

**STATUS OF LEGAL AID
FOR
PERSONS IN CUSTODY**



Commonwealth Human Rights Initiative

working for the *practical* realisation of human rights in the countries of the Commonwealth

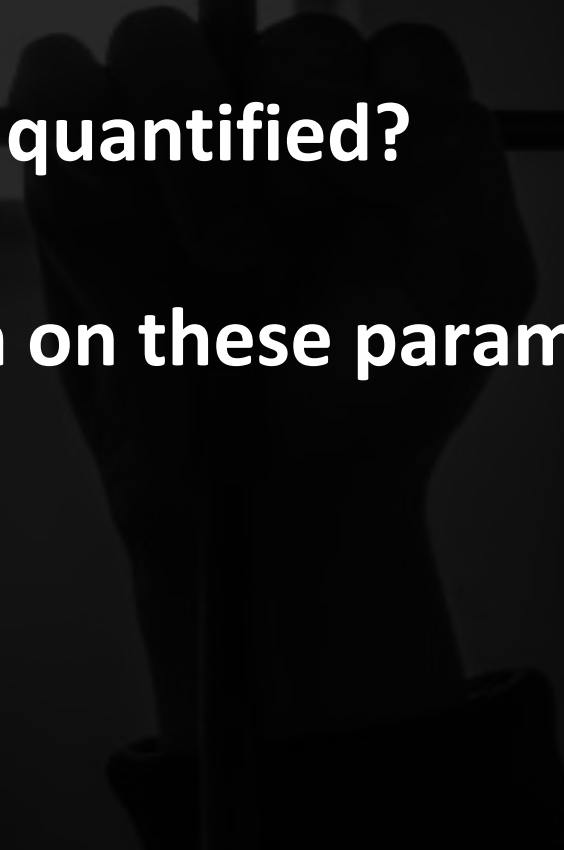
CHRI's Work On Legal Aid

- A. Setting up Legal Aid Clinics in Rajasthan and West Bengal**
- B. Advocacy with Legal aid institutions at the National, State and District level (NALSA, SLSAs and DLSAs)**
- C. Training of Legal Aid Lawyers**
- D. Training of Paralegal Volunteers**
- E. Watch Reports on the Implementation of Legal Aid schemes**

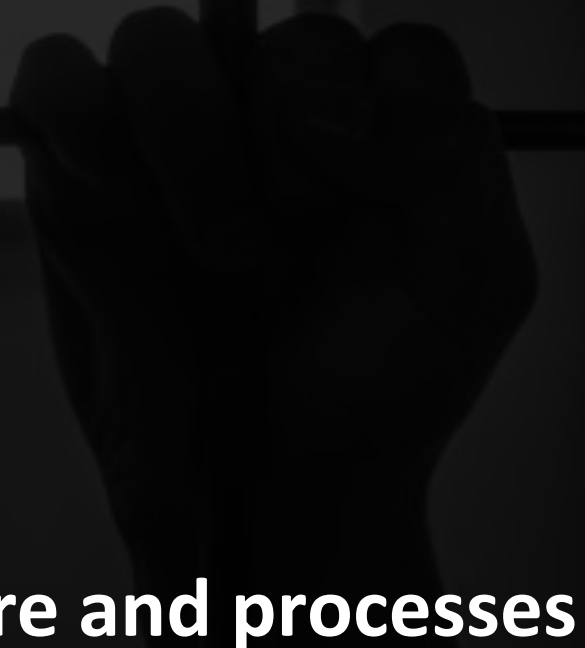
Why should we evaluate the Status?

- A. To understand the extent of the problem**
- B. To compare the extent of the problem in different geographies**
- C. To compare the extent of the problem over years**
- D. To look for and advocate specific solutions**

How to evaluate the Status of Legal Aid?

- A. What should be the parameters/indicators?**
 - B. Can these parameters be quantified?**
 - C. Where is the information on these parameters?**
- 
- A silhouette of a raised fist is centered in the background of the slide, symbolizing protest or a call for action. The background is dark with a faint grid pattern.

