

CHRI 2018

Hope Behind Bars?

STATUS REPORT ON LEGAL AID FOR PERSONS IN CUSTODY
STATE SUMMARIES



CHRI

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

Volume-II

Commonwealth Human Rights Initiative

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

CHRI's objectives are to promote awareness of and adherence to the Commonwealth Harare Principles, the Universal Declaration of Human Rights and other internationally recognised human rights instruments, as well as domestic instruments supporting human rights in Commonwealth member states.

Through its reports and periodic investigations, CHRI continually draws attention to progress and setbacks to human rights in Commonwealth countries. In advocating for approaches and measures to prevent human rights abuses, CHRI addresses the Commonwealth Secretariat, member Governments and civil society associations. Through its public education programmes, policy dialogues, comparative research, advocacy and networking, CHRI seek partnerships to act as a catalyst around priority issues.

CHRI is headquartered in New Delhi, India, and has offices in London, UK and Accra, Ghana.

International Advisory Commission: Yashpal Ghai - Chairperson. Members: Alison Duxbury, Wajahat Habibullah, Vivek Maru, Edward Mortimer, Sam Okudzeto and Sanjoy Hazarika.

Executive Committee (India): Wajahat Habibullah – Chairperson. Members: B. K. Chandrashekar, Jayanto Choudhury, Maja Daruwala, Nitin Desai, Kamal Kumar, Poonam Muttreja, Jacob Punnoose, Vineeta Rai, Nidhi Razdan, A P Shah, and Sanjoy Hazarika.

Executive Committee (Ghana): Sam Okudzeto – Chairperson. Members: Akoto Ampaw, Yashpal Ghai, Wajahat Habibullah, Kofi Quashigah, Juliette Tuakli and Sanjoy Hazarika.

Executive Committee (UK): Joanna Ewart-James – Chairperson. Members: Richard Bourne, Pralab Barua, Neville Linton and Sanjoy Hazarika.

ISBN: 978-93-81241-46-2

©Commonwealth Human Rights Initiative, 2018. Material from this report may be used, duly acknowledging the source.



CHRI Headquarters, New Delhi

55A, Third Floor
Siddharth Chambers
Kalu Sarai, New Delhi 110 017
India
Tel: +91 11 4318 0200
Fax: +91 11 2686 4688
E-mail:
info@humanrightsinitiative.org

CHRI London

Room No. 219
School of Advanced Study
South Block, Senate House
Malet Street, London WC1E
7HU,
United Kingdom
E-mail:
london@humanrightsinitiative.org

CHRI Africa, Accra

House No.9, Samora Machel Street
Asylum Down, Opposite Beverly
Hills Hotel Near Trust Towers,
Accra,
Ghana
Tel/Fax: +233 302 971170
Email:
chriafrika@humanrightsinitiative.org

HOPE BEHIND BARS?

STATUS REPORT ON LEGAL AID FOR PERSONS IN CUSTODY STATE SUMMARIES

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

Justice Hugo Black, United States Supreme Court, 1964

ANALYSIS & WRITING: **RAJA BAGGA**

RESEARCH: **RAJA BAGGA, SABIKA ABBAS & ANUSHKA MISHRA**

GLOSSARY

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

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

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

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

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

Provision of free legal aid may include:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

LIST OF ACRONYMS/ABBREVIATIONS:

DLSA: District Legal Services Authority

JVL: Jail Visiting Lawyer

LSI: Legal Services Institutions

MC: Monitoring Committee

NALSA: National Legal Services Authority

PLV: Paralegal Volunteer

TLSC: Taluka Legal Services Committee

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

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

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

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

ABOUT THE REPORT

The report is divided into two Volumes. Volume I looks at legal aid delivery across the country thematically. It looks at implementation of legal aid regulations and schemes nationally and suggests policy recommendations. Volume II looks at the functioning of legal aid delivery at the state level. This volume has state summary sheets for 29 states and seven union territories. Each state summary includes three components: a) a snapshot of the criminal justice delivery system in the state; b) a snapshot of the response to our legal aid RTI* and the key findings; and c) detailed findings on the implementation of legal aid delivery in the state. There is a guide which explains the content and source of both the snapshots. The information in this volume is sourced primarily from CHRI's RTI response. The latest secondary source data on prison, police, court and legal aid has also been used. These include information from a) three reports of the National Crime Records Bureau namely- Prison Statistics India 2015, Crime in India 2016 & Accidental Deaths and Suicides in India 2015; b) Data on Police Organization 2017, Bureau of Police Research and Development; and c) Supreme Court of India Newsletter, Court News, April-June 2017.

*The maps used in the Snapshot have been taken from d-maps.com and while efforts have been made to ensure that the maps are accurate, CHRI does not take responsibility for any inadvertent errors.

TABLE OF CONTENTS

| | |
|---|-------------|
| GLOSSARY | v |
| LIST OF ACRONYMS/ABBREVIATIONS | vii |
| ABOUT THE REPORT | viii |
| SNAPSHOT GUIDE | x |
| I. NORTHERN STATES & UNION TERRITORIES | 1 |
| CHANDIGARH | 2 |
| DELHI | 7 |
| HARYANA | 13 |
| HIMACHAL PRADESH | 19 |
| JAMMU & KASHMIR | 25 |
| PUNJAB | 26 |
| UTTARAKHAND | 32 |
| UTTAR PRADESH | 37 |
| II. EASTERN STATES & UNION TERRITORIES | 42 |
| ANDAMAN & NICOBAR ISLAND | 43 |
| BIHAR | 44 |
| CHHATTISGARH | 50 |
| JHARKHAND | 54 |
| ODISHA | 59 |
| WEST BENGAL | 64 |
| III. SOUTHERN STATES & UNION TERRITORIES | 69 |
| ANDHRA PRADESH | 70 |
| KARNATAKA | 76 |
| KERALA | 81 |
| LAKSHADWEEP | 86 |
| PUDUCHERRY | 87 |
| TAMIL NADU | 90 |
| TELANGANA | 95 |
| IV. WESTERN STATES & UNION TERRITORIES | 100 |
| DADRA AND NAGAR HAVELI | 101 |
| DAMAN AND DIU | 104 |
| GOA | 107 |
| GUJARAT | 108 |
| MADHYA PRADESH | 109 |
| MAHARASHTRA | 115 |
| RAJASTHAN | 121 |
| V. NORTH EASTERN STATES | 127 |
| ARUNACHAL PRADESH | 128 |
| ASSAM | 133 |
| MANIPUR | 137 |
| MEGHALAYA | 142 |
| MIZORAM | 147 |
| NAGALAND | 152 |
| SIKKIM | 153 |
| TRIPURA | 158 |

SNAPSHOT GUIDE



Occupancy Rate

Number of inmates occupying space sanctioned for 100 inmates

Prison Statistics India 2015, NCRB

No. of Undertrial Prisoners (Proportion)

Number of persons awaiting trial and percentage of them out of total prison population

Prison Statistics India 2015, NCRB

Period of Detention

Time spent by undertrials in prison

Prison Statistics India 2015, NCRB

Literacy Rate (Prison)

Percentage of prison population who are literate

Prison Statistics India 2015, NCRB

Deaths in Prisons

Number of Deaths during 2015

Prison Statistics India 2015, NCRB

Prison Death Rate

Number of Deaths per 100,000 prison population

Prison Statistics India 2015, NCRB

Prison Suicide Rate

Number of Suicides per 100,000 prison population

Prison Statistics India 2015, NCRB

Outside Suicide Rate

Number of Suicides per 100,00 general population

Accidental Deaths and Suicides in India 2015

| Central | District | Sub-jails | Others | Total |
|------------------------------------|----------|-----------|--------|-------|
| Prison Populations | | | | |
| Prison Statistics India 2015, NCRB | | | | |



No. of DLSAs

Number of District Legal Services Authorities in the State

Response to Rajya Sabha Question Number

2514 on 16 March 2018

No. of TLSCs/SDLSCs

Number of Taluka Legal Services Committee

Response to Rajya Sabha Question Number 2514 on 16 March 2018

Legal Aid Beneficiaries in Prisons

Number of prisoners who received legal aid during 2015

Prison Statistics India 2015, NCRB

Legal Aid Website

Whether the State has a legal aid website

Legal Aid Websites

Legal Aid Rules & Regulations

The relevant legal aid rules of the State

Legal Aid Websites



No. of District Court Judges

Number of District Court Judges

Supreme Court of India Newsletter, Court News,

April-June 2017

Judges : State Population

Ratio of District Court Judges to State Population

Supreme Court of India Newsletter, Court News,

April-June 2017 & Census of India 2011

Pendency of District Court

Pendency of Cases at the District court

Supreme Court of India Newsletter, Court News,

April-June 2017

No. of Prosecutors
Number of Prosecutors
in the State
Data on Police
Organization 2017,
BPRD

No. of High Court Judges

Number of Judges in State High Court

Supreme Court of India Newsletter, Court

News, April-June 2017

Judges : State Population

Ratio of High Court Judges to State Population

Supreme Court of India Newsletter, Court

News, April-June 2017 & Census of India 2011

Pendency of High Court

Pendency of Cases at the High court

Supreme Court of India Newsletter, Court

News, April-June 2017



Number of Police stations

| Sanctioned | Actual |
|--|----------------------------------|
| Number of Police Stations Sanctioned | Actual Number of Police Stations |
| Data on Police Organization 2017, BPRD | |
| Persons Arrested | |
| Number of persons arrested during 2016 | |
| Crime in India 2016, NCRB | |

Number of Police Officials

| Sanctioned | Actual | Vacancies |
|--|-----------------------------------|--|
| Number of Police Officials Sanctioned | Actual Number of Police Officials | Number of Police Official posts vacant |
| Data on Police Organization 2017, BPRD | | |
| Crime Rate | | |
| Number of crimes registered per 100,000 population during 2016 | | |
| Crime in India 2016, NCRB | | |

LEGAL AID SNAPSHOT GUIDE



At Legal Services Institution (LSI)



In Jail



At Court



Retainer Lawyer

Appointment: 1/1 DLSAs

Number of districts where retainer lawyers have been appointed / Number of DLSAs which responded to the RTI



Jail Legal Aid Clinic (JLAC)

Constitution: 1 Jail

Number of jails where legal aid clinics have been constituted



Remand Lawyer

Appointment: Not Provided

Number of districts where remand lawyers have been appointed/ Number of DLSAs which responded to the RTI



Monitoring Committee (MC)

Constitution : Not Provided

Number of DLSAs where Monitoring Committees have been constituted / Number of DLSAs which responded to the RTI



Convict Paralegal Volunteer

Appointment: 1/1 JLAC

Number of Jail Legal Aid Clinics where convict paralegal volunteers have been appointed / Number of Jail Legal Aid Clinics constituted



Panel Lawyer

Appointment: 1/1 DLSAs

Number of districts where panel lawyers have been appointed / Number of DLSAs which responded



Jail Visiting Lawyer

Appointment: 1/1 JLAC

Number of Jail Legal Aid Clinics where jail visiting lawyers have been appointed / Number of Jail Legal Aid Clinics constituted

N.P.: Not Provided N.A.: Not Available

The value in the denominator does not reflect the total districts/DLSAs/Jails but the total number of RTI responses received.

STATE SUMMARIES



I. NORTHERN STATES & UNION TERRITORIES

CHANDIGARH

DELHI

HARYANA

HIMACHAL PRADESH

JAMMU & KASHMIR

PUNJAB

UTTARAKHAND

UTTAR PRADESH



CHANDIGARH

SNAPSHOT



Occupancy Rate
61.4%

No. of Undertrial Prisoners (Proportion)
339 (49.3%)

Period of Detention
<1 year: 81.4% | 1-3 years :17.7% | >3 years: 0.9%

Literacy Rate (Prison)
81.4%

| | Central | District | Sub-jails | Others | Total |
|------------|---------|----------|-----------|--------|-------|
| Prisons | 1 | 0 | 0 | 0 | 0 |
| Population | 688 | 0 | 0 | 0 | 688 |

Deaths in Prisons
4

Prison Death Rate
581.3 per million

Prison Suicide Rate
28.2

Outside Suicide Rate
6.9



No. of DLSAs
1

No. of TLSCs/ SDLSCs
Nil

Legal Aid Beneficiaries in Prisons
617

Legal Aid Website
Available

Legal Aid Rules & Regulations

Chandigarh Legal Services Authorities Rules, 1997



No. of District Court Judges
30

Judges : State Population
28.4 per million

Pendency of District Court
47,437

No. of Prosecutors
17

No. of High Court Judges
NA

Judges : State Population
NA

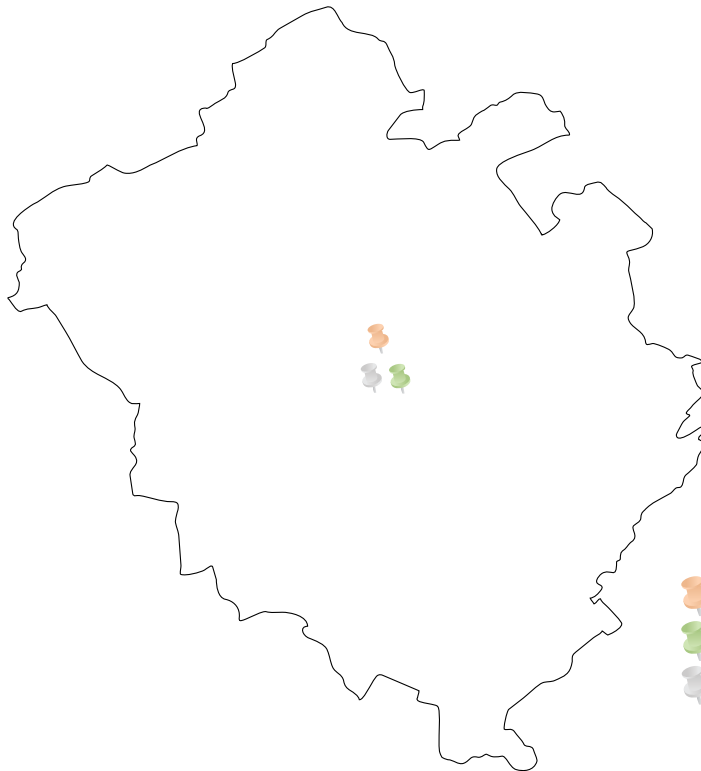
Pendency of High Court
NA













| Number of Police stations | |
|---------------------------|-----------|
| Sanctioned | Actual |
| 17 | 17 |
| Persons Arrested | |
| 4,354 | |

| Number of Police Officials | | |
|----------------------------|--------------|------------|
| Sanctioned | Actual | Vacancies |
| 6,721 | 5,912 | 809 |
| Crime Rate | | |
| 236.4 | | |

LEGAL AID SNAPSHOT



|  At Legal Services Institution (LSI) |  In Jail |  At Court |
|--|---|--|
|  Retainer Lawyer Appointment: 1/1 DLSAs |  Jail Legal Aid Clinic (JLAC) Constitution: 1 Jails |  Remand Lawyer Appointment: Not Provided |
|  Monitoring Committee (MC) Constitution : Not Provided |  Convict Paralegal Volunteer Appointment: 1/1 JLAC |  Panel Lawyer Appointment: 1/1 DLSAs |
| |  Jail Visiting Lawyer Appointment: 1/1 JLAC | |

LEGAL AID FINDINGS

Chandigarh's only prison, the Model Jail, houses 688 inmates¹. The union territory has one DLSA, which responded, although minimally, to all three RTI applications.

VERDICT: The legal aid infrastructure, although partially in place, did not appear to be monitored effectively.

Important Regulations/ Circulars from the SLSA on Persons in Custody

No regulations, circulars or notices were received.

1. LEGAL AID FRAMEWORK

1.1 Appointment of Legal Aid Providers

Every legal services institution has to appoint a panel of lawyers for a term of three years. These lawyers represent those persons who are in need of legal representation and are entitled to legal aid. **Retainer lawyers** are also drawn from among this panel by the executive chairperson of the legal services institution for a fixed period. They are paid a monthly fee, and in addition to representing persons in court they are expected to assist in the administrative affairs of the legal aid institution. Another category of lawyers, i.e. **legal aid counsels** (commonly referred as **remand lawyers**) are assigned to magistrate courts and are mandated to be present during remand hours to defend any unrepresented accused person.

- a) **Panel and Retainer Lawyers:** The SLSA has appointed 28 panel lawyers. Although one retainer lawyer was appointed, his tenure had expired and thus, the SLSA indicated that a new retainer lawyer would be appointed in the near future.
- b) **Remand Lawyers:** There are three magistrate courts, all of which undertake remand and bail hearings. The number of remand and bail lawyers appointed was not provided in either the response received by the SLSA, nor in the additional response received by the sessions judge. However, an appointment letter for remand and bail lawyers was attached for the period 1 October 2016 to 31 December 2016. Although this time frame did not fall under the one stated in the RTI application, it did indicate that 14 remand and bail advocates were appointed for a period of three months.

1.2 Legal Aid Clinics in Jails

1.2.1 Constitution of Jail Legal Aid Clinics

Legal aid clinics play an important role in identifying and assisting prisoners in need of representation. Every jail is expected to set up a legal aid clinic manned by PLVs, and visited by legal aid lawyers. The central jail in Chandigarh has set up a jail legal aid clinic that is both manned by PLVs and visited by JVLs.

1.2.2 Appointment of Legal Aid Providers for Jail Legal Aid Clinics

Fourteen JVLs were appointed to the clinic and two convict PLVs were appointed. Interestingly enough, the appointment letter of the visiting lawyers was exactly the same as that used for remand and bail lawyers, indicating that remand and bail lawyers had the additional duty of visiting jails. The appointment letter otherwise, had minimal information, and merely instructed the legal aid counsel to be present during remand hours without mentioning any additional duties specific to legal aid clinics. No appointment letter was provided for convict PLVs or for community PLVs.

¹ Prison Statistics India, 2015, National Crime Records Bureau, pp. 10 and 20.

1.3 Constitution of Monitoring Committees (MCs)

MCs established under Regulation 10 of the NALSA 2010 Regulations are expected to monitor the work of panel and retainer lawyers. Information regarding MCs by the SLSA was either not maintained or it was not shared with us.

2. LEGAL AID DELIVERY

2.1. Legal Aid Delivery in Jails

2.1.1 Visits by Legal Aid Providers in Jails

JAIL VISITING LAWYERS (JVLs): The JVLs were mandated to visit the clinics daily. JVLs visited the jail 255 times during the year.

CONVICT PLVs: The mandate for prisoner PLVs is set at all five days of the week that the legal aid clinic is expected to be working, except for the second and fourth Saturdays, Sundays and any gazetted holiday. Convict PLVs were stated to be present on a daily basis during the past year.

COMMUNITY PLVs: No information regarding the mandate of community PLVs was provided, since they were yet to be appointed in the Central Jail.

2.1.2 Registers & Records

The legal aid clinic maintains five registers: Diary, Dispatch, File, Attendance and the Work Register where the number of inmates visiting on a particular day are maintained. These attendance and work registers are called for by the SLSA on a monthly basis in order to cross check the attendance as part of the process of paying the honorarium to the lawyers. However, monthly work reports that are sent to the SLSA are maintained only by the JVLs and not by the PLVs.

2.2 Assignment of Cases to Legal Aid Providers & their Outcomes

2.2.1 Assignment of Cases to Panel Lawyers & their Outcomes

- a) **Scrutiny Committee & Legal Aid Application:** Scrutiny and evaluation committees ascertain whether a person in custody is entitled to free legal aid. Unfortunately, the Chandigarh SLSA provided no information on the constitution or working of scrutiny and evaluation committees. Additionally, there were no cases in which a legal aid lawyer was not appointed either due to deficiencies in the application or due to the fact that the person in custody already had a lawyer.
- b) **Time Taken to Assign Cases to Lawyers:** Information about the time it takes for the authorities to assign a legal aid lawyer was sought by asking for details of the last five legal aid cases from every district. However, no case details were provided.
- c) **Representation & Outcome:** Records on the number of persons represented by panel lawyers was not provided, whilst 123 persons were represented by one retainer lawyer. This is an extremely large number for just one lawyer, and should be an indication that more retainer lawyers need to be appointed so as to share this burden. In total, 131 persons were released by both panel and retainer lawyers of which, 82 were released on bail and 26 persons were acquitted.

2.2.2 Representations by Remand Lawyers & their Outcomes

Information on persons represented and released at court was not maintained.

2.3 Monitoring Legal Aid Providers

2.3.1 Monitoring Panel & Retainer Lawyers

MCs are mandated to review the day-to-day working of legal aid cases. In order to track the progress of legal aid cases, registers are crucial. No information regarding the MC was shared with us.

2.3.2 Monitoring Remand Lawyers

1. **ATTENDANCE CERTIFICATES & WORK REPORTS:** Attendance certificates and work reports were received from each counsel, every month during the given period of time. The work reports were handwritten, not detailed and included four to five cases that the lawyer represented.
2. **DLSA COMPLIANCE REPORTS FOR SLSA:** Reports are sent from the DLSAs to the SLSA every month. These reports are written by the "Remand Hour Counsel", a term used by the Chandigarh SLSA and include extremely detailed descriptions of every case represented. There is no specific format for these compliance reports.

2.3.3 Complaints against Legal Aid Lawyers

Legal aid lawyers may be removed from the panel if they do not perform satisfactorily or act contrary to the object and spirit of the Legal Services Act, 1989 and the Regulations. Responses show no evidence of any complaints being made by clients in relation to panel or retainer lawyers. Moreover no such instances arose that required their removal.



DELHI SNAPSHOT



Occupancy Rate
226.9%

No. of Undertrial Prisoners (Proportion)
10879 (76.7%)

Period of Detention
<1 year: 76.3% | 1-3 years :19.2% | >3 years: 4.6%

Literacy Rate (Prison)
78.57%

| | Central | District | Sub-jails | Others | Total |
|------------|---------|----------|-----------|--------|-------|
| Prisons | 8 | 1 | 0 | 1 | 10 |
| Population | 11723 | 1881 | 0 | 579 | 14183 |

Deaths in Prisons
45

Prison Death Rate
317.28 per million

Prison Suicide Rate
28.2

Outside Suicide Rate
8.8



No. of DLSAs
11

No. of TLSCs/ SDLSCs
0

Legal Aid Beneficiaries in Prisons
45620

Legal Aid Website
Available

Legal Aid Rules & Regulations
Delhi Legal Services Authority Rules, 1996
Delhi Legal Services Authority Regulations, 2002



No. of District Court Judges
486

Judges : State Population
28.95 per million

Pendency of District Court
6,89,413

No. of Prosecutors
NA

No. of High Court Judges
38

Judges : State Population
2.26 per million

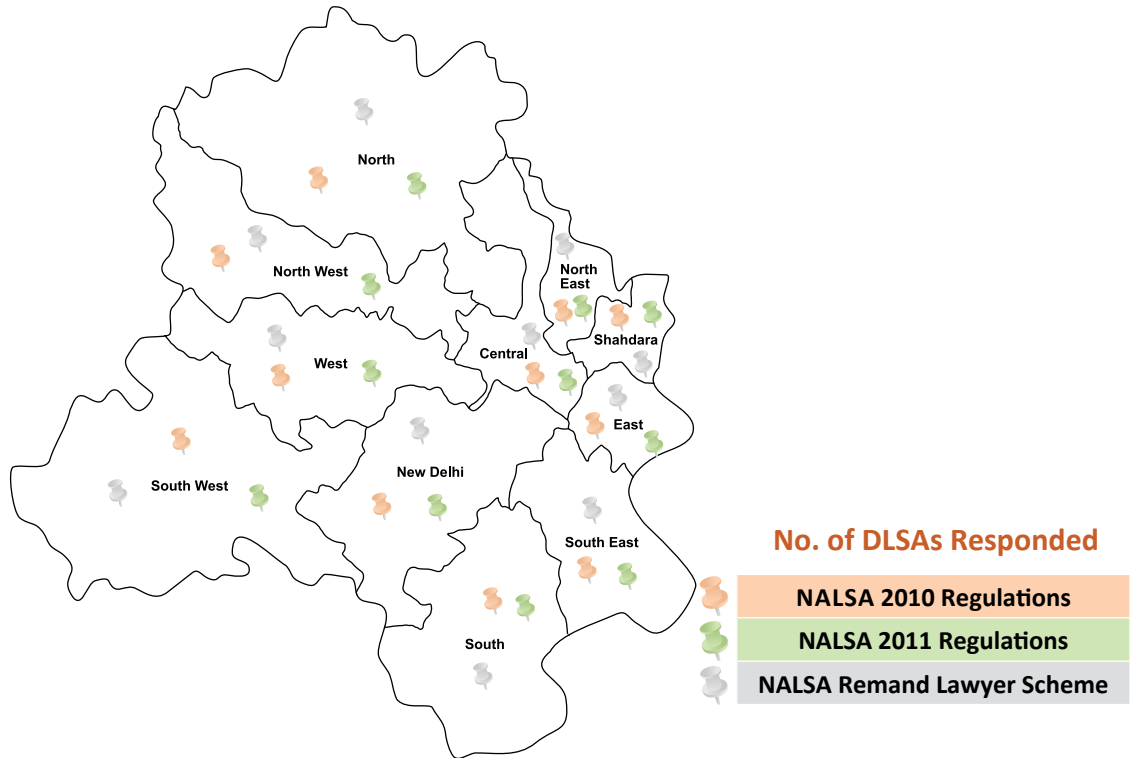
Pendency of High Court
68,342













| Number of Police stations | |
|---------------------------|------------|
| Sanctioned | Actual |
| 192 | 192 |
| Persons Arrested | |
| 104,306 | |

| Number of Police Officials | | |
|----------------------------|---------------|--------------|
| Sanctioned | Actual | Vacancies |
| 84,417 | 82,979 | 1,438 |
| Crime Rate | | |
| 1009.3 | | |

LEGAL AID SNAPSHOT



| | | |
|---|---|---|
|  <p>At Legal Services Institution (LSI)</p> |  <p>In Jail</p> |  <p>At Court</p> |
|  <p>Retainer Lawyer</p> <p>Appointment: 0/11 DLSAs</p> |  <p>Jail Legal Aid Clinic (JLAC)</p> <p>Constitution: 8 Jails</p> |  <p>Remand Lawyer</p> <p>Appointment: 10/11 DLSAs</p> |
|  <p>Monitoring Committee (MC)</p> <p>Constitution : 11/11 DLSAs</p> |  <p>Convict Paralegal Volunteer</p> <p>Appointment: 6/8 JLAC</p> |  <p>Panel Lawyer</p> <p>Appointment: 9/11 DLSAs</p> |
| |  <p>Jail Visiting Lawyer</p> <p>Appointment: 8/8 JLAC</p> | |

LEGAL AID FINDINGS

Delhi's prisons house 14,183² inmates in 11 jails. The state is divided into 11 districts and each has a District Legal Services Authority (DLSA). All the 11 DLSAs responded to our RTI applications. In response to certain questions, some of the districts referred us to their websites. These websites had ample information regarding the names and numbers of panel lawyers, the types of panels and the regulations regarding legal aid.

VERDICT: The information reflects that in all 11 districts, legal aid infrastructure, such as the constitution of committees and legal aid clinics, appointment of panel and remand lawyers is in place. However, with respect to legal aid delivery, the monitoring committees appear to be non-functional as none of them maintains registers, calls for reports from the lawyer or submits reports to the SLSA. The DLSAs did not maintain any information on the functioning of the jail legal aid clinic, be it the appointment of convict PLVs or the registers maintained. The policy formulation to implement the remand scheme appears impressive.

Important Regulations/ Circulars from the SLSA on Persons in Custody

1. Standard Operating Protocol for "Monitoring Committees" sent by the SLSA in an email dated 5 May 2016
2. Letter No. DSLSA/Legal Aid Wing/2016/3969to3980 with the subject "Production of Accused at the Residence of Duty Magistrate - Provision for Legal Aid" dated 12 April 2016.

1. LEGAL AID FRAMEWORK

1.1 Appointment of Legal Aid Providers

Every legal services institution has to appoint a panel of lawyers for a term of three years. These lawyers represent those persons who are in need of legal representation and are entitled to legal aid. **Retainer lawyers** are also drawn from among this panel by the executive chairperson of the legal services institution for a fixed period. They are paid a monthly fee, and in addition to representing persons in court they are expected to assist in the administrative affairs of the legal aid institution. Another category of lawyers, i.e. **legal aid counsels** (commonly referred as **remand lawyers**) are assigned to magistrate courts and are mandated to be present during remand hours to defend any unrepresented accused person.

- a) Panel and Retainer Lawyers:** In total, 987 panel lawyers were appointed in nine districts³ **while no retainer lawyers were appointed in any of the 11 districts.** Shahdara directed us to their website, but no information was available there. Also, separate panels are maintained for civil cases, criminal cases, session cases, ADM & family cases.
- b) Remand Lawyers:** Legal aid counsels were appointed to all magistrate courts (where inmates are remanded) in the state. As the Model Scheme does not provide the tenure for legal aid counsel, in Delhi, a majority of the districts have responded with a time frame of three months; one district⁴ with one month and another⁵ with three years. In total, 175 legal aid counsels were appointed and trained.

Appointment letters for remand lawyers follow a similar format throughout the state. **They are extremely detailed and clearly outline the duties of remand lawyers, including the reports they are required to submit and when they are required to be present. Interestingly, the appointment letter/office order clearly states that their presence is required during video linkage remand sessions as well.**

2 Prison Statistics India, 2015, National Crime Records Bureau, pp. 10 and 20.

3 Northwest, East, South, West, Southwest, New Delhi, Southeast, Central, North Delhi.

4 North Delhi.

5 Southwest Delhi.

1.2 Legal Aid Clinics in Jails

1.2.1 Constitution of Jail Legal Aid Clinics

Jail legal aid clinics (JLACs) play an important role in identifying and assisting prisoners in need of representation. Every jail is expected to set up a legal aid clinic manned by PLVs, and visited by the assigned lawyer (referred to as jail visiting lawyer). JLACs were constituted in eight districts.⁶ Even though the legal aid clinic regulations were introduced in 2011, two JLACs were constituted in 2014 and one in 2013, whilst the remaining districts did not maintain information on the same.

1.2.2 Appointment of Legal Aid Providers for Jail Legal Aid Clinics

The legal aid institutions have appointed 24 lawyers who visit seven jail legal aid clinics. Additionally, 17 convict PLVs were appointed in six jails. Only one district, Southeast Delhi, appointed community PLVs – 50 of them.

Appointment letters of the JVLs merely mentioned the date of appointment with limited or no information about their role and reporting duties. The appointment letter⁷ issued by East DLSA, however, is worth highlighting as it lays down not only the duties of these lawyers, but more importantly, clear instructions on what not to do. Appointment letters were not provided for convict PLVs or community PLVs.

1.3 Constitution of Monitoring Committees (MCs)

MCs established under Regulation 10 of the NALSA 2010 Regulations are expected to monitor the work of panel and retainer lawyers. The work of remand lawyers is monitored through attendance certificates and work reports. JVLs and PLVs are also expected to submit work reports. MCs were constituted in all 11 districts. Although the regulations for their constitution were formulated in 2010, seven were established in 2015, and four in 2016.

2. LEGAL AID DELIVERY

2.1. Legal Aid Delivery in Jails

2.1.1 Visits by Legal Aid Providers in Jails

JAIL VISITING LAWYERS (JVLs): Diverse responses were received with respect to the mandate for visits of the JVLs. According to the rosters provided by most districts, at least one lawyer was appointed to visit a specific jail, Monday through Saturday. Interestingly, the West Delhi DLSA stated that the “information sought cannot be provided keeping in view the privacy and security purpose”. The Central Delhi DLSA, on the other hand stated: “The information is available on the website of NALSA”. So, while some DLSAs provided us with the visit mandates, shared the appointment letters with mandates mentioned, one stated that it is available on NALSA’s website. The West Delhi DLSA believes the information cannot be provided in view of privacy and security concerns. The actual number of visits made were high, ranging from 104 to 515 times during the year. However, four districts⁸ either did not maintain this information or did not provide it to us.

CONVICT PVLS: The Southwest DLSA was the only district to provide a mandate to operate the clinic by convict PLVs on every day of the week. No district provided any information regarding the frequency of visits actually carried out by convict PLVs.

COMMUNITY PLVS: No information was provided.

⁶ East, Northeast, Central, Southeast, Southwest, Northwest, West, South Delhi.

⁷ Office Order Ref. No.301/DLSA/Admin/JV/10/5181 dated 4 May 2010.

⁸ West, Central, New Delhi, Shahdara.

2.1.2 Registers & Records

All the districts stated that they do not maintain any information about registers in the legal aid clinics. Some of them suggested that information be sought from the jails.

2.2 Assignment of Cases to Legal Aid Providers & their Outcomes

2.2.1 Assignment of Cases to Panel Lawyers & their Outcomes

- a) **Scrutiny Committee & Legal Aid Application:** On receiving a legal aid application, the scrutiny and evaluation committee of the legal services institution decides if the applicant is entitled to legal aid. The responses show that while scrutiny and evaluation committees were constituted in all districts, there were no cases in which a legal aid lawyer was not appointed due to deficiencies in the legal aid application. Only one district, Southwest Delhi, had 27 cases where legal aid lawyers were not appointed because the persons in custody already had lawyers.
- b) **Time Taken to Assign Cases to Lawyers:** Information regarding the time it takes for the authorities to assign a case to a panel lawyer was sought by asking for details of the last five legal aid cases from every district. This information was received for 36 cases from six districts. The average time taken for assignment was two days. In 28 of the 36 cases, appointments were made on the same day. These include all cases from North Delhi, Southwest and South districts. However, two cases from Shahadra district took 21 days and 35 days respectively.
- c) **Representation & Outcome:** Panel lawyers were assigned 16,669 cases in the ten districts that provided the information.⁹ Only two districts, South DLSA and Northwest DLSA, out of the ten, maintained information on the persons released. Of the 289 persons released in the two districts, 66 were released on bail, 91 were acquitted and 132 cases were disposed. Most districts clearly stated that they do not maintain data on the outcome of legal aid cases.

2.2.2 Representations by Remand Lawyers & their Outcomes

Remand lawyers represented 3,026 persons in the three districts¹⁰ that provided this information. The remaining districts either did not maintain this information or did not share it with us. **Only one district out of the aforementioned three, South DLSA, maintains records on the persons released.** These records indicate that 117 persons were released out of the 838 who were represented in this district.

2.3 Monitoring Legal Aid Providers

2.3.1 Monitoring Panel & Retainer Lawyers

MCs are mandated to review the day-to-day working of legal aid cases. The committees do not seem to be functional as per the mandate. **Central and West districts have appointed monitoring consultants** and East district has appointed separate staff to the MC. The remaining have not maintained any staff. In order to track the progress of legal aid cases, registers are crucial. **Unfortunately, none of the districts maintained registers.** Additionally, **no completion reports or progress reports were sent by panel lawyers. Consequently, bi-monthly reports were also not submitted by the MC to the SLSA as mandated.** So, while MCs have been set up, they are far from functional.

2.3.2 Monitoring Remand Lawyers

The DLSAs maintain attendance certificates but not work reports. The monitoring mechanisms are in place for remand lawyers. They appear to be followed marginally better than those for panel lawyers. It appears that attendance certificates are mainly being submitted as proof for honorarium payment.

1. **ATTENDANCE CERTIFICATES & WORK REPORTS:** The responses demonstrated that nine out of the 11

⁹ East district was the only district not to provide this information.

¹⁰ South, Southwest, East districts.

districts maintained attendance certificates while only one district, South DLSA, maintained work reports. There are large variations regarding the number of attendance certificates received within a given time frame. It appears that they are submitted only when claims for payment are made.

- 2. DLSA COMPLIANCE REPORTS FOR SLSA:** All the districts, except two, stated that monthly compliance reports were sent to the SLSA.

2.3.3 Complaints against Legal Aid Lawyers

Legal aid lawyers may be removed from the panel if they do not perform satisfactorily or act contrary to the object and spirit of the Legal Services Act, 1987 and the Regulations. Although complaints were received for both panel lawyers and remand lawyers, no lawyer was removed as a result. In West district, 40 complaints were received against remand lawyers and panel lawyers, none of which resulted in any removal. In East district too, there were 45 complaints against remand lawyers, and 48 against panel lawyers, but no lawyer was removed.

HARYANA

SNAPSHOT



Occupancy Rate
109.3%

No. of Undertrial Prisoners (Proportion)
10489 (57.4%)

Period of Detention
<1 year: 79.4% | 1-3 years :18.2% | >3 years: 2.4

Literacy Rate (Prison)
76.27%

| | Central | District | Sub-jails | Others | Total |
|------------|---------|----------|-----------|--------|-------|
| Prisons | 3 | 16 | 0 | 0 | 19 |
| Population | 3184 | 15085 | 0 | 0 | 18269 |

Deaths in Prisons
46

Prison Death Rate
251.79 per million

Prison Suicide Rate
10.95

Outside Suicide Rate
13.0



No. of DLSAs
22

No. of TLSCs/ SDLSCs
34

Legal Aid Beneficiaries in Prisons
5561

Legal Aid Website
Available

Legal Aid Rules & Regulations
The Haryana State Legal Services Authorities Rules,1995



No. of District Court Judges
498

Judges : State Population
19.64 per million

Pendency of District Court
6,07,709

No. of Prosecutors
378

No. of High Court Judges
48

Judges : State Population
NA

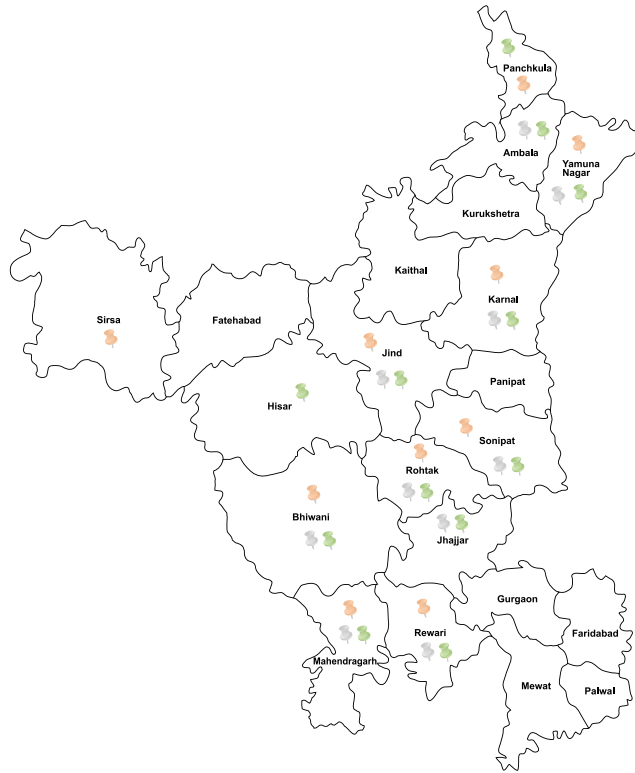
Pendency of High Court
3,19,123



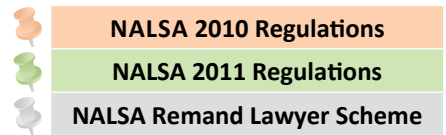
| Number of Police stations | |
|---------------------------|------------|
| Sanctioned | Actual |
| 295 | 295 |
| Persons Arrested | |
| 118,599 | |

| Number of Police Officials | | |
|----------------------------|---------------|---------------|
| Sanctioned | Actual | Vacancies |
| 63,746 | 45,667 | 18,079 |
| Crime Rate | | |
| 518.3 | | |

LEGAL AID SNAPSHOT



No. of DLSAs Responded



At Legal Services Institution (LSI)



In Jail



At Court



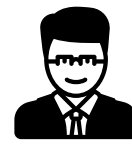
Retainer Lawyer

Appointment: 10/10 DLSAs



Jail Legal Aid Clinic (JLAC)

Constitution: 13 Jails



Remand Lawyer

Appointment: 10/10 DLSAs



Monitoring Committee (MC)

Constitution : 8/10 DLSAs



Convict Paralegal Volunteer

Appointment: 9/13 JLAC



Panel Lawyer

Appointment: 10/10 DLSAs



Jail Visiting Lawyer

Appointment: 12/13 JLAC

LEGAL AID FINDINGS

Haryana's prisons house 18,269 inmates¹¹ in 19 jails. The state is divided into 22 districts, and each has a district legal services authority (DLSA). Ten districts responded to our RTI application based on NALSA 2010 Regulations and the NALSA Model Scheme. On the RTI application for the NALSA 2011 Regulations we received responses from 11 districts. Only eight districts¹² responded to all three RTI applications.

VERDICT: In these districts and their corresponding jails, the infrastructure of legal aid delivery is in place. The SLSA is extremely involved in repeatedly sending out orders and letters to the DLSAs to ensure the effective implementation of the NALSA regulations with respect to appointment of actors, constitution of committees and clinics, and development of reporting and monitoring formats. The formats prepared for the MC registers and reports are the best in the country.

1. LEGAL AID FRAMEWORK

1.1 Appointment of Legal Aid Providers

Every legal services institution has to appoint a panel of lawyers for a term of three years. These lawyers represent those persons who are in need of legal representation and are entitled to legal aid. **Retainer lawyers** are also drawn from this panel by the executive chairperson of the legal services institution, for a fixed period. They are paid a monthly fee, and in addition to representing persons in court they must assist in the administrative affairs of the legal aid institution. Another category of lawyers, i.e **legal aid counsels** (commonly referred as **remand lawyers**) are assigned to magistrate courts and are mandated to be present during remand hours to defend any unrepresented accused person.

- a) **Panel and Retainer Lawyers:** In total, 442 panel lawyers and 50 retainer lawyers were appointed in the ten districts.
- b) **Remand Lawyers: Nine districts appointed legal aid counsels to all magistrate courts.** Although the Model Scheme does not specify a tenure for legal aid counsels, in Haryana, it seems to vary between three months and one month. In total, 160 legal aid counsels were appointed in eight districts,¹³ all of whom were trained by master trainers and their respective DLSAs.

1.2 Legal Aid Clinics in Jails

1.2.1 Constitution of Jail Legal Aid Clinics

Jail legal aid clinics play an important role in identifying and assisting prisoners in need of representation. Every jail is expected to set up a legal aid clinic manned by PLVs, and visited by legal aid lawyers. Ten out of the 11 DLSAs provided information on the working of jail legal aid clinics. The Haryana SLSA issued a letter regarding

Important Regulations/ Circulars from the SLSA on Persons in Custody

1. Letter No. 16719-16739/2011/MS/HSLSA regarding "Visiting Paralegal Volunteers and Advocates in Legal Aid Clinics" dated 27 December 2011.
2. Letter No. 6949-6993/LAC/2012/MS/HSLSA regarding "Proper Functioning of Legal Aid Clinics - Road Map for the Future" dated 10 May 2012.
3. Letter No. 05-66(LA-III)/2010/MS/HSLSA regarding the Implementation of the NALSA Schemes, dated 3 January 2011.
4. Letter No. 624-666/2010/MS/HSLSA regarding "Jail Visit by Empaneled Advocate" dated 8 January 2010.

¹¹ Prison Statistics India, 2015, National Crime Records Bureau, pp. 10 and 20.

¹² Jind, Mahendragarh, Panchkula, Bhiwani, Rewari, Rohtak, Yamuna Nagar, Sonipat.

¹³ Jhajjar was the only district that did not provide us with information regarding the number of panel and retainer lawyers appointed, but said that they had been conducting training for the same.

the proper functioning of legal aid clinics with a “Road Map for the Future” dated 10 May 2012, that laid out specific steps that all districts must take to ensure effective functioning of these legal aid clinics.

The information on the working of jail legal aid clinics were provided by 11 DLSAs, and all of them had constituted JLACs in their respective jails. **Interestingly, although the legal aid clinic regulations were introduced in 2011, most of the JLACs were constituted between 2006 and 2007, with the earliest JLAC having been constituted in 2002.**

1.2.2 Appointment of Legal Aid Providers for Jail Legal Aid Clinics

JVLSs were appointed in 12 out of the 13 JLACs. There are 367 JVLs visiting 12 legal aid clinics. Additionally, 42 convict PLVs were appointed in nine jails and 151 community PLVs in four jails. Jhajjar and Jind provided no data on the number of JVLs visiting their legal aid clinics.

Appointment letters of the JVLs were found to be vague and incomplete with limited or no information about the role of the JVLs and their reporting duties. However, the appointment letter for JVLs by Jind is worth noting, since it clearly lays out the duties of JVLs as well as the dates mandated. However, this is also incomplete as it does not specify any reporting mechanism.

1.3 Constitution of Monitoring Committees (MCs)

MCs established under Regulation 10 of the NALSA 2010 Regulations are expected to monitor the work of panel and retainer lawyers. Nine¹⁴ of the ten DLSAs that responded had a MC. Six committees were constituted in 2011, two in 2012 and one in 2014.

2. LEGAL AID DELIVERY

2.1. Legal Aid Delivery in Jails

2.1.1 Visits by Legal Aid Providers in Jails

JAIL VISITING LAWYERS (JLV): JVLs in Haryana are mandated to visit the jail once a week, every Sunday, for three hours from 3:00 pm to 6:00 pm. Eleven out of the 12 districts that provided information on their legal aid clinics fulfilled the above mandate, with most districts visiting between 95 to 111 times. Hisar performed particularly well in this aspect, with the lawyers visiting Central Jails I and II, 131 and 124 times, respectively.

CONVICT PLVS: Convict PLVs have to conduct the clinic eight times a month, that is, 96 times a year. Of the eight districts that have convict PLVs, only 5 districts provided information regarding the frequency of visits. All four districts fulfilled the mandate, with four of the five clinics being conducted over 104 times in a year by convict PLVs.

COMMUNITY PLVS: The mandate for community PLVs to visit is twice a week, for three hours every Wednesday and Sunday from 3:00 pm-6:00 pm.

2.1.2 Registers & Records

Work registers were maintained in all the jails, but a standard format was not followed throughout the state. Most of them were handwritten and some of the work registers were in the regional language. The register maintained by Rewari was impressive, as it mentioned details of the problems faced by the inmates and the advice provided by the JVLs.

The frequency with which the DLSA reviewed the attendance and work registers appeared mostly to be once a month, with the exception of two districts which stated that the registers were sent only when they were called for by the DLSA.

¹⁴ Karnal did not have a monitoring committee.

2.2 Assignment of Cases to Legal Aid Providers & their Outcomes

2.2.1 Assignment of Cases to Panel Lawyers & their Outcomes

- a) **Scrutiny Committee & Legal Aid Application:** On receiving a legal aid application, the scrutiny and evaluation committee of the legal services institution decides if the applicant is entitled to legal aid. The committees were constituted in all ten districts that responded. Six out of these ten districts maintained scrutiny and evaluation committee registers. There were 27 cases in Sonapat and Rewari, where legal aid lawyers were not appointed due to the fact that the persons in custody already had lawyers. There were also 32 cases in the same two districts in which legal aid lawyers were not appointed due to deficiencies in the legal aid application.
- b) **Time Taken to Assign Cases to Lawyers:** Information about the time it takes for the authorities to assign a legal aid lawyer was sought by asking for details of the last five legal aid cases from every district. This information was received for 45 cases from nine districts. In six cases, the lawyers were assigned on the same day and in five cases, on the next day. In the other cases, however, assignment took much longer. While the average time taken for assigning a case was five and a half days, in 37 of the total cases, assignment took up to ten days.
- c) **Representation & Outcome:** Panel lawyers represented in total 2,630 cases in all ten districts whilst retainer lawyers represented 99 cases in the seven districts¹⁵ that provided this information. Of the 795 persons released, 16 were released on bail, 380 were acquitted and 604 cases were disposed. Sirsa provided no information, and Panchkula, Bhiwani and Jind maintained no records on those who were released on bail.

