parent/senior citizen, if the transferee has notice of the right, or if the transfer is gratuitous though the same is not enforceable against the transferee for consideration and without notice of right. The Tribunal may even declare transfer of property by a senior citizen as void at the option of the transferor where a senior citizen has transferred the property by way of gift or otherwise, subject to the condition that the transferee shall provide the transferor with basic amenities and basic physical needs, and such transferee refuses or fails to provide such amenities and physical needs.

3.4 Another important feature of the Act is that abandoning of senior citizen by anyone having care or protection of such senior citizen is an offence punishable for a maximum period of 3 months or fine upto Rs.5000/- or with

both. This is a very important provision for protecting the life and property of senior citizens and to prevent their being abandoned at places from where they could not be found. The Act also provides:

-for the establishment of Old Age Homes for Indigent Senior Citizens i.e. senior citizens who do not have sufficient means.

-that the State Government has to ensure that the Government hospitals or hospitals funded fully or partially by the Government shall provide beds for all senior citizens; separate queues are arranged for senior citizens and that facility for treatment of chronic, terminal and degenerative diseases is expanded for senior citizens.

4. GOVERNMENTAL SCHEMES FOR SENIOR CITIZENS

4.1 Different Ministries under the Central Government have come up with different Schemes for senior citizens. The National Policy on Senior Citizens focusses on mainstreaming senior citizens, especially older women, promoting the concept of 'ageing in place' or ageing in own home, housing, income security and homecare services, old age pension and access to healthcare insurance schemes and other programmes and services to facilitate and sustain dignity in old age. The Schemes for Senior Citizens include:

- i) Integrated Programme for Older Persons under which financial assistance upto 90% of the project cost is provided to NGOs for establishing and maintaining Old Age Homes, Day Care Centres, Mobile Medicare Units and to provide non-institutional services to older persons.
- ii) Rebate in income tax, deduction in respect of medical insurance premium upto Rs.30,000/- under section 80D of Income Tax Act, 1961, deduction under section 80D for treatment of specified ailment is Rs.60,000/- for senior citizens, separate counters for senior citizens at the time of filing the income tax returns and on the spot assessment facility.

- iii) 'Senior Citizens Saving Scheme' under which the citizens of 60 years and above can deposit Rs.1000/- or its multiples in post offices doing savings bank work which carries an interest of 9% per annum and the maturity period of the deposit is five years, extendable by another three years. For senior citizens i.e. those having the age of 65 years and above, higher rates of interest on saving schemes are available.
- iv) Under the Indira Gandhi National Old Age Pension Scheme, central assistance is given towards pension at the rate of Rs.200/- per month to persons above 60 years and at the rate of Rs.500/- per month to senior citizens of 80 years and above belonging to a household below the poverty line and the same is expected to be supplemented by at least an equal contribution by the States.
- v) Discount on basic fare for domestic flights in economy class and priority in boarding the flights.
- vi) Concession for senior citizens in all classes and trains, priority for lower berths, separate counters for senior citizens for purchase/ booking or cancellation of tickets, wheel chairs for use of senior citizens are available at all junctions, District Headquarters and other important stations.
- vii) Reservation of two seats in the front rows of buses of State Road Transport Undertakings for senior citizens and even fare concession.
- viii) Separate queues for older persons in hospitals for registration and clinical examination and concessions to senior citizens in treatment of diseases like kidney problem, cardiac problem, diabetes and eye problem.
- ix) Under the Antyodaya Scheme, the Below Poverty Line families which include older persons are provided food grains i.e. 35 kgs

per family per month at concessional rates. The persons above 60 years from the BPL category were given priority for identification.

- x) Under the AnnaPoorna Scheme being implemented by the States/ UT Administration, 10 kgs of food grains per beneficiary per month are provided free of cost to those senior citizens who remain uncovered under the old age pension scheme.
- xi) Priority in issuance of ration to ration card holders who are over 60 years of age in Fair Price Shops.
- xii) Priority in giving telephone connections by the Ministry of Telecommunications and priority to faults/ complaints of senior citizens by registering them under senior citizens category with a VIP Flag which is a priority category.

4.2 Priority is also given to cases of senior citizens in the courts with a view to expeditious disposal. Under the **Right to Information Act, 2005** second appeals filed by senior citizens are taken on a high priority basis.

4.3 Several States have come out with their own Schemes and Programmes for the benefit of the senior citizens especially to provide security to senior citizens.

4.4 Despite the existence of various legal provisions and Schemes for senior citizens, their benefits have reached very few senior citizens. Often the senior citizens are unaware of their entitlements and/ or they are in too destitute a condition to be able to access the said benefits. They are not only deprived of their properties but also subjected to all forms of abuse ripping them off their dignity as well. For the widows who are senior citizens or for the retired senior citizens, it often becomes a herculean task to get their pension and other benefits. The laws and the Schemes lay down the entitlements of the senior citizens and if the senior citizens have any difficulty in availing their entitlements under the laws and the Schemes, it is felt by NALSA that Legal

Services Institutions have a significant role to play and they can play a pivotal role in ensuring access to the benefits of the Schemes and the legal provisions to the senior citizens.

4.5 The Preamble of the Legal Services Authorities Act, 1987 emphasises that the Legal Services Authorities are concerned with the weaker sections of the society and imposes a duty on them to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities. Under Section 4(b) of the Legal Services Authorities Act, 1987, the “Central Authority” i.e. the National Legal Services Authority has been obligated to “frame the most effective and economical schemes for the purpose of making legal services available under the provisions” of the Act. Further Section 4(l) enjoins the “Central Authority” to take appropriate measures for spreading legal literacy and legal awareness amongst the people and, in particular, to educate weaker sections of the society about the rights, benefits and privileges guaranteed by social welfare legislations and other enactments as well as administrative programmes and measures. Likewise, under Section 7(c) it is the function of the State Authority i.e. the State Legal Services Authority to undertake preventive and strategic legal aid programmes. Thus the Act itself casts a duty upon the Legal Services Authorities to spread legal awareness about the laws and various administrative measures and programmes and to undertake preventive and strategic programmes.

5. NAME OF THE SCHEME

5.1 The Scheme shall be called “**NALSA (Legal Services to Senior Citizens) Scheme, 2016**”. In this Scheme, the persons above the age of 60 years would be regarded as senior citizens.

5.2 The terms PLVs, Legal Services Clinics, Front Office, Panel Lawyers and Retainer Lawyers will mean the same as defined under the National Legal Services Authority (Free and Competent Legal Services) Regulations, 2010 and National Legal Services Authority (Legal Services Clinics) Regulations, 2011 and the NALSA Scheme for Para Legal Volunteers (Revised).

6. OBJECTIVES OF THE SCHEME

The main objectives of the Scheme are as follows:

- 1) To outline the basic rights and benefits that should be accorded to senior citizens;
- 2) To strengthen legal aid and representation at the national, state, district and taluka levels for senior citizens who are entitled under Section 12 of the Legal Services Authorities Act, 1987² in availing the benefits of the various legal provisions which exist;
- 3) To ensure access to various Governmental Schemes and programmes to the senior citizens;
- 4) To ensure that the authorities and institutions such as the Tribunals and the Appellate Tribunals under the **Maintenance and Welfare of Parents and Senior Citizens Act, 2007**, old age homes for senior citizens have been established;
- 5) To create and spread awareness about the rights and entitlements of the senior citizens under the various laws and Governmental Schemes and programmes through the District Legal Services Authorities, Taluka Legal Services Committees, panel lawyers, para-legal volunteers, students and legal services clinics;
- 6) To enhance capacities at all levels of panel lawyers, para-legal volunteers, volunteers in legal services clinics, government officers tasked with the implementation of the various schemes, service providers, police personnel, non-governmental organizations by organizing training, orientation and sensitization programmes; and
- 7) To undertake research and documentation to study the various schemes, laws etc. to find out the gaps, the needs and to make suggestions to the appropriate authorities.

²Note: For the purposes of grant of legal aid, the eligibility criteria is laid down in Section 12 of the Legal Services Authorities Act, 1987. All women including those who are senior citizens would be entitled to legal aid under Section 12 of the Act and all those who fall in any of the categories enumerated in Section 12 including senior citizens would be entitled to legal aid. However, other services such as assistance in availing benefits under Governmental schemes, legal awareness may be provided across the spectrum to all senior citizens.

The ultimate objective of the Scheme is to ensure that the senior citizens live a life of dignity and enjoy all the benefits and facilities which are due to them.

7. PLAN OF ACTION

7.1 Establishment of Tribunals, Appellate Tribunals etc.

As a precursor to the senior citizens being able to enforce their rights, it is essential that the institutions contemplated under the law for providing relief to them are set up.

- a)** Section 7 of the **Maintenance and Welfare of Parents and Senior Citizens Act, 2007** provides for the setting up of one or more Tribunals for each sub-division for the purpose of adjudicating and deciding upon the order of maintenance. Section 15 of the Act also provides for the constitution of an Appellate Tribunal for each district to hear appeals against the orders of the Tribunal. The SLSAs and the DLSAs shall take up the issue of constitution of Tribunals and Appellate Tribunals as per the mandate of the Act on an urgent basis with the State Government.
- b)** Section 19 of the **Maintenance and Welfare of Parents and Senior Citizens Act, 2007** provides for the establishment of Old Age Homes for Indigent Senior Citizens i.e. senior citizens who do not have sufficient means, as determined by the State Government, from time to time to maintain themselves. The SLSAs and DLSAs will take up with the State Government, the matter of establishment of sufficient number of Old Age Homes for Indigent Senior Citizens. The SLSAs and DLSAs may also explore the possibility of setting up of Old Age Homes for Senior Citizens under Corporate Social Responsibility.
- c)** SLSAs should carry out regular visits to the old age homes to ensure that the senior citizens have adequate facilities and that they are treated with dignity.

7.2 Legal Services Clinics

- a) SLSAs shall set up Legal Services Clinics at every Tribunal and Appellate Tribunal established under the **Maintenance and Welfare of Parents and Senior Citizens Act, 2007** and also in old age homes.
- b) While at present there is a bar to lawyers appearing before the said Tribunals, it shall be ensured that trained para-legal volunteers are available in the Legal Services Clinics to assist the senior citizens in making applications and carrying out other procedural requirements.
- c) Opening of the Legal Services Clinics shall be communicated to all the Government bodies and departments including the police, NGOs.
- d) The Legal Services Clinics so established shall be governed by the National Legal Services Authority (Legal Services Clinics) Regulations, 2011 in respect of their functioning, infrastructural facilities, maintenance of records and registers, deputing of PLVs and control over such clinics.
- e) The SLSAs and DLSAs shall encourage the students in Legal Services Clinics set up in colleges and universities to visit old age homes and provide legal services to senior citizens in the community.
- f) The Legal Services Clinics shall also facilitate the widows and senior citizens in getting pensionary benefits and other entitlements.

7.3 Legal Representation

- a) All senior citizens who are entitled to legal aid under Section 12 of the Legal Services Authorities Act, 1987 shall be provided legal aid on a priority basis.
- b) It is essential that the Legal Services Institutions are accessible in terms of physical infrastructure for the senior citizens, otherwise access to justice would become meaningless for them. Accordingly, steps should be taken by Legal Services Institutions to ensure accessibility such as having the front office on the ground floor.

- c) SLSAs shall ensure that the senior citizens do not have to face any kind of discomfort in procedural wrangles.
- d) Every District Legal Services Authority and Taluka Legal Services Committee shall designate at least three panel lawyers as Legal Services Officers for the purpose of this Scheme.
- e) The District Legal Services Authorities shall also depute sufficient number of PLVs for the implementation of this Scheme and for this purpose they shall draw upon PLVs who are trained to attend to the problems of senior citizens. Efforts should also be made to identify and train PLVs from amongst the senior citizens, both men and women.
- f) The PLVs shall act as the interface between the senior citizens in the community who are unable to access the Legal Services Institutions and the Legal Services Institutions. Where it is not possible for the senior citizens to reach the Legal Services Institutions on account of their conditions, the Legal Services Institutions shall reach out to them through panel lawyers and PLVs.
- g) SLSAs shall provide training to panel lawyers to enable them to sensitively deal with cases of senior citizens. The SLSAs shall ensure that the legal services provided to senior citizens are of the highest quality so that meaningful and effective legal services can be provided to them.

7.4 Identification of issues affecting senior citizens

- a) SLSAs and DLSAs shall make an endeavour to identify the core issues which affect the senior citizens in a particular area and deal with them accordingly. While some issues may be common across geographical barriers, there may be some issues which are unique to some areas such as in some areas, the senior citizens being on their own may be a major issue as their families may have migrated to cities or other countries. Certain health problems may be more acute in a particular area.

- b) SLSAs and DLSAs shall then seek solutions to the issues that arise on regional basis and use their resources to implement the solutions, including through coordination with the concerned governmental agencies.
- c) SLSAs, DLSAs should facilitate the setting up of self-help groups of senior citizens to encourage community support and to reduce a sense of dependency on the part of the senior citizens.

7.5 Database

- a) All SLSAs shall have database of all the existing Central or State Schemes, policies, regulations, policy directives concerning senior citizens and the same may also be published in the form of pamphlets or booklets to be used in dissemination of information and creating awareness about the rights of senior citizens.
- b) SLSAs and DLSAs shall publish information booklets in regional languages explaining in simple terms:
 - 1) provisions of law such as on maintenance, Wills, social welfare schemes;
 - 2) details about access to remedies; and
 - 3) contact details of helpline numbers available across the state.

Such information booklets may be distributed to senior citizens and used during awareness programmes.

- c) DLSAs shall also maintain a database of hospitals, medical centres and other facilities which may be available for senior citizens in their area.
- d) The information maintained by DLSAs shall be circulated to the Taluka Legal Services Committees, village panchayats, legal services clinics and PLVs.

- e) SLSAs/DLSAs shall also upload the data collected on their website.
- f) DLSAs shall prepare a database of senior citizens in their area so that PLVs may be deputed for their assistance as and when necessary. Such database may also be shared with law enforcement agencies to address the security concerns of senior citizens. This would also enable the DLSAs to provide immediate assistance to persons in distress by coordinating with the concerned departments such as health or police departments.

7.6 **Implementation of various Schemes**

- a) SLSAs shall take all steps to disseminate information regarding the policies, schemes, programmes to the senior citizens and government functionaries.
- b) SLSAs shall ensure that such information is prominently displayed in old age homes, hospitals and other places which are frequented by senior citizens.
- c) Various States have special schemes for security of senior citizens such as registration of senior citizens with the concerned police stations. SLSAs may liaise with the law enforcement authorities to address the security concerns of senior citizens and to enhance the interface between the police and the senior citizens such as through increased patrolling, maintaining regular contact with senior citizens once every week or every fortnight. SLSAs, DLSAs may depute PLVs to assist in the registration of senior citizens with the police stations, in getting servant and tenant verifications done and such other matters which concern the security of the senior citizens.
- d) Legal services to be provided would include informing the beneficiaries about the different government schemes to which they are entitled and the benefits thereunder; assisting the beneficiaries to procure the documents required for availing the benefits under the schemes; informing the beneficiaries of the name and address of the

designated authority or the officer who may be approached for availing the benefits under the schemes; offering to send para-legal volunteers with the beneficiaries to the office of the designated authority or to the officer concerned under any of the schemes.

- e) SLSAs shall develop effective coordination and interface with all the governmental bodies or functionaries, non-governmental organizations and other organizations concerning the welfare of senior citizens to ensure that the benefits of the various schemes that exist for senior citizens reach the senior citizens.

7.7 Awareness

- a) SLSAs shall draw up yearly programme for creating awareness on the rights of senior citizens and should endeavour to create a culture which is sensitive to the rights and needs of senior citizens.
- b) The Legal Services Institutions shall organize awareness programmes to sensitize people to the needs of the senior citizens and that it is the moral duty of children to take care of senior citizens and not to leave them in a destitute condition in their old age.
- c) The Legal Services Institutions should explain the need to treat the senior citizens with dignity.
- d) SLSAs along with DLSAs shall conduct awareness programmes to generate awareness about the entitlements of the senior citizens under various laws and government schemes.
- e) SLSAs, DLSAs and Taluka Legal Services Committees shall also create awareness regarding the availability of legal services for senior citizens to facilitate access to their entitlements.
- f) Special awareness drives may be undertaken in old age homes or other places frequented by senior citizens and PLVs and students may be encouraged to actively participate in such programmes.

- g) While organising awareness programmes, the DLSAs and Taluka Legal Services Committees may also coordinate with the relevant health department to organise special health or check-up camps for senior citizens such as general health camps, eye check-up camps etc. or with the police to have a special registration drive of senior citizens.
- h) All possible methods of spreading awareness should be used such as Doordarshan, All India Radio, private TV channels, hoardings, organising cultural programmes and setting up stalls at religious fairs, festivals.
- i) SLSAs should engage with senior citizens and actively avail of their services in carrying out awareness programmes on various issues as the senior citizens may have greater credibility and appeal in an area.

7.8 Training and Orientation Programmes

SLSAs shall conduct training and orientation programmes for panel lawyers and PLVs to sensitize them on how to deal with cases of senior citizens and to build their capacity, knowledge and skill. Sensitization programmes should also be organized for other stakeholders such as the government functionaries, police personnel and NGOs.

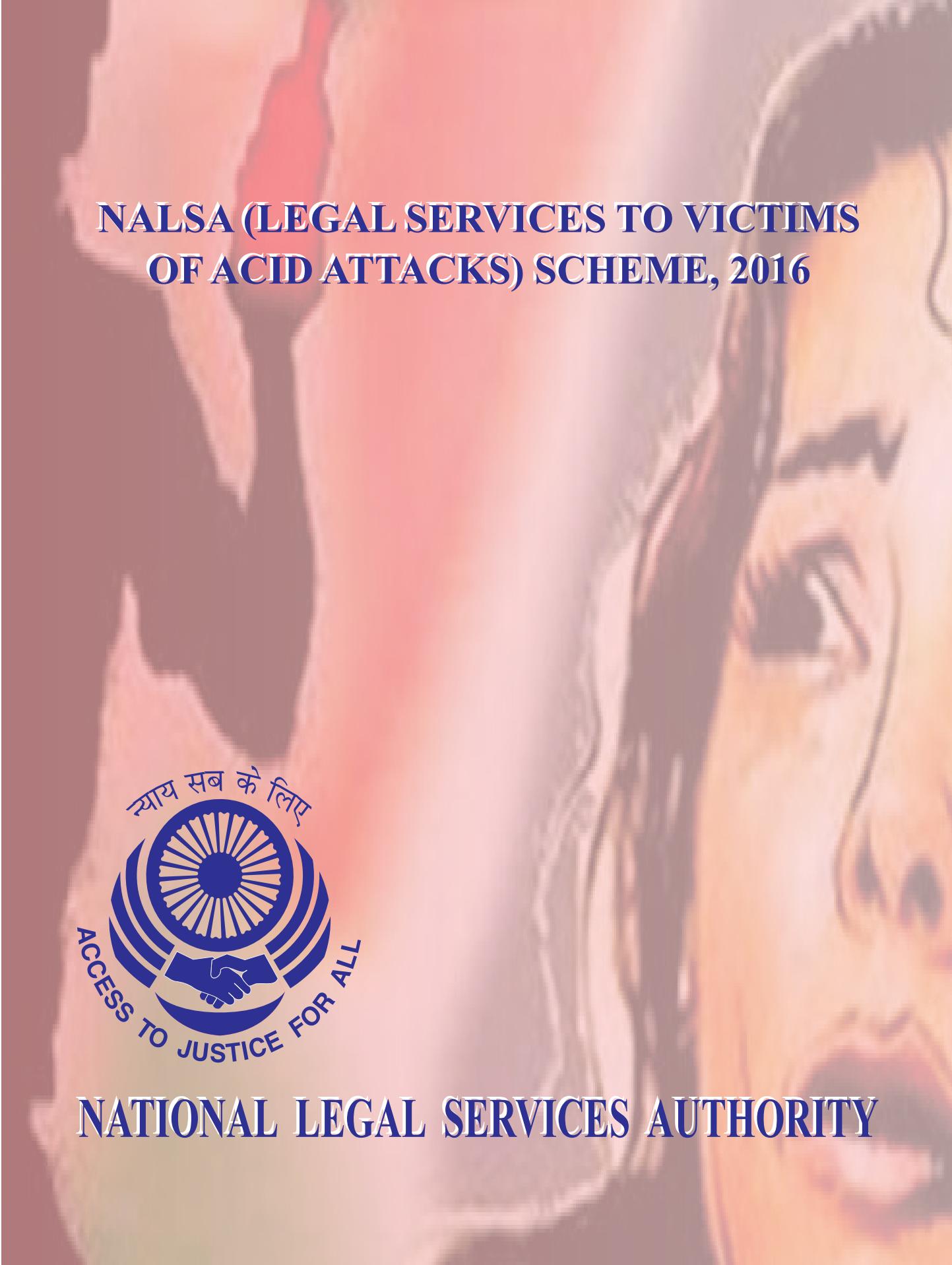
7.9 Observance of the International Day for the Older Persons

All Legal Services Institutions shall observe 1st October of every year as the International Day for the Older Persons and organize awareness programmes on that day for creating awareness of the rights and entitlements of senior citizens.

NATIONAL LEGAL SERVICES AUTHORITY
12/11, Jam Nagar House, Shajahan Road,
New Delhi - 110011
Ph. 23382778, 23386176, 23382121 (Fax)
E-mail: nalsa-dla@nic.in, Website: nalsa.gov.in

Cover design: Kumdilong Kessen, Law researcher, NALSA

Printed by : Unique Vision



NALSA (LEGAL SERVICES TO VICTIMS OF ACID ATTACKS) SCHEME, 2016



NATIONAL LEGAL SERVICES AUTHORITY

NALSA (LEGAL SERVICES TO VICTIMS OF ACID ATTACKS)
SCHEME, 2016

1. BACKGROUND

- 1.1 Acid attacks are the most pernicious form of violence that is resorted to and is mostly gender specific. While acid attacks are reported in many parts of the world, the incidents of acid attacks in India have been on the rise. As per the data maintained by National Crime Records Bureau, the number of incidents of acid attacks reported in 2011 were 83, 85 in 2012 and 66 in 2013 though according to the Acid Survivors Foundation India (ASFI), at least 106 such attacks were reported in 2012, 122 in 2013 and 309 in 2014 and according to the activists, the figure rose to 500 in 2015. However, according to the National Crime Records Bureau, 222 cases of acid attacks were reported in 2015. The figures may vary but the number of acid attacks have been on the rise. There are also many unreported cases of acid attacks, especially in the rural areas and some such incidents may even result in the death of the victims. Many incidents are not reported due to fear of backlash from the perpetrators.
- 1.2 The incidents of acid attacks in India show that they are generally against the women. Quite often they are a result of a rejection of the marriage proposal or sexual advances. Conflicts related to dowry can also result in acid attacks. The acid attacks are also resorted to as a means of taking revenge or due to family or land disputes or over inheritance and other property issues. Occasionally, acid attacks may occur due to social or political or religious beliefs. The Justice Verma Committee constituted by the Central Government in 2013 in the aftermath of the Nirbhaya case to suggest reforms in the criminal justice system dealt with the issue of acid attacks and observed:

“We understand that a most heinous form of attack on women, which is commonplace in several Asian and African countries is the throwing of acid on women for a multitude of reasons, including alleged adultery, turning down advances from men, and also as a form of domestic violence. Acids and other corrosive substances are thrown on women or administered to them, thereby causing death or physical and psychological damage with unfathomable

consequences. The 226th Report of the Law Commission of India, which dealt particularly with this offence stated:

“Though acid attack is a crime which can be committed against any man or woman, it has a specific gender dimension in India. Most of the reported acid attacks have been committed on women, particularly young women for spurning suitors, for rejecting proposals of marriage, for denying dowry etc. The attacker cannot bear the fact that he has been rejected and seeks to destroy the body of the woman who has dared to stand up to him.”

5. In a certain sense, the aggressor is conscious that self-worth and self-esteem of a woman often lies in her face, which is a part of her personality. The dismemberment of the face or the body is not merely an offence against the human body but will cause permanent psychological damage to the victim. What happens when there is permanent physical and psychological damage to a victim, is a critical question and law makers have to be aware that offences are not simply based on the principle of what might be called offence against the body, i.e., damage of the body, but they must take into account the consequences on the right to live with dignity which survives the crime. This is an important consideration both in the fields of criminology and also in the field of sociology.”

The factors which lead to acid attacks were thus discussed in both the Justice Verma Committee Report and in the 226th Report of the Law Commission as also the effects of acid attacks. Apart from lifelong bodily disfigurement and physical challenges often requiring life-long treatment, the psychological challenges are greater and deeply affect the victims apart from affecting the employability of the victims. It is also seen that there are limited medical facilities available in the country for acid victims with the number of specialised burn hospitals being limited and it becomes a herculean task for the victim to get admitted in a hospital, much less to get treatment which may often span from a few months to several years. The treatment may also involve huge costs for the victims and their families. The rehabilitation of the victims also becomes an important issue.

2. CONSTITUTIONAL GUARANTEES

- 2.1 The Constitution of India guarantees the right to life and liberty of every individual under Article 21. This has been interpreted to include the right to live with dignity and would encompass the right to live with dignity of all including victims of acid attacks. Article 41 of the Constitution lays down that the State shall, within the limits of economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.

3. LEGISLATIVE FRAMEWORK

- 3.1 In the absence of any specific provisions to deal with incidents of acid attacks, such cases were generally dealt with under Section 326 of the IPC and other provisions. However, the Justice Verma Committee recommended that acid attacks be defined as an offence in the IPC and observed:

“9. The gender specificity and discriminatory nature of this offence does not allow us to ignore this offence as yet another crime against women. We recommend that acid attacks be specifically defined as an offence in the IPC, and that the victim be compensated by the accused. However in relation to crimes against women, the Central and State governments must contribute substantial corpus to frame a compensation fund. We note that the existing Criminal Law (Amendment) Bill, 2012, does include a definition of acid attack.”

Thus a recommendation was made not only for the inclusion of a specific offence in respect of acid attacks but also for providing compensation to the victims of acid attacks.

- 3.2 By virtue of Criminal law (Amendment Act), 2013, Sections 326A and 326B were inserted in the Indian Penal Code providing for punishment to anyone who causes permanent or partial damage or deformity to, or burns or maims or disfigures or disables, any part or parts of the body of a person or causes grievous hurt by throwing acid on or by administering acid to that person, or by using any other means with the intention of causing or with the knowledge that he is likely to cause such injury or hurt or who throws or attempts to throw acid on any person or attempts to administer acid to any person, or

attempts to use any other means, with the intention of causing permanent or partial damage or deformity or burns or maiming or disfigurement or disability or grievous hurt to that person. “Acid” was defined to include any substance which has acidic or corrosive character or burning nature that is capable of causing bodily injury leading to scars or disfigurement or temporary or permanent disability.

- 3.3 The issue of acid attacks also came up before the Supreme Court and in its order dated 18.7.2013 in **Laxmi v. Union of India**, W.P. (Crl.) No.129/2006, the Supreme Court directed that over the counter sale of acid would be completely prohibited unless the seller maintained a log/ register recording the sale of acid which would contain the details of the person(s) to whom acid(s) is/ are sold and the quantity sold. Further the acid would be sold only after the buyer had shown a photo ID issued by the Government which also had the address of the person and the reason/ purpose for procuring acid was specified. It was also directed to no acid shall be sold to any person who was below 18 years of age. Directions were also issued for educational institutions, research laboratories, hospitals, Government Departments and departments of Public Sector Undertakings who were required to keep and store acid. In the final order dated 10.4.2015, it was reiterated that an appropriate notification banning the sale of acid across the counter should be issued within three months from the date of the order. Further the Supreme Court in **Parivartan Kendra and Anr. V. Union of India and Ors.** WP (Civil) No.867 of 2013 decided on 7.12.2015 directed that stringent action be taken against those erring persons supplying acid without proper authorization and also the concerned authorities be made responsible for failure to keep a check on the distribution of the acid.
- 3.4 Regarding proper treatment, after care and rehabilitation of the victims of acid attack, a direction was issued by the order dated 10.4.2015 to the State Governments/ Union Territories to take up the matter with all the private hospitals to the effect that private hospitals should not refuse treatment to victims of acid attack and that full treatment should be provided to such victims including medicines, food, bedding and reconstructive surgeries. It was also observed that action may be taken against hospital/ clinic for refusal to treat victims of acid attacks and other crimes in contravention of the provisions of Section 357C of the Code of Criminal Procedure, 1973.

A direction was also issued that the hospital, where the victim of an acid attack was first treated should give a certificate that the individual is a victim of an acid attack which may be utilized by the victim for treatment and reconstructive surgeries or any other scheme that the victim may be entitled to with the State Government or the Union Territory, as the case may be.

- 3.5 Taking note of the fact that acid attack victims need to undergo a series of plastic surgeries and other corrective treatments, the Supreme Court in its order dated 18.7.2013 directed that the acid attack victims shall be paid compensation of at least Rs.3 lakhs by the concerned State Government/ Union Territory as the after care and rehabilitation cost, out of which a sum of Rs.1 lakh would be paid to the victim within 15 days of the occurrence of such incident (or being brought to the notice of the State Government/ Union Territory) to facilitate immediate medical attention and expenses in this regard. While disposing off the said writ petition on 10.4.2015, it was directed that the Member Secretary of the State Legal Services Authority take up the issue with the State Government so that the orders passed by the Court were complied with and a minimum of Rs.3,00,000/- was made available to each victim of acid attack. The Member Secretaries of the State Legal Services Authorities were also directed to give wide and adequate publicity in the State/ Union Territory to the Victim Compensation Scheme so that each acid attack victim could take the benefit of the Victim Compensation Scheme. It was also directed that in case of any compensation claim made by any acid attack victim, the matter would be taken up by the District Legal Services Authority, which would include the District Judge and such other co-opted persons who the District Judge felt would be of assistance, particularly the District Magistrate, the Superintendent of Police and the Civil Surgeon or the Chief Medical Officer of that District or their nominee and the said body would function as the Criminal Injuries Compensation Board for all purposes. The matter also came up before the Supreme Court in **Parivartan Kendra and Anr. V. Union of India and Ors.** WP (Civil) No.867 of 2013 decided on 7.12.2015 where it was observed that the State and Union Territory concerned can give even more amount of compensation than Rs.3,00,000/- as was directed in **Laxmi's case**. An important direction given in this case was that all the *States and Union Territories should consider the plight of such victims and take appropriate steps with regard to inclusion of their names under the disability list.*

3.6 It is thus seen that acid attacks by themselves have been recognised as offences under the Indian Penal Code for which punishment is prescribed. Besides Section 357A Cr.P.C. provides for a Scheme being drawn up by the State Government in coordination with the Central Government for providing funds for the purpose of compensation to the victim and such Schemes have been drawn up in most States and Union Territories which also provide for compensation to victims of acid attacks. The Central Government has issued the Central Victim Compensation Fund Guidelines with an objective to support and supplement the Victim Compensation Schemes of the States and Union Territories. A corpus of Rs.200 crores has been fixed for the purpose. One of the admissible activities under the Central Victim Compensation Fund is “to promote special financial assistance upto Rs.5 lakhs to the victims of acid attack to meet treatment expenses over and above the compensation paid by the State/ Union Territory.” However there is need for greater awareness about the availability of compensation for victims of acid attacks. Despite specific directions to hospitals to provide treatment to victims of acid attacks, it is still not easy for them to get proper treatment. Over the counter sale of acid still remains rampant. It is thus felt by NALSA that Legal Services Institutions have a significant role to play and they can play a pivotal role in ensuring access to the benefits of the Victim Compensation Scheme to the victims of acid attacks and to the medical and other facilities.

4. Role of Legal Services Institutions

4.1 The Preamble of the Legal Services Authorities Act, 1987 emphasises that the legal services authorities are concerned with the weaker sections of the society and imposes a duty on them to ensure that opportunities for securing justice are not denied to any citizen by reason or economic or other disabilities. Under Section 4(b) of the Legal Services Authorities Act, 1987, the “Central Authority” i.e. the National Legal Services Authority has been obligated to “frame the most effective and economical schemes for the purpose of making legal services available under the provisions” of the Act. Further under Section 4(l) enjoins the “Central Authority” to take appropriate measures for spreading legal literacy and legal awareness amongst the people and, in particular, to educate weaker sections of the society about the rights, benefits and privileges guaranteed by social welfare legislations and other

enactments as well as administrative programmes and measures. Likewise, under Section 7(c) it is the function of the State Authority i.e. the State Legal Services Authority to undertake preventive and strategic legal aid programmes. Thus the Act itself casts a duty upon the Legal Services Authorities to spread legal awareness about the laws and various administrative measures and programmes and to undertake preventive and strategic programmes. Besides, under Section 12 of the Act, all women are entitled to legal services as also a person with disability as defined in clause (i) of section 2 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

5. NAME OF THE SCHEME

- 5.1 The Scheme shall be called "**NALSA (Legal Services to Victims of Acid Attacks) Scheme, 2016**".
- 5.2 The terms PLVs, Legal Services Clinics and Panel Lawyers will mean the same as defined under the National Legal Services Authority (Free and Competent Legal Services) Regulations, 2010 and National Legal Services Authority (Legal Services Clinics) Regulations, 2011 and the NALSA Scheme for Para Legal Volunteers (Revised).

6. OBJECTIVES OF THE SCHEME

The main objectives of the Scheme are as follows:

- 1) To strengthen legal aid and representation at the national, state, district and taluka levels for victims of acid attacks in availing the benefits of the various legal provisions and schemes for compensation which exist;
- 2) To enable the victims of acid attacks to get access to medical facilities and rehabilitative services;
- 3) To create and spread awareness about the entitlements of the victims of acid attacks through the District Legal Services Authorities, Taluka Legal Services Committees, panel lawyers, para-legal volunteers and legal services clinics;
- 4) To enhance capacities at all levels of panel lawyers, para-legal volunteers, volunteers in legal services clinics, government officers tasked with the implementation of the various schemes, service providers, police personnel,

non-governmental organizations by organizing training, orientation and sensitization programmes; and

- 5) To undertake research and documentation to study the various schemes, laws etc. to find out the gaps, the needs and to make suggestions to the appropriate authorities.

The ultimate objective of the Scheme is to ensure that the victims of acid attacks are appropriately rehabilitated in the society and live a life of dignity.

7. PLAN OF ACTION

7.1 Legal Representation

- a) All victims of acid attacks and where the acid attack results in death, the heirs of victims of acid attacks shall be provided legal aid on a priority basis in order to enable them to get the benefit of the Victim Compensation Scheme.
- b) SLSAs and DLSAs shall ensure that the victims of acid attacks do not have to face any kind of delay in procedural wrangles and the interim compensation is awarded at the earliest.
- c) Support persons and legal representation shall be provided to victims of acid attacks during the recording of their statement under section 164 Cr.P.C., giving evidence etc.
- d) Every District Legal Services Authority and Taluka Legal Services Committee shall designate at least one panel lawyer as Legal Services Officer for the purpose of this Scheme.
- e) The District Legal Services Authorities shall also depute sufficient number of PLVs for the implementation of this Scheme.
- f) The PLVs shall act as the interface between the victims of acid attacks and the Legal Services Institutions. All out endeavour shall be made to reach out to the acid attack victims.

7.2 Legal Services Clinics

- a) SLSAs shall set up Legal Services Clinics at hospitals having specialized facilities for treatment of burns where victims of acid attacks may be referred for treatment. The PLVs and panel lawyers deputed to such Legal Services

Clinics shall be in regular touch with the victims of acid attacks and their relatives and ensure all possible help to them in securing appropriate medical help and treatment.

- b) The PLVs shall provide assistance and support to the families of victims of acid attacks and where possible counselling for them may be arranged so as to bring them out of trauma occasioned by the incident of acid attack.
- c) The PLVs shall also assist the victims of acid attack in obtaining from the hospital where the victim was first treated a certificate that the individual is a victim of an acid attack which may be utilized by the victim for treatment and reconstructive surgeries or any other scheme that the victim may be entitled to with the State Government or the Union Territory, as directed by the Supreme Court in the order dated 10.4.2015.
- d) The PLVs shall ensure that the victims of acid attacks are able to avail of various rehabilitative services that may be available for them.
- e) The Legal Services Clinics shall ensure that action is taken against hospitals which deny treatment to victims of acid attacks on superficial grounds.
- f) Opening of the Legal Services Clinics shall be communicated to all the Government bodies and departments including the police, NGOs.
- g) The Legal Services Clinics so established shall be governed by the National Legal Services Authority (Legal Services Clinics) Regulations, 2011 in respect of their functioning, infrastructural facilities, maintenance of records and registers, deputing of PLVs and control over such clinics.

7.3 Co-ordination with the Government Departments

- a) The SLSAs shall coordinate with the States and Union Territories to amend the respective Victim Compensation Schemes to bring the same in line with the directions issued by the Supreme Court.
- b) The SLSAs shall remain in touch with the concerned governmental agencies to ensure that adequate funds are always available for disbursal as compensation to victims of acid attacks.
- c) The SLSAs shall take up the matter with the concerned States and Union Territories for taking appropriate steps with regard to inclusion of the names

of the victims of acid attacks under the **disability list** and thereafter to ensure that they get the benefit of all the schemes which are available for persons with disability.

7.4 **Database**

- a) All SLSAs shall have database of the existing Central or State Schemes, policies, regulations, policy directives concerning victims of acid attacks and the same may also be published in the form of pamphlets or booklets to be used in dissemination of information and creating awareness.
- b) All SLSAs shall have database of the hospital where specialized facilities for treatment of burn victims are available.
- c) The lists prepared shall be circulated annually to all the District Legal Services Authorities which shall further circulate the same to the Taluka Legal Services Committees, village panchayats, legal services clinics and PLVs.
- d) SLSA shall also upload the list on their website.

7.5 **Implementation of various Schemes**

- a) SLSAs shall take all steps to disseminate information regarding the policies, schemes, programmes that exist for the victims of acid attacks.
- b) Legal services to be provided would include informing the beneficiaries about the different government schemes to which they are entitled and the benefits thereunder; assisting the beneficiaries to procure the documents required for availing the benefits under the schemes; informing the beneficiaries of the name and address of the designated authority or the officer who may be approached for availing the benefits under the schemes; offering to send para-legal volunteers with the beneficiaries to the office of the designated authority or to the officer concerned under any of the schemes.
- c) SLSAs shall develop effective coordination and interface with all the governmental bodies or functionaries, non-governmental organizations and other organizations concerning the welfare of victims of acid attacks to ensure that the benefits of the various schemes especially schemes for rehabilitation reach them.

7.6 Awareness

- a) The Legal Services Institutions shall organize awareness programmes to sensitize people to the needs of the victims of acid attacks so that the community provides support to them which is essential for their rehabilitation.
- b) SLSAs along with DLSAs shall conduct awareness programmes to generate awareness about the Victim Compensation Scheme and the entitlements under the same and various laws and government schemes.
- c) SLSAs, DLSAs and Taluka Legal Services Committees shall also create awareness regarding the availability of legal services for victims of acid attacks to facilitate access to their entitlements.
- d) SLSAs, DLSAs and Taluka Legal Services Committees shall organize awareness drives to highlight that over the counter sale of acids stands prohibited. The PLVs may inform the concerned department or DLSAs if they come across any incidents of sale of acids so that appropriate action can be taken immediately.
- e) All possible methods of spreading awareness should be used such as Doordarshan, All India Radio, distribution of pamphlets, leaflets.

7.7 Training and Orientation Programmes

- a) SLSAs shall conduct training and orientation programmes for panel lawyers and PLVs to sensitize them on how to deal with cases of victims of acid attacks and to build their capacity, knowledge and skill. Sensitization programmes should also be organized for other stakeholders such as the government functionaries, police personnel, medical officers and NGOs.
- b) SLSAs shall, in coordination with the State Judicial Academies, plan and conduct training/ sensitization programmes for Judicial Officers with a view to ensuring quick and adequate award of compensation, including interim compensation, and a fair and dignified treatment of the victims of acid attacks during trial of cases.



NATIONAL LEGAL SERVICES AUTHORITY
12/11 JAMNAGAR HOUSE, SHAHJAHAN ROAD, NEW DELHI - 110011
PH. : 011-23382778, 23386176; FAX : 23382121

NATIONAL LEGAL SERVICES AUTHORITY (NALSA)

GUIDELINES FOR TRAINING THE DESIGNATED JUVENILE / CHILD WELFARE OFFICERS ATTACHED TO EVERY POLICE STATION AND THE MEMBERS OF THE SPECIAL JUVENILE POLICE UNIT ESTABLISHED UNDER SECTION 63 OF THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2000.

(Prepared as per the Order dated 12.10.2011 of the Hon'ble Supreme Court of India in *Sampurna Behrua v. Union of India and Others* in Writ Petition (C) No.473/2005)

- 1.** The primary responsibility for training the designated Juvenile / Child Welfare Officers attached to the Police Station and the Members of the Special Juvenile Unit shall be on the District Legal Services Authority. The State Legal Services Authority shall provide the required assistance, guidance and the direction to District Legal Services Authority and shall monitor and supervise the training programme, in a manner it may deem appropriate and practicable.
- 2. Role of State Legal Services Authority**

The SLSA shall request the DLSAs to identify 2/3 lawyers having proclivity for ensuring the rights of children, as resource persons. They shall be sent for a state-level TOT (Training of Trainers) Programme to be organised by the State Legal Services Authority.

 - a. Every State Legal Services Authority shall coordinate with the head of the concerned Police Department to ensure that a Standing Order outlining the roles, responsibilities and functions of Special Juvenile Police Units and Juvenile/ Child Welfare Officers is issued. A template of such Standing Order issued by Delhi Police is annexed as Annexure -1 for guidance. Such Standing Order shall be based on the Juvenile Justice (Care & Protection of Children) Act-2000 as amended in 2006, the Juvenile Justice (Care of Protection of children) Model Rules 2007 / the applicable Rules (If State Government has notified its own Juvenile Justice Rules) and the judgement of the Hon'ble Supreme Court in *Sheela Barse V. Union of India (1986 SCALE (2) 230): (1987)3SC50: AIR 1987 SC 656*. State Legal Services Authority shall render assistance in drafting and preparing such Standing Order. State Legal Services Authority shall also ensure that such Standing Order is translated into local language and is made available at all the Police Stations.
 - b. Within a period of one month, the State Legal Services Authority shall take necessary steps for procuring and distributing books and films and for developing training material for the District Legal Services Authorities.
 - c. The State Legal Services Authority shall undertake periodic review and appraisal of training programmes and will revise and upgrade such training programmes, as and when required.
 - d. The State Legal Services Authority shall direct the District Legal Services Authorities to organise training programmes once in every six months for police officers, Juvenile/Child Welfare Officers and members of Special Juvenile Police Units.
 - e. The State Legal Services Authority shall compile a set of Forms prescribed in the Juvenile Justice Rules, to be used by Police while dealing with matters related to children in need of care and protection and children in conflict with law and will send them to District Legal Services Authority for distribution to the trainee police officers. It may be advisable to have such Forms be translated into the local language.
 - f. The State Legal Services Authority shall also compile a Directory which will contain names, addresses and telephone numbers of members of JJBs/CWCs, Observation Homes, Children's Homes, Special Juvenile Police Units and Juvenile Child Welfare Officers and such Directory shall be revised as and when changes take place. Such Directory shall be made available at all police stations and shall also be given to the participants.

- g. The State Legal Services Authorities shall ensure that a uniform curriculum is followed all across the state. A suggestive pattern of curriculum is annexed at Annexure-2. Police Department shall be consulted at the time of finalisation of such curriculum.

3. Role of District Legal Services Authority

- a. The District Legal Services Authority (DLSA) shall identify lawyers who have experience of practising in the area of Juvenile Justice and have the propensity to discern the juvenile jurisprudence and such identified lawyers shall be invited to act as resource persons in the training programmes. The DLSA shall also include specialists in child psychology and child psychiatry as resource persons.
- b. The Chairman, District Legal Services Authority, may seek guidance from the State Legal Services Authority in case of any difficulty.
- c. At the end of each training, certificate shall be issued by the District Legal Services Authority to each of the participants.
- d. The format of the certificate shall be prepared by the State Legal Services Authority and the same may be printed at the district level, if required.
- e. The certificate shall bear the signature of the Secretary and the Chairman of the District Legal Services Authority along with the seal of the District Legal Services Authority.
- f. The District Legal Services Authority shall conduct the training programmes routinely every year. Such training programmes may be of one day or more, as may be appropriate and practical. Refresher courses also may be conducted if some change in laws or rules takes place.

4. General Guidelines

- a. The District Probation Officer shall also be invited to such trainings in order to develop effective coordination and interface between the probation officers and the police.
- b. During the trainings, participants shall be given study material, Directory, required Forms and list of DOs and DONTs.
- c. Depending on the size of the District, training classes may be organised, limiting the number of trainees to a maximum of 20 in each session. This may be relaxed depending on the situation, subject to the discretion of the Chairman, DLSA.
- d. Subject to the special local requirements, if any, additional topics may be introduced in the Annexure-2 curriculum, in consultation with the State Legal Services Authority.
- e. The film "*Ek Tha Bachpan*" [CD copy of the film has been supplied by National Legal Services Authority to the State Legal Services Authority] shall be exhibited for the trainees. Other films made by the organisations like UNICEF on the rights of the child, problems of children, developmental needs of children etc also may be considered for exhibition in the training classes. However, the films and other audio-visual materials to be used in the training classes shall be approved by the State Legal Services Authority.
- f. The State Legal Services Authorities and District Legal Services Authorities shall comply with the time schedule specified by the Hon'ble Supreme Court (i.e. the training and orientation may be done in phases over a period of six months to one year in every State and Union Territory).

- g. The trainees shall be made aware of the circumstances in which children come into conflict with law and will be oriented to work on prevention of juvenile delinquency and should be trained as to how police can work towards reducing vulnerabilities faced by children.
- h. The trainees, particularly SHO and senior police officers, shall be specifically trained about non-disclosure of identity of children and about provisions relating to non-disqualification and will be specially instructed as to how to ensure that details of juveniles in conflict with law are not disclosed in any inquiry which may hamper the best interest of children and could result into disqualification.
- i. The trainees shall be trained on preventive strategies.
- j. Role-plays shall be a part of the training programme. The different conceivable situations wherein a child in conflict with law is exposed to may be communicated to the trainees through these role-plays.
- k. Stress experienced by the apprehended children in conflict with law may be brought in the form of problem-situations and the trainees may be encouraged to arrive at probable solutions under the guidance of a resource person experienced in children's psychology.
- l. The trainees shall be given proper instructions on how to handle the juvenile victims of crime and the mode in which their statements are to be recorded and how they have to be given care and protection at the police stations. Trainees shall be made to understand that juveniles in conflict with law are not to be treated as "Criminals" but are to be seen as victims of circumstances and action shall be taken for their rehabilitation into the mainstream of society.
- m. The trainees should be trained well as to how to deal with organised criminals and gangs who misuse children for illegal activities.
- n. The trainers shall be given instructions not to let the children in conflict with law fall back in to criminal activities and to see that they do not re-establish contact with their peers/gangs.
- o. The police officers, who have already attended the training, may be exempted from participating in the training courses to be followed in other places where they are transferred.
- p. The trainees shall be trained about the semantics (words) which are prohibited to be used in the proceedings and documents related to children in need of care and protection and children in conflict with law.
- q. The Trainees shall be trained with specific emphasis on various legal provisions related to registration of FIR/ GD entry, apprehension, age investigation etc. in matters related to children.
- r. The trainees shall be informed that children in conflict with law, notwithstanding which penal law has been violated, shall be always produced before Juvenile Justice Board and not before any other Court in any circumstance; having regard to the specific provisions of the Juvenile Justice Act which is a special and beneficial law which even overrides other laws in certain instances.
- s. The trainees shall be made aware that in case of doubt regarding the age of a person in border line cases, benefit of doubt should be given and the person concerned should be treated as a "Juvenile".
- t. The trainees shall be educated that sending a child to an Observation Home should always be the last resort and that efforts should be made to grant bail to juveniles in conflict with law from the Police Station itself in bailable and non-bailable offences.

- u. The trainees shall be informed that a police officer dealing with children is not allowed to wear police uniform, except at the time of apprehension in exceptional cases.
- v. The trainee police officers should be informed that children cannot be kept in jail or police lockup, cannot be handcuffed or put under fetters and should be produced before the Juvenile Justice Board within 24 hours of apprehension, excluding the time required for travel.
- w. The trainee police officers should be trained that as soon as a child is apprehended for coming into conflict with law, a police officer is required to hand over the child or juvenile to the designated Juvenile/Child Welfare Officer, who will inform the parents of such child or juvenile and will also inform the concerned probation officer immediately.
- x. It should be instilled in the trainee police officers that if because of any reason it is not possible for a Juvenile/Child Welfare Officer to produce the child or juvenile before JJB or CWC, such child or juvenile shall not be kept at a police station, but shall be kept only in children's homes or observation homes, till the time he or she can be produced before the competent authority.
- y. The Trainee police officers should be informed about good practices which are followed by the Police in other parts of the country.

Annexure-1

Standing Order No. 68 of Delhi Police (see the enclosed document below)

Annexure-2

Curriculum for training

- I. An introduction to the Juvenile Jurisprudence
- II. The UN Convention on the Rights of the Child (UNCRC) – 1989.
- III. United Nations Standard Minimum Rules for Administration of Juvenile Justice (The Beijing Rules) 1985
- IV. United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines), 1990
- V. The Provisions in the Constitution of India relating to children.
- VI. Juvenile Justice (Care and Protection of Children) Act, 2000 as amended in 2006
- VII. Juvenile Justice (Care and Protection of Children)Model Rules, 2007/ Applicable Juvenile Justice Rules (If State Government has notified its own Rules)
- VIII. Supreme Court Judgements (i.e. Hariram Versus State of Rajasthan, Sheela Barse V Union of India, Gopinath Ghosh Versus State of West Bengal, Pratap Singh Versus State of Jharkhand, Babloo Pasi versus State of Jharkhand)
- IX. Provisions in Indian Penal Code and the Indian Evidence Act relating to children/ child witness.
- X. Probation of Offenders Act, 1958

Suggested Reading Material

1. Order of Juvenile Justice Board-Delhi on linkages between drugs and crime among children
2. My God Juvenile Delinquent : Ruzbeh N Bharuch
3. Supreme Court on Children, HRLN, 2nd Edition, 2011
4. Blind Alley : Haq Centre for Child Rights, 2009
5. Child Rights in India : Professor Ved Kumari
6. Various exemplary Orders passed by JJBs of Delhi

**U. SARATHCHANDRAN
MEMBER-SECRETARY
National Legal Services Authority**

New Delhi
9 December, 2011

THE NATIONAL LEGAL SERVICES AUTHORITY (¹[LEGAL SERVICES CLINICS]) REGULATIONS, 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 (¹[LEGAL SERVICES CLINICS]) REGULATIONS, 2011.

(2) 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);

¹[(b) "District ADR Centre" means the District Alternative Dispute Resolution Centre established under the 13th Finance Commission and includes any other similar facilities like Nyaya Seva Sadans at the district level where facilities for Counselling, Mediation, Lok Adalat and Legal Services are provided under a single roof;]

¹[(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 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.

¹[3. Establishment of legal services clinic.]—Subject to the financial resources available, the District Legal Services Authority shall establish legal services clinics in,—

* Vide Noti. No. L/08/11 NALSA, dated 10-8-2011, published in the Gazette of India, Ext. Pt. III, S. 4, dated 18-8-2011.