PARAMETERS

- 1. Number of beneficiaries**
 - 2. Early access to legal aid**
 - 3. Quality of legal aid**
 - 4. Legal aid budgets**
 - 5. Status of the infrastructure and processes**
- 
- A silhouette of a raised fist is positioned in the lower right quadrant of the slide, partially overlapping the list items. The fist is clenched and pointing upwards, symbolizing solidarity or protest. The background of the slide is dark with a faint grid pattern.

STATUS OF LEGAL AID

1. NUMBER OF BENEFICIARIES :

Since the 1987 Act was enacted, out of the total list of **1.77 crore beneficiaries** of various schemes of the legal services authority, only **4.68 lakh persons in custody** have been provided with legal aid. So prisoners form less than **3%** of the persons benefitted through legal aid schemes. Moreover, prisoners in Delhi form almost a **quarter** of these 4.68 lakh prisoners.(Supreme Court Annual Report 2015)

2. EARLY ACCESS TO LEGAL AID

AT TRIAL, AT CHARGESHEET, AT SUBSEQUENT REMAND, **AT FIRST PRODUCTION, AT ARREST, PREVENTING CONFLICTS**

3. QUALITY OF LEGAL AID

PRESENCE OF LAWYER IN COURT, DEFENDS THE CLIENT, VISITS HIM IN JAIL

4. LEGAL AID BUDGETS

MINISTRY OF LAW & JUSTICE- HEAD- 'OTHER EXPENDITURES'

STATUS OF LEGAL AID IN RAJASTHAN

NUMBER OF ARRESTS IN RAJASTHAN IN THE LAST TEN YEARS: **24,36,533**

NUMBER OF PERSONS IN CUSTODY PROVIDED LEGAL AID IN THE LAST TEN YEARS: **17,505**

SO, ON AVERAGE, IN A YEAR- **2,40,000** PERSONS WERE ARRESTED IN RAJASTHAN. ONLY **1750** OF THEM WERE PROVIDED LEGAL AID .

THIS MEANS LESS THAN **1% (0.72%)** OF THOSE ARRESTED ARE PROVIDED LEGAL AID

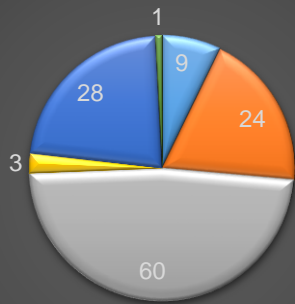
(SOURCE: Crime In India , NCRB and Rajasthan SLSA Website)