2.2.2 Representations by Remand Lawyers & their Outcomes

Legal aid counsels appointed in four districts¹⁶ were responsible for the release of only three persons, out of the 115 they represented. The remaining districts either did not maintain this information or did not share it with us.

2.3 Monitoring Legal Aid Providers

2.3.1 Monitoring Panel & Retainer Lawyers

MCs are mandated to review the day-to-day working of legal aid cases. In order to track the progress of legal aid cases, registers are crucial. All nine committees maintained registers. Six of them maintained them in a standard format. The registers were maintained date-wise and not case-wise which would make tracking the progress of a case difficult. Panel lawyers from seven districts¹⁷ submitted 272 completion reports over the course of one year. Seven¹⁸ monitoring committees in turn submitted 45 bi-monthly reports to the DLSA. The format followed by these reports is detailed and impressive.

2.3.2 Monitoring Remand Lawyers

Whilst lawyers maintained attendance certificates, work reports were not maintained. The frequency of the submission to the DLSA shows that these reports are usually used as a proof of work (for honorarium) and not as a means to review the work done.

1. **ATTENDANCE CERTIFICATES & WORK REPORTS:** While all districts maintained attendance certificates, only six districts provided information regarding the number of certificates¹⁹ submitted. Work reports were either not maintained or not provided.
2. **DLSA COMPLIANCE REPORTS FOR SLSA:** Nine²⁰ DLSAs sent compliance reports on the Model Scheme to the SLSA on a monthly basis.

15 Rohtak, Sonapat Jind, Rewari, Mahendragarh, Rohtak, Panchkula.

16 Sonapat, Jind, Mahendragarh, Rewari.

17 Mahendragarh, Jind, Bhiwani, Rewari, Panchkula, Rohtak, Narnaul.

18 Sonapat, Mahendragarh, Jind, Bhiwani. Yamuna Nagar, Panchkula, Narnaul.

19 These were submitted during May 2016 and June 2016.

20 Bhiwani, Rohtak, Sonapat, Jind, Mahendragarh, Yamuna Nagar, Jhajjar, Karnal, Rewari.

2.3.3 Complaints against Legal Aid Lawyers

Legal aid lawyers may be removed from the panel if they do not perform satisfactorily or act contrary to the object and spirit of the Legal Services Act, 1987 and the Regulations. Responses indicate that no complaints were received for remand and bail lawyers. However, despite this, Rohtak removed 12 lawyers. Similarly, no complaints were received for panel or retainer lawyers, but Rohtak removed 12 lawyers and Narnaul removed one.



HIMACHAL PRADESH

SNAPSHOT



Occupancy Rate
110.7%

No. of Undertrial Prisoners (Proportion)
1186 (59.93%)

Period of Detention
<1 year: 63.2% | 1-3 years :34.1% | >3 years: 2.6%

Literacy Rate (Prison)
85.7%

| | Central | District | Sub-jails | Others | Total |
|------------|---------|----------|-----------|--------|-------|
| Prisons | 2 | 2 | 8 | 2 | 14 |
| Population | 815 | 354 | 660 | 150 | 1979 |

Deaths in Prisons
7

Prison Death Rate
353.71 per million

Prison Suicide Rate
0

Outside Suicide Rate
7.7



No. of DLSAs
11

No. of TLSCs/ SDLSCs
42

Legal Aid Beneficiaries in Prisons
535

Legal Aid Website
Available

Legal Aid Rules & Regulations

H.P State Legal Services Authority Rules, 1995

H.P State Legal Services Authority Regulations, 1996



No. of District Court Judges
149

Judges : State Population
21.71 per million

Pendency of District Court
2,46,483

No. of Prosecutors
122

No. of High Court Judges
8

Judges : State Population
1.17 per million

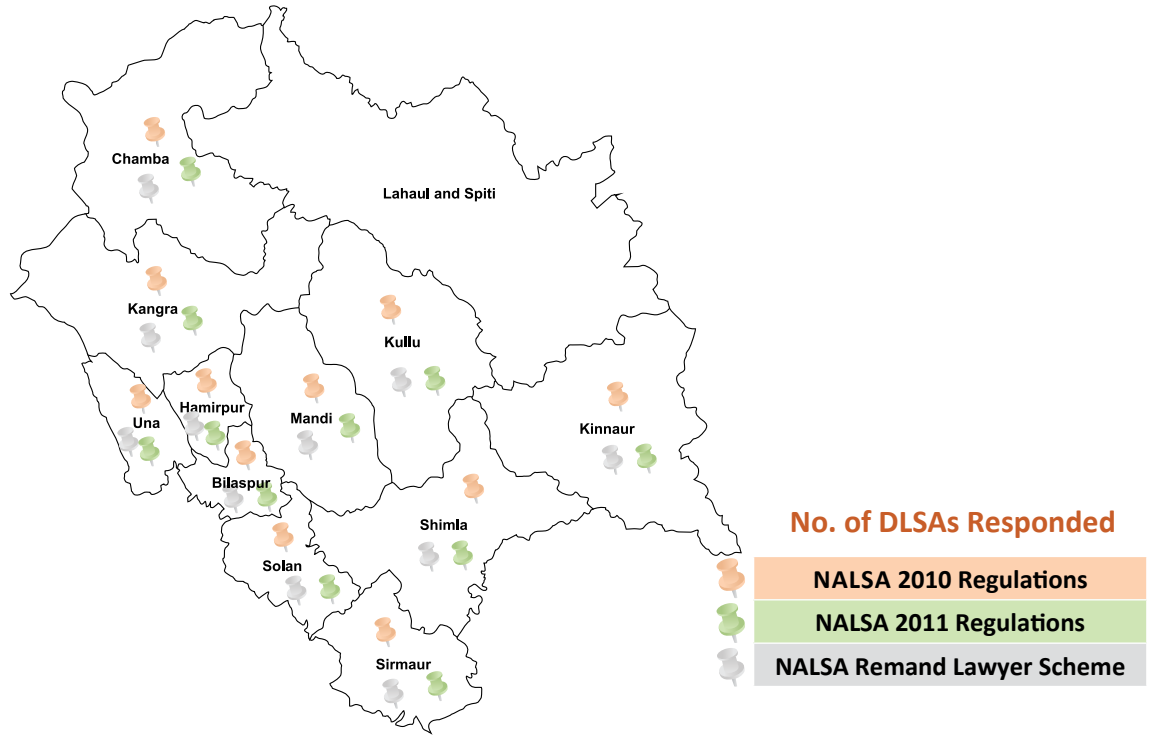
Pendency of High Court
30,509



| Number of Police stations | |
|---------------------------|------------|
| Sanctioned | Actual |
| 116 | 116 |
| Persons Arrested | |
| 23,137 | |

| Number of Police Officials | | |
|----------------------------|---------------|------------|
| Sanctioned | Actual | Vacancies |
| 16,932 | 16,067 | 865 |
| Crime Rate | | |
| 242.4 | | |

LEGAL AID SNAPSHOT





At Legal Services Institution (LSI)


In Jail


At Court


Retainer Lawyer
Appointment: 7/11 DLSAs


Jail Legal Aid Clinic (JLAC)
Constitution: 12 Jails


Remand Lawyer
Appointment: 11/11 DLSAs


Monitoring Committee (MC)
Constitution : 7/11 DLSAs


Convict Paralegal Volunteer
Appointment: 8/12 JLAC


Panel Lawyer
Appointment: 8/11 DLSAs


Jail Visiting Lawyer
Appointment: 12/12 JLAC

LEGAL AID FINDINGS

Himachal Pradesh's prisons house 1,979 inmates²¹ in 14 jails. The state is divided into 12 districts, and each has a district legal services authority (DLSA). The responses to our RTI applications were received from 11 districts,²² with Lahaul & Spiti the only district that did not respond.

VERDICT: In these 11 districts and the corresponding jails, the infrastructure of legal aid delivery is in place. Additionally, the Himachal Pradesh State Legal Services Authority (HPSLSA) has often issued letters and circulars to ensure the effective implementation of the regulations with respect to appointment of actors, constitution of committees and clinics and development of reporting and monitoring formats.

1. LEGAL AID FRAMEWORK

1.1 Appointment of Legal Aid Providers

Every legal services institution has to appoint a panel of lawyers for a term of three years. These lawyers represent those persons who are in need of legal representation and are entitled to legal aid. **Retainer**

lawyers are also drawn from among this panel by the executive chairperson of the legal services institution for a fixed period. They are paid a monthly fee, and in addition to representing persons in court they are expected to assist in the administrative affairs of the legal aid institution. Another category of lawyers, i.e. **legal aid counsels** (commonly referred as **remand lawyers**) are assigned to magistrate courts and are mandated to be present during remand hours to defend any unrepresented accused person.

- a) **Panel and Retainer Lawyers:** Nine districts appointed 529 panel lawyers and 110 retainer lawyers.²³
- b) **Remand Lawyers:** All 11 districts appointed legal aid counsels to all magistrate courts. Interestingly, in Una, remand lawyers were additionally appointed to two executive magistrate courts. In total, 130 legal aid counsels were appointed for a tenure of two years, of which 79 of them were trained in accordance with the directions of the legal services institutions. In five districts,²⁴ no training was conducted for legal aid counsels.

1.2 Legal Aid Clinics in Jails

1.2.1 Constitution of Jail Legal Aid Clinics

Legal aid clinics play an important role in identifying and assisting prisoners in need of representation. Every jail is expected to set up a legal aid clinic manned by PLVs, and visited by legal aid lawyers. Referring to the 13th All India Meet of State Legal Service Authorities, the Himachal Pradesh SLSA issued a letter dated 23 July 2015 on "Setting up of Legal Aid Clinics in Jail", clearly delineating the functioning of legal aid clinics.

Important Regulations/ Circulars from the SLSA on Persons in Custody

1. HPSLSA letter No. 47/LSA/L.A.C./Scheme/2003-3095 dated 1 July 2010.
2. HPSLSA letter No 18-LSA/PLV/2009/2832 dated 25 July 2014 with the subject "Paralegal Volunteers in Jail" calls for the training program me as per modalities framed by NLSA, New Delhi in a scheme for PLVs for these prisoners.
3. HPSLSA sent a circular to all DLSAs with the subject "Setting up of Legal Aid Clinics in Jail" on 23 July 2015 detailing the particulars on the setting up of legal aid clinics.
4. HPSLSA sent a circular to all DLSAs with the subject "Maintaining Record in Legal Services Clinic in Jail" on 14 March 2016.

21 Prison Statistics India, 2015, National Crime Records Bureau, pp. 10 and 20.

22 Bilaspur, Chamba, Hamirpur, Kangra, Kinnaur, Kullu, Mandi, Shimla, Sirmaur, Solan, Una.

23 Panel and retainer lawyers were appointed in these eight districts: Solan, Shimla, Mandi, Kinnaur, Chamba, Kullu, Una. Other than these, Kangra appointed only retainers whilst Sirmaur appointed only panel lawyers.

24 Kangra, Kinnaur, Sirmaur, Kullu, Hamirpur.

The information on the working of jail legal aid clinics were provided by ten districts, all of whom have constituted legal aid clinics in their respective jails. Kinnaur is the only district that has yet to do so. Although the legal aid clinic regulations were introduced in 2011, nine²⁵ legal aid clinics were constituted in 2015, one²⁶ in 2014 and two²⁷ in 2016. Signboards are displayed in the jail legal aid clinics in seven of the eleven districts, mentioning the name of the legal aid counsel, the working hours and days of functioning of the legal aid clinic in English and the local language in accordance with the NALSA Regulations.

1.2.2 Appointment of Legal Aid Providers for Jail Legal Aid Clinics

Twelve JLACs appointed JVLs; 8 JLACs appointed convict PLVs and only three JLACs had community PLVs visiting them.

Appointment letters for the JVLs were found to be detailed for those districts that submitted them. **The appointment letter issued by the Hamirpur DLSA was impressive as the duties of the JVLs were clearly outlined, as were the dates and timings when they have to attend the clinic.**

The appointment letter of convict PLVs provided by Shimla was worth noting as it had their duties, remuneration and the details they have to maintain on the registers. Three districts, Una, Bilaspur and Solan, provided us with appointment letters for community PLVs. Bilaspur had an office order dated 2015 that clearly laid out the dos and don'ts of PLVs and retainer lawyers, including reporting, duties, remuneration and the tenure (one year).

1.3 Constitution of Monitoring Committees (MCs)

MCs established under Regulation 10 of the NALSA 2010 Regulations are expected to monitor the work of panel and retainer lawyers. MCs were constituted in ten districts in 2014. Hamirpur was the only district that has yet to constitute a committee.

2. LEGAL AID DELIVERY

2.1. Legal Aid Delivery in Jails

2.1.1 Visits by Legal Aid Providers in Jails

JAIL VISITING LAWYERS (JVLs): In pursuance of an HPSLSA letter issued in 2010,²⁸ legal aid counsels are required to visit jails once a week. Only five districts²⁹ followed this mandate.

CONVICT PLVS: Many districts mentioned that the mandate necessitates convict PLVs to be present at jail legal aid clinics once a week, whilst the others have just responded with "nil". However, only Sirmaur provided information on how many JLACs were conducted by convict PLVs (38).

COMMUNITY PLVS: A few districts stated that the mandate for community PLVs is the same as for JVLs i.e. once a week.

2.1.2 Registers & Records

The HPSLSA sent a circular to all DLSAs with the subject "Maintaining Record in Legal Services Clinic in Jail" on 14 March 2016, clearly stating that records need to be maintained on the status and progress of cases, including the final result, and submitted monthly to the SLSA. Despite this, only four districts follow this monthly mandate, whilst in three³⁰ districts there were no submissions of any kind to the DLSA.

25 Una, Bilaspur, Sirmaur, Solan, Hamirpur, Kullu, Madi, Kangra (2).

26 Chamba.

27 Shimla (2).

28 HPSLSA letter dated 1 July 2010 (No. 47/LSA/L.A.C./Scheme/2003-3095).

29 Una, Chamba, Sirmaur, Madi, Kullu.

30 Kinnaur, Harimpur, Chamba.

2.2 Assignment of Cases to Legal Aid Providers & their Outcomes

2.2.1 Assignment of Cases to Panel Lawyers & their Outcomes

- a) **Scrutiny Committee & Legal Aid Application:** On receiving a legal aid application, the scrutiny and evaluation committee of the legal services institution decides if the applicant is entitled to legal aid. These committees were constituted in seven out of the 11 districts. However, only four of these districts maintained some form of register. Mandi recorded three cases where legal aid lawyers were not appointed due to deficiencies in the application, whilst Bilaspur recorded 13 such instances. The remaining nine districts did not maintain records on the same.
- b) **Time Taken to Assign Cases to Lawyers:** Information about the time it takes for the authorities to assign a legal aid lawyer was sought by asking for details of the last five legal aid cases from every district. This information was received for 23 cases from six districts. The average time taken to assign legal aid lawyers was 20 days. In 15 cases, the assignment took up to ten days. Of these 15 cases, in three cases appointments were made on the same day. Notably, in one case from Kinnaur district, the DLSA took 236 days to assign a lawyer. In the other two cases from Kinnaur as well, the DLSA took over 40 days to assign a lawyer.
- c) **Representation & Outcome:** Panel lawyers represented 113 persons and retainer lawyers represented 35 persons, in the six districts³¹ that provided us with this information. Of the 36 persons released, ten were released on bail and ten were acquitted.³²

2.2.2 Representations by Remand Lawyers & their Outcomes

Only four³³ districts maintained records about number of persons represented and released by remand lawyers in court. In all, 44 lawyers represented 939 persons in custody, of which 355 were released.

2.3 Monitoring Legal Aid Providers

2.3.1 Monitoring Panel & Retainer Lawyers

MCs are mandated to review the day-to-day working of legal aid cases. Although all the committees consisted of the designated members, the minutes of the meetings in Kinnaur indicate that all three mandated officials did not attend the meetings at all times. Furthermore, no additional infrastructure was provided specifically for the MCs, with the exception of Bilaspur, where one clerk was hired.

In order to track the progress of legal aid cases, registers are crucial. MCs in only five districts maintained registers. However, no standard format was used across the state. Only three districts submitted bimonthly reports (18) during the relevant period.

2.3.2 Monitoring Remand Lawyers

Through the minutes of the meetings, especially in Bilaspur, it is clear that the panel lawyers have not submitted monthly reports. A few attendance certificates and work reports were maintained, but their function does not seem to be to review the work done.

1. **ATTENDANCE CERTIFICATES & WORK REPORTS:** Only three districts³⁴ submitted attendance certificates (22) issued during the time period requested. Five districts³⁵ provided examples of work reports that are submitted.
2. **DLSA COMPLIANCE REPORTS FOR SLSA:** Seven out of the 11 districts sent monthly reports from the DLSA to the SLSA.

31 Solan, Shimla, Mandi, Kangra, Kullu, Sirmaur.

32 Out of the six districts that provided information on the persons represented, only five districts provided information on the number released. Kangra maintained no records of persons who were released.

33 Shimla, Chamba, Mandi, Kullu.

34 Shimla, Kinnaur, Chamba.

35 Solan, Shimla, Kinnaur, Kangra, Sirmaur.

2.3.3 Complaints against Legal Aid Lawyers

Legal aid lawyers may be removed from the panel if they do not perform satisfactorily or act contrary to the object and spirit of the Legal Services Act, 1987 and the Regulations. No complaints were received for remand and bail lawyers, or for panel lawyers, and consequently, no lawyer was removed during the time period specified.



JAMMU & KASHMIR

SNAPSHOT



No response was received on CHRI's RTI request



Occupancy Rate
77.9%

No. of Undertrial Prisoners (Proportion)
1906 (81.52%)

Period of Detention
<1 year: 44.8% | 1-3 years :32.2% | >3 years: 23%

Literacy Rate (Prison)
70.96%

| | Central | District | Sub-jails | Others | Total |
|------------|---------|----------|-----------|--------|-------|
| Prisons | 2 | 10 | 2 | 0 | 14 |
| Population | 696 | 1512 | 130 | 0 | 2338 |

Deaths in Prisons
2

Prison Death Rate
85.54 per million

Prison Suicide Rate
0

Outside Suicide Rate
3



No. of DLSAs
22

No. of TLSCs/ SDLSCs
68

Legal Aid Beneficiaries in Prisons
19

Legal Aid Website
Available

Legal Aid Rules & Regulations

Jammu and Kashmir Legal Services Authorities Act, 1997

Jammu and Kashmir State Legal Services Authority

(Lok Adalats) Regulations, 2010



No. of District Court Judges
214

Judges : State Population
17.06 per million

Pendency of District Court
1,51,107

No. of Prosecutors
260

No. of High Court Judges
12

Judges : State Population
0.96 per million

Pendency of High Court
60,660



| Number of Police stations | |
|---------------------------|------------|
| Sanctioned | Actual |
| 222 | 222 |
| Persons Arrested | |
| 39,237 | |

| Number of Police Officials | | |
|----------------------------|---------------|--------------|
| Sanctioned | Actual | Vacancies |
| 84,954 | 78,348 | 6,606 |
| Crime Rate | | |
| 213.6 | | |

PUNJAB

SNAPSHOT



Occupancy Rate
117.8%

No. of Undertrial Prisoners (Proportion)
13046 (55.2%)

Period of Detention
<1 year: 75.6% | 1-3 years :19.9% | >3 years: 4.5%

Literacy Rate (Prison)
67.42%

| | Central | District | Sub-jails | Others | Total |
|------------|---------|----------|-----------|--------|-------|
| Prisons | 9 | 7 | 7 | 3 | 26 |
| Population | 17828 | 4212 | 976 | 629 | 23645 |

Deaths in Prisons
178

Prison Death Rate
752.8 per million

Prison Suicide Rate
16.92

Outside Suicide Rate
3.6



No. of DLSAs
22

No. of TLSCs/ SDLSCs
40

Legal Aid Beneficiaries in Prisons
3902

Legal Aid Website
Available

Legal Aid Rules & Regulations
Punjab Legal Services Authority Rules, 1996

Punjab Legal Services Authority (Transaction of Business and other Provisions) Regulations, 1998



No. of District Court Judges
539

Judges : State Population
19.43 per million

Pendency of District Court
5,47,761

No. of Prosecutors
375

No. of High Court Judges
48

Judges : State Population
1.73 per million

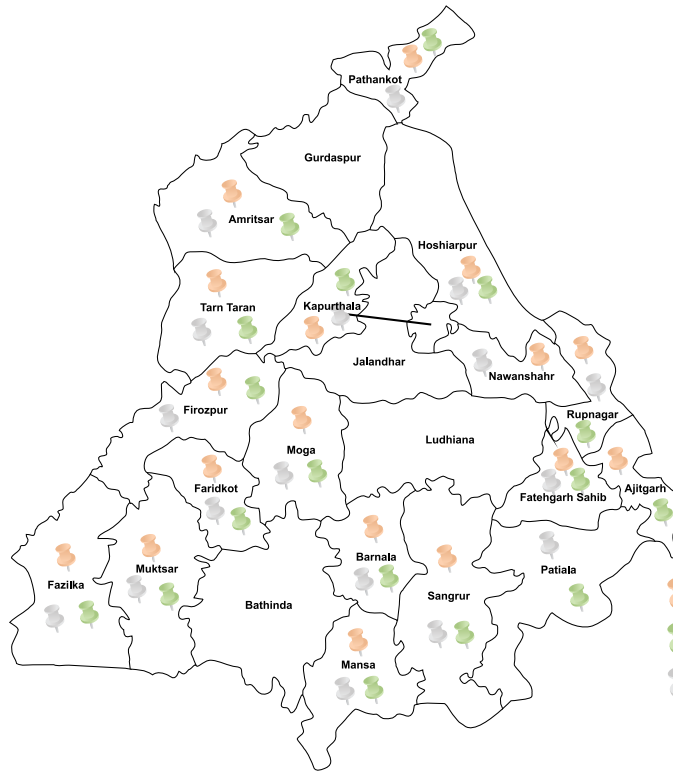
Pendency of High Court
3,19,123



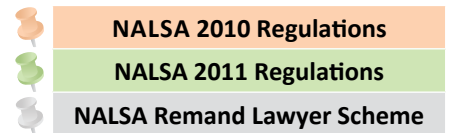
| Number of Police stations | |
|---------------------------|------------|
| Sanctioned | Actual |
| 399 | 404 |
| Persons Arrested | |
| 65,725 | |

| Number of Police Officials | | |
|----------------------------|---------------|--------------|
| Sanctioned | Actual | Vacancies |
| 87,672 | 80,486 | 7,186 |
| Crime Rate | | |
| 197.7 | | |

LEGAL AID SNAPSHOT



No. of DLSAs Responded



At Legal Services Institution (LSI)



In Jail



At Court



Retainer Lawyer

Appointment: 17/19 DLSAs



Jail Legal Aid Clinic (JLAC)

Constitution: 20 Jails



Remand Lawyer

Appointment: 11/17 DLSAs



Monitoring Committee (MC)

Constitution : 10/17 DLSAs



Convict Paralegal Volunteer

Appointment: 16/20 JLAC



Panel Lawyer

Appointment: 17/17 DLSAs



Jail Visiting Lawyer

Appointment: 17/20 JLAC

LEGAL AID FINDINGS

Punjab's prisons house 23,645 inmates in 26 jails³⁶ There are 22 districts in Punjab, with the same of number of DLSAs. Responses to our RTI applications NALSA 2011 Regulations were received from 16 districts and to the RTI application on the NALSA Model Scheme and NALSA 2010 Regulations were received from 17 districts. On the 2011 Model Scheme, Patiala did not answer any of the questions but attached documents relating to some of the questions. Bathinda, Ludhiana, Mohali and Jalandhar did not respond to any of the three RTI applications.

VERDICT: In these 17 districts and the corresponding jails, the infrastructure of legal aid delivery is in place but is not implemented to its fullest capability.

Important Regulations/ Circulars from the SLSA on Persons in Custody

1. Punjab SLSA Letter No. 16719 dated 7 October 2015 to Mansa with the subject "Selection of Retainer Lawyers".
2. Punjab SLSA Guidelines on "Scheme for setting up of Legal Aid Clinics in Central, District and Sub Jails".

1. LEGAL AID FRAMEWORK

1.1 Appointment of Legal Aid Providers

Every legal services institution has to appoint a panel of lawyers for a term of three years. These lawyers represent those persons who are in need of legal representation and are entitled to legal aid. **Retainer lawyers** are also drawn from among this panel by the executive chairperson of the legal services institution for a fixed period. They are paid a monthly fee, and in addition to representing persons in court they are expected to assist in the administrative affairs of the legal aid institution. Another category of lawyers, i.e. **legal aid counsels** (commonly referred as **remand lawyers**) are assigned to magistrate courts and are mandated to be present during remand hours to defend any unrepresented accused person.

- a) **Panel and Retainer Lawyers:** In total, 842 panel lawyers and 121 retainer lawyers were appointed in the 16 districts that responded.
- b) **Remand Lawyers:** Of the 17 districts that responded to this particular RTI application,³⁷ 13 districts have magistrate courts that take up remand hearings. Of these, 11 districts³⁸ appointed 40 legal aid counsels or "remand hour lawyers" to the magistrate courts. Amritsar is the only district that has not appointed a single remand lawyer. This is in spite of having 21 magistrate courts which take up remand hearings. Interestingly, the Hoshiarpur DLSA advised retainer lawyers whose tenures had expired to appear in court for remand hearings, till new remand lawyers were appointed. Unlike most states, Punjab has mandated a two-year tenure for remand lawyers.

1.2 Legal Aid Clinics in Jails

1.2.1 Constitution of Jail Legal Aid Clinics

Jail legal aid clinics play an important role in identifying and assisting prisoners in need of representation. Every jail is expected to set up a legal aid clinic manned by PLVs, and visited by legal aid lawyers.

Of the responses that were received, 15 DLSAs³⁹ provided information on the working of jail legal aid clinics.

³⁶ Prison Statistics India, 2015, National Crime Records Bureau, pp. 10 and 20.

³⁷ NALSA, 2010 Model Scheme for "Legal Aid Counsel" in All Courts of Magistrates.

³⁸ Ferozpur, Faridkot, SBS Nagar, Barnala, Moga, Rupnagar, Sangrur, Tarn Taran, Sri Muktsar Sahib, Patiala, Fazilka, Fatehgarh, Sahib, Kapurthala.

³⁹ Tarn Taran, Hoshiarpur, Sangrur, Mansa, Amritsar, Patiala, Rupnagar, Moga, Ferozpur, Kapurthala, Sri Muktsar Sahib, Pathankot, Barnala, Fazilka, Fatehpur.

Responses were also received from Fatehgarh Sahib that does not have a jail, while SBS Nagar did not provide any responses to the questions asked. Most of these JLACs were constituted in 2012, a year after the NALSA (Legal Aid Clinic) Regulations were passed. The earliest JLAC was set up in 2011 in Ambala Central Prison.

1.2.2 Appointment of Legal Aid Providers for Jail Legal Aid Clinics

According to the mandate of the Punjab Legal Services Authority,⁴⁰ DLSAs are directed to depute retainer lawyers or panel lawyers, depending on their availability, on a rotational basis to visit jail legal aid clinics. Also, the DLSA's have to identify "at least three female and six male long-term convicts in central prisons and at least two female and three male, long-term convicts in district jails and sub jails, as per the availability of long-term convicts, who should be trained as PLVs". The responses to the RTI application show that 17 JLACs have a total of 73 JVLs visiting them. These JLACs are located in central jails, district jails, sub jails and modern jails of 14 districts.

No JVLs visited the Amritsar Central Jail or the Observation Home, Hoshiarpur. From 2015 onwards, some of the DLSAs appointed panel lawyers to also look into cases pertaining to the Undertrial Review Committee. An enclosed Punjab SLSA letter describes the duties to be performed by JVLs while conducting the JLACs.⁴¹ Among other things the JVLs are expected to man the front office/ADR Centre of the concerned legal services institution, draft applications/petitions, provide free legal advice, organize legal literacy camps and seminars, and guide litigants on the appropriate remedy for their grievances.

A total of 44 convict PLVs were appointed in 16 jails located in 14 districts. In some districts, emphasis was laid on the educational qualifications of the convicts while appointing them as PLVs. There was just one community PLV who was visiting the JLAC of Hoshiarpur Central Prison. None of the other districts appointed community PLVs in their respective JLACs.

1.3 Constitution of Monitoring Committees (MCs)

MCs established under Regulation 10 of the NALSA 2010 Regulations are expected to monitor the work of panel and retainer lawyers. The responses to the RTI application indicate that Punjab has yet to fully develop its monitoring infrastructure. Although the MC regulations were formulated in 2010, only four districts constituted MCs before 2013. Of the 10 districts that constituted MCs, only four⁴² maintained registers. All these committees comprise the secretary, the district judge, a member and an advocate.

2. LEGAL AID DELIVERY

2.1. Legal Aid Delivery in Jails

2.1.1 Visits by Legal Aid Providers in Jails

There is no state level mandate of the Punjab Legal Services Authority (PLSA), specifying the working days or hours of the jail legal aid clinics, JVL visits or the working of PLVs. Therefore all the districts have their own mandate.

JAIL VISITING LAWYERS (JVLs): JVL visits range from visiting twice a week to visiting on all working days in a week. Barring a few exceptions, most of the districts have formalized a mandate wherein the JLACs are expected to be visited by one JVL every working day. Some of the JLACs are functional on all working days of the week and are visited by JVLs on a rotational basis. Only two districts⁴³ follow the mandate set by their respective DLSAs.

CONVICT PLVs: District-specific mandates on the working of PLVs are followed. In most districts, the PLVs conduct the JLAC on every working day. Cases are also taken up as and when the need arises. None of the districts gave actual numbers of when JLACs were conducted by them. However, four districts⁴⁴ mentioned that the convict

40 "Scheme for Setting up of Legal Aid Clinics in Central, Districts and Sub Jails" Punjab Legal Services Authority letter to all DLSAs.

41 Letter No. 16719, dated 7 October 2015, sent by Punjab SLSA to Mansa DLSA.

42 Sri Muktsar Sahib, Kapurthala, SBS Nagar, Barnala.

43 Sri Muktsar Sahib, Moga.

44 Mansa, Moga, Fazilka, Faridkot.

PLVs follow the mandate provided to them for the functioning of their respective JLACs.

COMMUNITY PLVS: Of the existing JLACs, only one⁴⁵ has appointed a community PLV. No further information was provided about the same with regard to the appointment letter, duties, visiting hours, etc.

2.1.2 Registers & Records

The format for the legal aid clinic register is provided by the SLSA and the same is followed by all the DLSAs in a standardized manner. Both, attendance and work registers are reviewed by the DLSAs every month and also during the respective DLSA secretary's visits to the jail. A letter⁴⁶ provided by DLSA, Sri Muktasar Sahib, clearly directs the panel lawyers appointed as JVLs to submit reports on the next date after their visit to the office of the secretary, DLSA.

2.2 Assignment of Cases to Legal Aid Providers & their Outcomes

2.2.1 Assignment of Cases to Panel Lawyers & their Outcomes

- a) **Scrutiny Committee & Legal Aid Application:** On receiving a legal aid application, the scrutiny and evaluation committee of the legal services institution decides if the applicant is entitled to legal aid. Scrutiny and evaluation committees are constituted in 15 of the 16 districts that responded to our RTI application. Mansa is the only district that has yet to constitute a scrutiny and evaluation committee. However, in only six⁴⁷ of these 15 districts, the committees maintain registers. Scrutiny and evaluation committees of the legal services institution have eight weeks to decide whether an applicant is entitled to legal aid. The often-cited reason for this unreasonable delay is deficiencies in the legal aid applications or verification on whether the applicant already has a lawyer. In Punjab, there were no such cases wherein a legal aid counsel was not appointed because the person in custody already had a lawyer. However, there were two cases in Ferozepur wherein legal aid was not appointed due to deficiencies in the legal aid application.
- b) **Time Taken to Assign Cases to Lawyers:** Information about the time it takes for the authorities to assign a legal aid lawyer was sought by asking for details of the last five legal aid cases from every district. Information relating to the time period between an application for legal aid and the assignment of a lawyer was received for 52 cases from 11 districts. Average duration for assigning a legal aid lawyer was five days. In 18 cases, lawyers were assigned on the same day and in four cases, the next day. These cases were from Fatehgarh Sahib, Pathankot and SBS Nagar and Faridkot. Hoshiarpur, in one case, took 27 days to assign a lawyer. The longest in the state.
- c) **Representation & Outcome:** Panel lawyers represented 2,881 persons in 15 districts, while retainer lawyers represented 539 cases in eight districts. Of the 1,267 persons released, 33 were released on bail, 157 were acquitted and 1,077 cases were disposed. Hoshiarpur did not provide or maintain any information on representations or releases. SBS Nagar and Rupnagar maintained no information on bail releases and acquittals, whilst Fazilka, Tarn Taran and Barnala either did not maintain information on bail releases, acquittals and disposals, or did not share it with us.

2.2.2 Representations by Remand Lawyers & their Outcomes

Although, almost half the districts in Punjab have appointed remand lawyers, only four districts⁴⁸ provided data on the number of persons represented by these lawyers. Of the 96 persons who were represented in court by six remand lawyers,⁴⁹ only 39 persons were granted bail, out of which, 37 were released on bail in these districts and eight persons were discharged in Mansa.

45 Hoshiarpur Central Prison.

46 Letter No. 1122, dated 4 August, 2014.

47 Fazilka, Faridkot, Hoshiarpur, Sangrur, Kapurthala, Barnala.

48 Faridkot, Sri Muktasar Sahib, Kapurthala, Mansa.

49 No information was provided on the number of remand lawyers appointed by Mansa.

2.3 Monitoring Legal Aid Providers

2.3.1 Monitoring Panel & Retainer Lawyers

Panel lawyers from ten districts submitted 617 completion reports over the course of one year. However, no reports were submitted by the panel lawyers to the MCs. Additionally, only four bi-monthly reports were submitted, and that too, just by one district.

2.3.2 Monitoring Remand Lawyers

The responses to the RTI application show that the attendance certificates and work reports are sent only by a few districts, and that too only when the honorariums are to be released. These documents do not mention the progress of the cases being represented or the work done by the remand lawyers.

1. **ATTENDANCE CERTIFICATES & WORK REPORTS:** Attendance certificates are maintained by eight districts, copies of which were attached by seven districts. Work reports are maintained by only four districts and only half of these attached copies of the same.
2. **DLSA COMPLIANCE REPORTS FOR SLSA:** Ten districts send compliance reports to the SLSA, either on a monthly basis, or as and when asked for.

2.3.3 Complaints against Legal Aid Lawyers

Legal aid lawyers may be removed from the panel if they do not perform satisfactorily or act contrary to the object and spirit of the Legal Services Act, 1987 and the Regulations. Responses indicate that no complaints were received for remand and bail lawyers. However, despite this, one lawyer from Hoshiarpur and two from Fatehgarh Sahib were removed. Similarly, no complaints were received against panel lawyers. Regardless, one lawyer from Amritsar, one from Hoshiarpur and two from Fatehgarh Sahib were removed from the panel.



UTTARAKHAND

SNAPSHOT



Occupancy Rate
136.4%

No. of Undertrial Prisoners (Proportion)
2292 (52.71%)

Period of Detention
<1 year: 75.8% | 1-3 years :18.9% | >3 years: 5.3%

Literacy Rate (Prison)
81.46%

| | Central | District | Sub-jails | Others | Total |
|------------|---------|----------|-----------|--------|-------|
| Prisons | 1 | 7 | 2 | 1 | 11 |
| Population | 314 | 2817 | 1092 | 125 | 4348 |

Deaths in Prisons
16

Prison Death Rate
367.99 per million

Prison Suicide Rate
46

Outside Suicide Rate
4.5



No. of DLSAs
13

No. of TLSCs/ SDLSCs
31

Legal Aid Beneficiaries in Prisons
908

Legal Aid Website
Available

Legal Aid Rules & Regulations

The Uttaranchal State Legal Service Authority Rules, 2006
Uttarakhand State Legal Authority Regulations, 2002



No. of District Court Judges
216

Judges : State Population
21.42 per million

Pendency of District Court
2,09,501

No. of Prosecutors
39

No. of High Court Judges
10

Judges : State Population
0.99 per million

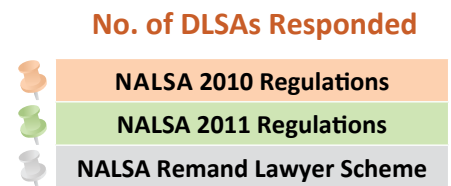
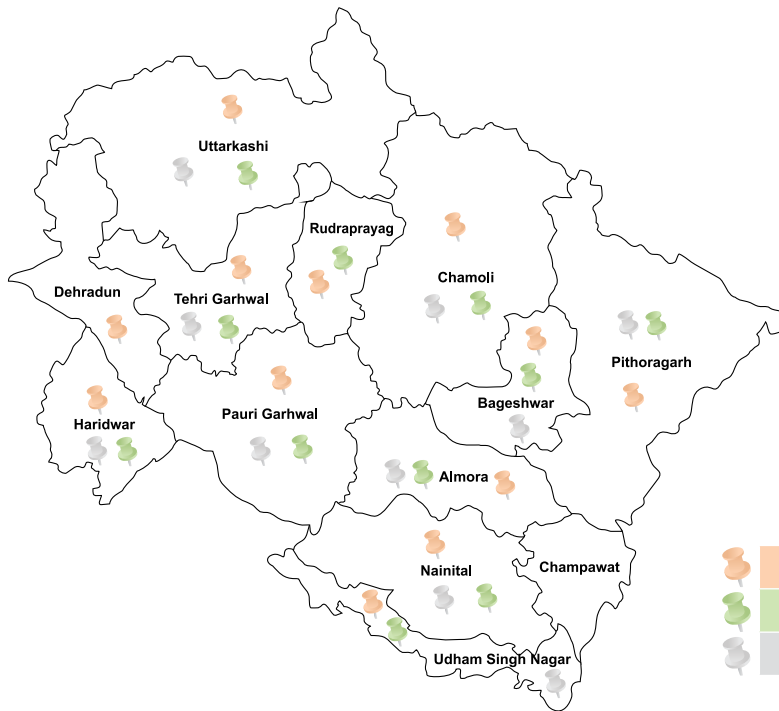
Pendency of High Court
31,097













| Number of Police stations | |
|---------------------------|------------|
| Sanctioned | Actual |
| 156 | 156 |
| Persons Arrested | |
| 16,126 | |

| Number of Police Officials | | |
|----------------------------|---------------|--------------|
| Sanctioned | Actual | Vacancies |
| 21,096 | 19,957 | 1,139 |
| Crime Rate | | |
| 150.6 | | |

LEGAL AID SNAPSHOT



| | | |
|--|--|--|
|  <p>At Legal Services Institution (LSI)</p> |  <p>In Jail</p> |  <p>At Court</p> |
|  <p>Retainer Lawyer</p> <p>Appointment: 0/12 DLSAs</p> |  <p>Jail Legal Aid Clinic (JLAC)</p> <p>Constitution: 10 Jails</p> |  <p>Remand Lawyer</p> <p>Appointment: 5/10 DLSAs</p> |
|  <p>Monitoring Committee (MC)</p> <p>Constitution : 3/12 DLSAs</p> |  <p>Convict Paralegal Volunteer</p> <p>Appointment: 2/10 JLAC</p> |  <p>Panel Lawyer</p> <p>Appointment: 8/12 DLSAs</p> |
| |  <p>Jail Visiting Lawyer</p> <p>Appointment: 8/10 JLAC</p> | |

LEGAL AID FINDINGS

Uttarakhand's prisons housed 4,348 inmates in 11 jails, as of 2015.⁵⁰ There are 13 districts in the state with the same number of DLSAs. Unlike most other states, the Uttarakhand SLSA collated the information we sought under our RTI application from 12 districts⁵¹ and provided the same. The only district which did not respond to any of the three RTI applications, was Champawat.

Important Regulations/ Circulars from the SLSA on Persons in Custody

No regulations, circulars or notices were received.

VERDICT: Although, 12 of the 13 districts responded to all three RTI applications, many of the questions were unanswered. The responses received showed the sorry state of legal aid in the state – not appointing retainers, setting up MCs, minimal reporting.

1. LEGAL AID FRAMEWORK

1.1 Appointment of Legal Aid Providers

Every legal services institution has to appoint a panel of lawyers for a term of three years. These lawyers represent those persons who are in need of legal representation and are entitled to legal aid. **Retainer lawyers** are also drawn from among this panel by the executive chairperson of the legal services institution for a fixed period. They are paid a monthly fee, and in addition to representing persons in court they are expected to assist in the administrative affairs of the legal aid institution. Another category of lawyers, i.e. **legal aid counsels** (commonly referred as **remand lawyers**) are assigned to magistrate courts and are mandated to be present during remand hours to defend any unrepresented accused person.

- a) **Panel and Retainer Lawyers:** Of the 12 districts, eight districts appointed panel lawyers. **None of the districts have appointed retainer lawyers.**
- b) **Remand Lawyers:** In Uttarakhand, remand lawyers are appointed from among the panel lawyers. Although, the SLSA does not specify the tenure of appointment of these remand lawyers, they were appointed for a period of one year in four districts⁵². Only five districts⁵³ have assigned remand lawyers to the remand magistrate courts. No remand lawyers were attached to any of the courts in the districts of Uttarkashi, Udham Singh Nagar, Pauri Garhwal and Chamoli.

1.2 Legal Aid Clinics in Jails

1.2.1 Constitution of Jail Legal Aid Clinics

Jail legal aid clinics play an important role in identifying and assisting prisoners in need of representation. Every jail is expected to set up a legal aid clinic manned by PLVs, and visited by legal aid lawyers. Ten legal aid clinics were set up in eight jails in Uttarakhand. There are two legal aid clinics in each of the district jails of Almora and Tehri. Pittorgarh stated that there is a "Judicial Lockup" and not a jail in the district, and therefore a legal aid clinic was not constituted. There is no standardized tenure of appointment or the number of days that the JVLs are expected to visit the legal aid clinics.

50 Prison Statistics India, 2015, National Crime Records Bureau, pp. 10 and 20.

51 Nainital, Dehradun, Uttarkashi, Chamoli, Tehri Garhwali, Pauri Garhwal, Almora, Bageshwar, Pittorgarh, Rudraprayag, Haridwar, Udham Singh Nagar.

52 Haridwar, Almora, Pittorgarh, Bageshwar. No appointment letters attached.

53 Haridwar, Almora, Bageshwar, Pittorgarh & Tehri.

1.2.2 Appointment of Legal Aid Providers for Jail Legal Aid Clinics

Of the ten legal aid clinics in the jails, only six appointed JVLs. Only two legal aid clinics (in Bhageshwar and Haridwar district jails) appointed convict PLVs. No community PLVs were appointed in any of the legal aid clinics.

This means only two jails had legal aid clinics manned by PLVs and were visited by lawyers. Four were visited by lawyers but had no PLVs, and the other four which exist only on paper, are without any functionaries.

Appointment letters of JVLs were provided only by Tehri Garhwal and Chamoli.⁵⁴ The appointment letters make no mention on the roles and responsibilities of the JVLs.

1.3 Constitution of Monitoring Committees (MCs)

MCs established under Regulation 10 of the NALSA 2010 Regulations are expected to monitor the work of panel and retainer lawyers. Of the 12 districts which responded, only three districts⁵⁵ constituted an MC. All these three committees were set up after the time period for which the responses to the RTI application were sought, i.e. post June 2016.

2. LEGAL AID DELIVERY

2.1. Legal Aid Delivery in Jails

2.1.1 Visits by Legal Aid Providers in Jails

JAIL VISITING LAWYERS (JVLs): The letter issued by the Uttarakhand SLSA in 2016⁵⁶ mandates setting up of legal aid clinics in all jails in the state. The letter further states that panel lawyers should visit these clinics and provide legal awareness and assistance to inmates.

There is no defined mandate for visits by JVLs to the clinics. The visits are either made once⁵⁷ or twice⁵⁸ a week. While in Chamoli district the lawyers visited 92 times during the one-year period, in Almora the visits were made only seven times.

CONVICT PLVS: Only Haridwar and Bhageshwar appointed convict PLVs.⁵⁹ In Haridwar, the PLV is expected to visit the jail every working day, whereas in Bhageshwar the mandate is eight times a month.

COMMUNITY PLVS: No community PLVs are appointed in any of the districts.

2.1.2 Registers & Records

Tehri Garhwal is the only district which mentions that work and attendance registers are called in every month for a review by the DLSA.

2.2 Assignment of Cases to Legal Aid Providers & their Outcomes

2.2.1 Assignment of Cases to Panel Lawyers & their Outcomes

a) Scrutiny Committee & Legal Aid Application: On receiving a legal aid application, the scrutiny and evaluation committee of the legal services institution decides if the applicant is entitled to legal aid. Scrutiny and evaluation committees were constituted in two of the 12 districts. Of the 446 legal aid applications in

⁵⁴ The appointment was made under the Uttarakhand SLSA Rules of 1997 15(1).

⁵⁵ Haridwar, Rudraprayag, Pittorgarh.

⁵⁶ SLSA Letter dated 13 May 2016- (578/XIV-a-2/UKSLSA/09).

⁵⁷ Pittorgarh.

⁵⁸ Almora, Chamoli.

⁵⁹ Two in each JLAC.

the two districts, in 22 cases, legal aid lawyers were not provided as there were deficiencies in the legal aid applications. Surprisingly, all the information about receiving applications and assigning lawyers was provided without maintaining any registers.

- b) **Time Taken to Assign Cases to Lawyers:** Information about the time it takes for the authorities to assign a legal aid lawyer was sought by asking for details of the last five legal aid cases from every district. This information was received for 47 cases from ten districts. Of the 47 cases, in 25 cases assignments were made on the same day as the receipt of the application, while in four cases, the appointments were made the next day. Uttarkashi and Haridwar were swift in assigning lawyers. The average time taken to assign a lawyer was three days. In one case (from Tehri district), the assignment took 28 days.
- c) **Representation & Outcome:** A total of 175 panel lawyers represented 443 cases. Of the 275 cases that were disposed, nine were acquitted and bail was granted in nine cases.

2.2.2 Representations by Remand Lawyers & their Outcomes

No information on the representation and outcome of legal aid cases represented by remand lawyers were provided.

2.3 Monitoring Legal Aid Providers

2.3.1 Monitoring Panel & Retainer Lawyers

MCs are mandated to review the day-to-day working of legal aid cases. In order to track the progress of legal aid cases, registers are crucial. However, none of the districts maintained any such register.

2.3.2 Monitoring Remand Lawyers

1. **ATTENDANCE CERTIFICATES & WORK REPORTS:** None of the remand counsels maintained work or attendance registers. No action was taken by the DLSA or the SLSA on the same.
2. **DLSA COMPLIANCE REPORTS FOR SLSA:** Four districts⁶⁰ sent compliance reports on a monthly basis, to the Uttarakhand SLSA.

2.3.3 Complaints against Legal Aid Lawyers

Legal aid lawyers may be removed from the panel if they do not perform satisfactorily or act contrary to the object and spirit of the Legal Services Authorities Act 1987 and the Regulations. Three districts provided information in this regard. Dehradun received one complaint. In all, 13 panel lawyers were removed. Almora and Uttarkashi did not receive any complaints regarding the panel lawyers, but 16 panel lawyers were removed.

⁶⁰ Uttarkashi, Bageshwar, Pittorgarh, Almora.