1. Substituted by Noti. No. L/08/11 NALSA, dated 18-11-2014 (w.e.f. 6-12-2014).

NATIONAL LEGAL SERVICES AUTHORITY
(LEGAL SERVICES CLINICS) REGULATIONS, 2011

(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 '¹[legal services clinic].— Every person who fulfils the criteria specified in section 12 shall be eligible to get free legal services in the '¹[legal services clinics].

5. The personnel manning the '¹[legal services clinic].—(1) Every '¹[legal services clinic] established under regulation 3 shall have at least two para-legal volunteers available during the working hours of the '¹[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 '¹[legal services clinics].

(3) When lawyers are deputed to the '¹[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 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 '¹[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 '¹[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 '¹[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 '¹[legal services clinic].

8. Selection of lawyers for manning the '¹[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 '¹[legal services clinic]:

Provided that preference shall be given to women lawyers having practice of at least three years.

9. Legal services in the '¹[legal services clinic].—(1) Legal services rendered at the '¹[legal services clinic] shall be wide ranging in nature.

(2) The '¹[legal services clinic] shall work like a single-window facility for helping the disadvantaged people to solve their legal problems whenever needed.

1. Substituted by Noti. No. L/08/11 NALSA, dated 18-11-2014 (w.e.f. 6-12-2014).

**NATIONAL LEGAL SERVICES AUTHORITY
(LEGAL SERVICES CLINICS) REGULATIONS, 2011**

(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 ¹[legal services clinic]:

Provided that the ¹[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:

Provided further that, in appropriate cases, the legal services sought for by the applicants in the ¹[legal services clinic] shall be referred to the legal services institutions for taking further action.

10. Functions of para-legal volunteers in the ¹[legal services clinic].—
(1) The para-legal volunteers engaged in the ¹[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 ¹[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 ¹[legal services clinic] to the nearest legal services institutions.

(5) para-legal volunteers shall distribute pamphlets and other materials in aid of legal education and literacy to the persons seeking legal services in the ¹[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 ¹[legal services clinic].

11. Location of ¹[legal services clinic].—(1) 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 ¹[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 ¹[legal services clinic].

1. Substituted by Noti. No. L/08/11 NALSA, dated 18-11-2014 (w.e.f. 6-12-2014).

NATIONAL LEGAL SERVICES AUTHORITY
(LEGAL SERVICES CLINICS) REGULATIONS, 2011

12. Assistance of the local body institutions in obtaining a convenient room for the ¹[legal services clinic].—(1) The State Legal Services Authority shall call upon the local body institutions like the village panchayat, mandai or block panchayat, municipality and corporation etc, to provide space for the functioning of the ¹[legal services clinic].

(2) Since the ¹[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 need to co-operate with the functioning of the ¹[legal services clinics].

¹[13. Signboard exhibiting name of 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 including as Village Legal Care and Support Centre, wherever applicable, working hours and the days on which the legal services clinic will 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 ¹[legal services clinic].—(1) Every ¹[legal services clinic] shall have at least the basic and essential furniture like a table and 5 to 6 chairs.

(2) If the ¹[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 ¹[legal services clinic].

(3) If the ¹[legal services clinic] is established in hired premises, the District Legal Services Authority may provide the furniture required in the ¹[legal services clinic]:

Provided that if the District Legal Services Authority has its own building to establish ¹[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 ¹[legal services clinic].

(2) The elected representatives of the local body institutions may be persuaded to spread the message of the utility of ¹[legal services clinic] to the people in his or her constituency or ward.

16. Para-legal volunteers or lawyers in the ¹[legal services clinic] shall attempt to resolve disputes amicably.—(1) The para-legal volunteers or the lawyers engaged in the ¹[legal services clinics] shall attempt to amicably resolve the prelitigation disputes of the persons brought to the ¹[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

1. Substituted by Noti. No. L/08/11 NALSA, dated 18-11-2014 (w.e.f. 6-12-2014).

NATIONAL LEGAL SERVICES AUTHORITY
(LEGAL SERVICES CLINICS) REGULATIONS, 2011

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 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 for pre-litigation 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 para-legal 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.

1. Substituted by Noti. No. L/08/11 NALSA, dated 18-11-2014 (w.e.f. 6-12-2014).

NATIONAL LEGAL SERVICES AUTHORITY
(LEGAL SERVICES CLINICS) REGULATIONS, 2011

21. Use of mobile lok adalat vehicle.—(1) The lawyers rendering legal services in the¹[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 the¹[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 the¹[legal services clinic] or at a place near to it or even at village congregations such as *melas* and other festive occasions.

22. ¹[legal services clinics] run by the law students.—The above regulations shall *mutatis mutandis* be applicable to the student¹[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 the¹[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 aid camps.—(1) Law students of the law colleges or law universities may adopt a village, especially in the remote rural areas and organise legal aid camps in association with the¹[legal services clinic or 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 the¹[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. ¹[legal services clinics] attached to the law colleges, law universities and other institutions.—(1) The law colleges, law universities and other institutions may set up¹[legal services clinics], as envisaged in clause (k) of section 4 attached to their institutions as a part of the clinical legal education.

(2) The law colleges, law universities and other institutions establishing such¹[legal services clinic] shall inform the State Legal Services Authority about the establishing of such¹[legal services clinic].

(3) The State Legal Services Authority shall render the required technical assistance for the operation of such¹[legal services clinics] and shall take measures to promote the activities of such¹[legal services clinics].

1. Substituted by Noti. No. L/08/11 NALSA, dated 18-11-2014 (w.e.f. 6-12-2014).

NATIONAL LEGAL SERVICES AUTHORITY
(LEGAL SERVICES CLINICS) REGULATIONS, 2011

(4) The law students in the final year classes may render legal services in such ¹[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 aid in such ¹[legal services clinics].

(6) The District Legal Services Authority may issue certificates to the students who complete their assignment in such ¹[legal services clinics].

25. Services of para-legal volunteers trained by the Legal Services Authorities may be made available in the ¹[legal services clinics] run by the Law Colleges, Law Universities, etc.—Trained para-legal volunteers may be deputed to the ¹[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 ¹[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 ¹[legal services clinics] working in their jurisdiction.

(2) The State Legal Services Authority shall conduct periodical review of the working of such ¹[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 ¹[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 ¹[legal services clinics] within their jurisdiction to the National Legal Services Authority.

1. Substituted by Noti. No. L/08/11 NALSA, dated 18-11-2014 (w.e.f. 6-12-2014).



भारत का राजपत्र

The Gazette of India

असाधारण

EXTRAORDINARY

भाग III—खण्ड 4

PART III—Section 4

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं. 173]

बड़े दिल्ली, ब्रह्मस्पतिवार, अगस्त 18, 2011/श्रावण 27, 1933

No. 173]

NEW DELHI, THURSDAY, AUGUST 18, 2011/SRAVANA 27, 1933

राष्ट्रीय विधिक सेवा प्राधिकरण

अधिसूचना

नई दिल्ली, 10 अगस्त, 2011

राष्ट्रीय विधिक सेवा प्राधिकरण (विधिक सहायता किलनिक) विनियम, 2011

फा. सं. एल./08/11/नालसा.—केन्द्रीय प्राधिकरण, विधिक सेवा प्राधिकरण अधिनियम, 1987 (1987 का 39) की धारा 29 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और उक्त अधिनियम की धारा 4 के उपबंधों के अनुसरण में निम्नलिखित विनियम बनाता है, अर्थात् :—

1. संक्षिप्त नाम और प्रारंभ.—(1) इन विनियमों का संक्षिप्त नाम राष्ट्रीय विधिक सेवा प्राधिकरण (विधिक सहायता किलनिक) विनियम, 2011 है।
2. ये राजपत्र में उनके प्रकाशन की तारीख से प्रवृत्त होंगे।
3. परिभाषाएं.—(1) इन विनियमों में जब तक कि संदर्भ से अन्यथा अपेक्षित न हो,—
 - (क) "अधिनियम" से विधिक सेवा प्राधिकरण अधिनियम, 1987 (1987 का 39) अभिप्रेत है;
 - (ख) "जिला अविस केन्द्र" से तेरहवें वित्त आयोग की निधि से स्थापित जिला अनुकूलित विवाद समाधान केन्द्र अभिप्रेत है और जिसके अंतर्गत ऐसी अन्य समान सुविधाएं जैसे जिला स्तर पर न्याय सेवा सदन भी है ;
 - (ग) "विधिक सहायता किलनिक" से परिक्षेत्र में लोगों को आधारीय स्वास्थ्य सेवाएं उपलब्ध कराने वाले प्राथमिक स्वास्थ्य केन्द्रों की तरह पराविधिक स्वयंसेवक या वकीलों की सहायता से ग्रामीणों को आधारीय विधिक सेवाएं उपलब्ध कराने के लिए जिला विधिक सेवा प्राधिकरण द्वारा स्थापित सुविधाएं अभिप्रेत हैं और जिसके अंतर्गत विधि महाविद्यालयों और विधि विश्वविद्यालयों द्वारा चलाए जाने वाले विधिक सहायता किलनिक भी हैं
 - (घ) "विधिक सेवा संस्था" से यथास्थिति, कोई राज्य विधिक सेवा प्राधिकरण, जिला विधिक सेवा प्राधिकरण या तालुक विधिक सेवा समिति अभिप्रेत है;
 - (ङ) "पैनल वकील" से राष्ट्रीय विधिक सेवा प्राधिकरण (निःशुल्क और सक्षम विधि सेवाएं विनियम, 2010 के विनियम 8 के अधीन चयनित पैनल वकील अभिप्रेत है);
 - (च) "पराविधिक स्वयंसेवक" से किसी विधिक सेवा संस्था द्वारा प्रशिक्षित कोई पराविधिक स्वयं सेवक अभिप्रेत है ;
 - (छ) "पक्षीय वकील" से राष्ट्रीय विधिक सेवा प्राधिकरण (निःशुल्क और सक्षम विधि सेवाएं) विनियम, 2010 के विनियम 8 के अधीन चयनित पक्षीय वकील अभिप्रेत है ;
 - (ज) "धारा" से अधिनियम की धारा अभिप्रेत है।

- (2) सभी अन्य शब्दों और पदों के जो इन विनियमों में प्रयुक्त हैं और परिभाषित नहीं हैं किंतु अधिनियम में परिभाषित हैं, वही अर्थ होंगे जो उक्त अधिनियम में हैं।
3. **विधिक सहायता क्लिनिक की स्थापना**— वित्तीय संसाधनों की उपलब्धता के अधीन रहते हुए जिला विधिक सेवा प्राधिकरण, सभी ग्रामों में या ऐसे ग्रामों के आकार पर आधारित, विशेषतया जहां लोग विधिक सेवा संस्थानों तक पहुंच के लिए भौगोलिक, समाजिक या अन्य अवरोध कर सामना करते हैं, अन्य ग्रामों के किसी समूहों के लिए विधिक सहायता क्लिनिकों की स्थापना करेगा।
4. **विधिक सहायता क्लिनिकों में निःशुल्क विधिक सेवाओं के लिए पात्रता मानदंड**— प्रत्येक व्यक्ति जो धारा 12 में विनिर्दिष्ट मानदंडों को पूरा करता है विधिक सहायता क्लिनिकों को निःशुल्क विधिक सेवाएं प्राप्त करने का पात्र होगा।
5. **विधिक सहायता क्लिनिक का प्रबंध कार्मिक**— (1) विनियम 3 के अधीन स्थापित प्रत्येक विधिक सहायता क्लिनिक में विधिक सहायता क्लिनिकों के कार्य समय के दौरान कम से कम दो पराविधिक स्वयं सेवक उपलब्ध रहेंगे।
 (2) क्षेत्रीय अधिकारिता रखने वाले विधिक सेवा संस्थान या जिला विधिक सेवा प्राधिकरण, विधिक सहायता क्लिनिकों में प्रशिक्षित पराविधिक स्वयंसेवकों को तैनात कर सकेंगे।
 (3) जब विधिक सहायता क्लिनिकों में वकीलों को तैनात किया जाता है, ऐसे क्लिनिकों में लगे हुए पराविधिक स्वयंसेवकों का यह कर्तव्य होगा कि वह वकीलों को अर्जी, आवेदन, अभिवचन और अन्य विधिक दस्तावेजों के प्रारूपण में सहायता करें।
 (4) राज्य विधिक सेवा प्राधिकरण पराविधिक स्वयं सेवकों को उनके लंबी अवधि के भविष्य के उत्थान के लिए विधि में डिप्लोमा या डिग्री के लिए प्रोत्साहित कर सकेगा।
6. **विधिक सहायता क्लिनिक में वकीलों की तैनाती**— (1) क्षेत्रीय अधिकारिता रखने वाला निकटतम विधिक सेवा संरथान, विधिक सेवा क्लिनिक में अपने पैनल वकीलों या पक्षीय वकीलों को तैनात कर सकेगा।
 (2) यदि मामले को किसी ऐसे कील को सौंपा जाता है जिसमें लंबी अवधि के दौरान उसके अनुरूप और निरंतर ध्यान देने की अपेक्षा है तो उसी वकील को जिसे मामला सौंपा गया था विधिक सेवाएं जारी करने के लिए न्यस्त किया जाएगा।
7. **विधिक सहायता क्लिनिक में वकीलों द्वारा मिलने की आवृत्ति**— स्थानीय अपेक्षाओं और वित्तीय संसाधनों की उपलब्धता के अधीन रहते हुए क्षेत्रीय अधिकारिता रखने वाली विधि सेवा संस्था विधिक सहायता क्लिनिकों में वकीलों के मिलने की आवृत्ति विनिश्चित कर सकेगा और यदि निरंतर विधिक सेवाओं को उपलब्ध कराने के लिए स्थितियों की मांग है तो ऐसी विधिक सेवा संस्था विधिक सहायता क्लिनिकों में वकीलों के बारंबार मिलने की व्यवस्था पर विचार कर सकेंगे।

8. विधिक सहायता क्लिनिकों के प्रबंध के लिए वकीलों का चयन- (1) विवादों के सौहार्दपूर्ण समाधान के कौशल वाले पैनल वकील या पक्षीय वकील विधिक सहायता क्लिनिक में तैनाती के लिए विचार किए जाएंगे ;

परंतु कम से कम तीन वर्ष से व्यवसाय करने वाली महिला वकीलों को वरीयता दी जाएगी ।

9. विधिक सहायता क्लिनिक में विधिक सेवाएं- (1) विधिक सहायता क्लिनिकों में दी जाने वाली विधिक सेवाएं विस्तृत प्रकृति की होंगी ।

(2) विधिक सहायता क्लिनिक असुविधाग्रस्त व्यक्तियों की सहायता हेतु जब कभी आवश्यक हो, उनकी विधिक समस्याओं का समाधान करने के लिए, एकल खिड़की प्रसुविधा के समान कार्य करेंगी ।

(3) विधिक सलाह के साथ-साथ अन्य सेवाएं जैसे महात्मा गांधी राष्ट्रीय रोजगार गारंटी (मनरेगा) स्कीम के अधीन रोजगार कार्ड, विभिन्न सरकारी प्रयोजनों के लिए परिचय पत्र के लिए आवेदन करना जैसी अन्य सेवाएं, सरकारी कार्यालयों और लोक प्राधिकारियों के साथ संपर्क करना, सामान्य व्यक्तियों की सहायता करना जो सरकारी पदधारियों, प्राधिकारियों और अन्य संस्थानों के साथ अपनी समस्याओं के समाधान के लिए क्लिनिक में आते हैं, विधिक सहायता क्लिनिक में विधिक सेवाओं का भी भाग होगा :

परंतु विधिक सहायता क्लिनिक किसी समस्या पर आरंभिक सलाह द्वारा सलाह देकर, अभ्यावेदन और नोटिसों प्रारूपण में सहायता, विभिन्न सरकारी योजनाओं, लोक वितरण प्रणाली और अन्य सामाजिक सुरक्षा स्कीमों के अधीन उपलब्ध विभिन्न अभिलाभों के लिए प्ररूप भरने में सहायता प्रदान करेंगे :

परंतु यह और कि समुचित मामलों में विधिक सहायता क्लिनिक में आवेदक द्वारा विधिक सेवाएं प्राप्त करने के लिए और कार्यवाही करने के लिए विधिक सेवा संस्थाओं को प्रतिनिर्देश किया जाएगा ।

10. विधिक सहायता क्लिनिकों में पराविधिक स्वयंसेवकों के कृत्य- (1) विधिक सहायता क्लिनिकों में लगे हुए पराविधिक स्वयंसेवकों विधिक सलाह चाहने वाले व्यक्तियों को आरंभिक सलाह ऐसे व्यक्तियों को जो विशेषतया निरक्षर हैं अर्जी, अभ्यावेदन या सूचनाओं के प्रारूपण में, सरकारी स्कीम के अधीन उपलब्ध विभिन्न लाभों के लिए आवेदन प्रारूपों को भरने में सहायता देंगे ।

(2) पराविधिक स्वयंसेवक, यदि आवश्यक हो, विधिक सहायता चाहने वाले व्यक्तियों के साथ सरकारी कार्यालयों में पदधारियों के साथ संपर्क करने के लिए और ऐसे व्यक्तियों की समस्याओं को हल करने के लिए जाएंगे ।

(3) यदि विधिक सहायता क्लिनिक पर किसी वकील की सेवाओं की आवश्यकता है तो पराविधिक स्वयंसेवक बिना किसी विलंब के निकटतम विधिक सेवा संस्थान से किसी वकील की सेवाएं उपलब्ध कराने के लिए संपर्क करेंगे।

(4) आपात दशा में पराविधिक स्वयंसेवक विधिक सेवा क्लिनिक में विधिक सेवा चाहने वाले व्यक्ति को निकटतम विधिक सेवा संस्था ले जाएंगे।

(5) पराविधिक स्वयंसेवक विधिक सहायता क्लिनिकों में विधिक सेवा चाहने वाले व्यक्तियों को विधिक शिक्षा और साक्षरता की सहायता में पुस्तिका और अन्य सामग्री वितरित करेंगे।

(6) पराविधिक स्वयंसेवक विधिक सहायता क्लिनिकों के स्थानीय क्षेत्र में विधिक सेवा संस्थानों द्वारा आयोजित विधिक जागरूकता कैंपों में सक्रिय रूप से भाग लेंगे।

11. **विधिक सहायता क्लिनिक की अवस्थिति-** (1) विधिक सहायता क्लिनिक ऐसे स्थानों पर अवस्थित होंगे जहां परिक्षेत्र के व्यक्ति सहजता से पहुंच सकें।

(2) विधिक सेवा संस्था स्थानीय निकाय संस्थाओं जैसे ग्राम पंचायत से अनुरोध कर सकेंगे कि वह विधिक सहायता क्लिनिक की स्थापना के लिए कोई कक्ष उपलब्ध कराएँ :

परंतु यदि ऐसा कोई कक्ष उपलब्ध नहीं होता है तब तक जिला विधिक सेवा प्राधिकरण विधिक सहायता क्लिनिक की स्थापना के लिए अनुकूलित अवस्थान उपलब्ध होने तक किराए पर कक्ष उपलब्ध कराएगा।

12. **विधिक सहायता क्लिनिक के लिए सुविधाजनक कक्ष प्राप्त करने में स्थानीय निकाय संस्थाओं की सहायता :-** (1) राज्य विधिक सेवा प्राधिकरण ग्राम पंचायत, मंडल या ब्लाक पंचायत, नगरपालिका और निगम आदि जैसी स्थानीय निकाय संस्थाओं से अपेक्षा करेगा कि वे विधिक सहायता क्लिनिक के कार्यकरण के लिए स्थान उपलब्ध कराएँ।

(2) चूंकि विधिक सहायता क्लिनिक परिक्षेत्र में लोगों की प्रसुविधा के लिए होता है, राज्य विधिक सेवा प्राधिकरण इस आवश्यकता पर जोर दे सकेगा कि स्थानीय निकाय संस्था और प्रशासक विधिक सहायता क्लीनिकों के कार्यकरण में सहयोग करें।

13. **विधिक सहायता क्लिनिक के नाम को प्रदर्शित करने वाला साईन बोर्ड:-** (1) अंग्रेजी और स्थानीय भाषा दोनों में, एक साईन बोर्ड होगा जिसमें विधिक सहायता क्लिनिक के नाम, कार्य घंटे और दिनों जिनको विधिक सहायता क्लीनिक खुला रहेगा, उल्लेख होगा।

(2) विधिक सहायता क्लिनिक के कार्य, घंटे राज्य क्षेत्रीय अधिकारिता रखने वाली विधिक सेवा संस्था द्वारा, जिला विधिक सेवा प्राधिकरण के परामर्श से विनियमित किए जाएंगे :

परंतु परिक्षेत्र में लोगों की स्थानीय शर्तों और अपेक्षाओं के अधीन रहते हुए विधिक सहायता क्लीनिक सभी रविवारों और अवकाश दिनों को कार्य करेंगे।

14. विधिक सहायता क्लीनिक में अवसंरचना- (1) प्रत्येक सहायता क्लिनिक में कम से कम मूलभूत और आवश्यक फर्नीचर जैसे एक मेज और 5 से 6 कुर्सियां होंगी।
 (2) यदि विधिक सहायता क्लिनिक की स्थापना किसी स्थानीय निकाय संस्थाओं के भवन में की जाती है तो ऐसे स्थानीय निकायों से अनुरोध किया जाएगा कि वे विधिक सहायता क्लिनिक में उपयोग के लिए आवश्यक फर्नीचर उपलब्ध कराएं।
 (3) यदि विधिक सहायता क्लिनिक किसी किराए पर लिए गए परिसर में स्थापित किया जाता है तो जिला विधिक सेवा प्राधिकरण, विधिक सहायता क्लिनिक में अपेक्षित फर्नीचर उपलब्ध करा सकेगा :

परंतु यदि जिला विधिक सेवा प्राधिकरण के पास विधिक सहायता क्लिनिक स्थापित करने के लिए अपना भवन है तो अवसंरचनात्मक सुविधाएं ऐसे प्राधिकरण द्वारा उपलब्ध कराई जाएंगी।

15. प्रचार:- (1) स्थानीय निकाय संस्थाओं से अनुरोध किया जाता है कि वे विधिक सहायता क्लिनिक का पर्याप्त प्रचार करें।
 (2) स्थानीय निकाय संस्थाओं के निर्वाचित प्रतिनिधियों से अनुरोध किया जाए कि वे अपने निर्वाचन क्षेत्र या वार्ड में लोगों तक विधिक सहायता क्लिनिक की उपयोगिता के संदेश का प्रसार करें।
16. विधिक सहायता क्लिनिक में पराविधिक स्वयंसेवी या वकील विवादों को सीहार्डपूर्ण रूप से सुलझाने का प्रयास करेंगे :- (1) विधिक सहायता क्लिनिक में लगे हुए पराविधिक स्वयंसेवी या वकील विधिक सहायता क्लिनिकों में लाए गए व्यक्तियों के पूर्व मुकदमा विवादों का समाधान करने का प्रयास करेंगे।
 (2) यदि पराविधिक स्वयं सेवी या वकील यह महसूस करते हैं कि ऐसा विवाद अनुकृतिपूर्ण विवाद समाधान तंत्रों के माध्यम से सुलझाया जा सकता है तो वे ऐसे विवादों को राज्यक्षेत्रीय अधिकारिता रखने वाली विधिक सेवा संस्था या जिला अनुकृतिपूर्ण विवाद समाधान केन्द्र को निर्दिष्ट कर सकेंगे।

17. विधिक सहायता क्लिनिकों द्वारा सेवाएं प्रदान करने वाले वकीलों और पराविधिक स्वयंसेवियों के मानदेय :-
 (1) उपलब्ध वित्तीय संसाधनों के अधीन रहते हुए, राज्य विधिक सेवा प्राधिकरण, राष्ट्रीय विधिक सेवा प्राधिकरण के परामर्श से विधिक सहायता क्लिनिक में लगे हुए वकीलों और पराविधिक स्वयंसेवियों का मानदेय नियत कर सकेगा :

परंतु ऐसा मानदेय वकीलों के लिए कम से कम 500 रुपए प्रतिदिन और पराविधिक स्वयंसेवियों के लिए 250 रुपए प्रतिदिन होगा।

- (2) उन मामलों में जहां विधिक सहायता क्लीनिक उन कठिन भू-भागों में और सुदूर स्थानों में जहां परिवहन सुविधाएं अपर्याप्त हैं, स्थित हैं वहां विशेष महत्व दिया जाएगा।
18. निकटतम विधिक सेवा संस्थाओं द्वारा विधिक सहायता क्लीनिक में या अपने परिसरों के निकट लोक अदालतें आयोजित करना :- (1) राज्यक्षेत्रीय अधिकारिता रखने वाली निकटतम विधिक सेवा संस्था या जिला विधिक सेवा प्राधिकरण, विधिक सहायता क्लीनिक में या उसके आसपास के क्षेत्र में पूर्व मुकदमा विवादों के लिए अदालतें आयोजित कर सकेगा।
(2) विधिक सहायता क्लीनिक से भेजे गए विवादों के पूर्व मुकदमा निपटारे के लिए आयोजित लोक अदालतें धारा 20 की उपधारा (2) में विहित प्रक्रिया और राष्ट्रीय विधिक सेवा प्राधिकरण (लोक अदालत) विनियम, 2009 के उपबंधों का भी अनुसरण करेंगे।
19. विधिक सहायता क्लीनिक का प्रशासनिक नियंत्रण-(1) विधिक सहायता क्लीनिक, जिला विधिक सेवा प्राधिकरण के सीधे प्रशासनिक नियंत्रण के अधीन होंगे।
(2) राज्य विधिक सेवा प्राधिकरण को विधिक सहायता क्लीनिकों के कार्यकरण के संबंध में निदेश या मार्गदर्शी सिद्धांत जारी करने की शक्ति प्राप्त होगी।
20. अभिलेखों और रजिस्टरों का रखरखाव-(1) विधिक सहायता क्लीनिक में सेवा प्रदान करने वाले वकील और पराविधिक स्वयंसेवी विधिक सहायता क्लीनिक में रखे गए रजिस्टर में अपनी उपस्थिति अभिलिखित करेंगे।
(2) विधिक सेवाओं की मांग करने वाले व्यक्तियों के नाम और पते, ऐसे वकील या पराविधिक स्वयंसेवी का नाम जो विधिक सहायता क्लीनिक सेवाएं प्रदान करता है, प्रदान की गई सेवा की प्रकृति वकील या पराविधिक स्वयंसेवी की टिप्पणियां और विधिक सेवाओं की मांग करने वाले हस्ताक्षर को अभिलिखित करने के लिए प्रत्येक विधिक सहायता क्लीनिक में एक रजिस्टर होगा।
(3) विधिक सहायता क्लीनिकों के अभिलेख विधिक सहायता सेवा के अध्यक्ष या सचिव के अधीन होंगे जिनकी उसके ऊपर राज्य क्षेत्रीय अधिकारिता है।
(4) जिला विधिक सेवा प्राधिकरण विधिक सहायता क्लीनिक से अपेक्षा कर सकेगा कि वह ऐसे अन्य रजिस्टर, जिनकी अपेक्षा की जाए भी रखें।
(5) विधिक सहायता क्लीनिक में पराविधिक स्वयंसेवियों और वकीलों का यह कर्तव्य होगा की वे जब कभी अपेक्षा की जाए राज्य क्षेत्रीय अधिकारिता रखने वाली विधिक सेवा संस्था को रजिस्टर सौंपें।
21. चल लोक अदालत यान का उपयोग--(1) विधिक सहायता क्लीनिक में विधिक सेवा प्रदान करने वाले वकील या पराविधिक स्वयंसेवी जिला विधिक सेवा प्राधिकरण से अनुरोध कर सकेंगे की वे उनके द्वारा पहचान किए गए विवादों के निपटारे के लिए विधिक सहायता क्लीनिक लोक अदालत न्यायपीठ के सदस्यों सहित चल लोक अदालत वैन भेजें।

- (4) अंतिम वर्ष की कक्षाओं में विधि के छात्र अपनी संस्था के संकाय सदस्य के पर्यवेक्षण के अधीन ऐसे विधिक सहायता क्लिनिकों में विधिक सहायता प्रदान कर सकेंगे ।
- (5) राज्य विधिक सेवा प्राधिकरण उन लोगों की जो ऐसे विधिक सहायता क्लिनिकों में विधिक सहायता की मांग करते हैं, जिनकी समस्या का समाधान करने के लिए अनुकृतिपूर्ण विवाद समाधान शिविर जिनके अंतर्गत लोक अदालतें भी हैं आयोजित कर सकेंगी ।
- (6) जिला विधिक सेवा प्राधिकरण ऐसे छात्रों को प्रमाण पत्र जारी कर सकेगा जो ऐसे विधिक सहायता क्लिनिकों में अपने समनुदेशन को पूरा करते हैं ।
25. विधिक सेवा प्राधिकरण द्वारा प्रशिक्षित पराविधिक स्वयंसेवियों की सेवाएं विधि महाविद्यालयों, विधि विश्वविद्यालयों द्वारा संचालित विधिक सहायता क्लिनिकों में उपलब्ध कराई जाएं— प्रशिक्षित पराविधिक स्वयंसेवी निशुल्क विधिक सेवाओं की मांग करने वाले व्यक्तियों की सहायता करने वाले और संकाय के सदस्यों और छात्रों के साथ अन्योनक्रिया करने के लिए नियम 24 के अधीन स्थापित विधिक सहायता क्लिनिकों में तैनात किए जाएं ।
26. राज्य विधिक सेवा प्राधिकरणों द्वारा विधिक सहायता क्लिनिकों के कार्यकरण के आवधिक पुनर्विलोकन संचालित करना—(1) राज्य विधिक सेवा प्राधिकरण, जिला विधिक सेवा प्राधिकरणों, विधि महाविद्यालयों, विधि विश्वविद्यालयों से उनकी अधिकारिता में कार्यरत विधिक सहायता क्लिनिकों के कार्यकरण पर मासिक रिपोर्ट एकत्रित करेगा ।
 (2) राज्य विधिक सेवा प्राधिकरण तीन मास में कम से कम एक बार या अधिक बारमबार ऐसे विधिक सहायता क्लिनिकों के कार्यकरण का आवधिक पुनर्विलोकन संचालित करेगा ।
 (3) राज्य विधिक सेवा प्राधिकरण विधिक सहायता क्लिनिकों में सेवाओं का सुधार करने के लिए समय-समय पर यह सुनिश्चित करने के लिए निदेश जारी कर सकेगा की समाज के कमजोर वर्गों के सदस्यों को दक्ष रीति में विधिक सेवाएं उपलब्ध कराई जाती हैं ।
 (4) राज्य विधिक सेवा प्राधिकरण उनकी अधिकारिता के भीतर विधिक सहायता क्लिनिकों के कार्यकरण के बारे में त्रिमासिक रिपोर्ट राष्ट्रीय विधिक सेवा प्राधिकरण को भेजेगा ।

NATIONAL LEGAL SERVICES AUTHORITY NOTIFICATION

New Delhi, the 10th August, 2011

National Legal Services Authority (Legal Aid Clinics) Regulations, 2011

F. No. L/08/11/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 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 Aid Clinics) Regulations, 2011.
(2) 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) “District ADR centre” means the District Alternative Dispute Resolution Centre established with the funds of the 13th Finance Commission and includes any other similar facilities like Nyayaseva Sadans at the district level;
 - (c) “legal aid clinic” means the facility established by the District Legal Services Authority to provide basic legal services to the villagers with the assistance of Para-Legal Volunteers or Lawyers, on the lines of a primary health centre providing basic health services to the people in the locality and includes the legal aid clinic run by the law colleges and law universities;
 - (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 aid clinic.**- Subject to the financial resources available, the District Legal Services Authority shall establish legal aid clinics in all villages, or for a cluster of villages, depending on the size of such villages, 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 aid clinic.**- Every person who fulfils the criteria specified in section 12 shall be eligible to get free legal services in the legal aid clinics.
5. **The personnel manning the legal aid clinic.**- (1) Every legal aid clinic established under regulation 3 shall have at least two para-legal volunteers available during the working hours of the legal aid clinics.
 (2) The legal services institution having territorial jurisdiction or the District Legal Services Authority may depute trained para-legal volunteers to the legal aid clinics.
 (3) When lawyers are deputed to the legal aid clinic, it shall be the duty of the para-legal volunteers engaged in such clinic to assist the lawyers in drafting petitions, applications, pleadings 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 aid clinic.** – (1) The nearest legal services institution having territorial jurisdiction may depute its panel lawyers or retainer lawyers to the legal aid 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 aid 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 aid 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 aid clinic.
8. **Selection of lawyers for manning the legal aid 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 aid clinic:
 Provided that preference shall be given to women lawyers having practice of at least three years.
9. **Legal services in the legal aid clinic.** - (1) Legal services rendered at the legal aid clinic shall be wide ranging in nature.

- (2) The legal aid 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 aid clinic:

Provided that the legal aid 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:

Provided further that, in appropriate cases, the legal services sought for by the applicants in the legal aid clinic shall be referred to the legal services institutions for taking further action.

10. Functions of para-legal volunteers in the legal aid clinic.—(1) The para-legal volunteers engaged in the legal aid 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 aid 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 aid clinic to the nearest legal services institutions.

(5) para-legal volunteers shall distribute pamphlets and other materials in aid of legal education and literacy to the persons seeking legal services in the legal aid 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 aid clinic.

11. Location of legal aid clinic.—(1) Legal aid 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 aid 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 aid clinic.

- 12. Assistance of the local body institutions in obtaining a convenient room for the legal aid 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 aid clinic.
- (2) Since the legal aid 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 need to co-operate with the functioning of the legal aid clinics.
- 13. Sign-board exhibiting the name of the legal aid clinic.** – (1) There shall be a sign-board, both in English and in the local language, depicting the name of the legal aid clinic, working hours and the days on which the legal aid clinic shall remain open.
- (2) Working hours of the legal aid 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 aid clinics shall function on all Sundays and holidays.
- 14. Infrastructure in the legal aid clinic.** – (1) Every legal aid clinic shall have at least the basic and essential furniture like a table and 5 to 6 chairs.
- (2) If the legal aid 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 aid clinic.
- (3) If the legal aid clinic is established in hired premises, the District Legal Services Authority may provide the furniture required in the legal aid clinic:
- Provided that if the District Legal Services Authority has its own building to establish legal aid 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 aid clinic.
- (2) The elected representatives of the local body institutions may be persuaded to spread the message of the utility of legal aid clinic to the people in his or her constituency or ward.
- 16. Para-legal volunteers or lawyers in the legal aid clinic shall attempt to resolve disputes amicably.** – (1) The para-legal volunteers or the lawyers engaged in the legal aid clinics shall attempt to amicably resolve the pre-litigation disputes of the persons brought to the legal aid 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 aid 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 lawyers and para-legal volunteers engaged in the legal aid 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 aid 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 aid 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 pre-litigation disputes at the legal aid clinic or in its vicinity.

(2) The lok adalats organised for pre-litigation settlement of the disputes sent from the legal aid 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 aid clinic.**—(1) legal aid 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 aid clinics.

- 20. Maintenance of records and registers.**—(1) lawyers and para-legal volunteers rendering service in the legal aid clinic shall record their attendance in the register maintained in the legal aid clinic.

(2) There shall be a register in every legal aid 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 aid clinic, nature of the service rendered, remarks of the lawyer or para-legal volunteer and signature of persons seeking legal services.

(3) The records of the legal aid 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 aid 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 aid clinic to hand over the registers to the legal services institution having territorial jurisdiction as and when called for.

- 21. Use of mobile lok adalat vehicle.**—(1) The lawyers rendering legal services in the legal aid 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 aid 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 aid clinic or at a place near to it or even at village congregations such as *melas* and other festive occasions.

- 22. Legal aid clinics run by the law students.** — The above regulations shall *mutatis mutandis* be applicable to the student legal aid 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 aid clinics established under these regulations with the permission of the District Legal Services Authority.

- 23. Law students may adopt a village for legal aid camps.** — (1) Law students of the law colleges or law universities may adopt a village, especially in the remote rural areas and organise legal aid camps in association with the legal aid clinic established under these regulations.

(2) The law students may, with the assistance of the para-legal volunteers engaged in the legal aid 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 aid clinics attached to the law colleges, law universities and other institutions.** — (1) The law colleges, law universities and other institutions may set up legal aid clinics, as envisaged in clause (k) of section 4 attached to their institutions as a part of the clinical legal education.

(2) The law colleges, law universities and other institutions establishing such legal aid clinic shall inform the State Legal Services Authority about the establishing of such legal aid clinic.

(3) The State Legal Services Authority shall render the required technical assistance for the operation of such legal aid clinics and shall take measures to promote the activities of such legal aid clinics.

(4) The law students in the final year classes may render legal services in such legal aid 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 aid in such legal aid clinics.
- (6) The District Legal Services Authority may issue certificates to the students who complete their assignment in such legal aid clinics.
- 25. Services of para-legal volunteers trained by the Legal Services Authorities may be made available in the legal aid clinics run by the Law Colleges, Law Universities etc.** – Trained para-legal volunteers may be deputed to the legal aid 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 aid 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 aid clinics working in their jurisdiction.
- (2) The State Legal Services Authority shall conduct periodical review of the working of such legal aid 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 aid 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 Aid Clinics within their jurisdiction to the National Legal Services Authority.

U. SARATHCHANDRAN, Member-Secy.
[ADVT. III/4/123/11-Exty.]



भारत का राजपत्र

The Gazette of India

असाधारण

EXTRAORDINARY

भाग III—खण्ड 4

PART III—Section 4

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं. 56]

नई दिल्ली, सोमवार, मार्च 5, 2012/फाल्गुन 15, 1933

No. 56]

NEW DELHI, MONDAY, MARCH 5, 2012/PHALGUNA 15, 1933

राष्ट्रीय विधिक सेवा प्राधिकरण

शुद्धि-पत्र

नई दिल्ली, 2 मार्च, 2012

भारत के राजपत्र, असाधारण, भाग III, खण्ड 4, सं. 173, दिनांक 18-८-२०११ में प्रकाशित अधिसूचना के हिन्दी भाग में सीरियल नं. 21 के बाद निम्नलिखित पृष्ठ पढ़ा जाए :—

- "(2) लोक अदालत की कार्रवाईयों का संचालन करने के लिए सुविधाओं सुसज्जित चल लोक अदालत वैन का विधिक सहायता क्लिनिक में या उसके निकट किसी स्थान पर या ग्राम समागमों जैसे मेला और अन्य उत्सव संबंधी अवसरों पर भी लोक अदालत संचालित करने के लिए भी उपयोग किया जा सकेगा।
22. विधि के छात्रों द्वारा संचालित विधिक सहायता क्लिनिक.—उपरोक्त विनियम अन्य परिवर्तनों के साथ विधि महाविद्यालयों और विधि विश्वविद्यालयों द्वारा स्थापित छात्र विधिक सहायता क्लिनिकों को लागू होंगे :
परंतु विधि महाविद्यालयों और विधि विश्वविद्यालयों के छात्र भी जिला विधिक सेवा प्राधिकरण की अनुज्ञा से इन विनियमों के अधीन स्थापित विधिक सहायता क्लिनिकों का उपयोग कर सकेंगे।
23. विधि के छात्र विधिक सहायता शिक्षियों के लिए किसी गांव को अंगीकृत कर सकेंगे।—(1) विधि महाविद्यालयों और विधि विश्वविद्यालयों के विधि के छात्र किसी ग्राम को विशिष्टतया सुदूर ग्रामीण क्षेत्रों को अंगीकृत कर सकेंगे और इन विनियमों के अधीन स्थापित विधिक सहायता क्लिनिक के सहयोग से विधिक सहायता शिविर आयोजित कर सकेंगे।
(2) विधि के छात्र विधिक सहायता क्लिनिकों में लगे हुए पराविधिक स्वयंसेवियों की सहायता से स्थानीय लोगों का विधिक समस्याओं की पहचान करने के लिए सर्वेक्षण कर सकेंगे।
(3) उप-नियम (2) में निर्दिष्ट सर्वेक्षणों के अंतर्गत विद्यमान मुकदमा और अनसुलझे पूर्व मुकदमा विवाद से सबधित जानकारी एकत्रित करना भी सम्मिलित हो सकेगा।
(4) उप-नियम (2) में निर्दिष्ट सर्वेक्षण, उन स्थानीय लोगों की शिकायतों पर भी ध्यान केन्द्रित कर सकेंगे, जो राष्ट्रीय विधिक सेवा प्राधिकरण की धारा 4 खंड (घ) में यथाउपर्युक्त सामाजिक न्याय मुकदमे के रूप में आवश्यक कार्रवाई करने के लिए राष्ट्रीय विधिक सेवा प्राधिकरण को समर्थ बनाएंगे।

- (5) ऐसे सर्वेक्षण करने वाले विधि के छात्र राज्य विधिक सेवा प्राधिकरणों को रिपोर्ट और साथ में उनकी प्रतिया राज्य क्षेत्रीय अधिकारिता रखने वाली विधिक सेवा संस्थाओं और जिला विधिक सेवा प्राधिकरण को भी भेजेंगे।
24. विधि महाविद्यालयों, विधि विश्वविद्यालयों से संबद्ध विधिक सहायता विलनिक.—(1) विधि महाविद्यालय विधि विश्वविद्यालय और अन्य संस्थाएं विलनिकल विधिक शिक्षा के रूप में उनकी संस्थाओं से संबद्ध धाग 4 के खंड (ट) में यथाकल्पित विधिक सहायता विलनिकों की स्थापना कर सकेंगे।
- (2) ऐसे विधिक सहायता विलनिकों की स्थापना करने वाले विधि महाविद्यालय, विधि विश्वविद्यालय और अन्य संस्थाएं राज्य विधिक सेवा प्राधिकरण को ऐसे विधिक सहायता विलनिक की स्थापना करने के बारे में सूचित करेंगे।
- (3) राज्य विधिक सेवा प्राधिकरण ऐसे विधिक सहायता विलनिकों के प्रचालन के लिए अपेक्षित तकनीकी सहायता प्रदान करेंगे और ऐसे विधिक सहायता विलनिकों के क्रियाकलापों का संवर्धन करने के लिए उपाय करेंगे।"

यू. शरतचंद्रन, सदस्य सचिव
[विज्ञापन III/4/123/11/असा.]



भारत का राजपत्र

The Gazette of India

असाधारण

EXTRAORDINARY

भाग—III खण्ड—4

PART—III Section—4

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं. 355।
No. 355।

नई दिल्ली, शनिवार, दिसम्बर 6, 2014/अग्रहायण 15, 1936

NEW DELHI, SATURDAY, DECEMBER 6, 2014/AGRAHAYANA 15, 1936

राष्ट्रीय विधिक सेवा प्राधिकरण

अधिसूचना

नई दिल्ली, 18 नवम्बर, 2014

सं. एल/08/11-नालसा.—केन्द्रीय प्राधिकरण, विधिक सेवा प्राधिकरण अधिनियम, 1987 (1987 का 39) की धारा 29 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए राष्ट्रीय विधिक सेवा प्राधिकरण (विधिक सहायता क्लीनिक) विनियम, 2011 में निम्नलिखित संशोधन करता है, अर्थात् :—

1. (1) इन विनियमों का संक्षिप्त नाम राष्ट्रीय विधिक सेवा प्राधिकरण (विधिक सहायता क्लीनिक) संशोधन विनियम, 2014 है।
(2) ये राजपत्र में प्रकाशन की तारीख को प्रवृत्त होंगे।
2. राष्ट्रीय विधिक सेवा प्राधिकरण (विधिक सहायता क्लीनिक) विनियम, 2011 (जिसे इसमें इसके पश्चात् उक्त विनियम कहा गया है) में,—
(i) विनियम 1 के उप-विनियम (1) में, “(विधिक सहायता क्लीनिक)” कोष्ठक और शब्दों के स्थान पर, “(विधिक सेवा क्लीनिक)” कोष्ठक और शब्द रखे जाएंगे।
(ii) “विधिक सहायता क्लीनिक” और “विधिक सहायता क्लीनिको” शब्दों के स्थान पर, जहां कहीं वे आते हैं, क्रमशः “विधिक सेवा क्लीनिक” और “विधिक सेवा क्लीनिको” शब्दों को रखा जाएगा।
3. उक्त विनियम के, विनियम 2 के उप-विनियम (1) में,—
(i) खंड (ख) के स्थान पर, निम्नलिखित खंड रखा जाएगा, अर्थात् :—
(ख) “जिला अविस केंद्र” से तेरहवें वित्त आयोग के अधीन स्थापित जिला अनुकलित विवाद समाधान केन्द्र अभियन्त्र है और इसके अंतर्गत जिला स्तरीय न्याय सेवा सदन जैसी अन्य ऐसी समान सुविधाएं भी हैं, जहां पर एक छत के नीचे परामर्श, मध्यस्थता, लोक अदालत और विधिक सेवाओं के लिए सुविधाएं, उपलब्ध होती हैं;

(ii) खंड (ग) के स्थान पर, निम्नलिखित खंड रखा जाएगा, अर्थात् :—

‘(ग) “विधिक सेवा क्लीनिक” से, पराविधिक स्वंय सेवकों या वकीलों की सहायता से लोगों को मदद और सलाह के लिए प्रथम संपर्क स्थल के रूप में आधारी विधिक सेवाएं उपलब्ध करवाने के लिए जिला विधिक सेवा प्राधिकरण द्वारा स्थापित सुविधाएं अभिप्रेत हैं और इसके अंतर्गत विनियम 3 और विनियम 24 के अधीन स्थापित विधिक सेवा क्लीनिक भी हैं।’।

(4) उक्त विनियमों के, विनियम 3 के स्थान पर, निम्नलिखित विनियम रखा जाएगा, अर्थात् :—

“3. विधिक सेवा क्लीनिक की स्थापना—जिला विधिक सेवा प्राधिकरण, वित्तीय संसाधनों की उपलब्धता के अधीन रहते हुए,—

(क) सभी ग्रामों में या ग्राम समूहों के लिए, ऐसे ग्रामों के आकार के आधार पर ग्राम विधिक देखभाल और समर्थन केंद्र नामक विधिक सेवा क्लीनिक की स्थापना करेगा; और

(ख) जिलों, शैक्षणिक संस्थाओं, सामुदायिक केन्द्रों, संरक्षण ग्रहों, न्यायालयों, किशोर न्याय बोर्डों अन्य क्षेत्रों में, विशेषकर वहां जहां लोग विधिक सेवा संस्थाओं तक पहुंच के लिए भौगोलिक, सामाजिक या अन्य अवरोध का सामना करते हैं विधिक सेवा क्लीनिक की स्थापना करेगा;”।

(5) उक्त विनियमों के, विनियम 13 के स्थान पर, निम्नलिखित विनियम रखा जाएगा, अर्थात् :—

“13. विधिक सेवा क्लीनिक का नाम प्रदर्शित करने वाला साईन बोर्ड :—(1) अंग्रेजी और स्थानीय भाषा दोनों में, एक साईन बोर्ड होगा जिस पर विधिक सेवा क्लीनिक का नाम वर्णित होगा, जिसके अंतर्गत ग्राम विधिक देखभाल और समर्थन केन्द्र, जहां लागू हो, कार्य के घटे और ऐसे दिन जिसको विधिक सेवा क्लीनिक खुला रहेगा, का भी उल्लेख होगा।

(2) विधिक सेवाओं के कार्य के घटे जिला विधिक सेवा प्राधिकरण के परामर्श से उस राज्यक्षेत्र में अधिकारिता रखने वाली विधिक सेवा संस्था द्वारा, विनियमित किए जाएंगे:

परंतु विधिक सेवा क्लीनिक, उस परिक्षेत्र के लोगों की स्थानीय दशाओं और अपेक्षाओं के अधीन रहते हुए, सभी रविवार और अवकाश दिन को कार्य करेंगे।

(6) उक्त विनियमों के विनियम 18 के उप-विनियम (1) में “पूर्व मुकदमा विवादों के लिए अदालतें” शब्दों के स्थान पर, “लंबित और पूर्व मुकदमा विवादों के लिए लोक अदालतें” शब्द रखे जाएंगे।

(7) उक्त विनियमों के, विनियम 23 के उप-विनियम (1) में, “विधिक सहायता क्लीनिक” शब्दों के स्थान पर, “विधिक सेवा क्लीनिक या ग्राम विधिक देखभाल और समर्थन केन्द्र” शब्द रखे जाएंगे।

आशा मेनन, सदस्य सचिव

[विज्ञापन-III/4/असा./123/2014]

टिप्पणी: मूल विनियम भारत के राजपत्र, भाग III, खंड 4 में अधिसूचना सं. एल/08/11/नालसा, तारीख 10 अगस्त, 2011 में प्रकाशित किए गए थे।

NATIONAL LEGAL SERVICES AUTHORITY

NOTIFICATION

New Delhi, the 18th November, 2014

No. L/08/11-NALSA.—In exercise of the powers conferred by section 29 of the Legal Services Authorities Act, 1987 (39 of 1987), the Central Authority hereby makes the following amendments in the National Legal Services Authority (Legal Aid Clinics) Regulations, 2011 namely:—

1. (1) These regulations may be called the National Legal Services Authority (Legal Aid Clinics) Amendment Regulations, 2014.
- (2) They shall come into force on the date of their publication in the Official Gazette.

2. In the National Legal Services Authority (Legal Aid Clinics) Regulations, 2011 (hereinafter referred to as the said regulations),—
 - (i) in sub-regulation (1) of regulation 1, for the brackets and words “(Legal Aid Clinics)”, the brackets and words “(Legal Services Clinics)” shall be substituted;
 - (ii) for the words “legal aid clinic” and “legal aid clinics”, wherever they occur, the words “legal services clinic” and “legal services clinics” shall respectively be substituted.
3. In the said regulations, in sub-regulation (1) of regulation 2,—
 - (i) for clause (b), the following clause shall be substituted, namely:—

‘(b) “District ADR Centre” means the District Alternative Dispute Resolution Centre established under the 13th Finance Commission and includes any other similar facilities like Nyaya Seva Sadans at the district level where facilities for Counselling, Mediation, Lok Adalat and Legal Services are provided under a single roof’;
 - (ii) for clause (c), the following clause shall be substituted, namely:—

‘(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 help and advice and includes legal services clinics set up under regulation 3 and regulation 24.’
4. In the said regulations, for regulation 3, the following regulation shall be substituted, namely:—

“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”.
5. In the said regulations, for regulation 13, the following regulation shall be substituted, namely:—

“13. Sign-board exhibiting name of legal services clinic.—(1) There shall be a sign-board, both in English and in the local language, depicting the name of the legal services clinic including as Village Legal Care and Support Centre, wherever applicable, working hours and the days on which the legal services clinic will 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”.
6. In the said regulations, in sub-regulation (1) of regulation 18, for the words “lok adalat for pre-litigation disputes”, the words “lok adalats for pending and for pre-litigation disputes” shall be substituted.
7. In the said regulations, in sub-regulation (1) of regulation 23, for the words “legal aid clinic”, the words “legal services clinic or Village Legal Care and Support Centre” shall be substituted.

[F. No. L/08/11/NALSA]

ASHA MENON, Member Secy.

[ADVT. III/4/Exty./123/2014]

Note : The principal regulations were published in the Gazette of India, Part-III, Section 4 *vide* notification No. L/08/11/NALSA, dated the 10th August, 2011.