**CHRI's STATUS REPORT ON THE IMPLEMENTATION OF
THREE NALSA SCHEMES IN RAJASTHAN**

RAJASTHAN PRISON : PROFILE

RAJASTHAN PRISONS



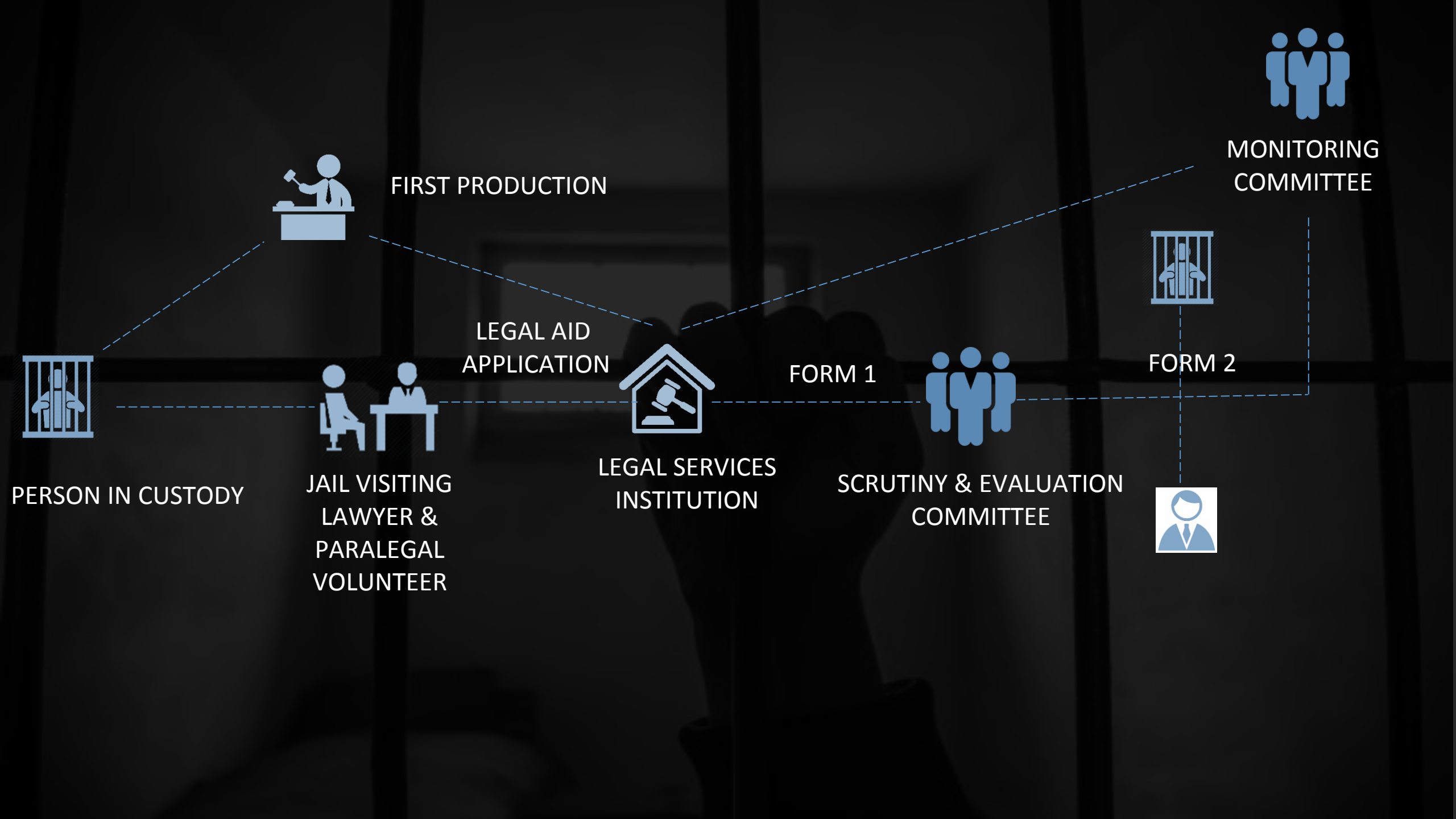
Central Jails District Jails Sub Jails
Reformatories Open Camps High Security Jail

Number of Prisoners : 20,391
Number of Undertrials : 14,551
(More than 70%)

Demographics: 82% Inmates are either SC, ST or OBC

LEGAL AID FOR PERSONS IN CUSTODY : THE SCHEMES

- NALSA (FREE AND COMPETENT LEGAL SERVICES) REGULATIONS 2010
- NALSA (LEGAL AID CLINICS) REGULATIONS, 2011
- NALSA'S 'MODEL SCHEME FOR LEGAL AID COUNSEL IN ALL COURTS OF MAGISTRATES' AND RSLSA'S LEGAL ASSISTANCE TO PERSON IN CUSTODY SCHEME GUIDELINES 2012