UTTAR PRADESH

SNAPSHOT



| | |
|--|--|
| Occupancy Rate 168.8% | Deaths in Prisons 323 |
| No. of Undertrial Prisoners (Proportion) 62669 (57.4%) | Prison Death Rate 363.96 per million |
| Period of Detention <1 year: 68.5% 1-3 years :23.5% >3 years: 8% | Prison Suicide Rate 10.14 |
| Literacy Rate (Prison) 70.29% | Outside Suicide Rate 1.8 |

| | Central | District | Sub-jails | Others | Total |
|------------|---------|----------|-----------|--------|-------|
| Prisons | 5 | 57 | 2 | 3 | 67 |
| Population | 12200 | 75265 | 519 | 763 | 88747 |



| | |
|------------------------------------|---|
| No. of DLSAs 71 | Legal Aid Beneficiaries in Prisons 3538 |
| No. of TLSCs/ SDLSCs 304 | Legal Aid Website Available |
| | Legal Aid Rules & Regulations U.P. State Legal Service Authority Rules 1996 |



| | |
|--|--|
| No. of District Court Judges 1891 | No. of High Court Judges 83 |
| Judges : State Population 9.46 per million | Judges : State Population 0.42 per million |
| Pendency of District Court 62,36,938 | Pendency of High Court 9,14,730 |

No. of Prosecutors
737

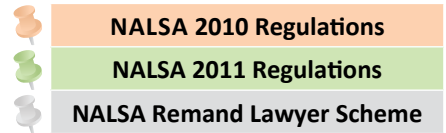


| Number of Police stations | | Number of Police Officials | | |
|---------------------------|--------------|----------------------------|----------------|----------------|
| Sanctioned | Actual | Sanctioned | Actual | Vacancies |
| 1,528 | 1,528 | 413,254 | 198,919 | 214,335 |
| Persons Arrested | | Crime Rate | | |
| 983,915 | | 225.3 | | |

LEGAL AID SNAPSHOT



No. of DLSAs Responded



At Legal Services Institution (LSI)



In Jail



At Court



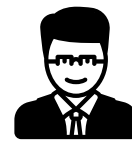
Retainer Lawyer

Appointment: 35/71 DLSAs



Jail Legal Aid Clinic (JLAC)

Constitution: 48 Jails



Remand Lawyer

Appointment: Not Provided



Monitoring Committee (MC)

Constitution : 25/71 DLSAs



Convict Paralegal Volunteer

Appointment: 43/48 JLAC



Panel Lawyer

Appointment: 70/71 DLSAs



Jail Visiting Lawyer

Appointment: Not Provided

LEGAL AID FINDINGS

Uttar Pradesh's prisons house 88,747 prisoners in 67 jails.⁶¹ These jails are distributed over 71 districts with the same number of DLSAs. We received responses from only nine DLSAs⁶² while the majority of the districts rejected the RTI application. These responses cannot be said to be representative of the entire state. However, the SLSA also provided a separate response to the three RTI applications that give us a better picture of the legal aid infrastructure in the state.

VERDICT: It is evident from the responses received, that in these seven districts, the legal aid delivery infrastructure is partially in place, but lacks effective reporting mechanisms. The SLSA, however, is extremely involved and is constantly sending out letters and circulars to all the DLSAs regarding the constitution and appointment of committees and actors, as well as relevant information on the functioning of the reporting mechanisms.

Important Regulations/ Circulars from the SLSA on Persons in Custody

1. SLSA Letter No. 2911/S.L.S.A-70/2015 dated 10 September 2015.
2. SLSA Letter No. 2214/SLSA-49(45)/2010 dated 18 June 2014 on "Nomination of Retainer Lawyers and Constitution of Monitoring Committee".
3. Letter from the UPSLSA to the Member Secretary regarding the Legal Aid Counsel Scheme.

1. LEGAL AID FRAMEWORK

1.1 Appointment of Legal Aid Providers

Every legal services institution has to appoint a panel of lawyers for a term of three years. These lawyers represent those persons who are in need of legal representation and are entitled to legal aid. **Retainer lawyers** are also drawn from among this panel by the executive chairperson of the legal services institution for a fixed period. They are paid a monthly fee, and in addition to representing persons in court they are expected to assist in the administrative affairs of the legal aid institution. Another category of lawyers, i.e. **legal aid counsels** (commonly referred as **remand lawyers**) are assigned to magistrate courts and are mandated to be present during remand hours to defend any unrepresented accused person.

- a) Panel and Retainer Lawyers:** In total, 321 panel lawyers were appointed in seven districts and 98 retainer lawyers in five districts, out of the nine that responded. However the SLSA responded to the RTI with information on more districts. Interestingly, a letter from the SLSA dated 10 September 2015 directed all DLSAs to discontinue the work of retainer lawyers. However, we still received information on the work of retainer lawyers.
- b) Remand Lawyers:** Ten remand and bail lawyers were appointed in the four districts that provided this information, none of whom were trained as per the directions of the legal services institution. Only two districts appointed remand and bail lawyers for all remand magistrate courts. The Model Scheme does not provide a tenure for legal aid counsel, as it appears, nor does the SLSA. Two districts, Chitrakoot and Mohaba, stated that they maintain a tenure of one year. Varanasi mentioned three years and the remaining stated that no tenure was fixed.

1.2 Legal Aid Clinics in Jails

1.2.1 Constitution of Jail Legal Aid Clinics

Jail legal aid clinics play an important role in identifying and assisting prisoners in need of representation. Every jail is expected to set up a legal aid clinic manned by PLVs, and visited by legal aid lawyers. The Uttar Pradesh

61 Prison Statistics India, 2015, National Crime Records Bureau, pp. 10 and 20.

62 Balrampur, Shravasti, Jaunpur, Varanasi, Basti, Shahjahanpur, Mahoba, Chitrakoot and Kanpur Nagar.

SLSA issued letter No. 2653/S.L.S.A-110/2010 dated 8 December 2011 to all DLSAs regarding the constitution of legal aid clinics, specifically in jails. It also requested compliance reports as proof that these legal aid clinics were constituted. Of the nine DLSAs that responded, five districts provided information on the workings of their six jail legal aid clinics.

According to the SLSA's response, 50 jail legal aid clinics are constituted in the 67 jails across the state. This helps understand the legal aid infrastructure in place but fails to address the actual working of the legal aid clinics. Information on the working of jail legal aid clinics were provided by nine DLSAs, of which only six⁶³ had constituted JLACs in their respective jails.

1.2.2 Appointment of Legal Aid Providers for Jail Legal Aid Clinics

Seventeen JVLs were appointed in six out of the seven jail legal aid clinics.⁶⁴ According to the SLSA's response, 295 convict PLVs were also appointed across the state. Additionally, 1,981 community PLVs were appointed throughout the state.

Very few appointment letters were furnished. However, the appointment letters provided by Chitrakoot and Shahjahanpur were especially worth noting as they clearly outlined the duties of the JVLs and PLVs.

1.3 Constitution of Monitoring Committees (MCs)

MCs established under Regulation 10 of the NALSA 2010 Regulations are expected to monitor the work of panel and retainer lawyers. The response received from the SLSA indicated that 25 MCs were constituted in 71 districts. Of the nine DLSAs that responded, only four had constituted MCs. The date of its constitution in Mahoba was the earliest: 2011. The MCs in Mahoba and Balrampur comprised the additional district judge, DLSA secretary and an advocate.

2. LEGAL AID DELIVERY

2.1. Legal Aid Delivery in Jails

2.1.1 Visits by Legal Aid Providers in Jails

JAIL VISITING LAWYERS (JVLS): Owing to lack of any specific mandate to visit jails, most districts did not respond to this question. Varanasi and Mahoba were the two districts that responded with a mandate of visits twice a month. Kanpur Nagar, Shravasti⁶⁵ and Mahoba fulfilled this mandate with lawyers from Shravasti and Mahoba visiting twice a month, while Kanpur Nagar's lawyer visited the jail every day.

CONVICT PLVS: There were no documents to indicate a state mandate for convict PLVs to visit. However, Varanasi stated that visits took place twice a week. The remaining districts either did not respond or stated that no mandate was issued. Only Varanasi and Mahoba met this mandate with the clinic being an operational JLAC for 96 and 102 times respectively, during the given time period.

COMMUNITY PLVS: No mandate was set for convict PLVs.

2.1.2 Registers & Records

Work registers were largely not maintained. The Shahjahanpur DLSA stated that registers could not be furnished since these are maintained in the jail. It was thus the only district that indicated that such registers were even being maintained. These registers were not called for by the DLSA for review from any of the districts.

63 Balrampur, Jaunpur, Varanasi (2 jails), Basti, Mahoba, Kanpur Nagar.

64 JVLs were appointed in Balrampur, Jaunpur, Varanasi (one jail), Basti, Mahoba, Kanpur Nagar.

65 Shravasti does not have jail legal aid clinics according to the SLSA document.

2.2 Assignment of Cases to Legal Aid Providers & their Outcomes

2.2.1 Assignment of Cases to Panel Lawyers & their Outcomes

- a) **Scrutiny Committee & Legal Aid Application:** On receiving a legal aid application, the scrutiny and evaluation committee of the legal services institution decides if the applicant is entitled to legal aid. Scrutiny and evaluation committees were constituted in three out of the nine districts that responded. Two districts maintained registers for the same. There were no cases wherein legal aid was not appointed due to deficiencies in applications. However, there were three cases, two in Balarampur and one in Shahjahanpur where legal aid was not appointed since the person in custody already had a lawyer.
- b) **Time Taken to Assign Cases to Lawyers:** Information about the time it takes for the authorities to assign a legal aid lawyer was sought by asking for details of the last five legal aid cases from every district. Information relating to the time period between an application for legal aid and the assignment of a lawyer was received for only 15 cases from three districts. Of these 15 cases, lawyers were assigned on the same day in eight cases. Varanasi assigned legal aid lawyers in all five cases on the same day. The average time taken for dispensing with the applications was approximately four days. In one case (from Chitrakoot district), however, it took the DLSA 23 days to appoint a lawyer.
- c) **Representation & Outcome:** In the six districts⁶⁶ that maintained information regarding representation, provided that 139 persons were represented by panel lawyers, and in four districts,⁶⁷ 33 persons were represented by retainer lawyers.

2.2.2 Representations by Remand Lawyers & their Outcomes

It is clear that for the accused, the first point of access to a legal aid lawyer is at court, when the person is produced before a magistrate. Of these districts, only one, Mahoba, maintained information on those persons who were represented and released by remand and bail lawyers. **All eight persons who were represented by remand and bail lawyers in Mahoba were released on bail.** The remaining three districts either did not maintain this information or share it with us.

2.3 Monitoring Legal Aid Providers

2.3.1 Monitoring Panel & Retainer Lawyers

MCs are mandated to review the day-to-day working of legal aid cases. In order to track the progress of legal aid cases, registers are crucial. None of these MCs maintained registers. Mahoba's report is in the form of minutes of meetings and is extremely detailed. The committee discussed the shortcomings of the panel lawyers as well as the steps that the MC took to resolve these issues. Additionally, only Mahoba and Jaunpur provided completion reports received from the lawyers over the course of one year. Only Mahoba submitted bi-monthly reports to the DLSA.

2.3.2 Monitoring Remand Lawyers

1. **ATTENDANCE CERTIFICATES & WORK REPORTS:** None of the districts maintain either attendance certificates or work reports, indicating a clear lack of accountability.
2. **DLSA COMPLIANCE REPORTS FOR SLSA:** Four districts⁶⁸ send compliance reports to the SLSA, but their frequency has not been set and varies from monthly to as-and-when-requested.

2.3.3 Complaints against Legal Aid Lawyers

Legal aid lawyers may be removed from the panel if they do not perform satisfactorily or act contrary to the object and spirit of the Legal Services Act, 1987 and the Regulations. Three districts provided information in this regard. Dehradun received one complaint. In all, 13 panel lawyers were removed. Almora and Uttarkashi did not receive any complaints regarding the panel lawyers, but 16 panel lawyers were removed.

⁶⁶ Chitrakoot, Mahoba, Balarampur, Shahjahanpur, Fatehpur, Jaunpur.

⁶⁷ Balarampur, Shahjahanpur, Fatehpur, Varanasi.

⁶⁸ Mohaba, Jaunpur, Kanpur Nagar, Varanasi.



II. EASTERN STATES & UNION TERRITORIES

ANDAMAN & NICOBAR ISLAND

BIHAR

CHHATTISGARH

JHARKHAND

ODISHA

WEST BENGAL

ANDAMAN & NICOBAR ISLAND

SNAPSHOT



No response was received on CHRI's RTI request



Occupancy Rate
40%

No. of Undertrial Prisoners (Proportion)
81 (16.23%)

Period of Detention
<1 year: 63% | 1-3 years : 25.9% | >3 years: 11.1%

Literacy Rate (Prison)
99.4%

| | Central | District | Sub-jails | Others | Total |
|------------|---------|----------|-----------|--------|-------|
| Prisons | 0 | 1 | 3 | 1 | 5 |
| Population | 0 | 488 | 11 | 0 | 499 |

Deaths in Prisons
3

Prison Death Rate
601.2 per million

Prison Suicide Rate
400.8

Outside Suicide Rate
28.9



No. of DLSAs
1

No. of TLSCs/ SDLSCs
3

Legal Aid Beneficiaries in Prisons
35

Legal Aid Website
Available

Legal Aid Rules & Regulations

Andaman and Nicobar Islands Legal Services Authority Rules, 1997

Andaman and Nicobar Islands

Legal Services Authority Regulations, 1998



No. of District Court Judges
912

Judges : State Population
NA

Pendency of District Court
9548

No. of Prosecutors
10

No. of High Court Judges
NA

Judges : State Population
NA

Pendency of High Court
NA



Number of Police stations

| Sanctioned | Actual |
|-------------------------|-----------|
| 24 | 24 |
| Persons Arrested | |
| 2,812 | |

Number of Police Officials

| Sanctioned | Actual | Vacancies |
|-------------------|--------------|------------|
| 4,468 | 3,925 | 543 |
| Crime Rate | | |
| 449.7 | | |

BIHAR

SNAPSHOT



Occupancy Rate
75.2%

No. of Undertrial Prisoners (Proportion)
23424 (82.42%)

Period of Detention
<1 year: 75.1% | 1-3 years :20.1% | >3 years: 4.8%

Literacy Rate (Prison)
69.28%

| | Central | District | Sub-jails | Others | Total |
|------------|---------|----------|-----------|--------|-------|
| Prisons | 7 | 31 | 17 | 3 | 58 |
| Population | 9442 | 15171 | 2753 | 1052 | 28418 |

Deaths in Prisons
84

Prison Death Rate
295.59 per million

Prison Suicide Rate
3.52

Outside Suicide Rate
0.5



No. of DLSAs
37

No. of TLSCs/ SDLSCs
15

Legal Aid Beneficiaries in Prisons
809

Legal Aid Website
Available

Legal Aid Rules & Regulations

Bihar State Legal Services Authority Rules, 1996

Bihar State Legal Services Authority Regulations, 1998



No. of District Court Judges
1022

Judges : State Population
9.82 per million

Pendency of District Court
21,65,997

No. of Prosecutors
431

No. of High Court Judges
35

Judges : State Population
0.34 per million

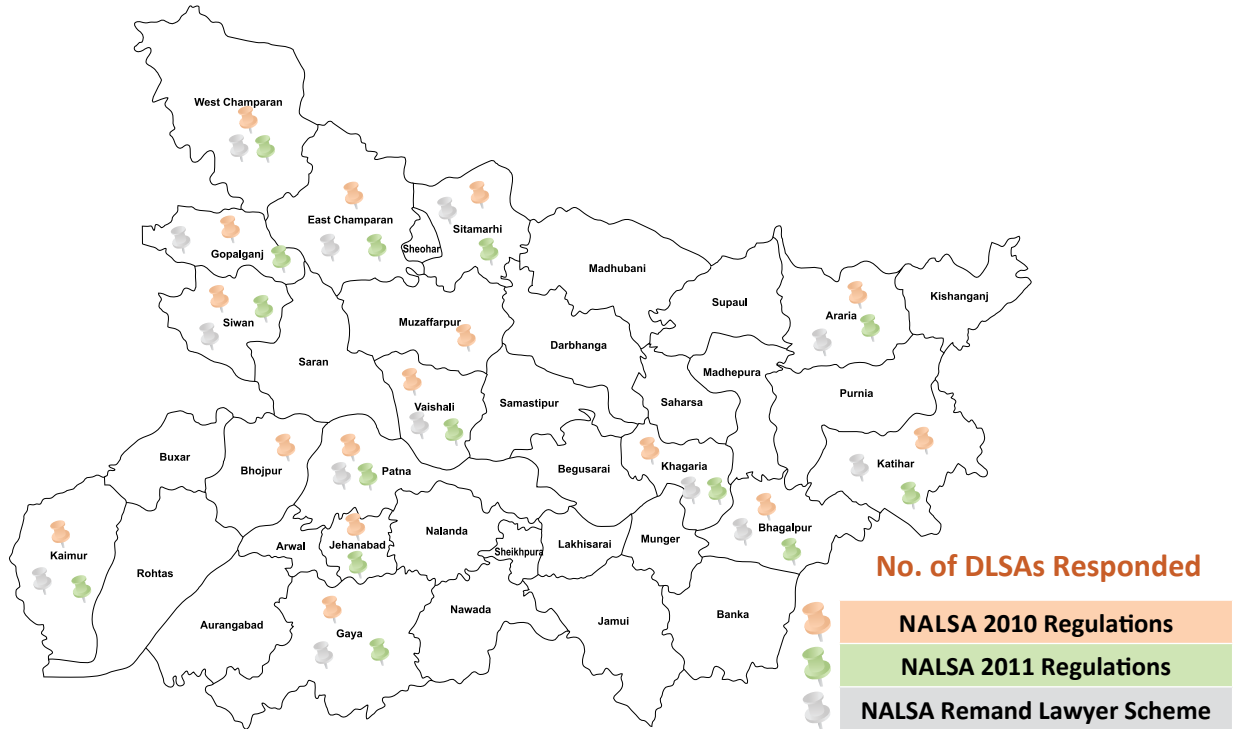
Pendency of High Court
1,44,637













| Number of Police stations | |
|---------------------------|--------------|
| Sanctioned | Actual |
| 1,064 | 1,067 |
| Persons Arrested | |
| 269,419 | |

| Number of Police Officials | | |
|----------------------------|---------------|---------------|
| Sanctioned | Actual | Vacancies |
| 112,687 | 78,203 | 34,484 |
| Crime Rate | | |
| 181.9 | | |

LEGAL AID SNAPSHOT



| | | |
|---|--|--|
|  <p>At Legal Services Institution (LSI)</p> |  <p>In Jail</p> |  <p>At Court</p> |
|  <p>Retainer Lawyer</p> <p>Appointment: 11/16 DLSAs</p> |  <p>Jail Legal Aid Clinic (JLAC)</p> <p>Constitution: 58 Jails</p> |  <p>Remand Lawyer</p> <p>Appointment: 5/13 DLSAs</p> |
|  <p>Monitoring Committee (MC)</p> <p>Constitution : 14/16 DLSAs</p> |  <p>Convict Paralegal Volunteer</p> <p>Appointment: 58/58 JLAC</p> |  <p>Panel Lawyer</p> <p>Appointment: 15/16 DLSAs</p> |
| |  <p>Jail Visiting Lawyer</p> <p>Appointment: 53/58 JLAC</p> | |

LEGAL AID FINDINGS

Bihar's prisons house 28,418 inmates in 58 jails⁶⁹. The state has 38 districts with the same number of DLSAs. We received responses from 16 districts to our RTI applications on the NALSA 2010 Regulations, 14 on the NALSA 2011 Regulations and 13 on the NALSA Model Scheme.

VERDICT: The infrastructure of legal aid delivery and the reporting and monitoring mechanisms are in place. The jail legal aid clinics are functioning well. Panel and retainer lawyers are appointed and MCs in some districts are functioning well. Legal aid delivery at Khagadia district was impressive. However, the Remand scheme has not been implemented properly in the state.

1. LEGAL AID FRAMEWORK

1.1 Appointment of Legal Aid Providers

Every legal services institution must appoint a panel of lawyers for a term of three years. These lawyers represent those who are in need of legal representation and are entitled to legal aid. **Retainer lawyers** are also drawn from among this panel by the executive chairman of the legal services institution for a fixed period. They are paid a monthly fees and in addition to representing persons in court they must assist in the administrative affairs of the legal aid institution as well. Another category of lawyer i.e. **legal aid counsel** (commonly referred as **remand lawyers**) are assigned to magistrate courts and are mandated to be present during remand hours to defend any unrepresented accused person.

- a) **Panel and Retainer Lawyers:** 897 Panel lawyers were appointed in 15 districts and 119 Retainer lawyers were appointed in 11 districts.
- b) **Remand Lawyers:** In Bihar, retainer lawyers are appointed as remand lawyers "to assist undefended arrestee at the time of first remand"⁷⁰. The Bihar SLSA has fixed the tenure of these retainer lawyers as one year, on rotation basis. Out of the 13 districts that responded, only five districts⁷¹ appointed legal aid counsels in Magistrate courts. In total, these districts have appointed 58 remand lawyers in 54 magistrate courts that undertake remand hearing. None of these remand lawyers have been trained by the legal services institution.

1.2 Legal Aid Clinics in Jails

1.2.1 Constitution of Jail Legal Aid Clinics

Legal aid clinics play an important role in the identification and assistance of prisoners in need of representation. Every jail is supposed to set up a legal aid clinic manned by PLVs and visited by JVLs. A letter, dated 30/4/2015, received from the SLSA directs all DLSA to appoint two convict PLVs to man the Jail legal aid clinics, one panel lawyer to provide legal aid, monitor the progress of cases of under trial prisoners and report the same to **Secretary, DLSA or the monitoring committee of that respective district**. The Bihar SLSA provided information on the constitution of jail legal aid clinics. According to the SLSA's response, all 58 jails in the state have a legal aid clinic. Six clinics were constituted before 2015, 49 in 2015 and three in 2016. Interestingly, 35 of the 58 JLACs

Important Regulations/ Circulars from the SLSA on Persons in Custody

1. BSLSA letter No. 119/BSLSA/NPA/578 dated 16 April 2014.
2. BSLSA Letter No. 102/NPA.BSLSA/1131 dated 30 April 2015.
3. BSLSA Letter No. 168/BSLSA/LAW/1133 Dated 20 March 2016.
4. BSLSA Letter No. 102/NPA/BSLSA/1137 Dated 30 April 2015.

69 Prison Statistics India, 2015, National Crime Records Bureau, pp. 10 and 20.

70 Letter No. 168/BSLSA/LAW/1133 Dated 20 March 2016.

71 Patna, Gaya, Bhagalpur, Siwan, Katihar.

were constituted after the SLSA's letter in April, within a period of nine months.

1.2.2 Appointment of Legal Aid Providers for Jail Legal Aid Clinics

According to the SLSA's response, JVLs were appointed in at least 53 of these 58 jail legal aid clinics. Convict PLVs were appointed to all jails whereas no community PLVs were appointed.

However, according to the individual DLSA's responses, three districts⁷² appointed 59 community PLVs to visit the jail legal aid clinics. The reason for this can be attributed to the fact that the Bihar SLSA provided the response in November 2016 while the individual districts provided responses in January and February 2017. It is possible that community PLVs were appointed at JLACs in these three districts after November 2016. None of the districts provided appointment letters of either the JVLs or convict and community PLVs.

1.3 Constitution of Monitoring Committees (MCs)

MCs established under Regulation 10 of the NALSA 2010 Regulations are expected to monitor the work of panel and retainer lawyers. Of the 16 districts that responded, MCs were constituted in 14⁷³ districts. According to the NALSA Regulation, all DLSAs were to set up MCs in 2010. The Bihar SLSA sent a reminder letter to all the DLSAs in 2014 directing them to constitute the committees. A few districts had constituted MCs before the direction by the Bihar SLSA. Siwan was the first one to do so in the 2011 followed by Muzaffarpur in 2013. Eight districts constituted MCs in 2014 just after the SLSA direction. The remaining four districts constituted MCs in their respective districts in 2016.

2. LEGAL AID DELIVERY

2.1. Legal Aid Delivery in Jails

2.1.1 Visits by Legal Aid Providers in Jails

JAIL VISITING LAWYERS (JVLs): The mandate set by the Bihar SLSA for visits of JVLs to the clinics is once a week. However, this mandate was followed by seven districts,⁷⁴ while two districts⁷⁵ had a mandate of visits twice a week. Seven districts⁷⁶ provided the data on the actual number of visits made. It is interesting to note here that in Gopalganj the JVL visited the jail just once during the year.

CONVICT PLVS: The Bihar SLSA mandates the appointment of two convict PLVs for a period of six months, but it does not specify the number of days they are expected to man the JLAC or the working days of the JLAC. Three districts⁷⁷ provided data on the number of times convict PLVs worked in the JLAC. In Jehanabad, the JLAC was conducted by the convict PLVs for 52 days, in Gaya it was conducted for 73 days and in Siwan for 47 days.

COMMUNITY PLVS: No information was provided on visits by community PLVs by the three districts where they were appointed.

2.1.2 Registers & Records

Only Gopalganj and Khagaria provided a copy of the clinic register. Khagaria district, interestingly has classified inmates into separate categories and maintained a separate register for each of these categories. These registers include: a) Attendance Register (*upasthati Panji*), b) Defense Panel Advocate Register (*Sarkari Adhivakta Panji*), c) Benefit under Section 436A CrPC Register (U/S 436A se *Samandhit Panji*), d) Compoundable Offences Register (*Compoundable Apradh Panji*), e) Juveniles Register (*Kishor Bandi Panji*), f) Legal Compromise (*Vidhik*

72 Jehanabad, Gopalganj, Taimur.

73 No monitoring committee was constituted in Patna and the one in Gaya is not functional as its approval was awaited from the Bihar SLSA.

74 Kaimur, Vaishali, Araria, Patna, West Champaran, Jehanabad, Gaya.

75 Siwan, Katihar.

76 Sitamarhi, Gopalganj, Jehanabad, Araria, Gaya, Siwan, Khagaria.

77 Jehanabad, Siwan, Gaya.

Samjhauta Panji), g) Absence of Bailor Registers (*Jamantdar Abhav Panji*), h) Ill Prisoners Register (*Bimar Bandi se Sambandhit Panji*), and interestingly, i) Confession Register (*Apradh Svikarokti Panji*).

The Bhagalpur DLSA has provided appointment orders for JVLs and convict PLVs which are impressive. It orders that the work and reporting mechanism to be followed should be clearly explained to the lawyers and PLVs. In a letter dated 30 April 2014, the Bihar SLSA asked the DLSAs to call for reports from the jail superintendents about the visits of JVLs, their period of stay and the prisoners who were provided legal aid. The letter also directed the JVLs to submit a report to the front office after each visit which shall be put up before the secretary with the comments of the retainer lawyer deputed at the front office.

Kaimur provided copies of the case journals of the JVLs. These journals were based on the format provided by NALSA. While the formats are not specific for recording cases of persons in custody, they are, however, detailed and useful. The work report of the JVLs was provided only by Gaya. However, the information in this report is limited and lacks a proper description of the work done.

2.2 Assignment of Cases to Legal Aid Providers & their Outcomes

2.2.1 Assignment of Cases to Panel Lawyers & their Outcomes

- a) **Scrutiny Committee & Legal Aid Application:** On receiving a legal aid application, the scrutiny and evaluation committee of the legal services institution decides if the applicant is entitled to legal aid. In a letter dated 16 April 2014, the Bihar SLSA directed all the DLSAs to constitute scrutiny and evaluation committees under the NALSA 2010 Regulations. Scrutiny and evaluation committees were constituted in 11 districts⁷⁸ out of the 16 districts that responded to the RTI application. Of these, eight districts⁷⁹ stated that they maintained some form of register, copies of which were not provided with the responses to the RTI application. Four districts⁸⁰ recorded 12 cases where legal aid, lawyers were not appointed due to deficiencies in the application, while three districts⁸¹ reported on 24 cases where the persons in custody already had lawyers, due to which a legal aid lawyer was not appointed.
- b) **Time Taken to Assign Cases to Lawyers:** Information relating to the time period between the application for legal aid and the assignment of a lawyer was received for 53 cases from 12 districts. In 15 cases, lawyers were appointed on the same day. While in 42 of 53 cases, assignments were made within ten days. While the average time period for assignment in Bihar is eight days, in Khagaria districts assignments took on average, 16 days to process. In fact, in one case it took 52 days.
- c) **Representation & Outcome:** In total, panel lawyers represented 1,798 cases in eight districts,⁸² while retainer lawyers represented only two cases in Siwan. Data regarding the appointment of panel lawyers and retainers was missing in the responses received from Bhojpur and Muzaffarpur and no retainers were appointed in Araria, Patna and West Champaran. Seven districts⁸³ did not provide any data on the representation and release of persons in custody.

In total, 20 persons were released on bail in four districts;⁸⁴ there were six acquittals in two districts⁸⁵ and 11 cases were disposed in five districts.⁸⁶

2.2.2 Representations by Remand Lawyers & their Outcomes

No information on representation of cases by remand lawyers and their outcome was provided. This also reflects on the quality of functioning of remand lawyers in the state.

78 Katihar, Araria, Patna, Vaishali, Kaimur, Sitmarhi, Siwan, West Champaran, Bhagalpur, Khagaria, Jahanabad.

79 Katihar, Araria, Vaishali, Kaimur, Sitmarhi, Siwan, West Champaran, Bhagalpur.

80 Muzaffarpur, Bhojpur, Siwan, Bhagalpur.

81 Kaimur, Bhojpur, Khagaria.

82 Gopalganj, Katihar, Araria, Kaimur, Gaya, Bhojpur, Siwan, Bhagalpur.

83 Patna, Sitamarhi, Muzaffarpur, Khagaria, West Champaran, East Champaran, Jehanabad.

84 Katihar, Araria, Bhojpur, Kaimur.

85 Katihar, Bhojpur.

86 Katihar, Araria, Vaishali, Kaimur, Bhojpur.

2.3 Monitoring Legal Aid Providers

2.3.1 Monitoring Panel & Retainer Lawyers

MCs are mandated to review the day-to-day working of legal aid cases. In order to track the progress of the legal aid cases, MCs need to maintain registers. None of the districts in Bihar maintained these registers and nor have they submitted bi-monthly reports. However, the minutes of the meetings of the MCs provided by four districts were impressive. The minutes of the meetings of the committees in Khagaria and Kaimur were extremely detailed and it is evident that the committees maintain records of the legal aid cases. The panel lawyers also provide information on a periodic basis. The minutes received from Muzaffarnagar and Gopalganj, though not as detailed, showed that the committee was functional. Additionally, completion reports were only provided by Khagaria, and although they do not have a format, they are descriptive and detailed.

2.3.2 Monitoring Remand Lawyers

The responses received to our RTI application show that remand lawyers do not maintain reports and attendance certificates. Kaimur and Araria, however, did provide formats for the working of remand and bail lawyers and it appeared to be a state format.

1. **ATTENDANCE CERTIFICATES & WORK REPORTS:** No attendance certificates or reports were attached.
2. **DLSA COMPLIANCE REPORTS FOR SLSA:** Only Patna attached a copy of the compliance report and the same is available in a tabular format with basic information.

2.3.3 Complaints against Legal Aid Lawyers

Legal aid lawyers may be removed from the panel if they do not perform satisfactorily or act contrary to the object and spirit of the Legal Services Act, 1989 and the Regulations. Responses show, that except for Vaishali, where one complaint was received against the remand lawyers, there is no evidence of any complaints being made by clients in relation to panel or retainer lawyers. No such instances arose /were reported that required their removal.



CHHATTISGARH

SNAPSHOT



| | |
|--|--|
| Occupancy Rate 233.9% | Deaths in Prisons 50 |
| No. of Undertrial Prisoners (Proportion) 9870 (55.9%) | Prison Death Rate 283.09 per million |
| Period of Detention <1 year: 79.6% 1-3 years :17.7% >3 years: 2.7% | Prison Suicide Rate 0 |
| Literacy Rate (Prison) 69.47% | Outside Suicide Rate 27.7 |

| | Central | District | Sub-jails | Others | Total |
|------------|---------|----------|-----------|--------|-------|
| Prisons | 5 | 11 | 12 | 0 | 28 |
| Population | 11890 | 3578 | 2194 | 0 | 17662 |



| | |
|-----------------------------------|---|
| No. of DLSAs 22 | Legal Aid Beneficiaries in Prisons 3789 |
| No. of TLSCs/ SDLSCs 65 | Legal Aid Website Available |
| | Legal Aid Rules & Regulations Chhattisgarh State Legal Services Authority Rules, 2002 Chhattisgarh State Legal Services Authority Regulations, 2003 |



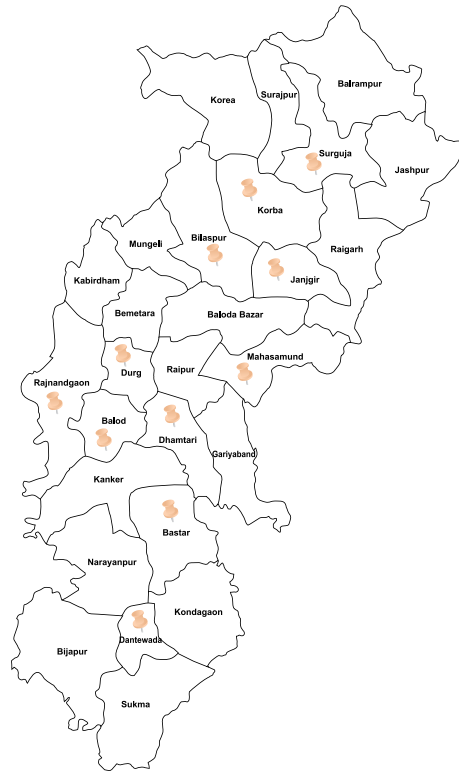
| | |
|---|--|
| No. of District Court Judges 348 | No. of High Court Judges 14 |
| Judges : State Population 13.62 per million | Judges : State Population 0.55 per million |
| Pendency of District Court 2,84,059 | Pendency of High Court 58,650 |

No. of Prosecutors
183

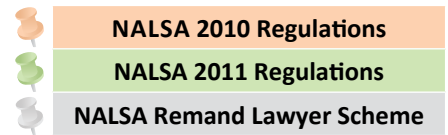


| Number of Police stations | | Number of Police Officials | | |
|---------------------------|------------|----------------------------|---------------|---------------|
| Sanctioned | Actual | Sanctioned | Actual | Vacancies |
| 428 | 415 | 70,300 | 59,596 | 10,704 |
| Persons Arrested | | Crime Rate | | |
| 122,012 | | 323.9 | | |

LEGAL AID SNAPSHOT



No. of DLSAs Responded



At Legal Services Institution (LSI)

In Jail

At Court

Retainer Lawyer

Appointment: Not Provided

Jail Legal Aid Clinic (JLAC)

Constitution: Not Provided

Remand Lawyer

Appointment: Not Provided

Monitoring Committee (MC)

Constitution : 8/12 DLSAs

Convict Paralegal Volunteer

Appointment: Not Provided

Panel Lawyer

Appointment: Not Provided

Jail Visiting Lawyer

Appointment: Not Provided

LEGAL AID FINDINGS

Chhattisgarh's prisons house 17,662 inmates in 28 jails⁸⁷. The state has 27 districts with 22 DLSAs. There was no response to two of the three RTI applications. Responses to the one RTI application were received from 14 districts⁸⁸, for the NALSA 2010 Regulation, under which information was provided only on the functioning of the MCs.

Important Regulations/ Circulars from the SLSA on Persons in Custody

No regulations, circulars or notices were received.

VERDICT: From the documents that were provided, it is clear that the MCs are working in Chhattisgarh. However as no other information has been provided, we cannot comment on the legal aid delivery in the state.

1. LEGAL AID FRAMEWORK

Constitution of Monitoring Committees (MCs)

MCs established under Regulation 10 of the NALSA 2010 Regulations are expected to monitor the work of panel and retainer lawyers. Of the 14 districts that responded to the RTI on the 2010 Regulations, 13 districts provided information on the working of MCs. Bemetara was the only district that did not provide this information. MCs are constituted in all these 13 districts. The Free and Competent Legal Aid Regulations came out in 2010 and they directed the constitution of MCs. Of the districts that responded to the RTI application, Durg was the first one to constitute the MCs in 2011, followed by Korba in 2012. The majority of the districts constituted MCs in 2013,⁸⁹ and the remaining two⁹⁰ constituted the same in 2014. Dhamtaria and Mahasamund constituted MCs as late as 2015 and 2016 respectively.

2. LEGAL AID DELIVERY

Monitoring Legal Aid Providers

Monitoring Panel & Retainer Lawyers

Maintaining registers are crucial to the functioning of MCs as they provide records for tracking the progress of legal aid cases. However, none of the districts appear to maintain any such registers. Following the NALSA 2010 Regulations on appointing the senior-most member of the higher judicial services, member-secretary or secretary and a senior advocate, all the existing MCs have made these appointments. The existing infrastructure of the DLSAs is used as no separate infrastructure was provided for the functioning of these committees.

As the work of the committee entails tracking the progress of legal aid cases, registers are of great importance. Only Balod provided us with a copy of the MC register. The format of the same is good. However, the register has a column for the comments for the MC chair which has been left completely blank. The register has information on more than a hundred cases, but this particular column has been left blank.

Bi-monthly MC reports sent to the SLSA were provided by seven districts. The reports provided by Dantewada were excellent and stood out, as it had pointers on all the issues covered during the meetings and complaints of prisoners with respect to non-visiting lawyers were also stated. As a first, the report provided by Kabirdham suggested that lawyers who do not submit progress reports or are not interested in legal aid should not be

87 Prison Statistics India, 2015, National Crime Records Bureau, pp. 10 and 20.

88 Balod, Bemetara, Bilaspur, Dantewada, Dhamtari, Durg, Jagdalpur, Janjgir, Kabirdham, Korba, Mahasamund, Rajnandgaon, Surajpur, Surguja.

89 Dantewada, Bilaspur, Janjgir, Jagdalpur, Surguja.

90 Balod, Surajpur.

appointed in future. Janjgir provided five copies of MC reports for different months and four of these had exactly the same content. In Sarguja, the format is different. While it provides the details of the cases being reviewed, there is no mention regarding the status of the case. Reviewing of cases is also done by the MC of Balod as per the report that was provided with the response to the RTI application. It appears that in Bilaspur, cases from April to December 2016 were reviewed in January, as the MC meeting was held in January 2017. Even then, the cases were not reviewed, and only the payment records of the panel lawyers were scrutinised. Similarly, individual cases are not reviewed in Dhamtari.

While copies of the progress reports were provided by six districts,⁹¹ the format of the completion report was provided only by Kabirdham. A standard format is used for the progress report by all the districts. The Janjgir DLSA sent letters to the lawyers seeking progress reports and the lawyers complied after that. This was also the only district to provide minutes of the MC meetings. The same were impressive and clearly reflects that the MC is working. Attendance and work certificates of panel lawyers were submitted by four districts.⁹² In Kabirdham, the MC reviewed the attendance certificates of legal aid counsels, the working of the jail legal aid clinics and the work of convict PLVs and the JVLs. Durg, Korba Jagdalpur and Bemetara did not provide any documents.

91 Balod, Bilaspur, Dantewada. Kabirdham, Janjgir, Surguja.

92 Rajnangaon, Balod, Mahasamund, Kabirdham.



JHARKHAND SNAPSHOT



Occupancy Rate
114.3%

No. of Undertrial Prisoners (Proportion)
13588 (77.14%)

Period of Detention
<1 year: 70.3% | 1-3 years :21.5% | >3 years: 8.2%

Literacy Rate (Prison)
76.36%

| | Central | District | Sub-jails | Others | Total |
|------------|---------|----------|-----------|--------|-------|
| Prisons | 5 | 17 | 5 | 2 | 29 |
| Population | 8018 | 8057 | 1497 | 41 | 17613 |

Deaths in Prisons
42

Prison Death Rate
238.46 per million

Prison Suicide Rate
5.68

Outside Suicide Rate
2.5



No. of DLSAs
24

No. of TLSCs/ SDLSCs
4

Legal Aid Beneficiaries in Prisons
1504

Legal Aid Website
Available

Legal Aid Rules & Regulations

Jharkhand Legal Services Authority Rules, 2001

Jharkhand Legal Services Authority Regulations, 2002



No. of District Court Judges
439

Judges : State Population
13.31 per million

Pendency of District Court
3,42,285

No. of Prosecutors
175

No. of High Court Judges
14

Judges : State Population
0.42 per million

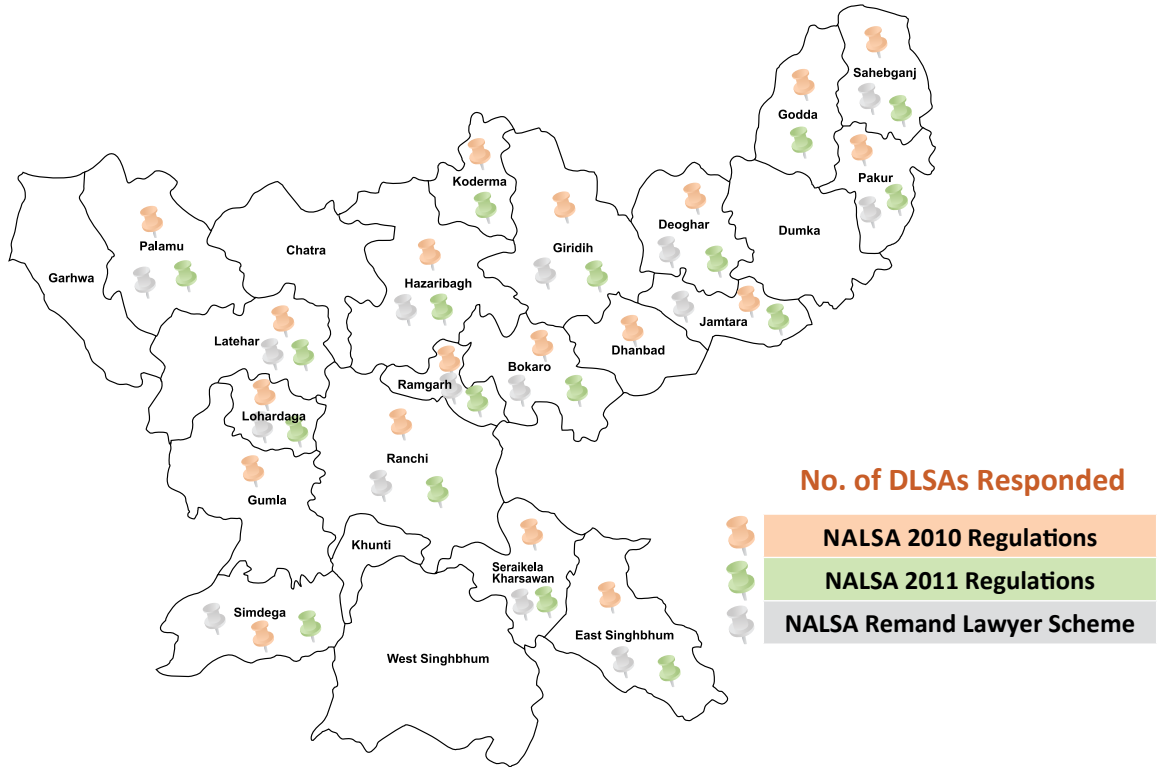
Pendency of High Court
88,315













| Number of Police stations | |
|---------------------------|------------|
| Sanctioned | Actual |
| 506 | 500 |
| Persons Arrested | |
| 45,119 | |

| Number of Police Officials | | |
|----------------------------|---------------|---------------|
| Sanctioned | Actual | Vacancies |
| 85,268 | 59,341 | 25,927 |
| Crime Rate | | |
| 141.4 | | |

LEGAL AID SNAPSHOT



| | | |
|---|--|--|
|  <p>At Legal Services Institution (LSI)</p> |  <p>In Jail</p> |  <p>At Court</p> |
|  <p>Retainer Lawyer</p> <p>Appointment: 19/19 DLSAs</p> |  <p>Jail Legal Aid Clinic (JLAC)</p> <p>Constitution: 21 Jails</p> |  <p>Remand Lawyer</p> <p>Appointment: 5/15 DLSAs</p> |
|  <p>Monitoring Committee (MC)</p> <p>Constitution : 12/19 DLSAs</p> |  <p>Convict Paralegal Volunteer</p> <p>Appointment: 16/21 JLAC</p> |  <p>Panel Lawyer</p> <p>Appointment: 19/19 DLSAs</p> |
| |  <p>Jail Visiting Lawyer</p> <p>Appointment: 19/21 JLAC</p> | |

LEGAL AID FINDINGS

Jharkhand's prisons house 17,613 inmates in 29 jails⁹³. The state has 24 districts and the same number of DLSAs. We received responses from 19 districts for our RTI applications on the NALSA 2010 and 2011 Regulations, and 15 districts responded to the application on the NALSA Model Scheme.

VERDICT: In these districts and their corresponding jails, the infrastructure of legal aid delivery appears to be in place but the reporting and monitoring mechanisms require considerable improvement. Although MCs were constituted in 12 districts, their proper functioning is questionable since no reports or registers are being maintained.

Important Regulations/ Circulars from the SLSA on Persons in Custody

1. JHALSA letter No. 348 dated 17 April 2013 with the subject "Modification of Scheme for Deputation of Legal Aid Counsels at the Legal Aid Clinics of the Concerned Central Jails".

1. LEGAL AID FRAMEWORK

1.1 Appointment of Legal Aid Providers

Every legal services institution has to appoint a panel of lawyers for a term of three years. These lawyers represent those persons who are in need of legal representation and are entitled to legal aid. **Retainer lawyers** are also drawn from among this panel by the executive chairperson of the legal services institution for a fixed period. They are paid a monthly fee, and in addition to representing persons in court they are expected to assist in the administrative affairs of the legal aid institution. Another category of lawyers, i.e. **legal aid counsels** (commonly referred as **remand lawyers**) are assigned to magistrate courts and are mandated to be present during remand hours to defend any unrepresented accused person.

- a) **Panel and Retainer Lawyers:** In total, 1,007 panel lawyers and 55 retainer lawyers were appointed in all 19 districts.
- b) **Remand Lawyers:** Of the 15 districts that responded only five⁹⁴ appointed legal aid counsels in all magistrate courts.

1.2 Legal Aid Clinics in Jails

1.2.1 Constitution of Jail Legal Aid Clinics

Jail legal aid clinics play an important role in identifying and assisting prisoners in need of representation. Every jail is expected to set up a legal aid clinic manned by PLVs, and visited by legal aid lawyers. Twenty one jails constituted a legal aid clinic in Jharkhand. Although the legal aid clinic regulations were introduced in 2011, five⁹⁵ legal aid clinics were constituted before 2011 whereas Koderma constituted a legal aid clinic in the district jail as late as in 2016.

The Jharkhand State Legal Services Authority (JHALSA) sent a circular to all DLSAs with the subject "Modification of scheme deputation of legal aid counsels at the legal aid clinics of the concerned central jails" on 17 April 2013, mandating the appointment of JVLs in all the jails of Jharkhand. The duties of the lawyers are clearly specified in this letter. The letter also specifies the number of lawyers that need to visit the central, district and sub jails and the days of their visit.

93 Prison Statistics India, 2015, National Crime Records Bureau, pp. 10 and 20.

94 Ramgarh, Bokaro, Deogarh, Seraikela, Simdega.

95 Simdega, Sahibganj, Seraikela, Ranchi, Pakur.

1.2.2 Appointment of Legal Aid Providers for Jail Legal Aid Clinics

A total of 65 JVLs were appointed in 19 out of 21 jail legal aid clinics. Of these, 12 clinics appointed four JVLs each, on the lines of the JHALSA mandate. Two clinics⁹⁶ did not have any visiting lawyers. Sixty one convict PLVs were appointed in 16 clinics. Apart from Seraikela, that has 41 community PLVs, none of the other districts have them.