NALSA
STANDARD OPERATING PROCEDURES
ON
ACCESS TO LEGAL AID SERVICES
TO
PRISONERS AND FUNCTIONING
OF
THE PRISON LEGAL AID CLINICS, 2022

NATIONAL LEGAL SERVICES AUTHORITY
B-Block, Additional Building, Supreme Court of India,
Mathura Road, New Delhi- 110001
Website: www.nalsa.gov.in; Email: nalsa-dla@nic.in

Background

Section 12 of the Legal Services Authorities Act, 1987, provides that all ‘**persons in custody**’ are entitled to free legal aid. In 2015, NALSA wrote a letter to all SLSAs to constitute a prison legal aid clinic (PLAC) in every prison under their jurisdiction. A year later, the NALSA Standard Operating Procedure for Representation of Persons in Custody came into force in 2016 (hereinafter called ‘the 2016 SOP’). The 2016 SOP observed a number of policy gaps and issues and the need to standardize and streamline the functioning of the PLACs.

Recently, Hon’ble Executive Chairman of National Legal Services Authority, has visited the prisons in different states including Central Prison, Cherlapally (Telangana); District Prison, Bhondsi/Gurgaon (Haryana); Central Prison, Mumbai (Arthur road) and District Prison Byculla (Maharashtra); and Central Prison Tihar (Delhi). Based on his visits to these prisons, a number of issues were noticed that needed urgent attention.

With the aim to further strengthen the functioning of Prison Legal Aid Clinics and to ensure effective legal services to persons behind bars, the SOP 2016 has been revised, and this present Standard Operating Procedure 2022 (SOP 2022) is formulated by NALSA. This SOP highlights the priority areas and aims to address the day-to-day socio-legal challenges faced by the prisoners. For effective implementation of this SOP, a coordinated approach is required among the various functionaries of the criminal justice system with the legal services institutions.

Definitions:

- a) ‘Act’ means the Legal Services Authorities Act, 1987.
- b) ‘Legal Aid 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 or any other arrangement, as the point of first contact for help and advice and includes legal services clinics set up under Regulation 3 and 24 the NALSA (Legal Services Clinics) Regulations, 2011.
- c) ‘Legal services institutions’ means a State Legal Services Authority, District Legal Services Authority or the Taluk Legal Services Committee or the High Court Legal Services Committee or the Supreme Court Legal Services Committee as the case may be;
- d) ‘Jail Visiting lawyer(s)’ means the lawyer(s) assigned work of visit to Prisons either from the panel prepared under regulation 8 of the NALSA (Free and Competent Legal Services) Regulations 2010 or Legal Aid Defence Counsels appointed under the LADC scheme and also those who are offering services on pro-bono basis at the request of Legal services institution(s);
- e) ‘Para-legal volunteer’ means a para-legal volunteer empaneled & trained as such by a legal services institution and includes any other individual(s) rendering his/her services at the request of any of the Legal services institution(s);
- f) ‘Prison’ means Central Jail, District Jail, Sub Jail, Women Jail, Special Jail including High security Jail and Borstals.
- g) ‘Prisoners’ means all categories of prisoners including undertrials, convicts, detenues, and civil prisoners.
- h) ‘Prison Superintendent’ includes Deputy Superintendent and Officer Incharge of the jail.

PART A: Set up and Functions of a Prison Legal Aid Clinic (PLAC)

1. Setting up of the Prison Legal Aid Clinic: The District Legal Services Authority (DLSA) of every district shall establish a Prison Legal Aid Clinic (PLAC) within the premises of every prison under its jurisdiction. This is in furtherance of NALSA (Legal Services Clinics) Regulations 2011, which mandates the setting up of legal services clinic in prisons.

1.1 Location of the PLAC: The Secretary DLSA shall, along with the Prison Superintendent, ensure that the PLAC is located at such a

common area which has open and unfettered access for prisoners. Even in prisons, where there is paucity of space, in no circumstance the PLAC shall be located as part of the office building as this would hinder the access of prisoners to the PLAC.

1.2 Infrastructure of PLAC: As far as possible, a separate well-appointed room must be designated as a PLAC. DLSA shall ensure that every PLAC is equipped with adequate infrastructure including table, chairs, computer, internet, printer etc., as the need be. DLSA shall also provide atleast one set of basic law books preferably bilingual (English & language of state) including IPC, CrPC, etc. for use both by the functionaries of PLAC and prisoners.

1.3 Display of information on clinic timings: The DLSA should ensure that information regarding the PLAC timings and location are displayed in common areas inside the prison. The names of the Jail Visiting Lawyer(s) (JVL) and Para Legal Volunteer(s) (PLV) on duty, and the schedule of their visits, should be clearly displayed inside the PLAC. Information regarding the clinic and presence of JVL or PLV can also be communicated to prisoners either through notice board in each enclosure or use of public announcement systems, where available.

1.4 Operationality of PLAC: The suggested number of days for which every PLAC may be operational is as follows:

- i. For every Central Prison, 5 days per week;
- ii. For every District Prison, 4 days per week;
- iii. For every Sub-Jail and other prisons, 2 days per week;
- iv. For every Women Enclosure (as part of the main prison), 3 days per week.

2. Purpose of the Prison Legal Aid Clinics (PLACs): The objective of establishing and operationalizing the Prison Legal Aid Clinic in every prison in the country is to provide meaningful, efficient and effective legal services and assistance to prisoners. It must be noted that the role of PLAC is not limited to only cater to the needs of prisoners who have opted for legal aid services, rather much broader and includes:

- a) to ensure at all times that no person is without legal representation at any stage of the criminal proceeding and generate awareness about the same;

- b) to bridge the information gap between the Prisoner and the Court;
- c) to facilitate communication between the Prisoner and the Lawyer, whether legal aid or private;
- d) to ensure that no person is illegally or unnecessarily detained;
- e) to ensure special needs of vulnerable groups (women, young offenders, mentally-ill, foreign nationals, persons from other states, etc.); in prisons are addressed;
- f) to collaborate with local authorities, universities, academic institutions and civil society organisations to further strengthen legal aid services for prisoners;
- g) to act as a One Stop Centre (OSC) to raise the grievances by prisoners and direct the grievances to appropriate authorities through DLSA; and
- h) to undertake implementation of the NALSA and SLSA campaigns for prisoners or any other work assigned to fulfill its mandate of providing legal aid services and assistance to the prisoners.

3. PLAC Functionaries and their functions: The objectives and aims of the Prison Legal Aid Clinics will be carried out by the joint working of para-legal volunteers (be it from the community or from among the convicts in the prison) and Jail Visiting Lawyers.

3.1 Jail Visiting Lawyers (JVLs)

3.1.1 Appointment and Tenure of JVLs: JVLs shall be appointed by the DLSA from the office of LADC, if functional in the district and if not then from pool of panel lawyers. The tenure of the JVL must be such as to ensure a semblance of continuity and smooth transition to another individual. The number of JVLs appointed would be directly proportional to the population of inmates in the respective prisons they would be appointed to. The suggested proportion is as follows:

- a. For every Central & District Prison, 2 to 3 Jail Visiting Lawyers be appointed.
- b. For every Sub-Jail, 1 Jail Visiting Lawyer be appointed.

- 3.1.2 Appointment of women advocates for women enclosures-** To ensure access to legal representation and assistance to women prisoners, the DLSA would select and appoint women jail visiting lawyer(s) to provide services in women enclosures and women prisons. Visit of women lawyers will ensure regular interactions with women prisoners confined in women enclosures and in women prisons. Steps should be taken towards ensuring interaction and communication between beneficiaries i.e. women prisoners and lawyers (both panel lawyers and jail visiting lawyers). It would be imperative for the panel lawyer to meet, interact and update the beneficiaries regarding their cases and progress charted.
- 3.1.3** Appointment of transgender advocate, if available for transgender enclosure— Where prisons have transgender enclosure, the DLSA should make endeavor to appoint a transgender jail visiting lawyer or a lawyer who has received specialized training to address concerns of transgender persons in detention.
- 3.1.4 Periodicity of Visits to PLAC** – The JVLs must visit the clinics as many days as required and in accordance with the caseload. In instances of prisons with higher prisoner population, visits by JVLs must be made more frequently. The timings of visits must be fixed but not less than 3 hours per day and complied with to the maximum extent. The suggested periodicity of visits is as follows:
- a) For every Central Prison, at least 5 visits per week;
 - b) For every District Prison, at least 4 visits per week;
 - c) For every Sub-Jail, at least 2 visits per week for sub-jails and other jails.
 - d) For every Women Prison/ Enclosure (as part of the main prison) - (i) with a women prison population of more than 100, at least two visits per week; (ii) with a prison population of less than 100, at least one visit per

week. Similar periodicity can be adopted for transgender enclosures as well.

3.1.5 Payment of JVLs - The payment of honorarium to JVL(s) should normally include the costs incurred in the conveyance to the prisons and back. Additional payment on account of conveyance shall not be made from NALSA fund. The payment to the JVLs must be cleared promptly upon the submission of the weekly report(s) and proof of visit(s), if any. (The rate of honorariums may be revised on a regular basis, subject to directions of NALSA).

3.2 Paralegal Volunteers: In addition to appointment of JVLs for each PLAC, the DLSA should assign each PLAC with adequate number of convict and community PLVs.

3.2.1 Appointment of Convict PLVs: Convict PLVs shall be appointed by the DLSA from among the convicts lodged in the relevant prison. Presence of convict PLVs would ensure regular interaction of prisoners with PLVs, and further effective management of the clinics. The selection of the convict PLV would take into account the candidate's position among the prison population as well as minimum criteria of basic education, orientation, character and behavior necessary to ensure proper functioning, documentation and reporting to authorities.

3.2.2 Appointment of Community PLV(s): The DLSA secretary, should appoint community para-legal volunteer(s) to each PLAC, to bridge the gap between the beneficiaries and Legal Services Institutions. They would discharge similar responsibilities of regular and detailed interaction with prisoners, as convict PLV, but their presence in the community and regular visits/interaction with DLSA would ensure effective communication between the DLSA and the prisoners.

3.2.3 Proportion of PLVs: The number of PLVs appointed would be proportional to the population of inmates in

the respective prisons they would be appointed to. The suggested proportion is as follows:

- a. For every Central Prison, 2 community & 2 to 3 convict PLVs be appointed.
- b. For every District Prison, 1 community & 1 to 2 convict PLVs be appointed.
- c. For every Sub-Jail, 1 community PLV be appointed.

3.2.4 Tenure of PLVs: The tenure would be for a minimum period as prescribed under any directions or policy either by NALSA or SLSA, subject to renewal post assessment of previous performance.

3.2.5 Payment of PLVs: The payment of honorariums will be made every month by the DLSA after due verification of necessary documents and bills but within 2 weeks after completion of month and submission of voucher/bill.

3.2.6 Timely submission of reports & bills: It shall be duty of the PLV to submit the reports, grievance or request of the prisoner to the DLSA at earliest. The claim/voucher and duty report, if any have to be submitted without any delay but not later than one week.

3.3 Orientation/Training of PLAC Functionaries: The training/orientation of the Jail Visiting Lawyers and Paralegal Volunteers, whether convict or community, appointed to the PLAC, should be conducted, preferably, within the first month of their appointment. It must include the following:

- a) Overview of the prison administration and the role of prison personnel at different levels.
- b) Information about prison population - sanctioned strength vs actual prison population, categories of prisoners lodged in the concerned prison and the demography of the prison population.
- c) Legal aid system and grievance redressal portal,
- d) NALSA mobile app and e-courts services portal,

- e) General Dos and Don'ts during prison visits.
- f) Frequency of prison visits and areas to be covered during prison visits.
- g) Duties of PLAC Functionaries including identifying prisoners in need of legal aid or legal assistance with special needs of undertrials and convicts; assisting them by taking appropriate steps; legal awareness of prisoners; implementation of NALSA campaigns etc.
- h) Duties regarding documentation work of the PLAC - names and formats of the registers to be maintained, documentation of the grievances of prisoners, follow up and their redressal, etc.
- i) Functioning of the Under Trial Review Committees;
- j) E-prison portal and other digital facilitation portals etc.
- k) Information about any other task that may be assigned.

3.4 General Functions of the PLAC Functionaries: The duties for jail visiting lawyers and paralegal volunteers have been outlined in the NALSA's Handbook of Formats 2020. These are enumerated below:

3.4.1 Jail Visiting Lawyers:

- a) To visit the prison legal aid clinic as prescribed in most disciplined manner.
- b) To identify cases eligible for release under the mandate of the Undertrial Review Committee (UTRC).
- c) To interact with inmates identified by the paralegal volunteers and provide legal advice.
- d) To draft applications and petitions for parole/juvenility/bail etc. for the undertrials and convicts present in the clinic.
- e) To ensure filling of legal aid application form for those who need legal aid lawyers and submit the same to the legal services authority, without any delay.

- f) To conduct legal awareness camps inside prisons including apprising new entrants to prison about the free legal services provided by TSLC or SDLSC, DLSA, HCLSC and SCLSC.
- g) To train the paralegal volunteers and oversee the effective functioning of the PLAC.
- h) To regularly inform the inmates about the status of their cases.
- i) To communicate to the defense lawyer any pertinent information that an inmate has requested to be shared with his/her lawyer.
- j) To get acquainted with the prison manual and the other rules & regulations relating to prisons.
- k) To ensure that the registers are filled by the paralegals accurately.
- l) To record attendance and work in the registers available and also record in digital manner, if provided at the prison.
- m) To also represent the inmates in courts in some cases, if appointed by the LSI but not otherwise.
- n) To submit a weekly report of the work to the legal service institutions by 1st working day of preceding week.
- o) To also submit a copy of the register of beneficiaries maintained at the clinic.
- p) To ensure that a copy of the charge sheet or any document taken from any prisoner is returned.
- q) To not canvass or solicit for any case in your private capacity.
- r) To prioritise and focus on personal interactions with the inmates in the PLAC during the visit and then document and prepare the petitions.
- s) To send intimation to the DLSA in advance if he is unable to visit the PLAC on a particular day.

- t) To assist the UTRC by coordinating with the inmates and the courts on cases eligible for release.
- u) To follow the directions given under NALSA SOP for representing persons in custody.
- v) To bring into notice of DLSA about the concern of inmates in respect of conditions in jail.
- w) Updating information on digital platform of legal aid and legal aid e-prison.
- x) Working on NALSA mobile app and digital report mechanism.

3.4.2 Paralegal Volunteers:

- a) To manage/ organise legal aid clinics inside prisons, as prescribed.
- b) To take steps towards identification of inmates who are in need of legal assistance.
- c) This would involve reaching out to all prisoners whether beneficiary of legal aid or not, especially the new entrants.
- d) To seek permission from the prison authorities to visit the wards/ enclosures of prisoners to ascertain that no one remains unrepresented.
- e) To fill out the legal aid application form and promptly send it to the concerned DLSA/SDLSC & also ensure that the prisoners interact with the jail visiting lawyer on his next visit to prison.
- f) To coordinate and assist the jail-visiting lawyers in providing legal advice and aid.
- g) They would also give updates on the case of the inmates.
- h) 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.
- i) To receive legal aid lawyer appointment letters, replies from legal service institutions and other authorities,

maintain record and give copies to the concerned prisoner.

- j) If you come across a prisoner who claims to be a 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.
- k) To submit weekly reports to the DLSA.
- l) To submit reports to the DLSA about the Undertrial Review Committee on cases eligible under section 436/436A Cr.P.C.
- m) To write to the concerned LSI about any queries, grievances or for shortage of any basic requirements for the smooth functioning of the clinic.
- n) 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
- o) To keep track of non-production of any inmate in the court as per the date given and inform the Secretary, DLSA/SDLSC or TLCS.
- p) To assist the inmate in filing any complaint or grievances relating to their stay in prison.
- q) To maintain the registers in the clinic. The Paralegal Volunteers shall 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.
- r) 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.

- s) To keep a record of the letters, applications, and petitions written through prison and sent to relevant agencies and similarly keep a record of the documents received.
- t) To send reminders/ letters to the corresponding Legal Services Authority to seek information regarding status of case, name and contact details of the assigned legal aid lawyer.
- u) To send a monthly report of their work to the Secretary of the DLSA/SDLSC or TLCS by 5th of every month.
- v) To submit a copy of the legal aid register for review to the Secretary of the DLSA/ SDLSC or TLCS every month.
- w) To not seek any money/ benefits for the work done from the inmates or their families.
- x) Updating information on digital platform of legal aid and legal aid e-prison.
- y) Working on NALSA mobile app and digital report mechanism.

3.5 Documentation and Reporting in PLAC

3.5.1 Formats used at different stages: Kindly refer to the formats available in NALSA's Handbook of Formats 2020:

- a) Section 1 - Chapter IV (Pages 15 - 19) for Jail Visiting Lawyers appointed to Prison Legal Aid Clinics.
- b) Section 1 - Chapter V (Pages 20 - 25) for Community Para Legal Volunteers appointed to Prison Legal Aid Clinics.
- c) Section 1 - Chapter VI (Pages 26 - 32) for Convict Para Legal Volunteers appointed to Prison Legal Aid Clinics.

3.6 Digitization of records: All these records must be maintained on the computers available in Prison Legal Aid Clinics and regularly updated by JVL and PLV as per directions.

4. Monitoring of functioning of PLAC by DLSA

4.1 Periodicity of visits by DLSA Secretary: DLSA Secretary will visit and inspect the Prison Legal Aid Clinics at least once a month.

4.2 Role of the DLSA Secretary during prison visits: The following is the role:

- a) To ensure that legal aid lawyers have been appointed to represent all undertrials. In circumstances where any prisoner is found without legal representation during the visit by the DLSA, immediate steps to be taken towards ensuring appointment.
- b) To verify whether panel lawyers are meeting and interacting with prisoners including legal aid beneficiaries. In circumstances where panel lawyers are not interacting and communicating with the prisoners, the lawyer must be called to understand the concern and best respond to it. If need be, where deemed appropriate by the Secretary, DLSA, the concern lawyer may be removed from the panel, and a fresh appointment initiated.
- c) To check the prison conditions with respect to health, sanitation, food and hygiene in addition to access to legal representation. If any such concerns are raised, the same shall be shared with the Chairman of the DLSA, Member Secretary of SLSA as well as the Board of Visitors who have the authority to raise it to the appropriate authority.
- d) To track whether there are any instances of non-production at court hearings, be it physical or virtual. If such instances are reported, take immediate steps to rectify such misgivings.
- e) To ensure that concerns of vulnerable category of prisoners are heard and responded to.
- f) To ensure and check the documentation and reporting practices of the Clinic.
- g) To ensure that the PLVs and JVLs are able to perform their duties effectively, and have access to the prison at all times. They should ensure that no unnecessary hindrances are set forward from the prison officers, which may create hurdle in working of the PLAC.

4.3 Periodicity of visits by the Chairman, DLSA (District & Sessions Judge): The Chairman, DLSA (District & Sessions Judge) shall visit the Prison Legal Aid Clinics at least once in three months. He would also visit the premises of the prison to understand any concerns regarding prison conditions, and also enquire into the functioning of the PLAC. They may also interact with prisoners to receive feedback for services provided.

4.4 Role of the Chairman, DLSA during prison visits: The Chairman DLSA would undertake to inspect the condition of the prisons, communicate with the inmates to understand their concerns with respect to their regimen, food, sanitation hygiene etc. in addition to access to legal representation. In circumstances where concerns are raised, the same may be raised in the meetings with the Secretary, DLSA to take measures to combat them. Specialized formats for documentation of prison visits by the Chairman may be prepared by the SLSA.

5. Role of Law Colleges/Students in assisting DLSA in the functioning of PLAC:

Law College through their legal aid clinics and law students can assist the Legal Services Institution to ensure minimum levels of legal awareness among persons in custody. Furthermore, students can support panel lawyers in providing legal research for their legal aid matters. Lastly, they can also be appointed as volunteers to assist the Legal Services Institutions in bridging gaps with geographically remote locations to ensure access to justice. Formal proposals for collaboration in assisting prison legal aid clinics by university/ college legal aid clinics, may be considered by the Chairman, DLSA and appropriate permission may be granted for collaborative work.

PART B: Process of Application for legal aid and Role of PLAC in Facilitating Appointment of legal aid lawyer

6. Awareness about legal aid: The JVLs, PLVs and Secretary, DLSA shall regularly inform prisoners about the following during their periodic visit to prisons:

- a) prisoners' right to legal aid and that a legal aid lawyer is provided free of charge to the prisoner, irrespective of their financial status.

b) prisoners' right to complain and seek redressal if a legal aid lawyer asks for any remuneration, monetary or otherwise, from the prisoner or prisoner's family or if s/he is dissatisfied by the services of a legal aid lawyer. In such cases, the legal aid lawyer should be immediately replaced and appropriate steps shall be taken by the DLSA Secretary and the Chairman, DLSA to verify the claims, and take appropriate action.

7. Application for legal aid: If any prisoner, at any stage of remand/trial/court proceeding, wishes to apply for legal aid, s/he may contact the JVL or PLV appointed to the PLAC. S/he may also approach the DLSA Secretary during their prison visit with the request to appoint a legal aid lawyer.

7.1 As soon as the JVL/PLV receives the request, whether oral or written, by a prisoner to apply for legal aid, the application in the prescribed form shall be made by the PLV. The application shall urgently be sent/handed over to the DLSA Secretary within 24 hours of the request so received.

7.2 On receipt of the application for legal aid, the DLSA Secretary shall check with the trial court if the lawyer has already been appointed in that case, and in case it is not, s/he shall ensure that a legal aid lawyer is appointed with 48 hours of the request so received.

7.3 The intimation regarding appointment of lawyer along with the contact details of the lawyer, as per prescribed format in NALSA's Handbook of Formats 2020, shall be immediately sent to the prison which in turn should be handed over to the concerned prisoner.

7.4 Details of the date of application, date of appointment of lawyer and details of lawyer appointed should be updated by the PLV in the designated registers and online databases, where available.

PART C: PLAC's Role in providing Legal Aid Services and Legal Assistance to Vulnerable Groups in Prisons

8. Newly Admitted Prisoners and 'Case Table': A person is most vulnerable as soon as s/he is admitted in the prison. S/he requires assistance to navigate through the initial procedures in prison and is in need of support and guidance. For this purpose, 'Case Table' shall be organised for all the newly admitted prisoners on the same day or the next day of the admission. During case table, following officials/persons shall be present:

- a) Prison Superintendent/officer-in-charge
- b) Para legal Volunteers appointed in the PLAC
- c) Full-time Medical Officer of the prison, if any
- d) Any other prison officer/staff that the Superintendent directs to be present

8.1The Prison Superintendent shall explain the offences under which the person has been sent to judicial custody; general rights and duties of prisoners and the day-to-day processes inside prison.

8.2During the case table, the Prison Superintendent shall enquire about the following from every newly admitted prisoner and a note of the same shall be made in a separate register maintained by the PLAC functionaries:

- a) **Whether an undertrial is represented by a legal counsel.** If not, s/he must be informed of their right to legal aid services. In case an undertrial is willing to apply for legal aid, such application must be submitted to the DLSA within 24 hours of the request so received. The same must also be documented in a register. In case the person needs time to consider, the paralegal/s shall do the follow-up once every two days till the person has either engaged a private lawyer or agrees to opt for a legal aid lawyer.
- b) **Whether a prisoner has informed his/her family member about his/her imprisonment.**
 - i. If any prisoner has not been able to inform his/her family, the paralegal/JVL shall immediately inform the Prison Superintendent and it has to be ensured that the undertrial is able to speak to his/her family at the earliest either virtually or telephonically.
 - ii. There may be the situation that the prisoner's mobile phone is confiscated by the police at the time of arrest and the person does not remember the contact number of the family member/relative/friend, in such circumstances, a coordinated effort is needed, on behalf of the Prison Superintendent and the concerned police station where the person's belongings may be placed, to procure the contact number/s of the family member/relative/friend.
 - iii. In case the person is unable to communicate with his/her family, and the prisoner belongs to another district or state, the DLSA Secretary in whose jurisdiction the prison is

located, shall contact the concerned DLSA or the SLSA of the state, where the relative of the prisoner resides to enable communication between them.

- iv. To enable prompt communication, postcards, specially developed for the purpose by the postal department and provided free of cost to the prisons, duly filled shall be sent by post to the home/ permanent address of the prisoner, duly signed by the Prison Superintendent and the DLSA Secretary.

The PLVs shall conduct this task on a regular basis.

- c) **Where a prisoner needs any urgent medical attention.** In such a case, the paralegal/JVL shall immediately inform the Prison Superintendent and the Medical Officer, attached with the prison. If the prison does not have a full-time medical officer, such undertrial shall be immediately attended as per protocol and the concerned court shall be informed of the same.
- d) **Where a prisoner belongs to another state or country.** An undertrial belonging to any other state may need assistance in understanding the local language in case his/her mother tongue is different, contacting family/ relative/ friend, getting clothes and basic necessities, getting used to the local food, arranging for local surety in case bail is granted, etc. Special attention shall be given to such persons in coordination with the prison authorities. The Superintendent may request the DLSA to arrange for a translator to enable the prisoner to understand the legal proceedings in his/her case.
- e) **Where an undertrial appears to be a minor.** If the person appears to be a minor, the PLV shall enquire about the age proof of the person. In case, the person claims to be below 18 years of age, the PLV shall immediately inform the Prison Superintendent and the DLSA Secretary. An application shall be filed immediately to the concerned court on behalf of the person by the DLSA requesting:
- i. to initiate the proceeding to determine the age of the person and;
 - ii. to immediately transfer the person to the Observation Home under S.9(4) of the Juvenile Justice (Care and Protection of Children) Act, 2015, while the age of the person is being determined by the court.

f) The whereabouts of children of newly admitted prisoners.

In case, there is a child or children who may be alone and without any family support outside, the same shall be immediately communicated by the Superintendent to the DLSA Secretary, who will intern communicate this to the district Child Welfare Committee to ensure safety and care of children.

9. Legal Assistance to Other Vulnerable Groups in Prisons: While everyone is vulnerable in prison, there are certain categories of prisoners who need more attention due to their special needs. In order to identify them, the PLV/JVL shall visit all the barracks/wards of the prison regularly. It is important for the PLAC functionaries to play a proactive role and reach out to them directly. The prison authorities shall grant permission to the JVL/PLVs to interact with prisoners. The PLV/JVLs shall frequently communicate with the prisoners falling under the following categories and inform the DLSA Secretary about their grievances, if any, during his/her visit to the prison -

- a) Women Prisoners
- b) Transgender Prisoners
- c) Prisoners belonging to other states
- d) Prisoners without family support
- e) Prisoners who are unable afford surety for bail
- f) Older Prisoners
- g) Young Offenders and Alleged Juveniles
- h) Prisoners Suffering from Mental Illnesses
- i) Prisoners suffering from Physical Disabilities
- j) Prisoners suffering from alcohol and drug dependency, terminal illnesses, HIV and other medical issues
- k) Foreign National Prisoners
- l) Asylum seekers and refugees
- m) Stateless prisoners
- n) Prisoners on Death Row
- o) Prisoners on Life Sentence

- p) Prisoners belonging to religious and caste-based minorities
- q) Prisoners given prison punishment

PART D: PLAC's Role in Providing Legal Information to Prisoners and their families

- 10. Case Status Information:** Undertrials shall be provided information about the status of their case/es by the PLAC once in two months. Special attention shall be given to apprise women prisoners about their case status and making them aware about the stages of hearings, etc. Lawyers may also be encouraged to send updates on the progress of cases to their clients in prison. For this purpose, NALSA portal or postcards can be specially developed by the postal department and provided free of cost to the legal aid lawyers from the DLSA Office.
- 11. E-court Kiosks:** PLAC shall ensure that the kiosks provided to all prisons under the e-courts project are operational at all times. In case they are not, the same shall be communicated to the Prison Superintendent and DLSA Secretary so that timely steps could be taken.
- 12. Access to information by Family members:** The PLAC and the prison shall publicize about NALSA's portal through which family members could access the information about the case/s of their relative detained in prison.

PART E: PLAC's Role in providing Legal Awareness to Prisoners and Grievance Redressal

- 13. Legal Awareness Programs in Prisons:** Apart from the information related to their case status, prisoners shall be regularly made aware, through legal awareness programmes by the DLSA about the following from time to time:
 - a) right to legal aid and the procedure for applying to legal aid;
 - b) stages of trial and rights of accused at different stages of the trial;
 - c) information about compoundable offences;
 - d) Eligibility and process of plea bargaining;
 - e) eligibilities under the Undertrial Review Committees;

- f) process of filing of appeals/petitions;
- g) process of filing for parole/furlough;
- h) eligibilities under the state prison rules on premature release of prisoners and the process regarding the same;
- i) information about legal procedures in special laws like NDPS Act, POCSO Act and state local laws;
- j) Any other subject that is peculiar to a particular district/state or that the DLSA Secretary thinks appropriate.

The DLSAs may display informative posters covering any or all of the above topics inside the common areas of the prison, in local languages for raising awareness among prisoners.

14. Grievance Redressal of Prisoners:

14.1 A Complaint box must be set up in the PLAC in every prison by the DLSA and prisoners must be informed about the same and must be encouraged to raise their grievances without any fear. It must be under the lock and the key must be with the Chairman, or Secretary, DLSA only.

14.2 The DLSA must fix a day at least once in a month as the '**Grievance Redressal Day**', for example the second or last Saturday of every month. The DLSA Secretary may visit the prison on the fixed day and open the complaint box and interact with the concerned prisoners in the absence of the prison staff. The PLV/JVLs shall assist them in the process. Appropriate steps shall be taken by the DLSA Secretary.

14.3 As far as possible, the identities of the complainant shall be kept confidential and in case it is shared with the prison staff, the DLSA Secretary shall ensure that there should be no repercussions/backlash on the complainants by the prison staff.

PART F: Legal Assistance in Filing of Petitions/Jail Appeals in the High Court/Supreme Court by Convict Prisoners

15. The DLSA, in coordination with the prison and the PLAC shall ensure smooth filing of petitions of convicts in High Court and Supreme Court:

15.1 As soon as the order rejecting bail or an order of conviction is pronounced by the court (District Court or High Court), a prisoner

shall be informed by the PLAC regarding the right to bail/appeal/review/revision in the High Court/Supreme Court and the process of filing the same.

- 15.2** Steps must be taken promptly through the PLAC to apply for appointment of lawyer by the High Court Legal Services Committee (HCLSC) or the Supreme Court Legal Services Committee (SCLSC), as the case may be. A record of such application must be made in the designated register/database.
- 15.3** Where copy of judgment is not available with the prisoner, the DLSA shall make available an extra copy of the judgment to the prisoner to enable filing of the petition/jail appeal.
- 15.4** The PLVs/JVLs shall prepare and collate the relevant documentation necessary for filing of the petition/jail appeal. The same shall be sent to the concerned HCLSC/SCLSC by the DLSA.
- 15.5** Upon receiving a request for legal assistance, the HCLSC/SCLSC must immediately appoint a lawyer to the case, and details of whom must be duly intimated to the prisoner via the prison superintendent, as per prescribed formats provided in the NALSA's Handbook of Formats 2020.
- 15.6** Details of the lawyer appointed by the HCSLC/SCLSC must be duly noted in the register/databased maintained at the PLAC.
- 15.7** Regular interaction and communication between the counsel and the client/ convict must be ensured by SCLSC, HCLSC, DLSA and SLSA in order to update the beneficiary as to the progress of the case. Where the prisoners complain of lack of interaction with the lawyer assigned by HCLSC/SCLSC – the DLSA shall intimate the same to the HCLSC concerned /SCLSC at the earliest.
- 15.8** The PLV shall provide updates to the prisoner on progress in his/her case. Information may be sourced directly from the HCLSC/SCLSC or through the relevant Court websites.
- 15.9** DLSA may undertake to jointly conduct camps with HCLSC/SCLSC to apprise prisoners of the various remedies in law for bail/appeal/review/revision as well as writ remedies.

PART G: PLAC's Role in the Under Trial Review Committees (UTRC) process

16.The PLAC functionaries can play an important role in identifying the eligible persons under the mandated categories of review of the UTRC and assisting the prison and the DLSA:

- 16.1** The JVLs and PLVs shall be well informed about the eligible categories of cases that are reviewed by the district-level Under Trial Review Committee.
- 16.2** In case they come across any eligible prisoner within these eligible categories of the UTRC, they shall inform the DLSA Secretary about the same so that a particular case can be shortlisted and reviewed by the UTRC in its next meeting.

PART H: Strengthening Communication of Prisoners with their Lawyers

17. Role of Legal Services Institutions:

- 17.1** DLSA shall ensure that there is effective communication between the lawyer and the prisoner. In cases of physical meeting at Prison, the prison authorities will provide adequate space for lawyers to interact with their clients in a confidential manner. The rules for lawyers to seek visitation/interviews with their clients must be duly displayed outside the prison, in the court complex and made available to the Bar Association. Where lawyers are willing to communicate via video conferencing, DLSA can set up a video conferencing facility in the district courts complex for this purpose that would allow lawyers, whether private or legal aid, to communicate regularly with their clients in prisons. On the side of the prisons, DLSA shall ensure that the video conferencing facility set up in prisons is utilised for communication with lawyers and evening hours are fixed on daily-basis, in coordination with the Prison Superintendent. The information about such a facility shall be publicised by the DLSA at both ends, in the court complex and prison/s falling under their jurisdiction and lawyers and prisoners must be encouraged to use the facility.
- 17.2** The High Court/Supreme Court Legal Services Committees and the State Legal Services Committee shall also coordinate with the Prison Superintendent to ensure that there is effective

communication between prisoners and lawyer appointed to represent cases in the High Court and Supreme Court via video conferencing.

PART I: Role of the Trial Court

18. Role of the Trial Court:

18.1 Regarding conduct of Videoconferencing hearing: The trial court will ensure effective communication between the lawyer, whether private or legal aid, and the client in prison, when the accused is produced through video-conferencing. The court shall give time for them to communicate before and after the virtual hearing.

18.2 Regarding cases of prisoners belonging to other states or countries: In case the accused belongs to another state or is a foreign national and his/her mother tongue is different from that of the state where he is being tried, if it is felt by the court or requested by the accused, the trial court shall request the District and Sessions Judge for an interpreter to be present in all the hearings and during communication with the lawyer to ensure that the right of self-defense is fully exercised by the accused. The payment for an interpreter in such cases may be made from the NALSA grant by the DLSA/SLSA.

PART II: Role of the Prison Superintendent

19. Role of the prison superintendent in ensuring effective functioning of PLAC

- a)** The prison superintendent must ensure that PLVs/JVLs are provided necessary permissions to conduct the PLAC inside prison.
- b)** Adequate space must be allocated for setting up the PLAC.
- c)** The PLVs must be permitted to display information regarding the PLAC in common areas inside the prison.
- d)** An attendance register for visits by the community PLV and JVL to the prison, as well as the number of times the PLAC has been conducted in prison, should be kept with the prison superintendent. This must be shared with the DLSA at the end of every month.

- e) The prison superintendent should seek feedback from prisoners regarding working of the PLAC and any grievances against the PLVs/JVLs so received must be duly communicated to the DLSA.
- f) The prison superintendent must ensure that PLVs/JVLs do not engage in any activity for soliciting clients for their own private practice, or any other lawyer.



NALSA

**STANDARD OPERATING PROCEDURES
ON THE PROCESS OF
PREMATURE RELEASE, PAROLE AND
FURLough OF PRISONERS, 2022**



**NATIONAL LEGAL SERVICES
AUTHORITY**

**B-Block, Additional Building, Supreme Court of India,
Pragati Maidan Marg, New Delhi, Delhi-110001**

Jaisalmer House, Man Singh Road, New Delhi-110011

Website: www.nalsa.gov.in e-mail: nalsa-dla@nic.in

INDEX

S. No.	Contents	Page No.
1	BACKGROUND	2
2	CHAPTER-I: DEFINITIONS	4
3	CHAPTER-II: GENERAL PROVISIONS	6
4	CHAPTER-III: PRE-MATURE RELEASE PROCESS	7
5	CHAPTER-IV: PROCESS FOR RELEASE ON PAROLE AND FURLough	14
6	CHAPTER-V: COORDINATION AND MONITORING	17
7	CHAPTER-VI: MISCELLANEOUS	18





Scan for iOS devices



Scan for Android devices

Download NALSA Mobile App

To Avail Free Legal Aid & Services
Anywhere in the Country

[Download on the App Store](#)
[GET IT ON Google Play](#)

Background

Premature release of a convicted prisoner is based on the concept of reformation, rehabilitation and reintegration of the prisoner back into the society on the basis of their conduct in prison. The decision to release such a person after completion of a portion of the sentence is a case-to-case basis consideration which also takes into account the safety of the victim, society and the convicted person. Pre-mature release process involves assessment of the impact of correctional programmes on the convict prisoners and allows them to resume normal life in the society.

Premature release is a discretionary power vested in the appropriate government, the Governor and the President under Section 432 of the Code of Criminal procedure, 1973 and Articles 161 and 72 of the Constitution of India, respectively. Since ‘Prisons’ is a state subject under Entry 4 of List II of the Seventh Schedule to the Constitution, the rules governing the process of premature release are framed by the States. According to the Model Prison Manual 2016 there are four different types of premature release:

- i) By way of commutation of sentence of life convict and other convict under Section 433 of the Code of Criminal Procedure, 1973 (Cr PC) by the State Government.
- ii) By way of remitting term sentence of a prisoner under Section 432 of the CrPC by the State Government.
- iii) By order of the Head of the State passed exercising power under Article 72 or Article 161 of the Constitution of India, as the case may be.
- iv) Premature release under any special law enacted by the State providing for release on probation of good conduct prisoners after they have served a part of the sentence.

The Mulla Committee on Jail Reforms (1980-83) observed that the process of premature release takes from 3 months to 12 months from the date of eligibility for premature release to final release of the prisoner, across different States.

The National Human Rights Commission (NHRC) issued guidelines titled '*Premature Release of the Prisoners Undergoing Sentence of Life Imprisonment-Eligibility Criteria for, Constitution of Sentence Review Boards and Procedure to be followed*' dated 20th October, 1999 recognizing the lack of uniformity among the States in the premature release process. It also recommended the setting-up a Sentence Review Board at the State level to consider and decide the cases of premature release requests.

According to the Prison Statistics India report published by the National Crime Records Bureau (NCRB) during the calendar year 2020, a total of 1,09,516 convicts were released out of which 49,386 convicts were released after completion of conviction

period and 43,033 were released on bail. 2,321 convicts were released prematurely and 6,389 prisoners were acquitted by higher courts on appeal. A total of 156 convicts were released under pardon during 2020, maximum such released were reported in Uttar Pradesh (119) followed by Jammu & Kashmir (18), Punjab (8), Uttarakhand (5), Rajasthan (4), Haryana and Chandigarh (1 each). A total of 713 convicts were transferred from one State to another State during 2020. Telangana (215) and Haryana (133) and Assam (83) have reported the highest number of such transfer of convicts to other States. Approximately 2% of the total convicts released in a year are released under the pre-mature release process. Standardization of the premature release process will make the process more efficient and may lead to higher number of prisoners being released under the pre-mature release process, reflecting the efficacy of Indian prison system in reforming and rehabilitating convicted prisoners.

Hon'ble Supreme Court while dealing with the challenge of having a uniform policy for premature release in SLP (Criminal) No. 514 of 2021 observed that there are four vital aspects of the premature release process:

- (i) Timely identification of the eligible convicts;
- (ii) Making applications by the eligible convicts with the help of District Legal Services Authority;
- (iii) Timelines for the application procedure and decision on the premature release applications;
- (iv) If the premature release applications are rejected by the State Government, then legal aid will be provided to the said convict to decide whether the said rejection should be challenged in a Court or not.

In SLP (Criminal) No. 4358-4359 of 2021, Hon'ble Supreme Court further directed NALSA to consider to issue Standard Operating Procedures on premature release. Further, in Criminal Appeal No. 1343/2012 directed the Secretary, NALSA to prepare a module regarding dissemination information of remission, premature release or parole etc. In furtherance of this, NALSA has prepared the following Standard Operating Procedure on legal assistance, operationalization and coordination in improving the process of premature release, parole and furlough of prisoners.

CHAPTER-I

DEFINITIONS

- A. “Appropriate government” shall be the State government in all cases where the offender is sentenced or the sentence order is passed within the territorial jurisdiction of the concerned state, barring those falling under Section 432(7)(a) of the Code of Criminal Procedure (CrPC).
- B. “Date of eligibility” is the date on which the particular life convict becomes eligible to be considered for premature release as per the State’s premature release policy.
- C. “Eligible convicts” means the convict prisoners who are entitled to be considered for premature release in the next four months.
- D. “Furlough” means short release of prisoner after completing a stipulated part of the sentence as may be prescribed in the State rules.
- E. “Prison Legal Aid Clinic” means a legal services clinic setup by the legal services institutions inside the prisons.
- F. “Legal services” means the rendering of any service in the conduct any case or other legal proceeding before any court or other Authority or tribunal and the giving of advice on any legal matter, free of cost by the legal aid authority.
- G. “Life convicts” are such convicted prisoners who have been sentenced to life imprisonment.
- H. “Paralegals” means para legal volunteers appointed by the legal services institutions who are assigned to the Prison Legal Aid Clinics
- I. “Parole” means temporary release of a prisoner for a short period of time for the purpose of maintaining societal and family relations, subject to State rules on release of prisoners on parole.
- J. “Premature release policy” includes all rules, regulations, acts, directions passed by the courts of record and any other law of the land that includes the aspects of premature release of prisoners in the respective States or Union Territories.
- K. “Prison superintendent” includes any officer who is in-charge of the particular prison.

- L. "Prisons" include all prisons in the State including central jails, district jails, sub jails and any other place of detention which houses convict prisoners.
- M. "Recommending authority" includes anybody or board or committee or authority formed by the State government which is mandated to consider applications for premature release of convict prisoners.

CHAPTER-II **GENERAL PROVISIONS**

- i. The DLSA, in collaboration with the Prison Superintendent, shall periodically organise legal awareness camps in all prisons in the district to educate prisoners about the State's premature release policy.
- ii. The State prison department shall depute an officer as Nodal Officer, preferably a senior DIG/SSP rank official at the prison head office to receive all the premature release files from the prison superintendents in the State, collect the remaining documents/ information as per the State's premature release policy which are not yet included in the respective files and forward all such files after collecting the remaining documents/information to the 'Recommending Authority' for making its recommendations in the individual cases.
- iii. Training of stakeholders: State Legal Service Authorities, State Prison Department and the judicial academies in the State should ensure that all concerned prison and police officers, paralegals and legal aid lawyers involved in the process of handling premature release applications are trained in recording and processing the information of eligible convicts via digital tools. They should also be trained on the process of premature release in respective States.
- iv. Documentation: The respective SLSAs should issue uniform formats to be used in recording and processing of information as per the State's premature release policy.
- v. Rehabilitation programmes in prisons: All endeavors may be made by the State for implementing range of reformatory and rehabilitative programmes

- aiming at raising the educational and vocational skill levels of convict prisoners. The skills imparted should improve the employability of the prisoner to prepare them for employment or self-employment after release;
- vi. Post release assistance: The State governments may create After Care and Support mechanism within the framework of the Government subject to the existing schemes and policy or by co-opting private bodies/NGOs with a view to secure rehabilitation of released prisoners
 - vii. Expanding the eligibility for premature release: State government may from time to time review its premature release policy to include more categories, to enable more prisoners to seek premature release.

CHAPTER-III **PRE-MATURE RELEASE PROCESS**

STAGE 1 - IDENTIFICATION OF ELIGIBLE CONVICTS

1.1 Recording of data of life convicts & other convicts

- 1.1.1 The Prison Superintendent of all the prisons in the State shall prepare the list of all life convicts and other convicts, who would be entitled to be considered for premature release in the next four months as per the eligibility given under the State's premature release policy.
- 1.1.2 The following details shall be included in the list prepared by the prison superintendent:
 - 1) Name of the Convict
 - 2) Father's name
 - 3) Gender
 - 4) Age as on the date of eligibility
 - 5) Particulars of offence(s) for which the convict is serving the sentence
 - 6) Police Station in whose jurisdiction the crime was committed
 - 7) Name of the trial court which passed the sentence
 - 8) Duration and nature of the sentence
 - 9) Duration of sentence served as on date of eligibility
 - 10) Total remission earned as on date of eligibility

11)Remarks by the prison superintendent

- 1.1.3 The prison superintendent shall prepare the list of eligible life convicts and other convicts with a gap of four months, in January, May and September. This list should be preferably prepared within the first ten days of these months.
- 1.1.4 The prison superintendent shall prepare this list in soft/digital form (in Microsoft Word or Excel or any other similar platform), where the prison has adequate digital infrastructure and adequate human resource for it. In rest of the prisons, manual lists shall be prepared until the requisite infrastructure and human resource is made available.
- 1.1.5 Based on the list of prisoners so created, the prison superintendent shall prepare individual case files for each prisoner eligible for pre mature release, as per prescribed formats by the state government. Where no format is available, a format may be prepared by the state prison department.
- 1.1.6 The prison superintendent may also depute paralegals appointed by the District Legal Services Authority (DLSA) in the Prison Legal Aid Clinic (PLAC) to assist in the process of preparation of the individual case files of eligible convicts.
- 1.1.7 The access to the details of life convicts included in this list and individual case files shall be strictly limited only to the prison superintendent, concerned DLSA and paralegals involved in the process of premature release.

1.2 Sharing the list of eligible convicts with the DLSA

- 1.2.1 The prison superintendent shall send a copy of the list of eligible convicts to the DLSA as soon as the list is prepared, and within the 10th day of the respective months (January, May and September) in which the list is to be prepared.
- 1.2.2 DLSA shall appoint jail visiting lawyers and paralegals assigned to the PLAC to assist the convict prisoners in preparation of their applications. The concerned DLSA shall issue a roster as soon as possible after receiving the list of eligible convicts in the following format:

Title: Case wise roster of assigned jail visiting lawyers and paralegals assigned for assisting the eligible convicts in preparation of their premature release application and individual case files.

Date of issuing the roster: _____

S. No.	Name of the eligible convict	Name(s) of the JVL or Paralegal assigned	Days of their visit to the PLAC
1.			
2.			
3.			

Signature of DLSA Secretary

- 1.2.3 The DLSA shall send the issued roster to the Prison Superintendent within 4 days from the date of receiving the list of eligible prisoners from the prison superintendent.
- 1.2.4 The prison superintendent shall intimate the prisoners individually about the assigned person for assisting them in the preparation of their premature release application.

STAGE 2- PREPARATION AND SUBMISSION OF THE APPLICATIONS TO THE 'RECOMMENDING AUTHORITY'.

2.1 Collection of documents

- 2.1.1 The prison superintendent shall collect all the documents required for considering an application of premature release as per the State's premature release policy.
- 2.1.2 The prison superintendent shall send letters to the concerned authorities for seeking required documents which are not available with the prison administration by 1st February (for the list prepared in January), 1st June (for the list prepared in May) and 1st October (for the list prepared in September).

- 2.1.3 The prison superintendent shall send reminder letters to the authorities which fail to send the required information/document within 30 days.
- 2.1.4 The process of compiling documents/information for the individual case files and preparation of the premature release applications shall be completed in maximum 2 months i.e., by 31st March (for the list prepared in January), by 31st July (for the list prepared in May) and by 31st November (for the list prepared in September).

2.2 Sending premature release files to the State Prison Department

- 2.2.1 The prison superintendent shall send the list of eligible prisoners and individual case files with all the documents/information complied as on the following dates along with the convict's application by 1st April (for the list prepared in January), by 1st August (for the list prepared in May) and by 1st December (for the list prepared in September) to the State prison department. Even in cases where the collection of documents/information is incomplete, the files shall be sent to the State prison department with the documents collected so far without any delay.
- 2.2.2 The Nodal Officer so deputed at the head office of the State prison department shall collect the remaining documents/information in cases where it is incomplete and shall forward the complete file to the 'Recommending Authority' within one month.
- 2.2.3 The Nodal Officer may take the assistance of the concerned DLSAs or SLSA for collecting the remaining documents/information in cases where the prison superintendents could not collect all the documents as required under the State's premature release policy.
- 2.2.4 No file of premature release of convicts shall be returned or held back for the reasons of incomplete documents/information at the prison level or State Prison Department.

STAGE 3 - RECOMMENDATION BY THE RECOMMENDING AUTHORITY

3.1 Meeting

3.1.1 The recommending authority shall meet once in every four months, preferably in the months of April, August and December with full quorum as per the State's premature release policy. The frequency of meetings of the recommending authority shall be subject to the mandate given in the State's premature release policy.

3.2 Making recommendations

- 3.2.1 The recommending authority shall review all cases forwarded to it by the State prison department in its meeting.
- 3.2.2 The recommending authority shall ask for the documents/information in cases where it is incomplete.
- 3.2.3 Incomplete documents or lack of information on any criteria shall not be considered as an adverse circumstance. No premature release application should be recommended against or put in abeyance only on the ground of incomplete documents or information.
- 3.2.4 The following considerations shall be determined on a case-to-case basis in making recommendation subject to the State's premature release policy:
- A. Whether the offence was an individual act of crime without affecting the society at large;
 - B. Whether there was any chance of future recurrence of committing a crime;
 - C. Whether the convict had lost his potentiality in committing the crime;
 - D. Whether there was any fruitful purpose of confining the convict anymore; and
 - E. The socio-economic condition of the convict's family and other similar circumstances.
- 3.2.5 The recommending authority shall forward its recommendation to the appropriate government in all cases forwarded to it by the State prison department within 10 days from the day on which the meeting is conducted.
- 3.2.6 The recommendations so made by the authority shall be in a format, as prescribed by the state prison department and should include the reasons for recommending/rejecting each application.

STAGE 4 - ORDERS BY THE STATE GOVERNMENT / APPROPRIATE GOVERNMENT

4.1. Deciding on the recommendation of the recommending authority

- 4.1.1 The appropriate government shall make its decision on all cases recommended by the recommending authority within one month of receiving the recommendation.
- 4.1.2 The appropriate government shall immediately send a copy of the order to the State prison department and the concerned SLSA.
- 4.1.3 The state prison department shall ensure that all orders granting premature release or rejection thereof, along with the reasons behind its order, are uploaded on the state prison department's website as soon as possible.

4.2 Communicating the orders to the convicts

- 4.2.1 The concerned State prison department shall forward the orders of the appropriate government to the concerned prison superintendents, with a copy marked to the DLSA secretaries, respectively as soon as the orders are received by them from the appropriate government.
- 4.2.2 The prison superintendents shall communicate the decision of the appropriate government on the premature release application to the concerned convicts as soon as the orders are received by them.

4.3 Legal assistance to the convicts in cases of rejection of premature release application

- 4.3.1 The DLSA shall provide the required assistance to a convict in case of rejection of application for premature release. The DLSA shall appoint a lawyer for interaction with the convict for assessing his legal need. The lawyer shall interact with the concern convict and make him aware of future legal remedies. He shall assist in collection of copies of relevant orders and other required documents, if convict desired to avail remedies through legal services authorities.

- 4.3.2 In case convict desires to avail legal aid for filing petition before the High Court, the DLSA concerned shall forward application with all relevant documents of such convict to the Secretary, HCLSC.
- 4.3.3 The HCLSC, if grounds for legal remedies available, shall assign the case to a Panel lawyer for filing petition within a period of one week. The Panel Lawyer, after receipt of the case shall interact (Virtual or Physical) within one week with the convict before filing the petition. The HCLSC in coordination with DLSA shall facilitate such interaction.
- 4.3.4 The Petition shall be prepared and filed within a period of fifteen days positively. In case of delay, it shall be duty of the Panel lawyer concerned to update HCLSC in writing.
- 4.3.5 Similarly, if legal assistance is required in the SCLSC, the application of the convict along with paper-book be sent by HCLSC to SCLSC. Such exercise be done by HCLSC in coordination with DLSA concerned. The assigned lawyer by SCLSC will interact (virtual) within two weeks with the convict before filing the petition. The SCLSC in coordination with HCLSC/DLSA shall facilitate such interaction.
- 4.3.6 The Petition shall be prepared and filed within a period of thirty days positively. In case of delay, it shall be duty of the Panel lawyer concerned to update SCLSC in writing, who will intimate the same to HCLSC.
- 4.3.7 The convict shall be updated about the status of his legal aid application, appointment of lawyer, filing of application, status of case on periodic interval by SCLSC or HCLSC, as the case may be, in coordination with DLSA.
- 4.3.8 In cases where the convict prisoner has a private lawyer and does not require legal aid lawyer, the Prison Legal Aid clinic will take care further course of action and at least one meeting will be conducted by the Jail Visiting Lawyer with such convict prisoner. In case of non-filing of petition by private lawyer or otherwise, if such convict prisoner expresses his desire to engage a legal aid lawyer, then immediately such assistance will be provided.