MONITORING COMMITTEE



FIRST PRODUCTION



PERSON IN CUSTODY



JAIL VISITING
LAWYER &
PARALEGAL
VOLUNTEER

LEGAL AID
APPLICATION



LEGAL SERVICES
INSTITUTION

FORM 1



SCRUTINY & EVALUATION
COMMITTEE



FORM 2



◆ **THE RIGHT PERSON**

1. CREATION OF PANEL OF COMMITTED ACCOUNTABLE TRAINED LAWYERS AND PARALEGALS
2. ALLOCATION OF CASES BASED ON QUALIFICATIONS

◆ **AT THE RIGHT PLACE**

1. LEGAL AID AT POLICE STATION
2. LEGAL AID AT COURT
3. LEGAL AID AT JAIL

◆ **AT THE RIGHT TIME**

ARTICLE 22(1) OF THE CONSTITUTION VERSUS GUIDELINE 7(4) OF NALSA 2010

◆ **DOING THE RIGHT THING**

1. VISITS OF LAWYERS AND PARALEGALS AT JAILS AND POLICE STATIONS
2. ENSURE SMOOTH WORKING OF THE LEGAL AID CLINICS IN JAIL AND POLICE STATIONS
3. SAFEGUARD THE RIGHTS OF THE ACCUSED AT THE POLICE STATION, PRISON AND COURT



POLICE STATION



COURT



JAIL

REMAND AND BAIL
LAWYERS

PARALEGAL VOLUNTEERS

PANEL LAWYERS

RETAINER LAWYERS

PARALEGAL VOLUNTEERS

JAIL VISITING LAWYERS

MANDATE

Time delays in approval of legal aid application : Guideline 7(4) of NALSA 2010 :*“The Committee shall scrutinise and evaluate the application and decide whether the applicant is entitled to the legal services or **not within a period of eight weeks from the date of receipt of the application.**”*

GAP

Rendering the accused unrepresented for eight weeks which essentially means continued detention for the said period merely to decide whether the person is eligible for legal aid is unreasonable and against the principle of liberty guaranteed under Article 21

RECOMMENDATIONS

Legal aid lawyer should be appointed the same day the legal aid application is received from prison, and the legal services institution should ensure that the lawyer visits the inmate in prison within 24 hours. Any verification from the prison or the court should be done right away.

Individuals in custody shall not be required to submit an application for the purpose of receiving legal aid during the early stages of the criminal justice process - Article 31.2 of Draft Model UN Law

LEGAL AID LAWYERS

- REPRESENT THE CLIENT EFFECTIVELY IN COURT
- MEET THE CLIENT IN POLICE STATION, COURT AND PRISON
- REPORTING TO THE LEGAL SERVICES INSTITUTIONS
- INFORMING PROGRESS TO PRISONER & PRISON

PARALEGAL VOLUNTEERS

- ENSURE REGULAR WORKING OF THE CLINIC
- PROVIDE LEGAL ASSISTANCE TO THE ACCUSED
- CO-ORDINATE WITH THE JAIL VISITING LAWYER
- REPORTING TO THE LEGAL SERVICES INSTITUTIONS

NALSA (FREE AND COMPETENT LEGAL SERVICES) REGULATIONS 2010

The Scheme has been formulated to provide quality legal services by creating a panel of legal aid lawyers to take up legal aid cases which would be monitored by the legal services institutions.

THE MONITORING COMMITTEE



Vertical dashed line connecting the first step to the first finding box.

Vertical dashed line connecting the second step to the second finding box.

Vertical dashed line connecting the third step to the third finding box.

Vertical dashed line connecting the fourth step to the fourth finding box.

Vertical dashed line connecting the sixth step to the fifth finding box.