Appointment orders for visiting lawyers and convict PLVs were provided by five⁹⁷ and four districts⁹⁸ respectively and it appears that the same are being used as appointment letters. The appointment orders provided by Ranchi mentions the tenure of appointment for convict PLVs and the duties of the JVL. In the appointment letter provided by Deogarh it was found that instead of convicts, undertrials were appointed as PLVs.

1.3 Constitution of Monitoring Committees (MCs)

MCs established under Regulation 10 of the NALSA 2010 Regulations are expected to monitor the work of panel and retainer lawyers. **Of the 19 districts that responded, MCs were constituted in 12 districts.** While the NALSA regulations in 2010 directed all DLSAs to set up MCs, ten districts⁹⁹ in Jharkhand constituted the same in 2013 and two¹⁰⁰ in 2016.

2. LEGAL AID DELIVERY

2.1. Legal Aid Delivery in Jails

2.1.1 Visits by Legal Aid Providers in Jails

JAIL VISITING LAWYERS (JVLS): The Jharkhand SLSA mandate states that four lawyers are to be appointed as JVLs and they are expected to visit the jail twice a week on a rotational basis, i.e. each lawyer will visit the clinic eight times in a month. Only four districts¹⁰¹ provided information on the visits of JVLs, and of these, only Jamtara followed the SLSA mandate. Bokaro, Pakur and Jamtara provided the actual number of visits made by JVLs.

CONVICT PLVs: No specific SLSA mandate is provided on the working days for convict PLVs. Three districts¹⁰² provided data on the number of times convict PLVs worked in the clinic. In Latehar, the JLAC was functional from Monday to Saturday, therefore half the PLVs worked during the first half of the week and the remaining worked from Wednesday to Saturday. In Bokaro, convict PLV worked for a total of 192 during the year days and in Pakur they worked for 165 days (90 days in the female ward and 75 days in the male ward).

COMMUNITY PLVs: No information was provided.

2.1.2 Registers & Records

No information was provided on legal aid clinic work and attendance registers. Also, information about JVL or PLV reports was also not provided.

2.2 Assignment of Cases to Legal Aid Providers & their Outcomes

2.2.1 Assignment of Cases to Panel Lawyers & their Outcomes

a) Representation & Outcome: Panel lawyers represented 883 cases in 18 districts¹⁰³ whilst the retainer

96 Sub Jails of Ramgarh, Jamshedpur.

97 Jamtara, Palamu, Deogarh, Bokaro, Ranchi.

98 Deogarh, Giridih, Ranchi, Jamtara.

99 Palamu, Seraikela, Deogarh, Pakur, Bokaro, Latehar, Giridih, Hazaribagh, Sahibganj, Ghumla.

100 Dhandbad, Godda.

101 Hazaribagh, Pakur, Bokaro, Jamtara

102 Latehar, Bokaro, Pakur.

103 Gumla did not provide any information on any person represented by either panel lawyers or retainers.

lawyers represented 165 cases in ten districts that provided this information. In total, 34 persons were released on bail from five districts¹⁰⁴ and there were 50 acquittals in eight districts.¹⁰⁵

- b) **Scrutiny Committee & Legal Aid Application:** Scrutiny and evaluation committees that measure whether a person is entitled to free legal aid. These committees were constituted in eight¹⁰⁶ out of the 19 districts. However, only four of these districts¹⁰⁷ claimed to have maintained some form of a register, copies of which were not provided with the RTI responses.
- c) **Time Taken to Assign Cases to Lawyers:** Information relating to time period between application for legal aid and assignment of a lawyer was received for 84 cases from 17 districts. The average time taken for assignment of legal aid lawyers was 8 days. In 71 cases, lawyers were assigned within 10 days. Of these 71 cases, in 19 lawyers were assigned the same day and 15 on the next day. However assignments took much longer in Godda district. Out of the 5 cases, three took 109 days, 55 days and 41 days. On the other hand, Koderma assigned lawyers on the same day in all the cases.

2.2.2 Representations by Remand Lawyers & their Outcomes

None of the districts provided any information on the number of persons who were represented or released by remand lawyers.

2.3 Monitoring Legal Aid Providers

2.3.1 Monitoring Panel & Retainer Lawyers

MCs are mandated to review the day-to-day working of legal aid cases. In order to track the progress of legal aid cases, registers are crucial. **However, none of the districts maintained registers.** Deogarh attached a copy of the minutes of the meetings of the MC which gave a detailed account of the working of the MC. **Also, the completion reports were not submitted by the lawyers to the DLSA, nor were the bi-monthly reports submitted by the DLSAs to the SLA.** The existing infrastructure of the DLSA is being used for the functioning of the monitoring committees, as no separate infrastructure is provided for the functioning of these committees.

2.3.2 Monitoring Remand Lawyers

Through the minutes of the meetings, it is clear that the panel lawyers have not submitted reports when they are expected to, on a monthly basis. **A few attendance certificates and work reports were maintained, but their functions do not appear to include a review of the work done.**

1. **ATTENDANCE CERTIFICATES & WORK REPORTS:** No attendance certificates or reports were attached.
2. **DLSA COMPLIANCE REPORTS FOR SLA:** Only Bokaro attached a copy of the compliance report and the same is in a tabular format with basic information.

2.3.3 Complaints against Legal Aid Lawyers

Legal aid lawyers may be removed from the panel if they do not perform satisfactorily or act contrary to the object and spirit of the Legal Services Act, 1989 and the Regulations. Responses show no evidence of any complaints being made by clients in relation to panel or retainer lawyers. And no such instances arose that have required the removal of a lawyer.

104 Jamtara, Palamu, Dhandbad, Ramgarh, Deogarh.

105 Palamu, Jamtara, Seraikela, Simdega, Ramgarh, Dhandbad, Pakur, Deogarh.

106 Palamu, Ranchi, Hazaribagh, Bokaro, dhandbad, Gumla, Seraikela, Deogarh and Godda

107 Ranchi, Hazaribagh, Seraikela and Bokaro

ODISHA

SNAPSHOT



Occupancy Rate
88.6%

No. of Undertrial Prisoners (Proportion)
12584 (78.82%)

Period of Detention
<1 year: 75.2% | 1-3 years :20.8% | >3 years: 4.0%

Literacy Rate (Prison)
73.04%

| | Central | District | Sub-jails | Others | Total |
|------------|---------|----------|-----------|--------|-------|
| Prisons | 5 | 9 | 73 | 4 | 91 |
| Population | 3673 | 3645 | 7317 | 1330 | 15965 |

Deaths in Prisons
45

Prison Death Rate
281.87 per million

Prison Suicide Rate
12.53

Outside Suicide Rate
9.7



No. of DLSAs
30

No. of TLSCs/ SDLSCs
88

Legal Aid Beneficiaries in Prisons
410

Legal Aid Website
Available

Legal Aid Rules & Regulations

Orissa State Legal Services Authority Rules, 1996

Orissa State Legal Services Authority Regulation, 1996



No. of District Court Judges
589

Judges : State Population
14.03 per million

Pendency of District Court
10,84,800

No. of Prosecutors
42

No. of High Court Judges
19

Judges : State Population
0.45 per million

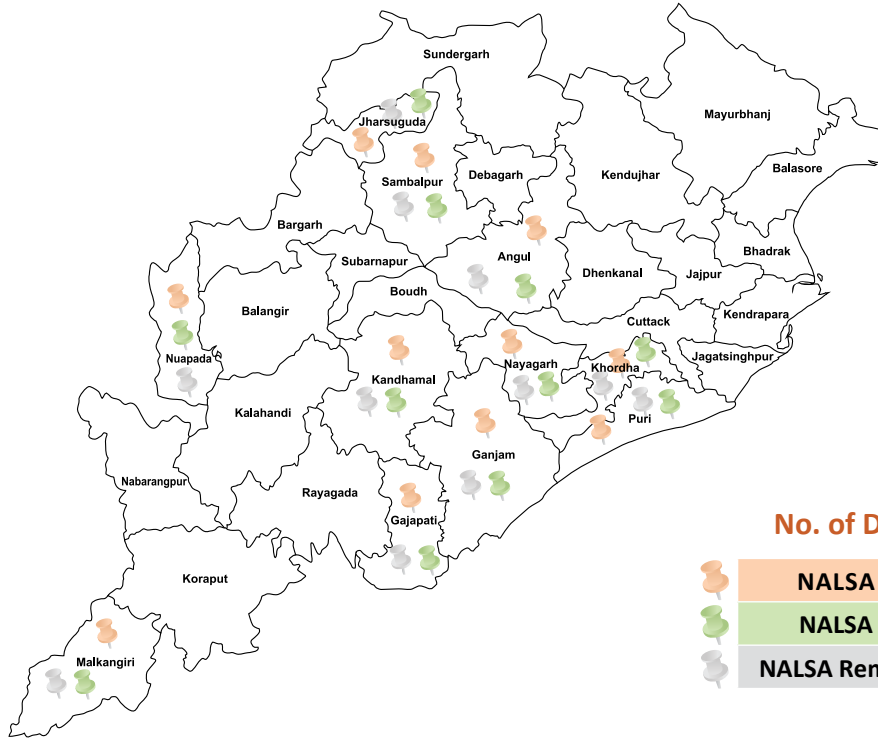
Pendency of High Court
1,71,854



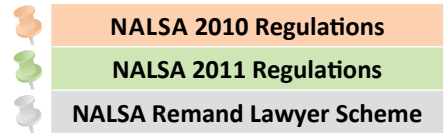
| Number of Police stations | |
|---------------------------|------------|
| Sanctioned | Actual |
| 614 | 607 |
| Persons Arrested | |
| 128,680 | |

| Number of Police Officials | | |
|----------------------------|---------------|--------------|
| Sanctioned | Actual | Vacancies |
| 66,439 | 56,709 | 9,730 |
| Crime Rate | | |
| 243.2 | | |

LEGAL AID SNAPSHOT



No. of DLSAs Responded



At Legal Services Institution (LSI)



In Jail



At Court



Retainer Lawyer

Appointment: 5/11 DLSAs



Jail Legal Aid Clinic (JLAC)

Constitution: 25 Jails



Remand Lawyer

Appointment: 4/11 DLSAs



Monitoring Committee (MC)

Constitution : 5/11 DLSAs



Convict Paralegal Volunteer

Appointment: 5/25 JLAC



Panel Lawyer

Appointment: 8/11 DLSAs



Jail Visiting Lawyer

Appointment: 14/25 JLAC

LEGAL AID FINDINGS

Odisha's prisons house 15,965 inmates in 91 jails¹⁰⁸. The state has 30 districts with the same number of DLSAs. The responses to the RTI application were received from 11 districts¹⁰⁹ for all the three NALSA regulations and scheme.

VERDICT: Only one-third of the districts responded to the RTI application and even in these districts and their corresponding jails, infrastructure of the legal aid delivery system does not appear to be in place. All 11 districts chose to ignore questions pertaining to the MCs and the conduct of panel lawyers. No documents from the Odisha SLSA reflected that they have taken cognizance of the lack of reporting from the DLSAs.

Important Regulations/ Circulars from the SLSA on Persons in Custody

1. Odisha SLSA Letter No. 2429 (3c)
Dated 29 August 2011.

1. LEGAL AID FRAMEWORK

1.1 Appointment of Legal Aid Providers

Every legal services institution has to appoint a panel of lawyers for a term of three years. These lawyers represent those persons who are in need of legal representation and are entitled to legal aid. **Retainer lawyers** are also drawn from among this panel by the executive chairperson of the legal services institution for a fixed period. They are paid a monthly fee, and in addition to representing persons in court they are expected to assist in the administrative affairs of the legal aid institution. Another category of lawyers, i.e. **legal aid counsels** (commonly referred as **remand lawyers**) are assigned to magistrate courts and are mandated to be present during remand hours to defend any unrepresented accused person.

- a) **Panel and Retainer Lawyers:** In total, 145 panel lawyers were appointed in eight districts¹¹⁰ and 24 retainer lawyers were appointed in five districts¹¹¹. Jharsuguda is the only district among the ones that responded to our RTI application, to have not appointed either panel or retainer lawyers.
- b) **Remand Lawyers:** Only four districts¹¹² appointed remand lawyers to all magistrate courts. According to a letter by the Odisha SLSA¹¹³ written in 2011, retainer lawyers in the state are appointed as remand lawyer.

1.2 Legal Aid Clinics in Jails

1.2.1 Constitution of Jail Legal Aid Clinics

Jail legal aid clinics play an important role in identifying and assisting prisoners in need of representation. Every jail is expected to set up a legal aid clinic manned by PLVs, and visited by legal aid lawyers. The information on the working of jail legal aid clinics was provided by all 11 districts, all of whom have constituted legal aid clinics in their respective jails. Although the legal aid clinic regulations were introduced in 2011, 13 clinics were constituted in 2010, while the remaining were constituted between 2012 and 2013. Only one clinic in a sub jail in Gajapati was constituted in 2016.

1.2.2 Appointment of Legal Aid Providers for Jail Legal Aid Clinics

All the 11 districts that responded had constituted legal aid clinics in their respective jails. There were 287 lawyers

108 Prison Statistics India, 2015, National Crime Records Bureau, pp. 10 and 20.

109 Nayagarh, Sambalpur, Gajapati, Nuapada, Khorda, Angul, Ganjam, Puri, Kandhamal, Malkangiri, Jharsuguda.

110 Sambalpur, Gajapati, Nuapada, Khorda, Angul, Ganjam, Puri, Kandhamal.

111 Nuapada, Khorda, Angul, Ganjam, Kandhamal.

112 Nayagarh, Gajapati, Kandhamal, Khorda.

113 SLSA Letter No. 2429 (30) dated 29 August 2011.

visiting the jail clinics in nine districts.¹¹⁴ Convict PLVs (42) were appointed in only five districts¹¹⁵ and community PLVs (154) were appointed in six districts.¹¹⁶

Nuapada and Ganjam provided appointment letters for JVLs. Nuapada also provided appointment letters for convict PLVs. These appointment letters were good, as they contained details regarding the days of visits and the reporting mechanism to be followed by JVLs and convict PLVs.

1.3 Constitution of Monitoring Committees (MCs)

MCs established under Regulation 10 of the NALSA 2010 Regulations are expected to monitor the work of panel and retainer lawyers. MCs were constituted in five districts. Although the guidelines came out in 2010, Ganjam and Kandhamal constituted the same in 2011, Gajapati and Nayagarh constituted the MCs in 2012 and Angul constituted them as late as in 2015. **Interestingly, in a letter dated 5 May 2011, Angul DLSA, mentions that scrutiny and evaluation committees will work as MCs.**

2. LEGAL AID DELIVERY

2.1. Legal Aid Delivery in Jails

2.1.1 Visits by Legal Aid Providers in Jails

JAIL VISITING LAWYERS (JVLS): Of the 11 districts that responded to the RTI application, nine districts¹¹⁷ provided information on visits made by the JVLs and/or the mandate that is followed. There is no defined mandate for the visits of JVLs. Two districts followed a mandate of four days in a month, two others followed a mandate of two days and four days a week, respectively. Only four districts¹¹⁸ provided data on 322 visits made by the JVLs.

CONVICT PLVS: No standardized mandate is followed on the visits of convict PLVs. Each district follows its own mandate. The clinic was conducted for 48 days by convict PLVs in Kandhamal, the only district to provide data on this. Khurda was the only district to share its mandate, which is eight days in a month.

COMMUNITY PLVS: Four districts provided different mandates for the number of days community PLVs are expected to visit the JLAC. However, none of them provided data on the number of actual visits made.

2.1.2 Registers & Records

No information was provided about the same.

2.2 Assignment of Cases to Legal Aid Providers & their Outcomes

2.2.1 Assignment of Cases to Panel Lawyers & their Outcomes

a) **Scrutiny Committee & Legal Aid Application:** On receiving a legal aid application, the scrutiny and evaluation committee of the legal services institution decides if the applicant is entitled to legal aid. Scrutiny and evaluation committees were constituted in all except three districts¹¹⁹ that responded to the RTI application. Kandhamal and Gajapati mentioned that they maintained the registers but did not provide copies of the same. Khorda recorded 72 cases where legal aid lawyers were not appointed due to deficiencies in the application and two districts¹²⁰ reported 12 cases where the persons in custody already had lawyers, due to which legal aid lawyers were not appointed.

114 Khorda, Malkhangiri, Gajapati, Kandhamal, Ganjam, Nuapada, Angul, Sambalpur, Nayagarh.

115 Khorda, Gajapati, Kandhamal, Ganjam, Sambalpur.

116 Khorda, Gajapati, Kandhamal, Nuapada, Nayagarh, Malkhangiri.

117 Sambalpur, Malkhangiri, Khurda, Kandhamal, Angul, Nuapada, Ganjam Gajapati, Nayagarh.

118 Sambalpur, Malkhangiri, Angul, Kandhamal.

119 Malkhangiri, Sambalpur, Nuapada.

120 Kandhamal, Khorda.

- b) **Time Taken to Assign Cases to Lawyers:** Information about the time it takes for the authorities to assign a legal aid lawyer was sought by asking for details of the last five legal aid cases from every district. However, no case details were provided.
- c) **Representation & Outcome:** Panel lawyers represented 52 accused persons in five districts,¹²¹ while retainer lawyers represented 91 persons in only three districts.¹²² Of the districts that responded to the RTI application, only Ganjam and Gajapati provided release figures (16 persons on bail).

2.2.2 Representations by Remand Lawyers & their Outcomes

Only two districts maintained records on the number of persons represented and released in court; i.e., five persons from Gajapati and 22 from Nayagarh.

2.3 Monitoring Legal Aid Providers

2.3.1 Monitoring Panel & Retainer Lawyers

MCs are mandated to review the day-to-day working of legal aid cases. For MCs to function, they need to maintain registers to track the progress of legal aid cases. However, none of the districts maintained registers. In fact, the five districts that responded to the RTI application chose not to respond to any of the questions pertaining to the reporting and monitoring of the panel lawyers.

2.3.2 Monitoring Remand Lawyers

1. **ATTENDANCE CERTIFICATES & WORK REPORTS:** The responses to the RTI applications show that none of the remand counsels maintain work and attendance registers.
2. **DLSA COMPLIANCE REPORTS FOR SLSA:** No compliance reports are sent by the DLSAs to the SLSA.

2.3.3 Complaints against Legal Aid Lawyers

Legal aid lawyers may be removed from the panel if they do not perform satisfactorily or act contrary to the object and spirit of the Legal Services Act, 1987 and the Regulations. No complaints were received for either remand and bail lawyers or panel lawyers from any of the districts in Odisha.

¹²¹ Malkhangiri, Kandhamal, Ganjam, Nuapada, Gajapati.

¹²² Kandhamal, Nuapada, Gajapati.



WEST BENGAL

SNAPSHOT



Occupancy Rate
102.9%

No. of Undertrial Prisoners (Proportion)
15342 (71.3%)

Period of Detention
<1 year: 78.7% | 1-3 years :15.4% | >3 years: 5.9%

Literacy Rate (Prison)
57.15%

| | Central | District | Sub-jails | Others | Total |
|------------|---------|----------|-----------|--------|-------|
| Prisons | 7 | 12 | 33 | 6 | 58 |
| Population | 11597 | 4886 | 4118 | 922 | 21523 |

Deaths in Prisons
98

Prison Death Rate
455.33 per million

Prison Suicide Rate
46.46

Outside Suicide Rate
15.7



No. of DLSAs
19

No. of TLSCs/ SDLSCs
42

Legal Aid Beneficiaries in Prisons
4883

Legal Aid Website
Available

Legal Aid Rules & Regulations
Not Available



No. of District Court Judges
912

Judges : State Population
9.99 per million

Pendency of District Court
21,86,724

No. of Prosecutors
NA

No. of High Court Judges
34

Judges : State Population
0.37 per million

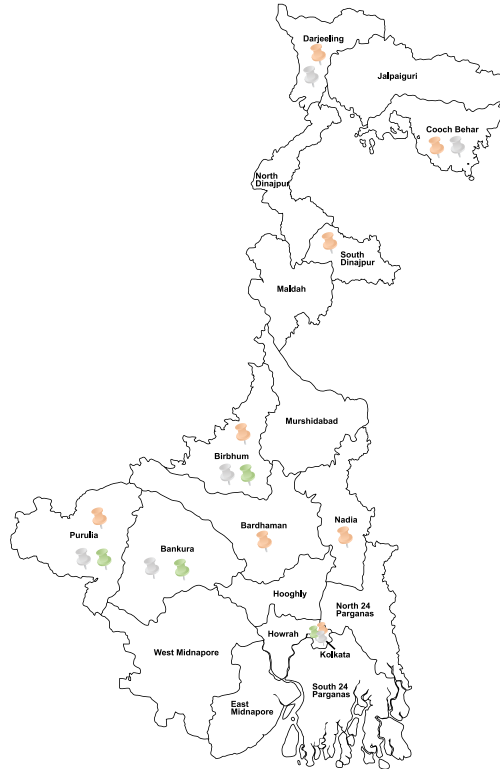
Pendency of High Court
2,22,132



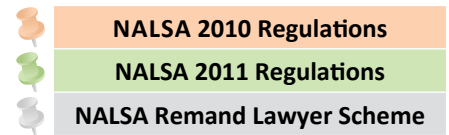
| Number of Police stations | |
|---------------------------|------------|
| Sanctioned | Actual |
| 585 | 581 |
| Persons Arrested | |
| 208,795 | |

| Number of Police Officials | | |
|----------------------------|---------------|---------------|
| Sanctioned | Actual | Vacancies |
| 134,867 | 96,287 | 38,580 |
| Crime Rate | | |
| 217.9 | | |

LEGAL AID SNAPSHOT



No. of DLSAs Responded



At Legal Services Institution (LSI)



In Jail



At Court



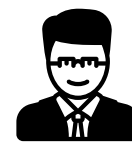
Retainer Lawyer

Appointment: 4/8 DLSAs



Jail Legal Aid Clinic (JLAC)

Constitution: 10 Jails



Remand Lawyer

Appointment: 5/6 DLSAs



Monitoring Committee (MC)

Constitution : 8/8 DLSAs



Convict Paralegal Volunteer

Appointment: 4/10 JLAC



Panel Lawyer

Appointment: 8/8 DLSAs



Jail Visiting Lawyer

Appointment: 9/10 JLAC

LEGAL AID FINDINGS

West Bengal's prisons house 21,523¹²³ prisoners in 58 jails. The state has 19 districts with the same number of DLSAs. Responses to the RTI applications filed by us varied across all three schemes. For the NALSA 2010 Regulations, we received responses from eight districts,¹²⁴ for the NALSA 2011 Regulations¹²⁵ and the NALSA Model Scheme¹²⁶ we received responses from six districts.

Important Regulations/ Circulars from the SLSA on Persons in Custody

No regulations, circulars or notices were received.

VERDICT: In these districts and their corresponding jails, the infrastructure of legal aid delivery for persons in custody has been in place only for the past few years. As a result, monitoring and reporting mechanisms are still lacking.

1. LEGAL AID FRAMEWORK

1.1 Appointment of Legal Aid Providers

Every legal services institution has to appoint a panel of lawyers for a term of three years. These lawyers represent those persons who are in need of legal representation and are entitled to legal aid. **Retainer lawyers** are also drawn from among this panel by the executive chairperson of the legal services institution for a fixed period. They are paid a monthly fee, and in addition to representing persons in court they are expected to assist in the administrative affairs of the legal aid institution. Another category of lawyers, i.e. **legal aid counsels** (commonly referred as **remand lawyers**) are assigned to magistrate courts and are mandated to be present during remand hours to defend any unrepresented accused person.

- a) **Panel and Retainer Lawyers:** : In total, 1,189 panel lawyers and seven retainer lawyers were appointed in eight districts and four districts¹²⁷ respectively.
- b) **Remand Lawyers:** Of the six districts that responded, Birbhum is the only district that did not appoint remand and bail lawyers. The remaining five districts¹²⁸ appointed 81 legal aid counsels, of which only Kolkata has provided training to 50 lawyers. From the varied responses received, it is unclear as to whether the state has defined a specific tenure for remand lawyers. The responses varied from one month to one year and three years.

1.2 Legal Aid Clinics in Jails

1.2.1 Constitution of Jail Legal Aid Clinics

Jail legal aid clinics play an important role in identifying and assisting prisoners in need of representation. Every jail is expected to set up a legal aid clinic manned by PLVs, and visited by legal aid lawyers. Ten correctional homes in the four districts that responded to the RTI application have constituted legal aid clinics. Whilst the legal aid clinic regulations were introduced in 2011, most of the clinics were constituted between 2013 and 2015. Alipore Central Correctional Home in Kolkata district constituted the JLAC in 2016.

1.2.2 Appointment of Legal Aid Providers for Jail Legal Aid Clinics

JVLs were appointed in nine out of the ten legal aid clinics. In total, 20 lawyers visited nine jail legal aid clinics. Additionally, only four convict PLVs and 14 community PLVs were appointed. Only one appointment letter each

123 Prison Statistics India, 2015, National Crime Records Bureau, pp. 10 and 20.

124 Kolkata, Purulia, Cooch Behar, Darjeeling, Birbhum, Dakshin Dinajpur, Nadia, Burdwan.

125 Kolkata, Purulia, Birbhum, Darjeeling, Bankura.

126 Kolkata, Purulia, Darjeeling, Birbhum, Bankura.

127 Burdwan, Cooch Behar.

128 Darjeeling, Bankura, Kolkata, Purulia, Cooch Behar.

for visiting lawyers and one for convict PLVs were provided by Purulia, the only district to provide these documents. These appointment letters are basic in nature and do not mention details on reporting by these actors.

1.3 Constitution of Monitoring Committees (MCs)

MCs established under Regulation 10 of the NALSA 2010 Regulations are expected to monitor the work of panel and retainer lawyers. **MCs were constituted in all the districts that responded to the RTI application.** The NALSA 2010 Regulations directs all DLSAs to set up MCs. Although the regulation came out in 2010, the committees were constituted only between March 2016 and May 2016 in West Bengal. The existing infrastructure of the DLSA is being used, as no separate infrastructure was provided for the functioning of these committees.

2. LEGAL AID DELIVERY

2.1. Legal Aid Delivery in Jails

2.1.1 Visits by Legal Aid Providers in Jails

JAIL VISITING LAWYERS (JVLs): JVLs in three districts¹²⁹ follow the mandate of visiting the jail once a week.

CONVICT PLVS: In the case of visits by convict PLVs, only two districts provided the information, but they differed from each other. The clinic is functional throughout the week in Birbhum but the data on the number of times it was conducted by the convict PLVs is not provided. In Kolkata, the visits are conducted eight times a month.

COMMUNITY PLVS: Bankura and Purulia followed the mandate of twice-a-week visits. No data was provided on the number of visits made by the community PLVs.

2.1.2 Registers & Records

Work registers were only maintained and provided by Purulia and the same had a specific format with details on the follow-up of cases by the JVLs. Interestingly, detailed work reports are sent to the DLSA by the community PLVs as well. Again, Purulia was the only district to maintain and provide copies of the attendance register maintained by the visiting lawyer.

2.2 Assignment of Cases to Legal Aid Providers & their Outcomes

2.2.1 Assignment of Cases to Panel Lawyers & their Outcomes

- a) **Scrutiny Committee & Legal Aid Application:** On receiving a legal aid application, the scrutiny and evaluation committee of the legal services institution decides if the applicant is entitled to legal aid. Scrutiny and evaluation committees were constituted in only three¹³⁰ out of the seven districts that responded. In Purulia and Burdwan the scrutiny and evaluation committee has never met due to “unavoidable circumstances”. No cases were recorded wherein a legal aid lawyer was not appointed as the persons in custody already had lawyers or cases where there were deficiencies in the legal aid application.
- b) **Time Taken to Assign Cases to Lawyers:** Information regarding the time it takes for the authorities to assign a legal aid lawyer was sought by asking for details of the last five legal aid cases from every district. Information relating to the time period between the application for legal aid and the assignment of a lawyer was received for 54 cases from 11 districts. Of the 54 cases, lawyers were assigned on the same day in 13 cases and on the next day in 12 cases. In Balurghat and Dakshin Dinajpur, lawyers were assigned on the same day in all cases. The average time taken for assignments is four days. However, in one case, from Cooch Behar district, the DLSA took 70 days to assign a lawyer.
- c) **Representation & Outcome:** Panel lawyers represented 1,947 cases, whilst retainer lawyers from Burdwan

¹²⁹ Purulia, Birbhum, Bankura.

¹³⁰ Darjeeling, Purulia, Burdwan.

district represented ten cases. In total, 147 persons were released on bail in two districts (the only ones to respond),¹³¹ and 40 persons were acquitted in three districts.¹³² Appointment letters were not provided by any of the districts. However, Purulia attached a few copies of the “assignment letter”, which were detailed, explaining the work expected from panel lawyers when they are assigned a case and the reporting mechanism that they need to follow.

2.2.2 Representations by Remand Lawyers & their Outcomes

The legal aid lawyers appointed in three districts¹³³ were responsible for the release of 118 persons on bail, out of the 180 they represented. The remaining districts either did not maintain this information or did not share it with us. Bankura and Purulia provided the appointment letters for remand lawyers which were basic.

2.3 Monitoring Legal Aid Providers

2.3.1 Monitoring Panel & Retainer Lawyers

MCs are mandated to review the day-to-day working of legal aid cases. Registers are an important aspect of MCs as they ensure tracking the progress of legal aid cases, the primary task of the committee. However, none of the districts maintained any such register. The minutes of the meeting provided by Darjeeling need a special mention, as they detail the work done, give the names of the lawyers who frequently submit progress reports and encourage other lawyers to do the same. Based on the resolution, the secretary of the DLSA submitted the report to the Chairperson, DLSA and not the SLSA.

The MC in Burdwan and Dakshin Dinajpur did not hold any meetings. Only Purulia provided minutes of a meeting, which were reasonably detailed. Three issues were discussed, which did not include case details or progress of the cases at this particular meeting. The MCs did not receive progress reports or completion reports and therefore did not submit bi-monthly reports to the SLSA. Only Kolkata stated that three bi-monthly reports were submitted, but copies of the same were not provided.

2.3.2 Monitoring Remand Lawyers

1. **ATTENDANCE CERTIFICATES & WORK REPORTS:** Four districts¹³⁴ stated that they received work reports from remand lawyers but copies of these reports were only submitted by Purulia. These reports are in a tabular format and are also used as reports for the payment of fees to the legal aid counsel. This serves as a record for the cases handled, but there is no mention about the outcomes or the work done. It is unfortunate that the document doesn't even contain a column on the work done by the legal aid counsel. Purulia, along with Bhandara, provided attendance certificates.
2. **DLSA COMPLIANCE REPORTS FOR SLSA:** While all the four districts claimed that they send monthly compliance reports to the SLSA, only Cooch Behar provided a format for the DLSA to report to the SLSA.

2.3.3 Complaints against Legal Aid Lawyers

Legal aid lawyers may be removed from the panel if they do not perform satisfactorily or act contrary to the object and spirit of the Legal Services Act, 1987 and the Regulations. While no complaints were received for remand and bail lawyers and no lawyer was removed, in Cooch Behar three complaints were received for panel lawyers and two lawyers were removed from the district.

131 Purulia, Burdwan.

132 Cooch Behar, Purulia, Burdwan.

133 Birbhum, Purulia, Bankura.

134 Purulia, Kolkata, Bankura, Birbhum.



III. SOUTHERN STATES & UNION TERRITORIES

ANDHRA PRADESH

KARNATAKA

KERALA

LAKSHADWEEP

PUDUCHERRY

TAMIL NADU

TELANGANA



ANDHRA PRADESH

SNAPSHOT



Occupancy Rate
88.9%

No. of Undertrial Prisoners (Proportion)
4905 (62.11%)

Period of Detention
<1 year: 93.6% | 1-3 years :4.7% | >3 years: 1.7%

Literacy Rate (Prison)
64.96%

| | Central | District | Sub-jails | Others | Total |
|------------|---------|----------|-----------|--------|-------|
| Prisons | 4 | 7 | 99 | 2 | 112 |
| Population | 4000 | 1345 | 2223 | 329 | 7897 |

Deaths in Prisons
41

Prison Death Rate
519.18 per million

Prison Suicide Rate
75.98

Outside Suicide Rate
12.1



No. of DLSAs
13

No. of TLSCs/ SDLSCs
138

Legal Aid Beneficiaries in Prisons
2243

Legal Aid Website
Available

Legal Aid Rules & Regulations

The Andhra Pradesh State Legal Services Authority Rules, 1995

The Andhra Pradesh State

Legal Service Authority Regulations, 1996



No. of District Court Judges
888

Judges : State Population
NA

Pendency of District Court
10,78,586

No. of Prosecutors
203

No. of High Court Judges
27

Judges : State Population
NA

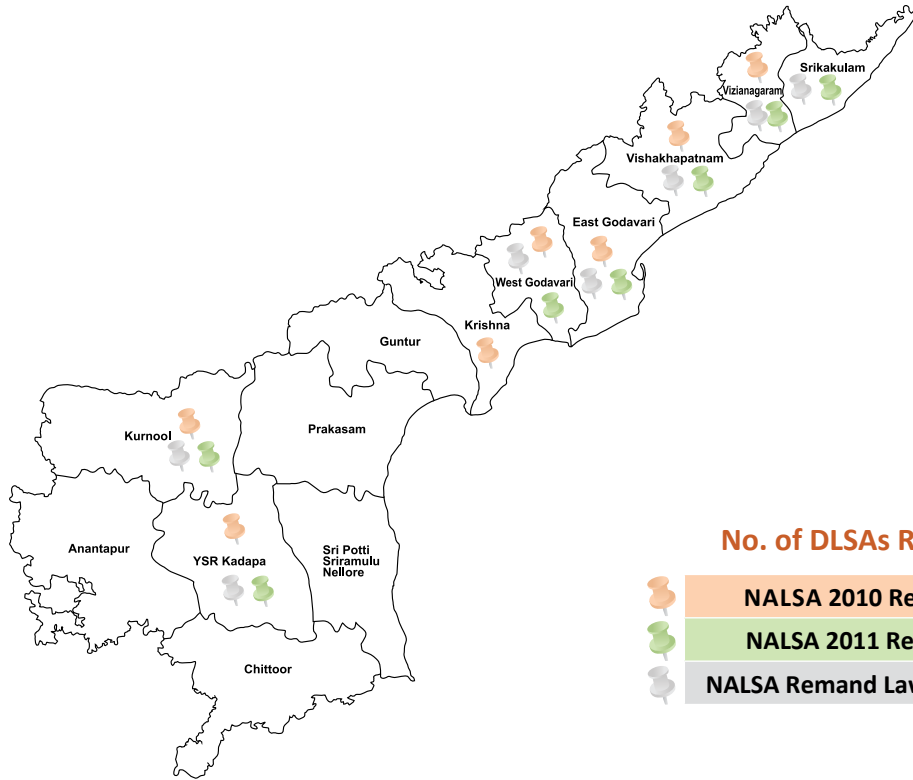
Pendency of High Court
3,04,422













| Number of Police stations | |
|---------------------------|--------------|
| Sanctioned | Actual |
| 1,017 | 1,017 |
| Persons Arrested | |
| 198,089 | |

| Number of Police Officials | | |
|----------------------------|---------------|---------------|
| Sanctioned | Actual | Vacancies |
| 61,048 | 49,452 | 11,596 |
| Crime Rate | | |
| 250.1 | | |

LEGAL AID SNAPSHOT



| | | |
|---|--|---|
|  <p>At Legal Services Institution (LSI)</p> |  <p>In Jail</p> |  <p>At Court</p> |
|  <p>Retainer Lawyer</p> <p>Appointment: 5/7 DLSAs</p> |  <p>Jail Legal Aid Clinic (JLAC)</p> <p>Constitution: 39 Jails</p> |  <p>Remand Lawyer</p> <p>Appointment: 7/7 DLSAs</p> |
|  <p>Monitoring Committee (MC)</p> <p>Constitution : 7/7 DLSAs</p> |  <p>Convict Paralegal Volunteer</p> <p>Appointment: 4/39 JLAC</p> |  <p>Panel Lawyer</p> <p>Appointment: 6/7 DLSAs</p> |
| |  <p>Jail Visiting Lawyer</p> <p>Appointment: 39/39 JLAC</p> | |

LEGAL AID FINDINGS

Andhra Pradesh's prisons house 7,897 inmates in 112 jails¹³⁵. There are 13 districts with the same number of DLSAs. Responses to the RTI application were received from seven of the 13 DLSAs. These include Machilipatnam, Kadapa, Srikakulam, Visakhapatnam, Rajahmundry, and Vizianagram. The information provided relates to the period 1 July 2015 to 30 June 2016.

VERDICT: In these seven districts and their corresponding jails, the infrastructure of legal aid delivery is very much in place. The SLSA repeatedly issued letters and circulars to ensure the implementation of the regulations with respect to the appointments of actors, the constitution of committees and clinics and the development of reporting and monitoring formats.

Important Regulations/ Circulars from the SLSA on persons in Custody

1. AP SLSA letter dated 13 August 2014 on "Village Legal Care and Support Centres in Jails".

2. AP SLSA circular dated 22 May 2015 (ROC.NO.25/APSLASLSW/ 2015) on visits of jail visiting lawyers.

1. LEGAL AID FRAMEWORK

1.1 Appointment of Legal Aid Providers

Every legal services institution has to appoint a panel of lawyers for a term of three years. These lawyers represent those persons who are in need of legal representation and are entitled to legal aid. **Retainer lawyers** are also drawn from among this panel by the executive chairperson of the legal services institution for a fixed period. They are paid a monthly fee, and in addition to representing persons in court they are expected to assist in the administrative affairs of the legal aid institution. Another category of lawyers, i.e. **legal aid counsels** (commonly referred as **remand lawyers**) are assigned to magistrate courts and are mandated to be present during remand hours to defend any unrepresented accused person.

- a) **Panel and Retainer Lawyers:** Panel lawyers were appointed in six districts¹³⁶ and retainers in five¹³⁷ of the seven districts. In total, 350 panel lawyers, and 84 retainer lawyers, were appointed in these districts.
- b) **Remand Lawyers:** Six of the seven districts appointed a legal aid counsel for all magistrate courts.¹³⁸ While the Model Scheme does not provide a specific tenure for legal aid counsel, in Andhra Pradesh, they are appointed for three years which is a longer tenure compared to most other states. In total, 104 legal aid counsels were appointed in the seven districts, out of which 66 were trained through master trainers in accordance with the directions of the APSLSA.

1.2 Legal Aid Clinics in Jails

1.2.1 Constitution of Jail Legal Aid Clinics

Jail legal aid clinics play an important role in identifying and assisting prisoners in need of representation. Every jail is expected to set up a legal aid clinic manned by PLVs, and visited by legal aid lawyers. In keeping with a 2014 resolution of the 11th All India Meet of State Legal Services Authorities and the National Plan of Action, 2012-13, the Andhra Pradesh SLSA issued a letter "directing the legal services institutions in the state to constitute legal aid clinics in jails". Manned by PLVs and visited by legal aid lawyers, they play an important role in identifying and assisting prisoners in need of representation. The information on the working of jail legal aid clinics was

¹³⁵ Prison Statistics India, 2015, National Crime Records Bureau, pp. 10 and 20.

¹³⁶ Kadapa, Machilipatnam, Rajahmundry, Srikakulam, Visakhapatnam, Vizianagram.

¹³⁷ Machilipatnam, Rajahmundry, Srikakulam, Visakhapatnam, Vizianagram.

¹³⁸ Machilipatnam.

provided by six¹³⁹ DLSAs. These DLSAs covered 40 of the 112 jails in the state and all of them constituted legal aid clinics. Even though the legal aid clinic regulations were introduced in 2011, 34 of the 40 jails had constituted the clinics in 2014. In fact, 30 of these 34 JLACs were constituted post September 2014, following the letter from the SLSA asking for their constitution. The earliest JLACs (two of them) were constituted in 2012. One¹⁴⁰ of the 40 JLACs that were constituted, is not functional currently.

1.2.2 Appointment of Legal Aid Providers for Jail Legal Aid Clinics

JVLs were appointed in all the clinics. There are 109 lawyers visiting 39 jail legal aid clinics. Further, 29 convict PLVs were appointed in four jails¹⁴¹ and 18 community PLVs in 9 jails.¹⁴²

Appointment letters of the visiting lawyers were found to be vague and incomplete with limited or no information about the role of the lawyers and their reporting duties. Only the appointment letter issued by the Rajahmundry DLSA lays down duties and reporting mechanisms. Additionally, it directs visiting lawyers to maintain records and registers, and submit these registers to the DLSA at the end of every month. We did not receive any appointment letter for community PLVs. Only one district, Srikakulam, provided an appointment letter for convict PLVs. However, it was incomplete and contained no information regarding duties, hours of work, etc.

1.3 Constitution of Monitoring Committees (MCs)

MCs established under Regulation 10 of the NALSA 2010 Regulations are expected to monitor the work of panel and retainer lawyers. The responses show that Andhra Pradesh has developed the infrastructure on monitoring much before other states. MCs are constituted in all the seven DLSAs, six in 2010, and one in 2011. All these committees comprise the secretary, the district judge, a member and a senior advocate, in accordance with the NALSA 2010 Regulations.

2. LEGAL AID DELIVERY

2.1. Legal Aid Delivery in Jails

2.1.1 Visits by Legal Aid Providers in Jails

JAIL VISITING LAWYERS (JVLS): In pursuance of the letter by NALSA in 2015 on jail legal aid clinics, the Andhra Pradesh SLSA issued a circular¹⁴³ directing lawyers to visit the jail every Wednesday and Sunday, i.e. 96 visits in a year. Lawyers in only one (Srikakulam) district visited the jail as per the mandate. The majority visited just 12 times a year.

CONVICT PLVs: Throughout the state, the convict PLVs conduct the clinic twice a week, with the exception of Machilipatnam which states that “such a situation does not arise”. This probably means that they have not appointed convict PLVs.

COMMUNITY PLVs: There is a lack of clarity on the mandate of the frequency of visit of the community PLVs. The responses received were “once a month” or “does not arise”.

2.1.2 Registers & Records

Work registers were maintained in all the jails but no standard format was followed across the state. Most of them were handwritten and some were in the regional language. The work register maintained by Srikakulam was fairly detailed and structured.

139 Kadapa, Machilipatnam, Rajahmundry, Srikakulam, Visakhapatnam, Vizianagram.

140 In Kadapa.

141 Twenty convict PLVs in one jail in Kadapa, eight in two jails in East Godavari and one in one jail in Srikakulam.

142 Community PLVs were appointed in jails in Visakhapatnam, East Godavari and Vizianagram.

143 Circular dated 22 May 2015 (ROC.NO.25/APSLALS/2015).

In the absence of a set time frame for reviewing the attendance and work registers, the frequency varied greatly with each district. Some DLSAs reviewed the registers after completion of every sitting made by the lawyers, some weekly or monthly and others as infrequently as three times a year. Visakhapatnam and Vizianagram specifically stood out as they never called for the registers. Instead, the panel lawyers or PLVs submitted the registers only when filing for claims.

2.2 Assignment of Cases to Legal Aid Providers & their Outcomes

2.2.1 Assignment of Cases to Panel Lawyers & their Outcomes

- a) **Scrutiny Committee & Legal Aid Application:** On receiving a legal aid application, the scrutiny and evaluation committee of the legal services institution decides if the applicant is entitled to legal aid. There were no cases in which a legal aid lawyer was not appointed due to the fact that persons in custody already had lawyers. There were also no cases in which a legal aid lawyer was not appointed due to deficiencies in the legal aid application.
- b) **Time Taken to Assign Cases to Lawyers:** Information regarding the time it takes for the authorities to assign a legal aid lawyer was sought by asking for details of the last five legal aid cases from every district. This information was received for 16 cases. There were no cases where the appointment was made on the same day and in only one case the assignment was made after one day. In one legal aid case from Rajahmundry, it took 14 days to assign a lawyer. The average time for assigning a lawyer in the state was 3.93 (four days).
- c) **Representation & Outcome:** Panel lawyers represented 166 cases and retainer lawyers represented 12 cases in the five districts.¹⁴⁴ Of the 65 persons released, 16 were released on bail and 15 were acquitted.. Kadapa and Machilipatnam did not provide any information on releases.

2.2.2 Representations by Remand Lawyers & their Outcomes

Remand lawyers represented 643 persons in five districts.¹⁴⁵ The remaining two districts¹⁴⁶ did not maintain this information or did not share it with us. Of these 643 persons, 508 were released on bail by the legal aid lawyers. Rajahmundry and Machilipatnam did not provide any information on releases.

2.3 Monitoring Legal Aid Providers

2.3.1 Monitoring Panel & Retainer Lawyers

MCs are mandated to review the day-to-day working of legal aid cases. As the work of the committee entails tracking the progress of legal aid cases, registers become extremely important. Six out of the seven committees maintained a register. There were no standard formats for the committee registers in the state. The formats followed by Machilipatnam and Vizianagram were better than the others. However, the registers were maintained day-wise and not case-wise which would make periodic tracking of cases difficult.

Panel lawyers from five districts submitted 44 progress reports to the committee over the course of one year. However, no completion reports were received from panel lawyers. All the DLSAs in turn, submitted bi-monthly reports to the SLSA.

Lawyers have not maintained and submitted reports on work and attendance. However, the frequency of submissions to the DLSA shows that these reports are usually used as a proof of work (for honorarium) and not as a means to review the work done. Interestingly, the MC in three districts¹⁴⁷ also reviewed the work of the legal aid counsel beyond the panel appointed ones.

¹⁴⁴ Kurnool, Rajahmundry, Srikakulam, Visakhapatnam, Vizianagram

¹⁴⁵ Kurnool, Kadapa, Srikakulam, Visakhapatnam, Vizianagram

¹⁴⁶ Rajahmundry, Machilipatnam

¹⁴⁷ Kadapa,

2.3.2 Monitoring Remand Lawyers

1. **ATTENDANCE CERTIFICATES & WORK REPORTS:** It appears that attendance certificates are submitted only when the claim for payment is made. The work reports are however prepared and submitted more frequently.
2. **DLSA COMPLIANCE REPORTS FOR SLSA:** Only three DLSAs sent compliance reports on the Model Scheme to the SLSA.

2.3.3 Complaints against Legal Aid Lawyers

Legal aid lawyers may be removed from the panel if they do not perform satisfactorily or act contrary to the object and spirit of the Legal Services Act, 1987. Responses show no evidence of any complaints being made by clients in relation to panel or retainer lawyers. No such instances have arisen that have required their removal.