4.4 Rehabilitation and post release assistance to the convicts who are granted premature release

- 4.4.1 Subject to the provisions of the State's premature release policy, welfare schemes and any other policy on rehabilitation of prisoners all convict prisoners to be released prematurely shall be engaged in an individual welfare programme designed on case-to-case basis which shall include provisions for economic and social rehabilitation of the released convict under the existing social welfare schemes of the concerned State government. Such a rehabilitation programme shall include periodic review of the rehabilitation of the released convict to a limited extent of time as may be defined by the State government. The State government and the State prison department may utilize the services of the probation officers for this purpose.
- 4.4.2 Probation officers so appointed for rehabilitation of the released prisoners shall send periodic report to the appropriate government, SLSA and prison department on the rehabilitation of the released person till the time as may be decided by the State government.
- 4.4.3 The SLSA may issue a format for such reports on rehabilitation status of the released person.

CHAPTER-IV **PROCESS FOR RELEASE ON PAROLE AND FURLough**

STAGE 1 - IDENTIFICATION OF ELIGIBLE CONVICTS

1.1 Recording of data of convicts

- 1.1.1 The PLAC shall record and update the following information for all convict prisoners in the prison once in every quarter, preferably in January, April, July and October:
- 1) Name of the Convict
 - 2) Father's name
 - 3) Gender
 - 4) Contact details of private or legal aid lawyer
 - 5) Date of Birth and Age as on date
 - 6) Particulars of offence(s) for which the convict is serving the sentence

- 7) Police Station in whose jurisdiction the crime was committed
- 8) Name of the trial court which passed the sentence
- 9) Duration and nature of the sentence
- 10) Duration of sentence served as on date
- 11) Total remission earned as on date
- 12) Details of previous parole/furlough:
 - i. Date of release
 - ii. Duration approved
 - iii. Date of re-admission/surrender to prison (mark delay if any, separately)
 - iv. Remarks by Superintendent
- 13) Whether any conditions of parole/furlough release flouted? If yes, mention details.
- 14) Whether eligible to apply for parole as per the State rules? Yes/No. If no, mention the ineligibility as per the State rules.
- 15) Whether eligible to apply for furlough? Yes/No. If no, mention the ineligibility as per the State rules.
- 16) Remarks and signature by the prison superintendent

1.2.5 Jail Visiting Lawyers where applicable shall record and update the abovementioned information register from the records of convict prisoners available in office. This information shall be recorded in soft/digital form (in Excel or any other similar platform), where the PLAC has adequate digital infrastructure and adequate human resource for it. In rest of the prisons, manual lists shall be prepared until the requisite infrastructure and human resource is made available.

1.1.2 The DLSA Secretary and District and Sessions Judge shall review the said register/excel file during their prison visits.

1.2 Sharing Information with Family and Lawyer

1.2.1 The Jail Visiting Lawyer/PLV shall send intimation letters to the family and lawyers of all such convicts who are eligible to apply for parole or furlough.

STAGE 2 - PREPARATION AND SUBMISSION OF APPLICATION FOR PAROLE/FURLOUGH

- 2.1 The concerned Jail Visiting Lawyer or PLV appointed at the PLAC shall prepare the application for release on parole or furlough on request of the eligible convict prisoners who wish to apply for parole/furlough.
- 2.2 All required documents and information as per the State rules shall be compiled by the PLAC with the coordination of the Prison Superintendent as soon as possible.
- 2.3 The application for parole or furlough shall then be submitted to the concerned authority for deciding on the applications of parole and furlough.

STAGE 3 – PROCESS POST REJECTION OR APPROVAL OF PAROLE/FURLOUGH APPLICATION OR WHERE THERE IS UNDUE DELAY IN DECIDING ON THE APPLICATION

- 3.1 PLAC shall coordinate with the prison superintendent and other such concerned authorities as may be required on the status of the parole/furlough application and shall convey the decision on the application to the convict prisoner.
- 3.2 Upon approval of the parole/furlough application, the PLAC shall interact with the prisoner for ensuring their release.
- 3.3 Upon rejection of the parole/furlough application, the PLAC shall provide free legal assistance and advice to the convict prisoner. If the convict prisoner wishes to appeal against the decision, the PLAC shall send an application for requesting legal aid lawyer to the DLSA on behalf of the convict prisoner.
- 3.4 The DLSA shall transmit the application to the HCLSC within a day of receiving the application from the PLAC.

- 3.5 The HCLSC shall appoint a lawyer within a week of receiving the application from the DLSA.
- 3.6 The lawyer appointed by the HCLSC shall interact with the convict prisoner within a week of receiving the appointment letter and shall provide required free legal assistance and representation.
- 3.7 Similarly, SCLSC shall provide the required legal assistance, in case required for filing petition in the Supreme Court, by appointing a Panel Lawyer within a period of one week, if found fit.
- 3.8 HCLSC/SCLSC, as the case may be, shall facilitate interaction, in coordination with concerned DLSA between the Panel Lawyer and convict. The timeline of interaction and filing of petition shall be fixed and informed through appointment letter.
- 3.9 The convict shall be updated about the status of his legal aid application, appointment of lawyer, filing of petition, status of case from time to time by SCLSC or HCLSC, as the case may be, in coordination with DLSA.
- 3.10 Where there has been undue delay in deciding on parole/furlough application, the prisoner can file appropriate petition before the competent courts. The PLAC shall provide legal advice to the prisoner, and write to the competent legal services institution for appointment of legal aid lawyer to represent the case.

CHAPTER-V **COORDINATION AND MONITORING**

REPORTING

1. The DLSA shall send quarterly report to the SLSA mentioning the following details:
 - a. Number of convict prisoners assisted in premature release applications and the status of applications.
 - b. Number of convict prisoners assisted in parole applications and the status thereof.

- c. Number of convict prisoners assisted in furlough applications and the status thereof.
2. The SLSA shall compile district wise reports and send a state wise annual report to NALSA under the above-mentioned heads.

COORDINATION MEETINGS

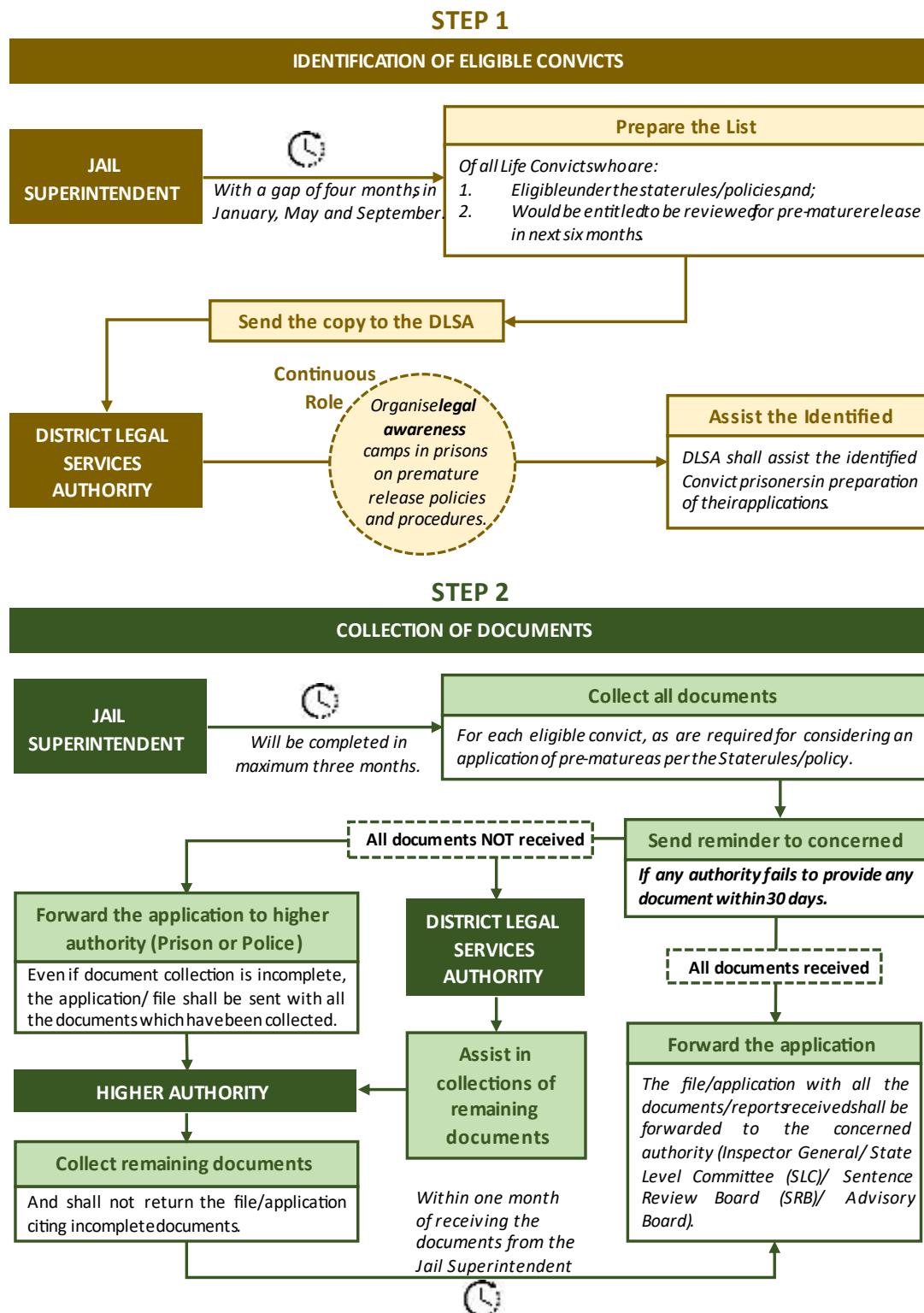
1. The coordination committees at the district level shall meet once in three months to discuss the issues in working of this SOP and monitor it's working.
2. The DLSA Secretary shall present a report to the members on the working of this SOP.
3. The following member shall form part of the coordination committee for ensuring a smooth and effective implementation of this SOP:
 - a. The District and Sessions Judge,
 - b. DLSA Secretary,
 - c. Prison superintendents of all prisons in the district,
 - d. Other persons that DLSA deem necessary to be present to discuss the working of the SOP,
4. The Minutes of the Meeting of all coordination committee meetings shall be sent to the SLSA within 15 days of the conduct of the meeting.

CHAPTER-VI

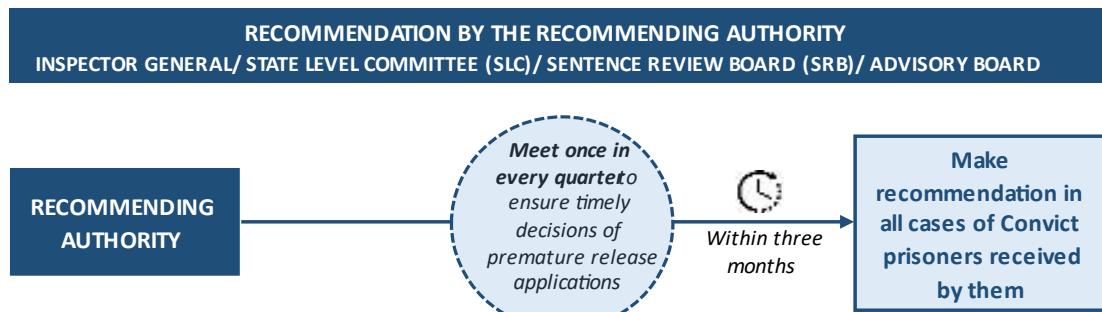
MISCELLANEOUS

Review of the SOP: The ‘Recommending Authority’ and the State government shall periodically review the implementation of this SOP along with the SLSA and State Prison Department and ensure that there is no delay in the deciding the cases. State level consultations with all the stakeholders should be organized periodically to address the issues that arise in the functioning of the ‘Recommending Authority’.

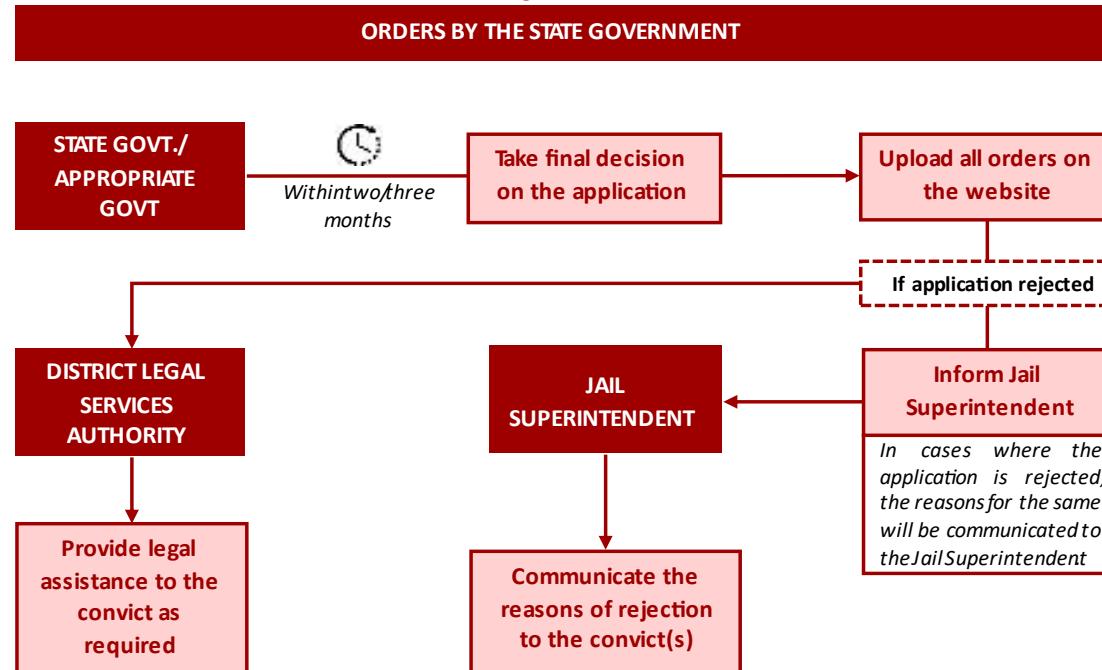
Flowchart of Procedure For Handling Applications Of Premature Release/ Remission



STEP 3



STEP 4





NALSA's

**Compensation Scheme for Women Victims/Survivors of
Sexual Assault/other Crimes - 2018**



NALSA

National Legal Services Authority

12/11, Jam Nagar House, Shahjahan Road, New Delhi
Website: www.nalsa.gov.in e-mail: nalsa-dla@nic.in

Background

Hon'ble Supreme Court of India in W.P. (C) No. 565/2012 titled Nipun Saxena Vs. Union of India opined that “*it would be appropriate if NALSA sets up a Committee of about 4 or 5 persons who can prepare Model Rules for Victim Compensation for sexual offences and acid attacks taking into account the submissions made by the learned Amicus. The learned Amicus as well as the learned Solicitor General have offered to assist the Committee as and when required. The Chairperson or the nominee of the Chairperson of the National Commission for Women should be associated with the Committee.*”

In view of the above, NALSA set up a committee consisting of the following members for preparation of Model Scheme:

Ms. Pinky Anand
Additional Solicitor General

Shri Rakesh Srivastava
Secretary, Ministry of Women and Child Development,
Government of India

Shri T.V.S. N. Prasad
Additional Secretary, Ministry of Home Affairs,
Government of India

Ms. Indira Jaising,
Senior Advocate, Supreme Court of India

Shri Alok Agarwal
Member Secretary, NALSA

Shri Surinder S. Rathi,
Director, NALSA

Ms. Anju Rathi Rana,
Joint Secretary,
Department of Legal Affairs,
Ministry of Law and Justice, Govt. of India

Shri K.L. Sharma,
Joint Secretary
National Commission for Women

Ms. Bharti Ali
Co-Director,
HAQ: Centre for Child Rights

The Committee held rounds of meetings and it was decided to prepare a separate “Chapter” or a “Sub-Scheme” within the existing Victim Compensation Scheme for victims of sexual assault.

The Committee drafted Part – II of the Victims Compensation Scheme and invited suggestions/comments from various stakeholders on the draft. Taking into consideration the suggestions/comments, the Committee has finalized the **Compensation Scheme for women Victims/Survivors of Sexual Assault/other Crimes** and submitted the same before the Hon’ble Supreme Court of India on 24.04.2018.

Submissions were made before the Hon’ble Bench and other stakeholders were also heard on 10.05.2018. Additional suggestions received during the hearing were also incorporated and final Scheme was filed before the Hon’ble Supreme Court of India on 11.05.2018. On this day, after hearing NALSA and Ld. Amicus Curiae, Hon’ble Bench was pleased to accept this Scheme and directed all the State Governments/UT Administrations to implement the same in their respective States/UTs.

Hon’ble Supreme Court of India further observed that while nothing should be taken away from this Scheme, but it does not preclude the State Governments/UT Administrations from adding to the Scheme.

(Surinder S. Rathi)
Director, NALSA

PART-II

The Chapter contained in this part shall be called “**Compensation Scheme for Women Victims/Survivors of Sexual Assault/other Crimes**”

INDEX

S. No.	Contents	Page no(s)
1.	Short Title and Commencement.....	2
2.	Definitions.....	2-3
3.	Women Victims Compensation Fund.....	3-4
4.	Eligibility for compensation.....	4
5.	Procedure for making application before the SLSA or DLSA.....	4
6.	Place of filing of application.....	4
7.	Reliefs that may be awarded by the state or District Legal Services Authority.....	4
8.	Factors to be considered while awarding compensation.....	5
9.	Procedure for grant of compensation.....	6-7
10.	The order to be placed on record.....	7
11.	Method of disbursement of compensation.....	7
12.	Interim relief to the victim.....	8
13.	Recovery of compensation awarded to the victim or her dependent(s).....	8
14.	Dependency certificate.....	8
15.	Minor victims.....	9
16.	Limitation.....	9
17.	Appeal.....	9
18.	Repeal & savings.....	9
19.	Schedule applicable to women victim of crimes.....	10-11
20.	Form-I.....	12

1. SHORT TITLE AND COMMENCEMENT

- (1) This Chapter may be called the **Compensation Scheme for Women Victims/Survivors of Sexual Assault/other Crimes, 2018**.
- (2) It shall come into force on the date as and when ordered by Hon'ble Supreme Court of India.
- (3) It shall apply to the victims and their dependent(s) who have suffered loss, injury, as the case may be, as a result of the offence committed and who require rehabilitation.

2. DEFINITIONS

- 1) In this Chapter, unless the context otherwise requires:—
 - (a) “**Code**” means the Code of Criminal Procedure, 1973 (2 of 1974);
 - (b) ‘**Dependent**’ includes husband, father, mother, grandparents, unmarried daughter and minor children of the victim as determined by the State Legal Services Authority or District Legal Services Authority on the basis of the report of the Sub- Divisional Magistrate of the concerned area/Station House Officer/Investigating Officer or on the basis of material placed on record by the dependents by way of affidavit or on its own enquiry.
 - (c) “**District Legal Services Authority**” means the District Legal Services Authority (DLSA) constituted under section 9 of the Legal Services Authorities Act, 1987 (Act 39 of 1987) for a District of the National Capital Territory of Delhi;
 - (d) ‘**Form**’ means form appended to the Scheme as applicable to this Chapter.
 - (e) ‘**Fund**’ means State fund i.e. victim compensation fund constituted under the State Victim Compensation Scheme.
 - (f) ‘**Central Fund**’ means funds received from CVCF Scheme, 2015.
 - (g) ‘**Women Victim Compensation Fund**’ – means a fund segregated for disbursement for women victim, out of State Victim Compensation Fund and Central Fund.

[Within the State Victim Compensation Fund, a separate Bank Account shall be maintained as a portion of that larger fund which shall contain the funds contributed under CVCF Scheme by MHA, GOI contributed from Nirbhaya Fund apart from funds received from the State Victim Compensation Fund which shall be utilised only for victims covered under this Chapter]

- (h) ‘**Government**’ means ‘State Government’ wherever the State Victim Compensation Scheme or the State Victim Compensation Fund is in context and ‘Central Government’ wherever Central Government Victim Compensation Fund Scheme is in context and includes UTs.

- (i) '**Injury**' means any harm caused to body or mind of a female.
 - (j) '**Minor**' means a girl child who has not completed the age of 18 years.
 - (k) '**Offence**' means offence committed against women punishable under IPC or any other law.
 - (l) '**Penal Code**' means Indian Penal Code, 1860 (45 of 1860);
 - (m) '**Schedule**' means schedule applicable to this Chapter/Part of the scheme.
 - (n) "**State Legal Services Authority**" means the State Legal Services Authority (SLSA), as defined in Section 6 of the Legal Services Authorities Act, 1987 (39 of 1987)
 - (o) '**Sexual Assault Victims**" means female who has suffered mental or physical injury or both as a result of sexual offence including Sections 376 (A) to (E), Section 354 (A) to (D), Section 509 IPC.
 - (p) '**Woman Victim/ survivor of other crime**' means a woman who has suffered physical or mental injury as a result of any offence mentioned in the attached Schedule including Sections 304 B, Section 326A, Section 498A IPC (in case of physical injury of the nature specified in the schedule) including the attempts and abetment.
- (2) Words and expressions used in this Chapter and not defined here, shall have the same meaning as assigned to them in the Code of Criminal Procedure, 1973 or/and the Indian Penal Code, 1860.

3. WOMEN VICTIMS COMPENSATION FUND—

- (1) There shall be a Fund, namely, the Women Victims Compensation Fund from which the amount of compensation, as decided by the State Legal Services Authority or District Legal Services Authority, shall be paid to the women victim or her dependent(s) who have suffered loss or injury as a result of an offence and who require rehabilitation.
- (2) The 'Women Victims Compensation Fund' shall comprise the following:-
 - (a) Contribution received from CVCF Scheme, 2015.
 - (b) Budgetary allocation in the shape of Grants-in-aid to SLSA for which necessary provision shall be made in the Annual Budget by the Government;
 - (c) Any cost amount ordered by Civil/Criminal Tribunal to be deposited in this Fund.
 - (d) Amount of compensation recovered from the wrong doer/accused under clause 14 of the Scheme;

- (e) Donations/contributions from International/ National/ Philanthropist/ Charitable Institutions/ Organizations and individuals permitted by State or Central Government.
 - (f) Contributions from companies under CSR (Corporate Social Responsibility)
- (3) The said Fund shall be operated by the State Legal Services Authority (SLSA).

4. ELIGIBILITY FOR COMPENSATION –

A woman victim or her dependent (s) as the case may be, shall be eligible for grant of compensation from multiple schemes applicable to her. However, the compensation received by her in the other schemes with regard to Section 357-B Cr.P.C., shall be taken into account while deciding the quantum in the such subsequent application

5. PROCEDURE FOR MAKING APPLICATION BEFORE THE SLSA OR DLSA—

Mandatory Reporting of FIRs: - SHO/SP/DCP shall mandatorily share soft/hard copy of FIR immediately after its registration with State Legal Services Authority/District Legal Services Authority qua commission of offences covered in this Scheme which include Sections 326A, 354A to 354D, 376A to 376E, 304B, 498A (in case of physical injury covered in this Schedule), so that the SLSA/DLSA can, in deserving cases, may suo-moto initiate preliminary verification of facts for the purpose of grant of interim compensation.

An application for the award of interim/ final compensation can be filed by the Victim and/or her Dependents or the SHO of the area before concerned SLSA or DLSA. It shall be submitted in Form 'I' along with a copy of the First Information Report (FIR) or criminal complaint of which cognizance is taken by the Court and if available Medical Report, Death Certificate, wherever applicable, copy of judgment/ recommendation of court if the trial is over.

6. PLACE OF FILING OF APPLICATION—

The application/recommendation for compensation can be moved either before the State Legal Services Authority or the concerned District Legal Services Authority or it can be filed online on a portal which shall be created by all State Legal Services Authorities. The Secretary of the respective DLSA shall decide the application/ recommendation moved before him/her as per the Scheme.

Explanation: In case of acid attack victim the deciding authority shall be Criminal Injury Compensation Board as directed by Hon'ble Supreme Court in Laxmi vs. Union of India W.P.CRLM 129/2006 order dated 10.04.2015 which includes Ld. District & Sessions Judge, DM, SP, Civil Surgeon/CMO of the district.

7. RELIEFS THAT MAY BE AWARDED BY THE STATE OR DISTRICT LEGAL SERVICES AUTHORITY.—

The SLSA or DLSA may award compensation to the victim or her dependents to the extent as specified in the schedule attached hereto.

8. FACTORS TO BE CONSIDERED WHILE AWARDING COMPENSATION –

While deciding a matter, the State Legal Services Authority/District Legal Services Authority may take into consideration the following factors relating to the loss or injury suffered by the victim:

- (1) Gravity of the offence and severity of mental or physical harm or injury suffered by the victim;
- (2) Expenditure incurred or likely to be incurred on the medical treatment for physical and/or mental health including counselling of the victim, funeral, travelling during investigation/ inquiry/ trial (other than diet money);
- (3) Loss of educational opportunity as a consequence of the offence, including absence from school/college due to mental trauma, bodily injury, medical treatment, investigation and trial of the offence, or any other reason;
- (4) Loss of employment as a result of the offence, including absence from place of employment due to mental trauma, bodily injury, medical treatment, investigation and trial of the offence, or any other reason;
- (5) The relationship of the victim to the offender, if any;
- (6) Whether the abuse was a single isolated incidence or whether the abuse took place over a period of time;
- (7) Whether victim became pregnant as a result of the offence, whether she had to undergo Medical Termination of Pregnancy (MTP)/ give birth to a child, including rehabilitation needs of such child;
- (8) Whether the victim contracted a sexually transmitted disease (STD) as a result of the offence;
- (9) Whether the victim contracted human immunodeficiency virus (HIV) as a result of the offence;
- (10) Any disability suffered by the victim as a result of the offence;
- (11) Financial condition of the victim against whom the offence has been committed so as to determine her need for rehabilitation and re-integration needs of the victim.
- (12) In case of death, the age of deceased, her monthly income, number of dependents, life expectancy, future promotional/growth prospects etc.
- (13) Or any other factor which the SLSA/DLSA may consider just and sufficient.

9. PROCEDURE FOR GRANT OF COMPENSATION—

(1) Wherever, a recommendation is made by the court for compensation under sub-sections (2) and/or (3) of Section 357A of the Code, or an application is made by any victim or her dependent(s), under sub-section (4) of Section 357A of the Code, to the State Legal Services Authority or District Legal Services Authority, for interim compensation it shall prima-facie satisfy itself qua compensation needs and identity of the victim. As regards the final compensation, it shall examine the case and verify the contents of the claim with respect to the loss/injury and rehabilitation needs as a result of the crime and may also call for any other relevant information necessary for deciding the claim.

Provided that in deserving cases and in all acid attack cases, at any time after commission of the offence, Secretary, SLSA or Secretary, DLSA may *suo moto* or after preliminary verification of the facts proceed to grant interim relief as may be required in the circumstances of each case.

(2) The inquiry as contemplated under sub-section (5) of Section 357A of the Code, shall be completed expeditiously and the period in no case shall exceed beyond sixty days from the receipt of the claim/petition or recommendation:

Provided that in cases of acid attack an amount of Rs. One lakh shall be paid to the victim within 15 days of the matter being brought to the notice of DLSA. The order granting interim compensation shall be passed by DLSA within 7 days of the matter being brought to its notice and the SLSA shall pay the compensation within 8 days of passing of the order. Thereafter, an amount of Rs. 2 lakhs shall be paid to the victim as expeditiously as possible and positively within two months of the first payment*

Provided further that the victim may also be paid such further amount as is admissible under this Scheme.

(3) After consideration of the matter, the SLSA or DLSA, as the case may be, upon its satisfaction, shall decide the quantum of compensation to be awarded to the victim or her dependent(s) taking into account the factors enumerated in Clause 8 of the Scheme, as per schedule appended to this chapter. However, in deserving cases, for reasons to be recorded, the upper limit may be exceeded.

Moreover, in case the victim is minor, the limit of compensation shall be deemed to be 50% higher than the amount mentioned in the Schedule appended to this chapter.

* Victims of Acid attack are also entitled to additional compensation of Rs. 1 lac under Prime Minister's National Relief Fund vide memorandum no. 24013/94/Misc./2014-CSR-III/GoI/MHA dated 09.11.2016(copy attached)

Victims of Acid Attack are also entitled to additional special financial assistance up to Rs. 5 lacs who need treatment expenses over and above the compensation paid by the respective State/UTs in terms of Central Victim Compensation Fund Guidelines-2016, no. 24013/94/Misc/2014-CSR.III, MHA/GoI

(4) The SLSA/DLSA may call for any record or take assistance from any Authority/Establishment/Individual/ Police/Court concerned or expert for smooth implementation of the Scheme.

(5) In case trial/appellate court gives findings that the criminal complaint and the allegation were false, then Legal Services Authority may initiate proceedings for recovery of compensation, if any, granted in part or full under this Scheme, before the Trial Court for its recovery as if it were a fine.

10. THE ORDER TO BE PLACED ON RECORD—

Copy of the order of interim or final compensation passed under this Scheme shall be placed on record of the trial Court so as to enable the trial Court to pass an appropriate order of compensation under Section 357 of the Code. A true copy of the order shall be provided to the IO in case the matter is pending investigation and also to the victim/dependent as the case may be.

11. METHOD OF DISBURSEMENT OF COMPENSATION—

(1) The amount of compensation so awarded shall be disbursed by the SLSA by depositing the same in a Bank in the joint or single name of the victim/dependent(s). In case the victim does not have any bank account, the DLSA concern would facilitate opening of a bank account in the name of the victim and in case the victim is a minor along with a guardian or in case, minor is in a child care institution, the bank account shall be opened with the Superintendent of the Institution as Guardian. However, in case the victim is a foreign national or a refugee, the compensation can be disbursed by way of cash cards.

Interim amount shall be disbursed in full. However, as far as the final compensation amount is concerned, 75% (seventy five percent) of the same shall be put in a fixed deposit for a minimum period of three years and the remaining 25% (twenty five percent) shall be available for utilization and initial expenses by the victim/dependent(s), as the case may be.

(2) In the case of a minor, 80% of the amount of compensation so awarded, shall be deposited in the fixed deposit account and shall be drawn only on attainment of the age of majority, but not before three years of the deposit.

Provided that in exceptional cases, amounts may be withdrawn for educational or medical or other pressing and urgent needs of the beneficiary at the discretion of the SLSA/ DLSA.

(3) The interest on the sum, if lying in FDR form, shall be credited directly by the bank in the savings account of the victim/dependent(s), on monthly basis which can be withdrawn by the beneficiary

12. INTERIM RELIEF TO THE VICTIM—

The State Legal Services Authority or District Legal Services Authority, as the case may be, may order for immediate first-aid facility or medical benefits to be made available free of cost or any other interim relief (including interim monetary compensation) as deemed appropriate, to alleviate the suffering of the victim on the certificate of a police officer, not below the rank of the officer-in-charge of the police station, or a Magistrate of the area concerned or on the application of the victim/ dependents or suo moto.

Provided that as soon as the application for compensation is received by the SLSA/DLSA, a sum of Rs.5000/- or as the case warrants up to Rs. 10,000/- shall be immediately disbursed to the victim through preloaded cash card from a Nationalised Bank by the Secretary, DLSA or Member Secretary, SLSA.

Provided that the, interim relief so granted shall not be less than 25 per cent of the maximum compensation awardable as per schedule applicable to this Chapter, which shall be paid to the victim in totality.

Provided further that in cases of acid attack a sum of Rs. One lakh shall be paid to the victim within 15 days of the matter being brought to the notice of SLSA/DLSA. The order granting interim compensation shall be passed by the SLSA/DLSA within 7 days of the matter being brought to its notice and the SLSA shall pay the compensation within 8 days of passing of order. Thereafter an additional sum of Rs.2 lakhs shall be awarded and paid to the victim as expeditiously as possible and positively within two months.

13. RECOVERY OF COMPENSATION AWARDED TO THE VICTIM OR HER DEPENDENT(S)—

Subject to the provisions of sub-section (3) of Section 357A of the Code, the State Legal Services Authority, in proper cases, may institute proceedings before the competent court of law for recovery of the compensation granted to the victim or her dependent(s) from person(s) responsible for causing loss or injury as a result of the crime committed by him/her.

The amount, so recovered, shall be deposited in Woman Victim Compensation Fund.

14. DEPENDENCY CERTIFICATE—

The authority empowered to issue the dependency certificate shall issue the same within a period of fifteen days and, in no case, this period shall be extended:

Provided that the SLSA/DLSA, in case of non-issuance of Dependency Certificate, after expiry of 15 days, may proceed on the basis of an affidavit to be obtained from the claimant.

15. MINOR VICTIMS -

That in case the victim is an orphaned minor without any parent or legal guardian the immediate relief or the interim compensation shall be disbursed to the Bank Account of the child, opened under the guardianship of the Superintendent, Child Care Institutions where the child is lodged or in absence thereof, DDO/SDM, as the case may be.

16. LIMITATION-

Under the Scheme, no claim made by the victim or her dependent(s), under sub-section (4) of Section 357A of the Code, shall be entertained after a period of 3 years from the date of occurrence of the offence or conclusion of the trial.

However, in deserving cases, on an application made in this regard, for reasons to be recorded, the delay beyond three years can be condoned by the SLSAs/DLSAs.

17. APPEAL:

In case the victim or her dependents are not satisfied with the quantum of compensation awarded by the Secretary, DLSA, they can file appeal within 30 days from the date of receipt of order before the Chairperson, DLSA.

Provided that, delay in filing appeal may be condoned by the Appellate Authority, for reasons to be recorded, in deserving cases, on an application made in this regard.

18. REPEAL & SAVINGS—

(1) In case this Chapter is silent on any issue pertaining to Victim Compensation to Women, the provisions of Victim Compensation Scheme of the State would be applicable.

(2) Nothing in this Scheme shall prevent Victims or their dependents from instituting any Civil Suit or Claim against the perpetrator of offence or any other person indirectly responsible for the same.

Explanation: It is clarified that this Chapter does not apply to minor victims under POCSO Act, 2012 in so far as their compensation issues are to be dealt with only by the Ld. Special Courts under Section 33 (8) of POCSO Act, 2012 and Rules (7) of the POCSO Rules, 2012.

SCHEDULE APPLICABLE TO WOMEN VICTIM OF CRIMES

S. No.	Particulars of loss or injury	Minimum Limit of Compensation	Upper Limit of compensation
1	Loss of Life	Rs. 5 Lakh	Rs. 10 Lakh
2	Gang Rape	Rs. 5 Lakh	Rs. 10 Lakh
3	Rape	Rs. 4 Lakh	Rs. 7 Lakh
4	Unnatural Sexual Assault	Rs. 4 Lakh	Rs. 7 Lakh
5	Loss of any Limb or part of body resulting in 80% permanent disability or above	Rs. 2 Lakh	Rs. 5 Lakh
6	Loss of any Limb or part of body resulting in 40% and below 80% permanent disability	Rs. 2 Lakh	Rs. 4 Lakh
7	Loss of any limb or part of body resulting in above 20% and below 40% permanent disability	Rs. 1 Lakh	Rs. 3 Lakh
8	Loss of any limb or part of body resulting in below 20% permanent disability	Rs. 1 Lakh	Rs. 2 Lakh
9	Grievous physical injury or any mental injury requiring rehabilitation	Rs. 1 Lakh	Rs. 2 Lakh
10	Loss of Foetus i.e. Miscarriage as a result of Assault or loss of fertility.	Rs. 2 Lakh	Rs. 3 Lakh
11	In case of pregnancy on account of rape.	Rs.3 Lakh	Rs.4 Lakh
12	Victims of Burning:		
a.	In case of disfigurement of case	Rs. 7 Lakh	Rs. 8 Lakh
b.	In case of more than 50%	Rs. 5 Lakh	Rs. 8 Lakh
c.	In case of injury less than 50%	Rs. 3 Lakh	Rs. 7 Lakh
d.	In case of less than 20%	Rs. 2 Lakh	Rs. 3 Lakh
13	Victims of Acid Attack-		
a.	In case of disfigurement of face.	Rs. 7 Lakh	Rs. 8 Lakh

b.	In case of injury more than 50%.	Rs. 5 Lakh	Rs. 8 Lakh
c.	In case of injury less than 50%.	Rs. 3 Lakh	Rs. 5 Lakh
d.	In case of injury less than 20%	Rs. 3 Lakh	Rs. 4 Lakh

Note: If a woman victim of sexual assault/acid attack is covered under one or more category of the schedule, she shall be entitled to be considered for combined value of the compensation.



FORM -I

**APPLICATION FOR THE AWARD OF COMPENSATION UNDER
COMPENSATION SCHEME FOR WOMEN VICTIMS/SURVIVORS OF SEXUAL
ASSAULT/OTHER CRIMES, 2018 FOR INTERIM/FINAL RELIEF FOR WOMEN**

1.	Name of the Applicant Victim(s) or her Dependent(s)	
2.	Age of the Victim(s) or her Dependent(s)	
3.	(a) Father's Name (b) Mother's Name (c) Spouse's Name	
4.	Address of the Victim(s) or her/their Dependent(s)	
5.	Date and time of the Incident	
6.	Whether FIR has been lodged?	
7.	Whether medical examination has been done? If yes, enclose Medical Report/ Death Certificate /P.M. Report.	
8.	Status of trial, if pending. If over, enclose copy of judgment and order on sentence.	
9.	Has the applicant been awarded any compensation by the trial court or any other Govt. agency. If, yes give details.	
10	Give details of financial expenditure/ loss incurred	
11.	Have you instituted any civil suit/ claim against the perpetrator of offence. If yes give details. Signature of the Victim/Dependent.	

REPORTABLE

**IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION**

WRIT PETITION (C) NO.565 OF 2012

NIPUN SAXENA & ANR.

PETITIONER(s)

VERSUS

UNION OF INDIA & ORS.

RESPONDENT(s)

WITH

W.P.(Crl.) No. 1/2013

W.P.(C) No. 22/2013

W.P.(C) No. 148/2013

SLP(Crl.)...CRLMP No. 16041/2014

W.P.(C) No. 568/2012

O R D E R

Subsequent to our order dated 10th August, 2018, the Committee has looked into the suggestions made to the Victim Compensation Scheme and now finally the Guidelines have been placed before us under the heading of NALSA's Compensation Scheme for Women Victims/Survivors of Sexual Assault/other Crimes-2018.

It has been brought to our notice that as far as children are concerned, no Scheme of this nature has been framed with regard to the victims of sexual abuse under the provisions of the Protection of Children from Sexual Offences Act, 2012 (for short "POCSO Act").

Signature Not Verified

 Digitally signed by
 SANJAY KUMAR
 Date: 2019.09.07
 18:04:28 IST
 Reason:

Section 33 of the POCSO Act deals with the procedure and powers of the Special Courts. Our attention has been drawn to Section 33(8) of the POCSO Act. This reads as follows:

"(8). In appropriate cases, the Special Court, may, in addition to the punishment, direct payment of such compensation as may be prescribed to the child for any physical or mental trauma caused to him or for immediate rehabilitation of such child."

Section 45 of the POCSO Act deals with the rule making power and it refers, *inter alia*, to the payment of compensation under sub-section (8) of Section 33 of the POCSO Act.

Our attention has also been drawn to Rule 7 of the Protection of Children from Sexual Offences Rules, 2012. This Rule reads as follows:

"7. Compensation .-(1) The Special Court may, in appropriate cases, on its own or on an application filed by or on behalf of the child, pass an order for interim compensation to meet the immediate needs of the child for relief or rehabilitation at any stage after registration of the First Information Report. Such interim compensation paid to the child shall be adjusted against the final compensation, if any.

(2) The Special Court may, on its own or on an application filed by or on behalf of the victim, recommend the award of compensation where the accused is convicted, or where the case ends in acquittal or discharge, or the accused is not traced or identified, and in the opinion of the Special Court the child has suffered loss or injury as a result of that offence.

(3) Where the Special Court under sub-section (8) of section 33 of the Act read with sub-sections (2) and (3) of section 357A of the Code of Criminal Procedure, makes a direction for the

award of compensation to the victim, it shall take into account all relevant factors relating to the loss or injury caused to the victim, including the following:

- (i) type of abuse, gravity of the offence and the severity of the mental or physical harm or injury suffered by the child;
- (ii) the expenditure incurred or likely to be incurred on his medical treatment for physical and/or mental health;
- (iii) loss of educational opportunity as a consequence of the offence, including absence from school due to mental trauma, bodily injury, medical treatment, investigation and trial of the offence, or any other reason;
- (iv) loss of employment as a result of the offence, including absence from place of employment due to mental trauma, bodily injury, medical treatment, investigation and trial of the offence, or any other reason;
- (v) the relationship of the child to the offender, if any;
- (vi) whether the abuse was a single isolated incidence or whether the abuse took place over a period of time;
- (vii) whether the child became pregnant as a result of the offence;
- (viii) whether the child contracted a sexually transmitted disease (STD) as a result of the offence;
- (ix) whether the child contracted human immunodeficiency virus (HIV) as a result of the offence;
- (x) any disability suffered by the child as a result of the offence;
- (xi) financial condition of the child against whom the offence has been committed so as to determine his need for rehabilitation;
- (xii) any other factor that the Special Court may consider to be relevant.

(4) The compensation awarded by the Special Court is to be paid by the State Government from the Victims Compensation Fund or other scheme or fund established by it for the purposes of compensating and rehabilitating victims under section 357A of the Code of Criminal Procedure or any other laws for the time being in force, or, where such fund or scheme does not exist, by the State Government.

(5) The State Government shall pay the compensation ordered by the Special Court within 30 days of receipt of such order.

(6) Nothing in these rules shall prevent a child or his parent or guardian or any other person in whom the child has trust and confidence from submitting an application for seeking relief under any other rules or scheme of the Central Government or State Government."

On a reading of the aforesaid Rule, it appears to us that the Special Court may, in appropriate cases, on its own or on an application having been filed, pass an order for interim compensation for the immediate needs of the child. Of course, this Rule is a gender neutral provision.

Ms. Pinky Anand, learned Additional Solicitor General informs us that there is a proposal to amend the POCSO Act and that the Rules will be framed after the amendment in the POCSO Act is made.

In the interim, therefore, the situation is that there are no Guidelines or Rules that are applicable on the basis of which the Special Court can pass appropriate orders.

Keeping this hiatus in mind, we are of the opinion, after hearing learned counsel for the parties as well as

learned Additional Solicitor General, that the NALSA' Compensation Scheme should function as a guideline to the Special Court for the award of compensation to victims of child sexual abuse under Rule 7 until the Rules are finalized by the Central Government.

The Special Judge will, of course, take the provisions of the POCSO Act into consideration as well as any circumstances that are special to the victim while passing an appropriate order.

We need not emphasise that the legislation is gender neutral and, therefore, the Guidelines will be applicable to all children.

The Special Judge will also pass appropriate orders regarding actual physical payment of the compensation or the interim compensation so that it is not misused or mis-utilized and is actually available for the benefit of the child victim. If the Special Judge deems it appropriate, an order of depositing the amount in an interest-bearing account may be passed.

A copy of the NALSA's Compensation Scheme as well as a copy of this order should be sent by the Registry to the Registrar General of every High Court with a direction that the Registrar General will circulate them to all the concerned District Judges for circulation to the Special Judges and the State, District and Taluka Legal Services Committees.

A copy of the Scheme and a copy of the order passed by this Court will also be sent by the Registry to all the Judicial Academies for information.

We also direct that the publicity should be given to the Scheme as well as the order passed by us on regular basis until the Rules are finalized by the Central Government. Learned Additional Solicitor General assures us that the needful will be done on a regular basis through all forms of media.

Needless to say that the Scheme and the Guidelines will be operational from 2nd October, 2018.

We acknowledge and appreciate the efforts put in by the Committee and NALSA in framing the Scheme and assisting us in its extension to child victims.

After the Scheme and the Guidelines are operational for some time, if necessary, revisions can be made.

.....J.
(MADAN B. LOKUR)

.....J.
(S. ABDUL NAZEER)

.....J.
(DEEPAK GUPTA)

ITEM NO.1

COURT NO.3

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Writ Petition(s)(Civil) No(s).565/2012

NIPUN SAXENA & ANR.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)**WITH**

W.P.(Crl.) No. 1/2013 (PIL-W)

W.P.(C) No. 22/2013 (PIL-W)

W.P.(C) No. 148/2013 (PIL-W)

SLP(Crl.)...CRLMP No. 16041/2014 (II-A)
 (WITH APPLN.(S) FOR CONDONATION OF DELAY IN REFILING ON IA
 16043/2014)

W.P.(C) No. 568/2012 (PIL-W)

W.P.(C) No. 3/2018 (PIL-W)

Date : 05-09-2018 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MADAN B. LOKUR
 HON'BLE MR. JUSTICE S. ABDUL NAZEEF
 HON'BLE MR. JUSTICE DEEPAK GUPTA

Ms. Indira Jaising, Sr. Adv. (A.C.)
 Ms. Sangeeta Madan, Adv.
 Mr. P.S. Tripathi, AOR
 Ms. Vani Vyas, Adv.
 Mr. Mukesh Kumar Singh, Adv.
 Ms. Aanchal Singh, Adv.
 Mr. Ravi Chandra Prakash, Adv.
 Mr. Abhishek Tripathi, Adv.
 Ms. Ajita Sharma, Adv.

For Petitioner(s) Ms. Ankita Chaudhary, Adv.
 Mr. Nipun Saxena, Petitioner-in-person

Mr. Prashant Chaudhary, AOR

Mr. R. P. Gupta, AOR

Mr. E.C. Agrawala, AOR

Ms. Anuja Kapur, Petitioner-in-person

For Respondent(s)

Ms. Pinky Anand, ASG
 Mr. Ashok Kumar Panda, Sr. Adv.
 Mr. Sachin Sharma, Adv.
 Ms. Sushma Verma, Adv.
 Mr. Raj Bahadur, Adv.
 Mrs. Anil Katiyar, Adv.
 Mr. S.A. Haseeb, Adv.
 Ms. Kiran Bhardwaj, Adv.
 Ms. Bhakti Pasrija Sethi, Adv.
 Mr. M.P. Gupta, Adv.
 Ms. Kirti Dua, Adv.
 Mr. B.V. Balaram Das, Adv.
 Mr. Ajay Kumar Singh, Adv.
 Mr. Shailinder Saini, Adv.
 Mr. R.K. Rathor, Adv.
 Ms. Rashmi Malhotra, Adv.
 Ms. Sunita Sharma, Adv.
 Mr. R.R. Rajesh, Adv.
 Ms. Saudamini Sharma, Adv.
 Mr. S. Wasim A. Qadri, Adv.
 Mr. Jubair Ahmad Khan, Adv.
 Mr. Zaid Ali, Adv.
 Mr. Tamim Qadri, Adv.
 Mr. Saeed Qadri, Adv.
 Mr. G.S. Makker, Adv.
 Mr. Arun Kumar, Adv.
 Ms. Aishi Singh, Adv.

NALSA

Mr. Alok Agarwal, Member-Secretary
Ms. Anitha Shenoy, Adv

For States of

Assam

Mr. Shuvodeep Roy, Adv.
Mr. Sayooj Mohandas, Adv.

Ms. Diksha Rai, Adv.
Mr. Palak Mahajan, Adv.

Andhra Pradesh

Mr. Guntur Prabhakar, Adv.
Ms. Prerna Singh, Adv.

Arunachal Pradesh

Mr. Anil Shrivastav, Adv.
Mr. Rituraj Biswas, Adv.

Bihar

Mr. Gopal Singh, AOR
Mr. Manish Kumar, Adv.

Chhattisgarh

Mr. Jugal Kishore Gilda, Adv. Gen.

	Mr. A.P. Mayee, Adv. Mr. Chirag Jain, Adv.
	Mr. Atul Jha, Adv. Mr. Sandeep Jha, Adv. Mr. Dharmendra Kumar Sinha, Adv.
Goa	Mr. A.N.S. Nadkarni, ASG Mr. Merusagar Samantray, Adv. Ms. Ruchira Gupta, Adv. Mr. Santosh Rebello, Adv. Mr. Anurag Sharma, Adv. Mr. Shishir Deshpande, Adv. Ms. Lhingneivah, Adv. Ms. Snehapravu Tendulkar, Adv.
Gujarat	Ms. Hemantika Wahi, AOR Ms. Jesal Wahi, Adv. Ms. Mamta Singh, Adv. Ms. Shodhika Sharma, Adv.
Haryana	Mr. Arun Bhardwaj, AAG Mr. Ajay Bansal, AAG Mr. Gaurav Yadava, Adv. Ms. Veena Bansal, Adv. Mr. Ashish Pandey, Adv. Mr. Prateep Rai, Adv. Mr. Shekhar Raj Sharma, Adv. Mr. Sanjay Kumar Visen, Adv.
H.P.	Mr. Vikas Mahajan, AAG Mr. Vinod Sharma, Adv.
Jharkhand	Mr. Tapes Kumar Singh, Adv. Mr. Mohd. Waquas, Adv. Mr. Aditya Pratap Singh, Adv.
J&K	Mr. M. Shoeb Alam, Adv. Ms. Fauzia Shakil, Adv. Mr. Ujjwal Singh, Adv. Mr. Mojahid Karim Khan, Adv.
Karnataka	Mr. V.N. Raghupathy, Adv. Mr. Parikshit P. Angadi, Adv. Md. Apzal Ansari, Adv.
Kerala	Mr. C.K. Sasi, Adv. Ms. Nayantara Roy, Adv.
M.P.	Mr. Sunny Choudhary, Adv. Mr. Abhilash Attri, Adv. Mr. Abhishek Attri, Adv.

Maharashtra	Ms. Deepa M. Kulkarni, Adv. Mr. Nishant Ramakantrao Katneshwarkar, AOR
Manipur	Mr. Leishangthem Roshmani, Adv. Ms. Maibam Babina, Adv.
Meghalaya	Mr. Ranjan Mukherjee, Adv. Mr. K.V. Kharlyngdoh, Adv. Mr. Daniel Stone Lyngdoh, Adv.
Mizoram	Mr. K.N. Madhusoodhanan, Adv. Mr. T. G. Narayanan Nair, AOR
Nagaland	Ms. K. Enatoli Sema, AOR Mr. Edward Belho, Adv. Mr. Amit Kumar Singh, Adv. Mr. Z.H. Isaac Haiding, Adv.
Punjab	Mr. Karan Bharihoke, Adv. Mr. Kaushal Narayan Misha, Adv. Ms. Nav Kiran Bolay, Adv.
Rajasthan	Mr. Nalin Kohli, AAG Mr. Ankit Roy, Adv. Mr. Milind Kumar, Adv.
Sikkim	Ms. Aruna Mathur, Adv. Mr. Avneesh Arputham, Adv. Ms. Anuradha Arputham, Adv. Ms. Geetanjali, Adv. for M/s Arputham Aruna & Co.
Tamil Nadu	Mr. M. Yogesh Kanna, Adv. Mr. S. Partha Sarathi, Adv.
Telangana	Mr. S. Udaya Kumar Sagar, AOR Mr. Mrityunjai Singh, Adv.
Tripura	Mr. Shuvodeep Roy, Adv. Mr. Rituraj Biswas, Adv.
Uttar Pradesh	Ms. Aishwarya Bhati, AAG Mr. Aviral Saxena, Adv. Mr. Pradeep Misra, Adv.
Uttarakhand	Ms. Rachana Srivastva, Adv. Ms. Monika, Adv.
West Bengal	Mr. Suhaan Mukerji, Adv. Ms. Astha Sharma, Adv. Mr. Harsh Hiroo Gursahani, Adv.