MONTHLY REPORTS FROM THE LAWYER

REPORTS ABOUT JAIL VISITS

REGULATION 12

ONLY 8 DISTRICTS CONSTITUTED A MC

NO FORM II WERE SENT

REGISTERS MAINTAINED IN ONLY 2 MC

1 MC HAD A SEPARATE STAFF

BI-MONTHLY REPORT WAS SENT FROM ONE DISTRICT

SIKAR, HANUMANGARH, JHUNJUNU, AJMER, BANSWARA, BIKANER, DHOLPUR, JODHPUR

SIKAR, HANUMANGARH

SIKAR

JHUNJUNU

NALSA (LEGAL AID CLINICS) REGULATIONS, 2011 & RSLSA GUIDELINES 2012

Scheme mandates establishment of legal aid clinics where there are barriers to access legal services institutions. The Rajasthan SLSA in 2012 have formulated guidelines based on the NALSA Scheme which includes establishing legal aid clinics in jails

WORKING OF THE JAIL LEGAL AID CLINIC



CLINICS IN JAILS & POLICE STATIONS

PERIODICITY

FACILITIES

ACTION TAKEN COLUMN

MONTHLY REVIEW

JLAC IN 44 OF 93 JAILS

3 AS PER THE MANDATE
10- NOT OPERATIONAL

APPOINT.- 12 OF 44 JLAC
TRAINING- 6 OF 12 JLAC

APPOIN. - 20 OF 44 JLAC (SJ- 5)
5- NEVER VISITED
3 VISITED AS PER MANDATE

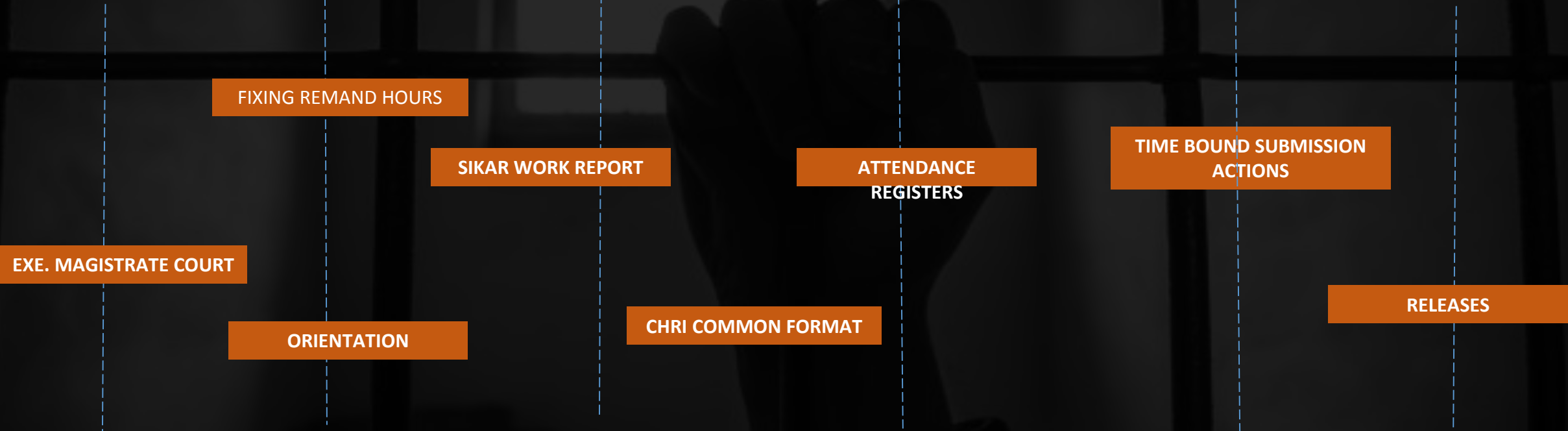
REGISTERS MAINTAINED IN ONLY 14 JLAC

REPORT SENT BY ONLY ONE JLAC (AJMER)

RSLSA's LEGAL ASSISTANCE TO PERSON IN CUSTODY SCHEME GUIDELINES 2012

This Rajasthan SLSA scheme is based on NALSA's Model Scheme For 'Legal Aid Counsel' In All Courts of Magistrates. The scheme mandates appointment of lawyers to be attached to each magistrate court to oppose unnecessary remand and apply for bail for unrepresented inmates