KARNATAKA SNAPSHOT



Occupancy Rate
95.9%

No. of Undertrial Prisoners (Proportion)
9314 (69.13%)

Period of Detention
<1 year: 81.5% | 1-3 years :16.3% | >3 years: 2.2%

Literacy Rate (Prison)
67.67%

| | Central | District | Sub-jails | Others | Total |
|------------|---------|----------|-----------|--------|-------|
| Prisons | 8 | 19 | 70 | 5 | 102 |
| Population | 8661 | 3281 | 1267 | 264 | 13473 |

Deaths in Prisons
76

Prison Death Rate
564.09 per million

Prison Suicide Rate
66.8

Outside Suicide Rate
17.4



No. of DLSAs
30

No. of TLSCs/ SDLSCs
148

Legal Aid Beneficiaries in Prisons
393

Legal Aid Website
Available

Legal Aid Rules & Regulations

The Karnataka State Legal Services Authorities Rules, 1996
The Karnataka State Legal Services Authority Regulations, 1997



No. of District Court Judges
985

Judges : State Population
16.12 per million

Pendency of District Court
14,05,952

No. of Prosecutors
498

No. of High Court Judges
29

Judges : State Population
0.47 per million

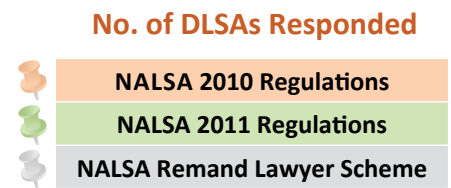
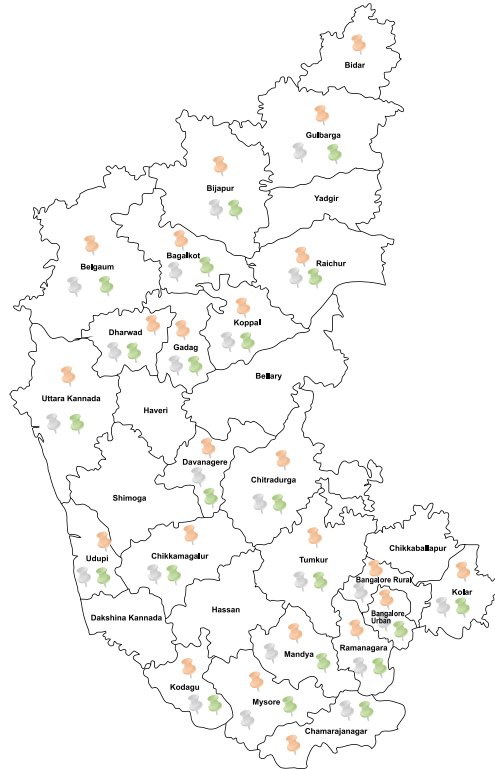
Pendency of High Court
2,92,988



| Number of Police stations | |
|---------------------------|------------|
| Sanctioned | Actual |
| 951 | 951 |
| Persons Arrested | |
| 246,146 | |

| Number of Police Officials | | |
|----------------------------|---------------|---------------|
| Sanctioned | Actual | Vacancies |
| 114,912 | 91,002 | 23,910 |
| Crime Rate | | |
| 286.9 | | |

LEGAL AID SNAPSHOT




At Legal Services Institution (LSI)



In Jail




At Court



Retainer Lawyer
Appointment: 5/23 DLSAs



Jail Legal Aid Clinic (JLAC)
Constitution: 36 Jails




Remand Lawyer
Appointment: 14/22 DLSAs



Monitoring Committee (MC)
Constitution : 2/23 DLSAs



Convict Paralegal Volunteer
Appointment: 1/36 JLAC



Panel Lawyer
Appointment: 23/23 DLSAs



Jail Visiting Lawyer
Appointment: 36/36 JLAC

LEGAL AID FINDINGS

Karnataka's prisons house 13,473 inmates in 102 jails¹⁴⁸. There are 30 districts with the same number of DLSAs. We received responses from 26 districts for the NALSA 2010 Regulations, 23 districts responded to the NALSA 2011 Regulations and 22 to the NALSA Model Scheme.

Important Regulations/ Circulars from the SLSA on Persons in Custody

No regulations, circulars or notices were received.

VERDICT: It is evident from the responses received, that in these particular districts, the legal aid delivery infrastructure for persons in custody is only partially in place, and clearly lacks effective reporting mechanisms.

1. LEGAL AID FRAMEWORK

1.1 Appointment of Legal Aid Providers

Every legal services institution has to appoint a panel of lawyers for a term of three years. These lawyers represent those persons who are in need of legal representation and are entitled to legal aid. **Retainer lawyers** are also drawn from among this panel by the executive chairperson of the legal services institution for a fixed period. They are paid a monthly fee, and in addition to representing persons in court they are expected to assist in the administrative affairs of the legal aid institution. Another category of lawyers, i.e. **legal aid counsels** (commonly referred as **remand lawyers**) are assigned to magistrate courts and are mandated to be present during remand hours to defend any unrepresented accused person.

- a) **Panel and Retainer Lawyers:** : In total, 1,312¹⁴⁹ panel lawyers were appointed in 23 districts¹⁵⁰ and 64 retainer lawyers were appointed in five districts.¹⁵¹ The rest either did not appoint retainer lawyers or did not share this information with us.
- b) **Remand Lawyers:** The Karnataka State Legal Services Authority mandates panel and retainer lawyers to be appointed as "remand hour advocates". Of the 22 districts that responded to the RTI application, 14 districts appointed remand lawyers in all the magistrate courts. In these districts, a total of 245 legal aid counsels were appointed for a tenure ranging between six months and one year. In one district,¹⁵² the tenure is more than two years. Of these remand lawyers, 145 in five districts were trained.¹⁵³

1.2 Legal Aid Clinics in Jails

1.2.1 Constitution of Jail Legal Aid Clinics

Jail legal aid clinics play an important role in identifying and assisting prisoners in need of representation. Every jail is expected to set up a legal aid clinic manned by PLVs, and visited by legal aid lawyers. The information on the working of jail legal aid clinics were provided by 23 DLSAs. Of these, 21 had constituted JLACs in their respective jails.¹⁵⁴ There are 102 jails in the state but the information we received from 23 districts is for 39 jails. This indicates that the districts that responded to the RTI application did not provide information about all the jails in their district. Interestingly, although the legal aid clinic regulations were introduced in 2011, the earliest JLAC was constituted in 2008 in Dharwad.

148 Prison Statistics India, 2015, National Crime Records Bureau, pp. 10 and 20.

149 Chamarajnagar alone appointed 372 lawyers.

150 Korategere did not provide this information.

151 Bengaluru Urban, Kodagu, Bengaluru Rural, Udupi, Chamarajanagra.

152 Bagalkot.

153 Kodagu, Kolar, Bengaluru Urban, Bengaluru Rural, Gagad, Mandya.

154 Raichur was the only district that constituted JLACs in three out of its four jails.

1.2.2 Appointment of Legal Aid Providers for Jail Legal Aid Clinics

JVLs were appointed in all 36 jail legal aid clinics. There are 587 lawyers visiting 36 jails¹⁵⁵ and only one convict PLV was appointed in one jail legal aid clinic in Vijayapura. No community PLVs were appointed in the entire state.

In general, the appointment letters of the JVLs in Karnataka were detailed, but several were in the regional language. Kolar's appointment letter really stood out since it detailed certain general instructions to panel lawyers who were to take up the role of JVLs. No appointment letter was provided for convict and community PLVs.

1.3 Constitution of Monitoring Committees (MCs)

MCs established under Regulation 10 of the NALSA 2010 Regulations are expected to monitor the work of panel and retainer lawyers. **Only two districts, Vijayapura (in 2016) and Koppal constituted MCs.**

2. LEGAL AID DELIVERY

2.1. Legal Aid Delivery in Jails

2.1.1 Visits by Legal Aid Providers in Jails

JAIL VISITING LAWYERS (JVLS): No standard mandate appears to have been formulated for JVLs to visit the clinics. Of the districts that responded to the RTI application, ten districts¹⁵⁶ followed a mandate of visiting once a week and four districts¹⁵⁷ expected JVLs to visit twice a week. Lawyers in Gagad district followed a mandate of visiting twice a month. The remaining six districts¹⁵⁸ did not provide any mandate. In Madikeri, the JVLs did not visit the jail during the time period that the responses to the RTI application were sought.

CONVICT PLVS: No information was provided by Vijayanagar on the existing mandate, if any, or the number of days the clinic was conducted by the convict PLV.

COMMUNITY PLVS: None of the districts appointed community PLVs for the purpose of visiting jail legal aid clinics.

2.1.2 Registers & Records

Work registers were maintained in all the jails in the 16 districts, but a standard format was not followed across the state. Most of them were handwritten and some of the work registers were in the regional language.

The DLSA generally reviewed the attendance and work registers once a month, with three districts stating that they were not maintained at all. In Kolar, regular reports were submitted by the lawyers, which is a good practice. The response from Kalburgi shows that the lawyers visiting the legal aid clinics had a problem regarding a shortage of police escorts and the same was communicated to the High Court. Thereafter, a letter was issued to the Superintendent of Police, Kalburgi to make necessary arrangements for escorts.

2.2 Assignment of Cases to Legal Aid Providers & their Outcomes

2.2.1 Assignment of Cases to Panel Lawyers & their Outcomes

a) Scrutiny Committee & Legal Aid Application: On receiving a legal aid application, the scrutiny and evaluation committee of the legal services institution decides if the applicant is entitled to legal aid. Scrutiny

¹⁵⁵ In all three of Raichur's jails, JVLs were appointed but the number appointed has not been provided.

¹⁵⁶ Kolar, Karwar, Belgaum, Devanagere, Bengaluru rural, Ramanagara, Mangalore, Raichur, Kalabugari, Vijayanagar.

¹⁵⁷ Dharwad, Mandya, Madikeri, Tumakuru.

¹⁵⁸ Koppal, Bengaluru Urban, Udipi, Chikkamangaluru, Chamarajnar, Chitradurga.

and evaluation committees were constituted in five¹⁵⁹ out of the 26 districts that responded. Of these five districts, only one district, Tumakuru, maintained a scrutiny and evaluation committee register. There were 35 cases in two districts, Vijayapura and Kolar, where a legal aid lawyer was not appointed due to the fact that the persons in custody already had lawyers. There were also nine cases in which legal aid lawyers were not appointed due to deficiencies in the legal aid application in Kolar and Chikkamagaluru.

- b) Time Taken to Assign Cases to Lawyers:** Information regarding the time it takes for the authorities to assign a legal aid lawyer was sought by asking for details of the last five legal aid cases from every district. Information was received for 57 cases from 14 districts. In 34 of the 57 cases, lawyers were assigned on the same day. Of these 34 cases, 21 cases belonged to Chikkamagaluru, Bagalkot, Kalaburagi, Tumakuru and Belagavi districts where all assignments were completed on the same day. The average time taken for the assignment of legal aid lawyers was three days. In one case from Mangalore, the DLSA took 27 days to assign a lawyer, the longest in the state.
- c) Representation & Outcome:** Panel lawyers represented a total of 217 persons in 17 districts,¹⁶⁰ whilst retainer lawyers represented 120 persons in nine districts.¹⁶¹ In total, 55 persons were released on bail and 52 cases were disposed, of which there were 23 acquittals in the ten districts that maintained this information. The remaining districts either did not maintain this information or did not share it with us.

2.2.2 Representations by Remand Lawyers & their Outcomes

Only five¹⁶² districts maintained records on the number of persons represented and released in court; i.e., 99 lawyers represented 104 persons in custody of which 51 were granted bail while only 37 were released on bail.

2.3 Monitoring Legal Aid Providers

2.3.1 Monitoring Panel & Retainer Lawyers

MCs are mandated to review the day-to-day working of legal aid cases. In order to track the progress of legal aid cases, registers are crucial. **No registers or bi-monthly reports were maintained by the two MCs which were constituted. Additionally, the panel lawyers did not submit any completion reports or progress reports to the MCs.**

While lawyers maintained attendance certificates, work reports were not maintained. The frequency of the submission to the DLSA shows that these reports are usually used as a proof of work (for honorarium) and not as a means to review the work done.

2.3.2 Monitoring Remand Lawyers

- 1. ATTENDANCE CERTIFICATES & WORK REPORTS:** None of the districts except Kalaburagi submitted attendance certificates during the time period requested. Four districts¹⁶³ maintained and provided sample copies of work reports. The district and sessions judges submit the monthly work certificates of the legal aid counsel to the SLSA every month.
- 2. DLSA COMPLIANCE REPORTS FOR SLSA:** Three¹⁶⁴ out of 24 districts attached copies of DLSA compliance reports that are sent to the SLSA every month.

2.3.3 Complaints against Legal Aid Lawyers

Legal aid lawyers may be removed from the panel if they do not perform satisfactorily or act contrary to the object and spirit of the Legal Services Act, 1987 and the Regulations. No complaints were received for either remand and bail lawyers, or for panel lawyers, and consequently, no lawyers were removed during the time period specified.

159 Vijayapura, Koppal, Mangalore, Chitradurga, Tumakuru.

160 Bengaluru Urban, Kodagu, Udupi, Kolar, Khanapur, Bidar, Kalaburagi, Mangalore, Devanagere, Bagalkot, Belgaum, Koppal, Mandya, Chikkamagaluru, Vijayapura, Tumakuru.

161 Bengaluru Urban, Kodagu, Kolar, Bidar, Kalaburagi, Belgaum, Mandya, Chikkamagaluru, Tumakuru.

162 Kodagu, Kolar, Tumkuru, Kalaburagi, Mandya.

163 Kolar, Dharwad, Karwar, Kodagu.

164 Kolar, Gagad, Kodagu.

KERALA

SNAPSHOT



Occupancy Rate

118.3%

No. of Undertrial Prisoners (Proportion)

4567 (62.35%)

Period of Detention

<1 year: 91.8% | 1-3 years :8.2% | >3 years: 0.0%

Literacy Rate (Prison)

88.34%

| | Central | District | Sub-jails | Others | Total |
|------------|---------|----------|-----------|--------|-------|
| Prisons | 3 | 11 | 16 | 24 | 54 |
| Population | 2936 | 1649 | 786 | 1954 | 7325 |

Deaths in Prisons

43

Prison Death Rate

587.03 per million

Prison Suicide Rate

0

Outside Suicide Rate

21.6



No. of DLSAs

14

No. of TLSCs/ SDLSCs

62

Legal Aid Beneficiaries in Prisons

840

Legal Aid Website

Available

Legal Aid Rules & Regulations

Kerala State Legal Services Authorities Rules, 1998

Kerala State Legal Services Authority Regulation, 1998



No. of District Court Judges

453

Judges : State Population

13.56 per million

Pendency of District Court

15,67,736

No. of Prosecutors

166

No. of High Court Judges

36

Judges : State Population

1.08 per million

Pendency of High Court

1,72,847



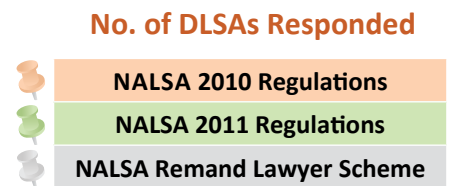
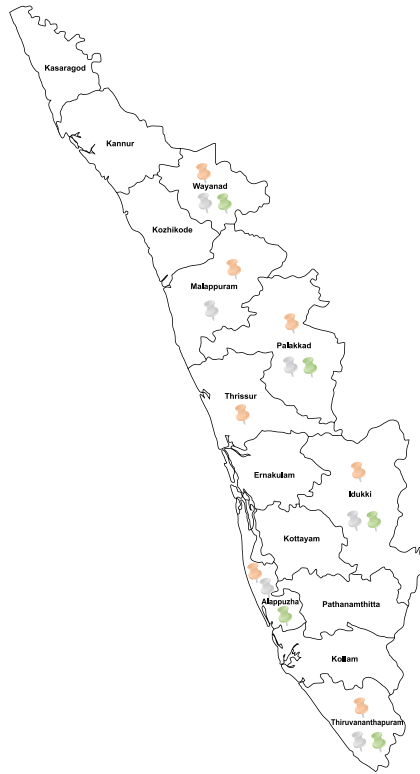
Number of Police stations

| Sanctioned | Actual |
|-------------------------|------------|
| 520 | 516 |
| Persons Arrested | |
| 770,763 | |

Number of Police Officials

| Sanctioned | Actual | Vacancies |
|-------------------|---------------|--------------|
| 63,785 | 62,476 | 1,309 |
| Crime Rate | | |
| 1489.9 | | |

LEGAL AID SNAPSHOT



At Legal Services Institution (LSI)

In Jail

At Court

Retainer Lawyer
Appointment: 4/7 DLSAs

Jail Legal Aid Clinic (JLAC)
Constitution: 23 Jails

Remand Lawyer
Appointment: 3/6 DLSAs

Monitoring Committee (MC)
Constitution : 3/7 DLSAs

Convict Paralegal Volunteer
Appointment: 7/23 JLAC

Panel Lawyer
Appointment: 7/7 DLSAs

Jail Visiting Lawyer
Appointment: 19/23 JLAC

LEGAL AID FINDINGS

Kerala's prisons house 7,325 inmates in 54 jails¹⁶⁵. The state has 14 districts with the same number of DLSAs. The responses to the RTI application were received from seven districts¹⁶⁶ for the NALSA 2010 Regulation and from six districts¹⁶⁷ for the NALSA 2011 Regulation and 1998 NALSA Model Scheme. Seven districts¹⁶⁸ did not respond to any of the RTI applications.

Important Regulations/ Circulars from the SLSA on Persons in Custody

No regulations, circulars or notices were received.

VERDICT: As it is clear from the responses received, only half the districts in Kerala responded to the RTI application and even in those districts and the corresponding jails, the infrastructure of legal aid delivery does not appear to be in place. The role of the Kerala SLSA does not appear to be proactive, as it has not taken cognizance of the lack of reporting from the DLSAs.

1. LEGAL AID FRAMEWORK

1.1 Appointment of Legal Aid Providers

Every legal services institution has to appoint a panel of lawyers for a term of three years. These lawyers represent those persons who are in need of legal representation and are entitled to legal aid. **Retainer lawyers** are also drawn from among this panel by the executive chairperson of the legal services institution for a fixed period. They are paid a monthly fee, and in addition to representing persons in court they are expected to assist in the administrative affairs of the legal aid institution. Another category of lawyers, i.e. **legal aid counsels** (commonly referred as **remand lawyers**) are assigned to magistrate courts and are mandated to be present during remand hours to defend any unrepresented accused person.

- a) **Panel and Retainer Lawyers:** : In total, 924 panel lawyers were appointed in all the seven districts that responded to our RTI application. Of these, 65 retainer lawyers were appointed in four districts.¹⁶⁹ Idukki, Alappuzha and Wayanad did not appoint any retainer lawyer during the time period when responses to the RTI application were sought.
- b) **Remand Lawyers:** Only three districts¹⁷⁰ appointed legal aid counsels to magistrate courts. In total, 24 legal aid counsels were appointed for a tenure of one month in Idukki, three months in Thiruvananthapuram and one year in Palakkad.

1.2 Legal Aid Clinics in Jails

1.2.1 Constitution of Jail Legal Aid Clinics

Jail legal aid clinics play an important role in identifying and assisting prisoners in need of representation. Every jail is expected to set up a legal aid clinic manned by PLVs, and visited by legal aid lawyers. Although the legal aid clinic regulations were introduced in 2011, only Poojappura Central Jail in Thiruvananthapuram district constituted a clinic in the same year. The remaining, constituted JLACs between 2012 and 2015. The information on the working of jail legal aid clinics was provided by six districts, all of whom have constituted legal aid clinics in their respective jails. All the 23 jails in the six districts that responded, constituted a legal aid clinic.

165 Prison Statistics India, 2015, National Crime Records Bureau, pp. 10 and 20.

166 Allappuzha, Wayanad, Palakkad, Idukki, Thiruvananthapuram, Manjeri, Thissur.

167 Allappuzha, Manjeri, Thiruvananthapuram, Idukki, Wayanad, Palakkad.

168 Ernakulam, Kannur, Kasaragod, Kollam, Kottayam, Kozhikode, Pathanamthitta.

169 Idukki, Thiruvananthapuram, Thissur, Palakkad.

170 Palakkad, Idukki, Thiruvananthapuram.

1.2.2 Appointment of Legal Aid Providers for Jail Legal Aid Clinics

There were 535 JVLs who visited 19 clinics in three districts.¹⁷¹ Thiruvananthapuram,¹⁷² was the only district that appointed convict PLVs. Two districts, Malappuram and Kalpeeta appointed community PLVs.

Appointment letters for the jail visiting lawyers were found to be reasonably detailed for those districts that submitted them. Appointment letters from Manjeri had a set number of questions that the lawyers were expected to answer after their visits to the sub jail. The appointment letter for JVLs received from Perinthalmanna in Palakkad and the one received from the Thiruvananthapuram DLSA provided detailed information on the timings of visits, the process of reporting, etc. Thiruvanthapuram also provided a format for the monthly report depicting the work done by the JVLs.

1.3 Constitution of Monitoring Committees (MCs)

MCs established under Regulation 10 of the NALSA 2010 Regulations are expected to monitor the work of panel and retainer lawyers. **MCs were constituted in only three districts.**¹⁷³ In Manjeri, the committee was constituted in 2012 and in Alappuzah and Thrissur, in 2013.

2. LEGAL AID DELIVERY

2.1. Legal Aid Delivery in Jails

2.1.1 Visits by Legal Aid Providers in Jails

JAIL VISITING LAWYERS (JVLs): There was no state mandate on the visits of JVLs and the three districts that responded appear to follow their own mandates. Thiruvananthapuram mentioned that the JVLs are expected to visit the clinic six days a week and the total number of visits made by the lawyers were 432 during the one-year time period when the responses to the RTI application were sought. Idukki and Palakkad have a mandate of visits twice a week and the total visits made in Palakkad was 176 during the time period specified.

CONVICT PLVS: Only two districts responded with data on the days when convict PLVs conducted the legal aid clinics. In Idukki, the practice was twice a week and the same was followed by the convict PLVs. The total number of visits made in Thiruvananthapuram by convict PLVs was 912 days.¹⁷⁴

COMMUNITY PLVS: One community PLV visited the sub jails of Manjeri, once a month.

2.1.2 Registers & Records

No information provided on legal aid clinic registers.

2.2 Assignment of Cases to Legal Aid Providers & their Outcomes

2.2.1 Assignment of Cases to Panel Lawyers & their Outcomes

a) **Scrutiny Committee & Legal Aid Application:** On receiving a legal aid application, the scrutiny and evaluation committee of the legal services institution decides if the applicant is entitled to legal aid. Scrutiny and evaluation committees were constituted in only two districts¹⁷⁵ out of the seven that responded to the

¹⁷¹ Palakkad, Manjeri, Wayanad,

¹⁷² For Thiruvananthapuram, the data provided for the number of jail visiting lawyers and convict paralegal volunteers appointed, do not seem appropriate. It might be the case that Thiruvananthapuram has confused the number of actors with the number of visits that were made to the JLAC. Compared to other districts, there is a stark difference in terms of the data provided by Thiruvananthapuram on the appointment of actors in the JLACs. There are 384 panel lawyers and 864 convict paralegal volunteers that are appointed.

¹⁷³ Manjeri, Thrissur, Alappuzha.

¹⁷⁴ The number of visits for one year was requested, therefore, 912 visits does not appear correct.

¹⁷⁵ Idukki, Alappuzha.

RTI application. While Alappuzha did not maintain a scrutiny and evaluation register, Idukki stated that it maintained the same but no copies were attached with the responses to the RTI application.

- b) **Time Taken to Assign Cases to Lawyers:** Information regarding the time it takes for the authorities to assign a legal aid lawyer was sought by asking for details of the last five legal aid cases from every district. This information was received for 44 cases from nine districts. In half of the cases, the lawyer was assigned on the same day. With an average of two days to assign a lawyer, in no case, did the assignment take more than ten days.
- c) **Representation & Outcome:** Panel lawyers represented 651 accused persons in five districts.¹⁷⁶ Only Palakkad provided information on the number of accused (12) represented by retainer lawyers. In total, 250 cases were disposed. While 47 persons were released on bail in five districts,¹⁷⁷ there were 36 acquittals in four districts.¹⁷⁸ Wayanad and Thiruvananthapuram did not provide data on releases.

2.2.2 Representations by Remand Lawyers & their Outcomes

Only Palakkad and Idukki maintained records on the number of persons represented and released in court: 19 lawyers represented 244 persons in custody of which 121 persons were granted bail and 114 were released on bail.

2.3 Monitoring Legal Aid Providers

2.3.1 Monitoring Panel & Retainer Lawyers

MCs are mandated to review the day-to-day working of legal aid cases. In order to track the progress of legal aid cases, registers are crucial. However, none of the districts appeared to maintain any such register.

The level of accountability in these three districts which constituted the MC is also not at par, as none of them submitted any bi-monthly reports or progress reports. Alappuzha and Thrissur submitted completion reports. Alappuzha and Thrissur submitted completion reports. The completion reports while received from Thrissur were just in the form of the judgement of the cases.

2.3.2 Monitoring Remand Lawyers

1. **ATTENDANCE CERTIFICATES & WORK REPORTS:** The responses to the RTI application that were received show that none of the remand counsels maintain work and attendance registers. No action has been taken by the SLSA or the DLSA on the same.
2. **DLSA COMPLIANCE REPORTS FOR SLSA:** No compliance reports are sent by the DLSA to the SLSA.

2.3.3 Complaints against Legal Aid Lawyers

Legal aid lawyers may be removed from the panel if they do not perform satisfactorily or act contrary to the object and spirit of the Legal Services Act, 1987 and the Regulations. While no complaints were received for remand and bail lawyers, in Palakkad one complaint was received for panel lawyers. In Idukki, three panel lawyers were removed and from Palakkad, two were removed.

¹⁷⁶ Idukki, Manjeri, Alappuzha, Thrissur, Palakkad.

¹⁷⁷ Alappuzha, Manjeri, Idukki, Palakkad, Thrissur.

¹⁷⁸ Manjeri, Idukki, Palakkad, Thrissur.



LAKSHADWEEP

SNAPSHOT



No response was received on CHRI's RTI request



Occupancy Rate
37.5%

No. of Undertrial Prisoners (Proportion)
23 (95.83%)

Period of Detention
<1 year: 100% | 1-3 years : 0% | >3 years: 0%

Literacy Rate (Prison)
100%

| | Central | District | Sub-jails | Others | Total |
|------------|---------|----------|-----------|--------|-------|
| Prisons | 0 | 0 | 4 | 0 | 4 |
| Population | 0 | 0 | 24 | 0 | 24 |

Deaths in Prisons
0

Prison Death Rate
0

Prison Suicide Rate
0

Outside Suicide Rate
6.3



No. of DLSAs
NIL

No. of TLSCs/ SDLSCs
2

Legal Aid Beneficiaries in Prisons
0

Legal Aid Website
Available

Legal Aid Rules & Regulations
Not Available



No. of District Court Judges
2

Judges : State Population
31.02 per million

Pendency of District Court
325

No. of Prosecutors
5

No. of High Court Judges
NA

Judges : State Population
NA

Pendency of High Court
NA



| Number of Police stations | |
|---------------------------|-----------|
| Sanctioned | Actual |
| 16 | 16 |
| Persons Arrested | |
| 64 | |

| Number of Police Officials | | |
|----------------------------|------------|------------|
| Sanctioned | Actual | Vacancies |
| 562 | 404 | 158 |
| Crime Rate | | |
| 61 | | |



PUDUCHERRY

SNAPSHOT



Occupancy Rate
45.9%

No. of Undertrial Prisoners (Proportion)
107 (56.02%)

Period of Detention
<1 year: 91.6% | 1-3 years : 7.5% | >3 years: 0.9%

Literacy Rate (Prison)
86.91%

| | Central | District | Sub-jails | Others | Total |
|------------|---------|----------|-----------|--------|-------|
| Prisons | 1 | 0 | 1 | 2 | 4 |
| Population | 162 | 0 | 4 | 25 | 191 |

Deaths in Prisons
1

Prison Death Rate
523.56 per million

Prison Suicide Rate
523.56

Outside Suicide Rate
43.2



No. of DLSAs
1

No. of TLSCs/ SDLSCs
3

Legal Aid Beneficiaries in Prisons
45

Legal Aid Website
Available

Legal Aid Rules & Regulations
**The Union Territory of Pondicherry
Legal Services Authority Rules, 1998**



No. of District Court Judges
13

Judges : State Population
10.42 per million

Pendency of District Court
27,897

No. of Prosecutors
4

No. of High Court Judges
NA

Judges : State Population
NA

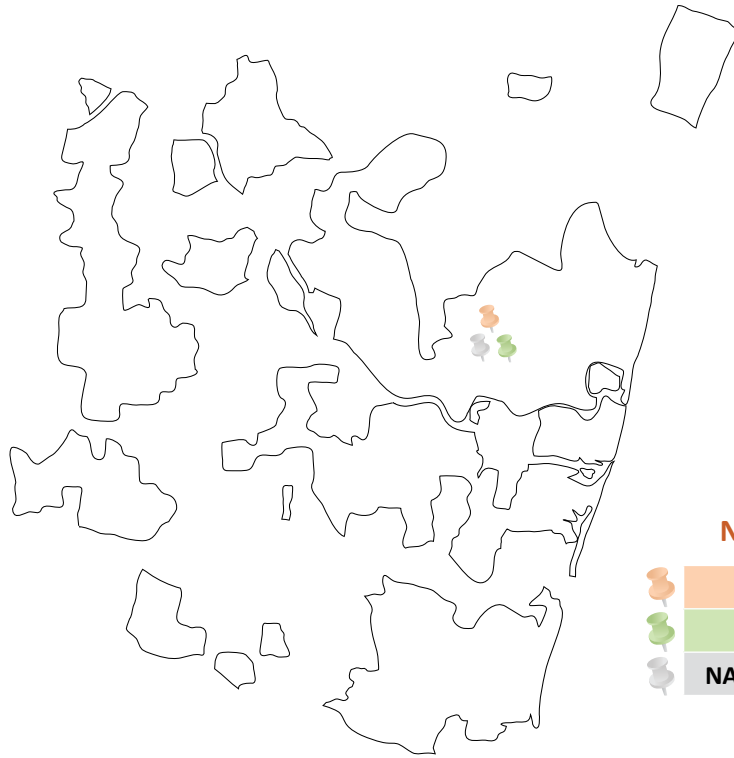
Pendency of High Court
NA













| Number of Police stations | |
|---------------------------|-----------|
| Sanctioned | Actual |
| 53 | 53 |
| Persons Arrested | |
| 6,003 | |

| Number of Police Officials | | |
|----------------------------|--------------|------------|
| Sanctioned | Actual | Vacancies |
| 4,227 | 3,728 | 499 |
| Crime Rate | | |
| 290.3 | | |

LEGAL AID SNAPSHOT



| | | |
|---|--|---|
|  <p>At Legal Services Institution (LSI)</p> |  <p>In Jail</p> |  <p>At Court</p> |
|  <p>Retainer Lawyer</p> <p>Appointment: 1/1 DLSAs</p> |  <p>Jail Legal Aid Clinic (JLAC)</p> <p>Constitution: Not Provided</p> |  <p>Remand Lawyer</p> <p>Appointment: 1/1 DLSAs</p> |
|  <p>Monitoring Committee (MC)</p> <p>Constitution : 0/1 DLSAs</p> |  <p>Convict Paralegal Volunteer</p> <p>Appointment: Not Provided</p> |  <p>Panel Lawyer</p> <p>Appointment: 1/1 DLSAs</p> |
| |  <p>Jail Visiting Lawyer</p> <p>Appointment: Not Provided</p> | |

LEGAL AID FINDINGS

Puducherry's prisons house 191 inmates in four jails.¹⁷⁹ The union territory has four districts with the same number of DLSAs. We received responses from the Puducherry Legal Services Authority for all three schemes.

VERDICT: It is evident from the responses received, that the legal aid infrastructure is in place in Puducherry, even though it is not being implemented to its fullest capacity.

Similarly, whilst certain reporting mechanisms are in place, they have yet to be utilised in the manner in which the scheme envisioned. It is difficult, with the limited information provided, to fully and effectively assess the status of legal aid infrastructure in the Union Territory of Puducherry.

Important Regulations/ Circulars from the SLSA on Persons in Custody

No regulations, circulars or notices were received.

NALSA 2010 Regulations: Free and Competent Legal Services Regulations

| | |
|--|----------------------------|
| Name of Union Territory | Puducherry Union Territory |
| Number of Panel Lawyers Appointed | 147 |
| Number of Retainer Lawyers Appointed | 5 |
| Monitoring Committee | Information not provided |
| Scrutiny and Evaluation Committee | Not constituted |
| Reports to be Maintained by Panel & Retainer Lawyers | Completion Reports |

NALSA 2011 Regulations: Legal Aid Clinics Regulations

| | |
|---|---|
| Name of Union Territory | Puducherry Union Territory |
| Name of the Jail | i) Central Prison, Puducherry ii) Sub jail, Mahe iii) Sub jail, Yanam iv) Sub jail, Karaikal |
| Legal Aid Clinic | Constituted in all four jails |
| Appointment of Jail Visiting Lawyers | Information not provided |
| Appointment of Prisoner Paralegal Volunteers | Information not provided |
| Appointment of Community Paralegal Volunteers | Information not provided |
| Reports and Registers Maintained | i) Work Register ii) Attendance Register |

NALSA 1998 Scheme: Model Scheme for 'Legal Aid Counsel' In All Courts of Magistrates, if any

| | |
|--|----------------------------|
| Name of Union Territory | Puducherry Union Territory |
| Number of Magistrate Courts | 8 |
| Number of Magistrate Courts that Undertake Remand Hearings | 8 |
| Appointment of Remand and Bail lawyers | 8 |
| Reports Maintained by Legal Aid Counsel | Nil |

¹⁷⁹ Prison Statistics India, 2015, National Crime Records Bureau, pp. 10 and 20.



TAMIL NADU

SNAPSHOT



Occupancy Rate
63.6%

No. of Undertrial Prisoners (Proportion)
7,850 (55.6%)

Period of Detention
<1 year: 87.7% | 1-3 years :9.6% | >3 years: 2.7%

Literacy Rate (Prison)
66.24%

| | Central | District | Sub-jails | Others | Total |
|------------|---------|----------|-----------|--------|-------|
| Prisons | 9 | 9 | 96 | 23 | 137 |
| Population | 10201 | 835 | 2031 | 1055 | 14122 |

Deaths in Prisons
69

Prison Death Rate
488.6 per million

Prison Suicide Rate
35.41

Outside Suicide Rate
22.8



No. of DLSAs
32

No. of TLSCs/ SDLSCs
150

Legal Aid Beneficiaries in Prisons
7473

Legal Aid Website
Available

Legal Aid Rules & Regulations

The Tamil Nadu State Legal Services Authorities Rules, 1997



No. of District Court Judges
926

Judges : State Population
12.83 per million

Pendency of District Court
10,837,91

No. of Prosecutors
338

No. of High Court Judges
54

Judges : State Population
0.75 per million

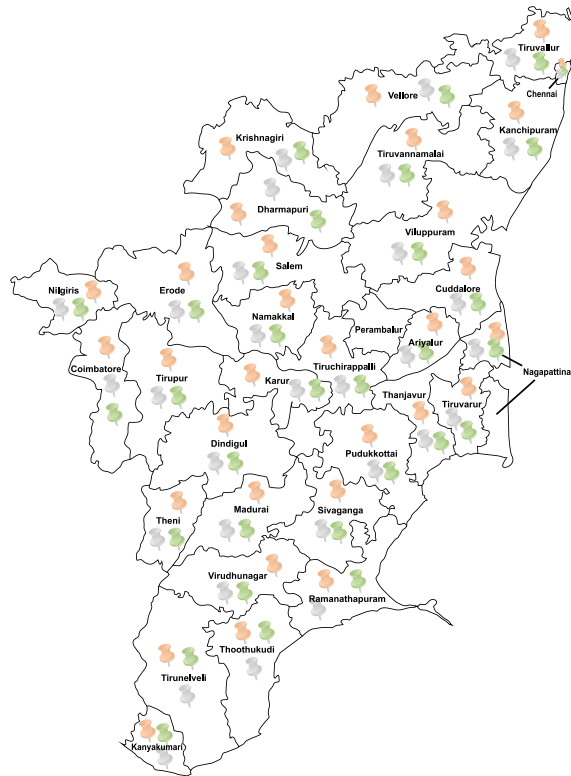
Pendency of High Court
3,01,553



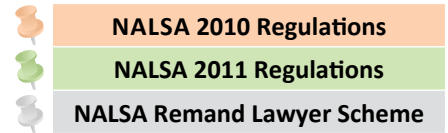
| Number of Police stations | |
|---------------------------|--------------|
| Sanctioned | Actual |
| 1,541 | 1,533 |
| Persons Arrested | |
| 6,11,971 | |

| Number of Police Officials | | |
|----------------------------|----------------|--------------|
| Sanctioned | Actual | Vacancies |
| 136,002 | 128,197 | 7,805 |
| Crime Rate | | |
| 672.3 | | |

LEGAL AID SNAPSHOT



No. of DLSAs Responded



At Legal Services Institution (LSI)



In Jail



At Court



Retainer Lawyer

Appointment: Not Provided



Jail Legal Aid Clinic (JLAC)

Constitution: Not Provided



Remand Lawyer

Appointment: Not Provided



Monitoring Committee (MC)

Constitution : Not Provided



Convict Paralegal Volunteer

Appointment: Not Provided



Panel Lawyer

Appointment: Not Provided



Jail Visiting Lawyer

Appointment: Not Provided

LEGAL AID FINDINGS

Tamil Nadu's prisons house 14,122¹⁸⁰ inmates in 137 jails. The State has 32 districts and 29 DLSAs. A cumulative response was received from the Tamil Nadu State Legal Services authority.

Important Regulations/ Circulars from the SLSA on Persons in Custody

No regulations, circulars or notices were received.

VERDICT: Since, we did not receive district-wise information of the legal aid delivery, the assessment has been done at the state-level. Infrastructure of legal aid delivery- appointment of legal aid providers, constitution of jail legal aid clinics and MCs, all seem to be in place.

1. LEGAL AID FRAMEWORK

1.1 Appointment of Legal Aid Providers

Every legal services institution has to appoint a panel of lawyers for a term of three years. These lawyers represent those persons who are in need of legal representation and are entitled to legal aid. **Retainer lawyers** are also drawn from among this panel by the executive chairperson of the legal services institution for a fixed period. They are paid a monthly fee, and in addition to representing persons in court they are expected to assist in the administrative affairs of the legal aid institution. Another category of lawyers, i.e. **legal aid counsels** (commonly referred as **remand lawyers**) are assigned to magistrate courts and are mandated to be present during remand hours to defend any unrepresented accused person.

- a) **Panel & Retainer Lawyers:** In total, 3,363 panel lawyers and 205 retainer lawyers were appointed in the state of Tamil Nadu. Additionally, 1,804 senior lawyers, retired judicial officers, mediators and law professors were appointed to the panel as of 30 June 2016.
- b) **Remand Lawyers:** In Tamil Nadu, there are 150 magistrate courts that take up remand hearings and 335 remand lawyers are appointed in these courts. In terms of the tenure of these lawyers, **most of the DLSAs appointed the lawyers for a month.** Remand lawyers were appointed in all the magistrate courts undertaking remand hearings across the state. According to the response of the SLSA, training was provided to the remand lawyers.

1.2 Legal Aid Clinics in Jails

1.2.1 Constitution of Jail Legal Aid Clinics

Jail legal aid clinics play an important role in identifying and assisting prisoners in need of representation. Every jail is expected to set up a legal aid clinic manned by PLVs, and visited by legal aid lawyers. **The response received from the SLSA regarding the constitution of legal aid clinics was provided in two parts. There were only 16 jails wherein the legal aid clinics were already constituted at the time the RTI application was filed. The remaining 94 JLACs were constituted in July 2016, after the date specified in the RTI application.**

1.2.2 Appointment of Legal Aid Providers for Jail Legal Aid Clinics

The SLSA's response stated that all panel lawyers are deputed to visit jails on a rotational basis. Central jails are to be visited on a daily basis, whilst sub jails are to be visited on a weekly basis. Twenty-four community PLVs were appointed but it was unclear as to whether they were appointed to all JLACs or to specific ones.

The SLSA provided one appointment letter for both JVLs and PVLs. Both JVLs and PVLs were directed to be

¹⁸⁰ Prison Statistics India, 2015, National Crime Records Bureau, pp. 10 and 20.

present at a specific JLAC every Tuesday between 3:00 pm and 5:00 pm during the month of July 2016. The PLVs were additionally directed to maintain registers which were to be produced before the secretary of the DLSA on or before the fifth of the next month, along with the panel lawyer's report.

1.3 Constitution of Monitoring Committees (MCs)

MCs established under Regulation 10 of the NALSA 2010 Regulations are expected to monitor the work of panel and retainer lawyers. All 32 DLSAs constituted MCs. Dates of constitution were not provided.

2. LEGAL AID DELIVERY

2.1. Legal Aid Delivery in Jails

2.1.1 Visits by Legal Aid Providers in Jails

JAIL VISITING LAWYERS (JVLs): The SLSA issued a circular clearly directing lawyers to visit the central jails daily, and on alternate days for other jails. Information regarding the actual number of visits made by JVLs was not provided.

CONVICT PLVS: Since no convict PLVs were appointed, the information regarding the mandate, and the actual number of times the clinic was conducted by convict paralegal volunteers was not provided.

COMMUNITY PLVS: The mandate for community PLVs as provided by the SLSA, is once a week.

2.1.2 Registers & Records

Work registers were maintained in the jails, and the SLSA provided a format for the same. It was handwritten and clear. It specifically included columns such as date, name of aid seeker, name of PLV, contact number and address of aid seeker and the nature of services, in brief. A copy of the work report maintained by the jail visiting lawyer was also provided and it was reasonably detailed. It included the number of cases dealt during month and the number of petitions filed.

The SLSA stated that the attendance and work registers are reviewed when the chairperson and secretary of respective DLSAs visit the jails. However, in the appointment letter for JVLs and PLVs, the PLVs were specifically directed to submit these reports to the DLSA on or before the fifth of every month.

2.2 Assignment of Cases to Legal Aid Providers & their Outcomes

2.2.1 Assignment of Cases to Panel Lawyers & their Outcomes

- a) **Scrutiny Committee & Legal Aid Application:** On receiving a legal aid application, the scrutiny and evaluation committee of the legal services institution decides if the applicant is entitled to legal aid. Scrutiny and evaluation committees, which ascertain whether a prisoner is entitled to free legal aid, were not constituted in the State of Tamil Nadu. Throughout the state, there were 340 cases where legal aid counsel were not appointed since the person in custody already had a lawyer. Additionally, there were 73 cases where remand lawyers were not appointed due to deficiencies in the legal aid application.
- b) **Time Taken to Assign Cases to Lawyers:** Information regarding the time it takes for the authorities to assign a legal aid lawyer was sought by asking for details of the last five legal aid cases from every district. However, no case details were provided.
- c) **Representation & Outcome:** Panel lawyers represented a total of 2,065 persons, while retainer lawyers represented 50 persons. In total, 926 persons were released on bail and 267 persons were acquitted. Since the SLSA did not provide district-wise information for representations and releases, it is difficult to assess which districts are maintaining this information and which are not.

2.2.2 Representations by Remand Lawyers & their Outcomes

Of the 1,202 persons represented by the legal aid counsel, 838 were granted bail and 694 were released on bail. In total 30 persons were discharged.

2.3 Monitoring Legal Aid Providers

2.3.1 Monitoring Panel & Retainer Lawyers

MCs are mandated to review the day-to-day working of legal aid cases. Supporting documents to understand the functioning of the MCs were not provided. The progress report submitted by the lawyers in Tamil Nadu, reflect a healthy culture of providing information on the progress of the cases to the legal aid authorities.

2.3.2 Monitoring Remand Lawyers

1. **ATTENDANCE CERTIFICATES & WORK REPORTS:** In total, 209 attendance certificates and 65 work reports were submitted by the remand lawyers to the authority during the given time period. Two copies of the attendance certificate were attached with the SLSA's response.
2. **DLSA COMPLIANCE REPORTS FOR SLSA:** The Tamil Nadu SLSA's response states that the compliance reports from the DLSAs to the SLSA are sent on a monthly basis. A basic format of the same was also provided.

2.3.3 Complaints against Legal Aid Lawyers

Legal aid lawyers may be removed from the panel if they do not perform satisfactorily or act contrary to the object and spirit of the Legal Services Act, 1989 and the Regulations. No complaints were received against panel or remand and bail lawyers, and thus no lawyers were removed as a result.



TELANGANA

SNAPSHOT



Occupancy Rate
87.8%

No. of Undertrial Prisoners (Proportion)
3522 (56.8%)

Period of Detention
<1 year: 97% | 1-3 years : 3% | >3 years: 0%

Literacy Rate (Prison)
70.04%

| | Central | District | Sub-jails | Others | Total |
|------------|---------|----------|-----------|--------|-------|
| Prisons | 3 | 7 | 33 | 7 | 50 |
| Population | 3489 | 1674 | 526 | 512 | 6201 |

Deaths in Prisons
33

Prison Death Rate
532.17 per million

Prison Suicide Rate
0

Outside Suicide Rate
27.7



No. of DLSAs
11

No. of TLSCs/ SDLSCs
78

Legal Aid Beneficiaries in Prisons
585

Legal Aid Website
Available

Legal Aid Rules & Regulations
Andhra Pradesh State Legal Services Authority Rules, 1995
Andhra Pradesh State Legal Services Authority Regulations, 1996



No. of District Court Judges
888

Judges : State Population
NA

Pendency of District Court
10,78,586

No. of Prosecutors
NA

No. of High Court Judges
27

Judges : State Population
NA

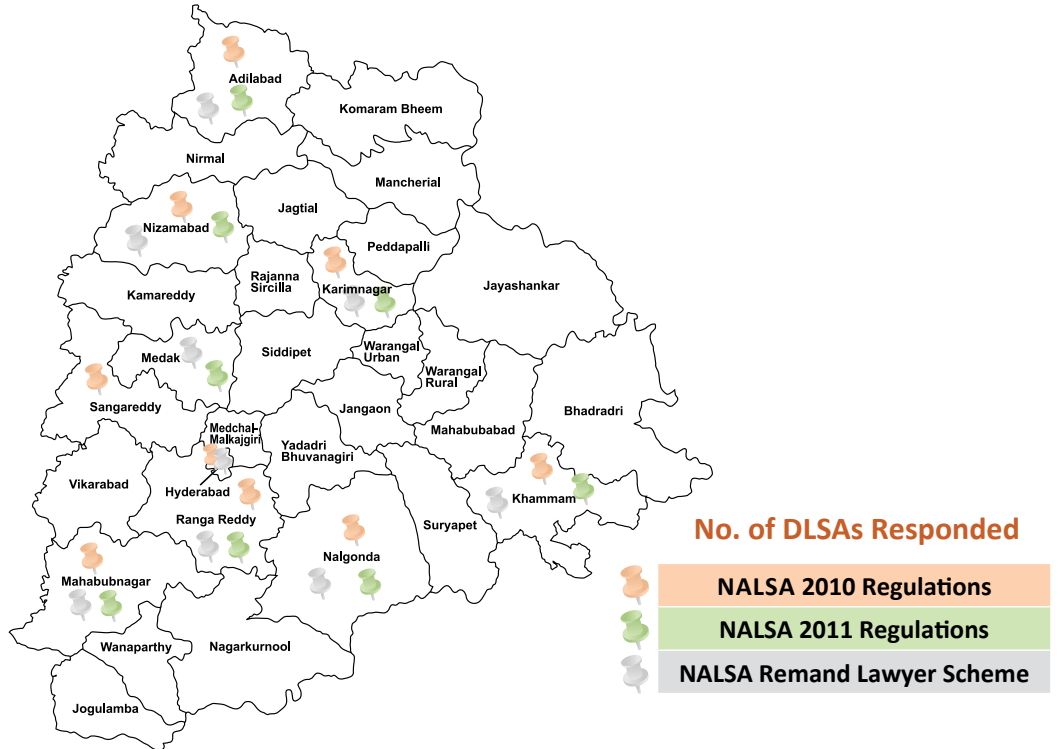
Pendency of High Court
3,04,422



| Number of Police stations | |
|---------------------------|------------|
| Sanctioned | Actual |
| 721 | 721 |
| Persons Arrested | |
| 1,43,145 | |

| Number of Police Officials | | |
|----------------------------|---------------|---------------|
| Sanctioned | Actual | Vacancies |
| 63,064 | 47,020 | 16,044 |
| Crime Rate | | |
| 326.3 | | |

LEGAL AID SNAPSHOT




At Legal Services Institution (LSI)



In Jail



At Court



Retainer Lawyer
Appointment: 2/9 DLSAs



Jail Legal Aid Clinic (JLAC)
Constitution: 32 Jails



Remand Lawyer
Appointment: 7/9 DLSAs



Monitoring Committee (MC)
Constitution : 7/9 DLSAs



Convict Paralegal Volunteer
Appointment: 5/32 JLAC



Panel Lawyer
Appointment: 9/9 DLSAs



Jail Visiting Lawyer
Appointment: 25/32 JLAC

LEGAL AID FINDINGS

Telangana's prisons house 6,201 inmates in 50 jails.¹⁸¹ These jails are distributed over ten districts. We received responses from nine¹⁸² of these ten districts for all three RTI applications filed.