**Mr. Abhishek Manchanda, Adv.
Ms. Kajal Dalal, Adv.
For PLR Chambers & Co.**

A&N Islands **Mr. K.V. Jagdishvaran, Adv.
Mrs. G. Indira, AOR**

Chandigarh **Ms. Kamakshi S. Mehlwal, Adv.
Mr. Sanveer Mehlwal, Adv.
Ms. Geetanjali Mehlwal, Adv.**

**Dadar & Nagar
Haveli** **Mr. A.K. Panda, Sr. Adv.
Ms. Sushma Verma, Adv.
Mr. R.R. Rajesh, Adv.
Mr. Sachin Sharma, Adv.
Mr. Amit Pratap Singh, Adv.
Mr. Arun Kumar, Adv.**

NCT of Delhi **Mr. Chirag M. Shroff, AOR**

Puducherry **Mr. V.G. Pragasam, Adv.
Mr. Prabu Ramasubramanian, Adv.
Mr. S. Manuraj, Adv.**

**Mr. Colin Gonsalves, Sr. Adv.
Ms. Aditi Gupta, Adv.
Mr. Satya Mitra, Adv.**

**Ms. Bina Goyal, Adv.
Mr. Hitesh Kumar Sharma, Adv.
Ms. Madhumita Gupta, Adv.**

**Mr. Ardhendumauli Kumar Prasad, Adv.
Mr. Vaibhav Shrivastava, Adv.
Mr. Namit Saxena, Adv.**

**Mr. Shibashish Misra, Adv.
Mr. Chandan Kumar Mandal, Adv.**

Mr. Abhishek Atrey, Adv.

**UPON hearing the counsel the Court made the following
O R D E R**

**In terms of the signed reportable order, the Scheme
and the Guidelines will be operational from 2nd October,
2018.**

After the Scheme and the Guidelines are operational for some time, if necessary, revisions can be made.

IA Nos.103062 & 103063/2018

These applications will remain pending and will be taken up after a couple of months.

Re: submissions made by learned *amicus curiae* regarding interpretation of Section 23 of the POCSO Act, Section 3 of the Contempt of Courts Act and Section 228A of IPC

Arguments heard in part.

List the matter as part-heard matter on 11th September, 2018.

W.P. (C) No.3/2018

Detag.

List the matter after four weeks.

(SANJAY KUMAR-I)

AR-CUM-PS

(Signed reportable order is placed on the file)

(KAILASH CHANDER)

ASSISTANT REGISTRAR

NALSA (Protection and Enforcement of Tribal Rights) Scheme, 2015

BACKGROUND

Although the Census of 2011 enumerates the total population of Scheduled Tribes at 10,42,81,034 persons, constituting 8.6 per cent of the population of the country, the tribal communities in India are enormously diverse and heterogeneous. There are wide ranging diversities among them in respect of languages spoken, size of population and mode of livelihood. As per the Census of India 2011, the number of individual groups notified as Scheduled Tribes is 705.

The North Eastern States are not a homogeneous block, because of the diversities amongst themselves. There are about 220 ethnic groups with equal number of language and dialects. These groups can be broadly categorised into three main groups of Tibeto-Burman, Mon-Khmer and Indo-European.

Certain tribes have been characterised as Particularly Vulnerable Tribal Groups (PVTGs) (earlier known as Primitive Tribal Groups) on the basis of their greater 'vulnerability' even among the tribal groups. PVTGs, currently include 75 tribal groups, who have been identified as such on the basis of the following criteria: 1) forest-dependent livelihoods, 2) pre-agricultural level of existence, 3) stagnant or declining population, 4) low literacy rates and 5) a subsistence-based economy. As per the 2001 census, these 75 PVTGs had a total population of 27,68,322. The majority of the PVTG population lives in the six States of Maharashtra, Madhya Pradesh, Chhattisgarh, Jharkhand, Odisha, Andhra Pradesh and Tamil Nadu. The PVTGs among the tribes need special attention due to their vulnerability.

Up till independence the tribal population lived in comparative isolation from the national scene and lived almost a self-sufficient life in the remote and rugged forested tracts. The interactions of the colonial administrative machinery with the tribes in India were largely of

authoritarian and exploitative nature. They were largely interested to let them remain isolated and had no intention to integrate them with mainstream of national life.

After independence, the India Constitution adopted many provisions to provide tribal people with special status and Parliament through various protective legislations made conscious efforts to safeguard their interest. Planning Commission of India through its development initiative adopted Tribal SUB Plan (TSP) approach and under Panchayati Raj Institutions the Provisions of the Panchayats (Extension to Scheduled Areas) Act 1996 (PESA) was legislated.

Despite all these efforts made to improve the socio-economic conditions of tribes it is still a fact that the life situations of Scheduled Tribes (STs) have improved only marginally. The Human Development Index (HDI) of the STs is much lower than the rest of the population. The gap in the literacy rate is high. There are more ST families below the poverty line than those from other communities. Their percentage in government jobs is not in proportion to their population despite the provision of reservation. Their condition, thus, is far worse than that of the rest of the population and they have not been able to reach the envisaged level of development, where they could benefit from the opportunities offered by a fast expanding economy.

It was in this background that the NALSA felt the need to draw up a Scheme for the Tribal People. To facilitate this, a Committee was constituted to study the issue and come up with suggestions. The Committee submitted a comprehensive report to the Hon'ble Executive Chairman, NALSA on 9.8.2015 on the occasion of World Tribal Day. The present Scheme is based on the Report of the Committee.

The Scheme may be called "**NALSA (Protection and Enforcement of Tribal Rights) Scheme, 2015**".

O JECTIVES

The Scheme is aimed at ensuring access to justice to the Tribal People in India. The access to justice would be facilitated in all its

connotations, i.e. access to rights, benefits, legal aid, other legal services, etc., so that the assurance of the Constitution of justice social, economic and political, is meaningfully experienced by the tribal population in the country.

Several legal rights are guaranteed to the tribal people under:

- The Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 – (**FRA**)
- The Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act, 1989,
- The Right of children to Free and Compulsory Education Act, 2009,
- The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013,
- Panchayats (Extension to Scheduled Areas) Act 1996 – (**PESA**) and
- Fifth and Sixth Schedule of the Constitution of India.

These provisions are not implemented stringently, leading to violation of their legal rights. Such violations are one of the prime reasons for the marginalization of the tribal people.

This scheme is intended that these legal rights are not violated.

The terms PLVs, Legal Services Clinics, Front Office , Panel Lawyers and Retainer Lawyers will mean the same as defined under the National Legal Services Authority (Free and Competent Legal Services) Regulations, 2010 and National Legal Services Authority (Legal Services Clinics) Regulations, 2011 and the NALSA Scheme for Para Legal Volunteers (Revised) and Module for the Orientation – Induction – Refresher Courses for PLV Training.

Part I : An overview of the issues of Tribal people

A. Vulnerability Issues

1. The lack of literacy amongst the tribal people is a crucial issue. As a consequence, the tribes remain unaware of their fundamental, legal and statutory rights. They also lack knowledge about the welfare schemes run by the government for their well-being, thereby resulting in lack of participation from their side.
2. Non implementation of the schemes introduced by the government to resolve the problems is another major concern. However, non-implementation of programmes for tribal welfare is also due to lack of skilled work force in the tribal areas.
3. Numerous armed conflicts affect large parts of tribal areas in contemporary India spanning the central region to the North East, leading to severe problems in accessing legal and administrative mechanisms and in the implementation of beneficial schemes.
4. In the recent years the state police and the paramilitary forces have been accused of grave human rights violations in the tribal areas including of alleged fake encounters and rape.
5. A number of tribal people are put in jails allegedly as Maoists. There have been cases of people staying in Jail for days, without their name in the charge-sheet. Bails are not granted as cases are serious such as waging war against India, sedition and so on.
6. The unfamiliar judicial processes make the tribal people dread the court, even if they are the ones who are suffering from lawlessness. They feel that the laws like Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act, 1989 do not exist for the protection of tribal people.
7. Migrating tribes face difficulties in accessing the welfare schemes run by the government. Some are totally devoid of any access.

8. There are preconceived notions or assumptions regarding the 'primitivism' and 'backwardness' of the PVTGs. It is essential for government bodies to shed assumptions of tribal backwardness and savagery and devaluation of the culture and traditions of these communities.
9. Many PVTGs and Scheduled Tribes (STs) are forest dwellers and depend heavily on land and forest resources for their subsistence. Over time, their habitat has been declared as Reserved Forest, Protected Forest, leaving them vulnerable to displacement and eviction without compensation.
10. All tribes in the list of PVTGs have not been granted ST status, thereby increasing the vulnerability of these tribes, who lack the protections and rights offered by the Fifth Schedule and the Provisions of Panchayat (Extension to Scheduled Areas) Act, 1996.
11. For PVTGs, the implementation of FRA has been poorest since their habitat rights are not clearly defined or understood by the Forest Department. No disaggregated information and data at the national level on status of the implementation of the provision for rights of PVTGs particularly of habitat rights under the FRA are available.
12. The North Eastern States share a large area of international boundary with the neighbouring countries of Bhutan, China, Myanmar and Bangladesh which makes it a very fertile ground for cross border terrorism, drug smuggling, arms smuggling, infiltration, etc.
13. Another issue which is of serious concern is human trafficking. Tribal people from central India and Assam appear particularly prone to trafficking.
14. Another issue is that till recently there has been no division of executive and judiciary. The institutions set up under the Sixth

Schedule apply customary laws which have their own issues as they are not codified.

15. Due to insurgency and law & order problems in the North East, there is absence of faith in the system. There has been a tendency of the public to take law into their hands, in what amounts to "mob justice" by dismantling/destroying houses of the suspected/accused persons and ostracising the family which leads to serious social problems. Even doctors and hospitals have not been spared for their alleged negligence in treatment of patients.
16. In the remote areas and villages large numbers of tribal people still believe in "Witch hunting".
17. Tribal people are not treated with dignity and so feel alienated. For instance, the Jarawas tribes in Andaman Islands are treated like animals by the tourists. They are teased and tormented as if they are monkeys/animals and fun derived from their angry responses. Similar experiences were earlier common in Bastar where cultural mores were never understood.

B. Land Related Problems

1. Forest and hills are the main source of tribal identity. It is in this context that the devastation of lives of tribal people caused by loss of access to forest and involuntary displacement from their land has to be understood. Dispossession takes place both directly by depriving tribal communities of their land, habitat, livelihood, political system, culture, values and identity and indirectly through denials of benefits of development and of their rights.
2. Under the Resettlement and Rehabilitation (R&R) programme, land is not replaced and there is meagre reconstitution of livelihoods. Almost all the R&R colonies lack proper public health facilities, protected drinking water, marketing, schools and transportation.

3. Dependence on forests for food in the form of shifting cultivation, fruits and flowers, small game, tubers for medicines, fodder, material for house building, raw material for traditional art and crafts income by selling firewood, leaf-plates, fruits etc is substantial. This loss, due to displacement is not compensated and also affects food security.
4. A major portion of land falls under forest areas. Most of the tribal people of the interior areas are staying on forest lands without having any right, title, interest on those lands and there are no such legal provisions for those homeless tribal people for protection and enforcement of their rights under "The Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006".
5. Another major problem with tribal people is a result of development projects viz. construction of dams, Forest sanctuaries, mining operations, etc. These developments lead to an influx of non-tribal people, seeking employment in these areas forcing the tribal people to migrate. Hence, the tribal people have not been able to reap the benefits of development projects.
6. Growing indebtedness contributes as one of the most important reasons for land alienation and displacement of tribal people. Tribal indebtedness (they are often tricked into accepting loans with exorbitant interests) often leads to situations of bonded labour.
7. Further, there have been violations of PESA which endow Gram Sabha "the power to prevent land alienation of land in the Scheduled Areas and to take appropriate action to restore any unlawful alienated land of a Scheduled Tribe." In case of acquisition of forest lands, it is mandatory to consult with Gram Sabha of the affected area and obtain their free consent. However, often Gram Sabhas are neither sent notices for consultation, nor are their consent signatures taken.

8. The compensation given to the tribal people under The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 is meagre and the living conditions that are provided on resettlement are very poor.
9. Another problem with tribal people is that instead of individual rights in the land, they believe in community rights and thus written proof of ownership are mostly not available in cases of litigation relating to land. The claims of tribal people in this respect are mostly based on oral evidences with consequential difficulties in establishing individual rights.

C. Legal Issues

The legal issues faced by the tribal people are as follows:

1. The recognition of rights of tribal people before their displacement from Protected Areas (PAs) is not being completed. Tribal people are evicted before verification and settlement of claims under the FRA. This has caused a decline in the economic status, as well as erosion in their customary forest practices.
2. Incorrect assumption by the Forest departments with regard to the FRA has led to violation of their legal rights. For instance, at some of the Forest Departments, it was believed, contrary to the provisions of section 4 (2) of the FRA that rights under FRA could not be claimed in Protected Areas (PAs) and that FRA is not applicable in Tiger Reserves.
3. Some problems that arise for tribal communities in claiming habitat rights include:
 - * lack of clarity over definition and interpretation of what is entailed in habitat rights;
 - * multiple interpretations of habitat, especially if the user rights of other, non- PVTG groups sharing the same territory are involved;

- * if the traditional habitatboundaries of PVTGs overlap with wildlife habitats; and
 - * a lack of awareness amongsuch communities about the terms in which to articulate such claims.
4. There has been little perceptible effort to create awareness among women regarding the process of claim making, verification and the rules relating to it provided under the FRA.
 5. Claims filed by tribal people under the FRA are being rejected without assigning reasons, orbased on wrong interpretation of the Other Traditional Forest Dwellers (OTFD) definition and the 'dependence' clause,or simply for lack of evidence or 'absence of GPS survey' (a lacuna which only requires the claim to be referred back to the lower-level body), or because the land is wronglyconsidered as 'not forest land', or because only forest offence receipts are consideredas adequate evidence.
 6. The rejections are not being communicated to the claimants, and their right to appeal is not being explained to them nor its exercise facilitated. There is a need for awareness amongst tribal people, so that they can protect their legal rights against such practices.
 7. Section 3 (1) (m) of the FRA, regarding the rights of persons illegally displacedor evicted by development projects without proper compensation, has not beenimplemented at all.
 8. Lack of effective consultations with Gram Sabha and recognition of their rights of ownership in farm produce.

D. Other legal issues

1. Criminal charges are filed, maliciously, against the tribal people, and in some casesnon-tribal people, who protest against the acquisition ofland and thereby againstthe establishment of developmental projects. It has been found that between 2005 and 2012, over 95 percentof the cases were found to be baseless and ended in acquittal.

2. Discrimination, violence and police brutality is experienced at regular intervals by the people belonging to the De-Notified Tribes because of the Habitual Offenders Act, 2000.
3. In Andaman and Nicobar, the 'Jarawa' tribe face incidents of sexual exploitation. Also, the people of the tribe were asked to give their blood samples for DNA testing without their informed consent.
4. A study for the Planning Commission revealed that 43.6 percent of the rehabilitated bonded labourers belong to Scheduled Tribes. This suggests that many tribal families are trapped in bondage. The main reason for bondage that is cited is indebtedness and food.

E. Issues related to education

The scenario of education in India regarding the tribal people has improved, but there are some problems which still persist. The issues relating to education are as follows:

1. There are a large number of schools which do not have minimum facilities.
2. Even where there is reasonable infrastructure and student enrolment, regular school attendance is a problem in the tribal areas, due to distances and poverty.
3. Teacher absenteeism is high.
4. There is poor level of student learning and high drop-out rate at class X. A possible explanation for this is the failure of tribal students to cope up.
5. There is a marked gender gap. There is a need for greater gender focus and social mobilization to encourage education of girls.
6. Once the tribal students manage to take admission, they are humiliated in various ways that they are demoralized. This leads to

a high school dropout rate. Derogatory names being given to tribal students from the North East are well-known.

7. There are residential schools for tribal girls which are often in the news for corruption, bad maintenance of facilities and sexual exploitation of resident girls.
8. As nomadic tribes are always on the move, their children miss out on education provided by the government for free.
9. Most of the tribal communities in India have their own mother tongue. But in most of the States, official/regional languages are used for classroom teaching and these are not understood by the tribal children particularly at primary level of schooling.
10. There is a need of familiarity for teachers teaching tribal children with tribal culture and language so that learning is hassle-free. For instance, most of the district officials, being from outside do not understand the languages of the people like Gondi and Halbi. Even the teachers in schools do not understand these languages.
11. Tribal children are not at ease in structured class rooms due to their affinity to nature causing them to lose interest in formal education as is presently provided.
12. The main reason of illiteracy amongst tribal people is low involvement of parents and community in education of tribal children and inadequate quality schools in Tribal areas. The Tribal Community is mostly unaware about the benefits of education.

F. **Health issues**

The tribal population face several health issues:

1. The national health model is primarily designed for the non-tribal areas. It does not take into account the different belief system, different disease burden and healthcare needs as well as the difficulties in delivering health care in a geographically scattered,

culturally different population surrounded by forests and other natural forces.

2. There is a lack of health care human resource that is willing, trained and equipped to work in tribal areas. Though buildings are built and health care institutions created in the form of health sub-centres, PHCs and CHCs, they often remain dysfunctional. This is further compounded by inadequate monitoring, poor quality of reporting, and accountability.
3. Factors such as unfriendly behaviour of the staff, language barrier, large distances, poor transport, low literacy and low health care seeking, lead to lower utilization of the existing health care institutions in tribal areas.
4. The absence of participation of ST people or their representatives in shaping policies, making plans or implementing services in the health sector often ends up targeting wrong priorities.
5. The tribal population is seriously affected by high consumption of alcohol and smoking, often resulting in addiction. Immediate and serious corrective policy measures to curb the same are necessary.
6. Child marriage among the different tribal communities is still prevalent as illiterate tribal people follow their old customs without understanding the laws of the land which results in poor health.
7. Tribal people seek treatment modes based upon their customary beliefs without resorting to any modern medicines even when they contract modern day illnesses leading to high mortality even in curable situations.
8. The Jarawas remain vulnerable to outside diseases to which they have little or no immunity. When the tourists enter their areas, they contract new diseases because of them. Their women and girls are also being sexually abused which result in many diseases for which the tribal people have no cure.

9. The immunisation programme of the governments has not reached the tribal areas.
10. Tribal populations are highly malnourished. PVTGs inhabit areas that are inaccessible by road, and therefore they cannot travel easily to Anganwadi centres, where food is prepared. Moreover, their hamlets are considered too small to open an Anganwadi centre. The result is that their children do not get the nourishment provided under the government schemes.
11. Rules have been framed to prohibit the killing of forest animals without giving an alternative to tribal people who traditionally hunt them for food, leading to loss of nutrient food to these communities.
12. The tribal areas face acute water problems including water pollution and tribal health suffers as a consequence.
13. A very pernicious effect of violence and killing, is the rise in mental disorder cases.
14. In areas of high literacy, as in the North East, lack of employment amongst skilled youth has resulted in mental depression and high suicidal tendencies.
15. Health issues arising out of drug use such as HIV AIDS and mental disorder is high in the North Eastern states located in close proximity to the "Golden Triangle". Drugs such as Ketamine, pseudoephedrine, etc. are being smuggled into these regions with catastrophic effect on the families of drug users.

H. Livelihood

1. Due to absence of modern day skills and education, tribal people mainly depend on their traditional skills for livelihood, which is not profitable.
2. Although very few are landless, the land that tribal people possess is not very productive.

3. Due to language and cultural barriers, they lack modern skills of agriculture and agriculture based activities.
4. Further as a result of their living in difficult terrain and their aloofness from others they are not able to get adequate prices of their produce and products.
5. Inadequate transportation and communication facilities in their areas compounded by their reluctance in using such means also lead to failure to obtain good prices for their produce.
6. Adherence to traditional practices such as jhum cultivation for livelihood is an important reason that they live below poverty line.
7. When land is taken away from them for development work or they alienate their land, or they are denied access to forests for collecting forest produce, tribal people are left with no means of survival and are reduced to impoverishment and starvation.

Part II : Role of Legal Services Authorities

As is evident from the issues listed above, the State Legal Service Authorities have an important role to play in assisting tribal people in access to justice. The State Legal Services Authorities (SLSAs) will have to bridge the divide between the tribal communities and the Government and Judiciary. The SLSAs will have to ensure that Rule of law prevails. Restoring faith in the legal system, efficacy of rule of law is of prime importance amongst the tribal people. The SLSAs should explore activities in these areas.

The SLSAs should take the following initiatives:

A. Litigation related

1. They should constitute an exclusive panel of lawyers drawn from the tribal communities who should be paid good fees.

2. The Tribal people should be given suitable legal aid in litigation and in appropriate cases, senior lawyers should be engaged on their behalf even if on payment of special fee, so that the rights and interests of tribal people are protected.
3. The Judiciary operates in Hindi and English, leaving poor tribal people at the mercy of lawyers and judges from outside their community. They are the ones who need access to justice and should be supported by SLSAs.
4. Panel lawyers must sincerely represent the tribal people in the courts, explaining to them the process and the law so that distrust of the system is eliminated and there would be greater understanding of the processes of the court.
5. Panel lawyers must assist the tribal people in clarifying areas of confusion or overlapping of jurisdiction of the normal courts and the traditional village authority courts at the village level and help people in the smooth functioning of the justice system.
6. Panel lawyers must visit jails and set up legal services clinics in jails to tackle long term imprisonment without bail and also follow up cases where there are no charges made out so that there is early release from prison.
7. Panel lawyers should, with the help of para legal volunteers, facilitate the tribal people for getting compensation of their acquired land and assist them for rehabilitation.
8. The issues, requirements and legal needs as well as availability of educational and medical facilities in tribal areas must be identified with the assistance of PLVs and action for judicial redressal initiated in appropriate cases.
9. The full time Secretaries/judicial officers should interact with the persons of such area in order to identify their problems and needs and in order to assure them that they will be given suitable assistance and services for their genuine legal and other requirements and rights.

10. Where any tribal person is facing prosecution in a court of law, he should be identified and given proper legal aid and assistance by legal services authority from the inception of the proceedings against him, that is from the time of his interrogation.
11. The SLSAs must open legal services clinics wherever feasible to be visited by tribal lawyers.
12. The SLSAs must make use of the Multi Utility Vehicles to reach out to sparsely populated tribal areas not only for spreading awareness but also to extend prompt legal assistance to the tribal people who may have criminal, civil, revenue or forest rights issues.
13. The SLSAs must co-ordinate with government departments such as the forest department to settle habitat claims and compensation claims through the mobile lokadalats.
14. Legal assistance must be promptly given to the tribal people to approach the High Court under its writ jurisdiction both for civil as well as criminal matters. The High Court Legal Services Committees must empanel committed lawyers who are tribal people themselves or have a good understanding of tribal issues and are able to personally communicate with tribal people.
15. Social Justice Litigation with the approval of Hon'ble Executive Chairman, SLSA may be initiated whenever required.

B. Para legal volunteers (PLVs)

1. Each District Legal Services Authority, with the help of statistical and other Government department should identify the areas of the districts where there are tribal population and reach out to them through the Para Legal Volunteers.
2. In order to gain trust of the tribal communities, to know the problems of each such community and also to communicate with them effectively during awareness programmes it is necessary that para legal volunteers must be selected from amongst such tribal people.

The SLSAs should prepare exclusive panel of para legal volunteers (PLVs) from these communities under the direct mentorship and control of the Full Time Secretary of DLSAs.

3. Such PLVs should be properly trained in respect of their roles to reach out proactively to the tribal people and to become the 'go to person' for the tribal community he/she is assigned to serve.
4. The SLSAs through the PLVs should help the illiterate tribal people requiring legal assistance in filling up forms and filing applications for getting benefits of various schemes made by Government to do so for their getting such benefits.
5. Legal Services Authority could play a vital role in providing medical help with assistance of Para Legal Volunteers from amongst the tribal community. The needy persons may be identified with the help of Para Legal Volunteers and with assistance of the local Legal Services Authority, such tribal people may be facilitated in getting suitable medical assistance and medicines as well as benefits of medical schemes.
6. The PLVs must be the voice of the tribal people to communicate to the concerned authorities when there are issues relating the schools, absence of teachers, and harassment of tribal children etc as listed in Part 1 of this scheme.
7. The PLVs may be useful in the matters of human trafficking for identifying the victims of trafficking and taking suitable action for obtaining victim compensation and accessing various rehabilitation schemes.
8. The PLVs must assist the trafficked children when they are rescued and produced before the Child Welfare Committees (CWCs). They should help the CWCs in tracking out the families of the victims.
9. The PLVs must hand hold the victims when they have to testify in the Court.

10. The PLVs must be the bridge between the tribal people and the panel lawyers and must assist both the tribal person as well as the lawyer so that the case of the tribal is effectively understood and heard by the court.
11. The PLVs must also be the connect between the government departments and the tribal people to ensure that the food and rations meant for the tribal people reach them even when they live in remote and sparsely populated areas in the State.
12. Documentary proof of land is mostly not available with tribal people. The tribal people may, in such cases, need legal assistance for getting proper compensation and rehabilitation. PLVs should help the tribal people to collect all documents and other evidence so that displaced tribal people may be rehabilitated properly.
13. The PLVs must visit jails and interact with inmates to find out about their cases and report to the Full Time Secretary of the DLSA about them so that immediate follow up can be taken for their release on bail or expeditious hearing of their cases.

C. Awareness

1. Legal Awareness in Tribal area should be different than the ordinary mode of awareness programmes. Audio Visual Mode will be more useful in this respect. Awareness may be through organising cultural programmes such as dances, dramas etc. in which the involvement of tribal people must be ensured. Folk Songs and dances of such tribal people may be utilised for effectively conveying messages to them. The awareness programme in tribal area must be carefully carried out by persons having full knowledge of their problem and solutions.
2. There is requirement for spreading legal awareness amongst tribal people about forest laws and consequences of infringing the provisions of law.

3. The SLSAs should organise intensive legal awareness programme in tribal areas enlightening the Tribal community about the benefits of education, their rights and entitlements under various government schemes and benefits of modern technology which may be helpful in improving their occupational works.
4. The Tribal Community may be informed that education to their children may secure their future because such children may get jobs in public or private sector where reservation policy is applicable.
5. School legal literacy clubs should be started in tribal dominated areas to reach out to tribal children to encourage them to stay in school, while at the same time sensitising other students and teachers of the special needs of tribal children.
6. The SLSAs with the assistance of Govt. agencies and NGOs may organise training programmes by audio visual mode and also by showing them practical demonstrations of modern technology for gainful agricultural work.
7. Medical awareness programmes may be organised in tribal areas to teach them the benefits of safe drinking water, nutrition and care of pregnant women as well as immunisation programme with NGOs working in the field.
8. The SLSAs should take other initiatives like establishing a community radio in the villages to bridge linguistic divide.

THE NATIONAL LEGAL SERVICES AUTHORITY RULES, 1995

In exercise of the powers conferred by section 27 of the Legal Services Authorities Act, 1987(39 of 1987), the Central Government hereby makes the following rules, namely:-

1. Short title and commencement - (1) These rules may be called the National Legal Services Authority Rules, 1995.

(2) They shall come into force on the date of their publication in the Gazette of India.

2. Definitions. - In these rules, unless the context otherwise requires,-

(a) "Act" means the Legal Services Authorities Act,1987;

(b) "Central Authority" means the National Legal Services Authority constituted under section 3 of the Act;

(c) "member" means the Members of the Central Authority nominated under clause (c) of sub-section (2) of Section 3 of the Act;

(d) "Member-Secretary" means the Member-Secretary of the Central Authority appointed under sub-section (3) of Section 3 of the Act;

(e) all other words and expressions used in these rules but not defined shall have the same meaning assigned to them in the Act.

3. The number, experience and qualifications of other Members of the Central Authority - (1) The Central Authority shall consist of not more than twelve Members.

(2) The following shall be the ex-officio Members of the Central Authority, namely :-

[(i) Secretary, Department of Justice, Ministry of Law and Justice , Government of India or any of his nominee;]

(ii) Secretary, Department of Expenditure, Ministry of Finance, Government of India or any of his nominee; and

(iii) two Chairmen of the State Legal Services Authorities as may be nominated by the Central Government in consultation with the Chief Justice of India:

Provided that the Patron-in-Chief of the Central Authority may nominate until the constitution of State Authorities under the Act, Chairman of any two of the State Legal Aid and Advice Boards or Committees, by whatever name called, existing prior to such constitution.

(3) The Central Government may nominate, in consultation with the Chief Justice of India, other Members from amongst those possessing the experience and qualifications prescribed in sub-rule (4) of this rule.

(4) A person shall not be qualified for nomination as a member of the Central Authority unless he is :-

(a) an eminent person in the field of law; or

(b) a person of repute who is specially interested in the implementation of the Legal Services Schemes; or

(c) an eminent social worker who is engaged in the upliftment of the weaker sections of the people, including Scheduled Castes, Scheduled Tribes, women, children, rural and urban labour.

4. Appointment of Member-Secretary - The Central Government shall, in consultation with the Chief Justice of India, appoint a person to be the Member-Secretary of the Central Authority, possessing experience and qualifications as prescribed in rule 5.

5. The experience and qualifications of the Member-Secretary of the Central Authority and his powers and functions. A person shall not be qualified for appointment as Member-Secretary unless he is-

(a) an officer of the Indian Legal Services who has held a post not below the rank of Additional Secretary to the Government of India; or

(b) a member of the State Higher Judicial service who has held the post of District Judge atleast for three years; or

(c) an officer of other organised Central Services who has held a post of Joint Secretary to the Government of India or equivalent for a minimum period of three years; or

(d) an officer of the organised State Services who has held a post equivalent to the Joint Secretary to the Govt. of India for a minimum period of five years.

Preference will be given to persons possessing administrative, financial and legal aid experience.

6. Powers and Functions of the Member-Secretary :- The powers and functions of the Member-Secretary, inter alia shall be -

(a) to work out modalities of the Legal Services Schemes and Programmes approved by the Central Authority and ensure their effective monitoring and implementation throughout the country;

(b) to exercise the powers in respect of administrative, finance and budget matters as that of the Head of the Department in a Central Government;

(c) to manage the properties, records and funds of the Central Authority;

(d) to maintain true and proper accounts of the Central Authority including checking and auditing in respect thereof periodically;

(e) to prepare Annual Income and Expenditure Accounts and Balance Sheet of the Central Authority;

(f) to liaise with the Social Action Groups and the State Legal Services Authorities;

(g) to maintain up-to-date and complete statistical information, including progress made in the implementation of various Legal Services Programmes from time to time;

(h) to process project proposals for financial assistance and issue Utilisation Certificates thereof;

(i) to convene meetings/seminars and workshops connected with Legal Services Programmes and preparation of Reports and follow-up action thereon;

(j) to produce video/documentary films, publicity material, literature and publications to inform general public about the various aspects of the Legal Services Programmes; and

(k) to perform such other functions as may be expedient for efficient functioning of the Central Authority.

7. The terms of office and other conditions relating thereto, of members and Member-Secretary of the Central Authority- (1) The Members of the Central Authority nominated by the Central Government under sub-rule(3) of rule 3, shall hold office for a term of two years and a retiring Member shall be eligible for renomination for not more than one term.

(2) A member of the Central Authority nominated by the Central Government under sub-rule(3) of rule 3 may be removed by the Central Government if, in the opinion of the Central Government, it is not desirable to continue him as a member.

(3) If any member nominated under sub-rule (3) of rule 3 ceases to be a member of the Central Authority, for any reason such as resignation or death, the vacancy shall be filled up in the same manner as the original nomination and the person so nominated shall continue to be a member for the remaining term of the member in whose place he is nominated.

(4) All members nominated under sub-rule(3) of rule 3 shall be entitled to payment of travelling allowance and daily allowance in respect of journeys performed in connection with the work of the Central Authority and shall be paid by the Central Authority in accordance with the rules as are applicable to Grade “A” officers, as amended from time to time.

(5) If a nominated member is a government employee, he shall be entitled to only one set of travelling allowance and daily allowance either from his parent department, or, as the case may be, from the Central Authority.

(6) The Member-Secretary shall hold office for a term not exceeding five years or till the age of 62 years, whichever is earlier.

(7) In all matters like pay, allowances, benefits and entitlements, the Member-Secretary shall be governed by rules as are applicable to the persons holding equivalent posts in the Central Government.

(8) If an officer of the State Higher Judicial Service, or, as the case may be, of other organised Central/State Services, is appointed as Member-Secretary, he shall be governed by the service conditions of his parent cadre, in so far as disciplinary matters are concerned.

(9) The appointment of the Member-Secretary may be on deputation basis.

8. The number of officers and other employees of the Central Authority-

The Central Authority shall have such number of officers and other employees for rendering secretarial assistance and for its day to day functions as are set out in Schedule to these rules or as may be notified by the Central Government from time to time.

9. The conditions of service and the salary and allowances of officers and other employees of the Central Authority under sub-section (6) of section 3-

(1) The officers and other employees of the Central Authority shall be entitled to draw pay and allowances in the scale of pay indicated against each post in the Schedule to these rules or at par with the Central Government employees holding equivalent posts.

(2) In all matters like age of retirement, pay and allowances, benefits and entitlements and disciplinary matters, the officers and other employees of the Central Authority shall be governed by the Central Government as are applicable to persons holding equivalent posts.

(3) The officers and other employees of the Central Authority shall be entitled to such other facilities and benefits as may be notified by the Central Government from time to time.

10. The number, experience and qualifications of Members of the Supreme Court Legal Services Committee under clause (b) of sub-section (2) of section 3-A. -(1) The Supreme Court Legal Services Committee shall consist of not more than nine Members.

(2) The following shall be the ex officio Members of the Supreme Court Legal Services Committee:-

(i) Attorney General of India.

(ii) Joint Secretary, Department of Justice, Ministry of Law and Justice, Government of India;]

(iii) Additional Secretary in the Department of Expenditure, Ministry of Finance, Government of India or his nominee; and

(iv) Registrar General of the Supreme Court of India.

(3) The Central Government may nominate, in consultation with the Chief Justice of India, other members from amongst those possessing the qualification and experience prescribed in sub-rule(4) of this rule.

(4) A person shall not be qualified for nomination as a Member unless he is -

(a) an eminent person in the field of law; or

(b) a person of repute who is specially interested in the implementation of the Legal Services Schemes; or

(c) an eminent social worker who is engaged in the upliftment of the weaker sections of the people including Scheduled Castes, Scheduled Tribes, women, children, rural and urban labour.

11. The experience and qualifications of Secretary of the Supreme Court Legal Services Committee under sub-section (3) of section 3-A.- A person shall not be qualified for appointment as Secretary unless he is-

(i) an officer of the Supreme Court Registry not below the rank of Joint Registrar; or

(ii) officer of the rank of Director from the Central Government, possessing a degree of Law.

12. The upper limit of annual income of a person entitling him to legal services under clause (h) of section 12, if the case is before the Supreme Court.- Any citizen of India whose annual income from all sources does not exceed Rs.50,000/- (Rupees Fifty Thousand) shall be entitled to legal services under clause (h) of section 12 of the Act.

[12-A. The Central Authority, State Authorities and the District Authorities, shall maintain their accounts and prepare their annual statement of accounts in the forms appended to these rules.]

13. The experience and qualifications of other persons of the Lok Adalats organised by the Supreme Court Legal Services Committee specified in sub-section(3) of section 19.- A person shall not be qualified to be included in the Lok Adalat unless he is-

- (a) a member of the legal profession; or
- (b) a person of repute who is specially interested in the implementation of the Legal Services Schemes and Programmes; or
- (c) an eminent social worker who is engaged in the upliftment of the weaker sections of the people including Scheduled Castes, Scheduled Tribes, women, children, rural and urban labour.

SCHEDULE
PROPOSED STRENGTH OF THE STAFF OF THE NATIONAL LEGAL SERVICES
AUTHORITY CONSEQUENT UPON THE ENFORCEMENT OF
THE LEGAL SERVICES AUTHORITIES ACT

S. No.	Designation	Scale of pay	No. of posts
I. OFFICERS			
1.	Member-Secretary	Rs. 7300-7600	1
2.	Deputy Secretary	Rs. 3700-5000	2
3.	Private Secretary	Rs. 3000-4500	3
4.	Section Officer	Rs. 2000-3500	4
TOTAL:			<u>10</u>
II. ESTABLISHMENT			
1.	Accountant	Rs. 1640-2900	1
2.	Assistant	Rs. 1640-2900	2
3.	Steno Gr. 'C'	Rs. 1640-2900	3
4.	Social Science Research Assistant	Rs. 1400-2600	1
5.	Printing Assistant	Rs. 1400-2600	1
6.	Librarian	Rs. 1200-2040	1
7.	Steno Typist	Rs. 1200-2040	4
8.	Cashier	Rs. 1200-2040*	1*
9.	Lower Division Clerk	Rs. 950-1500	8
10.	Staff Car Driver	Rs. 950-1500	4
11.	Jamadar	Rs. 775-1025	3
12.	Daftry	Rs. 775-1025	2
13.	Gestetner/Plain Paper Copier Operator	Rs. 750-940*	1
14.	Peon	Rs. 750-940	6
15.	Farash	Rs. 750-940	2
16.	Safaiwala	Rs. 750-940	2
TOTAL:			<u>42</u>
GRAND TOTAL OF OFFICERS AND STAFF			
			<u>52</u>

*With Special pay.

⁴[FORM 1

Income and Expenditure Account for the period/Year ended.....
Name of Authority/Committee.....

(Amount-Rs.)

<i>Income</i>	Appendix	Current year	Previous year
Income from Sales/Services	12
Grants/Subsidies	13
Fees/Subscriptions	14
Income from Investments (Income on Investment from earmarked/endowment Funds transferred to Funds)	15
Income from Royalty, Publication, etc.	16
Interest earned	17
Other Income	18
Increase/(decrease) in stock of finished goods and works-in-progress	19
Total (A)			
<i>Expenditure</i>			
Establishment Expenses	20
Other Administrative Expenses, etc.	21
Expenditure on Grants, Subsidies, etc.	22
Interest	22
Depreciation. (Net total at the end of year corresponding to Appendix 8)	23
Total (B)	
Balance being excess of Income over Expenditure (A-B)		
Transfer to Special Reserve (Specify each)	
Transfer to/from General Reserve	
Balance being Surplus/Deficit, Carried to Corpus/Capital Fund	
Significant Accounting Policies	24		
Contingent Liabilities and Notes on Accounts	25		

4. Added by G.S.R. 86(E), dated 22-2-2005 (w.e.f. 22-2-2005).

FORM 1-A

Appendix forming part of Income and Expenditure for the period/Year ended.....

Name of Authority/Committee.....

(Amount-Rs.)

	Current Year	Previous Year
APPENDIX 12—INCOME FROM SALES/SERVICES		
1. Income from Sales		
(a) Sale of Finished Goods		
(b) Sale of Raw Material		
(c) Sale of Scraps		
2. Income from Services		
(a) Labour and Processing Charges		
(b) Professional/Consultancy Services		
(c) Agency Commission and Brokerage		
(d) Maintenance Services (Equipment/Property)		
(e) Others (Specify)		
Total		

FORM 1-B

Appendix forming part of Income and Expenditure for the period/Year ended.....
Name of Authority/Committee.....

(Amount-Rs.)

	Current Year	Previous Year
APPENDIX 13—GRANTS/SUBSIDIES (Irrevocable Grants and Subsidies Received)		
1. Central Government 2. State Government(s) 3. Government Agencies 4. Institutions/Welfare Bodies 5. International Organisations 6. Others (Specify)		
Total		

FORM 1-C

Appendix forming part of Income and Expenditure for the period/Year ended.....
Name of Authority/Committee.....

(Amount-Rs.)

	Current Year	Previous Year
APPENDIX 14—FEES/SUBSCRIPTIONS		
1. Entrance Fees 2. Annual Fees/Subscriptions 3. Seminar/ Program Fees 4. Consultancy Fees 5. Others (Specify)		
Total		
<i>Note.—Accounting Policies towards each item are to be disclosed.</i>		

FORM 1-D

Appendix forming part of Income and Expenditure for the period/Year ended.....

Name of Authority/Committee.....

(Amount-Rs.)

APPENDIX 15—INCOME FROM INVESTMENTS (Income on Invest from Earmarked/Endowment Funds transferred to Funds)	Investment from earmarked Fund		Investment-Others	
	Current year	Previous year	Current year	Previous year
1. Interest				
(a) On Government Securities				
(b) Other Bonds/Debentures				
2. Dividends:				
(a) On Shares				
(b) On Mutual Fund Securities				
3. Rents				
4. Others (Specify)				
Total				
Transferred to Earmarked/Endowment Funds				

FORM 1-E

Appendix forming part of Income and Expenditure for the period/Year ended.....

Name of Authority/Committee.....

(Amount-Rs.)

APPENDIX 16—INCOME FROM ROYALTY, PUBLICATION, ETC.	Current Year		Previous Year	
1. Income from Royalty				
2. Income from Publications				
3. Others (Specify)				
Total				

FORM 1-F

Appendix forming part of Income and Expenditure for the period/Year ended.....

Name of Authority/Committee.....

(Amount-Rs.)

	Current Year	Previous Year
APPENDIX 17—INTEREST EARNED		
1. On Term Deposits		
(a) With Scheduled Banks		
(b) With Non-Scheduled Banks		
(c) With Institutions		
(d) Others		
2. On Savings Accounts:		
(a) With Scheduled Banks		
(b) With Non-Scheduled Banks		
(c) Post Office Savings Accounts		
(d) Others		
3. On Loans:		
(a) Employees/Staff		
(b) Others		
4. Interest on Debtors and Other Receivables		
Total		
<i>Note.—Tax deducted at source to be indicated</i>		

FORM 1-G

*Appendix forming part of Income and Expenditure for the period/Year ended.....**Name of Authority/Committee.....*

(Amount-Rs.)

	Current Year	Previous Year
APPENDIX 18—OTHER INCOME		
1. Profit on Sale/Disposal of Assets:		
(a) Owned assets		
(b) Assets acquired out of grants, or received free of cost		
2. Export Incentives realized		
3. Fees for Miscellaneous Services		
4. Miscellaneous Income		
Total		

FORM 1-H

Appendix forming part of Income and Expenditure for the period/Year ended.....

Name of Authority/Committee.....

(Amount-Rs.)

	Current Year	Previous Year
APPENDIX 19—INCREASE/DECREASE IN STOCK OF FINISHED GOODS AND WORK-IN-PROGRESS		
(a) Closing stock		
—Finished Goods		
—Work-in-progress		
(b) Less: Opening Stock		
—Finished Goods		
—Work-in-progress		
Net Increase/Decrease (a-b)		

FORM 1-I

Appendix forming part of Income and Expenditure for the period/Year ended.....

Name of Authority/Committee.....

(Amount-Rs.)

	Current Year	Previous Year
APPENDIX 20—ESTABLISHMENT EXPENSES		
(a) Salaries and Wages		
(b) Allowances and Bonus		
(c) Contribution to Provident Fund		
(d) Contribution to Other Fund (specify)		
(e) Staff Welfare Expenses		
(f) Expenses on Employees' Retirement and Terminal Benefits		
(g) Others (Specify)		
Total		

FORM 1-J

*Appendix forming part of Income and Expenditure for the period/Year ended.....
Name of Authority/Committee.....*

(Amount-Rs.)

	Current Year	Previous Year
APPENDIX 21—OTHER ADMINISTRATIVE EXPENSES, ETC.		
(a) Purchases		
(b) Labour and Processing expenses		
(c) Cartage and Carriage Inwards		
(d) Electricity and Power		
(e) Water Charges		
(f) Insurance		
(g) Repairs and Maintenance		
(h) Excise Duty		
(i) Rent, Rates and Taxes		
(j) Vehicles Running and Maintenance		
(k) Postage, Telephone and Communication Charges		
(l) Printing and Stationery		
(m) Travelling and Conveyance Expenses		
(n) Expenses on Seminar/Workshops		
(o) Subscription Expenses		
(p) Expenses on Fees		
(q) Auditors Remuneration		
(r) Hospitality Expenses		
(s) Professional Charges		
(t) Provision for Bad and Doubtful Debts/Advances		
(u) Irrecoverable Balance Written-off		
(v) Packaging Charges		
(w) Freight and Forwarding Expenses		
(x) Distribution Expenses		
(y) Advertisement and Publicity		
(z) Others (Specify)		
Total		

FORM 1-K

Appendix forming part of Income and Expenditure for the period/Year ended.....
Name of Authority/Committee.....

(Amount-Rs.)

	Current Year	Previous Year
APPENDIX 22—EXPENDITURE ON GRANTS, SUBSIDIES, ETC.		
(a) Grants given to Institutions/Organisations (b) Subsidies given to Institutions/Organisations		
Total		
<i>Note.—Name of the entities, their activities alongwith the amount of Grants/Subsidies are to be disclosed.</i>		

FORM 1-L

Appendix forming part of Income and Expenditure for the period/Year ended.....
Name of Authority/Committee.....

(Amount-Rs.)

	Current Year	Previous Year
APPENDIX 23—INTEREST		
(a) On Fixed Loans (b) On Other Loans (Including Bank Charges) (c) Others		
Total		

FORM 2

Balance Sheet as on.....

Name of Authority/Committee.....

(Amount-Rs.)

	Appendix	Current year		Previous year	
	
<i>Corpus/Capital Fund and Liabilities</i>					
Corpus/Capital Fund	1
Reserves and Surplus	2
Earmarked/Endowment Funds	3
Secured Loans and Borrowings	4
Unsecured Loans and Borrowings	5
Deferred Credit Liabilities	6
Current Liabilities and Provisions	7
Total					
<i>Assets</i>					
Fixed Assets	8
Investments-from Earmarked/Endowment Funds	9
Investments-Others	10
Current Assets, Loans, Advances, etc.	11
Miscellaneous Expenditure (to the extent not written off or adjusted)					
Total					
Significant Accounting Policies	24				
Contingent Liabilities and Notes on Accounts	25				

FORM 2-A

Appendix forming part of Balance Sheet as on.....
Name of Authority/Committee.....

	Current Year		Previous Year	

APPENDIX 24—CORPUS/CAPITAL FUND:				
Balance on the beginning of the year
Add Contributions towards Corpus/Capital Fund
Add/(Deduct): Balance of net income (expenditure) transferred from the Income and Expenditure Account.
Balance as on the end of the Year				

FORM 2-B

Appendix forming part of Balance Sheet as on.....
Name of Authority/Committee.....

APPENDIX 25—RESERVES AND SURPLUS:	Current Year		Previous Year	
1. Capital Reserves:				
As per last Account				
Addition during the year				
Less deductions during the year				
2. Revaluation Reserve:				
As per last Account				
Addition during the year				
Less deductions during the year				
3. Special Reserves:				
As per last Account				
Addition during the year				
Less deductions during the year				
4. General Reserve:				
As per last Account				
Addition during the year				
Less deductions during the year				
Total				

FORM 2-C

Appendix forming part of Balance Sheet as on.....
 Name of Authority/Committee.....

APPENDIX 26—EARMARKED/ENDOWMENT FUNDS:	Fund-Wise break up				Total	
	Name of Fund	Name of Fund	Name of Fund	Name of Fund	Current Year	Previous Year
(a) Opening balance of the Fund						
(b) Additions to the Funds:						
(i) Donations/grants						
(ii) Income from Investments made on account of Funds						
(iii) Other additions (specify nature)						
Total (a+b)						
(c) Utilisation/Expenditure towards objectives of Funds						
(i) Capital Expenditure						
—Fixed Assets						
—Others						
—Total						
(ii) Revenue Expenditure						
—Salaries, Wages and Allowances, etc.						
—Rent						
—Other Administrative expenses						
—Total						
Total (c)						
Net Balance as on the end of the Year (a+b+c)						

Note 1.—Disclosures shall be made under relevant heads based on conditions attaching to the grants.

Note 2.—Plan Funds received from the Central/State Governments are to be shown as separate Fund and not to be mixed up with any other Fund.

FORM 2-D

Appendix forming part of Balance Sheet as on.....
 Name of Authority/Committee.....

(Amount-Rs.)

	Current Year	Previous Year
APPENDIX 27—SECURED LOANS AND BORROWINGS:		
1. Central Government		
2. State Government		
3. Financial Institutions		
(a) Term Loans		
(b) Interest accrued and due		
4. Banks		
(a) Term Loans		
—Interest accrued and due		
(b) Other Loans		
—Interest accrued and due		
5. Other Institutions and Agencies		
6. Debentures and Bonds		
7. Others		
Total		
Note.— Amounts due within one year.		

FORM 2-E

Appendix forming part of Balance Sheet as on.....
Name of Authority/Committee.....

(Amount-Rs.)

	Current Year	Previous Year
APPENDIX 28—UNSECURED LOANS AND BORROWINGS:		
1. Central Government		
2. State Government		
3. Financial Institutions		
4. Banks:		
(a) Term Loans		
(b) Other Loans		
5. Other Institutions and Agencies		
6. Debentures and Bonds		
7. Fixed Deposits		
8. Other		
Total		
Note.— Amounts due within one year.		

FORM 2-F

Appendix forming part of Balance Sheet as on.....
Name of Authority/Committee.....

(Amount-Rs.)

	Current Year	Previous Year
APPENDIX 29—DEFERRED CREDIT LIABILITIES:		
(a) Acceptances Secured by hypothecation of capital equipment and other assets.		
(b) Others		
Total		
Note.—Amounts due within one year.		

FORM 2-G

Appendix forming part of Balance Sheet as on.....
Name of Authority/Committee.....

(Amount-Rs.)

APPENDIX 30—CURRENT LIABILITIES AND PROVISIONS:		
	Current Year	Previous Year
A. Current Liabilities		
1. Acceptances		
2. Sundry Creditors:		
(a) For Goods		
(b) Others		
3. Advances received		
4. Interest accrued but not due on:		
(a) Secured loans/borrowings		
(b) Unsecured loans/borrowings		
5. Statutory Liabilities:		
(a) Overdue		
(b) Others		
6. Other Current Liabilities		
Total (A)		
B. Provisions		
1. For Taxation		
2. Gratuity		
3. Superannuation/Pension		
4. Accumulated Leave Encashment		
5. Trade Warranties/Claims		
6. Others		
Total (B)		

FORM 2-H

Appendix forming part of Balance Sheet as on.....

Name of Authority/Committee.....

APPENDIX 31—FIXED ASSETS:

Description

Description	Gross Block						Depreciation		(Amount-Rs.)	
	Cost/valuation as on beginning of the year	Additions during the year	Deductions during the year	Cost/valuation at the end of the year	As on the beginning of the year	On Additions during the year	On Deductions during the year	Total up to the end of the year	As on the end of Current Year	As on the end of Previous Year
A. Fixed Assets:										
1. Land										
(a) Freehold										
(b) Leasehold										
2. Buildings:										
(a) On Freehold Land										
(b) On Leasehold Land										
(c) Ownership Flats/Premises										
(d) Superstructures on Land not belonging to the entity										
3. Plant, Machinery and Equipment										
4. Vehicles										
5. Furniture, Fixtures										
6. Office Equipment										
7. Computer/Peripherals										
8. Electric Installations										
9. Library Books										
10. Tubewells and Water Supply										
11. Other Fixed Assets										
Total of Current Year										
Total of Previous Year										
B. Capital Work-in-Progress										
Total										

Note.—To be given as to cost of assets on hire-purchase basis included above.