THE WORKFLOW OF REMAND & BAIL LAWYERS SCHEME



Regularly- 5	Jodhpur Practice	Only 7 out of 33	Only 11 out of 33	Mostly 3 or 6monthly Submitted after the term	Only 2 (Chittorgarh & Hanumangarh)
--------------	------------------	------------------	-------------------	---	------------------------------------

RECOMMENDATIONS IN COMMON FOR ALL THREE SCHEMES: TOWARDS ACHIEVEMENT OF ARTICLE 22(1)

- A. ORIENTATION OF DUTY HOLDERS
- B. DETAILED APPOINTMENT LETTERS OF THE ACTORS
- C. RESPONSIBILITY NOTE FOR THE ACTORS
- D. FEEDBACK FROM THE CLIENT
- E. STANDARDISED FORMATS
- F. USE OF TECHNOLOGY : INTERLINKAGES IN THE PLATFORMS
- G. CALENDARS AND TRACKING MECHANISM FOR THE SLSA – DASHBOARD

DASHBOARD- TEMPLATE

DISTRICT	PANEL LAWYERS	REMAND & BAIL LAWYERS	JAIL VISITING LAWYER	PRISONER PARALEGAL VOLUNTEER	LEGAL AID CLINICS	MONITORING COMMITTEE
Ajmer	08-Jan-16	15-Feb-16	08-Jan-16	NOT APPOINTED	CONSTITUTED	CONSTITUTED
Alwar	12-Jan-16	11-Feb-16	12-Jan-16	11-Feb-16	CONSTITUTED	CONSTITUTED
Banswara	09-Jan-16	3-Feb-16	09-Jan-16	3-Feb-16	CONSTITUTED	CONSTITUTED
Barmer	18-Jan-16	11-Feb-16	NOT APPOINTED	11-Feb-16	CONSTITUTED	CONSTITUTED
Baran	15-Jan-16	18-Feb-16	15-Jan-16	18-Feb-16	CONSTITUTED	CONSTITUTED
Bharatpur	NOT APPOINTED	11-Feb-16	NOT APPOINTED	11-Feb-16	CONSTITUTED	CONSTITUTED
Bikaner	12-Jan-16	15-Feb-16	12-Jan-16	15-Feb-16	CONSTITUTED	NOT CONSTITUTED
Bhilwara	NOT APPOINTED	NOT APPOINTED	12-Jan-16	30Feb-16	CONSTITUTED	CONSTITUTED
Bundi	08-Jan-16	20-Feb-16	08-Jan-16	20-Feb-16	NOT CONSTITUTED	CONSTITUTED
Churu	15-Jan-16	19-Feb-16	15-Jan-16	19-Feb-16	CONSTITUTED	CONSTITUTED
Chittorgarh	15-Jan-16	NOT APPOINTED	15-Jan-16	NOT APPOINTED	CONSTITUTED	CONSTITUTED
Dausa	12-Jan-16	09-Feb-16	12-Jan-16	09-Feb-16	CONSTITUTED	CONSTITUTED
Dholpur	NOT APPOINTED	11-Feb-16	NOT APPOINTED	11-Feb-16	CONSTITUTED	NOT CONSTITUTED
Dungarpur	08-Jan-16	16-Feb-16	08-Jan-16	16-Feb-16	CONSTITUTED	NOT CONSTITUTED