VERDICT: With regards to appointment of panel and retainer lawyers, as well as remand and bail lawyers, the SLSA provided district-wise information which allows us to assess the legal aid infrastructure throughout the state. For most of the information, however, the SLSA provided a cumulative response, which makes it difficult to assess which districts are maintaining records, registers and reports and which districts are not.

Important Regulations/ Circulars from the SLSA on Persons in Custody

1. Notification No.8/26/2014-MASLSA-I on the appointment of panel advocates as JVLs.

2. Notification no. 8/13/2015-MASLSA on the appointment of members to the committee that is to visit jails.

1. LEGAL AID FRAMEWORK

1.1 Appointment of Legal Aid Providers

Every legal services institution has to appoint a panel of lawyers for a term of three years. These lawyers represent those persons who are in need of legal representation and are entitled to legal aid. **Retainer lawyers** are also drawn from among this panel by the executive chairperson of the legal services institution for a fixed period. They are paid a monthly fee, and in addition to representing persons in court they are expected to assist in the administrative affairs of the legal aid institution. Another category of lawyers, i.e. **legal aid counsels** (commonly referred as **remand lawyers**) are assigned to magistrate courts and are mandated to be present during remand hours to defend any unrepresented accused person.

- a) **Panel & Retainer Lawyers:** In total, 393 panel lawyers were appointed in all nine districts and 148 retainer lawyers in seven districts. In both Ranga Reddy and Adilabad, the DLSAs were waiting for the approval from the SLSA on the list of retainer lawyers.
- b) **Remand Lawyers:** Seven districts appointed 117 legal aid counsels to 135 magistrate courts that undertook remand and bail hearings.¹⁸³ In Telangana, the tenure for legal aid counsel was set at three years. An appointment letter for remand and bail counsel was provided by Nizamabad, which followed the format specified in the Andhra Pradesh Model Scheme.

1.2 Legal Aid Clinics in Jails

1.2.1 Constitution of Jail Legal Aid Clinics

Jail legal aid clinics play an important role in identifying and assisting prisoners in need of representation. Every jail is expected to set up a legal aid clinic manned by PLVs, and visited by legal aid lawyers. The Telangana State Legal Services Authority sent out a circular dated 4 September 2015 requesting all DLSAs to set up legal aid clinics. **The information on the working of jail legal aid clinics was provided by eight DLSAs on 32 jails, and all of them had constituted JLACs in their respective jails.** While most JLACs were constituted in 2015, the district jail in Nizamabad was constituted in 2011, soon after the legal aid clinic regulations were introduced.

¹⁸¹ Prison Statistics India, 2015, National Crime Records Bureau, pp. 10 and 20.

¹⁸² Mahabubnagar, Khammam, Karimnagar, Nalgonda, Adilabad, Sangareddy, Ranga Reddy, Nizamabad, Hyderabad.

¹⁸³ Mahabubnagar did not provide information on the number of remand and bail lawyers appointed. Additionally, in Adilabad, one magistrate court, and in Ranga Reddy, four magistrate courts were not appointed with legal aid counsels.

1.2.2 Appointment of Legal Aid Providers for Jail Legal Aid Clinics

In total, 178 JVLs were appointed in 25 jail legal aid clinics.¹⁸⁴ 14 convict PLVs were appointed in only five clinics,¹⁸⁵ and seven¹⁸⁶ clinics had ten community PLVs.

Two¹⁸⁷ appointment letters for JVLs and community PLVs were provided. The one provided by Karimnagar includes the names of advocates and community PLVs according to the jails that they have been appointed to. Additionally, they are directed to be present at the clinics in their respective jails, every Saturday from 10:30 am to 5:00 pm and submit reports to the secretary or respective chairperson on or before the first of every month.

1.3 Constitution of Monitoring Committees (MCs)

MCs established under Regulation 10 of the NALSA 2010 Regulations are expected to monitor the work of panel and retainer lawyers. **All eight districts that responded have constituted MCs.** Interestingly, five of them were constituted in 2010, two in 2011 and one in 2016. The legal aid infrastructure for persons in custody was thus put in place in Telangana quite early. The members of the MC in all districts consist of the chairperson, secretary and an advocate.

2. LEGAL AID DELIVERY

2.1. Legal Aid Delivery in Jails

2.1.1 Visits by Legal Aid Providers in Jails

JAIL VISITING LAWYERS (JVLs): No specific state mandate for the visit of JVLs was provided. Seven out of the eight districts responded that visits take place once a week, on every working Saturday. The eighth district, Sangareddy, specified that lawyers are expected to visit the jail clinic once a month. No district fulfilled its mandates, only three coming close, with over 40 visits.

CONVICT PLVS: Jail legal aid clinics are expected to function, according to the responses received, on every working Saturday. However, the one district that appointed convict PLVs stated that the clinic was operational only eight times during the year.

COMMUNITY PLVS: Community PLVs have to be present at jail legal aid clinics on every working Saturday, according to the responses received.

2.1.2 Registers & Records

Work registers and attendance registers were maintained by six of the eight districts that responded. Medak at Sangareddy and Nizamabad were the only districts to provide copies of the work registers. The registers maintained by Nizamabad provided details regarding problems faced, but unlike most registers, case details were not included in the format.

The frequency with which the DLSA reviewed the attendance and work registers were mostly twice a month, but one district, Nizamabad, stated that they were only called for twice a year.

2.2 Assignment of Cases to Legal Aid Providers & their Outcomes

2.2.1 Assignment of Cases to Panel Lawyers & their Outcomes

a) Scrutiny Committee & Legal Aid Application: On receiving a legal aid application, the scrutiny and evaluation

¹⁸⁴ None of the four JLACs in Adilabad appointed JVLs and three jails in Sangareddy did not appoint JVLs.

¹⁸⁵ Jails in Khammam and Adilabad.

¹⁸⁶ District Jail Karimnagar, Sub jail Jagtial, Sub jail Huzurabad, District Jail Adilabad, Sub jail Asifabad, Sub jail Nirmal, Sub jail Luxettipet.

¹⁸⁷ Karimnagar, Nizamabad.

committee of the legal services institution decides if the applicant is entitled to legal aid. Scrutiny and evaluation committees were constituted in all eight districts that responded. However, only five¹⁸⁸ of these eight districts maintained scrutiny and evaluation committee registers. There were zero cases where a legal aid lawyer was not appointed due to deficiencies in application or due to the fact that the person in custody already had a lawyer.

- b) **Time Taken to Assign Cases to Lawyers:** Information regarding the time it takes for the authorities to assign a legal aid lawyer was sought by asking for details of the last five legal aid cases from every district. This information was received for 15 cases from three districts. The average duration taken for assigning lawyers was nine days. In only one case was the assignment made on the same day, and in two cases on the next day. The Sangareddy DLSA took the longest time to assign lawyers: all five cases took more than 15 days, with one case taking 28 days.
- c) **Representation & Outcome:** Panel lawyers represented 113 persons in the four districts. Only nine persons were represented by retainers in Karimnagar, the only district to appoint retainers.

2.2.2 Representations by Remand Lawyers & their Outcomes

Only two districts, Karimnagar and Mahabubnagar, provided data on persons represented and released in accordance with the Model Scheme. In the two districts, 161 persons were represented, of which 36 were released on bail and 40 were granted bail, but were not released. The remaining districts either did not maintain this information or did not share it with us.

2.3 Monitoring Legal Aid Providers

2.3.1 Monitoring Panel & Retainer Lawyers

MCs are mandated to review the day-to-day working of legal aid cases. In order to track the progress of legal aid cases, registers are crucial. **All MCs maintained registers.** Bi-monthly reports were maintained and submitted by four districts,¹⁸⁹ and a total of 21 bi-monthly reports were submitted by these districts. In only two districts,¹⁹⁰ panel lawyers submitted case progress reports, whilst lawyers in four districts¹⁹¹ maintained completion reports.

2.3.2 Monitoring Remand Lawyers

1. **ATTENDANCE CERTIFICATES & WORK REPORTS:** Work reports and attendance certificates were either not maintained, or have not been shared with us.
2. **DLSA COMPLIANCE REPORTS FOR SLSA:** DLSA compliance reports were sent to the SLSA by seven out of the eight districts. But the time frame during which they are called for, varies between every month to “as and when called for” by the SLSA. Without a defined time frame for review, it would be difficult to assess the implementation of the scheme.

2.3.3 Complaints against Legal Aid Lawyers

Legal aid lawyers may be removed from the panel if they do not perform satisfactorily or act contrary to the object and spirit of the Legal Services Act, 1989 and the Regulations. No complaints were received against panel or remand and bail lawyers, and thus no lawyer was removed.

188 Mahabubnagar, Karimnagar, Nalgonda, Sangareddy, Ranga Reddy.

189 Nizamabad, Sangareddy, Khammam, Mahububnagar.

190 Ranga Reddy, Sangareddy.

191 Ranga Reddy, Nalgonda, Karimnagar, Khammam.



IV. WESTERN STATES & UNION TERRITORIES

DADRA AND NAGAR HAVELI

DAMAN AND DIU

GOA

GUJARAT

MADHYA PRADESH

MAHARASHTRA

RAJASTHAN

DADRA AND NAGAR HAVELI

SNAPSHOT



Occupancy Rate
276.7%

No. of Undertrial Prisoners (Proportion)
166 (100%)

Period of Detention
<1 year: 97.6% | 1-3 years : 2.4% | >3 years: 0%

Literacy Rate (Prison)
94.58%

| | Central | District | Sub-jails | Others | Total |
|------------|---------|----------|-----------|--------|-------|
| Prisons | 0 | 0 | 1 | 0 | 1 |
| Population | 0 | 0 | 166 | 0 | 166 |

Deaths in Prisons
0

Prison Death Rate
0

Prison Suicide Rate
0

Outside Suicide Rate
25.4



No. of DLSAs
1

No. of TLSCs/ SDLSCs
Nil

Legal Aid Beneficiaries in Prisons
0

Legal Aid Website
Not Available

Legal Aid Rules & Regulations
Not Available



No. of District Court Judges
3

Judges : State Population
8.73 per million

Pendency of District Court
3,558

No. of Prosecutors
1

No. of High Court Judges
NA

Judges : State Population
NA

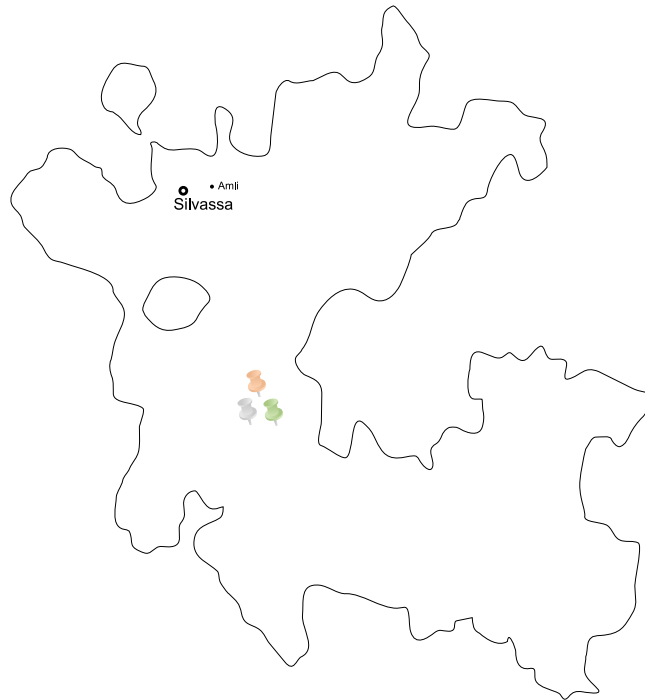
Pendency of High Court
NA



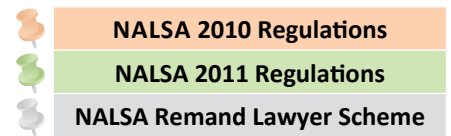
| Number of Police stations | |
|---------------------------|----------|
| Sanctioned | Actual |
| 2 | 2 |
| Persons Arrested | |
| 394 | |











| Number of Police Officials | | |
|----------------------------|------------|-----------|
| Sanctioned | Actual | Vacancies |
| 354 | 338 | 16 |
| Crime Rate | | |
| 60.2 | | |

LEGAL AID SNAPSHOT



No. of DLSAs Responded



|  At Legal Services Institution (LSI) |  In Jail |  At Court |
|---|--|---|
|  Retainer Lawyer Appointment: 1/1 DLSAs |  Jail Legal Aid Clinic (JLAC) Constitution: Not Provided |  Remand Lawyer Appointment: 1/1 DLSAs |
|  Monitoring Committee (MC) Constitution : 1/1 DLSAs |  Convict Paralegal Volunteer Appointment: Not Provided |  Panel Lawyer Appointment: 1/1 DLSAs |
| |  Jail Visiting Lawyer Appointment: Not Provided | |

LEGAL AID FINDINGS

Dadra and Nagar Haveli's prison houses 166 inmates.¹⁹² There is only one district in this Union Territory - Silvassa. We received a response from the district and sessions court in Silvassa for all three RTI applications filed.

Legal aid infrastructure for persons in custody is only partially in place. Legal aid providers were appointed, MC constituted, but jail legal aid clinics are yet to be constituted. Additionally, reporting mechanisms are unfortunately, still lacking.

Important Regulations/ Circulars from the SLSA on Persons in Custody

1. SLSA Letter No. MS/SLSA/DNH/MC/2014 dated 8 December 2014 on the constitution of a monitoring committee for the Union Territory of Dadra and Nagar Haveli.

NALSA 2010 Regulations: Free and Competent Legal Services Regulations

| | |
|--------------------------------------|-----------------|
| Name of the District | Silvassa |
| Number of Panel Lawyers Appointed | 4 |
| Number of Retainer Lawyers Appointed | 4 |
| Monitoring Committee | Constituted |
| Scrutiny and Evaluation Committee | Not constituted |
| Reports | Nil |

NALSA 2011 Regulations: Legal Aid Clinics Regulations

| | |
|--|---------------|
| Name of District | Silvassa |
| Name of the Jail | Silvassa Jail |
| Legal Aid Clinic | No |
| Number of Jail Visiting Lawyers Appointed | 0 |
| Number of Prisoner Paralegal Volunteers Appointed | 0 |
| Number of Community Paralegal Volunteers Appointed | 0 |
| Reports and Registers | Nil |

NALSA 1998 Scheme: Model Scheme for Legal Aid Counsel in All Courts of Magistrates

| | |
|--|----------|
| Name of District | Silvassa |
| Number of Magistrate Courts | 2 |
| Number of Magistrate Courts that Undertake Remand Hearings | 2 |
| Number of Remand and Bail Lawyers Appointed | 6 |
| Reports | Nil |

¹⁹² Prison Statistics India, 2015, National Crime Records Bureau, pp. 10 and 20.



DAMAN AND DIU

SNAPSHOT



| | |
|---|-------------------------------------|
| Occupancy Rate 28.8% | Deaths in Prisons 0 |
| No. of Undertrial Prisoners (Proportion) 31 (67.39%) | Prison Death Rate 0 |
| Period of Detention <1 year: 51.6% 1-3 years : 48.4% >3 years: 0% | Prison Suicide Rate 0 |
| Literacy Rate (Prison) 67.39% | Outside Suicide Rate 11.8 |

| | Central | District | Sub-jails | Others | Total |
|------------|---------|----------|-----------|--------|-------|
| Prisons | 0 | 0 | 2 | 0 | 0 |
| Population | 0 | 0 | 46 | 0 | 46 |



| | |
|------------------------------------|--|
| No. of DLSAs 2 | Legal Aid Beneficiaries in Prisons 0 |
| No. of TLSCs/ SDLSCs Nil | Legal Aid Website Not Available |
| | Legal Aid Rules & Regulations Goa, Daman and Diu (Judicial Commissioner's Court) Legal Aid to the Poor Rules, 1979 |



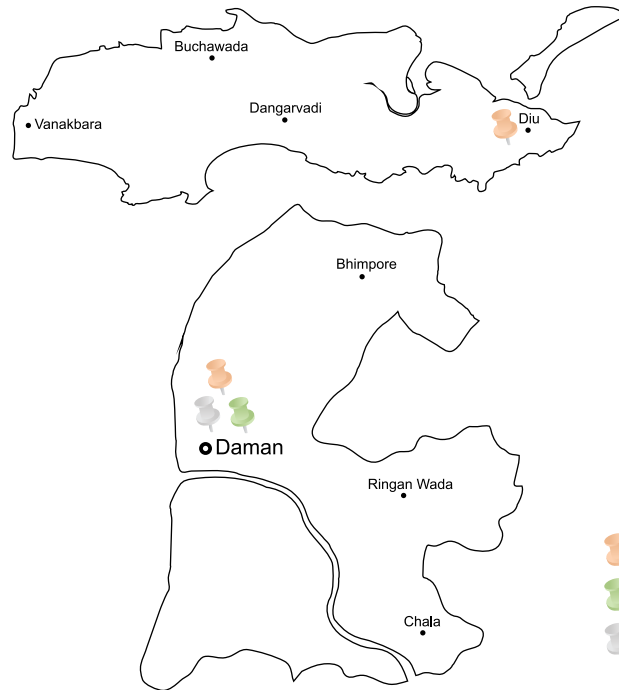
| | |
|---|--|
| No. of District Court Judges 3 | No. of High Court Judges NA |
| Judges : State Population 12.33 per million | Judges : State Population NA |
| Pendency of District Court 1,694 | Pendency of High Court NA |

No. of Prosecutors
3

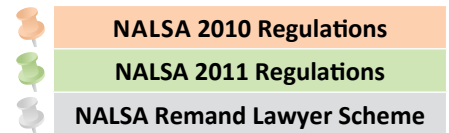












| Number of Police stations | | Number of Police Officials | | |
|---------------------------|----------|----------------------------|------------|-----------|
| Sanctioned | Actual | Sanctioned | Actual | Vacancies |
| 5 | 5 | 354 | 338 | 16 |
| Persons Arrested | | Crime Rate | | |
| 441 | | 85.9 | | |

LEGAL AID SNAPSHOT



No. of DLSAs Responded



| | | |
|---|--|---|
|  <p>At Legal Services Institution (LSI)</p> |  <p>In Jail</p> |  <p>At Court</p> |
|  <p>Retainer Lawyer</p> <p>Appointment: 0/2 DLSAs</p> |  <p>Jail Legal Aid Clinic (JLAC)</p> <p>Constitution: 1 Jail</p> |  <p>Remand Lawyer</p> <p>Appointment: 1/1 DLSAs</p> |
|  <p>Monitoring Committee (MC)</p> <p>Constitution : 0/2 DLSAs</p> |  <p>Convict Paralegal Volunteer</p> <p>Appointment: 0/1 JLAC</p> |  <p>Panel Lawyer</p> <p>Appointment: 2/2 DLSAs</p> |
| |  <p>Jail Visiting Lawyer</p> <p>Appointment: 1/1 JLAC</p> | |

LEGAL AID FINDINGS

Daman and Diu's prisons house 46 inmates in two jails.¹⁹³ The union territory has two districts, and two corresponding DLSAs. However, we only received responses from the Daman District Legal Services Authority for all three RTI applications filed, and none from Diu.

Important Regulations/ Circulars from the SLSA on Persons in Custody

No regulations, circulars or notices were received.

VERDICT: It is evident from the responses received, that legal aid infrastructure for persons in custody is barely in place. Only the 2011 Legal Aid Clinics Regulations seems to be implemented, whilst the other two schemes have yet to be utilised to their fullest capacity. Reporting mechanisms throughout are still significantly lacking in all aspects.

NALSA 2010 Regulations: Free and Competent Legal Services Regulations

| | |
|--------------------------------------|-----------------|
| Name of the District | Daman |
| Number of Panel Lawyers Appointed | 6 |
| Number of Retainer Lawyers Appointed | 0 |
| Monitoring Committee | Not constituted |
| Scrutiny and Evaluation Committee | Not constituted |
| Reports | Nil |

NALSA 2011 Regulations: Legal Aid Clinics Regulations

| | |
|--|---------------------------|
| Name of District | Daman |
| Name of the Jail | Daman Sub Jail |
| Legal Aid Clinic | Yes |
| Number of Jail Visiting Lawyers Appointed | 1 |
| Number of Prisoner Paralegal Volunteers Appointed | 0 |
| Number of Community Paralegal Volunteers Appointed | 2 |
| Reports and Registers | Work Registers maintained |

WORK REGISTERS: Copies of work registers were attached with the responses to the RTI application but the "remarks" section was left blank throughout. Nothing was mentioned about reviewing these work registers by the DLSA. Though crucial, attendance registers were not maintained.

NALSA 1998 Scheme: Model Scheme for Legal Aid Counsel in All Courts of Magistrates

| | |
|--|-------|
| Name of District | Daman |
| Number of Magistrate Courts | 2 |
| Number of Magistrate Courts that Undertake Remand Hearings | 2 |
| Number of Remand and Bail Lawyers Appointed | 0 |
| Reports | Nil |

- 1. ATTENDANCE CERTIFICATES & WORK REPORTS:** These are not maintained.
- 2. DLSA COMPLIANCE REPORTS FOR SLSA:** Although no reports were maintained on the work done by the legal aid counsel, the responses to the RTI application state that reports were sent to the SLSA by the DLSA as and when required.

¹⁹³ Prison Statistics India, 2015, National Crime Records Bureau, pp. 10 and 20.



GOA SNAPSHOT



No response was received on CHRI's RTI request



Occupancy Rate
38.6%

No. of Undertrial Prisoners (Proportion)
263 (62.2%)

Period of Detention
<1 year: 72.2% | 1-3 years :20.9% | >3 years:6.8%

Literacy Rate (Prison)
93.14%

| | Central | District | Sub-jails | Others | Total |
|------------|---------|----------|-----------|--------|-------|
| Prisons | 1 | 0 | 1 | 0 | 2 |
| Population | 212 | 0 | 211 | 0 | 423 |

Deaths in Prisons
1

Prison Death Rate
236.41 per million

Prison Suicide Rate
0

Outside Suicide Rate
15.4



No. of DLSAs
2

No. of TLSCs/ SDLSCs
11

Legal Aid Beneficiaries in Prisons
33

Legal Aid Website
Available

Legal Aid Rules & Regulations

Goa State Legal Services Authority Rules, 1996

Goa State Legal Services Authority Regulations, 1998



No. of District Court Judges
1133

Judges : State Population
30.85 per million

Pendency of District Court
42,735

No. of Prosecutors
NA

No. of High Court Judges
NA

Judges : State Population
NA

Pendency of High Court
NA



Number of Police stations

| Sanctioned | Actual |
|-------------------------|-----------|
| 26 | 26 |
| Persons Arrested | |
| 4027 | |

Number of Police Officials

| Sanctioned | Actual | Vacancies |
|-------------------|--------------|--------------|
| 8,312 | 7,017 | 1,295 |
| Crime Rate | | |
| 186.7 | | |

GUJARAT

SNAPSHOT

No response was received on CHRI's RTI request



Occupancy Rate
95.5%

No. of Undertrial Prisoners (Proportion)
7618 (64.7%)

Period of Detention
<1 year: 60.2% | 1-3 years :27.8% | >3 years: 12.0%

Literacy Rate (Prison)
70.19%

| | Central | District | Sub-jails | Others | Total |
|------------|---------|----------|-----------|--------|-------|
| Prisons | 4 | 7 | 11 | 5 | 27 |
| Population | 7259 | 1979 | 1809 | 731 | 11778 |

Deaths in Prisons
26

Prison Death Rate
220.75 per million

Prison Suicide Rate
16.98

Outside Suicide Rate
11.6



No. of DLSAs
31

No. of TLSCs/ SDLSCs
234

Legal Aid Beneficiaries in Prisons
1070

Legal Aid Website
Available

Legal Aid Rules & Regulations

Gujarat State Legal Services Authorities Rules, 1997
Gujarat State Legal Services Authority Regulations, 1998



No. of District Court Judges
1113

Judges : State Population
18.42 per million

Pendency of District Court
1,72,066

No. of Prosecutors
NA

No. of High Court Judges
31

Judges : State Population
0.51 per million

Pendency of High Court
1,14,270



| Number of Police stations | |
|---------------------------|------------|
| Sanctioned | Actual |
| 650 | 630 |
| Persons Arrested | |
| 541,826 | |

| Number of Police Officials | | |
|----------------------------|---------------|---------------|
| Sanctioned | Actual | Vacancies |
| 106,831 | 76,036 | 30,795 |
| Crime Rate | | |
| 690.3 | | |



MADHYA PRADESH

SNAPSHOT



Occupancy Rate
139.8%

No. of Undertrial Prisoners (Proportion)
21300 (55.4%)

Period of Detention
<1 year: 84.2% | 1-3 years :14.1% | >3 years: 1.8%

Literacy Rate (Prison)
73.2%

| | Central | District | Sub-jails | Others | Total |
|------------|---------|----------|-----------|--------|-------|
| Prisons | 11 | 39 | 72 | 1 | 123 |
| Population | 19693 | 12780 | 5961 | 24 | 38458 |

Deaths in Prisons
135

Prison Death Rate
351.03 per million

Prison Suicide Rate
10.4

Outside Suicide Rate
13.3



No. of DLSAs
50

No. of TLSCs/ SDLSCs
149

Legal Aid Beneficiaries in Prisons
3806

Legal Aid Website
Available

Legal Aid Rules & Regulations

Madhya Pradesh State Legal Services Authorities Rules, 1996
Madhya Pradesh State Legal Services Authority Regulations, 1998



No. of District Court Judges
1298

Judges : State Population
17.87 per million

Pendency of District Court
13,19,970

No. of Prosecutors
678

No. of High Court Judges
36

Judges : State Population
0.50 per million

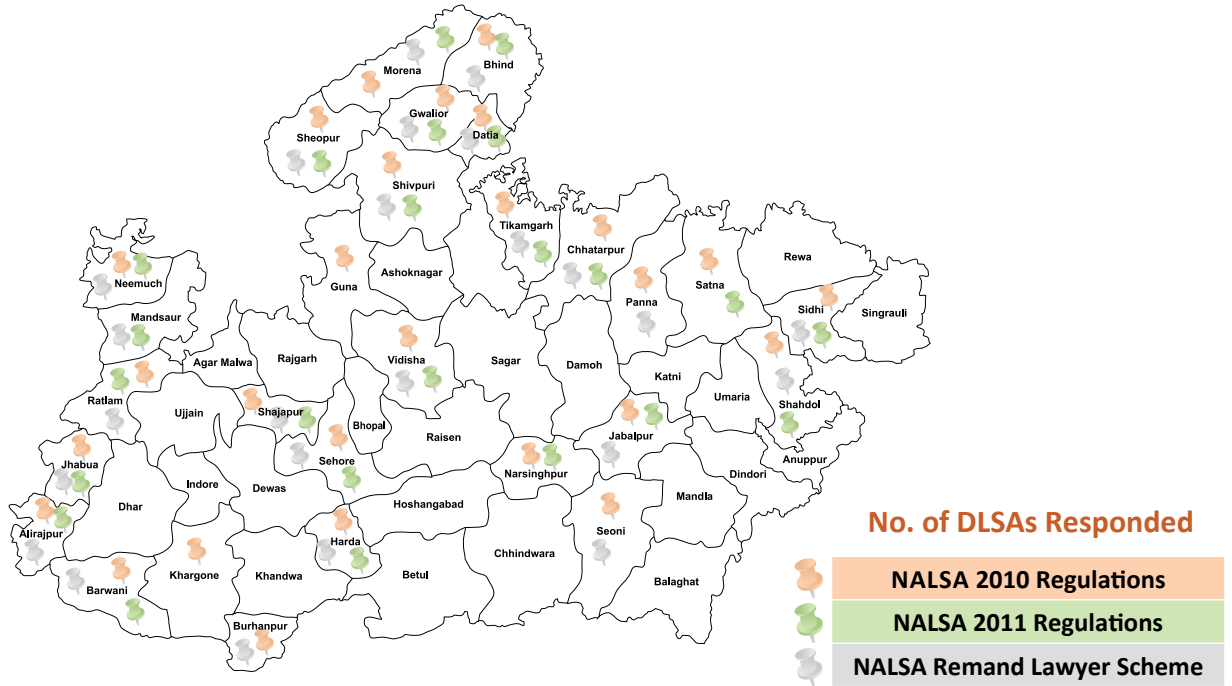
Pendency of High Court
2,95,460













| Number of Police stations | |
|---------------------------|--------------|
| Sanctioned | Actual |
| 1,095 | 1,095 |
| Persons Arrested | |
| 533,851 | |

| Number of Police Officials | | |
|----------------------------|---------------|---------------|
| Sanctioned | Actual | Vacancies |
| 115,726 | 98,466 | 17,260 |
| Crime Rate | | |
| 466.6 | | |

LEGAL AID SNAPSHOT



| | | |
|---|--|---|
|  <p>At Legal Services Institution (LSI)</p> |  <p>In Jail</p> |  <p>At Court</p> |
|  <p>Retainer Lawyer</p> <p>Appointment: 14/27 DLSAs</p> |  <p>Jail Legal Aid Clinic (JLAC)</p> <p>Constitution: 48 Jails</p> |  <p>Remand Lawyer</p> <p>Appointment: 13/24 DLSAs</p> |
|  <p>Monitoring Committee (MC)</p> <p>Constitution : 10/27 DLSAs</p> |  <p>Convict Paralegal Volunteer</p> <p>Appointment: 42/48 JLAC</p> |  <p>Panel Lawyer</p> <p>Appointment: 20/27 DLSAs</p> |
| |  <p>Jail Visiting Lawyer</p> <p>Appointment: 9/48 JLAC</p> | |

LEGAL AID FINDINGS

Madhya Pradesh's prisons house 38,458 inmates in 123 jails¹⁹⁴. These jails are distributed over 50 districts and are under the jurisdiction of the same number of DLSAs. We received responses from 27 districts for the RTI application on the NALSA 2010 Regulations; 25 districts responded to the RTI application on the NALSA 2011 Regulations; and 24 districts responded on the application on the NALSA Model (Remand) Scheme.

Important Regulations/ Circulars from the SLA on Persons in Custody

No regulations, circulars or notices were received.

VERDICT: The information received from Madhya Pradesh is limited. From the information received, the infrastructure is partially in place. Also reporting and monitoring mechanisms are still undeveloped.

1. LEGAL AID FRAMEWORK

1.1 Appointment of Legal Aid Providers

Every legal services institution has to appoint a panel of lawyers for a term of three years. These lawyers represent those persons who are in need of legal representation and are entitled to legal aid. **Retainer lawyers** are also drawn from among this panel by the executive chairperson of the legal services institution for a fixed period. They are paid a monthly fee, and in addition to representing persons in court they are expected to assist in the administrative affairs of the legal aid institution. Another category of lawyers, i.e. **legal aid counsels** (commonly referred as **remand lawyers**) are assigned to magistrate courts and are mandated to be present during remand hours to defend any unrepresented accused person.

- a) **Panel & Retainer Lawyers:** In total, 2,294 panel lawyers and 222 retainer lawyers were appointed in 20 districts and 14 districts respectively. Seoni, Tikamgarh and Guna did not appoint panel or retainer lawyers.
- b) **Remand Lawyers:** Of the 24 districts that responded, 11¹⁹⁵ districts did not appoint any remand lawyers.

1.2 Legal Aid Clinics in Jails

1.2.1 Constitution of Jail Legal Aid Clinics

Jail legal aid clinics play an important role in identifying and assisting prisoners in need of representation. Every jail is expected to set up a legal aid clinic manned by PLVs, and visited by legal aid lawyers. **24¹⁹⁶ LSAs provided information about access to legal aid in 48 of the 123 jails in the state. All the 48 jails had constituted a legal aid clinic.**

1.2.2 Appointment of Legal Aid Providers for Jail Legal Aid Clinics

Of the 48 jail legal aid clinics, only nine¹⁹⁷ had JVLs appointed. Convict PLVs were appointed in 42 of the 48 legal aid clinics – a total of 177 convict PLVs. Only one jail clinic¹⁹⁸ was visited by community PLVs.

Appointment letters for JVLs and convict PLVs were provided by only three districts and two districts respectively. The appointment letters of JVLs are basic and do not detail their duties. Similarly, appointment letters for convict paralegal volunteers have no mention regarding the duties of the PLVs. They only state the time period for which

194 Prison Statistics India, 2015, National Crime Records Bureau, pp. 10 and 20.

195 Jabalpur, Neemach, Chattarpur, Tikamgarh, Marona, Ratlam, Harda, Sheopur, Sidhi, Shahjapur, Bharwani.

196 Of those who responded to the RTI, Morena was the only district to not provide this information.

197 Nine jail clinics in the following districts: Gwalior, Jabalpur, Datia, Sheopur, Neemach, Shahjapur, Panna, Chattarpur.

198 Harda district.

they are appointed and the number of days they have to visit the clinics.

1.3 Constitution of Monitoring Committees (MCs)

MCs established under Regulation 10 of the NALSA 2010 Regulations are expected to monitor the work of panel and retainer lawyers. **Of the 28 districts that responded, MCs were constituted in eleven districts.** While the NALSA regulations in 2010 directed all DLSAs to set up MCs, Ratlam constituted the same in 2014, four districts¹⁹⁹ in 2015 and three districts²⁰⁰ constituted MCs as late as in 2016. Seoni, Sehore and Akola did not provide the dates when the MCs were constituted in their districts.

2. LEGAL AID DELIVERY

2.1. Legal Aid Delivery in Jails

2.1.1 Visits by Legal Aid Providers in Jails

JAIL VISITING LAWYERS (JVLS): No SLSA mandate appears to exist for the visits of JVLs to the JLACs. Only six districts²⁰¹ provided information on the frequency of visit mandated and actual number of visits of JVLs. From the information that was provided, none of the districts follow the mandate set by even their own DLSAs. Lawyers in Chattarpur and Panna made 73 and 78 visits respectively in the given year. Sheopur, Datia and Jabalpur did not mention the mandate for the visits. Surprisingly, in Jabalpur, the JVL visited only once in a year. Gwalior has a mandate of twice-a-month visits.

CONVICT PLVS: No specific SLSA mandate was provided on the working days of convict PLVs. However, Shahjapur stated that according to the SLSA mandate, the JLAC is conducted every Wednesday in the district. The 13 districts that mentioned the mandates for the working of JLACs, all differ. None of the districts provided data on the actual number of days when the convict PLV conducted the JLAC. Of the 13 districts, only six districts²⁰² mentioned that the JLACs were conducted on the mandated days.

COMMUNITY PLVS: No information was provided.

2.1.2 Registers & Records

Only four districts: Jabalpur, Vidisha, Narsinghpur and Panna, provided work registers. Jabalpur and Vidisha provided it in the form of a "Daily Diary of the JLAC". Narsinghpur's work register was well detailed, while the register maintained by Panna was almost blank with no information.

2.2 Assignment of Cases to Legal Aid Providers & their Outcomes

2.2.1 Assignment of Cases to Panel Lawyers & their Outcomes

a) **Scrutiny Committee & Legal Aid Application:** On receiving a legal aid application, the scrutiny and evaluation committee of the legal services institution decides if the applicant is entitled to legal aid. Scrutiny and evaluation committees were constituted in 16 districts²⁰³ out of the 28 that responded to the RTI application. However, only four of these districts²⁰⁴ maintained some form of register, which were basic in nature. Ratlam, Mandleshwar and Jabalpur recorded 24 cases where legal aid lawyers were not appointed as the persons already had lawyers.

199 Mandleshwar, Datia, Alirajpur, Bind.

200 Neemach, Shahjapur, Satna.

201 Gwalior, Chattarpur, Panna, Datia, Sheopur, Jabalpur.

202 Gwalior, Narsinghpur, Bharwani, Seoni, Mandleshwar, Jabalpur.

203 Shahdol, Sehore, Datia, Sheopur, Bharwani, Alirajpur, Tikamgarh, Shivpuri, Bind, Satna, Gwalior, Chattarpur, Neemach, Ratlam, Shahjapur, Harda.

204 Datia, Satna, Shahjapur, Gwalior.

- b) **Time Taken to Assign Cases to Lawyers:** Information regarding the time it takes for the authorities to assign a legal aid lawyer was sought by asking for details of the last five legal aid cases from every district. This information was received for 49 cases from ten districts. In 33 cases, lawyers were assigned on the same day. The average time taken for assigning lawyers was two days.
- c) **Representation & Outcome:** Seventeen districts²⁰⁵ did not provide information on persons represented by either panel lawyers or retainers. In total, panel lawyers represented 1,489 cases in 11 districts,²⁰⁶ whilst retainer lawyers represented 103 cases in two districts²⁰⁷ that provided this information. No one was released on bail in any of the districts that responded but there were 213 acquittals in nine districts²⁰⁸ and 489 cases were disposed.

2.2.2 Representations by Remand Lawyers & their Outcomes

Only four districts²⁰⁹ provided information on the number of cases that were represented in court. A total of 116 cases were represented, out of which four inmates were granted bail in Shahdol and Ratlam.

2.3 Monitoring Legal Aid Providers

2.3.1 Monitoring Panel & Retainer Lawyers

MCs are mandated to review the day-to-day working of legal aid cases. In order to track the progress of legal aid cases, registers are crucial. Eleven MCs were constituted. However, only two, Neemach and Mandleshwar, of the 11 committees maintained registers. The register maintained by Neemach showed that cases were not being reviewed at all as the comments section was blank. On the other hand, a copy of the MC register provided by Mandleshwar shows that the cases in this district were reviewed regularly and the registers were maintained case-wise and not date-wise. The existing infrastructure of the DLSA was used for the functioning of the MC as no separate infrastructure was provided for the functioning of these committees.

Some districts provided us the minutes of the meeting of the MCs. **It appears that these meetings are a mere formality, and legal aid cases are not reviewed.** Jabalpur, notably sent us three detailed minutes of meetings held in January, September and December 2016. The minutes showed that the meetings discussed lack of infrastructure to conduct the meeting, but not on the actual progress of the cases. The minutes of the meeting of the committee in Ratlam mentioned that the committee, among other things, suggested that letters should be written to the district and sessions judge to ensure that registers are maintained in every court to record the progress of each legal aid case. **The DLSAs are expected to send bi-monthly reports to SLSAs on the working of the scheme. Bi-monthly reports were not provided by any of the districts.**

2.3.2 Monitoring Remand Lawyers

The frequency of the submission of work reports to the DLSA shows that these reports are usually used as proof of work (for honorarium) and not as a means to review the work done. Very few districts provided copies of attendance certificates.

1. **ATTENDANCE CERTIFICATES & REPORTS:** Only a handful of districts shared the format of the attendance certificates and work reports. The formats for both these reports were generic. In fact, the work report did not even provide information about the actual work done by the lawyers.
2. **DLSA COMPLIANCE REPORTS FOR SLSA:** Of the 24 districts that responded to the RTI application, five districts²¹⁰ do not send compliance reports to the SLSA. The remaining 19 districts sent these reports on a monthly basis. From the formats provided, it is clear that the districts do not use the NALSA format or the SLSA format for compliance reports.

205 Shahdol, Vidisha, Neemach, Jhabua, Sheopur, Bharwani, Tikamgarh, Shivpuri, Guna, Morena, Sheoni, Shahjapur, Satna, Narsinghpur, Gwalior, Akola, Harda.

206 Sehore, Panna, Mandleshwar, Ratlam, Datia, Alirajpur, Sidhi, Bhand, Burhanpur, Jabalpur, Chattarpur

207 Ratlam, Mandleshwar.

208 Sehore, Panna, Ratlam, Mandleshwar, Datia, Alirajpur, Burhanpur, Jabalpur, Chattarpur.

209 Gwalior, Mandleshwar, Ratlam, Shahdol.

210 Tikamgarh, Jabalpur, Marona, Sheopur, Sehor.

2.3.3 Complaints against Legal Aid Lawyers

Legal aid lawyers may be removed from the panel if they do not perform satisfactorily or act contrary to the object and spirit of the Legal Services Act, 1989 and the Regulations. **Responses show that only in Bhind, complaints were received against 30 panel lawyers and the same numbers of lawyers were removed.** Apart from this, no complaints were made by clients in relation to panel or retainer lawyers and remand lawyers. And no such instances arose that required their removal.



MAHARASHTRA

SNAPSHOT



Occupancy Rate
112.8%

No. of Undertrial Prisoners (Proportion)
21,667 (73.1%)

Period of Detention
<1 year: 69.6% | 1-3 years :25.5% | >3 years: 4.9%

Literacy Rate (Prison)
79.58%

| | Central | District | Sub-jails | Others | Total |
|------------|---------|----------|-----------|--------|-------|
| Prisons | 9 | 28 | 100 | 17 | 154 |
| Population | 20293 | 7875 | 127 | 1362 | 29657 |

Deaths in Prisons
114

Prison Death Rate
384.39 per million

Prison Suicide Rate
20.23

Outside Suicide Rate
14.2



No. of DLSAs
33

No. of TLSCs/ SDLSCs
303

Legal Aid Beneficiaries in Prisons
1952

Legal Aid Website
Available

Legal Aid Rules & Regulations

Maharashtra State Legal Services Authority Rules, 1998
Maharashtra State Legal Services Authority Regulations, 1998



No. of District Court Judges
2203

Judges : State Population
19.60 per million

Pendency of District Court
33,53,451

No. of Prosecutors
846

No. of High Court Judges
74

Judges : State Population
0.66 per million

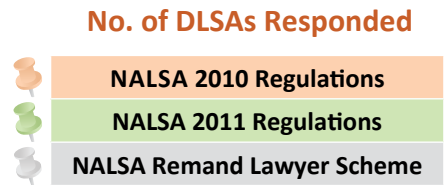
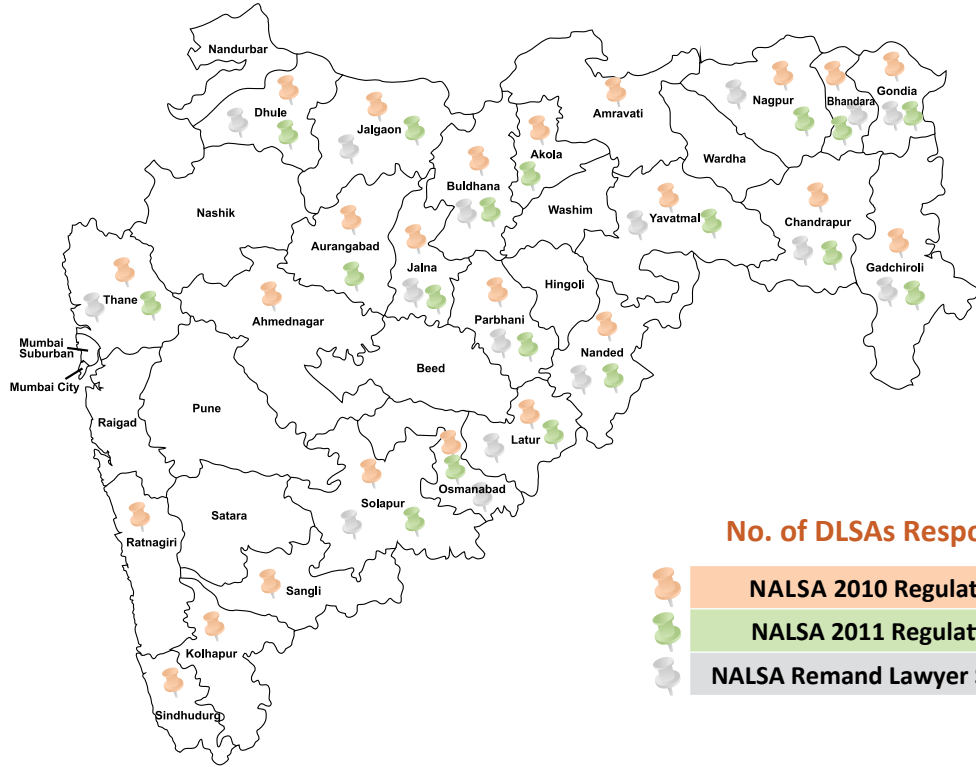
Pendency of High Court
2,68,470













| Number of Police stations | |
|---------------------------|--------------|
| Sanctioned | Actual |
| 1,162 | 1,162 |
| Persons Arrested | |
| 536,177 | |

| Number of Police Officials | | |
|----------------------------|----------------|---------------|
| Sanctioned | Actual | Vacancies |
| 240,224 | 225,475 | 14,749 |
| Crime Rate | | |
| 357.4 | | |

LEGAL AID SNAPSHOT



| | | |
|---|--|---|
|  <p>At Legal Services Institution (LSI)</p> |  <p>In Jail</p> |  <p>At Court</p> |
|  <p>Retainer Lawyer</p> <p>Appointment: 4/24 DLSAs</p> |  <p>Jail Legal Aid Clinic (JLAC)</p> <p>Constitution: 18 Jails</p> |  <p>Remand Lawyer</p> <p>Appointment: 12/16 DLSAs</p> |
|  <p>Monitoring Committee (MC)</p> <p>Constitution : 16/24 DLSAs</p> |  <p>Convict Paralegal Volunteer</p> <p>Appointment: 5/18 JLAC</p> |  <p>Panel Lawyer</p> <p>Appointment: 24/24 DLSAs</p> |
| |  <p>Jail Visiting Lawyer</p> <p>Appointment: 18/18 JLAC</p> | |

LEGAL AID FINDINGS

Maharashtra's prisons house 29,657²¹¹ inmates in 154 jails. These jails are distributed over 36 districts, and are under the jurisdiction of the same number of DLSAs. Responses to the RTI applications varied across all three schemes. For the NALSA 2010 Regulation, we received responses from 24 districts,²¹² for the NALSA 2011 Regulation, we received responses from 17 districts²¹³ and for the NALSA Model Scheme, we received responses from 16 districts.²¹⁴

Important Regulations/ Circulars from the SLISA on Persons in Custody

No regulations, circulars or notices were received.

VERDICT: In these districts and their corresponding jails, the infrastructure for the legal aid delivery system for persons in custody has been in place only during the last couple of years. As a result, monitoring and reporting mechanisms are still lacking.

1. LEGAL AID FRAMEWORK

1.1 Appointment of Legal Aid Providers

Every legal services institution must appoint a panel of lawyers for a term of three years to represent those persons who are in need of legal representation and are entitled to legal aid. **Retainer lawyers** are also drawn from among this panel by the executive chairperson of the legal services institution for a fixed period. They are paid a monthly fee, and in addition to representing persons in court they must assist in the administrative affairs of the legal aid institution. Another category of lawyer, **legal aid counsels** (commonly referred as **remand lawyers**) are assigned to magistrate courts and are mandated to be present during remand hours to defend any unrepresented accused person.