FORM 2-I

Appendix forming part of Balance Sheet as on.....
Name of Authority/Committee.....

(Amount-Rs.)

	Current Year	Previous Year
APPENDIX 32—INVESTMENTS FROM EARMARKED/ENDOWMENT FUNDS:		
1. In Government Securities		
2. Other Approved Securities		
3. Shares		
4. Debentures and Bonds		
5. Subsidiaries and Joint Ventures		
6. Others		
Total		

FORM 2-J

Appendix forming part of Balance Sheet as on.....

Name of Authority/Committee.....

(Amount-Rs.)

	Current Year	Previous Year
APPENDIX 33—INVESTMENTS—OTHERS		
1. In Government Securities		
2. Other Approved Securities		
3. Shares		
4. Debentures and Bonds		
5. Subsidiaries and Joint Ventures		
6. Others		
Total		

FORM 2-K

Appendix forming part of Balance Sheet as on.....

Name of Authority/Committee.....

(Amount-Rs.)

APPENDIX 34—CURRENT ASSETS, LOANS, ADVANCES, ETC.:	Current Year		Previous Year	
A. Current Assets				
1. Inventories:				
(a) Stores and Spares				
(b) Loose Tools				
(c) Stock-in-trade				
Finished Goods				
Work-in-progress				
Raw Materials				
2. Sundry Debtors:				
(a) Debts Outstanding for a period exceeding six months				
(b) Others				
3. Cash balances in hand (including cheques/drafts and imprest)				
4. Bank Balances				
(a) With Scheduled Bank:				
—On Current Accounts				
—On Deposit Accounts (includes margin money)				
—On Savings Accounts				
(b) With non-Scheduled Banks:				
—On Current Accounts				
—On Deposit Accounts				
—On Saving Accounts				
5. Post Office-Savings Accounts				
Total (A)				

B. Loans, Advances and Other Assets				
1.	Loans:			
	(a) Staff			
	(b) Other Entities engaged in activities/objectives similar to that of the Entity			
	(c) Other (Specify)			
2.	Advances and other amounts recoverable in cash or in kind or for value to be received:			
	(a) On Capital Account			
	(b) Repayments			
	(c) Others			
3.	Income Accrued:			
	(a) On Investments from Earmarked/Endowment Funds			
	(b) On Investments—Others			
	(c) On Loans and Advances			
	(d) Others			
	(includes income due unrealised-Rs.....)			
4.	Claims Receivable			
Total (B)				
Total (A+B)				

FORM 3

Appendix forming part of Accounts for the Period/Year ended.....

Name of Authority/Committee.....

Significant Accounting Policy Certificates

1. Accounting Convention

The financial statements are prepared on the basis of historical cost convention, unless otherwise stated and on the actual method of accounting.

2. Inventory Valuation

1. Stores and Spares (including machinery spares) are valued at cost.
2. Raw materials, semi-finished goods and finished goods are valued at lower of cost and net realizable value. The costs are based on weighted average cost. Cost of finished goods and semi-finished goods is determined by considering material, labour and related overhead.

3. Investments

- (1) Investments classified as "long term investments" are carried at cost. Provision for decline, other than temporary, is made in carrying cost of such investments.
- (2) Investments classified as "Current" are carried at lower of cost and fair value. Provision for shortfall on the value of such investments is made for each investment considered individually and not on a global basis.
- (3) Cost includes acquisition expenses like brokerage, transfer stamps.

4. Excise Duty

Liability for excise duty in respect of goods produced by the entity, other than for exports, is accounted upon completion of manufacture and provision is made for excisable manufactured goods as at the year-end.

5. Fixed Assets

- (1) Fixed Assets are stated at cost of acquisition inclusive of inward freight, duties and taxes and incidental and direct expenses related to acquisition in respect of projects involving construction, related pre-operational expenses (including interest on loans for specific project prior to its completion), form part of the value of the assets capitalized.
- (2) Fixed Assets received by way of non-monetary grants (other than towards the Corpus Fund), are capitalised at values stated, by corresponding credit to Capital Reserve.

6. Depreciation

- (1) Depreciation is provided on straight-line method as per rates specified in the Income-tax Act, 1961, except depreciation on cost adjustments arising on account of conversion of foreign currency liabilities for acquisition of fixed assets, which is amortized over the residual life of the respective assets.
- (2) In respect of additions to/deductions from fixed assets during the year, depreciation is considered on pro-rata basis.
- (3) Assets costing Rs. 5,000 or less each are fully provided.

7. Miscellaneous Expenditure

Deferred revenue expenditure is written off over a period of 5 years from the year it is incurred.

8. Accounting for Sales

Sales include excise duty and are net of sales returns, rebate and trade discount.

9. Government Grants/Subsidies

- (1) Government grants of the nature of contribution towards capital cost of setting up projects are treated as Capital Reserve.
- (2) Grants in respect of specific fixed assets acquired are shown as a deduction from the cost of the related assets.
- (3) Government grants/subsidy are accounted on realisation basis.

10. Foreign Currency Transactions

- (1) Transactions denominated in foreign currency are accounted at the exchange rate prevailing at the date of the transaction.
- (2) Current assets, foreign currency loans and current liabilities are converted at the exchange rate prevailing as at the year end and the resultant gain/loss is adjusted to cost of fixed assets, if the foreign currency liability relates to fixed assets, and in other cases is considered to revenue.

11. Lease

Lease rentals are expensed with reference to lease terms.

12. Retirement Benefits

- (1) Liability towards gratuity payable on death/retirement of employees is accrued based on actuarial valuation.
- (2) Provision for accumulated leave encashment benefit to the employees is accrued and computed on the assumption that employees are entitled to receive the benefit as at each year end.

FORM 4

*Appendix forming part of Accounts for the Period/Year ended.....
Name of Authority/Committee.....*

Certificates in respect of Contingent Liabilities and Notes on Accounts (Illustrative)

1. Contingent Liabilities

- (1) Claims against the Entity acknowledged as debts—Rs._____ (Previous Year Rs._____)
- (2) In respect of
 - Bank Guarantees given by/on behalf of the Entity—Rs._____ (Previous Year Rs._____)
 - Letters of Credit opened by Bank on behalf of the Entity Rs._____ (Previous Year Rs._____)
 - Bills discounted with Banks Rs._____ (Previous Year Rs._____)

(3) Disputed demands in respect of

- Income-tax Rs._____ (Previous year Rs._____)
- Sales-tax Rs._____ (Previous year Rs._____)
- Municipal Tax _____ (Previous year Rs._____)

- (4) In respect of claim from parties for non-execution of orders, but contested by the Entity Rs._____ (Previous year Rs._____)

2. Capital Commitments

- Estimated value of contracts remaining to be executed on capital account and not provided for (net of advances) Rs._____ (Previous year Rs._____)

3. Lease Obligations

- Future obligations for rentals under finance lease arrangements for plant and machinery amount to Rs._____ (Previous year Rs._____)

4. Current Assets, Loans and Advances

In the opinion of the management, the current assets, loans and advances have a value on realisation in the ordinary course of business, equal at least to the aggregate amount shown in the Balance Sheet.

5. Taxation

In view of there being no taxable income under Income-tax Act, 1961, no provision for Income tax has been considered necessary.

	(Amount-Rs.)	Previous Year
	Current Year	
6. Foreign Currency Transactions		
(1) Value of Imports Calculated on C.I.F. Basis		
—Purchase of finished Goods		
—Raw Materials & Components (including in transit)		
—Capital Goods		
—Stores, Spares and Consumables		
(2) Expenditure in foreign currency		
(a) Travel		
(b) Remittances and Interest payment to Financial Institutions/Banks in Foreign Currency		
(c) Other expenditure		
—Commission on Sales		
—Legal and Professional Expenses		
—Miscellaneous Expenses		
(3) Earnings:		
Value of Exports on FOB basis		
(4) Remuneration to auditors:		
As Auditors		
—Taxation matters		
—For Management services		
—For certification		
Others		
7. Corresponding figures for the previous year have been regrouped/rearranged, wherever necessary.		
8. Appendix 1 to 23 are annexed to and form an integral part of the Balance Sheet as at.....and the Income and Expenditure Account for the year ended on that date.		

FORM 5

Receipts and Payments for the period/Year ended.....

Name of Authority/Committee.....

(Amount-Rs.)

Receipts	Current Year	Previous Year	Payments	Current Year	Previous Year]
I Opening Balances (a) Cash in hand (b) Bank Balances (i) In current accounts (ii) In deposit accounts (iii) Saving accounts			I Expenses (a) Establishment Expenses (Corresponding to Schedule 20) (b) Administrative Expenses (Corresponding to Schedule 21)		
II Grants Received (a) From Government of India (b) From State Government (c) From Other sources (details) (Grants for capital & revenue expenditure—To be shown separately)			II Payments made against funds for various Projects (Name of the fund or project should be shown alongwith the particulars of payments made for each project).		
III Income on Investments from (a) Earmarked/Endowment Funds (b) Own Funds (Other Investment)			III Investments and deposits made (a) Out of Earmarked/Endowment funds (b) Out of Own Funds (Investment others)		
IV Interest Received (a) On Bank deposits (b) Loans, Advances, etc.,			IV Expenditure on Fixed Assets & Capital Work-in-progress. (a) Purchase of Fixed Assets. (b) Expenditure on Capital Work-in-progress.		
V Other Income (Specify)			V Refund of surplus money/Loans (a) To the Government of India (b) To the State Government (c) To other providers of funds		
VI Amount Borrowed			VI Finance Charges (Interest)		
VII Any other receipts (give details)			VII Other Payments (Specify)		
Total			VIII Closing Balances (a) Cash in hand (b) Bank Balances (i) In current accounts (ii) In deposit accounts (iii) Savings accounts		
			Total.		



SCHEME FOR PARA-LEGAL VOLUNTEERS (REVISED)

&

MODULE FOR THE ORIENTATION - INDUCTION - REFRESHER COURSES FOR PLV TRAINING

NATIONAL LEGAL SERVICES AUTHORITY
12/11, JAM NAGAR HOUSE, SHAHJAHAN ROAD, NEW DELHI – 110 001.
TEL: 91-11-23382778 FAX: 23382121
E-MAIL: nalsa-dla@nic.in
Website: www.nalsa.gov.in

SCHEME FOR PARA-LEGAL VOLUNTEERS (REVISED)

INTRODUCTION

During the year 2009 National Legal Services Authority (NALSA) brought out a scheme called the Para-Legal Volunteers Scheme which aimed at imparting legal training to volunteers selected from different walks of life so as to ensure legal aid reaching all sections of people through the process of Para-Legal Volunteers Scheme; ultimately removing the barriers into access to justice. The Para-Legal Volunteers (PLVs) are expected to act as intermediaries bridging the gap between the common people and the Legal Services Institutions to remove impediments in access to justice. Ultimately, the process aims at Legal Services Institutions reaching out to the people at their doorsteps rather than people approaching such Legal Services Institutions.

The western concept of 'Paralegals' cannot be totally adopted to Indian conditions having regard to illiteracy of large sections of the community: The hours of training as applicable to a regular academic course, cannot be adopted. It should be more like a bridge course conceptualised in a simple and need-based module. The PLVs have to be trained in the basics of different Laws which would be applicable at the grassroot level with reference to their day-to-day life, the subtle nuances employed in the working of a judicial system, and the functioning of various other stakeholders like the Police, officials from Social Welfare Department, Woman and Child Welfare Department and other departments dealing with different beneficial schemes of Central and State Governments including the protection officers involved with Domestic Violence and Juvenile Justice Acts.

With the basic knowledge in the laws and other available welfare measures and legislation, they would be able to assist their immediate neighbourhood; Those who are in need of such assistance, so that a person, who is not aware of such right is not only made to understand his rights, but also will be able to have access to measures involving implementation of such rights.

PLVs are not only expected to impart awareness on laws and the legal system, but they must also be trained to counsel and amicably settle simple disputes between the parties at the source itself; which could save the trouble of the affected travelling all the way to the Legal Services Authority/ADR Centres. If the dispute is of such a nature, which cannot be resolved at the source with the assistance of PLVs, they could bring such parties to the ADR Centres, where, with the assistance of the Secretary in charge either it could be referred to Lok Adalat or Mediation Centre or Legal assistance could be provided for adjudication in a court of law; depending upon the nature of problem.

Though initially the NALSA Scheme of training of the PLVs included the legal fraternity of Advocates, Advocate community, later on experience revealed, the same to be unfeasible on account of conflict with the professional status of Advocates. The reality that marginalised people living in distant places will not have the benefit of lawyer PLVs also contributed to the practice being discontinued, and NALSA deciding that Advocates shall not be enlisted or engaged as PLVs.

The past experience gained from the working of the system after 2009 and also ground realities ascertained from the paralegals in the respective jurisdiction showed us that there has to be a re-look into the entire matter and who best could fit the role of a Para-Legal Volunteer. Initially, the training programme of PLVs was only for two-three days. Since the obligations of PLVs were vast in nature, it was felt, there has to be longer duration of training provided to the PLVs. At the same time, the training curriculum for PLVs adopted by NALSA cannot be such as to be training PLVs to become full-fledged lawyers. PLVs are not expected to conduct themselves as legal professionals. The aim of the training should concentrate on basic human qualities like compassion, empathy and a genuine concern and willingness to extend voluntary service without expectation of monetary gain from it. Then the line separating PLVs from professional lawyers should be zealously guarded.

MODALITIES

- Ideally every Taluk Legal Services Committee (TLSC) shall have a panel of PLVs; of a maximum number of 25 (50) on their roll at any given point of time. The District Legal Services Authority (DLSA) shall have 50 (100) active PLVs on their roll.
- PLVs shall be literate, preferably matriculate, with a capacity for overall comprehension.
- Preferably PLVs shall be selected from persons, who do not look up to the income they derive from their services as PLVs, but they should have a mind-set to assist the needy in the society coupled with the compassion, empathy and concern for the upliftment of marginalised and weaker sections of the society. They must have unflinching commitment towards the cause which should be translated into the work they undertake.

GROUPS from whom Para-Legal Volunteers can be selected

- Teachers (including retired teachers)
- Retired Government servants and senior citizens.
- M.S.W students and teachers.
- Anganwadi Workers.
- Doctors/Physicians.
- Students & Law Students (till they enroll as lawyers).
- Members of non-political, service oriented NGOs and Clubs.

- Members of Women Neighbourhood Groups, Maithri Sanghams and other Self Help Groups including of marginalized/vulnerable groups.
- Educated prisoners with good behaviour, serving long term sentences in prisons.
- Any other person whom the District Legal Services Authority or Taluk Legal Services Committee deems fit to be identified as PLVs.

Selection of PLVs - District Level

Selecting the PLVs shall be by a Committee chaired by the Chairman of the District Legal Services Authority. The Secretary shall be one of the Members of the Committee. The Committee shall consist in all of three members including the Chairman and the Secretary shall be one of the Members of the Committee. The third member, to be appointed at the discretion of the Chairman of the DLSA, shall be one capable of identifying suitable persons, who could be trained as PLVs. This selection process shall not be entrusted to any other body.

Selection of PLVs - Taluk Level

The Chairman of the District Legal Services Authority shall constitute a Committee consisting of the Chairman of DLSA, Member Secretary of DLSA and the Chairman of TLSC and a fourth person at the discretion of the Chairman of DLSA. The place of interview for Taluk Level PLVs shall be at the discretion of the Chairman of DLSA. The Member Secretary of DLSA shall co-ordinate with the selection process.

Empanelment process

Applications may be invited from the local residents by the respective DLSAs and TLSCs or Sub Divisional Legal Services Committee. There could be an advertisement, if required. Copies of either the advertisement or notice calling for applications could be sent to the offices of the Bar Association, Notice Board of the Court premises, Legal Services Authority Offices and District Panchayat Offices. The advertisement shall state the qualifications required for selection as PLVs as stated above with last date for the receipt of applications at the office of DLSA. There shall be a column in the application, wherein the candidate has to express willingness or place of preference to work at either district-level or taluk-level or village-level. In the advertisement there shall be clear mentioning that the work of PLVs does not carry any salary, remuneration or wages except honorarium fixed by the DLSA from time to time.

Method of Selection

The Selection Committee is entitled to use its discretion and shortlist the number of candidates for interview depending upon the number of applications received. Preference shall be given to women while selecting PLVs. Representation from suitable applicants belonging to SC/ST, minority and other backward classes must be ensured.

Training of PLVs

Under the supervision of Chairman of DLSA, PLVs shall undergo training programme, totally under the control of the Member Secretary. The training shall be held at a convenient place subject to discretion of the Chairman of DLSA. The number of PLVs to be trained at any given point of time in a training programme shall not exceed 50. Wherever the State Judicial Academy has facilities for training, the same may be availed of. The expenses for the training shall be incurred by the Judicial Academy for providing such facility to be reimbursed by the State Government/DLSA concerned.

Trainers/Resource Persons

- In consultation with the State Legal Services Authority, the Chairman of DLSA shall identify the trainers for training the PLVs and other resource persons.
- Suitable persons from the members of the Bar with training skills shall be included in the list of resource persons.
- Others could include:
- NGOs associated with the activities of Legal Services Authority, i.e., persons, who are exposed to the nature of work of the Legal Services Authority.
- Master Trainers of mediation.
- Law Teachers from Law Colleges.
- Post-Graduate students of Law.
- Retired Professors of Law.
- Retired Judicial Officers.
- Revenue Officers.
- Officers from Social Welfare Department,.
- Public Prosecutors.
- Police Officers.
- Psychiatrists/Psychologists/Mental Health experts.

Nature of Training

Training that is to be provided to the PLVs would be in accordance with the curriculum prescribed by the NALSA and will be in the following formant:

- (a) Orientation Programme.
- (b) Basic training.
- (c) Refresher course.

There shall be periodical refresher training in order to assess the quality of work turned out by the PLVs. The Legal Services Authorities need to assess the work of PLVs and assist them to identify the deficits and how to tackle the problems faced by the PLVs after their experience in the field. There shall be annual congregation of PLVs so as to facilitate an exchange of experience. There shall be district-wise half-yearly meetings of PLVs to resolve their doubts and facilitate the acquisition of knowledge and upgradation of their skills as per the module.

PLVs shall create awareness among citizens of the benefits of settlement of pending cases through Lok Adalats including the fact that the parties are entitled to refund of court fee and that there shall be no appeal.

Topics for Training

A uniform training module for PLVs shall be prepared by NALSA which shall be applicable to the entire country and the module shall have a special emphasis on the conduct and behaviour of PLVs. The module so prepared shall be translated into regional languages.

Identity Cards

After completion of the training by the District Legal Services Authority, the PLVs may be subjected to a written and oral test before the PLVs are declared to have successfully completed the training. On being declared successful, they may be given identity cards bearing the emblem of the District Legal Services Authority. The identity card shall have (i) serial number; (ii) name and address of the PLV; (iii) contact number of the PLV; (iv) photograph of the PLV; (v) the date of issue and the period of validity of the identity card. It shall be clearly printed on the reverse side of the identity card that the loss of the identity card should be reported to the nearest Police Station as also its recovery.

The identity card shall not be used for availing of travelling concession either in bus or in any mode of transport.

It shall not be used for availing of any governmental benefits or loan by the holder of the card.

The identity card shall not be used for availing of any other facilities, except for the purpose of identification of the person as PLV.

Validity of Identity Cards

The validity of the identity card shall be for a period of one year. A new card shall be issued to the PLV, if the Chairman, District Legal Services Authority finds him/her eligible to continue as PLVs for more than one year.

Mentors for PLVs

DLSA and TLSC shall maintain a panel of Mentors/Guides whom the PLVs could contact in case of any clarification or assistance in connection with the discharge of their duties as PLVs. There shall not be more than ten PLVs for one Mentor.

Monthly Reports

A monthly report of the existing PLVs, PLVs newly recruited and the training given to the PLVs shall be submitted by the DLSA to the SLSA. The SLSA shall

submit a consolidated report of the details of the number of PLVs trained, the resource persons engaged, expenses incurred and the refresher courses, if any, organised, pertaining to each month, to the National Legal Services Authority before 15th day of every month.

NALSA shall cause the copies of such reports sent to the National Committee for Para-Legal Training and Legal Aid Activities set-up by the Chief Justice of India.

The SLSAs shall submit to the NALSA a consolidated District-wise report on the activities of the PLVs, specifically the number of persons attended and the nature of advice given and action taken.

Duties of Trained Para-Legal Volunteers

Para-Legal Volunteer shall educate people, especially those belonging to weaker sections of the society, to enable them to be aware of their right to live with human dignity, to enjoy all the constitutionally and statutorily guaranteed rights as also the duties and discharge of obligations as per law.

Para-Legal Volunteers shall make people aware of the nature of their disputes/issues/problems and inform them that they can approach the TLSC/DLSA/HCLSC/SLSA/SCLSC so as to resolve the dispute/issue/problems through these institutions.

Para-Legal Volunteers shall constantly keep a watch on transgressions of law or acts of injustice in their area of operation and bring them immediately to the notice of the TLSC through telephonic message or a written communication or in person to enable effective remedial action by the Committee.

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.

The PLVs shall also ensure that the victims of crime also get proper care and attention. Efforts shall be made by the PLVs to secure compensation for the victims of crime under the provisions of Section 357-A Cr.P.C.

PLVs shall, with proper authorization from the DLSA/TLSC visit jails, lock-ups, psychiatric hospitals, children's homes/observation homes and shall ascertain the legal service needs of the inmates and intimate the authorities concerned about any absence noticed of basic essential necessities with special emphasis on hygiene.

PLVs shall report violations of child rights, child labour, missing children and trafficking of girl children to the nearest legal services institutions or to the child welfare committee.

Para-Legal Volunteers shall assist the DLSA/TLSC for organizing legal awareness camps in their area of operation.

Para-Legal Volunteers shall give information to the people of their locality about the legal services activities of SLSA/DLSA/TLSC/HCLSC/SCLSC and shall provide their addresses to the people so as to enable them to utilize the free services rendered by the above organizations to the eligible persons.

Para-Legal Volunteers shall generate awareness amongst people about the benefits of settlement of disputes including pre-litigation stage through Lok Adalats, Conciliation, Mediation and Arbitration.

Para-Legal Volunteers shall make people aware of the benefits of inexpensive settlement of disputes relating to Public Utility Services like P&T, Telephones, Electricity, Water Supply, Insurance and hospital services through Permanent Lok Adalat (PLA).

Para-Legal Volunteers shall submit monthly reports of their activities to the DLSA/TLSC under whom they are working in the prescribed format.

A diary to record the daily activities shall be maintained by each PLVs. The diary shall be printed and given to PLVs by the District Legal Services Authority. Such diary shall be verified and endorsed by the Secretary, DLSA or the Chairman, TLSC as the case may be.

Para-Legal Volunteers shall see that publicity materials on legal services activities are exhibited at prominent places in their area of activity.

Expenses incurred by Para-Legal Volunteers

Reasonable expenses incurred by Para-Legal Volunteers e.g Bus/Train fare, Postage, Telephone charges etc., may be reimbursed by the TLSC/DLSA/SLSA, on production of proof. Travel expenses limited to the lowest classes by road/rail/steamer to the legal aid beneficiaries brought by the Para-Legal Volunteers also may be reimbursed at the discretion of the Chairman.

The rate of daily honorarium payable to PLVs on the days of their engagement as such in metro-cities may be as determined by the SLSA.

The PLVs are not entitled to any travel expenses when they use the transport provided by SLSA/DLSA/TLSC.

Para-Legal Volunteers to work in the 'Front Offices' of the DLSA/TLSCs.

The Secretary, DLSA or TLSC may depute one or more PLVs to operate the 'front offices' of the legal services institutions.

Para-Legal Volunteers to work in the 'Legal Aid Clinics' of the DLSA/TLSCs.

The Secretary, DLSA or TLSC may depute PLVs in the Legal Aid Clinics set up under the National Legal Services Authority (Legal Aid Clinics) Regulations, 2011. The PLVs engaged in the Legal Aid Clinics shall function in such clinics in accordance with the provisions of the aforesaid regulations.

Honorarium for the PLVs rendering services in the Legal Aid Clinics and Front Offices.

The State Legal Services Authority in consultation with the National Legal Services Authority may fix an honorarium for the PLVs engaged in the legal aid clinics.

However, such honorarium for those who have rendered services on any day shall not be less than Rs.250/- per day.

The PLVs who bring legal aid applicants from the distant villages to the legal services institutions at the Taluk/District level and to the District ADR Centers shall also be eligible to receive honorarium for such day at the same rate.

PLVs shall also be eligible for honorarium if on any particular day they assist persons in connection with the PLV work by accompanying such persons to various offices including Courts, however, subject to proof.

Para-Legal Volunteers to assist in the legal literacy classes and camps.

The PLVs in consultation with the nearest legal services institutions shall organise micro-legal literacy camps in the area of their operation by organising legal literacy classes for small groups of persons including labourers, women, children members of SC/ST etc. It shall be the duty of the PLVs to distribute information booklets and other publications of the Legal Services Authorities during the legal literacy classes.

Resolving local disputes through ADR mechanism.

The PLVs shall take efforts to bring the parties of the locality involved in disputes, to settlement, by using the machinery of Lok Adalat, Mediation or Conciliation at the District ADR Centers. If no District ADR Center has been set up in the District, the legal services institutions shall take steps for organising a suitable ADR mechanism like Lok Adalat, mediation, conciliation etc. in the village itself in coordination with the PLVs. The PLVs who bring such cases to the ADR process shall be entitled to receive the prescribed honorarium on the day when such proceedings are held.

Para-Legal Volunteers in Jails.

A few educated well-behaved prisoners serving long term sentences in the Central Prison and District Prisons may be identified for being trained as Para Legal Volunteers. Their services shall be available to the other prisoners in the jail including the under trial prisoners. The training of such PLVs may be conducted along with the other PLVs.

Payment.

They will be entitled to be paid as PLVs for the services rendered at the prescribed rate of honorarium payable to other PLVs.

Disqualifications of Para-Legal Volunteers and their removal.

- The PLVs shall be disqualified and removed from the panel if he/she:
- Fails to evince interest in the Scheme.
- Has been adjudged insolvent.
- Has been accused of an offence.
- Has become physically or mentally incapable of acting as PLVs.
- Has so abused his/her position or misconducted in any manner as to render his/her continuance prejudicial to the public interest.
- If she/he is an active political enthusiast of a political party. Any such Para-Legal Volunteer may be removed by the Chairman, District Legal Services Authority after suitable enquiry and intimation of the same should be sent to the State Legal Services Authority.

National level meetings of Para-Legal Volunteers.

The State Legal Services Authority may select suitable PLVs for attending the National Level programmes relating to PLVs to be organised by the National Legal Services Authority as the case may be. The State Legal Services Authority may recommend the names of PLVs who have given outstanding service for considering such PLVs for National awards to be instituted by the National Legal Services Authority.

The District Legal Services Authority to maintain a database of all Para-Legal Volunteers in the District.

The District Legal Services Authority shall maintain a directory of Para-Legal Volunteers and the same shall be updated periodically. The directory shall contain the details of the para-legal volunteers of District Authority and Taluk/Mandal/Sub-divisional Committees, their names, addresses, telephone/cell phone number, e-mail ID (if any), number and date of expiry of the identity card issued.

The State Legal Services Authority to maintain a database of all Para-Legal Volunteers in the State.

The State Legal Services Authority shall maintain a directory of Para-Legal Volunteers and the same shall be updated periodically. The directory shall contain the district wise details of the names of para-legal volunteers, their addresses, telephone/cell phone numbers, e-mail ID (if any), number and date of expiry of the identity card issued.

The Legal Services Authorities to work in co-ordination with the National Committee for Para-Legal Training and Legal Aid Activities set up by the Chief Justice of India.

The State, District and Taluk level legal services institutions shall work in coordination with the National Committee for Para-Legal Training and Legal Aid Activities set up by the Chief Justice of India. The directions, if any, given by the Hon'ble Chairman of the National Committee for Para-Legal Training and Legal Aid Activities shall be binding on all legal services institutions in the country.

MODULE FOR THE ORIENTATION - INDUCTION - REFRESHER COURSES FOR PLV TRAINING

I. ORIENTATION COURSE

Immediately upon initial empanelment the PLVs shall be given a day's orientation course.

Course objectives:

The objective of the Orientation Programme is to provide an overview of the role of the PLVs and lay down the Code of Ethics that they will be required to be adhered to.

The Orientation Programme should include inter alia the following:

- Introductions and Ice-Breaking Session
- Purpose & Role of PLVs.
- Basic Structure of the Constitution - Preamble etc.
- Obligations of the State under the Constitution to the marginalised classes of society(Directive Principles of State Policy)
- Fundamental Rights (including Articles 14,15,16,19,21,22)
- Duties of a responsible citizen to the community (Fundamental Duties).
- Article 39 A and Legal Services Authorities Act, 1987 and NALSA Regulations.
- Do's and Don'ts for PLVs.
- Dress Code and Standards of behaviour.
- Materials
- Ethics.

II INDUCTION COURSE

The induction training will be for a period of four days and should cover the following topics:

- Basic listening, communication, observation skills and Drafting skills.
- Family Laws (Marriage Laws, Adoption, Maintenance, Custody and Guardianship, Judicial separation & Divorce).
- Property Laws (Inheritance, Transfers of immovable property, Registration, Revenue Laws).

- Criminal Laws (IPC & Cr.P.C {minimum required knowledge, especially, bail, arrest etc. S.357 A Cr.P.C., Rights of Prisoners under Jail Manual and Prisoner's Act etc}).
- Labour Laws (Minimum Wages Act 1948, Workmen's Compensation Act 1923, Unorganised Workers Welfare and Social Security Act 2008, The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979, The Industrial Disputes Act, 1947 (Briefly), legal assistance under the NALSA Scheme (Legal Services to the Workers in the Unorganised Sector) Scheme, 2010.
- Gender Centric Laws/Women Laws - Equal Remuneration Act 1976, Maternity Benefit Act 1961, Protection of Women from Domestic Violence Act 2005, Medical Termination of Pregnancy Act 1971, Pre-Conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994, Sexual Harassment at Workplace, Important provisions of IPC - Sections 509, 354, 376, 304B, 366, 498A, 494, Dowry Prohibition Act, 1961.
- Laws relating to children - Juvenile Justice (Care and Protection of Children) Act, 2000, The Child Labour (Prohibition and Regulation) Act of 1986, Missing Children, The Factories Act 1948, Prohibition of Child Marriage Act, 2006.
- SC & ST (Prevention of Atrocities) Act, 1989 and The Protection of Civil Rights Act, 1955.
- Government orders and schemes promoting social welfare, including MNREGA, Social Security Schemes (pensions, antodaya, insurance etc), obtaining various certificates (such as caste, disability, birth, income etc), obtaining ration card, Aadhar card, National Population Register, Voter ID-card, etc, obtaining Passport.
- Visits to Govt. Offices, Courts, Police Stations, Prisons, Revenue Offices, DLSAs, TLSCs etc. Interaction with Protection Officers, CWCs/JJBs, appropriate authority under PCPNDT Act, 1994 etc.

III ADVANCE TRAINING

After the PLVs have had field experience for three months it is important that an advanced training programme is conducted lasting for three days. The occasion should be utilized by the Chairpersons of the DLSAs to discuss the work done by the PLVs, the shortcomings generally noticed and their continuance. The Mentors should also participate in this programme for guiding the PLVs to

resolve the problems faced by the PLVs in the discharge of their duties and public interaction. The Chairpersons of the DLSAs should also obtain feedback from the PLVs in order to remove administrative bottlenecks. During this training programme the PLVs should be introduced to Special laws which could include:

- Right to Information Act, 2005
- Motor Vehicles Act, 1988
- Mental Health Act, 1987 and legal assistance under the NALSA scheme Legal Services to the mentally ill Persons and Persons with Mental Disabilities Scheme, 2010.
- Maintenance and Welfare of Parents and Senior Citizens Act, 2007.
- Right to Education Act, 2009
- Alternate Dispute Resolution (S 89 C.P.C.)
- Basic skills in mediation and counselling
- Lok Adalat, including pre-litigation and its benefits.
- Plea-bargaining
- Rights of marginalised groups such as those living with HIV/AIDS, Disabled, trans genders etc.
- The Immoral Traffic (Prevention) Act, 1956 and issues relating to sex workers.
- Disaster Management and Legal assistance to victims of disaster under the NALSA Scheme - Legal Services to Disaster Victims through Legal Services Authorities.
- Environmental issues
- The Protection of Children from Sexual Offences Act, 2012.

Ideally, the SLSAs should by itself or through the DLSAs organize workshops at regular intervals on special topics which could be for a day or two. These should be need based, that is to say, if on a review of the working of the PLVs, the SLSAs/DLSAs feel that certain subjects need to be revisited and discussed again or that in a given area certain issues exist which need to be addressed or tackled and which have not been dealt with by the prescribed course content, such topics and issues should be discussed in the one day/two days workshops.

Inter-District workshops should be organised by the SLSAs for a day to encourage experience sharing and introduction of better practices. Good work done could be recognised and appreciated and commendation certificates given on the occasion.



MY DISABILITY DOES NOT HINDER
MY ABILITY TO BE CONSIDERED EQUAL.



NATIONAL LEGAL SERVICES AUTHORITY (LEGAL SERVICES FOR DIFFERENTLY ABLED CHILDREN) SCHEME, 2021



National Legal Services Authority (NALSA)
12/11, Jamnagar House, Shahjahan Road, New Delhi-110011
Website: www.nalsa.gov.in

INTRODUCTION

About 4-8% of the population in India is differently abled. One in every 10 children is born with or with the passage of time acquires a physical, mental or sensory disability. These translate into 40-90 million children across the world, which is a substantial number. Only 35.29% of the persons with disabilities have access to schools during their lifetime.

Despite improvement in the health care system of the country, the situation of differently abled children remains deplorable, particularly in rural areas and among the lower socio-economic population. Differently abled children in India are subjected to multiple deprivations and limited opportunities in several dimensions of their lives. Some of these include, not being enrolled to schools, lower employment rates, limited awareness of entitlements and services available and lack of social welfare support.

The pseudo-stigma attached to the disabilities makes family members hide the fact of having a disabled or challenged member at home, ultimately leading to social isolation and restrictive behaviors. There is a fear that they would be victims of disgrace and indignity and thereby family members would lose the status or acceptance they enjoy in the community. This denial becomes a hurdle for early identification and treatment. Such persons would be hidden somewhere and the family members expect, unrealistically, to overcome the situation without realizing the long term consequences of such self-imposed denial.

As per the Census 2011, in India out of the 121 Crore population, 2.68 Crore persons are 'disabled' which is 2.21% of the total population. Out of the 2.68 crore disable persons, **78.64 lakh** are children below the age of 18 years.

Total disabled children population as per Census 2011	No. of Disabled children (Disability Wise)(approx.)							
	Seeing	Hearing	Speech	Movement	Mental Retardation	Mental illness	Any other	Multiple disability
78,64,636	14,10,554	15,94,983	6,83,771	10,45,708	5,95,231	1,35,791	17,20,86	6,78,512

TARGET GROUPS:

The target group under the Scheme will be the mentally and physically disabled children including children who are from poor and needy families that

cannot afford the education of their child. The recipients of legal literacy would, however include teachers, doctors and Officers responsible for the welfare of children and other stake holders.

LAWs/LEGISLATIONS

Constitutional Rights: Mentally and physically challenged people can avail all the fundamental rights guaranteed to an ordinary citizen by the Constitution of India. No statute bars them from enjoying these rights. However for mentally challenged the most important constitutional rights are:

Right against discrimination: By Article 15(2) of Constitution of India any citizen, including mentally challenged people, can't be denied access to public goods. Also, they need to be provided equal opportunities to prosper in life.

Right to Health: Article 21 gives the right to life and personal liberty. Right to health flows directly from right to life and the same has been laid down by the Supreme Court in many cases.

- **The Rehabilitation Council of India Act 1992 :**

With a view to address the growing concern about the disadvantages suffered by the handicapped persons in every walk of life including education, the Parliament enacted this Act to provide for the constitution of the Rehabilitation Council of India, for regulating and monitoring the training of rehabilitation professionals and personnel; promoting research in rehabilitation and special education; the maintenance of a Central Rehabilitation Register; and for matters connected therewith or incidental thereto. Special teachers for educating and training the handicapped form part of the definition of "rehabilitation professionals" in Section 2(1)(n). This enactment also governs the special teachers engaged by any school/institution for imparting education and training to CwSN. They must fulfil this requirement over and above the qualifications prescribed under the special law concerning registration and recognition of schools and maintaining minimum standards for imparting quality education¹.

¹ Rajneesh Kumar Pandey and Ors. vs. Union of India (UOI) and Ors. (28.10.2021 - SC) : MANU/SC/0997/2021

- **The Persons with Disabilities (Equal opportunities, protection of rights and full participation) Act 1995:**

This Act recognizes the need to provide equal opportunities and enhance participation of mentally challenged in the society. Few landmark steps taken in this regard were:

- Establishment of special schools for the education of disabled children.
- Disabled children are given the right to free education till the age of 18 under this Act.
- 3% employment reservation for disabled (Including mentally disabled) in government jobs was approved.

- **The Rights of Persons with Disabilities Act, 2016:**

It repealed and replaced the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995. It has been enacted to give effect to the United Nations Convention on the Rights of Persons with Disabilities and for connected matters. More rights have been conferred on the disabled persons and more categories have been added. Access to justice, free education, role of local authorities, National fund, and the State fund for persons with disabilities have been created. 2016 Act is noticeably a sea change in the perception and requires a march forward look regarding the persons with disabilities and the role of the States, local authorities, educational institutions, and the companies². Individual dignity signifies identifying the individual's worth as an equivalent member of society, respect for dignity of others and fostering conditions in which everyone can evolve according to their capacities. Principle of reasonable accommodation concedes that if disability as a social construct must be remedied, conditions must affirmatively be created for facilitating development of disabled i.e. it is founded in norm of inclusion. Exclusion negates individual dignity and worth. Accommodation implies positive obligation to create conditions conducive to growth and fulfilment of disabled in every aspect of their existence. Accommodation which law mandates is "reasonable" since it must meet requirement of each condition of disability. Expectations of disabled person are unique to nature of his disability and character of impediments encountered as its consequence. Reasonable accommodation

² Justice Sunanda Bhandare Foundation v. Union of India, (2017) 14 SCC 1

determinations must be based on case-to-case basis in consultation with disabled person concerned³.

- **The Mental HealthCare Act 2017**

Under this Act, a mentally disabled person has the right to treatment and care in a psychiatric hospital. Provision for separate accommodation for mentally challenged people under the age of 18 is provided in the Act. The cost of the treatment in Mental Health Establishment needs to be undertaken by respective state governments unless the relatives of the patient bear it. The Act also provides certain legal safeguards to the mentally challenged. A mentally challenged person has the right to avail legal aid as per section 12 of the Legal Services Authorities Act,1987.

JUDICIAL APPROACH

The Indian judiciary has adopted a sympathetic approach towards mentally disabled people. Time and again the judiciary has taken cognizance of infringement of rights of these people and provided them relief.

Chandan Kumar Vs. State of West Bengal, Writ Petition (Crl.) No. 365 of 1988 decided on 25.04.1990 :- In the mental hospital of Mankaundi in Hoogly District West Bengal, the patients were kept chained with iron ropes and were physically tortured and denied food and water. This was all done in the name of treatment. The Supreme Court ordered the cessation of this inhuman practice, held the State liable and recommended reforms in mental health hospitals across the country. Now no patient in these hospitals can be held chained.

Legal Aid Committee Vs. State of MP, 1994 SCC (5)27 on 10.05.1994:- The Supreme Court highlighted the need to have stricter enforcement of laws made for the betterment of mentally ill.

³ Vikash Kumar v. UPSC, (2021) 5 SCC 370

PROBLEMS, GAPS AND CONSTRAINTS

- ***Lack of Mental Health Establishment***

India, though a signatory to various conventions and treaties, still falls short of adequate number of mental health establishments. Ideally, there should be at least one mental health establishment in every district.

- ***Poor infrastructure***

Most of the mental health establishments require upgradation. Lack of facilities in addition to staff and doctors exacerbates the situation of mentally challenged.

- ***Lack of awareness***

The majority of the country is today unaware of the rights of mentally challenged.

- ***Current laws***

The current set up in the country induces incompetence and seclusion in the mentally challenged children rather than seeking to uplift them and assimilate them in the society.

WHY THIS SCHEME IS NEEDED

To ensure effective access to justice to persons with disabilities on an equal basis with others, NALSA has launched the NALSA (Legal Services to the Mentally Ill and Mentally Disabled Persons) Scheme, 2015. However, the said NALSA Scheme talks only about the mentally ill and mentally disabled persons which is apparently silent on the rights and benefits of a person who is physically disabled or handicapped. Children with physical disability equally require an extra-care and attention as of mentally ill persons. They need different and special kind of education, skill training, health-care and other basic facilities for their welfare and rehabilitation. Community support is equally important for their re-integration in society.

TYPES OF DISABILITIES

1. Physical Disability

- Locomotor Disability
 - Leprosy Cured Person
 - Cerebral Palsy
 - Dwarfism

- Muscular Dystrophy
- Acid Attack Victims
- Visual Impairment
 - Blindness
 - Low Vision
- Hearing Impairment
 - Deaf
 - Hard of Hearing
- Speech and Language Disability

2. Intellectual Disability

- Specific Learning Disabilities
- Autism Spectrum Disorder

3. Mental Behaviour (Mental Illness)

4. Disability caused due to-

- Chronic Neurological Conditions such as
 - Multiple Sclerosis
 - Parkinson's Disease
- Blood Disorder
 - Haemophilia
 - Thalassemia
 - Sickle Cell Disease

5. Multiple Disabilities

6. Other disabilities described in the Legislations

Children with disabilities in India face many challenges. They need special education and resources for their survival e.g. blind children need to be given training in Braille language and a deaf & dumb children needs to learn sign language to communicate with others. Improving vocational training for children with disabilities is a critical element for enhancing the quality of life for such children and their families.

OBJECTIVES:

- To increase educational and future employment accessibility of the children with disabilities by using assistive aids/technologies and comprehensive vocational training.
- To promote primary and higher education of the Visually Impaired, Disabled and Underprivileged children.
- To promote special training on communication and language skills through use of Braille script to the blind children.

- To improve the mobility skills of the children with visual disability and facility in the use of necessary aid and appliances.
- To give special inputs on managing the daily living skills.
- To provide for special orientation education with reference to the physical, psychological and social environment.
- To cope with the normal literacy levels to prepare and provide opportunities for educational integration that would eventually lead to social integration.
- To involve the parents and encourage them in a participative role in the educational process of their child.
- To reduce malnutrition related disability through nutritional supplements.
- To promote and spread art, cultural and recreational avenues for children with disabilities.

SPECIAL MEASURES TO BE TAKEN:

1. State Legal Services Authorities/District Legal Services Authorities shall ensure legal representation to the disabled children.
2. State Legal Services Authorities/District Legal Services Authorities to ensure maximum enrollment of disabled children in inclusive schools and vocational institutions in the respective Districts. School should not deny admission to any specially disabled child.
3. State Legal Services Authorities/District Legal Services Authorities to ensure that requisite boards reflecting the availability of free legal services to the eligible categories including disabled persons are being displayed outside all Private and Government Schools. The possibility for displaying such boards outside hospitals, office of Deputy Commissioners, Panchayat Ghar etc. be also explored.
4. State Legal Services Authorities/ District Legal Services Authorities shall explore each and every possibility to join hands with the other stakeholders including NGOs and public agencies working for the protection, rehabilitation and reformation of disabled children.
5. All educational institutions and training centres to ensure safety and security of female trainees. Appropriate facilities must be available for female trainees with

disabilities to ensure their safety and privacy. SLSAs/DLSAs to take necessary steps accordingly.

6. Governments and non-governmental organizations are developing special programmes for children with disabilities. SLSAs/DLSAs to create awareness about such special programmes and efforts be made to connect disabled children with these schemes/programmes to get benefits under them.
7. Children with disabilities generally have less opportunity to go to school. Training programmes must be developed to use hands-on training techniques to teach new skills to children with disabilities.
8. Children with special needs have different characteristics. Due to such characteristics and constraints, they require a special form of educational service tailored to their abilities and potential. SLSAs/DLSAs to ensure admission of specially targeted children in special or normal schools in accordance with their specificity.
9. There is an urgent need of using media for children with special needs to facilitate learning process and vocational skills of children with special needs. With interactive multimedia, acceptance of the informative material will be more easily captured than the delivery by using books and props.
10. **Ensure Issuance of Disability Certificates in Schools:** State Legal Services Authorities/District Legal Services Authorities in co-ordination with District Education Officers, Chief Medical Officers and other relevant departments shall ensure (through Principals) that disability certificates are issued to all the disabled students. Confirmation regarding the issuance of the same be sent to respective District Legal Services Authorities/ State Legal Services Authorities.
11. **Ensuring accessible toilets and drinking water facilities in Schools for disabled Children:** At times, the Children with disabilities do not attend school for want of an accessible toilet and drinking water facilities. The district education officer shall ensure that such basic facilities are made easily accessible. in their schools. The same shall be ensured by District Legal Services Authorities/ State Legal Services Authorities.
12. **Competitions for Disabled Children in Schools:** To promote a sense of belonging and togetherness among disabled children, competitions and easy

games viz. essay competitions, street play competitions, poster making, debate etc. be organized in schools for disabled children. Separate teams may be formed for such competitions. Ideally, the teams so formed may include normal children and those with disability.

13. **Special awareness camps for issuing disability certificates in villages:** Special awareness camps be organized for issuing disability certificates in villages/rural and urban areas in co-ordination with Chief Medical Officers and other relevant departments.

14. **Disabled children are more prone to be victims of violence:** Children with disabilities are more likely to be victims of violence. Estimates indicate that children with disabilities are at significantly higher risk of experiencing violence than peers without disabilities: 3.7 times more likely for combined measures of violence, 3.6 times for physical violence and 2.9 times for sexual violence. State Legal Services Authorities/District Legal Services Authorities to organize legal awareness camps for the victims of violence particularly with disabilities.

15. **Children with disabilities and their families face particular challenges in emergencies:** Children with disabilities or their representatives should be associated in the planning and implementation of disaster risk reduction and recovery processes. Special awareness campaigns for disabled children in coordination with Disaster Management teams be organized where disabled children are sensitized on rescue measures to be adopted in times of emergencies.

16. Legal Awareness Camps be linked with **NALSA (Child Friendly Legal Services to Children and their Protection) Scheme, 2015.**

.....

NATIONAL LEGAL SERVICES AUTHORITY

STANDARD OPERATING PROCEDURE FOR REDRESSAL OF COMPLAINTS/PUBLIC GRIEVANCES

Every Authority/ Committee, whether at the national, state or district or taluka level receives various complaints from time to time. While the complaints are a means for the aggrieved to voice their grievances, they also tell us the reach of our programmes and our failures. It thus becomes essential that all the complaints are addressed expeditiously and effectively. In absence of any established mechanism to deal with the complaints or address public grievances, the approach to the same has remained ad-hoc and mired in delays. NALSA is also in receipt of OM dated 7th April, 2016 of the Ministry of Personnel, Public Grievances and Pension, Department of Administrative Reforms and Public Grievances as per which the Hon'ble Prime Minister had desired that all efforts should be made to reduce the time taken for redress of a grievance from the existing 2 months period to one month. Thus the need has been felt to lay down a mechanism to address the complaints and public grievances in a systematic manner.

Source of Complaints: Complaints may be:

- i) Received by NALSA directly from the public.
- ii) Received by NALSA from the office of the President of India, Prime Minister of India, Chief Justice of India and the Department of Justice, Ministry of Law and Justice, Government of India.
- iii) Received by the State/ District Authorities or Taluka Committees from the public directly.
- iv) Received by the State/ District Authorities or Taluka Committees from the various authorities including from the office of the Chief Justice of the respective state.
- v) Received by the State from NALSA.
- vi) District Authorities may further receive complaints forwarded by the State Authority or NALSA.
- vii) Taluka Committees may also similarly receive complaints forwarded by the State Authority or NALSA or District Authority.

Nature of Complaints: The complaints may include:

- i) Against a legal aid lawyer, where a legal aid lawyer has been assigned to a party at any level, including in respect of his working and conduct.
- ii) Against not being provided legal aid, where a party feels that he/ she is entitled to legal aid.
- iii) Against any public authority for inability to get any entitlement.
- iv) A general complaint involving a number of issues.
- v) A general airing of grievances by a person.
- vi) A person may simply be desirous of getting legal aid.

- vii) A person may be wanting any specific information.
- viii) Anonymous complaints.

Approach of the Authority/ Committee to the complaints/ public grievances

When a complaint is received by any Authority or Committee at any level, the approach should be towards problem solving rather than replying and disposing of the complaint. Our orientation should not be towards somehow getting the complaint off our board and thereby showing disposal of the complaint at our end. Rather, we need to deal with the complaints/ public grievances pro-actively so that a party feels satisfied that he/ she has received appropriate response and knows what further course of action is available to it. The objective should be redressal and not mere disposal. Thus the following mechanism should be adopted at the different levels for addressing the complaints/ public grievances:

At the level of NALSA

- i) Since NALSA itself does not have a panel of lawyers and does not give legal aid and in fact acts through the State and District level Authorities, whenever a complaint is received against a legal aid lawyer or rejection of application for legal aid or seeking legal aid or even seeking any entitlement under any Scheme, the same shall be forwarded to the concerned State Legal Services Authority and where possible to the District Authority as well. Efforts shall be made to ensure that the same is done at the earliest.

Till the development of an online portal for dealing with complaints, the complaint shall be scanned and sent by e-mail as well as a hard copy shall be sent by post. However, the State or District Authority should not wait till the receipt of the hard copy and they should act on the basis of the soft copy itself.

While forwarding the complaints to the State/ District Authority, certain complaints may be identified by NALSA for monitoring and follow up.

- ii) While forwarding the complaint to the State/ District Authority, a copy of the forwarding letter should also be sent to the party concerned and/ or to the office/ Department through which the complaint has been received.
- iii) The complaints which do not have any merit in them may be filed. However, a reply shall be sent to the party concerned regarding the filing of the complaint and if the party has any other alternatives available with a copy to the office/ Department through which the complaint has been received, if received from any other office/ Department.
- iv) Anonymous complaints may also be filed.

- v) Where a general complaint is received, if the same is not forwarded to any Authority, the party may be informed that the issues raised have been noted and there is no ground to proceed further.
- vi) Where a party wants some specific information, the party may be directed to the authority/ person who would be best suited to provide the information.