MONTHLY PROGRESS REPORT TEMPLATE – JANUARY 2016

	NALSA 2010 REGULATIONS			NALSA 2011 REGULATIONS		NALSA MODEL SCHEME	
DISTRICT	INMATES REPRESENTED	BI-MONTHLY REPORTS FROM MC TO SLSA	REPORTS FROM PANEL LAWYERS TO MC	MONTHLY REPORT FROM JAIL PLV	MONTHLY REPORT FROM JVL	WORK REPORTS FROM R&B LAWYERS	ATTENDANCE CERTIFICATES FROM R&B LAWYERS
Ajmer	23	2	7	1	0	11	6
Alwar	11	1	11	2	1	24	11
Banswara	2	2	2	3	2	12	23
Barmer	23	1	4	0	2	5	4
Baran	12	1	4	2	3	16	12
Bharatpur	9	0	0	0	1	34	32
Bikaner	14	1	4	2	4	12	0
Bhilwara	0	1	0	2	2	4	12
Bundi	12	1	1	1	2	0	1
Churu	24	1	2	1	1	4	23
Chittorgarh	22	1	0	2	0	23	12
Dausa	1	2	11	1	1	13	11
Dholpur	0	0	0	0	2	23	0
Dungarpur	23	1	1	2	1	21	0

THE DEVIL LIES
IN
THE
DETAILS

A black and white photograph of a hand gripping a vertical bar of a window or door frame. The hand is silhouetted against a lighter background. The text 'THE DEVIL LIES IN THE DETAILS' is overlaid in white, bold, sans-serif capital letters, centered on the image.

NALSA (FREE AND COMPETENT LEGAL SERVICES) REGULATIONS 2010

APPOINTMENTS



- Panel lawyers : Yes (59)
- Retainers: U.P.

8

REPRESENTATIONS



- By Panel lawyers: Yes (585)
- By Retainers: U.P.

8

REPORTING



Completion report submitted by panel lawyers : No

0

MONITORING



Monitoring Committee constituted: Yes
Date of Constitution: Date N.M.

5

FUNCTIONS OF MC



- MC Register Maintained: No
- Bimonthly Report sent by MC : No

0

TALUKA INFORMATION

Beawer (1), Kishangarh (1), Kekri (4), Vijaynagar (5), Pushkar (2) and Sarwar (5) have appointed panel lawyers. Nasirabad has not appointed any panel lawyer. Monitoring committees have been established in all the above talukas.

Total

21

NALSA (LEGAL AID CLINICS) REGULATIONS 2011 & RAJASTHAN SLSA GUIDELINES 2012

LEGAL AID CLINIC



- LAC constituted : Yes (18-08-2012)
- Days of Operation: 343/192

10

JAIL VISITING LAWYERS



- Lawyers Appointed: Yes(1)
- No. of Visits: 48/48

10

JAIL PARALEGALS



- PLVs Appointed: Yes(18)
- Monthly Reports submitted: Yes
- Registers Maintained: Yes, but not submitted hence not scored

10

ROLE OF DLSA



- PLV Trainings Conducted : Yes (8)
- Honorarium Paid to PLV: Yes (Rs. 87,250/-)
- Honorarium Paid to JVL: Yes (Rs. 15,000/-)
- Reports submitted by PV: Yes

20

NOTABLE FINDINGS

The RTI response mentions that both attendance registers and work registers are maintained by the PLVs and have been attached. The attachment was not found.

SUB-JAIL INFORMATION

LAC Constituted	Date of Constitution
Beawer	16 September 2013

Total

50

RAJASTHAN SLSA's LEGAL ASSISTANCE TO PERSON IN CUSTODY SCHEME 2012

APPOINTMENTS



- Lawyers Appointed: Yes (71)
- Number of Terms of Appointment (out of 5) : 4

9

REPRESENTATIONS



- Persons Represented: N.R.
- Publicity To The Scheme: N.R.

0

REPORTING



Monthly Reports Prepared By All Lawyers: No

0

MONITORING



- Number of Work Reports submitted: Nil/54 (0%)
- Number of Attendance Certificates Issued by the court: Nil/54 (0%)

0

TALUKA INFORMATION

Appointment of lawyers were made in seven talukas. These were: Beawer (5), Kishangarh (3), Kekari (3), Nasirabad (2), Vijaynagar (1), Pushkar (1) and Sarvad (1).

No responses were received on other queries.