- a) **Panel & Retainer Lawyers:** In total, 2,427 panel lawyers and 203 retainer lawyers were appointed in 21 districts and four districts respectively.
- b) **Remand Lawyers:** Four²¹⁵ of the 16 districts that responded did not appoint remand and bail lawyers. The remaining 12 districts²¹⁶ appointed 218 legal aid counsels, of which only 118 have been trained in six districts. From the varied responses received, it is unclear as to whether the state has maintained a tenure for remand lawyers. Districts' responses varied between one month, one year and three years, whilst some responded with "nil".

1.2 Legal Aid Clinics in Jails

1.2.1 Constitution of Jail Legal Aid Clinics

Jail legal aid clinics play an important role in identifying and assisting prisoners in need of representation. Every jail is expected to set up a legal aid clinic manned by PLVs, and visited by legal aid lawyers. Although 18 DLSAs responded, information on the working of jail legal aid clinics were provided by 17 districts.²¹⁷ Of these 17

211 Prison Statistics India, 2015, National Crime Records Bureau, pp. 10 and 20.

212 Dhule, Latur, Sangli, Bhandara, Chandrapur, Nanded, Ahmednagar, Gondia, Jalgaon, Nagpur, Aurangabad, Sindhudrug-Oras, Osmanabad, Parbhani, Kolhapur, Jalna, Gadchiroli, Solapur, Ratnagiri, Amravati, Buldana, Thane, Akola, Yavatmal.

213 Solapur, Jalna, Gondia, Nanded, Latur, Yavatmal, Osmanabad, Aurangabad, Gadchiroli, Chandrapur, Parbhani, Thane, Nagpur, Buldana, Dhule, Bhandara, Akole, Jalgaon.

214 Buldhana, Nagpur, Yavatmal, Gadchiroli, Dhule, Chandrapur, Thane, Jalna, Solapur, Bhandara, Osmanabad, Nanded, Latur, Gondia, Parbhani, Jalgaon.

215 Yavatmal, Thane, Solapur, Nanded.

216 Latur, Parbhani, Jalna, Chandrapur, Gadchiroli, Jalgaon, Gondia, Osmanabad, Buldana, Nagpur, Bhandara, Dhule.

217 Gondia did not respond to the first few questions on the RTI application, which relates to the constitution of legal aid clinics.

districts, 16 districts constituted JLACs in all their jails, while Latur constituted JLACs in one of its three jails.²¹⁸ Whilst the legal aid clinic regulations were introduced in 2011, most of the JLACs were constituted between 2015 and 2016, with only two²¹⁹ JLACs constituted in 2012.

1.2.2 Appointment of Legal Aid Providers for Jail Legal Aid Clinics

JVLS were appointed in all 18 JLACs. There are 113 JVLs visiting 8 jail legal aid clinics. Additionally, ten convict PLVs were appointed in five jails²²⁰ and ten community PLVs in five jails.²²¹ The remaining districts either did not appoint PLVs or did not share the information with us.

Appointment letters for JVLs were only provided by four districts. The format of appointment letter issued by Nagpur was particularly noteworthy. It included the mandate for JVLs and their duties, specifically that they are required to maintain reports on the problems faced by prisoners and submit them to the DLSA. Chandrapur was the only district that provided an appointment letter for community PLVs, but it merely included their names, phone numbers and the days on which they were expected to visit, and did not mention their duties.

1.3 Constitution of Monitoring Committees (MCs)

MCs established under Regulation 10 of the NALSA 2010 Regulations are expected to monitor the work of panel and retainer lawyers. Of the 24 DLSAs, 16 maintained MCs. Seven districts²²² have yet to constitute MCs. Most of the MCs were constituted between 2015 and 2016, and a few were constituted after the time period for which we requested information. Jalna was the only district that constituted its MC in 2012.

2. LEGAL AID DELIVERY

2.1. Legal Aid Delivery in Jails

2.1.1 Visits by Legal Aid Providers in Jails

There was no clear state mandate regarding visits for either JVLs or PLVs. From the information provided, however, there appeared to be an understanding throughout the state that JVLs and PLVs were to visit twice a week, which could be linked back to a letter from the SLSA.

JAIL VISITING LAWYERS (JVLs): Most districts appeared to have set a mandate of twice a week, although the specific days differed. Only two districts, Chandrapur and Aurangabad, fulfilled this mandate. The number of visits that the remaining districts provided was nowhere near their respective mandates, varying between six to 23 times during the year.

CONVICT PLVS: Very few districts provided information regarding their respective mandates. The few that did respond, varied between daily and twice a week. Only two districts, Chandrapur and Latur, fulfilled their mandates. Most of the remaining districts did not provide information regarding the actual number of visits conducted.

COMMUNITY PLVS: No mandate was set for the visit of community PLVs. A few districts responded that they visited the jail twice a week, but largely, districts did not provide any information on this issue.

2.1.2 Registers & Records

Work registers were only maintained and provided by Nagpur and Gondia. Nagpur's work register was handwritten and not detailed. Gondia followed a typed format but contained little information regarding the

²¹⁸ The two sub jails do not have a JLAC, whilst one was constituted in the district jail.

²¹⁹ Thane, Chandrapur.

²²⁰ Bhandara, Chandrapur, Akola, Parbhani, Jalgaon.

²²¹ Akola, Parbhani, Jalgaon, Yavatmal, Gadchiroli.

²²² Jalgaon, Solapur, Amravati, Sangli, Akola, Yavatmal, Nagpur, Buldana

cases. Nagpur was the only district to maintain and provide copies of the attendance register.

From the responses received, it appears that the DLSAs did not review the attendance and work reports at all. Nagpur responded with “time to time” and Chandrapur with “6 times”, whilst the other districts responded with “nil” or “does not arise”. This depicts a clear lack of monitoring and accountability when it comes to the functioning of legal aid clinics.

2.2 Assignment of Cases to Legal Aid Providers & their Outcomes

2.2.1 Assignment of Cases to Panel Lawyers & their Outcomes

- a) **Scrutiny Committee & Legal Aid Application:** On receiving a legal aid application, the scrutiny and evaluation committee of the legal services institution decides if the applicant is entitled to legal aid. Scrutiny and evaluation committees were constituted in only seven out of the 25 districts that responded. Five of these seven districts maintained registers. No cases were recorded wherein a legal aid lawyer was not appointed because the person already had a lawyer. However, Ahmednagar maintained records of 17 cases in which legal aid lawyers were not appointed due to deficiencies in the legal aid application.
- b) **Time Taken to Assign Cases to Lawyers:** Information regarding the time it takes for the authorities to assign a legal aid lawyer was sought by asking for details of the last five legal aid cases from every district. This information was received for 71 cases from 14 districts. The average time taken for assignment of legal aid lawyers was four days. In 47 cases, assignments were made on the same day and in five cases on the next day. The districts of Gadchiroli, Solapur, Parbhani, Aurangabad, Osmanabad, Dhule and Nanded assigned lawyers on the same day they received the application. However, in two cases, the Bhandara DLSA took 68 days and the Thane DLSA took 60 days to assign a lawyer.
- c) **Representation & Outcome:** Panel lawyers represented 768 cases, whilst retainer lawyers represented none. Of the 275 persons released, 153 were released on bail, 47 were acquitted and 75 cases were disposed in the ten districts that maintained this information. Aurgangabad, Amravati, Jalna and Parbhani did not maintain or provide records on any person who was represented or released, whilst Gondia, Bhandara, Solapur and Chandrapur did not maintain or provide records on those who were released.

2.2.2 Representations by Remand Lawyers & their Outcomes

Only five districts²²³ of the 12 that had appointed remand lawyers maintained information on the persons represented and released. Thus, 122 remand and bail lawyers were responsible for the release of 75 persons, out of the 116 they represented. The remaining districts either did not maintain this information or did not provide it, which speaks negatively of the state’s monitoring.

2.3 Monitoring Legal Aid Providers

2.3.1 Monitoring Panel & Retainer Lawyers

MCs are mandated to review the day-to-day working of legal aid cases. In order to track the progress of legal aid cases, registers are crucial. MCs of only two districts, Chandrapur and Buldhana, maintained a register. Gondia and Gadchiroli, however, provided minutes of the MC meetings that were detailed.

Panel lawyers from seven districts²²⁴ submitted 64 completion reports over the course of one year. Two MCs²²⁵ stated that they submit the reports on a quarterly basis to the DLSA.

2.3.2 Monitoring Remand Lawyers

Through the minutes of the meetings, especially in Bilaspur, it is clear that the panel lawyers have not submitted reports when they are expected to, on a monthly basis. **A few attendance certificates and work reports were**

²²³ Latur, Parbhani, Jalna, Chandrapur, Dhule (Parbhani did not maintain or provide data on releases).

²²⁴ Latur, Sindhudurg-Oros, Ahmednagar, Sangli, Ratnagiri, Osmanabad, Dhule.

²²⁵ Sindhudurg-Oros, Ratnagiri.

maintained, but their functions do not appear to include a review of the work done.

- 1. ATTENDANCE CERTIFICATES & WORK REPORTS:** Bhandara was the only district that maintained attendance certificates and stated that it had submitted five certificates during the specified time period. No work reports were maintained in any of the districts that responded.
- 2. DLSA COMPLIANCE REPORTS FOR SLSA:** Only five²²⁶ DLSAs sent compliance reports on the Model Scheme to the SLSA on a monthly basis, and one, Jalgaon, sent them as and when they are required.

2.3.3 Complaints against Legal Aid Lawyers

Legal aid lawyers may be removed from the panel if they do not perform satisfactorily or act contrary to the object and spirit of the Legal Services Act, 1987 and the Regulations. In Maharashtra, no complaints were received for either panel lawyers or remand and bail lawyers. Consequently, no lawyers were removed.

²²⁶ Latur, Parbhani, Jalna, Gadchiroli, Nagpur.



RAJASTHAN

SNAPSHOT



Occupancy Rate
102.4%

No. of Undertrial Prisoners (Proportion)
14225 (70.82%)

Period of Detention
<1 year: 66.8% | 1-3 years :25.4% | >3 years: 7.8%

Literacy Rate (Prison)
75.67%

| | Central | District | Sub-jails | Others | Total |
|------------|---------|----------|-----------|--------|-------|
| Prisons | 9 | 24 | 60 | 33 | 126 |
| Population | 10432 | 5039 | 3152 | 1463 | 20086 |

Deaths in Prisons
58

Prison Death Rate
288.76 per million

Prison Suicide Rate
9.96

Outside Suicide Rate
4.8



No. of DLSAs
35

No. of TLSCs/ SDLSCs
181

Legal Aid Beneficiaries in Prisons
949

Legal Aid Website
Available

Legal Aid Rules & Regulations
Rajasthan State Legal Services Authority Rules, 1996
Rajasthan State Legal Services Authority Regulations, 1999



No. of District Court Judges
1146

Judges : State Population
16.72 per million

Pendency of District Court
16,05,301

No. of Prosecutors
728

No. of High Court Judges
37

Judges : State Population
0.54 per million

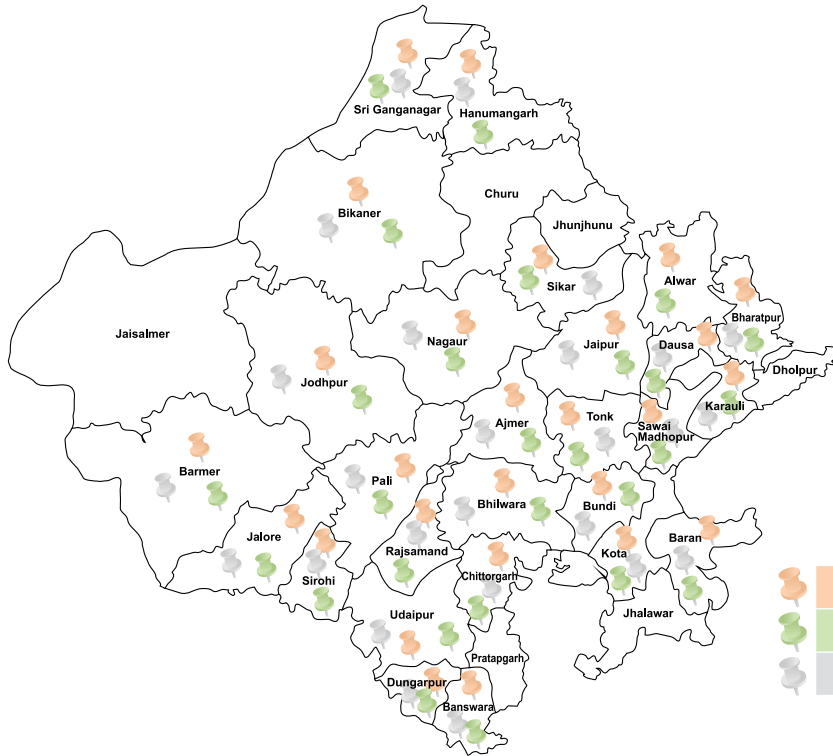
Pendency of High Court
2,57,859



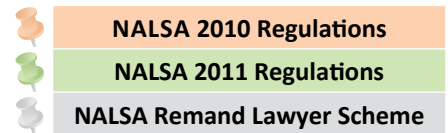
| Number of Police stations | |
|---------------------------|------------|
| Sanctioned | Actual |
| 861 | 861 |
| Persons Arrested | |
| 264,873 | |

| Number of Police Officials | | |
|----------------------------|---------------|---------------|
| Sanctioned | Actual | Vacancies |
| 104,451 | 89,500 | 14,951 |
| Crime Rate | | |
| 342.8 | | |

LEGAL AID SNAPSHOT



No. of DLSAs Responded



At Legal Services Institution (LSI)



In Jail



At Court



Retainer Lawyer

Appointment: 28/29 DLSAs



Jail Legal Aid Clinic (JLAC)

Constitution: 79 Jails



Remand Lawyer

Appointment: 25/26 DLSAs



Monitoring Committee (MC)

Constitution : 28/29 DLSAs



Convict Paralegal Volunteer

Appointment: 11/79 JLAC



Panel Lawyer

Appointment: 29/29 DLSAs



Jail Visiting Lawyer

Appointment: 57/79 JLAC

LEGAL AID FINDINGS

Rajasthan's prisons house 20,086 inmates²²⁷ in 126 jails. The state has 33 districts and 35 DLSAs. We received responses from 29 DLSAs for all three RTI applications filed.

The RTI application filed for Rajasthan varies from the RTI application filed for other states both in terms of scope of questions and timelines.

VERDICT: In these districts and their corresponding jails, the infrastructure of legal aid delivery is in place but not with regard to reporting and monitoring. The minutes of the MC meetings point out that although cases are discussed, little is specified in terms of the progress of these cases.

Important Regulations/ Circulars from the SLSA on Persons in Custody

1. RSLSA/Legal Aid Counsel Scheme/13th F.C./2011/18699-18733
Date: 17 February 2012; Regarding Model Scheme for Legal Aid Counsel in Rajasthan.

1. LEGAL AID FRAMEWORK

1.1 Appointment of Legal Aid Providers

Every legal services institution has to appoint a panel of lawyers for a term of three years. These lawyers represent those persons who are in need of legal representation and are entitled to legal aid. **Retainer lawyers** are also drawn from among this panel by the executive chairperson of the legal services institution for a fixed period. They are paid a monthly fee, and in addition to representing persons in court they are expected to assist in the administrative affairs of the legal aid institution. Another category of lawyers, i.e. **legal aid counsels** (commonly referred as **remand lawyers**) are assigned to magistrate courts and are mandated to be present during remand hours to defend any unrepresented accused person.

- a) **Panel & Retainer Lawyers:** 1,822 panel lawyers and 49 retainer lawyers were appointed in Rajasthan. Barring one district,²²⁸ all the others appointed retainer lawyers. These 29 districts appointed one retainer each, except Ajmer, that has 16 retainer lawyers.
- b) **Remand Lawyers:** The Rajasthan Model Scheme specifies a tenure of six months for legal aid counsels, which was followed by most districts. In total, 614 remand and bail lawyers were appointed to 729 magistrate courts in the 25 districts.²²⁹ Interestingly, of the 729 magistrate courts, 52 of them are executive magistrate courts in three districts.²³⁰ In all, 27 districts appointed remand lawyers for all magistrate courts. Additionally, information regarding the average number of cases handled by each court on a daily basis was provided by 12 districts.²³¹ Of these 12 districts, seven districts²³² responded with an average of one case a day; three districts²³³ responded with an average of five cases a day; Jalore responded with an average of nine cases a day; and lastly, Jhalawar responded with 31 remand cases over the course of one year.

1.2 Legal Aid Clinics in Jails

1.2.1 Constitution of Jail Legal Aid Clinics

Jail legal aid clinics play an important role in identifying and assisting prisoners in need of representation. Every jail is expected to set up a legal aid clinic manned by PLVs, and visited by JVLs. The information on the working of jail legal aid clinics was provided by 30 DLSAs, and all of them had constituted JLACs in their respective

227 Prison Statistics India, 2015, National Crime Records Bureau, pp. 10 and 20.

228 Jalore.

229 Hanumangarh was the only district that did not provide data on the number of legal aid counsels appointed.

230 Swai Madhopur, Udaipur, Bharatpur.

231 Bhilwara, Hanumangarh, Bikaner, Rajasmand, Kota, Bundi, Jhalawar, Tonk, Jalore, Merta, Pali, Sri Ganganagar.

232 Bhilwara, Hanumangarh, Rajasmand, Tonk, Merta, Kota, Pali.

233 Bikaner, Bundi, Sri Ganganagar.

jails. The earliest JLACs in Rajasthan were constituted in 2006 in Jodhpur district's central jail, and in 2009 in Alwar's district jail. Thirteen²³⁴ JLACs were constituted in 2012, and seventeen²³⁵ in 2013 but the remaining were constituted much later, between 2014 and late 2016. Jaipur metro, however, constituted a legal aid clinic after the time period for which responses to the RTI applications were sought.

1.2.2 Appointment of Legal Aid Providers for Jail Legal Aid Clinics

JVLS were appointed in 57 of the 79 JLACs. There are 326 JVLs visiting 57 legal aid clinics. The SLSA issued a letter regarding the functioning of legal aid clinics, based on the regulations provided by NALSA. The SLSA also issued another letter on the Legal Aid Scheme with its own set of guidelines. One of these guidelines includes the creation of legal aid awareness teams in all districts alongside the JVLs and PLVs. We received documents indicating that 6 districts²³⁶ constituted legal aid awareness teams in place of appointing JVLs.

These teams generally consist of two PLVs and two JVLs. Dausa was the only district that provided information on the workings of these teams. Legal aid awareness teams educate the inmates on legal aid and help them submit applications to the DLSAs for the appointment of lawyers. Also, ten convict PLVs were appointed in eight jails.²³⁷ The RTI application sent to Rajasthan did not include any questions on community PLVs.

1.3 Constitution of Monitoring Committees (MCs)

MCs established under Regulation 10 of the NALSA 2010 Regulations are expected to monitor the work of panel and retainer lawyers. Although the MC regulations were formulated in 2010, all the districts in Rajasthan constituted these only in 2015. While Chittorgarh, Sirohi and Jalore have constituted MCs, there is no mention of their functioning in the responses to the RTI application. A response provided by the SLSA points out that all the DLSAs in Rajasthan have constituted MCs either on 2 March 2015 or 18 February 2016. MC members were appointed as per the mandate in all the districts.

2. LEGAL AID DELIVERY

2.1. Legal Aid Delivery in Jails

2.1.1 Visits by Legal Aid Providers in Jails

JAIL VISITING LAWYERS (JVLS): Rajasthan's scheme specifies that JVLs are expected to visit jails twice a month, i.e. 24 visits a year. Although, ten districts fulfilled this mandate, visiting twice a month is not sufficient to provide effective legal aid to all the inmates. The NALSA SOP for persons in custody recommends JVLs to visit twice a week. The fact that 20 districts did not fulfill this bare minimum is very telling of the legal aid infrastructure in the state.

CONVICT PLVS: The mandate for convict PLVs as stated by the RLSA is eight times a month, i.e., 96 times a year.

COMMUNITY PLVS: No information was requested

2.1.2 Registers & Records

Fifteen districts²³⁸ did not maintain work registers and attendance registers. The remaining districts that did maintain work registers appeared to follow a standard format. A few of the districts that provided work registers did not enter the details in accordance with the format. Attendance registers followed a standard format as well. Interestingly, the response by Jaipur Metro to the RTI application stated that no legal aid application was

234 Balotara, Sikar, Fatehpur, Neemkathana, Abu Road (one jail in Dungarpur was constituted in 2012, and then reconstituted in 2015), Bikaner (2), Jodhpur Metro, Merta, Baran, Ajmer, Udaipur.

235 Bhilara (1), Pali, Chittorgarh, Jalore, Jhalawar, Jaipur District, Rajasmand, Jaipur Metro, Sirohi.

236 Dausa, Dungarpur, Bharatpur, Swai Madhopur, Baran, Karauli.

237 Bundi Central Jail, Bundi Sub Jail, Ajmer Central Jail, Ajmer Sub Jail, Jaipur Metro Central Jail, Banswara District Jail, Banswara Sub Jail.

238 Jodhpur District, Jodhpur Metro, Jalore, Merta, Baran, Jaipur district, Barmer, Sikar, Bundi, Sirohi, Dungarpur, Kota, Rajasmand, Sri Ganganagar, Jhalawar.

received in the past six months, but the work registers indicated otherwise.

For those districts that responded, the frequency with which the DLSA reviewed the attendance and work registers appeared largely to be once a month. And one district stated that the registers were checked at the time of the visit.

2.2 Assignment of Cases to Legal Aid Providers & their Outcomes

2.2.1 Assignment of Cases to Panel Lawyers & their Outcomes

- a) **Scrutiny Committee & Legal Aid Application:** On receiving a legal aid application, the scrutiny and evaluation committee of the legal services institution decides if the applicant is entitled to legal aid. No information was provided regarding the scrutiny committee.
- b) **Time Taken to Assign Cases to Lawyers:** Information regarding the time it takes for the authorities to assign a legal aid lawyer was sought by asking for details of the last five legal aid cases from every district. This information relating to time period between application for legal aid and assignment of a lawyer was received for 109 cases from 23 districts. In only 19 of the 109 cases, lawyers were assigned on the same day. These cases were from Sikar, Kota and Baran and Merta. The average duration for assigning a legal aid lawyer was 48 days. Most districts took more than a month to assign legal aid lawyers. The most problematic were Jaipur Metro and Karauli. In one case, it almost took a year (329 days: Jaipur Metro) to assign a lawyer and there were multiple cases (from these two districts) where assignments took more than eight months.
- c) **Representation & Outcome:** Panel lawyers represented 2,689 persons in 28 districts, while retainer lawyers represented 291 persons in the same number of districts. Although retainer and panel lawyers are appointed in almost all the districts, the cases that were disposed, the number of acquittals and the number of persons out on bail are limited. While 1,425 cases were disposed, there were only 23 acquittals. Additionally, nine persons were released on bail.

2.2.2 Representations by Remand Lawyers & their Outcomes

Remand lawyers were appointed in 19 districts.²³⁹ They represented 5,016 inmates. This led to the release of 3,700 persons. The remaining districts either did not maintain this information or did not share it with us.

2.3 Monitoring Legal Aid Providers

2.3.1 Monitoring Panel & Retainer Lawyers

MCs are mandated to review the day-to-day working of legal aid cases. In order to track the progress of legal aid cases, registers are crucial. Only four districts²⁴⁰ maintained MCs registers and Sri Ganganagar provided a format for the same. Also, bi-monthly reports were submitted by the MCs of only nine districts,²⁴¹ who provided these. No separate staff or infrastructure was provided for the functioning of the MCs.

MC meetings were held in most of the districts of the state. This is reflected in the minutes of the meetings received in the responses to the RTI application. MCs of some districts, such as Jodhpur Metro and Ajmer, stood out from the rest in terms of the specific focus they lay on case-wise monitoring, where the advocates and MCs gave case-specific comments. These districts provided a tabular format that was attached to the minutes of the meetings. The format has a section seeking information on the progress of the legal aid cases from the courts. On the other hand, minutes of the meeting of these seven districts²⁴² do not mention specific case details at all. And the comments section is blank. It appears from the responses received from these districts that the information is maintained to just record but not review the work.

The MC in Kota listed problems on the quality of the legal aid. One of minutes of the MC meeting received from

²³⁹ Balotara, Jodhpur Jila, Bhilwara, Hanumangarh, Bikaner, Udaipur, Kota, Bundi, Swai Madhopur, Jhalawar, Ajmer, Baran, Bharatpur, Merta, Karauli, Jaipur District, Jaipur Metro.

²⁴⁰ Dausa, Kota, Jodhpur Metro, Sikar.

²⁴¹ Dausa, Jaipur Metro, Merta, Pali, Udaipur, Bharatpur, Ajmer, Balotra, Jodhpur Metro.

²⁴² Merta, Pali, Jaipur Metro, Dausa, Jaipur district, Hanumangarh, Udaipur.

Kota mentioned that the DLSA received complaints about legal aid lawyers not performing their duties properly as they could not manage this work along with their private practices. The MCs²⁴³ in Bharatpur took up cases received from the DLSA from 2014 onwards; it also looked at current cases and decided that progress reports have to be submitted by the fifth of the following month, in all cases. The same was to be communicated to the lawyers at the time of their appointments.

2.3.2 Monitoring Remand Lawyers

Whilst lawyers maintained attendance certificates, work reports were not maintained. The frequency of submissions to the DLSA show that these reports were usually used as proof of work (for honorarium) and not as a means to review the work done.

1. **ATTENDANCE CERTIFICATES & WORK REPORTS:** Certificates, according to the Rajasthan Model Scheme, are to be issued by the court concerned on the regular attendance of the legal aid counsel. In the 14 districts²⁴⁴ that provided this information, 463 certificates were provided by the court to the chairperson of the DLSA and 18 districts²⁴⁵ provided copies of attendance certificates. Most of the formats for the attendance certificates were standard, and in the form of a letter. However, the attendance certificate provided by Baran stood out particularly, since the format specified that the legal aid counsel had represented persons under both, police and judicial custody. Whether or not attendance registers were maintained by the court was another aspect that was assessed through the RTI application. In six districts,²⁴⁶ 56 courts maintained these attendance registers. Jaipur Metro was the only district to provide a copy of an attendance register maintained by one of their courts and although it is rather basic, it is a good reporting mechanism that supports the data maintained through attendance certificates.
2. **DLSA COMPLIANCE REPORTS FOR SLSA:** Information on the consolidated statistical information sent by the chairperson of the DLSA to the SLSA at the end of every quarter was provided by 16 districts out of the 30 districts that responded to the RTI application.

2.3.3 Complaints against Legal Aid Lawyers

Legal aid lawyers may be removed from the panel if they do not perform satisfactorily or act contrary to the object and spirit of the Legal Services Act, 1989 and the Regulations. No complaints or responses on this were received from any of the districts, but seven lawyers were removed from three districts.

243 As per the minutes of the MC meeting dated 10 March 2016.

244 Dausa, Kota, Merta, Jodhpur Metro, Sikar, Bhilwara, Bundi, Bikaner, Swai Madhipur, Tonk, Baran, Jaipur District, Hanumangarh, Jhalawar.

245 Sirohi, Jaipur Metro, Dasua, Kota, Merta, Bharatpur, Jodhpur Metro, Balotara, Sikar, Bhilwara, Bundi, Bikaner, Swai Madhopur, Tonk, Ajmer, Baran, Jaipur district, Hanumangarh.

246 Jaipur Metro, Kota, Merta, Bhilwara, Bikaner, Hanumangarh.



V. NORTH EASTERN STATES

ARUNACHAL PRADESH

ASSAM

MANIPUR

MEGHALAYA

MIZORAM

NAGALAND

SIKKIM

TRIPURA



ARUNACHAL PRADESH

SNAPSHOT



Occupancy Rate
86.8%

No. of Undertrial Prisoners (Proportion)
136 (73.91%)

Period of Detention
<1 year: 61.8% | 1-3 years :30.9% | >3 years: 7.4%

Literacy Rate (Prison)
66.85%

| | Central | District | Sub-jails | Others | Total |
|------------|---------|----------|-----------|--------|-------|
| Prisons | 0 | 2 | 0 | 0 | 2 |
| Population | 0 | 184 | 0 | 0 | 184 |

Deaths in Prisons
1

Prison Death Rate
543.58 per million

Prison Suicide Rate
0

Outside Suicide Rate
10.4



No. of DLSAs
20

No. of TLSCs/ SDLSCs
Nil

Legal Aid Beneficiaries in Prisons
55

Legal Aid Website
Available

Legal Aid Rules & Regulations
No rules and regulations available



No. of District Court Judges
17

Judges : State Population
12.29 per million

Pendency of District Court
10,549

No. of Prosecutors
NA

No. of High Court Judges
NA

Judges : State Population
NA

Pendency of High Court
NA

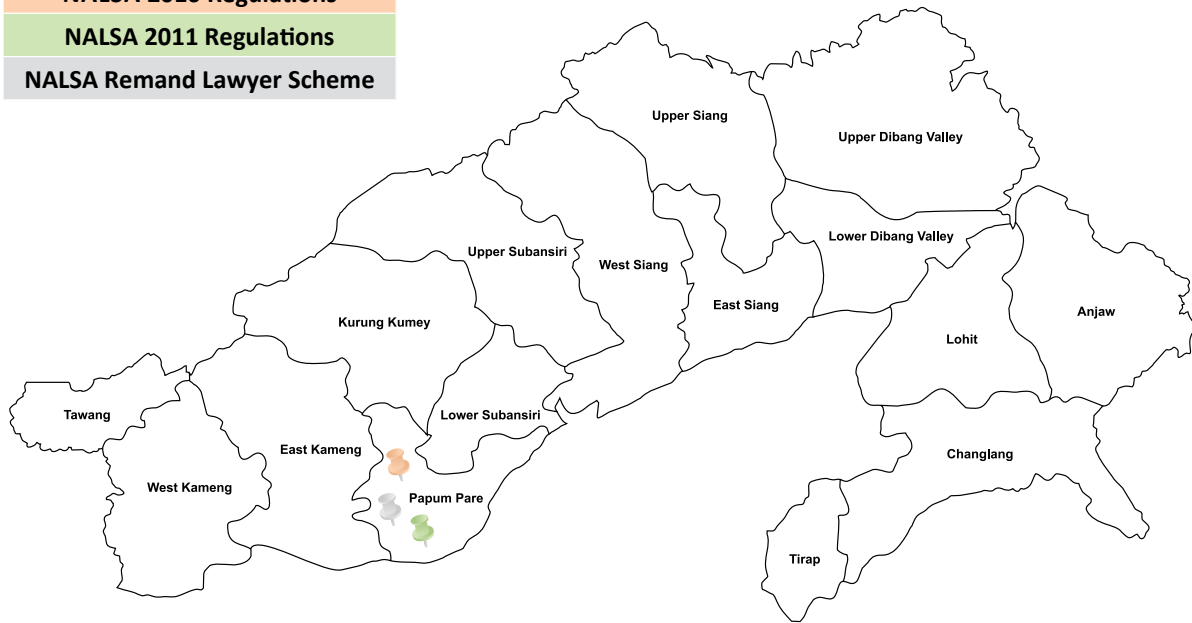
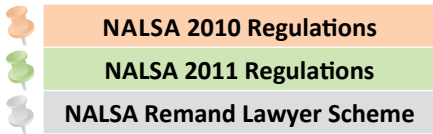












| Number of Police stations | |
|---------------------------|-----------|
| Sanctioned | Actual |
| 101 | 85 |
| Persons Arrested | |
| 3,113 | |

| Number of Police Officials | | |
|----------------------------|---------------|--------------|
| Sanctioned | Actual | Vacancies |
| 13,160 | 11,612 | 1,548 |
| Crime Rate | | |
| 204.9 | | |

LEGAL AID SNAPSHOT

No. of DLSAs Responded



| | | |
|--|---|--|
|  <p>At Legal Services Institution (LSI)</p> |  <p>In Jail</p> |  <p>At Court</p> |
|  <p>Retainer Lawyer</p> <p>Appointment: 0/20 DLSAs</p> |  <p>Jail Legal Aid Clinic (JLAC)</p> <p>Constitution: 3 Jails</p> |  <p>Remand Lawyer</p> <p>Appointment: Not Provided</p> |
|  <p>Monitoring Committee (MC)</p> <p>Constitution : Not Provided</p> |  <p>Convict Paralegal Volunteer</p> <p>Appointment: 0/3 JLAC</p> |  <p>Panel Lawyer</p> <p>Appointment: Not Provided</p> |
| |  <p>Jail Visiting Lawyer</p> <p>Appointment: 1/3 JLAC</p> | |

LEGAL AID FINDINGS

Arunachal Pradesh's prisons house 184 inmates in nine jails²⁴⁷ – two district jails and seven sub jails. NCRB data states that there are only two district jails in Arunachal Pradesh, however, the SLSA's response indicates the existence of an additional seven sub jails. We received one cumulative response from the APSLSA, rather than information for each of the 16 DLSAs. Thus, it is difficult to assess which districts maintain records, registers and reports and which districts do not.

Important Regulations/ Circulars from the SLSA on Persons in Custody

No regulations, circulars or notices were received.

VERDICT: Through the responses received, it is evident that there is a lack of legal aid infrastructure in the state. MCs and scrutiny and evaluation committees have yet to be constituted, and remand and bail lawyers are still to be appointed.

1. LEGAL AID FRAMEWORK

1.1 Appointment of Legal Aid Providers

Every legal services institution has to appoint a panel of lawyers for a term of three years. These lawyers represent those persons who are in need of legal representation and are entitled to legal aid. **Retainer lawyers** are also drawn from among this panel by the executive chairperson of the legal services institution for a fixed period. They are paid a monthly fee, and in addition to representing persons in court they are expected to assist in the administrative affairs of the legal aid institution. Another category of lawyers, i.e. **legal aid counsels** (commonly referred as **remand lawyers**) are assigned to magistrate courts and are mandated to be present during remand hours to defend any unrepresented accused person.

- a) **Panel & Retainer Lawyers:** In total, 77 panel lawyers were appointed in this state. Since the SLSA did not provide a break up of this information, it is unclear if all districts have appointed panel lawyers, or just a few of them. **No retainer lawyers were appointed throughout the state.**
- b) **Remand Lawyers:** No remand and bail lawyers were appointed as yet. The response received states that the number of magistrate courts varies between districts since the state is still in the process of separating the judiciary from the executive courts.

1.2 Legal Aid Clinics in Jails

1.2.1 Constitution of Jail Legal Aid Clinics

Jail legal aid clinics play an important role in identifying and assisting prisoners in need of representation. Every jail is expected to set up a legal aid clinic manned by PLVs, and visited by legal aid lawyers. **Legal aid clinics were constituted in only three jails, two of which were constituted in 2017.** Of these three clinics, one was constituted in 2014, and the other two in February 2017.

1.2.2 Appointment of Legal Aid Providers for Jail Legal Aid Clinics

Ten JVLs were appointed in just one jail legal aid clinic. No community or convict PLVs were appointed in any of the three jail legal aid clinics. The appointment letter of JVLs contained no information on the duties and mandate of these jail visiting lawyers. It was merely a one liner stating that an advocate has been appointed.

²⁴⁷ Prison Statistics India, 2015, National Crime Records Bureau, pp. 10 and 20.

1.3 Constitution of Monitoring Committees (MCs)

MCs established under Regulation 10 of the NALSA 2010 Regulations are expected to monitor the work of panel and retainer lawyers. **No MCs were constituted in any of the 16 districts.**

2. LEGAL AID DELIVERY

2.1. Legal Aid Delivery in Jails

2.1.1 Visits by Legal Aid Providers in Jails

JAIL VISITING LAWYERS (JVLs): The lawyers are expected to visit the jail clinics twice a week. However, no information was provided regarding the actual number of visits of the ten JVLs visiting the district jail.

CONVICT PLVs: No convict PLVs were appointed and no mandate was set for the visits of convict PLVs

COMMUNITY PLVs: No mandate was set for community PLVs.

2.1.2 Registers & Records

Copies of the attendance registers and work registers were provided by the SLSA. Both these registers were handwritten. When asked how frequently these registers are called for by the DLSA, the SLSA responded that since no DLSA had established a legal aid clinic during the time period specified, this information was not maintained. However, one clinic was constituted in 2014.

2.2 Assignment of Cases to Legal Aid Providers & their Outcomes

2.2.1 Assignment of Cases to Panel Lawyers & their Outcomes

- a) **Scrutiny Committee & Legal Aid Application:** On receiving a legal aid application, the scrutiny and evaluation committee of the legal services institution decides if the applicant is entitled to legal aid. Although there were no cases where legal aid lawyers were not appointed due to deficiencies in the legal aid application, the APSLSA recorded 25 cases where legal aid lawyers were not appointed since the persons in custody already had lawyers.
- b) **Time Taken to Assign Cases to Lawyers:** Information regarding the time it takes for the authorities to assign a legal aid lawyer was sought by asking for details of the last five legal aid cases from every district. This information was received for five cases only from Itanagar district. Lawyers were assigned in all five cases on the same day.
- c) **Representation & Outcome:** Of the 12 persons represented by panel lawyers in Arunachal Pradesh, four were released on bail.

2.2.2 Representations by Remand Lawyers & their Outcomes

No information was received on the representation and outcome of cases represented by remand lawyers.

2.3 Monitoring Legal Aid Providers

2.3.1 Monitoring Panel & Retainer Lawyers

MCs are mandated to review the day-to-day working of legal aid cases. In order to track the progress of legal aid cases, registers are crucial. No MCs were constituted, and thus there was no monitoring of legal aid cases.

2.3.2 Monitoring Remand Lawyers

1. **ATTENDANCE CERTIFICATES & WORK REPORTS:** None of the districts appointed remand and bail lawyers, and thus no attendance certificates and work reports were maintained.
2. **DLSA COMPLIANCE REPORTS FOR SLSA:** The SLSA did not provide information on compliance reports. Some information was sent from the DLSA to the SLSA regarding the implementation of the scheme, but the contents or the form was not provided.

2.3.3 Complaints against Legal Aid Lawyers

Legal aid lawyers may be removed from the panel if they do not perform satisfactorily or act contrary to the object and spirit of the Legal Services Act, 1989 and the Regulations. Responses indicate that no complaints were received against panel lawyers or remand and bail lawyers, and none were removed during the mentioned period.

ASSAM SNAPSHOT



Occupancy Rate
109.7%

No. of Undertrial Prisoners (Proportion)
5,696 (62.61%)

Period of Detention
<1 year: 88.1% | 1-3 years :9.8% | >3 years: 2.1%

Literacy Rate (Prison)
67.74%

| | Central | District | Sub-jails | Others | Total |
|------------|---------|----------|-----------|--------|-------|
| Prisons | 6 | 22 | 1 | 2 | 31 |
| Population | 3529 | 5263 | 56 | 249 | 9097 |

Deaths in Prisons
30

Prison Death Rate
329.78 per million

Prison Suicide Rate
21.99

Outside Suicide Rate
10.0



No. of DLSAs
22

No. of TLSCs/ SDLSCs
3

Legal Aid Beneficiaries in Prisons
1194

Legal Aid Website
Available

Legal Aid Rules & Regulations

Assam State Legal Services Authority Rules, 1996
Assam State Legal Services Authorities Regulations, 1998



No. of District Court Judges
304

Judges : State Population
9.74 per million

Pendency of District Court
2,68,037

No. of Prosecutors
NA

No. of High Court Judges
19

Judges : State Population
0.81 per million

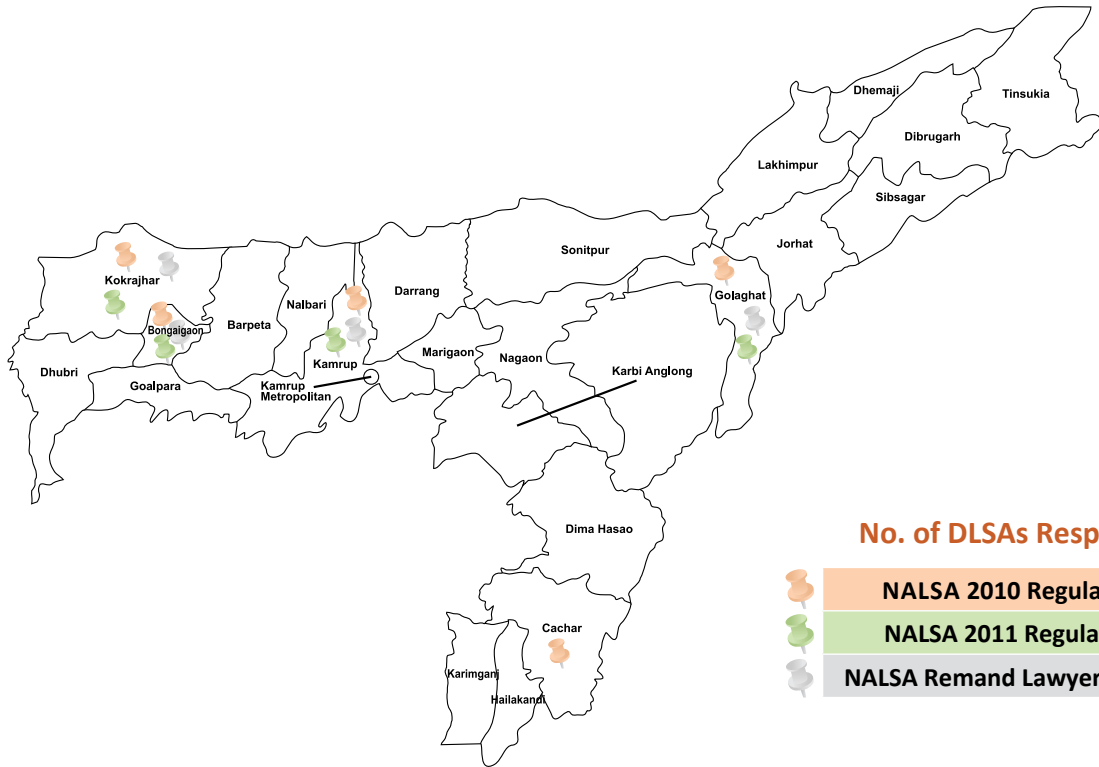
Pendency of High Court
29,230



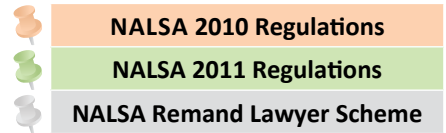
| Number of Police stations | |
|---------------------------|------------|
| Sanctioned | Actual |
| 347 | 347 |
| Persons Arrested | |
| 121,823 | |











| Number of Police Officials | | |
|----------------------------|---------------|---------------|
| Sanctioned | Actual | Vacancies |
| 65,611 | 55,403 | 10,208 |
| Crime Rate | | |
| 328.5 | | |

LEGAL AID SNAPSHOT



No. of DLSAs Responded



| | | |
|---|---|---|
|  <p>At Legal Services Institution (LSI)</p> |  <p>In Jail</p> |  <p>At Court</p> |
|  <p>Retainer Lawyer</p> <p>Appointment: 4/5 DLSAs</p> |  <p>Jail Legal Aid Clinic (JLAC)</p> <p>Constitution: 3 Jails</p> |  <p>Remand Lawyer</p> <p>Appointment: 2/4 DLSAs</p> |
|  <p>Monitoring Committee (MC)</p> <p>Constitution : 3/5 DLSAs</p> |  <p>Convict Paralegal Volunteer</p> <p>Appointment: 1/3 JLAC</p> |  <p>Panel Lawyer</p> <p>Appointment: 5/5 DLSAs</p> |
| |  <p>Jail Visiting Lawyer</p> <p>Appointment: 3/3 JLAC</p> | |

LEGAL AID FINDINGS

Assam's prisons house 9,097 inmates in 31 jails.²⁴⁸ These jails are distributed over 32 districts. We received responses from five districts²⁴⁹ for the NALSA 2010 Regulations, and four districts²⁵⁰ for the NALSA 2011 Regulations and the NALSA Model Scheme. These minimal responses are not representative of the functioning of legal aid in the entire state. The SLSA provided a separate response to the RTI as well. However, the response only contains additional documents and not information on the legal aid infrastructure in the state.

Important Regulations/ Circulars from the SLSA on Persons in Custody

1. Letter No. ASLSA 123/2010/679 dated 12 December 2010 on the Preparation of Panel Lawyers.
2. Letter No. ASLSA 86/2009/712 dated 31 December 2010 on the Implementation of the NALSA Scheme.

VERDICT: It is evident from the responses received, that in these particular districts, the legal aid delivery infrastructure for persons in custody is only partially in place, and clearly lacks effective reporting mechanisms.

NALSA 2010 Regulations: Free and Competent Legal Services Regulations

| Name of District | Kamrup | Bongaigaon | Golaghat | Kokrajhar | Sichar |
|--|-----------------|-----------------|-------------|-----------------|--|
| Number of Panel Lawyers Appointed | 26 | 13 | 36 | 7 | 24 |
| Number of Retainer Lawyers Appointed | 6 | 4 | 12 | 4 | 0 |
| Scrutiny and Evaluation Committee | Constituted | Not constituted | Constituted | Not constituted | Constituted |
| Monitoring Committee | Not constituted | Not constituted | Constituted | Constituted | Constituted |
| Reports Maintained by Panel and Retainer Lawyers | Nil | Nil | Nil | Nil | - Progress Report - Completion Report |

NALSA 2011 Regulations: Legal Aid Clinics Regulations

| Name of District | Kamrup | Bongaigaon | Golaghat | Kokrajhar |
|--|------------------------|------------|-------------------------|--|
| Name of the Jail | Central Jail, Guwahati | Abhayapuri | District Jail, Golaghat | District Jail, Kokrajhar |
| Legal Aid Clinic | No | Yes | Yes | Constituted |
| Number of Jail Visiting Lawyers Appointed | 0 | 13 | 6 | 2 |
| Number of Prisoner Paralegal Volunteers Appointed | 0 | 0 | 0 | 3 |
| Number of Community Paralegal Volunteers Appointed | 0 | 0 | 0 | 0 |
| Reports and Registers | Nil | Nil | Nil | i) Legal Aid Register ii) Work Register |

²⁴⁸ Prison Statistics India, 2015, National Crime Records Bureau, pp. 10 and 20.

²⁴⁹ Kamrup, Bongaigaon, Golaghat, Kokrajhar, Sichar.

²⁵⁰ Kamrup, Bongaigaon, Golaghat, Kokrajhar.