At the level of SLSA

- i) Whenever a complaint is received against a legal aid lawyer or seeking legal aid or even seeking any entitlement under any Scheme directly or is forwarded by NALSA, the same shall be forwarded by the concerned State Legal Services Authority to the District Authority/ Taluka Committee, except where the SLSA feels that the complaint can be disposed of at its level. The same should be done at the earliest and in any case, not later than 5 working days of the receipt of the complaint, by whatever mode.
- ii) While forwarding the complaint to the District Authority/ Taluka Committee, a copy of the forwarding letter should also be sent to the party concerned and/or to the office/ Department through which the complaint has been received. Where the complaint was forwarded by NALSA to the SLSA, a copy of the forwarding letter is to be sent to NALSA as well.
- iii) The SLSA shall regularly follow up the progress made on the complaints with the concerned District Authority/ Taluka Committee and keep NALSA informed where the complaint has been forwarded by NALSA.
- iv) Where a complaint is received against rejection of application for legal aid, the same shall be examined by SLSA. A report may be called from the DLSA/ Committee concerned, where necessary. If the SLSA is of the view that the rejection of application for legal aid was proper, the party may be informed of the same accordingly and NALSA may also be informed if the application has been forwarded by NALSA. However, if the SLSA is of the view that the party is entitled to legal aid, it may pass appropriate orders, including appointing a legal aid lawyer from amongst the lawyers on the panel of the District Authority/ Taluka Committee. For the said purpose, the SLSA may give a personal hearing to the party, where deemed necessary.
- v) The complaints which do not have any merit in them may be filed. However, a reply shall be sent to the party concerned regarding the filing of the complaint and if the party has any other alternatives available with a copy to NALSA/office/ Department through which the complaint has been received, if received from any other office/ Department or NALSA.

- vi) Anonymous complaints may also be filed.
- vii) Where a general complaint is received, if the same is not forwarded to any Authority, the party may be informed that the issues raised have been noted and there is no ground to proceed further.
- viii) Where a party wants some specific information, the party may be directed to the authority/ person who would be best suited to provide the information.

At the level of DLSA/Taluka Committee

- i) Whenever a complaint is received against a legal aid lawyer or seeking legal aid or even seeking any entitlement under any Scheme directly or is forwarded by NALSA/SLSA, the same shall be taken up by the DLSA/ Committee without any loss of time.
 - a) If the complaint is against a legal aid lawyer, a report may be called from the lawyer concerned and if the DLSA/ Committee is not satisfied with the report of the lawyer, appropriate action may be taken.
Besides, the party may be contacted and the legal aid lawyer may be changed immediately.
 - b) If the application is merely for getting legal aid, appropriate steps may be taken as are taken in all cases for grant of legal aid.
 - c) If the application is for seeking any entitlement under any Scheme, the party may be informed of the recourses available and a PLV may be deputed to facilitate the party to get the entitlement.

In all such cases, if necessary, the party may be requested to visit the office and discuss the problem rather than notices for appearance being sent to them.

In order to get in touch with the parties and to save time, all possible modes should be used such as sending SMS to the party where the mobile number of the party is available, calling a party telephonically, sending a letter by speed post, using e-mail if e-mail id is available. Importantly, a PLV may even be sent to contact the party.

In all these cases, intimation should be sent to the SLSA/NALSA/ concerned department or office where the same had been forwarded by them.

- ii) Where a complaint is received against rejection of application for legal aid, the party shall be informed of the grounds of the same and that the party has the right to prefer an appeal against the order of the DLSA/ Committee and to whom the appeal can be made.

- iii) The complaints which do not have any merit in them may be filed. However, a reply shall be sent to the party concerned regarding the filing of the complaint and if the party has any other alternatives available with a copy to NALSA/SLSA/office/ Department through which the complaint has been received, if received from any other office/ Department or NALSA/SLSA.
- iv) Anonymous complaints may also be filed.
- v) Where a general complaint is received, the party may be informed that the issues raised have been noted and there is no ground to proceed further.
- vi) Where a party wants some specific information, the party may be directed to the authority/ person who would be best suited to provide the information.

For dealing with the complaints at all levels, it is reiterated that:

- Complaints/ public grievances should be addressed expeditiously.
- A pro-active and sensitive approach should be adopted.
- There should be regular follow up of complaints.
- Where NALSA forwards the applications to SLSAs or SLSAs forward the applications to DLSAs/ Committees, they should be apprised of the fate of the complaints.

Ultimately the purpose is that the public should feel that their complaints/ grievances are effectively addressed and without any delays.

GEETANJLI GOEL
DIRECTOR

NATIONAL LEGAL SERVICES AUTHORITY

--

Standard Operating Procedure for Representation of persons in custody

One of the core areas of activity of the Legal Services Institutions 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 jail visiting lawyers 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 earmarked 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.

ITEM NO.2

COURT NO.2

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

IA 173194/2018 in Writ Petition(s)(Civil) No(s). 406/2013

RE-INHUMAN CONDITIONS IN 1382 PRISONS

(REPORT OF NALSA ON STANDARD OPERATING PROCEDURE FOR UNDER-TRIAL REVIEW COMMITTEE)

Date : 04-12-2018 This application was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE MADAN B. LOKUR
 HON'BLE MR. JUSTICE DEEPAK GUPTA
 HON'BLE MR. JUSTICE HEMANT GUPTA

Mr. Gaurav Agrawal, Adv. (A.C.)

Applicant Ms. Aparna Bhat, Adv.

For Petitioner(s) By Post

For Respondent(s) Mr. A.N.S. Nadkarni, ASG
 Ms. Binu Tamta, Adv.
 Mr. R. Bala, Adv.
 Ms. Sushma Manchanda, Adv.
 Ms. Suhasini Sen, Adv.
 Mr. G.S. Makker, Adv.
 Mr. B.V. Balram Das, Adv.
 Ms. Arti Sharma, Adv.
 Mr. Pankaj Pandey, Adv.
 Mr. Raghavendra Mohan Bajaj, Adv.

NALSA Ms. Anitha Shenoy, Adv.
 Mr. Sunil Chauhan, Director, NALSA
 Ms. Srishti Agnihotri, Adv.

For States of Andhra Pradesh Mr. Guntur Prabhakar, Adv.
 Ms. Prerna Singh, Adv.

Arunachal Pradesh Mr. Anil Srivastav, Adv.
 Mr. Rituraj Biswas, Adv.
 Mr. Satyendra Kumar Srivastav, Adv.

Mr. Shuvodeep Roy, Adv.
 Mr. Somnath Banerjee, Adv.

Bihar Mr. M. Shoeb Alam, Adv.
 Mr. Ujjwal Singh, Adv.
 Mr. Mojahid Karim Khan, Adv.

Signature Not Verified
 Digitally signed by
 DEEPAK GUPTA
 Date: 2018.12.07
 17:04:46 IST
 Reason:

Chhattisgarh	Mr. Atul Jha, Adv. Mr. Sandeep Jha, Adv. Mr. Dharmendra Kumar Sinha, Adv.
Goa	Mr. Anshuman Srivastava, Adv. Mr. S.S. Rebello, Adv. Ms. Apoorva Bhumesh, Adv.
Gujarat	Ms. Hemantika Wahi, AOR Ms. Jesal Wahi, Adv. Ms. Puja Singh, Adv. Ms. Vishakha, Adv. Ms. Parul Luthra, Adv.
H.P.	Mr. Vikas Mahajan, AAG Mr. Vinod Sharma, Adv.
J&K	Mr. M. Shoeb Alam, Adv. Mr. Ujjwal Singh, Adv. Mr. Mojahid Karim Khan, Adv.
Jharkhand	Mr. Tapesh Kumar Singh, AOR Mr. Aditya Pratap Singh, Adv.
Karnataka	Mr. V.N. Raghupathy, AOR Mr. Lagnesh Mishra, Adv. Mr. Parikshit P. Angadi, Adv.
Kerala	Mr. C.K. Sasi, Adv. Ms. Nayantara Roy, Adv.
Maharashtra	Ms. Deepa M. Kulkarni, Adv. Mr. Anoop Kandari, Adv. Mr. Nishant R. Katneshwarkar, Adv.
Manipur	Mr. Leisangthem Roshmani Kh., Adv.
Meghalaya	Mr. Ranjan Mukherjee, AOR Mr. K.V. Kharlyngdoh, Adv. Mr. Daniel Stone Lyngdoh, Adv.
Mizoram	Mr. K.N. Madhusoodhanan, Adv. Ms. Nitya Madhusoodhanan, Adv. Mr. T. G. Narayanan Nair, AOR
M.P.	Mr. Rajesh Srivastava, Adv.
Nagaland	Mrs. K. Enatoli Sema, AOR Mr. Amit Kumar Singh, Adv.
Odisha	Mr. Anindita Pujari, Adv.

	Ms. Aarti Krupa Kumar, Adv.
Punjab	Ms. Jaspreet Gogia, Adv. Ms. Mandakini Singh, Adv.
Rajasthan	Mr. Amit Sharma, Adv. Mr. Ankit Raj, Adv. Ms. Indira Bhakar, Adv. Ms. Nidhi Jaswal, Adv. Ms. Ruchi Kohli, Adv.
Sikkim	Ms. Aruna Mathur, Adv. Mr. Avneesh Arputham, Adv. Ms. Anuradha Arputham, Adv. Ms. Geetanjali, Adv. for M/s Arputham Aruna & Co.
Tripura	Mr. Shuvodeep Roy, Adv. Mr. Rituraj Biswas, Adv.
Tamil Nadu	Mr. M. Yogesh Kanna, AOR Mrs. Sujatha Bagadhi, Adv. Mr. Raja Rajeshwaran, Adv.
Telangana	Mr. P. Venkat Reddy, Adv. Mr. Prashant Tyagi, Adv. For M/s Venkat Palwai Law Associates
Uttar Pradesh	Mr. Rajan Kumar Chourasia, Adv. Mr. Harish Pandey, Adv.
Uttarakhand	Ms. Rachana Srivastava, AOR Ms. Monika, Adv.
West Bengal	Mr. Suhaan Mukerji, Adv. Ms. Astha Sharma, Adv. Mr. Amit Verma, Adv. Mr. Abhishek Manchanda, Adv. Ms. Kajal Dalal, Adv. Ms. Dimple Nagpal, Adv. For M/s PLR Chambers
A&N Islands	Mr. Mirnal Kanthi Mondal, Adv. Mr. K.V. Jagdishvaran, Adv. Mrs. G. Indira, Adv.
Puducherry	Mr. V.G. Pragasam, AOR Mr. S. Prabu Ramasubramanian, Adv. Mr. S. Manuraj, Adv.
	Mr. Colin Gonsalves, Sr. Adv. Ms. Ritu Kumar, Adv.

Mr. Satya Mitra, Adv.

Mr. T.N. Rama Rao, Adv.

Mr. Hitesh Kumar Sharma, Adv.

Mr. T. Veera Reddy, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Guidelines have been framed by NALSA called "The Standard Operating Procedure for Under-Trial Review Committees".

These Guidelines are taken on record and the Under-Trial Review Committees will adhere to these Guidelines.

It has been stated by NALSA, as a background Note, that, as on 31.12.2017, the data received from different prison authorities indicates that the holding capacity of 1250 prisons in India is 3.78 lakhs and the actual inmates are about 4.19 lakhs. In other words, there is an excess of inmates over the holding capacity. In some prisons, overcrowding is to the extent of 150% of the holding capacity. The overcrowding is particularly acute in the States of Uttar Pradesh (182%), Uttarakhand (159%), Chhattisgarh (157%) and Maharashtra (144%).

We have been given to understand that the number of under-trial prisoners of this country constitutes more than 67% of the prisons' population. Urgent steps are quite clearly and obviously necessary for the release of under-trial prisoners, if not for the early conclusion of their trial.

Under these circumstances, though NALSA has recommended for quarterly meetings to be held by the Under-Trial Review Committees, we direct that in the first six months of the year 2019, the Under-Trial Review Committees will meet once in a month to review the cases of under-trial prisoners and submit a report to the State Legal Services Authority. The reports will then be compiled and forwarded to NALSA.

The Guidelines be circulated to all the States/Union Territories, Director General of Prisons in all States/Union Territories and the State Legal Services Authorities.

Application stands disposed of.

(SANJAY KUMAR-I)
AR-CUM-PS

(KAILASH CHANDER)
ASSISTANT REGISTRAR



**NALSA's
STANDARD OPERATING PROCEDURE (SOP)
for UNDER TRIAL REVIEW COMMITTEES (UTRCs)**

WP (C) 406/2013 – In Re-Inhuman Conditions in 1382 Prisons

NATIONAL LEGAL SERVICES AUTHORITY
12/11, JAM NAGAR HOUSE, NEW DELHI
Website: www.nalsa.gov.in e-mail: nalsa-dla@nic.in Cont. 011-23382778



INDEX

Sl. No	Contents	Page no.
1.	Background	1-2
2.	Part I SOP for UTRCs where Jail Records are not digitized and even if digitized no Software Filters have been applied	3-10
3.	Part II SOP for UTRCs where Jails are digitized and have Software to filter the cases which are eligible for release	11
4.	NALSA's Additional Suggestions	12-14
5.	Annexure 'A' Template of Datasheet of eligible UTPs for consideration of UTRC	15-16
6.	Annexure 'B' Template of Datasheet of Convicts for consideration of UTRC.	17-18
7.	Annexure 'C' Template of New Modified Custody Warrant	19-20

Background

In terms of the Section 12(g) of the Legal Services Authorities Act, 1987, a Person in Custody is entitled to free and competent legal services. In India, as per prison statistics, 2015 released by NCRB, there are around 1250 Central, State and Sub-jails, housing around 4.19 lacs prisoners including 80,000 women. According to NCRB data, 67 % of the above inmates i.e. 2.94 lacs are UTPs. This percentage of UTPs is one of the highest in the World in so far as the World UTP average in the prisons is only 31 %.

As on 31.12.2017, as per the data received from different Prison Authorities the holding capacity of 1250 prisons in India is 3.78 lacs and the actual inmates are 4.19 lacs. Accordingly, the prisons in India are overcrowded by 114 %. Situation in some of the Prisons is so precarious that they are holding more than 150% of their holding capacity. While the situation in States like Tamil Nadu (66%), Telangana (76 %), West Bengal (66 %) is comfortable given to the fact that the States constructed adequate number of prisons but the situation is serious in States like Uttar Pradesh (182%), Uttarakhand (159%), Chhattisgarh (157 %), Maharashtra (144%) where the number of Prisons is quite low.

1158 Legal Services Clinics have been established by the Legal Services Institutions in around 1250 jails.

In this background, Chief Justice R. C. Lahoti (Retired) wrote a letter dated 13.06.2013 addressed to Hon'ble Supreme Court of India highlighting over crowding in prisons, inadequacy of staff, need of training, unnatural deaths, etc. This letter was registered as Public Interest Litigation by Supreme Court of India on 05.07.2013.

Series of directives on the above subjects were passed by the Hon'ble Supreme Court of India to various Authorities/Departments. On 24.04.2015, Hon'ble Supreme Court of India directed that Prisoners Management Software (PMS) being used in Tihar Jail, Delhi may be improved and deployed in all other jails in the country.

It was followed by the appointment of Director, NALSA as Nodal Officer to assist the Hon'ble Supreme Court Bench. NALSA issued directions to the State Legal Services Authorities and District Legal Services Authorities for helpline release of prisoners who could not furnish the bail bonds. Model Prison Manual was also drafted by Ministry of Home Affairs with the help of NALSA.

On 18.09.2015, It was highlighted that the Under Trial Review Committee (UTRC) constituted by the Ministry of Home Affairs shall consider the cases of inmates who have completed half of their sentence in terms of Section 436A Cr. P.C.

On 05.02.2016, UTRCs were directed to meet at least once in every quarter starting from 31.03.2016 and Secretary of District Legal Services Authority was made member of the Committee to assist the UTRC.

On 06.05.2016, the domain of UTRC was enhanced much beyond Section 436(A) Cr. P.C. by inclusion of total 14 categories of inmates for consideration of their early release.

On 31.10.2017, NALSA was directed to prepare a Standard Operating Procedure (SOP) for smooth functioning of Under Trial Review Committees (UTRCs) with an aim to ensure that UTPs covered under 14 categories get benefit without delay.

On 12.12.2017, SOP was prepared and as per the directions of Hon'ble Supreme Court of India the same was circulated with the various stakeholders and placed on website of NALSA for inviting suggestions. The suggestions received from different stakeholders were incorporated with the help of Ld. Amicus Curiae.

On 08.05.2018, an SOP containing additional suggestions was placed on Record of Hon'ble Supreme Court of India. Vide an order dated 02.08.2018, NALSA was directed to redraft the SOP.

This redrafted final SOP has been prepared accordingly.





NALSA's

STANDARD OPERATING PROCEDURE (SOP) FOR UTRCs

PART-I

Definitions:

- a) "Jail" means Central Jail, District Jail, Sub Jail, Women Jail, Special Jail and borstals.
- b) "Jail Superintendent" includes Deputy Superintendent and Officer Incharge of the jail.
- c) "UTPs" means Under Trial Prisoners who are in custody at the time of preparation of the list of UTPs by the Superintendent and includes inmates who are out on interim bail.
- d) "UTRC" means Under Trial Review Committee chaired by District & Sessions Judge consisting of District Magistrate, Superintendent of Police, Secretary, DLSA and Jail Superintendent, as members.
- e) "E-Prison Portal/ PMS" means E-Prison Portal developed by NIC under directives of Ministry of Home Affairs and includes stand alone Software developed by States for their Jails.
- f) "Secretary DLSA" means Secretary of the concerned District Legal Services Authority appointed u/s 9(3) of Legal Services Authorities Act, 1987 and any other officer officiating as Secretary.
- g) "Bail Applications" Bail applications include applications moved u/s 436A, 437 Cr.P.C. and 439 Cr.P.C. apart from other provisions pertaining to technical bail under the Cr.P.C., namely bail under proviso to Sections 167 and 437 (6) Cr.P.C. and similar provisions in other special enactments.

SOP FOR UTRCS WHERE JAIL RECORDS ARE NOT DIGITIZED AND EVEN IF DIGITIZED NO SOFTWARE FILTERS HAVE BEEN APPLIED.

STEP 1: Reporting of Data of UTPs / Convicts by Prisons.

- 1.1 The Jail superintendent of every jail in the district will collate the data regarding the UTPs lodged in the jail in the format as per **Annexure-A** with the following information and share it with Secretary, DLSA preferably in soft Excel Sheet.

Particulars of UTPs

- (1) Name of the UTP
- (2) Father's name
- (3) Gender / Age
- (4) FIR/Crime No
- (5) Police Station
- (6) District
- (7) Arrested under section-
- (8) Particulars of the Court
- (9) Date of Arrest
- (10) Date of First Remand
- (11) Date of admission in prison
- (12) Date of filing charge sheet.
- (13) Chargesheeted under Section-
- (14) UTP represented by Legal Aid/Private Lawyer
- (15) Name of the lawyer with contact details, if available.
- (16) Whether bail has been granted to the accused, if so when.
- (17) If accused is not released on bail despite grant of bail, reason for the same, if available.
- (18) If the UTP suffering from any disease, mental or physical, details regarding the same.
- (19) Whether UTP is a convict/Under trial in any other case.
- (20) If yes, separate entry in the data sheet be made qua the additional Case.

- 1.2 Particulars of convicts - A separate 'List of Convicts' be prepared as per **Annexure-B** with the following information and share it with Secretary, DLSA preferably in soft Excel Sheet: -

- (1) Name of the Convict
- (2) Father's Name
- (3) FIR No.
- (4) Police Station
- (5) District
- (6) Name of the Trial Court
- (7) Date of Conviction
- (8) Duration & Nature of Sentence
- (9) Total Remission Earned
- (10) Date when sentence completed
- (11) Reason for Non-Release
- (12) Whether case considered by Sentence Review Board?
- (13) Reason for not granting pre-mature release
- (14) Additional information or Remark

1.3 The aforesaid detail as on 31st March, 30th June, 30th September, 31st December of every year may be sent by the Jail Superintendent to the Secretary DLSA latest by 7th day of the next following month.

STEP 2: Processing of Data by Secretary, DLSA

2.1 The office of Secretary, DLSA, with the aid of empaneled panel lawyers, Retired Judicial Officers and law students trained as PLVs, if required and available, shall draw list of UTPs/Convicts eligible for consideration by the UTRC out of Data sent to him from Step-I in the light of criteria laid down by Hon'ble Supreme Court in **WP(C) 406/2013-Re-Inhuman Conditions in 1382 Prisons**, as per detailed hereunder (Para 2.2).

If any further details are required by the Secretary, DLSA from any court or from the Jail Superintendent or from the police authorities, the same may be ascertained by the Secretary DLSA. Thereafter, the Secretary DLSA shall prepare a list of eligible UTPs for consideration of UTRC in the Excel Sheet/Soft form as per **Annexure A & B**.

2.2 Cases of UTPs / Convicts falling under following categories shall be considered by the Secretary, DLSA for placing them before the UTRC:-

2.2.1 UTPs / Convicts falling under covered under Section 436A Cr.P.C.
[As per order of Hon'ble Supreme Court dated 24th April, 2015]

2.2.2 UTPs released on bail by the court, but have not been able to furnish sureties.

[As per order of Hon'ble Supreme Court dated 24th April, 2015]

2.2.3 UTPs accused of compoundable offences.

[As per order of Hon'ble Supreme Court dated 24th April, 2015]

2.2.4 UTPs eligible under Section 436 of Cr.P.C.

[As per order of Hon'ble Supreme Court dated 05th February, 2016]

2.2.5 UTPs who may be covered under Section 3 of the Probation of Offenders Act, namely accused of offence under Sections 379, 380, 381, 404, 420 IPC or alleged to be an offence not more than 2 years imprisonment.

[As per order of Hon'ble Supreme Court dated 05th February, 2016]

2.2.6 Convicts who have undergone their sentence or are entitled to release because of remission granted to them.

[As per order of Hon'ble Supreme Court dated 05th February, 2016]

2.2.7 UTPs become eligible to be released on bail u/s 167(2)(a)(i) & (ii) of the Code read with Section 36A of the Narcotic Drugs and Psychotropic Substances Act, 1985 (where persons accused of Section 19 or Section 24 or Section 27A or for offences involving commercial quantity) and where investigation is not completed in 60/90/180 days.

[As per order of Hon'ble Supreme Court dated 06th May, 2016]

2.2.8 UTPs who are imprisoned for offences which carry a maximum punishment of 2 years.

[As per order of Hon'ble Supreme Court dated 06th May, 2016]

2.2.9 UTPs who are detained under Chapter VIII of the Cr.P.C. i.e. u/s 107, 108, 109 and 151 of Cr.P.C.

[As per order of Hon'ble Supreme Court dated 06th May, 2016]

2.2.10 UTPs who are sick or infirm and require specialized medical treatment.

[As per order of Hon'ble Supreme Court dated 06th May, 2016]

2.2.11 UTPs women offenders

[As per order of Hon'ble Supreme Court dated 06th May, 2016]

2.2.12 UTPs who are first time offenders between the ages 19 and 21 years and in custody for the offence punishable with less than 7 years of

imprisonment and have suffered at least 1/4th of the maximum sentence possible.

[As per order of Hon'ble Supreme Court dated 06th May, 2016]

2.2.13 UTPs who are of unsound mind and must be dealt with Chapter XXV of the Code.

[As per order of Hon'ble Supreme Court dated 06th May, 2016]

2.2.14 UTPs eligible for release under Section 437(6) of Cr.P.C, wherein in a case triable by a Magistrate, the trial of a person accused of any non-bailable offence has not been concluded within a period of 60 days from the first date fixed for taking evidence in the case.

[As per order of Hon'ble Supreme Court dated 06th May, 2016]

2.3 The DLSA Secretary must inform the District & Sessions Judge that the complete list has been prepared and request him to convene the UTRC meeting at the earliest. A copy of the list may also be shared with other members of the UTRC so that they can come prepared for the meeting.

STEP 3: Processing of identified cases by UTRC

- 3.1 The District & Sessions Judge shall convene the UTRC meeting as soon as the intimation is received from the DLSA, Secretary about the completion of the lists.
- 3.2 UTRC shall consider the cases shortlisted by the Secretary, DLSA and make recommendations for release/ appropriate action.
- 3.3 Upon processing the individual cases, the recommendations of UTRC may include:-

3.3.1 In case UTPs covered under Section 436A Cr.P.C.:

UTRC may recommend to concerned trial court to take up the matter and consider him/her for release on bail if there are no special reasons to deny bail, with or without sureties.

3.3.2 UTPs released on bail by the court, but have not been able to furnish sureties:

The UTRC may recommend the trial court to examine the reason why the accused is not furnishing surety/ bail bonds and if he/she is unable to do so due to poverty, then the trial court may consider reducing the

bail amount on the application of the lawyer under S.440, CrPC or release on personal bond.

3.3.3 UTPs accused of compoundable offences:

The UTRC may recommend to the trial court to consider if the offence can be compounded between the complainant and the accused as per law.

3.3.4 UTPs eligible under Section 436 of Cr.P.C.:

The UTRC may recommend to the trial court to consider releasing such an accused on personal bond in case he is unable to furnish bail bond within seven days of bail order.

3.3.5 UTPs who may be covered under Section 3 of the Probation of Offenders Act, namely accused of offence under Sections 379, 380, 381, 404, 420 IPC or alleged to be an offence not more than 2 years imprisonment:

The UTRC may recommend to the trial court to consider invoking of Probation of Offenders Act in fit cases as also plea bargaining in appropriate cases.

3.3.6 Convicts who have undergone their sentence or are entitled to release because of remission granted to them:

The UTRC may examine the reason for non-release of the convict and the Officer in-charge of prison may be recommended to look into the matter so that the convict is released as soon as possible.

3.3.7 UTPs become eligible to be released on bail under Section 167(2)(a)(i) & (ii) of the Code read with Section 36A of the Narcotic Drugs and Psychotropic Substances Act, 1985 (where persons accused of Section 19 or Section 24 or Section 27A or for offences involving commercial quantity) and where investigation is not completed in 60/90/180 days:

The UTRC may recommend to the trial court to consider release of the accused in cases where chargesheet is not submitted within the statutory time frame.

3.3.8 UTPs who are imprisoned for offences which carry a maximum punishment of 2 years:

The UTRC may recommend to the trial court to consider releasing of the UTP on bail in such cases.

3.3.9 UTPs who are detained under Chapter VIII of the Cr.P.C. i.e. under Sections 107, 108, 109 and 151 of Cr.P.C.:

The Executive Magistrate/ District Magistrate court may be recommended to release/discharge such persons with or without conditions or to make an order reducing the amount of the security or the number of sureties or the time for which security has been required.

3.3.10 UTPs who are sick or infirm and require specialized medical treatment:

The UTRC may examine the medical condition of the inmate and if it is found that the inmate is very sick and specialized treatment is essential for survival, then the UTRC may recommend the trial court to consider granting bail on medical ground, as provided under S.437, CrPC, even for temporary period.

3.3.11 UTPs women offenders:

Women under trial prisoners who are not accused of serious offences may be considered for release on bail under S.437, CrPC, especially they are first time offenders by the concerned trial courts. The UTRC may also recommend suitable measures under the directions of the Hon'ble Court in R. D. Upadhyay vs State of A.P. & Ors. (AIR 2006 SC 1946).

3.3.12 UTPs who are first time offenders between the ages 19 and 21 years and in custody for the offence punishable with less than 7 years of imprisonment and have suffered at least 1/4th of the maximum sentence possible:

The UTRC may request the trial court to consider granting bail to such young offenders. If the person is found guilty in the course of trial, benefit of S.3 or S.4 of the Probation of Offenders Act, 1958, may be given to the accused.

3.3.13 UTPs who are of unsound mind and must be dealt with Chapter XXV of the Code:

UTRC may recommend the trial court to take appropriate steps in accordance with Chapter XXV of the Code and provide adequate treatment to such inmates.

3.3.14 UTPs eligible for release under Section 437(6) of Cr.P.C., wherein in a case triable by a Magistrate, the trial of a person accused of any non-bailable offence has not been concluded within a period of 60 days from the first date fixed for taking evidence in the case:
UTRC may request the trial court to consider granting bail to such UTPs under Section 437(6) of Cr.P.C.

3.4 The UTRC shall enter its recommendation in column no. 21-23 of Annexure-A and column no.15-17 of Annexure-B.

- 3.4.1 Recommendation of UTRC
- 3.4.2 Date of recommendation
- 3.4.2 Brief reasons for UTRC recommendation

3.5 The UTRC shall share recommendations with the concerned Trial Court/Jail Superintendent and Secretary, DLSA. Jail Superintendent shall bring it to the notice of UTP/Convict. Secretary, DLSA shall instruct the panel lawyers to move appropriate application in legal aided cases. The Trial Courts may deal with the recommendations in the manner deemed appropriate for each particular case with the assistance of Legal Aid/Private Lawyer.

STEP 4: Follow up:

UTRC shall keep track of the follow up action in recommended cases as detailed in **Annexure-A (Column No.24- 26) & Annexure-B (Column No.18-20)** as under:-

- 4.1 Action taken on recommendation.
- 4.2 Final Outcome
- 4.3 Date of release of UTP/Convict.

STEP 5: Collation of data on quarterly basis by the Secretary, DLSA

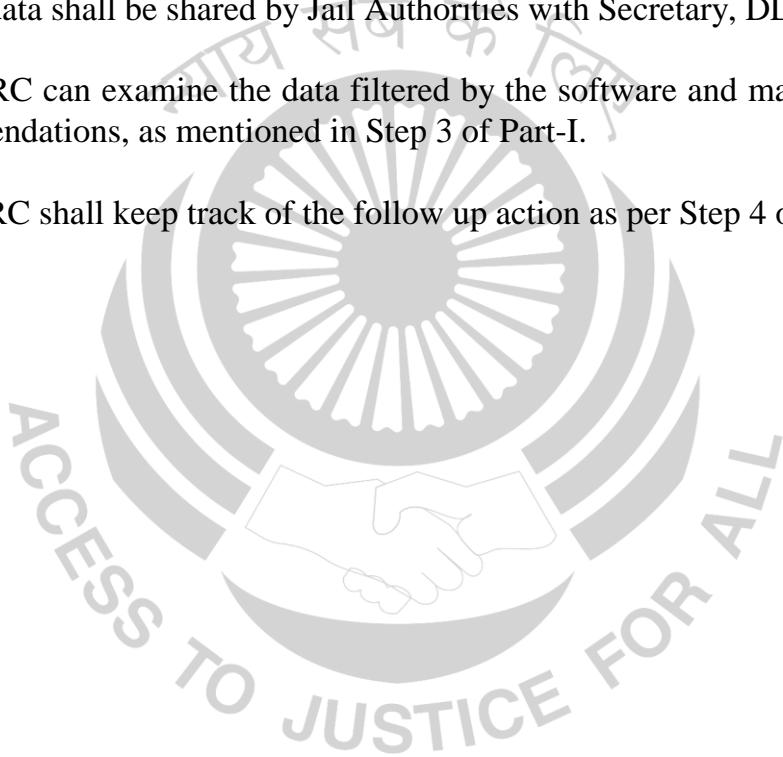
Secretary, DLSA shall collate the above data in **Annexure-A & B** and generate quarterly report under the following heads:

1. Number of UTPs/Convicts considered by UTRCs in a given quarter/year.
2. Number of UTPs/Convicts recommended for bail/release.
3. Number of bail/other applications moved post recommendations.
4. Number of inmates released pursuant to UTRC's recommendation.

PART-II

SOP for UTRC where Jails are digitized and have Software to filter the cases which are eligible for release

- 5.1 If the jail concerned has appropriate data in digital format and is able to apply the filters, then the Step 1 and Step 2 of Part-I would merge into one and the filtered data shall be shared by Jail Authorities with Secretary, DLSA.
- 5.2 The UTRC can examine the data filtered by the software and make appropriate recommendations, as mentioned in Step 3 of Part-I.
- 5.3 The UTRC shall keep track of the follow up action as per Step 4 of Part-I.



NALSA's ADDITIONAL SUGGESTIONS

In order to expedite Trials and ensure Access to Justice for UTPs/Convicts NALSA suggests following new initiatives:-

Suggestion No.1 : Usage of modified ‘Custody Warrant’

- NALSA has designed a new Modified Custody Warrant which is annexed as **Annexure ‘C’**. The need thereof arose since as on date the Prison Data is maintained only on the basis of case details received by the Jail Authorities from the First Custody Warrant which is in turn based solely on case particulars contained in the FIR. This data is amenable to change at different stages i.e. stage of filing of Chargesheet, framing of Charge and then passing of final Judgement.

Adoption of this new Modified ‘Custody Warrant’ is necessary as unless the specific offence in which UTP is kept in detention is regularly updated, the software filters will not be able to give correct results. For example, an accused initially arrested u/S 302 IPC may be finally chargesheeted u/S 304 IPC.

This new Modified Custody Warrant carry the particulars of the Legal Aid Counsel/Private Counsel representing the UTPs at different stages.

Suggestion No.2: Training/sensitization of Remand Court/Trial Court to safeguard the rights of the UTPs to be considered for bail.

It is suggested that judicial academies of respective States may undertake training/sensitization courses of judicial officers with an aim to highlight the reason behind the UTPs : Convicts ratio in prisons which currently stands as 67% : 33% in our country. The world average of UTPs : Convicts ratio stands at only 31%:69%. The Training of judicial officers may include highlighting importance of -

- Compliance of Section 41, 41 A to D Cr.P.C. by police authorities.
- Release of arrested persons/UTPs in deserving cases by invoking Section 59 of Cr.P.C with or without bond.
- Highlighting importance of 14 situations/criteria laid down by Hon'ble Supreme Court in WP Civil No. 406/2013 “Re-inhuman conditions in 1382 prisons” and their timely compliance for decongestion of jails.

Suggestion No.3: Inclusion of Chief Public Prosecutor in UTRC.

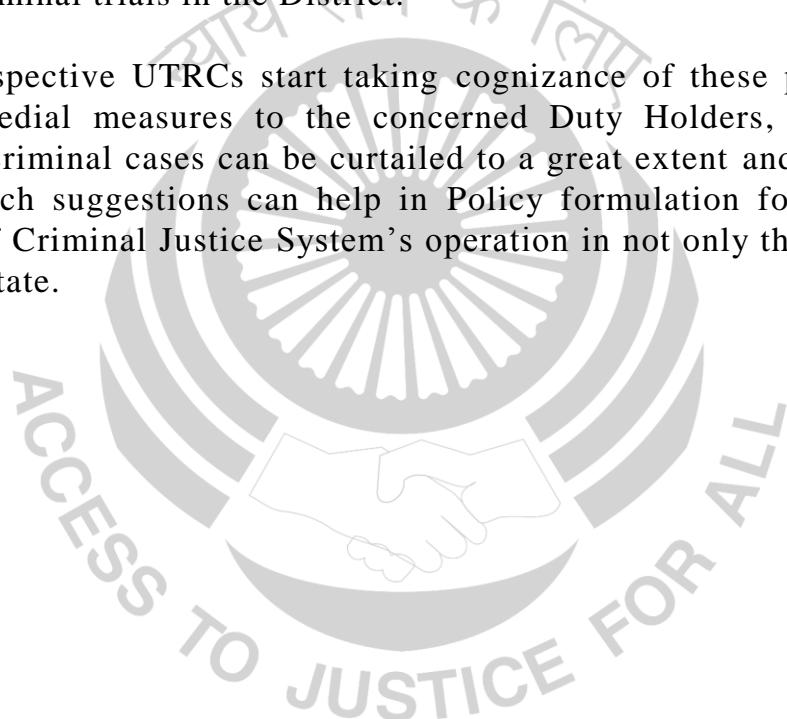
- State is represented by Public Prosecutor in each criminal court i.e. MMs/Sessions. As and when any Bail Application is moved by the UTPs either on merits or on technical grounds, as a matter of routine, it is observed that they are opposed by Public Prosecutors/Additional Public prosecutors/Asstt. Public prosecutors representing State in the Court. Hence, inclusion of Chief Public Prosecutor of the District in the UTRC would assist in compliance of directions of Hon'ble Supreme Court.

Suggestion No.4: Expanding the mandate of UTRC

- UTRC is mandated to ensure compliance of directions issued by Hon'ble Supreme Court. However to ensure that UTPs' right to speedy trial is upheld, it is proposed that UTRC shall look into the individual cases so as to ascertain as to why a particular criminal trial is not getting concluded in a reasonable time and is getting dragged. Such a review of individual cases would go a long way in identifying the broad reasons which results in the delay of trials. This would also help reduce imbalance of 67%:33% UTPs:Convicts ratio.
- While identifying bottle necks in the Criminal Justice System of a particular district, other facets which can be looked into and addressed by the UTRC may include:
 - 4.1 Check on non-compliance of Section 41 Cr.P.C. to curtail avoidable/unnecessary arrests by the Police.
 - 4.2 Non production of UTPs before the Remand/Trial Court either in person or via video conferencing facility on account of lack of logistic facilities.
 - 4.3 Delay caused by frequent inter-state transfer of UTPs
 - 4.4 Non filing of FSL/CFSL report in time.
 - 4.5 Failure of police to trace, serve and produce the Public/Expert witnesses.
 - 4.6 Delay caused in frequent transfer of investigation related witnesses like police officials, documents.
 - 4.7 Non availability of dedicated PPs in each criminal court.
 - 4.8 Rational distribution of criminal cases in different courts within district

- 4.9 Paucity of staff like Ahlmaid or stenographer for the criminal court
- 4.10 Delay caused by lack of efficiency in administrative set up like Copying Agency, Facilitation Centre, Record Room(in case of fetching of old file) etc.
- 4.11 IT Infrastructural need like, Desktop, printer, NIC-net, stationary etc. apart from Data entry professionals.
- 4.12 Popularize ADR methods as also Plea Bargaining for quick disposal.
- 4.13 Suggest segregation of trial in case one or more co-accused are absconding.
- 4.14 Availability of effective and efficient Free Legal Aid Services.
- 4.15 Seeking Cooperation from the Bar for expediting trial.
- 4.16 Any other issue which is hampering the early conclusion of criminal trials in the District.

Once the respective UTRCs start taking cognizance of these problems and suggest remedial measures to the concerned Duty Holders, the delay in disposal of criminal cases can be curtailed to a great extent and learning outcomes of such suggestions can help in Policy formulation for improving efficiency of Criminal Justice System's operation in not only the District but also in the State.



TEMPLATE

List of eligible UTPs for consideration of UTRC														Annexure-A					
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
Name of the UTP	Father's name	Gender/Age	FIR/Crime no.	Police Station	District	Arrested under Section	Particulars of the Court	Date of arrest	Date of first Remand	Date of admission in Prison	Date of filing chargesheet	Chargesheeted under Section	UTP represented by Legal aid/private	Name of the lawyers with contact details, if available	Whether bails has been granted to the accused, if when	If accused is not released on bail despite grant of bail, reason for the same, if available.	If the UTP suffering from any disease, mental or physical, details regarding the same.	Whether UTP is a convict/Under trial in any other	If yes, separate entry in the data sheet be made qua the additional Case.

Note:

- Column Nos. 1 to 20 to be filled by Jail Superintendent.

Contd.....

TEMPLATE

Annexure-A

21	22	23	24	25	26
Recommen dation of UTRC	Date of Recommen dation	Brief reasons for UTRC recommendation	Action Taken on recommendation	Final Outcome	Date of release of UTP

Note:

- Column Nos. 21 to 26 to be filled by UTRC.

TEMPLATE

Annexure-B

List of Convicts

1	2	3	4	5	6	7	8	9	10	11	12	13	14
S.No.	Name of the Convict	Father's Name	FIR No.	Police Station	District	Name of the Trial Court	Date of Conviction	Duration & Nature of Sentence	Total Remission Earned	Date when sentence completed	Reason for Non-Release	Whether case considered by Sentence Review Board?	Reason for not granting pre-mature release

Note:

- Column Nos. 1 to 14 to be filled by Jail Superintendent.

Contd...

TEMPLATE

Annexure-B

15	16	17	18	19	20
Recommendation of UTRC	Date of Recommendation	Brief reasons for UTRC recommendation	Action Taken on recommendation	Final Outcome	Date of release of Convict

Note:

- Column Nos. 15 to 20 to be filled by UTRC.

**TEMPLATE
Annexure-C**

"CUSTODY WARRANT"

Jail No. : _____

Name		FIR No	
Father's Name		U/s(as per FIR)	
Age		Arrested U/s	
Gender		Police Station	
Address		District	
Nationality		Date of Arrest	

**PHOTO
OF
INMATE**

REMAND DURING INVESTIGATION

ADVOCATE.....(Pvt/Legal Aid)

S.No.	Date	Remand Order by Ld. Judge/Next date in the Court
1		
2		
3		
4		

- Date of Filing of Charge Sheet :
- Offences against the Accused :

REMAND AFTER FILING OF CHARGE SHEET

ADVOCATE.....(Pvt/Legal Aid)

S.No.	Date	Remand Order by Ld. Judge/Next date in the Court
1		
2		
3		
4		
5		

- Date of Committal in Sessions trial cases:.....
- Date of Framing of Charge :
- Charge framed under offences :

REMAND DURING PROSECUTION EVIDENCE

ADVOCATE.....(Pvt/Legal Aid)

S.No.	Date	Remand Order by Ld. Judge/Next date in the Court
1		
2		
3		
4		
5		

REMAND DURING STATEMENT OF ACCUSED

ADVOCATE.....(Pvt/Legal Aid)

S.No.	Date	Remand Order by Ld. Judge/Next date in the Court
1		
2		
3		

REMAND DURING DEFENCE EVIDENCE

ADVOCATE.....(Pvt/Legal Aid)

S.No.	Date	Remand Order by Ld. Judge/Next date in the Court
1		
2		
3		

REMAND DURING FINAL ARGUMENTS

ADVOCATE.....(Pvt/Legal Aid)

S.No.	Date	Remand Order by Ld. Judge/Next date in the Court
1		
2		
3		

- Result of Trial :
- Judgement Pronounced on :
- If convicted, offences convicted under :
- Sentence imposed : (Attach separate sheet)
- Compensation awarded to victim : (Attach separate sheet)

Supreme Court Legal Services Committee Rules, 2000

In exercise of the powers conferred by section 27 of the Legal Services Authorities Act, 1987 (39 of 1987), the Central Government in consultation with Chief Justice of India, hereby makes the following rules, namely:-

1. Short title and commencement :-

- (a) These rules may be called the Supreme Court Legal Services Committee Rules, 2000.
- (b) They shall come into force on the date of their publication in the Gazette of India.

2. Definitions :- In these rules unless the context otherwise requires -

- (a) "Act" means the Legal Services Authorities Act, 1987 .
- (b) "Member" means the Members of the Supreme Court Legal Services Committee nominated under clause (b) of sub- section (2) of section 3A of the Act.
- (c) "Secretary" means the Secretary of the Supreme Court Legal Services Committee appointed under sub-section (3) of section 3A of the Act.
- (d) All other words and expressions used in these rules but not defined shall have the same meaning as assigned to them in the Act.

3. The Number, Experience and Qualifications of Members of the Supreme Court Legal Services Committee Under Clause (b) of Sub-Section (2) of Section 3A :-

- (a) The Supreme Court Legal Services Committee shall consist of not more than nine Members.
- (b) The following shall be the ex-officio Members of the Supreme Court Legal Services Committee :-
 - (i) Attorney General of India.

(ii) Additional Secretary in the Department of Legal Affairs, Ministry of Law, Justice and Company Affairs, Government of India or his nominee.

(iii) Additional Secretary in the Department of Expenditure of the Ministry of Finance, Government of India or his nominee; and

(iv) Registrar General of the Supreme Court of India.

(3) The Chief Justice of India may nominate other Members from amongst those possessing the qualification and experience prescribed in sub-rule (4) of the rules.

(4) A person shall not be qualified for nomination as a Member unless he is :-

(a) An eminent person in the field of law, or

(b) A person of repute who is specially interested in the implementation of the Legal Services Schemes; or

(c) An eminent social worker who is engaged in the upliftment of the weaker sections of the society including Scheduled Castes, Scheduled Tribes, women, children, rural and urban labour.

5. The Number of Officers and Other Employees of the Supreme Court Legal Services Committee Under Sub-Section (5) of Section 3A :-

The Supreme Court Legal Services Committee shall have such number of officers and other employees for secretarial assistance and for its day-to-day functions as are set out in the Schedule to these rules or as may be notified by the Central Government from time to time.

6. The Conditions of Service and the Salary and Allowances Payable to the Officers and Employees of the Supreme Court Legal Services Committee Under Sub-Section (6) of Section 3A :-

(a) The officers and other employees of the Supreme Court Legal Services Committee shall be entitled to draw pay and allowances in the scale of pay indicated against each post in the Schedule to these rules or at par with the Central Government employees holding equivalent posts.

(b) In all matters like age of retirement, pay and allowances, benefits and entitlements and disciplinary matters, the offices and employees of the Supreme Court Legal Services Committee shall be governed by the Central Government rules as are applicable to persons holding equivalent posts.

(c) The officers and other employees of the Supreme Court Legal Services Committee shall be entitled to such other facilities and benefits as may be notified by the Central Government from time to time. Explanation.- The words "benefits", "allowances", "entitlements", "facilities" occurring in these rules shall be deemed to include, the entitlement to gratuity, provident fund, housing, medical benefits, pension, group insurance, and all other benefits as are available to employees of the Central Government holding equivalent posts.

7. The Upper Limit of Annual Income of a Person Entitling him to Legal Services Under Clause (h) of Section 12, if the Case is Before the Supreme Court :-

A person whose annual income from all sources does not exceed Rs. 1,25,000 (Rupees one lakh twenty-five thousands per annum shall be entitled to legal services under clause (h) of section 12 of the Act.

8. The experience and qualifications of other persons of the Lok Adalats organised by the Supreme Court Legal Services Committee specified in sub-section(3) of section 19 :-

A persons shall not be qualified to be included in the Lok Adalat unless he is,-

(a) A member of the legal profession; or

(b) A person of repute who is specially interested in the implementation of the Legal Services Schemes and Programmes; or

(c) An eminent social worker who is engaged in the upliftment of the weaker sections of the society, including Scheduled Castes, Scheduled Tribes, women, children, rural and urban labour.

Schedule
 (See rules 5 and 6)
**Sanctioned Strength of the State of the Supreme
Court Legal Service Committee**

Sr.No.	Designation	Scale of Pay	No of Posts
I	Officers		
1.	Secretary	Rs. 14300-400-18300	1
2	Legal Service Counsel-cum-Consultant	Rs. 12000-375-16500	1
3	Superintendent	Rs. 6500-200-10500	1
		Total	3
II	Establishment		
1.	Assistant	Rs. 5500-175-9000	2
2.	Upper Division Clerk	Rs. 4000-100-6000	2
3	Upper Division Clerk-cum-Accounts	Rs. 4000-100-6000	1
4	Junior Stenographer	Rs. 4000-100-6000	1
5	Lower Division Clerk	Rs. 3050-75-3950-80-4590	4
6	Daftry	Rs. 2610-60-3150-65-3540	1
7	Peon	Rs. 2550-55-2660-60-3200	3
8	Farash	Rs. 2550-55-2660-60-3200	1
		Total	15
		Grand Total of Officers and Staff	18

THE LEGAL SERVICES AUTHORITIES ACT, 1987

ARRANGEMENT OF SECTIONS

CHAPTER I

PRELIMINARY

SECTIONS

1. Short title, extent and commencement.
2. Definitions.

CHAPTER II

THE NATIONAL LEGAL SERVICES AUTHORITY

3. Constitution of the National Legal Services Authority.
- 3A. Supreme Court Legal Services Committee.
4. Functions of the Central Authority.
5. Central Authority to work in coordination with other agencies.

CHAPTER III

STATE LEGAL SERVICES AUTHORITY

6. Constitution of State Legal Services Authority.
7. Functions of the State Authority.
8. State Authority to act in coordination with other agencies, etc., and be subject to directions given by the Central Authority.
- 8A. High Court Legal Services Committee.
9. District Legal Services Authority.
10. Functions of the District Authority
11. District Authority to act in coordination with other agencies and be subject to directions given by the Central Authority, etc.
- 11A. Taluk Legal Services Committee.
- 11B. Functions of Taluk Legal Services Committee.

CHAPTER IV

ENTITLEMENT TO LEGAL SERVICES

12. Criteria for giving legal services.
13. Entitlement of legal services.

CHAPTER V

FINANCE, ACCOUNTS AND AUDIT

14. Grants by the Central Government.

SECTIONS

- 15. National Legal Aid Fund.
- 16. State Legal Aid Fund.
- 17. District Legal Aid Fund.
- 18. Accounts and audit.

CHAPTER VI

LOKADALATS

- 19. Organisation of Lok Adalats.
- 20. Cognizance of cases by Lok Adalats.
- 21. Award of Lok Adalat.
- 22. Powers of Lok Adalat or Permanent Lok Adalat.

CHAPTER VIA

PRE-LITIGATION CONCILIATION AND SETTLEMENT

- 22A. Definitions.
- 22B. Establishment of Permanent Lok Adalats.
- 22C. Cognizance of cases by Permanent Lok Adalat.
- 22D. Procedure of Permanent Lok Adalat.
- 22E. Award of Permanent Lok Adalat to be final.

CHAPTER VII

MISCELLANEOUS

- 23. Members and staff of Authorities, Committees and Lok Adalats to be public servants.
- 24. Protection of action taken in good faith.
- 25. Act to have overriding effect.
- 26. Power to remove difficulties.
- 27. Power of Central Government to make rules.
- 28. Power of State Government to make rules.
- 29. Power of Central Authority to make regulations.
- 29A. Power of State Authority to make regulations.
- 30. Laying of rules and regulations

THE LEGAL SERVICES AUTHORITIES ACT, 1987

ACT NO. 39 OF 1987

[11th October, 1987.]

An Act to constitute legal services authorities to provide free and competent legal services to the weaker sections of the society to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities, and to organize Lok Adalats to secure that the operation of the legal system promotes justice on a basis of equal opportunity.

BE it enacted by the Parliament in the Thirty-eighth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.—This Act may be called the Legal Services Authorities Act, 1987.

(2) It extends to the whole of India,¹***.

(3) It shall come into force on such date² as the Central Government may, by notification, appoint; and different dates may be appointed for different provisions of this Act and for different States, and any reference to commencement in any provision of this Act in relation to any State shall be construed as a reference to the commencement of that provision in that State.

2. Definitions.—In this Act, unless the context otherwise requires,—

³[(a) “case” includes a suit or any proceeding before a court;

(aa) “Central Authority” means the National Legal Services Authority constituted under section3;

(aaa) “court” means a civil, criminal or revenue court and includes any tribunal or any other authority constituted under any law for the time being in force, to exercise judicial or quasi-judicial functions;]

(b) “District Authority” means a District Legal Services Authorityconstituted under section9;

⁴[(bb) “High Court Legal Services Committee” means a High Court Legal Services Committee constituted under section8A;]

(c) “legal service” includes the rendering of any service in the conduct of any case or other legal proceeding before any court or other authority or tribunal and the giving of advice on any legal matter;

(d)“Lok Adalat” means a Lok Adalat organised under Chapter VI;

(e) “notification” means a notification published in the Official Gazette;

(f) “prescribed” means prescribed by rules made under this Act;

³[(ff) “regulations” means regulations made under this Act;]

(g) “scheme” means any scheme framed by the Central Authority, a State Authority or a District Authority for the purpose of giving effect to any of the provisions of this Act;

(h) “State Authority” means a State Legal Services Authority constituted under section6;

(i) “State Government” includes the administrator of a Union territory appointed by the President under article 239 of the Constitution;

1. The words “except the State of Jammu and Kashmir” omitted by Act 34 of 2019, s. 95 and the Fifth Schedule (w.e.f. 31-10-2019).

2. 9th November, 1995, *vide* notification No. S.O. 893(E), dated 9th November, 1995, *see* Gazette of India, Extraordinary, Part II, sec. 3(ii).

3. Subs. by Act 59 of 1994, s. 2, for clause (a) (w.e.f. 29-10-1994).

4. Ins. by s. 2, *ibid.* (w.e.f. 29-10-1994).

¹[(j) “Supreme Court Legal Services Committee” means the Supreme Court Legal Services Committee constituted under section3A;

(k) “Taluk Legal Services Committee” means a Taluk Legal Services Committee constituted under section11A.]