Total

9

NALSA (FREE AND COMPETENT LEGAL SERVICES) REGULATIONS 2010

APPOINTMENTS



- ❖ Panel lawyers : No
- ❖ Retainers: No

0

REPRESENTATIONS



- ❖ By Panel lawyers: No
- ❖ By Retainers: No

0

REPORTING



- Completion report submitted by panel lawyers : No

0

MONITORING



- Monitoring Committee constituted: Yes
- Date of Constitution: N.R.

0

FUNCTIONS OF MC



- ❖ MC Register Maintained: N.R.
- ❖ Bimonthly Report sent by MC : No

0

TALUKA INFORMATION
NIL

Total

0

NALSA (LEGAL AID CLINICS) REGULATIONS 2011 & RAJASTHAN SLSA GUIDELINES 2012

LEGAL AID CLINIC



- ❖ LAC constituted : Yes (September 2012)
- ❖ Days of Operation: 200/192

10

JAIL VISITING LAWYERS



- ❖ Lawyers Appointed: No
- ❖ No. of Visits: Nil/48

0

JAIL PARALEGALS



- ❖ PLVs Appointed: No
- ❖ Monthly Reports submitted: No
- ❖ Registers Maintained: N.R.

0

ROLE OF DLSA



- ❖ PLV Trainings Conducted : No
- ❖ Honorarium Paid to PLV: No
- ❖ Honorarium Paid to JVL: Nil
- ❖ Reports submitted by PV: No

0

SUB-JAIL INFORMATION

LAC Constituted	Date of Constitution
Balotra	June 2012

Total

10

RAJASTHAN SLSA's LEGAL ASSISTANCE TO PERSON IN CUSTODY SCHEME 2012

APPOINTMENTS



- ❖ Lawyers Appointed: N.R.
- ❖ Number of Terms of Appointment (out of 5) : N.R.

0

REPRESENTATIONS



- ❖ Persons Represented: N.R.
- ❖ Publicity To The Scheme: N.R.

0

REPORTING



- Monthly Reports Prepared By All Lawyers: N.R.

0

MONITORING



- ❖ Number of Work Reports submitted: N.R.
- ❖ Number of Attendance Certificates Issued by the court: N.R.

0

TALUKA INFORMATION
No response received.

Total

0

II CHRI's SUGGESTED FORMAT

1. **Attendance Certificate and Work Report:** CHRI in consultation with Jodhpur DLSA formulated a common format for the attendance certificate and work report Rajasthan State Legal Service Authority's Legal Assistance to Persons in Custody Scheme, 2012. Based on the Sikar's work reports which are case based, CHRI can further develop this format.

Name of the Court _____

Name of the Presiding officer _____

Name of the Remand & Bail Lawyer _____

This is to certify that the Adv. _____ who is appointed as the remand and bail lawyer in Court _____ has been/not been regularly attending the court. He/ She has extended his/her legal services in the cases below:

S.No	Title of the Case	Case. No.	Dates of the hearings in the month	Interventions in the Case	Applications Filed

Signature of the Presiding Officer

2. CHRI has also formulated the format for the register to be maintained at the court to record the work and attendance of the lawyer. The format is as below:

Date	Time	Called/ Visited	Name of the Case represented	Intervention Made	Signature of the Lawyer	Signature of the Court

3) Taking inputs from the formats of work registers maintained by some of the Jail Legal Aid Clinics under Rajasthan State Legal Services Authority Guidelines, 2012, CHRI has devised a format as mentioned below:

WORK REGISTER

In Tabular Format:

1	S. No.
2	Date
3	Name of the applicant, father's name, caste, full address & telephone number if any, Date on which action taken; date on which application was made by UTP. Date on which application was presented to DLSA; Date on which lawyer appointed; Date on which UTP was informed about appointed/assigned lawyer
4	Detail of the problems of the applicant in brief
5	Description of the action taken against the problem of the applicant
6	Date of appearance
7	Decision
8	Date of Disposal
9	Signature of the applicant
10	Comments