NALSA 1998 Scheme: Model Scheme for “Legal Aid Counsel” In All Courts of Magistrates

| Name of District | Kamrup | Bongaigaon | Golaghat | Kokrajhar |
|--|--------|--------------|----------|--------------|
| Number of Magistrate Courts | 13 | 9 | 8 | Not provided |
| Number of Magistrate Courts that Undertake Remand Hearings | 13 | 9 | 8 | Not provided |
| Appointment of Remand and Bail Lawyers | 24 | Not provided | 10 | Not provided |
| Reports to be Maintained by Legal Aid Counsel | Nil | Nil | Nil | Not provided |

MANIPUR

SNAPSHOT



Occupancy Rate
67.1%

No. of Undertrial Prisoners (Proportion)
533 (81.9%)

Period of Detention
<1 year: 69% | 1-3 years :23.8% | >3 years: 7.2%

Literacy Rate (Prison)
90.78%

| | Central | District | Sub-jails | Others | Total |
|------------|---------|----------|-----------|--------|-------|
| Prisons | 2 | 0 | 0 | 0 | 2 |
| Population | 651 | 0 | 0 | 0 | 651 |

Deaths in Prisons
4

Prison Death Rate
614.44 per million

Prison Suicide Rate
153.61

Outside Suicide Rate
1.4



No. of DLSAs
9

No. of TLSCs/ SDLSCs
Nil

Legal Aid Beneficiaries in Prisons
1

Legal Aid Website
Not Available

Legal Aid Rules & Regulations
Manipur State Legal Services Authority Rules, 1996



No. of District Court Judges
34

Judges : State Population
11.91 per million

Pendency of District Court
6,811

No. of Prosecutors
32

No. of High Court Judges
3

Judges : State Population
1.05 per million

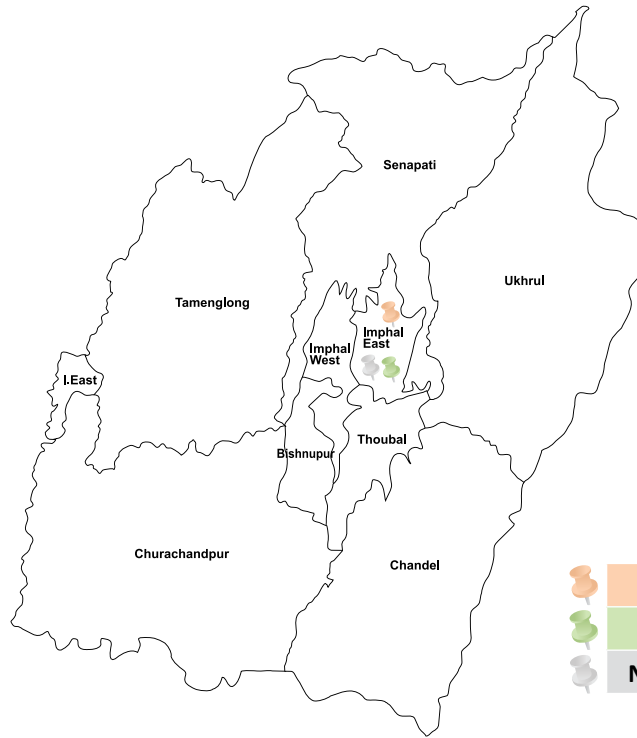
Pendency of High Court
3,341



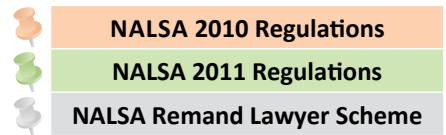
| Number of Police stations | |
|---------------------------|-----------|
| Sanctioned | Actual |
| 100 | 77 |
| Persons Arrested | |
| 2,394 | |











| Number of Police Officials | | |
|----------------------------|---------------|--------------|
| Sanctioned | Actual | Vacancies |
| 32,677 | 25,118 | 7,559 |
| Crime Rate | | |
| 157.6 | | |

LEGAL AID SNAPSHOT



No. of DLSAs Responded



| | | |
|--|---|--|
|  <p>At Legal Services Institution (LSI)</p> |  <p>In Jail</p> |  <p>At Court</p> |
|  <p>Retainer Lawyer</p> <p>Appointment: Not Provided</p> |  <p>Jail Legal Aid Clinic (JLAC)</p> <p>Constitution: 2 Jails</p> |  <p>Remand Lawyer</p> <p>Appointment: Not Provided</p> |
|  <p>Monitoring Committee (MC)</p> <p>Constitution : Not Provided</p> |  <p>Convict Paralegal Volunteer</p> <p>Appointment: 0/2 JLAC</p> |  <p>Panel Lawyer</p> <p>Appointment: Not Provided</p> |
| |  <p>Jail Visiting Lawyer</p> <p>Appointment: 0/2 JLAC</p> | |

LEGAL AID FINDINGS

Manipur's prisons house 651 inmates in two jails.²⁵¹ Manipur has nine districts and the same number of DLSAs. We received a response from the SLSA for all three schemes.

VERDICT: Most of the information provided by the SLSA were cumulative responses and not district-wise which makes it difficult to assess the legal aid deliver at district level.

1. LEGAL AID FRAMEWORK

1.1 Appointment of Legal Aid Providers

Every legal services institution has to appoint a panel of lawyers for a term of three years. These lawyers represent those persons who are in need of legal representation and are entitled to legal aid. **Retainer lawyers** are also drawn from among this panel by the executive chairperson of the legal services institution for a fixed period. They are paid a monthly fee, and in addition to representing persons in court they are expected to assist in the administrative affairs of the legal aid institution. Another category of lawyers, i.e. **legal aid counsels** (commonly referred as **remand lawyers**) are assigned to magistrate courts and are mandated to be present during remand hours to defend any unrepresented accused person.

- a) **Panel & Retainer Lawyers:** In total, 140 panel lawyers and 41 retainer lawyers were appointed in Manipur.
- b) **Remand Lawyers:** There are 19 magistrate courts in the entire state, all of which undertake remand and bail hearings. Forty-one remand and bail lawyers were appointed to these 19 magistrate courts. Remand lawyers in Manipur have a tenure of three years. Appointment letters for legal aid counsels provided by the SLSA are basic, and briefly outline a few of their duties.

1.2 Legal Aid Clinics in Jails

1.2.1 Constitution of Jail Legal Aid Clinics

Jail legal aid clinics play an important role in identifying and assisting prisoners in need of representation. Every jail is expected to set up a legal aid clinic manned by PLVs, and visited by legal aid lawyers. Legal aid clinics were constituted in both the jails in Manipur; one in January 2014 and the other in October 2014.

1.2.2 Appointment of Legal Aid Providers for Jail Legal Aid Clinics

The Manipur SLSA did not provide the number of JVLs appointed. However, an appointment letter for the visiting lawyer was provided, wherein four panel lawyers were directed to visit jails in Manipur to meet undertrial prisoners and provide them with necessary legal assistance, till separate panel lawyers for each district are appointed. The appointment letter did not outline their duties, but mentioned that they must visit the jails at least once a week and submit a report to the SLSA on or before the tenth of every month.

1.3 Constitution of Monitoring Committees (MCs)

MCs established under Regulation 10 of the NALSA 2010 Regulations are expected to monitor the work of panel and retainer lawyers. The information provided through the response to the RTI application was with regards

Important Regulations/ Circulars from the SLSA on Persons in Custody

1. Notification No.8/26/2014-MASLSA-I on the appointment of panel advocates as JVLs.
2. Notification No. 8/13/2015-MASLSA on the appointment of members to the committee that is to visit jails.

²⁵¹ Prison Statistics India, 2015, National Crime Records Bureau, pp. 10 and 20.

to the SLSA's MC, which was constituted in March 2016, and re-constituted in November 2016. No information was provided on whether or not the districts have constituted MCs.

2. LEGAL AID DELIVERY

2.1. Legal Aid Delivery in Jails

2.1.1 Visits by Legal Aid Providers in Jails

While no convict PLVs were appointed, 16 community PLVs were appointed in both jails. The appointment letter for community PLVs was provided, but it is not detailed. It included the name, address and phone number, and required two PLVs to be present, in shifts, for every sitting.

JAIL VISITING LAWYERS (JVLs): The state mandate for visit to jails by lawyers is once a week. However, information regarding actual visits by the JVLs was not provided. Instead, the SLSA stated that the committee visited once, during the specified period.

CONVICT PLVS: Since convict PLVs were not appointed, information regarding their visits was not provided.

COMMUNITY PLVS: Community PLVs are mandated to visit jails 12 days in a month. We did not receive any information on the actual number of visits made.

2.1.2 Registers & Records

Legal aid registers, work registers and attendance registers are maintained in both the jails. The format of the legal aid registers was basic. Attendance registers were said to be enclosed, but were not received. These work and attendance registers are called for by the DLSA every month.

Additionally, for both jails, there is a committee consisting of the district and sessions judge, the member secretary and an advocate that are expected to visit jails and send reports on the living conditions of inmates in the jails to the chairperson of the MASLSA.

2.2 Assignment of Cases to Legal Aid Providers & their Outcomes

2.2.1 Assignment of Cases to Panel Lawyers & their Outcomes

- a) **Scrutiny Committee & Legal Aid Application:** On receiving a legal aid application, the scrutiny and evaluation committee of the legal services institution decides if the applicant is entitled to legal aid. A scrutiny and evaluation committee was constituted on 16 March 2016. However, after its first meeting, the committee remained inactive owing to transfers of certain committee members and was reconstituted only on 14 November 2016. Registers were not maintained, since not even a single meeting was held. Thus, it appears that the scrutiny and evaluation committee is not functioning. There were no cases wherein a legal aid lawyer was not appointed due to deficiencies in the application or due to the fact that the person in custody already had a lawyer.
- b) **Time Taken to Assign Cases to Lawyers:** Information regarding the time it takes for the authorities to assign a legal aid lawyer was sought by asking for details of the last five legal aid cases from every district. However, no details were provided.
- c) **Representation & Outcome:** Of the 52 persons represented by panel lawyers and 398 by retainer lawyers, 174 persons were released on bail. It is difficult to assess, however, which districts maintained information on representations and releases, and which districts did not.

2.2.2 Representations by Remand Lawyers & their Outcomes

Of the 398 persons who were represented by remand lawyers, 83 were released on bail and 16 were discharged. District-wise information for representations and releases was not provided.

2.3 Monitoring Legal Aid Providers

2.3.1 Monitoring Panel & Retainer Lawyers

MCs are mandated to review the day-to-day working of legal aid cases. In order to track the progress of legal aid cases, registers are crucial. No information was provided on whether or not the districts have constituted MCs. Five completion reports were filed by panel lawyers, and the SLSA MC received 30 reports of the same from the panel lawyers.

2.3.2 Monitoring Remand Lawyers

1. **ATTENDANCE CERTIFICATES & WORK REPORTS:** Copies of attendance certificates and work reports from Imphal West and Imphal East were provided by the SLSA. Both districts follow different formats, and contain basic information.
2. **DLSA COMPLIANCE REPORTS FOR SLSA:** DLSA compliance reports were sent to the SLSA but only when called for. No particular format was provided or maintained by the SLSA for these compliance reports.

2.3.3 Complaints against Legal Aid Lawyers

Legal aid lawyers may be removed from the panel if they do not perform satisfactorily or act contrary to the object and spirit of the Legal Services Act, 1989 and the Regulations. No complaints were received against panel or remand and bail lawyers, and thus no lawyers were removed.



MEGHALAYA

SNAPSHOT



Occupancy Rate
177.9%

No. of Undertrial Prisoners (Proportion)
862 (91.41%)

Period of Detention
<1 year: 79.5% | 1-3 years :16.6% | >3 years: 3.9%

Literacy Rate (Prison)
67.13%

| | Central | District | Sub-jails | Others | Total |
|------------|---------|----------|-----------|--------|-------|
| Prisons | 0 | 4 | 0 | 0 | 4 |
| Population | 0 | 943 | 0 | 0 | 943 |

Deaths in Prisons
5

Prison Death Rate
530.22 per million

Prison Suicide Rate
106.04

Outside Suicide Rate
6.2



No. of DLSAs
11

No. of TLSCs/ SDLSCs
4

Legal Aid Beneficiaries in Prisons
321

Legal Aid Website
Available

Legal Aid Rules & Regulations

Meghalaya State Legal Services Authority Rules, 1998
Meghalaya State Legal Services Authority (Amendment) Regulation, 2004



No. of District Court Judges
41

Judges : State Population
13.82 per million

Pendency of District Court
15,300

No. of Prosecutors
NA

No. of High Court Judges
3

Judges : State Population
1.01 per million

Pendency of High Court
717

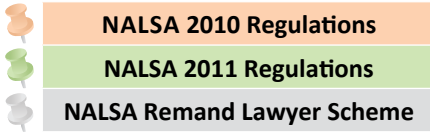












| Number of Police stations | |
|---------------------------|-----------|
| Sanctioned | Actual |
| 39 | 41 |
| Persons Arrested | |
| 2,335 | |

| Number of Police Officials | | |
|----------------------------|---------------|--------------|
| Sanctioned | Actual | Vacancies |
| 15,335 | 12,360 | 2,975 |
| Crime Rate | | |
| 128.7 | | |

LEGAL AID SNAPSHOT

No. of DLSAs Responded



| | | |
|--|---|--|
|  <p>At Legal Services Institution (LSI)</p> |  <p>In Jail</p> |  <p>At Court</p> |
|  <p>Retainer Lawyer</p> <p>Appointment: Not Provided</p> |  <p>Jail Legal Aid Clinic (JLAC)</p> <p>Constitution: 4 Jails</p> |  <p>Remand Lawyer</p> <p>Appointment: Not Provided</p> |
|  <p>Monitoring Committee (MC)</p> <p>Constitution : Not Provided</p> |  <p>Convict Paralegal Volunteer</p> <p>Appointment: 4/4 JLAC</p> |  <p>Panel Lawyer</p> <p>Appointment: Not Provided</p> |
| |  <p>Jail Visiting Lawyer</p> <p>Appointment: 4/4 JLAC</p> | |

LEGAL AID FINDINGS

Meghalaya's prisons house 943 inmates in four jails²⁵². The response to the RTI application was received from the SLSA. Thus, it is difficult to assess which districts maintain records, registers and reports and which districts do not.

VERDICT: It is evident from the responses received, that the legal aid delivery infrastructure is in place. However, reporting mechanisms have yet to be implemented effectively.

The SLSA provided documents clearly outlining the purposes and functions of MCs and scrutiny and evaluation committees, the duties of the advocates, as well as the forms of reporting that need to take place.

Important Regulations/ Circulars from the SLSA on Persons in Custody

1. Letter No. MSLSA.39/2016/9 dated 11 March 2016 on the implementation of the legal aid counsel scheme.
2. Letter No. IA.2/2000/12 dated 22 May 2001 on the approval of the "Draft Scheme for Legal Aid Counsel in all the Courts of Magistrates", Meghalaya.

1. LEGAL AID FRAMEWORK

1.1 Appointment of Legal Aid Providers

Every legal services institution has to appoint a panel of lawyers for a term of three years. These lawyers represent those persons who are in need of legal representation and are entitled to legal aid. **Retainer lawyers** are also drawn from among this panel by the executive chairperson of the legal services institution for a fixed period. They are paid a monthly fee, and in addition to representing persons in court they are expected to assist in the administrative affairs of the legal aid institution. Another category of lawyers, i.e. **legal aid counsels** (commonly referred as **remand lawyers**) are assigned to magistrate courts and are mandated to be present during remand hours to defend any unrepresented accused person.

- a) Panel & Retainer Lawyers:** In total, 103 panel lawyers were appointed in the State of Meghalaya. A district-wise list of the panel lawyers appointed was provided. No retainer lawyers were appointed as yet.
- b) Remand Lawyers:** There are 34 magistrate courts in the entire state, 20 of which undertake remand and bail hearings. A total of 24 remand and bail lawyers were appointed to these 20 magistrate courts, all of whom were trained by the legal services institution. Remand lawyers were selected from a list of panel advocates and there was no fixed tenure for these lawyers.

Appointment orders, instead of appointment letters for remand and bail lawyers were provided by the SLSA. They were basic, and merely mentioned the names of the advocates, the courts they were appointed to and their phone numbers. There was another letter, however, that contained a basic overview of the duties of remand and bail lawyers, that was signed by all the appointed remand and bail advocates.

1.2 Legal Aid Clinics in Jails

1.2.1 Constitution of Jail Legal Aid Clinics

Jail legal aid clinics play an important role in identifying and assisting prisoners in need of representation. Every jail is expected to set up a legal aid clinic manned by PLVs, and visited by legal aid lawyers. **Legal aid clinics were constituted in all four jails in the state.** The SLSA stated that all four clinics were constituted on 23 October 2010, however, the documents provided include a February 2017 letter from the SLSA requesting Ri-bhoi district to set up a legal aid clinic in its district jail.

²⁵² Prison Statistics India, 2015, National Crime Records Bureau, pp. 10 and 20.

1.2.2 Appointment of Legal Aid Providers for Jail Legal Aid Clinics

In total, 80 JVLs, 30 convict PLVs, and 375 community PLVs were appointed by Meghalaya for its four jails.

An appointment letter for JVL was provided, outlining their duties and included the forms they have to fill and the attendance registers they have to sign. No appointment letters were provided for either convict or community PLVs. However, minutes of a meeting provided outlined the duties of the community PLVs. **They also specify that the legal aid clinic needs to function throughout the week, except on Sundays.**

1.3 Constitution of Monitoring Committees (MCs)

MCs established under Regulation 10 of the NALSA 2010 Regulations are expected to monitor the work of panel and retainer lawyers. All 11 districts constituted MCs in 2016. Information regarding the members of the MC was not provided. The committee meetings were held at the district headquarters.

2. LEGAL AID DELIVERY

2.1. Legal Aid Delivery in Jails

2.1.1 Visits by Legal Aid Providers in Jails

JAIL VISITING LAWYERS (JVLs): The state mandate for visits to jails by lawyers is twice a week. The JVLs actually visited the jails two to three times a week.

CONVICT PLVs: Jail legal aid clinics are expected to function according to the state mandate, throughout the week, except on Sundays. Convict PLVs were present at the jail legal aid clinic on the same days as the visiting lawyers. So, if the lawyers visit twice a week, then the legal aid clinic does not function on the remaining four days as it is supposed to, according to the information provided by the SLSA.

COMMUNITY PLVs: Community PLVs were expected to be present at jail legal aid clinics throughout the week, except on Sundays.

2.1.2 Registers & Records

Work registers were maintained, but the SLSA did not specify if only a few of the jails maintain these registers or all four of them. The work registers were handwritten and were basic in terms of the information included. Attendance registers were also maintained, and had a typed format. These work and attendance registers were not reviewed by the DLSAs.

2.2 Assignment of Cases to Legal Aid Providers & their Outcomes

2.2.1 Assignment of Cases to Panel Lawyers & their Outcomes

- a) **Scrutiny Committee & Legal Aid Application:** On receiving a legal aid application, the scrutiny and evaluation committee of the legal services institution decides if the applicant is entitled to legal aid. Scrutiny and evaluation committees were constituted in 2014 in the State of Meghalaya. No registers were maintained by this committee. However, minutes of the meetings were provided. The minutes include the dates when legal aid applications were received and the dates when legal aid was appointed. The SLSA provided a letter that clearly outlines the purpose and duties of the scrutiny and evaluation committee. This is impressive and was distributed to all the districts. There were no cases wherein legal aid was not appointed due to deficiencies in the application. However, legal aid was not appointed in nine cases, since the persons in custody already had lawyers.
- b) **Time Taken to Assign Cases to Lawyers:** Information regarding the time it takes for the authorities to assign a legal aid lawyer was sought by asking for details of the last five legal aid cases from every district. Details

of only one case was shared where the DLSA took 18 days to assign a legal aid lawyer

- c) **Representation & Outcome:** The SLSA provided information regarding persons represented and released, wherein, out of 955 persons who were represented by panel lawyers, 74 persons were released on bail and 65 were acquitted. It is difficult to assess, however, which districts maintained this information and which did not.

2.2.2 Representations by Remand Lawyers & their Outcomes

The SLSA did not have any information pertaining to persons represented and released by remand and bail lawyers.

2.3 Monitoring Legal Aid Providers

2.3.1 Monitoring Panel & Retainer Lawyers

Monitoring committees are mandated to review the day-to-day working of legal aid cases. In order to track the progress of legal aid cases, registers are crucial. Information on monitoring committee registers as well as bi-monthly reports were not available with the SLSA. No completion reports or case progress reports were submitted by panel lawyers during the time period specified.

2.3.2 Monitoring Remand Lawyers

1. **ATTENDANCE CERTIFICATES & WORK REPORTS:** Attendance certificates and work reports were not submitted.
2. **DLSA COMPLIANCE REPORTS FOR SLSA:** DLSA compliance reports are sent to the SLSA but not on a regular basis.

2.3.3 Complaints against Legal Aid Lawyers

Legal aid lawyers may be removed from the panel if they do not perform satisfactorily or act contrary to the object and spirit of the Legal Services Act, 1989 and the Regulations. No complaints were received against panel or remand and bail lawyers, and thus no lawyer was removed.

MIZORAM

SNAPSHOT



Occupancy Rate
94.9%

No. of Undertrial Prisoners (Proportion)
608 (48.9%)

Period of Detention
<1 year: 91.8% | 1-3 years :8.2% | >3 years: 0%

Literacy Rate (Prison)
96.06%

| | Central | District | Sub-jails | Others | Total |
|------------|---------|----------|-----------|--------|-------|
| Prisons | 1 | 6 | 0 | 0 | 7 |
| Population | 715 | 529 | 0 | 0 | 1244 |

Deaths in Prisons
2

Prison Death Rate
160.77 per million

Prison Suicide Rate
0

Outside Suicide Rate
11.7



No. of DLSAs
8

No. of TLSCs/ SDLSCs
Nil

Legal Aid Beneficiaries in Prisons
880

Legal Aid Website
Available

Legal Aid Rules & Regulations

Mizoram State Legal Services Authorities Rules, 1996
Mizoram State Legal Services Authority Regulations, 1998



No. of District Court Judges
30

Judges : State Population
27.34 per million

Pendency of District Court
4,951

No. of Prosecutors
NA

No. of High Court Judges
NA

Judges : State Population
NA

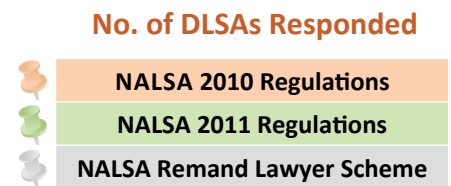
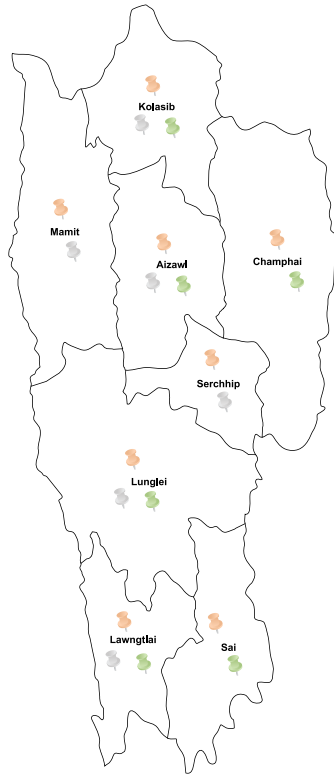
Pendency of High Court
NA



| Number of Police stations | |
|---------------------------|-----------|
| Sanctioned | Actual |
| 38 | 38 |
| Persons Arrested | |
| 3,128 | |

| Number of Police Officials | | |
|----------------------------|--------------|--------------|
| Sanctioned | Actual | Vacancies |
| 9,807 | 7,513 | 2,294 |
| Crime Rate | | |
| 262.4 | | |

LEGAL AID SNAPSHOT



At Legal Services Institution (LSI)

In Jail

At Court

Retainer Lawyer
Appointment: 3/8 DLSAs

Jail Legal Aid Clinic (JLAC)
Constitution: 7 Jails

Remand Lawyer
Appointment: 6/6 DLSAs

Monitoring Committee (MC)
Constitution : 8/8 DLSAs

Convict Paralegal Volunteer
Appointment: 2/7 JLAC

Panel Lawyer
Appointment: 6/8 DLSAs

Jail Visiting Lawyer
Appointment: 4/7 JLAC

LEGAL AID FINDINGS

Mizoram's prisons house 1,244 inmates in seven jails²⁵³. These jails are distributed over 11 districts. We received a response from the SLSA for all three schemes. The SLSA, for the most part, provided us with district-wise information. However, with regard to registers and reports being maintained, information was not provided for individual districts and thus, it is difficult to assess the reporting and accountability mechanisms of the state.

Important Regulations/ Circulars from the SLSA on Persons in Custody

No regulations, circulars or notices were received.

VERDICT: It is evident from the responses received, that the legal aid delivery infrastructure for persons in custody is in place. However, reporting mechanisms have yet to be implemented effectively, as currently, no reports or registers are maintained in accordance with any of the three schemes.

1. LEGAL AID FRAMEWORK

1.1 Appointment of Legal Aid Providers

Every legal services institution has to appoint a panel of lawyers for a term of three years. These lawyers represent those persons who are in need of legal representation and are entitled to legal aid. **Retainer lawyers** are also drawn from among this panel by the executive chairperson of the legal services institution for a fixed period. They are paid a monthly fee, and in addition to representing persons in court they are expected to assist in the administrative affairs of the legal aid institution. Another category of lawyers, i.e. **legal aid counsels** (commonly referred as **remand lawyers**) are assigned to magistrate courts and are mandated to be present during remand hours to defend any unrepresented accused person.

- a) **Panel & Retainer Lawyers:** In total, 49 panel lawyers were appointed in six districts,²⁵⁴ and four retainer lawyers in three districts.²⁵⁵ However, after later correspondence with the SLSA, it was clarified that in fact, 55 panel lawyers were appointed in seven districts,²⁵⁶ and eight retainer lawyers were appointed in five districts.²⁵⁷
- b) **Remand Lawyers:** According to the responses to the RTI application, there are eight magistrate courts in the State, only two of which undertake remand and bail hearings, and both of these are in Kolasib. Also, 38 remand and bail lawyers were appointed to these two magistrate courts. However, upon later correspondence with the SLSA, it was clarified that there are in fact 13 magistrate courts in the state, all of which undertake remand and bail hearings. In total 11 remand and bail lawyers were appointed to all magistrate courts, none of whom were trained by the legal services institution. The State mandated tenure for these remand and bail lawyers is two years.

1.2 Legal Aid Clinics in Jails

1.2.1 Constitution of Jail Legal Aid Clinics

Jail legal aid clinics play an important role in identifying and assisting prisoners in need of representation. Every jail is expected to set up a legal aid clinic manned by paralegal volunteers, and visited by legal aid lawyers. Legal aid clinics were constituted in all seven jails in the state. Of the seven clinics, four were constituted in 2012, and three in 2013.

253 Prison Statistics India, 2015, National Crime Records Bureau, pp. 10 and 20.

254 Aizawl, Mamit, Lunglei, Kolasib, Champhai, Saiha.

255 Aizawl, Kolasib, Saiha.

256 Serchhip District did not appoint any panel lawyers.

257 Serchhip, Mamit and Champhai districts did not appoint any retainer lawyers.

1.2.2 Appointment of Legal Aid Providers for Jail Legal Aid Clinics

In total, four jail legal aid clinics²⁵⁸ appointed JVLs, two²⁵⁹ had convict PLVs and only three clinics²⁶⁰ had community PLVs.

Two appointment letters for convict PLVs were provided. They are basic, and do not outline the duties of these volunteers. They merely provide the names of those who have been appointed.

1.3 Constitution of Monitoring Committees (MCs)

MCs established under Regulation 10 of the NALSA 2010 Regulations are expected to monitor the work of panel and retainer lawyers. All eight districts constituted MCs in 2015. No separate staff or infrastructure was maintained for this purpose.

2. LEGAL AID DELIVERY

2.1. Legal Aid Delivery in Jails

2.1.1 Visits by Legal Aid Providers in Jails

JAIL VISITING LAWYERS (JVLs): The mandate for visits of JVLs is once a month to Champhai Jail, and twice a month to Lawngtlai Jail. Both these districts fulfilled their mandates.²⁶¹

CONVICT PLVs: Jail legal aid clinics are expected to function twice a week in Champhai and Lunglei, twice a month in Lawngtlai and ten days a month in Aizawl. Champhai and Lunglei fulfilled these mandates.²⁶²

COMMUNITY PLVs: Community PLVs have to visit jail legal aid clinics twice a week in Champhai, and twice a month in Lawngtlai.

2.1.2 Registers & Records

Two registers were maintained by the legal aid clinics: attendance registers and legal aid clinic registers.²⁶³ Copies of the work register were also provided. They were handwritten and had a basic format. The attendance and work registers were called for by the DLSA for review from the prisons once a year.²⁶⁴

2.2 Assignment of Cases to Legal Aid Providers & their Outcomes

2.2.1 Assignment of Cases to Panel Lawyers & their Outcomes

- a) **Scrutiny Committee & Legal Aid Application:** On receiving a legal aid application, the scrutiny and evaluation committee of the legal services institution decides if the applicant is entitled to legal aid. Scrutiny and evaluation committees were not constituted in the State of Mizoram. There were zero cases where lawyers were not appointed due to deficiencies in the application or due to the fact that the person in custody already had a lawyer.
- b) **Time Taken to Assign Cases to Lawyers:** Information regarding the time it takes for the authorities to assign a legal aid lawyer was sought by asking for details of the last five legal aid cases from every district. However, no case details were shared.

258 Champhai, Kolasib, Lawngtlai, Lunglei.

259 Champhai, Lunglei.

260 Champhai, Lawngtlai, Lunglei.

261 Information on the mandates for the remaining districts, as well as information on the actual number of visits made was not provided by the SLSA.

262 Information on the mandates for the remaining JLACs was not provided. Additionally, information on the actual number of visits in Aizawl and Lawngtlai were not provided by the SLSA.

263 The SLSA specified, however, that the attendance register is maintained in Champai and the Legal Aid Clinic in Lunglei. It is unclear as to whether the jails in the other districts maintain similar registers.

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

- c) **Representation & Outcome:** THE SLSA provided district-wise information on those persons who were represented and released. In total, 1,020 persons were represented by panel lawyers in five districts²⁶⁵ and 497 persons were represented by retainer lawyers in four districts.²⁶⁶ Further, 230 persons were released on bail and 78 persons were acquitted.

2.2.2 Representations by Remand Lawyers & their Outcomes

Remand and bail lawyers represented 426 persons two districts – Aizawl and Kolasib. Of these, 159 persons were released on bail in accordance with the Model Scheme. The remaining districts did not provide data on representations and releases. An appointment letter for remand and bail lawyers was provided by the SLSA, but it is basic.

2.3 Monitoring Legal Aid Providers

2.3.1 Monitoring Panel & Retainer Lawyers

MCs are mandated to review the day-to-day working of legal aid cases. In order to track the progress of legal aid cases, registers are crucial. MC registers, the minutes of MC meetings and bi-monthly reports were either not maintained throughout the State, or were not provided. Lastly, completion reports and case progress reports were either not maintained or not provided by the panel lawyers in all districts.

2.3.2 Monitoring Remand Lawyers

1. **ATTENDANCE CERTIFICATES & WORK REPORTS:** Attendance certificates and work reports were not submitted and copies of the same were not provided.
2. **DLSA COMPLIANCE REPORTS FOR SLSA:** DLSA compliance reports were not sent to the SLSA.

2.3.3 Complaints against Legal Aid Lawyers

Legal aid lawyers may be removed from the panel if they do not perform satisfactorily or act contrary to the object and spirit of the Legal Services Act, 1989 and the Regulations. No complaints were received against panel or remand and bail lawyers, and thus no lawyer was removed.

²⁶⁵ Aizawl, Lunglei, Kolasib, Saiha, Champhai.

²⁶⁶ Aizawl, Lunglei, Kolasib, Saiha.

NAGALAND

SNAPSHOT

No response was received on CHRI's RTI request



Occupancy Rate
33.8%

No. of Undertrial Prisoners (Proportion)
390 (79.6%)

Period of Detention
<1 year: 75.9% | 1-3 years :16.9% | >3 years: 7.2%

Literacy Rate (Prison)
75.1%

| | Central | District | Sub-jails | Others | Total |
|------------|---------|----------|-----------|--------|-------|
| Prisons | 1 | 10 | 0 | 0 | 11 |
| Population | 151 | 339 | 0 | 0 | 490 |

Deaths in Prisons
0

Prison Death Rate
0

Prison Suicide Rate
0

Outside Suicide Rate
0.9



No. of DLSAs
11

No. of TLSCs/ SDLSCs
Nil

Legal Aid Beneficiaries in Prisons
35

Legal Aid Website
Not Available

Legal Aid Rules & Regulations
Not Available



No. of District Court Judges
24

Judges : State Population
12.13 per million

Pendency of District Court
4,846

No. of Prosecutors
14

No. of High Court Judges
NA

Judges : State Population
NA

Pendency of High Court
NA



Number of Police stations

| Sanctioned | Actual |
|-------------------------|-----------|
| 78 | 78 |
| Persons Arrested | |
| 1,799 | |

Number of Police Officials

| Sanctioned | Actual | Vacancies |
|-------------------|---------------|---------------|
| 21,573 | 23,131 | -1,558 |
| Crime Rate | | |
| 79.9 | | |

SIKKIM

SNAPSHOT



Occupancy Rate

99.2%

No. of Undertrial Prisoners (Proportion)

140 (55.8%)

Period of Detention

<1 year: 92.2% | 1-3 years :7.8% | >3 years: 0%

Literacy Rate (Prison)

86.85%

| | Central | District | Sub-jails | Others | Total |
|------------|---------|----------|-----------|--------|-------|
| Prisons | 1 | 1 | 0 | 0 | 2 |
| Population | 180 | 71 | 0 | 0 | 251 |

Deaths in Prisons

0

Prison Death Rate

0

Prison Suicide Rate

0

Outside Suicide Rate

37.5



No. of DLSAs

4

No. of TLSCs/ SDLSCs

6

Legal Aid Beneficiaries in Prisons

510

Legal Aid Website

Available

Legal Aid Rules & Regulations

Sikkim State Legal Services Authority Rules, 1995
Sikkim State Legal Services Authority Regulation, 1998



No. of District Court Judges

13

Judges : State Population

21.29 per million

Pendency of District Court

1,416

No. of Prosecutors

9

No. of High Court Judges

3

Judges : State Population

NA

Pendency of High Court

171



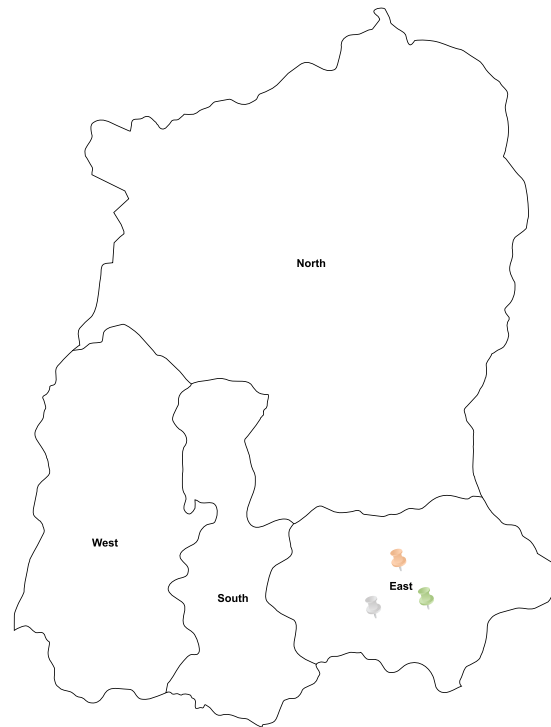
Number of Police stations











| Sanctioned | Actual |
|-------------------------|-----------|
| 29 | 29 |
| Persons Arrested | |
| 1,100 | |

Number of Police Officials

| Sanctioned | Actual | Vacancies |
|-------------------|--------------|------------|
| 6,081 | 5,355 | 726 |
| Crime Rate | | |
| 157.2 | | |

LEGAL AID SNAPSHOT



|  At Legal Services Institution (LSI) |  In Jail |  At Court |
|---|---|--|
|  Retainer Lawyer Appointment: 0/4 DLSAs |  Jail Legal Aid Clinic (JLAC) Constitution: 2 Jails |  Remand Lawyer Appointment: NA |
|  Monitoring Committee (MC) Constitution : 1/4 DLSAs |  Convict Paralegal Volunteer Appointment: 1/2 JLAC |  Panel Lawyer Appointment: NA |
| |  Jail Visiting Lawyer Appointment: 0/2 JLAC | |

LEGAL AID FINDINGS

Sikkim's prisons house 251 inmates in two jails.²⁶⁷ The state has four districts: North, South, East and West. We received a response from the SLSA for the three schemes, jointly for all the districts. Thus, it is difficult to assess which districts maintain records, registers and reports and which districts do not.

VERDICT: The legal aid delivery infrastructure is in place, but lacks effective reporting mechanisms. The SLSA, however, is particularly involved and has clearly outlined the duties of legal aid lawyers, as well as the forms of reporting that need to take place.

Important Regulations/ Circulars from the SLSA on Persons in Custody

1. Letter No. 2675-74/SLSA/ dated 24 February 2016 on guidelines on monitoring remand and bail lawyers.
2. Circular No.07/SLSA/194 dated 19 July 2006 on the duties of panel lawyers as jail visiting lawyers.

1. LEGAL AID FRAMEWORK

1.1 Appointment of Legal Aid Providers

Every legal services institution has to appoint a panel of lawyers for a term of three years. These lawyers represent those persons who are in need of legal representation and are entitled to legal aid. **Retainer lawyers** are also drawn from among this panel by the executive chairperson of the legal services institution for a fixed period. They are paid a monthly fee, and in addition to representing persons in court they are expected to assist in the administrative affairs of the legal aid institution. Another category of lawyers, i.e. **legal aid counsels** (commonly referred as **remand lawyers**) are assigned to magistrate courts and are mandated to be present during remand hours to defend any unrepresented accused person.

- a) **Panel & Retainer Lawyers:** In total, 186 panel lawyers were appointed in four districts, but no retainer lawyers were appointed throughout the state.
- b) **Remand Lawyers:** Sikkim has eight magistrate courts, two in each of the four districts. All eight magistrate courts undertake remand and bail hearings. The Sikkim SLSA appointed eight panel advocates as remand and bail lawyers in each district, all of whom were trained by the legal services institutions.

The appointment letter for remand and bail advocates provided by the SLSA is basic, and merely provides the name of the advocate appointed. The Model Scheme does not provide a tenure for legal aid counsel, but the SLSA has set the tenure at three years.

1.2 Legal Aid Clinics in Jails

1.2.1 Constitution of Jail Legal Aid Clinics

Jail legal aid clinics play an important role in identifying and assisting prisoners in need of representation. Every jail is expected to set up a legal aid clinic manned by PLVs, and visited by legal aid lawyers. The response received from the SLSA indicated that legal aid clinics were constituted in the two jails in the state. The legal aid clinic in the Central Jail was constituted in 2012, whilst the one in the district jail was constituted in 2015.

1.2.2 Appointment of Legal Aid Providers for Jail Legal Aid Clinics

No specific JVLs were appointed in Sikkim. Instead, every panel lawyer is required to visit jails to meet the undertrial prisoners assigned to them, in connection with their cases. Two convict PLVs were appointed to the Central Prison in East Sikkim, whilst no PLVs were appointed to the district prison in South Sikkim. **Additionally, no community PLVs were appointed due to security concerns.**

²⁶⁷ Prison Statistics India, 2015, National Crime Records Bureau, pp. 10 and 20.

No appointment letters were provided for either JVLs or prisoner paralegal volunteers.

1.3 Constitution of Monitoring Committees (MCs)

MCs established under Regulation 10 of the NALSA 2010 Regulations are expected to monitor the work of panel and retainer lawyers. The response received from the SLSA stated that all four districts have constituted MCs. Two MCs were constituted in 2012 and 2014.

2. LEGAL AID DELIVERY

2.1. Legal Aid Delivery in Jails

2.1.1 Visits by Legal Aid Providers in Jails

JAIL VISITING LAWYERS (JVLs): There is no state mandate directing JVLs to visit jails. Since the panel lawyers are expected to visit jails as and when undertrial prisoners are appointed to them, there is no set mandate on the number of visits for the district. They merely visit as and when required.

CONVICT PLVS: Jail legal aid clinics in Sikkim are expected to function twice a week, on Wednesdays and Sundays. The actual number of days that the JLAC was conducted was thrice a week.

COMMUNITY PLVS: No mandate was provided for community paralegal volunteers.

2.1.2 Registers & Records

Work registers were maintained, but the SLSA did not specify if only some districts maintain these registers or all four of them. The work registers were handwritten and followed the same format as the legal aid clinic registers. Legal aid clinic registers were provided. They contain columns including problems faced, and solutions provided. Attendance registers were also maintained. They were handwritten and followed a basic format. These work and attendance registers were yet to be called for by the DLSA.

2.2 Assignment of Cases to Legal Aid Providers & their Outcomes

2.2.1 Assignment of Cases to Panel Lawyers & their Outcomes

- a) **Scrutiny Committee & Legal Aid Application:** On receiving a legal aid application, the scrutiny and evaluation committee of the legal services institution decides if the applicant is entitled to legal aid. Scrutiny and evaluation committees were not constituted in the State of Sikkim. There were no cases wherein legal aid was not appointed either due to deficiencies in the application or due to the fact that the person in custody already had a lawyer.
- b) **Time Taken to Assign Cases to Lawyers:** Information regarding the time it takes for the authorities to assign a legal aid lawyer was sought by asking for details of the last five legal aid cases from every district. Details were provided only from one district and in all five cases, the assignment of panel lawyers took three days.
- c) **Representation & Outcome:** The SLSA provided information regarding representation and releases wherein, out of the 109 persons who were represented by panel lawyers, 54 cases were disposed. Interestingly, records demonstrated that 50 cases were withdrawn by panel lawyers, but the SLSA clarified that in every such case, another counsel was provided immediately.

2.2.2 Representations by Remand Lawyers & their Outcomes

Either no records were maintained regarding persons represented and released in accordance with the Model Scheme or they were not provided.

2.3 Monitoring Legal Aid Providers

2.3.1 Monitoring Panel & Retainer Lawyers

Monitoring committees are mandated to review the day-to-day working of legal aid cases. In order to track the progress of legal aid cases, registers are crucial. Monitoring committee registers were maintained, but there was no clarification as to whether they were maintained by all the districts or just a few of them. The monitoring committee registers were not provided, and neither were the case progress reports that are to be submitted by panel lawyers. Five bi-monthly reports were filed by the monitoring committee. The SLSA's response included copies of the bi-monthly reports. The format includes columns on the nature of the case, steps taken by the counsel, stage of the allotted case, reasons for delay and the number of cases disposed bi-monthly. Additionally, records provided by the SLSA indicate that 59 completion reports were filed by panel lawyers. These completion reports act as a proof for honorarium

The SLSA also provided information on another committee called the in-house committee comprising the deputy secretary, undersecretary, office superintendent, head assistant, system assistant and record keeper in the office of the Sikkim SLSA. This committee was constituted to monitor legal aid cases. It questions the counsel either by phone or official letter on delays or seeks information in writing about the steps taken by the counsel.

2.3.2 Monitoring Remand Lawyers

1. **ATTENDANCE CERTIFICATES & WORK REPORTS:** No work reports were submitted by the remand and bail lawyers and even the attendance certificates, according to the SLSA, were currently under process.
2. **DLSA COMPLIANCE REPORTS FOR SLSA:** DLSA compliance reports, according to the information provided by the SLSA, were currently "under process" and were yet to be submitted to the SLSA.

2.3.3 Complaints against Legal Aid Lawyers

Legal aid lawyers may be removed from the panel if they do not perform satisfactorily or act contrary to the object and spirit of the Legal Services Act, 1989 and the Regulations. Responses indicate that no complaints were received against panel or remand and bail lawyers, and thus no lawyer was removed.

TRIPURA

SNAPSHOT

No response was received on CHRI's RTI request



Occupancy Rate
47.8%

No. of Undertrial Prisoners (Proportion)
458 (44.1%)

Period of Detention
<1 year: 95.6% | 1-3 years : 3.7% | >3 years: 0.7%

Literacy Rate (Prison)
86.33%

| | Central | District | Sub-jails | Others | Total |
|------------|---------|----------|-----------|--------|-------|
| Prisons | 1 | 2 | 10 | 0 | 13 |
| Population | 550 | 156 | 333 | 0 | 1039 |

Deaths in Prisons
2

Prison Death Rate
192.49 per million

Prison Suicide Rate
96.25

Outside Suicide Rate
19.6



No. of DLSAs
5

No. of TLSCs/ SDLSCs
14

Legal Aid Beneficiaries in Prisons
158

Legal Aid Website
Available

Legal Aid Rules & Regulations

The Tripura State Legal Services Authority Rules, 1998
The Tripura State Legal Services Authority Regulations, 1998



No. of District Court Judges
74

Judges : State Population
20.14 per million

Pendency of District Court
1,42,232

No. of Prosecutors
97

No. of High Court Judges
2

Judges : State Population
0.54 per million

Pendency of High Court
2,491



| Number of Police stations | |
|---------------------------|-----------|
| Sanctioned | Actual |
| 81 | 81 |
| Persons Arrested | |
| 4,809 | |

| Number of Police Officials | | |
|----------------------------|---------------|--------------|
| Sanctioned | Actual | Vacancies |
| 27,421 | 23,864 | 3,557 |
| Crime Rate | | |
| 106.3 | | |

CHRI PROGRAMMES

CHRI believes that the Commonwealth and its member countries must be held to high standards and functional mechanisms for accountability and participation. This is essential if human rights, genuine democracy and development are to become a reality in people's lives. CHRI furthers this belief through strategic initiatives and advocacy on human rights, access to justice and access to information. It does so through research, publications, workshops, information dissemination and advocacy. It has three principal programmes:

1. Access to Justice

Police Reforms: In too many countries the police are seen as an oppressive instrument of state rather than as protectors of citizens' rights, leading to widespread rights violations and denial of justice. CHRI promotes systemic reform so that the police act as upholders of the rule of law rather than as instruments of the current regime. In India, CHRI's programme aims at mobilising public support for police reform. In South Asia, CHRI works to strengthen civil society engagement on police reforms. In East Africa and Ghana, CHRI is examining police accountability issues and political interference.

Prison Reforms: CHRI's work is focused on increasing transparency of a traditionally closed system and exposing malpractices. A major area is focused on highlighting failures of the legal system that result in terrible overcrowding and unconscionably long pre-trial detention and prison overstay, and engaging in interventions to ease this. Another area of concentration is aimed at reviving the prison oversight systems that have completely failed. We believe that attention to these areas will bring improvements to the administration of prisons as well as have a knock-on effect on the administration of justice overall.

2. Access to Information

CHRI is acknowledged as one of the main organisations working to promote Access to Information across the Commonwealth. It encourages countries to pass and implement effective Right to Information laws. It routinely assists in the development of legislation and has been particularly successful in promoting Right to Information laws and practices in India, Sri Lanka, Afghanistan, Bangladesh and Ghana. In the latter CHRI is the Secretariat for the RTI civil society coalition. CHRI regularly critiques new legislation and intervenes to bring best practices into governments and civil society knowledge both at a time when laws are being drafted and when they are first being implemented. Its experience of working in hostile environments as well as culturally varied jurisdictions allows CHRI to bring valuable insights into countries seeking to evolve and implement new laws on right to information. In Ghana, for instance it has been promoting knowledge about the value of Access to Information which is guaranteed by law while at the same time pushing for introduction of an effective and progressive law.

3. International Advocacy and Programming

CHRI monitors commonwealth member states' compliance with human rights obligations and advocates around human rights exigencies where such obligations are breached. CHRI strategically engages with regional and international bodies including the Commonwealth Ministerial Action Group, the UN and the African Commission for Human and People's Rights. Ongoing strategic initiatives include: advocating for and monitoring the Commonwealth's reform; reviewing Commonwealth countries' human rights promises at the UN Human Rights Council, the Universal Periodic Review; advocating for the protection of human rights defenders and civil society space; and monitoring the performance of National Human Rights Institutions in the Commonwealth while advocating for their strengthening.



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

55A, Third Floor, Siddhartha Chambers - I,
Kalu Sarai, New Delhi 110 016, India
Tel: +91 11 4318 0200 Fax: +91 11 2686 4688
E-mail: info@humanrightsinitiative.org
Website: www.humanrightsinitiative.org
Twitter: @CHRI_INT