(2) Any reference in this Act to any other enactment or any provision thereof shall, in relation to an area in which such enactment or provision is not in force, be construed as a reference to the corresponding law or the relevant provision of the corresponding law, if any, in force in that area.

CHAPTER II

THE NATIONAL LEGAL SERVICES AUTHORITY

²[**3. Constitution of the National Legal Services Authority.**—(1) The Central Government shall constitute a body to be called the National Legal Services Authority to exercise the powers and perform the functions conferred on, or assigned to, the Central Authority under this Act.

(2) The Central Authority shall consist of—

(a) the Chief Justice of India who shall be the Patron-in-Chief;

(b) a serving or retired Judge of the Supreme Court to be nominated by the President, in consultation with the Chief Justice of India, who shall be the Executive Chairman; and

(c) such number of other members, possessing such experience and qualifications, as may be prescribed by the Central Government, to be nominated by that Government in consultation with the Chief Justice of India.

(3) The Central Government shall, in consultation with the Chief Justice of India, appoint a person to be the Member-Secretary of the Central Authority, possessing such experience and qualifications as may be prescribed by that Government, to exercise such powers and perform such duties under the Executive Chairman of the Central Authority as may be prescribed by that Government or as may be assigned to him by the Executive Chairman of that Authority.

(4) The terms of office and other conditions relating thereto, of members and the Member-Secretary of the Central Authority shall be such as may be prescribed by the Central Government in consultation with the Chief Justice of India.

(5) The Central Authority may appoint such number of officers and other employees as may be prescribed by the Central Government, in consultation with the Chief Justice of India, for the efficient discharge of its functions under this Act.

(6) The officers and other employees of the Central Authority shall be entitled to such salary and allowances and shall be subject to such other conditions of service as may be prescribed by the Central Government in consultation with the Chief Justice of India.

(7) The administrative expenses of the Central Authority, including the salaries, allowances and pensions payable to the Member-Secretary, officers and other employees of the Central Authority, shall be defrayed out of the Consolidated Fund of India.

(8) All orders and decisions of the Central Authority shall be authenticated by the Member-Secretary or any other officer of the Central Authority duly authorised by the Executive Chairman of that Authority.

(9) No act or proceeding of the Central Authority shall be invalid merely on the ground of the existence of any vacancy in, or any defect in the constitution of, the Central Authority.

3A. Supreme Court Legal Services Committee.—(1) The Central Authority shall constitute a committee to be called the Supreme Court Legal Services Committee for the purpose of exercising such

1. Ins. by Act 59 of 1994, s. 2 (w.e.f. 29-10-1994).

2. Subs. by s. 3, *ibid.*, for section 3 (w.e.f. 29-10-1994).

powers and performing such functions as may be determined by regulations made by the Central Authority.

(2) The Committee shall consist of—

(a) a sitting Judge of the Supreme Court who shall be the Chairman; and

(b) such number of other members possessing such experience and qualifications as may be prescribed by the Central Government,

to be nominated by the Chief Justice of India.

(3) The Chief Justice of India shall appoint a person to be the Secretary to the Committee, possessing such experience and qualifications as may be prescribed by the Central Government.

(4) The terms of office and other conditions relating thereto, of the members and Secretary of the Committee shall be such as may be determined by regulations made by the Central Authority.

(5) The Committee may appoint such number of officers and other employees as may be prescribed by the Central Government, in consultation with the Chief Justice of India, for the efficient discharge of its functions.

(6) The officers and other employees of the Committee shall be entitled to such salary and allowances and shall be subject to such other conditions of service as may be prescribed by the Central Government in consultation with the Chief Justice of India.]

4. Functions of the Central Authority.—The Central Authority shall ^{1***} perform all or any of the following functions, namely:—

(a) lay down policies and principles for making legal services available under the provisions of this Act;

(b) frame the most effective and economical schemes for the purpose of making legal services available under the provisions of this Act;

(c) utilise the funds at its disposal and make appropriate allocations of funds to the State Authorities and District Authorities;

(d) take necessary steps by way of social justice litigation with regard to consumer protection, environmental protection or any other matter of special concern to the weaker sections of the society and for this purpose, give training to social workers in legal skills;

(e) organise legal aid camps, especially in rural areas, slums or labour colonies with the dual purpose of educating the weaker sections of the society as to their rights as well as encouraging the settlement of disputes through LokAdalats;

(f) encourage the settlement of disputes by way of negotiations, arbitration and conciliation;

(g) undertake and promote research in the field of legal services with special reference to the need for such services among the poor;

(h) to do all things necessary for the purpose of ensuring commitment to the fundamental duties of citizens under Part IVA of the Constitution;

(i) monitor and evaluate 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;

1. The words “, subject to the general directions of the Central Government,” omitted by Act of 59 of 1994, s. 4 (w.e.f. 29-10-1994).

¹[(j) provide grants-in-aid for specific schemes to various voluntary social service institutions and the State and District Authorities, from out of the amounts placed at its disposal for the implementation of the legal services schemes under the provisions of this Act;]

(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;

(l) take appropriate measures for spreading legal literacy and legal awareness amongst the people and, in particular, to educate weaker sections of the society about the rights, benefits and privileges guaranteed by social welfare legislations and other enactments as well as administrative programmes and measures;

(m) make special efforts to enlist the support of voluntary social welfare institutions working at the grass-root level, particularly among the Scheduled Castes and the Scheduled Tribes, women and rural and urban labour; and

(n) coordinate and monitor the functioning of ²[State Authorities, District Authorities, Supreme Court Legal Services Committee, High Court Legal Services Committees, Taluk Legal Services Committees and voluntary social service institutions] and other legal services organisations and give general directions for the proper implementation of the legal services programmes.

5. Central Authority to work in coordination with other agencies.—In the discharge of its functions under this Act, the Central Authority shall, wherever appropriate, act in coordination with other governmental and non-governmental agencies, universities and others engaged in the work of promoting the cause of legal services to the poor.

CHAPTER III

STATE LEGAL SERVICES AUTHORITY

³**[6. Constitution of State Legal Services Authority.—(1)** Every State Government shall constitute a body to be called the Legal Services Authority for the State to exercise the powers and perform the functions conferred on, or assigned to, a State Authority under this Act.

(2) A State Authority shall consist of—

(a) the Chief Justice of the High Court who shall be the Patron-in-Chief;

(b) a serving or retired Judge of the High Court, to be nominated by the Governor, in consultation with the Chief Justice of the High Court, who shall be the Executive Chairman; and

(c) such number of other members, possessing such experience and qualifications as may be prescribed by the State Government, to be nominated by that Government in consultation with the Chief Justice of the High Court.

(3) The State Government shall, in consultation with the Chief Justice of the High Court, appoint a person belonging to the State Higher Judicial Service, not lower in rank than that of a District Judge, as the Member-Secretary of the State Authority, to exercise such powers and perform such duties under the Executive Chairman of the State Authority as may be prescribed by that Government or as may be assigned to him by the Executive Chairman of that Authority.

Provided that a person functioning as Secretary of a State Legal Aid and Advice Board immediately before the date of constitution of the State Authority may be appointed as Member-Secretary of that Authority, even if he is not qualified to be appointed as such under this sub-section, for a period not exceeding five years.

1. Subs. by Act 59 of 1994, s. 4, for clause (j) (w.e.f. 29-10-1994).

2. Subs. by s. 4, *ibid.*, for “State and District Authorities and other voluntary social welfare institutions” (w.e.f. 29-10-1994).

3. Subs. by s. 5, *ibid.*, for section 6 (w.e.f. 29-10-1994).

(4) The terms of office and other conditions relating thereto, of members and the Member-Secretary of the State Authority shall be such as may be prescribed by the State Government in consultation with the Chief Justice of the High Court.

(5) The State Authority may appoint such number of officers and other employees as may be prescribed by the State Government, in consultation with the Chief Justice of the High Court, for the efficient discharge of its functions under this Act.

(6) The officers and other employees of the State Authority shall be entitled to such salary and allowances and shall be subject to such other conditions of service as may be prescribed by the State Government in consultation with the Chief Justice of the High Court.

(7) The administrative expenses of the State Authority, including the salaries, allowances and pensions payable to the Member-Secretary, officers and other employees of the State Authority shall be defrayed out of the Consolidated Fund of the State.

(8) All orders and decisions of the State Authority shall be authenticated by the Member-Secretary or any other officer of the State Authority duly authorised by the Executive Chairman of the State Authority.

(9) No act or proceeding of a State Authority shall be invalid merely on the ground of the existence of any vacancy in, or any defect in the constitution of, the State Authority.]

7. Functions of the State Authority.—(1) It shall be the duty of the State Authority to give effect to the policy and directions of the Central Authority.

(2) Without prejudice to the generality of the functions referred to in sub-section(1), the State Authority shall perform all or any of the following functions, namely:—

(a) give legal service to persons who satisfy the criteria laid down under this Act;

(b) conduct¹[LokAdalats, including LokAdalats for High Court cases];

(c) undertake preventive and strategic legal aid programmes; and

(d) perform such other functions as the State Authority may, in consultation with the²[Central Authority], fix by regulations.

³[8. State Authority to act in coordination with other agencies., etc., and be subject to directions given by the Central Authority.—In the discharge of its functions the State Authority shall appropriately act in coordination with other governmental agencies, non-governmental voluntary social service institutions, universities and other bodies engaged in the work of promoting the cause of legal services to the poor and shall also be guided by such directions as the Central Authority may give to it in writing.

8A. High Court Legal Services Committee.—(1) The State Authority shall constitute a Committee to be called the High Court Legal Services Committee for every High Court, for the purpose of exercising such powers and performing such functions as may be determined by regulations made by the State Authority.

(2) The Committee shall consist of—

(a) a sitting Judge of the High Court who shall be the Chairman; and

(b) such number of other members possessing such experience and qualifications as may be determined by regulations made by the State Authority,

to be nominated by the Chief Justice of the High Court.

(3) The Chief Justice of the High Court shall appoint a Secretary to the Committee possessing such experience and qualifications as may be prescribed by the State Government.

1. Subs. by Act 59 of 1994, s. 6, for “LokAdalats” (w.e.f. 29-10-1994).

2. Subs. by s. 6, *ibid.*, for “Central Government” (w.e.f. 29-10-1994).

3. Subs. by s. 7, *ibid.*, for sections 8 and 9 (w.e.f. 29-10-1994).

(4) The terms of office and other conditions relating thereto, of the members and Secretary of the Committee shall be such as may be determined by regulations made by the State Authority.

(5) The Committee may appoint such number of officers and other employees as may be prescribed by the State Government in consultation with the Chief Justice of the High Court for the efficient discharge of its functions.

(6) The officers and other employees of the Committee shall be entitled to such salary and allowances and shall be subject to such other conditions of Service as may be prescribed by the State Government in consultation with the Chief Justice of the High Court.

9. District Legal Services Authority.—(1) The State Government shall, in consultation with the Chief Justice of the High Court, constitute a body to be called the District Legal Services Authority for every District in the State to exercise the powers and perform the functions conferred on, or assigned to, the District Authority under this Act.

(2) A District Authority shall consist of—

(a) the District Judge who shall be its Chairman; and

(b) such number of other members, possessing such experience and qualifications, as may be prescribed by the State Government, to be nominated by that Government in consultation with the Chief Justice of the High Court.

(3) The State Authority shall, in consultation with the Chairman of the District Authority, appoint a person belonging to the State Judicial Service not lower in rank than that of a Subordinate Judge or Civil Judge posted at the seat of the District Judiciary as Secretary of the District Authority to exercise such powers and perform such duties under the Chairman of that Committee as may be assigned to him by such Chairman.

(4) The terms of office and other conditions relating thereto, of members and Secretary of the District Authority shall be such as may be determined by regulations made by the State Authority in consultation with the Chief Justice of the High Court.

(5) The District Authority may appoint such number of officers and other employees as may be prescribed by the State Government in consultation with the Chief Justice of the High Court for the efficient discharge of its functions.

(6) The officers and other employees of the District Authority shall be entitled to such salary and allowances and shall be subject to such other conditions of service as may be prescribed by the State Government in consultation with the Chief Justice of the High Court.

(7) The administrative expenses of every District Authority, including the salaries, allowances and pensions payable to the Secretary, officers and other employees of the District Authority, shall be defrayed out of the Consolidated Fund of the State.

(8) All orders and decisions of the District Authority shall be authenticated by the Secretary or by any other officer of the District Authority duly authorised by the Chairman of that Authority.

(9) No act or proceeding of the District Authority shall be invalid merely on the ground of the existence of any vacancy in, or any defect in the constitution of, the District Authority.]

10. Functions of the District Authority.—(1) It shall be the duty of every District Authority to perform such of the functions of the State Authority in the District as may be delegated to it from time to time by the State Authority.

(2) Without prejudice to the generality of the functions referred to in sub-section (1), the District Authority may perform all or any of the following functions, namely:—

¹[(a) coordinate the activities of the Taluk Legal Services Committee and other legal services in the District;]

1. Subs. by Act 59 of 1994, s. 8, for clause (a) (w.e.f. 29-10-1994).

(b) organize Lok Adalats within the District; and

(c) perform such other functions as the State Authority may ^{1***} fix by regulations.

11. District Authority to act in coordination with other agencies and be subject to directions given by the Central Authority, etc.—In the discharge of its functions under this Act, the District Authority shall, wherever appropriate, act in coordination with other governmental and non-governmental institutions, universities and others engaged in the work of promoting the cause of legal services to the poor and shall also be guided by such directions as the Central Authority or the State Authority may give to it in writing.

²[11A. Taluk Legal Services Committee.—(1) The State Authority may constitute a Committee, to be called the Taluk Legal Services Committee, for each taluk or mandal or for group of taluks or mandals.

(2) The Committee shall consist of—

(a) The ³[senior-most Judicial Officer] operating within the jurisdiction of the Committee who shall be the *ex officio* Chairman; and

(b) such number of other members, possessing such experience and qualifications, as may be prescribed by the State Government, to be nominated by that Government in consultation with the Chief Justice of the High Court.

(3) The Committee may appoint such number of officers and other employees as may be prescribed by the State Government in consultation with the Chief Justice of the High Court for the efficient discharge of its functions.

(4) The officers and other employees of the Committee shall be entitled to such salary and allowances and shall be subject to such other conditions of service as may be prescribed by the State Government in consultation with the Chief Justice of the High Court.

(5) The administrative expenses of the Committee shall be defrayed out of the District Legal Aid Fund by the District Authority.

11B. Functions of Taluk Legal Services Committee.—The Taluk Legal Services Committee may perform all or any of the following functions, namely:—

(a) co-ordinate the activities of legal services in the taluk;

(b) organize Lok Adalats within the taluk; and

(c) perform such other functions as the District Authority may assign to it.]

CHAPTER IV

ENTITLEMENT TO LEGAL SERVICES

12. Criteria for giving legal services.—Every person who has to file or defend a case shall be entitled to legal services under this Act if that person is—

(a) a member of a Scheduled Caste or Scheduled Tribe;

(b) a victim of trafficking in human beings or *begar* as referred to in article 23 of the Constitution;

(c) a woman or a child;

⁴[(d) a person with disability as defined in clause (i) of section 2 of the Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996);]

1. The words “, in consultation with the State Government,” omitted by Act 59 of 1994, s. 8 (w.e.f. 29-10-1994).

2. Ins. by s. 9, *ibid.* (w.e.f. 29-10-1994).

3. Subs. by Act 37 of 2002, s. 2, for “senior Civil Judge” (w.e.f. 11-6-2002).

4. Subs. by Act 1 of 1996, s. 74, for clause (d) (w.e.f. 7-2-1996).

(e) a person under circumstances of underserved want such as being a victim of a mass disaster, ethnic, violence, caste atrocity, flood, drought, earthquake or industrial disaster; or

(f) an industrial workman; or

(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); or

¹[(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.]

13. Entitlement of legal services.—(1) Persons who satisfy all or any of the criteria specified in section 12 shall be entitled to receive legal services provided that the concerned Authority is satisfied that such person has *aprima facie* case to prosecute or to defend.

(2) An affidavit made by a person as to his income may be regarded as sufficient for making him eligible to the entitlement of legal services under this Act unless the concerned Authority has reason to disbelieve such affidavit.

CHAPTER V

FINANCE, ACCOUNTS AND AUDIT

14. Grants by the Central Government.—The Central Government shall, after due appropriation made by Parliament by law in this behalf, pay to the Central Authority, by way of grants, such sums of money as the Central Government may think fit for being utilised for the purposes of this Act.

15. National Legal Aid Fund.—(1) The Central Authority shall establish a fund to be called the National Legal Aid Fund and there shall be credited thereto—

(a) all sums of money given as grants by the Central Government under section 14;

(b) any grants or donations that may be made to the Central Authority by any other person for the purposes of this Act;

(c) any amount received by the Central Authority under the orders of any court or from any other source.

(2) The National Legal Aid Fund shall be applied for meeting—

(a) the cost of legal services provided under this Act including grants made to State Authorities;

²[(b) the cost of legal services provided by the Supreme Court Legal Services Committee;

(c) any other expenses which are required to be met by the Central Authority.]

16. State Legal Aid Fund.—(1) A State Authority shall establish a fund to be called the State Legal Aid Fund and there shall be credited thereto—

(a) all sums of money paid to it or any grants by the Central Authority for the purposes of this Act;

(b) any grants or donations that may be made to the State Authority by the State Government or by any person for the purposes of this Act;

(c) any other amount received by the State Authority under the orders of any court or from any other source.

1. Subs. by Act 59 of 1994, s. 10, for clause (h) (w.e.f. 29-10-1994).

2. Subs. by s. 11, *ibid.*, for clause (b) (w.e.f. 29-10-1994).

(2) A State Legal Aid Fund shall be applied for meeting—

(a) the cost of functions referred to in section 7;

¹[(b) the cost of legal services provided by the High Court Legal Services Committee;

(c) any other expenses which are required to be met by the State Authority.]

17. District Legal Aid Fund.—(1) Every District Authority shall establish a fund to be called the District Legal Aid Fund and there shall be credited thereto—

(a) all sums of money paid or any grants made by the State Authority to the District Authority for the purposes of this Act;

²[(b) any grants or donations that may be made to the District Authority by any person, with the prior approval of the State Authority, for the purposes of this Act;]

(c) any other amount received by the District Authority under the orders of any court or from any other source.

(2) A District Legal Aid Fund shall be applied for meeting—

(a) the cost of functions referred to in section 10³[and 11B];

(b) any other expenses which are required to be met by the District Authority.

18. Accounts and audit.—(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.

(2) The accounts of the Authorities shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Authority concerned to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the auditing of the accounts of an Authority under this Act shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the auditing of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Authorities under this Act.

(4) The accounts of the Authorities, as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon, shall be forwarded annually by the Authorities to the Central Government or the State Governments, as the case may be.

⁴[(5) The Central Government shall cause the accounts and the audit report received by it under sub-section (4) to be laid, as soon as may be after they are received, before each House of Parliament.

(6) The State Government shall cause the accounts and the audit report received by it under sub-section (4) to be laid, as soon as may be after they are received, before the State Legislature.]

CHAPTER VI

LOK ADALATS

5[19. Organisation of Lok Adalats.—(1) Every State Authority or District Authority or the Supreme Court Legal Services Committee or every High Court Legal Services Committee or, as the case may be,

1. Subs. by Act 59 of 1994, s. 12, for clause (b) (w.e.f. 29-10-1994).

2. Subs. by s. 13, *ibid.*, for clause (b) (w.e.f. 29-10-1994).

3. Ins. by s. 13, *ibid.* (w.e.f. 29-10-1994).

4. Ins. by s. 14, *ibid.* (w.e.f. 29-10-1994).

5. Subs. by s. 15, *ibid.*, for sections 19 and 20 (w.e.f. 29-10-1994).

Taluk Legal Services Committee may organize Lok Adalats at such intervals and places and for exercising such jurisdiction and for such areas as it thinks fit.

(2) Every Lok Adalat organised for an area shall consist of such number of—

- (a) serving or retired judicial officers; and
- (b) other persons,

of the area as may be specified by the State Authority or the District Authority or the Supreme Court Legal Services Committee or the High Court Legal Services Committee, or as the case may be, the Taluk Legal Services Committee, organising such Lok Adalat.

(3) The experience and qualifications of other persons referred to in clause (b) of sub-section (2) for Lok Adalats organised by the Supreme Court Legal Services Committee shall be such as may be prescribed by the Central Government in consultation with the Chief Justice of India.

(4) The experience and qualifications of other persons referred to in clause (b) of sub-section (2) for Lok Adalats other than referred to in sub-section (3) shall be such as may be prescribed by the State Government in consultation with the Chief Justice of the High Court.

(5) A Lok Adalat shall have jurisdiction to determine and to arrive at a compromise or settlement between the parties to a dispute in respect of—

(i) any case pending before; or

(ii) any matter which is falling within the jurisdiction of, and is not brought before,

any Court for which the Lok Adalat is organised:

Provided that the Lok Adalat shall have no jurisdiction in respect of any case or matter relating to an offence not compoundable under any law.

20. Cognizance of cases by Lok Adalats.—(I) Where in any case referred to in clause (i) of sub-section (5) of section 19,—

(i)(a) the parties thereof agree; or

(b) one of the parties thereof makes an application to the Court,

for referring the case to the Lok Adalat for settlement and if such court is *prima facie* satisfied that there are chances of such settlement; or

(ii) the court is satisfied that the matter is an appropriate one to be taken cognizance of by the Lok Adalat,

the Court shall refer the case to the Lok Adalat:

Provided that no case shall be referred to the Lok Adalat under sub-clause (b) of clause (i) or clause (ii) by such court except after giving a reasonable opportunity of being heard to the parties.

(2) Notwithstanding anything contained in any either law for the time being in force, the Authority or Committee organising the Lok Adalat under sub-section (1) of section 19 may, on receipt of an application from any one of the parties to any matter referred to in clause (ii) of sub-section (5) of section 19 that such matter needs to be determined by a Lok Adalat, refer such matter to the Lok Adalat, for determination:

Provided that no matter shall be referred to the Lok Adalat except after giving a reasonable opportunity of being heard to the other party.

(3) Where any case is referred to a Lok Adalat under sub-section (1) or where a reference has been made to it under sub-section (2), the Lok Adalat shall proceed to dispose of the case or matter and arrive at a compromise or settlement between the parties.

(4) Every Lok Adalat shall, while determining any reference before it under this Act, act with utmost expedition to arrive at a compromise or settlement between the parties and shall be guided by the principles of justice, equity, fair play and other legal principles.

(5) Where no award is made by the Lok Adalat on the ground that no compromise or settlement could be arrived at between the parties, the record of the case shall be returned by it to the court, from which the reference has been received under sub-section (1) for disposal in accordance with law.

(6) Where no award is made by the Lok Adalat on the ground that no compromise or settlement could be arrived at between the parties, in a matter referred to in sub-section (2), that Lok Adalat shall advise the parties to seek remedy in a court.

(7) Where the record of the case if returned under sub-section (5) to the court, such court shall proceed to deal with such case from the stage which was reached before such reference under sub-section (1).]

21. Award of Lok Adalat.—¹[(1) Every award of the Lok Adalat shall be deemed to be a decree of a civil court or, as the case may be, an order of any other court and where a compromise or settlement has been arrived at, by a Lok Adalat in a case referred to it under sub-section(1) of section 20, the court-fee paid in such case shall be refunded in the manner provided under the Court-fees Act, 1870 (7 of 1870).]

(2) Every award made by a Lok Adalat shall be final and binding on all the parties to the dispute, and no appeal shall lie to any court against the award.

22. Powers of ²[Lok Adalat or Permanent Lok Adalat].—(1) The ²[Lok Adalat or Permanent Lok Adalat] shall, for the purposes of holding any determination under this Act, have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit in respect of the following matters, namely:—

- (a) the summoning and enforcing the attendance of any witness and examining him on oath;
- (b) the discovery and production of any document;
- (c) the reception of evidence on affidavits;
- (d) the requisitioning of any public record or document or copy of such record or document from any court or office; and
- (e) such other matters as may be prescribed.

(2) Without prejudice to the generality of the powers contained in sub-section (1), every ²[Lok Adalat or Permanent Lok Adalat] shall have the requisite powers to specify its own procedure for the determination of any dispute coming before it.

(3) All proceedings before a ²[Lok Adalat or Permanent Lok Adalat] shall be deemed to be judicial proceedings within the meaning of sections 193,219 and 228 of the Indian Penal Code (45 of 1860) and every ²[Lok Adalat or Permanent Lok Adalat] shall be deemed to be a Civil Court for the purpose of section195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

³[CHAPTER VIA

PRE-LITIGATION CONCILIATION AND SETTLEMENT

22A. Definitions.—In this Chapter and for the purposes of sections 22 and 23, unless the context otherwise requires,—

(a) “Permanent Lok Adalat” means a Permanent Lok Adalat established under sub-section (1) of section22B;

1. Subs. by Act 59 of 1994, s. 16, for sub-section (1) (w.e.f. 29-10-1994),

2. Subs. by Act 37 of 2002, s. 3, for “Lok Adalat” (w.e.f. 11-6-2002).

3. Ins. by s. 4, *ibid.* (w.e.f. 11-6-2002).

(b) "public utility service" means any—

- (i) transport service for the carriage of passengers or goods by air, road or water; or
- (ii) postal, telegraph or telephone service; or
- (iii) supply of power, light or water to the public by any establishment; or
- (iv) system of public conservancy or sanitation; or
- (v) service in hospital or dispensary; or
- (vi) insurance service,

and includes any service which the Central Government or the State Government, as the case may be, in the public interest, by notification, declare to be a public utility service for the purposes of this Chapter.

22B. Establishment of Permanent Lok Adalats.—(1) Notwithstanding anything contained in section 19, the Central Authority or, as the case may be, every State Authority shall, by notification, establish Permanent Lok Adalats at such places and for exercising such jurisdiction in respect of one or more public utility services and for such areas as may be specified in the notification.

(2) Every Permanent Lok Adalat established for an area notified under sub-section (1) shall consist of—

(a) a person who is, or has been, a district judge or additional district judge or has held judicial office higher in rank than that of a district judge, shall be the Chairman of the Permanent Lok Adalat; and

(b) two other persons having adequate experience in public utility service to be nominated by the Central Government or, as the case may be, the State Government on the recommendation of the Central Authority or, as the case may be, the State Authority,

appointed by the Central Authority or, as the case may be, the State Authority, establishing such Permanent Lok Adalat and the other terms and conditions of the appointment of the Chairman and other persons referred to in clause (b) shall be such as may be prescribed by the Central Government.

22C. Cognizance of cases by Permanent Lok Adalat.—(1) Any party to a dispute may, before the dispute is brought before any court, make an application to the Permanent Lok Adalat for the settlement of dispute:

Provided that the Permanent Lok Adalat shall not have jurisdiction in respect of any matter relating to an offence not compoundable under any law:

Provided further that the Permanent Lok Adalat shall also not have jurisdiction in the matter where the value of the property in dispute exceeds ten lakh rupees:

Provided also that the Central Government, may by notification, increase the limit often lakh rupees specified in the second proviso in consultation with the Central Authority.

(2) After an application is made under sub-section (1) to the Permanent Lok Adalat, no party to that application shall invoke jurisdiction of any court in the same dispute.

(3) Where an application is made to a Permanent Lok Adalat under sub-section (1), it—

(a) shall direct each party to the application to file before it a written statement, stating therein the facts and nature of dispute under the application, points or issues in such dispute and grounds relied in support of, or in opposition to, such points or issues, as the case may be, and such party may supplement such statement with any document and other evidence which such party deems appropriate in proof of such facts and grounds and shall send a copy of such statement together with a copy of such document and other evidence, if any, to each of the parties to the application;

(b) may require any party to the application to file additional statement before it at any stage of the conciliation proceedings;

(c) shall communicate any document or statement received by it from any party to the application to the other party, to enable such other party to present reply thereto.

(4) When statement, additional statement and reply, if any, have been filed under sub-section(3), to the satisfaction of the Permanent Lok Adalat, it shall conduct conciliation proceedings between the parties to the application in such manner as it thinks appropriate taking into account the circumstances of the dispute.

(5) The Permanent Lok Adalat shall, during conduct of conciliation proceedings under sub-section(4), assist the parties in their attempt to reach an amicable settlement of the dispute in an independent and impartial manner.

(6) It shall be the duty of the every party to the application to cooperate in good faith with the Permanent Lok Adalat in conciliation of the dispute relating to the application and to comply with the direction of the Permanent Lok Adalat to produce evidence and other related documents before it.

(7) When a Permanent Lok Adalat, in the aforesaid conciliation proceedings, is of opinion that there exist elements of settlement in such proceedings which may be acceptable to the parties, it may formulate the terms of a possible settlement of the dispute and give to the parties concerned for their observations and in case the parties reach at an agreement on the settlement of the dispute, they shall sign the settlement agreement and the Permanent Lok Adalat shall pass an award in terms thereof and furnish a copy of the same to each of the parties concerned.

(8) Where the parties fail to reach at an agreement under sub-section (7), the Permanent Lok Adalat shall, if the dispute does not relate to any offence, decide the dispute.

22D. Procedure of Permanent Lok Adalat.—The Permanent Lok Adalat shall, while conducting conciliation proceedings or deciding a dispute on merit under this Act, be guided by the principles of natural justice, objectivity, fair play, equity and other principles of justice, and shall not be bound by the Code of Civil Procedure, 1908 (5 of 1908) and the Indian Evidence Act, 1872 (1 of 1872).

22E. Award of Permanent Lok Adalat to be final.—(1) Every award of the Permanent Lok Adalat under this Act made either on merit or in terms of a settlement agreement shall be final and binding on all the parties thereto and on persons claiming under them.

(2) Every award of the Permanent Lok Adalat under this Act shall be deemed to be a decree of a civil court.

(3) The award made by the Permanent Lok Adalat under this Act shall be by a majority of the persons constituting the Permanent Lok Adalat.

(4) Every award made by the Permanent Lok Adalat under this Act shall be final and shall not be called in question in any original suit, application or execution proceeding.

(5) The Permanent Lok Adalat may transmit any award made by it to a civil court having local jurisdiction and such civil court shall execute the order as if it were a decree made by that court.]

CHAPTER VII

MISCELLANEOUS

¹[23. Members and staff of Authorities, Committees and Lok Adalats to be public servants.]—The members including Member-Secretary or, as the case may be, Secretary of the Central Authority, the State Authority, the District Authorities, the Supreme Court Legal Services Committee, High Court Legal Services Committees, Taluk Legal Services Committees and officers and other employees of such Authorities, Committees and the ²[members of the Lok Adalats or the persons constituting Permanent Lok Adalats] shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

1. Subs. by Act 59 of 1994, s. 17, for sections 23 and 24 (w.e.f. 29-10-1994),

2. Subs. by Act 37 of 2002, s. 5, for “members of the LokAdalats” (w.e.f. 11-6-2002).

24. Protection of action taken in good faith.—No suit, prosecution or other legal proceeding shall lie against—

- (a) the Central Government or State Government;
- (b) the Patron-in-Chief, Executive Chairman, members of, Member-Secretary or officers or other employees of the Central Authority;
- (c) Patron-in-Chief, Executive Chairman, member, Member-Secretary or officers or other employees of the State Authority;
- (d) Chairman, Secretary, members or officers or other employees of the Supreme Court Legal Services Committee, High Court Legal Services Committees, Taluk Legal Services Committees or the District Authority; or
- (e) any other person authorised by any of the Patron-in-Chief, Executive Chairman, Chairman, Member, Member-Secretary referred to in sub-clauses (b) to (d),

for anything which is in good faith done or intended to be done under the provisions of this Act or any rule or regulation made thereunder.]

25. Act to have overriding effect.—The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of law other than this Act.

26. Power to remove difficulties.—(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date on which this Act receives the assent of the President.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

¹[27. Power of Central Government to make rules.]—(1) The Central Government in consultation with the Chief Justice of India may, by notification, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the number, experience and qualifications of other members of the Central Authority under clause (c) of sub-section(2) of section3;
- (b) the experience and qualifications of the Member-Secretary of the Central Authority and his powers and functions under sub-section(3) of section3;
- (c) the terms of office and other conditions relating thereto, of members and Member-Secretary of the Central Authority under sub-section(4) of section 3;
- (d) the number of officers and other employees of the Central Authority under sub-section(5) of section3;
- (e) the conditions of service and the salary and allowances of officers and other employees of the Central Authority under sub-section(6) of section3;
- (f) the number, experience and qualifications of members of the Supreme Court Legal Services Committee under clause (b) of sub-section(2) of section 3A;
- (g) the experience and qualifications of Secretary of the Supreme Court Legal Services Committee under sub-section(3) of section3A;

1. Subs. by Act 59 of 1994, s. 18, for sections 27, 28 and 29 (w.e.f. 29-10-1994).

(h) the number of officers and other employees of the Supreme Court Legal Services Committee under sub-section(5) of section 3A and the conditions of service and the salary and allowances payable to them under sub-section(6) of that section;

(i) the upper limit of annual income of a person entitling him to legal services under clause (h) of section12, if the case is before the Supreme Court;

(j) the manner in which the accounts of the Central Authority, the State Authority or the District Authority shall be maintained under section18;

(k) the experience and qualifications of other persons of the LokAdalatsorganised by the Supreme Court Legal Services Committee specified in sub-section(3) of section19;

(l) other matters under clause (e) of sub-section(1) of section22;

¹[(la) the other terms and conditions of appointment of the Chairman and other persons under sub-section (2) of section 22B;]

(m) any other matter which is to be, or may be, prescribed.

28. Power of State Government to make rules.—(1)The State Government in consultation with the Chief Justice of the High Court may, by notification, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the number, experience and qualifications of other members of the State Authority under clause (c) of sub-section(2) of section6;

(b) the powers and functions of the Member-Secretary of the State Authority under sub-section(3) of section6;

(c) the terms of office and other conditions relating thereto, of members and Member-Secretary of the State Authority under sub-section(4) of section6;

(d) the number of officers and other employees of the State Authority under sub-section(5) of section6;

(e) the conditions of service and the salary and allowances of officers and other employees of the State Authority under sub-section(6) of section6;

(f) the experience and qualifications of Secretary of the High Court Legal Services Committee under sub-section(3) of section 8A;

(g) the number of officers and other employees of the High Court Legal Services Committee under sub-section(5) of section 8A and the conditions of service and the salary and allowances payable to them under sub-section(6) of that section;

(h) the number, experience and qualifications of members of the District Authority under clause (b) of sub-section(2) of section9;

(i) the number of officers and other employees of the District Authority under sub-section(5) of section9;

(j) the conditions of service and the salary and allowances of the officers and other employees of the District Authority under sub-section(6) of section9;

(k) the number, experience and qualifications of members of the Taluk Legal Services Committee under clause (b) of sub-section(2) of section 11A;

(l) the number of officers and other employees of the Taluk Legal Services Committee under sub-section(3) of section 11A;

1. Ins. by Act 37 of 2002, s. 6 (w.e.f. 11-6-2002).

(m) the conditions of service and the salary and allowances of officers and other employees of the Taluk Legal Services Committee under sub-section(4) of section 11A;

(n) the upper limit of annual income of a person entitling him to legal services under clause (h) of section12, if the case is before a court, other than the Supreme Court;

(o) the experience and qualifications of other persons of the LokAdalats other than referred to in sub-section(4) of section19;

(p) any other matter which is to be, or may be, prescribed.

29. Power of Central Authority to make regulations.—(1) The Central Authority may, by notification, make regulations not inconsistent with the provisions of this Act and the rules made thereunder, to provide for all matters for which provisions is necessary or expedient for the purposes of giving effect to the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the powers and functions of the Supreme Court Legal Services Committee under sub-section(1) of section3A;

(b) the terms of office and other conditions relating thereto, of the members and Secretary of the Supreme Court Legal Services Committee under sub-section(4) of section3A.

29A. Power of State Authority to make regulations.—(1) The State Authority may, by notification, make regulations not inconsistent with the provisions of this Act and the rules made thereunder, to provide for all matters for which provision in necessary or expedient for the purposes of giving effect to the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the other functions to be performed by the State Authority under clause (d) of sub-section(2) of section7;

(b) the powers and functions of the High Court Legal Services Committee under sub-section(1) of section8A;

(c) the number, experience and qualifications of members of the High Court Legal Services Committee under clause (b) of sub-section(2) of section8A;

(d) the terms of office and other conditions relating thereto, of the members and Secretary of the High Court Legal Services Committee under sub-section(4) of section8A;

(e) the term of office and other conditions relating thereto, of the members and Secretary of the District Authority under sub-section(4) of section9;

(f) the number, experience and qualifications of members of the High Court Legal Services Committee under clause (b) of sub-section(2) of section 8A;

(g) other functions to be performed by the District Authority under clause (c) of sub-section(2) of section10;

(h) the term of office and other conditions relating thereto, of members and Secretary of the Taluk Legal Services Committee under sub-section(3) of section 11A.]

30. Laying of rules and regulations.—(1) Every rule made under this Act by the Central Government and every regulation made by the Central Authority thereunder shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session, or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation, or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of

no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

(2) Every rule made under this Act by a State Government and every regulation made by a State Authority thereunder shall be laid, as soon as may be after it is made, before the State Legislature.

NALSA (Victims of Trafficking and Commercial Sexual Exploitation) Scheme, 2015

BACKGROUND

Under Section 4 (b) of the Legal Services Authorities Act, 1987, the “Central Authority”, i.e. the National Legal Services Authority, has been obligated to “frame the most effective and economical schemes for the purpose of making legal services available under the provisions” of the Act. The Preamble of the Legal Services Authorities Act, 1987, underscores that the legal services authorities are concerned with the weaker sections of the society and imposes a duty on them to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.

There can be no doubt that victims of commercial sexual exploitation, whether trafficked or voluntary sex workers are by far a highly marginalised group. Their rights are forgotten; their conditions of life and living are not anybody's concern; what happens to them and their children interest no-one. Yet they are all entitled to benefits of the various schemes of the government by the mere fact of who they are. By their much marginalised existence they are entitled to all benefits that accrue to them as are available to other marginalised sections of the society.

Victims of trafficking for commercial sexual exploitation face a great deal of trauma not just following such trafficking but also after their rescue. They need to be protected against the traffickers who would want them to come back or not pursue their case. There are also livelihood issues and if a viable alternative is not given, chances of being re-trafficked are high.

In the case filed by PRAJWALA, being Writ Petition (C) No.56 of 2004 the NALSA has given a report in the Supreme Court to take the following actions in respect of victims of trafficking for commercial Sexual Exploitation and sex workers:

"The role of the legal services authorities as set out in the preliminary report is reiterated as follows:

- (a) Provide legal assistance to the victims of trafficking and sexual exploitation at the time of rescue and thereafter during trial.
- (b) Facilitate the accessing of the District Legal Services Authorities(DLSAs) for award of victim compensation under Section 357ACr.P.C
- (c) To monitor and act as social auditors of the existing facilities available for rehabilitation of rescued victims of sexual exploitation and trafficking.
- (d) DLSAs can spread awareness in the community through the panel lawyers and para-legal volunteers about the issues of trafficking particularly in vulnerable areas and among vulnerable groups.
- (e) The DLSAs can act as converging nodes to ensure that the government schemes meant for the marginalized actually reach them as such access to the government support does have a positive impact in preventing trafficking and falling prey to traffickers.
- (f) Initiate steps to sensitize the corporate world to support rehabilitation measures for trafficked victims including skill building and employment under the head of CSR.
- (g) SLSAs can also assist in the training and sensitization of stakeholders, like police, lawyers including legal services lawyers, prosecutors, government servants and the judiciary.
- (h) SLSAs may also collaborate with the local educational institutions and civil society organisations and NGOs working in this field."

The NALSA believes that it is necessary to draw up a scheme to give a framework for the legal services authorities at different levels to put into

action the undertaking given to the Supreme Court. To that end the present Scheme has been drawn up. It is expected that the Legal services authorities at all levels would be able to render legal services effectively to these vulnerable people by following the present scheme.

NAME OF THE SCHEME

The Scheme shall be called "**NALSA (Victims of Trafficking and Commercial Sexual Exploitation) Scheme, 2015**".

The objective of the Scheme is to provide legal services to address the concerns of victims of trafficking including women of all age groups and at every stage: ie prevention, rescue and rehabilitation.

The thrust of the scheme is to provide economic and social pathways for these marginalised groups so that they are socially included and thus get all social protections available to an ordinary citizen. The interventions of the legal services authorities should be to ensure the protection of the dignity of the victims which is as much their fundamental right to a life as of any other citizen.

In order that the already marginalised voluntary sex workers are not excluded from the assistance of the legal services authorities, they are also considered victims of commercial sexual exploitation, apart from those children and adults who are trafficked for the purpose.

STRATEGY FOR LEGAL SERVICES TO THE VICTIMS

The strategy of the legal services must be guided by a 360 degree approach. Thus, children, young adults of whatever sex, adolescent girls, young women and older women should all be included in the action plan. The legal services authorities must also develop an action plan for prevention, rescue and rehabilitation and not merely for one of these aspects. Further the legal services authorities must document each case and carry out a follow up at least for three years so that reintegration of the victim into the society is complete.

Enabling trafficked women to get their entitlements by completing all due diligence processes

The action plan must be to use the existing welfare schemes of the Government, both Central as well as the State, with a life-cycle approach to strengthen social security, social development and welfare in order to cover prevention of trafficking and rehabilitation of the victims. DLSA can request NGOs/CBOs to use tools such as micro planning and surveys to ascertain the demand for schemes and thereafter set up Help Desks across the district to facilitate registration for the schemes. Simultaneously the victims/community members could be motivated and educated about how to apply for schemes they wish to enroll or register for.

The DLSA, with the support of the concerned department could facilitate the applicant to fulfil the procedures stipulated under each scheme and comply with all the due diligence processes. This would include enabling the applicant to get the supportive documents that are required to be furnished in order to establish eligibility for the benefits under a scheme, such as getting proof of residence, age certificate, nativity certificate, income certificate, etc. Once all the due diligence is over and the scheme sanctioned, DLSA should provide support to the community till the scheme gets delivered or the benefit reaches the beneficiary.

The Available Schemes

- 1. ICDS or Childcare development ---0-6 years, pregnant women and lactating mothers (as care givers)**
- 2. Food security or ration cards**
- 3. Social security or Pension for the elderly women**
- 4. Educational schemes including midday meal, bridge schools, residential schools of Sarva Shiksha Abhiyan, Sabala; scholarships for the primary, secondary and higher education**

from Social Welfare Department for adolescents and specifically girls

5. **Livelihood- Skill Development, Financial Inclusion, Micro Enterprise -from SC/ST/BC/Minority and Women's Development Corporation and CSR funds from government and public sector undertakings**
6. **Housing or Subsidy for Construction and Land Pattas from Urban Development, Housing Corporation**
7. **Universal entitlements-Jan Dhan, Aadhar, Voter Card, SHG membership**
8. **Legal aid Schemes- Legal Literacy, Para Legal Volunteers, Legal services clinics to ensure free legal aid and protection**

Role of LSAs

The most important role of the SLSAs/DLSAs is to maintain convergence oversight. While the administrative convergence for all the schemes no doubt will be under the District Collector, the protection convergence will have to be overseen by the SLSAs and the DLSAs. To converge social and legal protection for marginalized women SLSAs and DLSAs will provide the oversight on the process of convergence by bringing together the administrative convergence provided by the District Collector and those generated by the structures or community organizations that are facilitating the process on the ground and are rooted in the community and its realities and have played significant roles in preventing HIV, trafficking and violence against women and girls. In this background, the role of the SLSAs/DLSAs would be in:

Bridging the Gap- between all departments and trafficked women, women in sex work and those vulnerable to trafficking and extreme violence

Enhancing Engagement- Scheme Education Drive Organized by DLSA bringing together Community organizations and its members and government-department-district and sub-district administration

Facilitating Participation and Ownership-Led by DLSA in collaboration with community organizations through community meetings and camps

Sensitization- Enabling all departments and institutions to learn about dynamics of community, remove misconceptions

Strengthening Accountability–Through an MIS capturing all processes from identifying entitlement holder to scheme delivery.

Forging Partnerships – At the more micro level the collaborations will be with Community Organizations and NGOs working with sex workers and victims of trafficking and sexual exploitation. They will facilitate the process of reaching out to the many hidden members of the community and shape the process of community mobilization.

At the meso level, the partnership should be with and between district administrative mechanisms such as Department of Women and Child Development (especially Child Protection/Welfare Committees and Anti Human Trafficking Units) and the DLSA. This will highlight initiatives at the ground level with the community or beneficiaries.

The third level of partnership will be at the macro level with the Department of Women and Child which implements many schemes for victims of trafficking and also runs shelter homes for those rescued; Ministry of Home Affairs, Ministry of Social Justice and Empowerment and Rural Livelihood Mission which also has the mandate of prevention of human trafficking and will be vital partner to strengthen protection and safety nets to the beneficiaries.

Action Plan

The first step that the DLSA should take is to reach out to the Non Governmental Organisations and Community Based Organisations (CBOs) working in the field. To do this, the SLSAs must contact the UNICEF or UNODC. State Agencies such as Department of Women and Child, Rural Livelihood Missions . They must also seek the assistance of the National Aids Control Organisation (NACO) and the State and District

Aids Control Societies (SACS & DACS). Thus the SLSAs/DLSAs would be able to obtain information about trafficking as well as sex workers.

The second step would be to catalyse inter departmental convergence both at the State and further down to the district level so that an all inclusive and comprehensive response from all concerned departments and stakeholders emerges and essential inter-sectoral linkages, processes and mechanisms get established.

Trafficking: As regards trafficking, from the Anti Human Trafficking units in the State and with the help of the NGOs/CBOs, the DLSA should map out the vulnerable areas and the vulnerable populations within its jurisdiction. Then preventive strategies can be put into motion. These would be spreading information about schemes and connecting the vulnerable people to such schemes so that they benefit from them. This would also include spreading awareness about the law and about the dangers posed by prospective traffickers. The children and adolescent children could be made aware of the dangers of strangers befriending them and the parents cautioned about the falsity of promises made to them of better education for their children in cities. Young adults could similarly be warned about false promises of jobs and better lives.

The SLSAs/DLSAs should create a team of panel lawyers and social workers to spread awareness about the welfare schemes of the government. The PLVs should be used to ensure that all the due diligence processes including eligibility documents and proofs are collected to enable the vulnerable communities to access the various schemes. The DLSA should use their PLVs and their offices wherever necessary to interact with the Administrative heads such as the District Collector or Chief Secretary to ensure the final realisation of the scheme.

The PLVs attached to or assigned to a police station in compliance of the orders of the Supreme Court of India to handle cases of missing children should be given special training by the SLSAs /DLSAs to sensitise them on children's issues as well as trafficking issues, so that

they are responsive. These PLVs must inform the SLSAs/DLSAs whenever such a case of trafficking is reported or arrest of a sex worker occurs at the police station.

Sex Workers: One method of understanding community needs is to organise meetings between the Member Secretary SLSA or Full Time Secretary DLSA and the community leaders where the community leaders can explain the difficulties they face in accessing social entitlements especially the social security schemes such as widow and old age pension schemes even though they fall under eligible category.

The other method is to organize public hearings where community members would “depose”, or in other words relate their experience with governance at all levels. The “jury” should be made up of DLSA Chairperson and /or Full time secretary , other judicial officers wherever possible, high government functionaries such as DC, Principal secretaries or Chief Secretaries, police officers and protection officers. The SLSAs/DLSAs should also involve senior advocates and panel lawyers in such programmes.

After the deposition the Member Secretary /Secretary as the case maybe or the panel advocate should explain to the community about the legal services available in the Legal Services Authority and encourage them to file complaints and seek free legal aid whenever their rights are infringed or they have a legal problem such inheritance etc. The Legal Services Authority can enable the target groups to redress the violence and harassment they face in their day to day life. In cases of violence from partners or husbands, the DLSA along with Protection Officers can provide legal aid and counselling services.

The DLSAs can accredit Para legal volunteers drawn from the community and train them as per the NALSA module. These PLVs can then act as the front line workers of the Authority as far as the community is concerned. The effort must be to ensure “saturation coverage” by having representation from all the blocks of the district and ultimately the entire State.

Once again, the DLSAs should assess the need for schemes in the community and facilitate the access of the community to the various welfare schemes of the government in the manner as mentioned hereinbefore.

Prevention: While ensuring the implementation of government welfare schemes, the SLSAs/DLSAs should pay attention to the structure already available under the Integrated Child Protection Scheme, particularly the setting up of the Village Level Child Protection Committees (VLCPC). These Committees are made up of Panchayat members, school teachers, students and parents from the community. Special awareness programmes should be organized for the VLCPC to keep a watch on the children in the village. The teachers should be sensitized to keep a watch for children missing from school and report them, so that further enquiries about their well being are promptly made.

A similar awareness and sensitization programme should be organized for the Anganwadi and Health workers for younger children and adolescent girls. Again, the SLSAs/DLSAs must ensure that children remaining absent are followed up and reported immediately.

PLVs drawn from the VLCPCs and Anganwadis as well as teachers should be trained with special emphasis on the issues of trafficking and sexual exploitation. The work of these PLVs must be closely monitored. At the same time these PLVs must be given effective mentors and support so that any incident reported is given full and complete attention by the SLSA/DLSA concerned.

Student Legal Literacy Clubs should be encouraged to write about and talk and discuss about trafficking issues. These clubs could play the role of peer educators about the dangers of growing up and how to keep oneself safe.

The SLSAs/DLSAs should strengthen groups who are working to prevent child marriages and empowerment of women. Many times, child and forced marriages are a prelude to trafficking for sexual exploitation. Apart from spreading awareness student groups should be formed in

vulnerable areas and communities to report on child marriages and initiate preventive action.

While dealing with women already in sex work, the SLSAs/DLSAs should focus on the livelihood alternatives to help these women come out of the profession and prevent their children entering it. Women could be encouraged to save money and channelize the money into entrepreneurship which would ensure their social recognition and assimilation. The SLSAs/DLSAs should help the women to protect themselves from domestic violence and provide legal assistance to follow up court cases. They should help these women access all government schemes as mentioned above.

Strategies of prevention and protection of victims of trafficking implemented by the Rural Livelihood Missions should also be understood and explored so as to replicate some of the successful methods and establish collaborative efforts.

Rescue and Rehabilitation: The protocol for the One Stop Crisis Centre would no doubt be available for the rescued victims of trafficking. Apart from ensuring compliance of the directions of the Supreme Court in Prajwala's case, the SLSAs/DLSAs must also follow up with the rehabilitation of the victim chiefly through access to government schemes to provide a stable alternate livelihood for the victims. The DLSAs should ensure **that panel** lawyers and PLVs help the victims to get their FIR registered and are present during remand proceedings to oppose bail etc. The Panel lawyers should obtain court orders for protection of witnesses wherever necessary and to counsel the victims before deposition and be present during trial including recording of the statement of the victim. The panel lawyers and PLVs should also help the victim to apply to the DLSAs for release of compensation under the Victims Compensation Scheme and also to access other welfare schemes of the Govt. meant for the rehabilitation of such victims.

Management Information Systems: The SLSAs and DLSAs will have to develop a sound MIS so that every activity under this scheme is recorded,

followed up and assessed. Similarly, the assistance of the PLVs and the Panel lawyers given to the victims will have to be recorded and monitored closely by the Secretary DLSA. Where the DLSA has facilitated the rehabilitation, there must be a tracking of the person for at least three years so that the rehabilitation is complete and there is no danger of retrafficking.

Transgenders: The provisions of this scheme will be applicable to all Transgenders as well.
