



November 09, 2016

The year that was: taking stock on Legal Services Day

Dear Friends,

For the past 22 years India has observed the Legal Services Day on November 9. Following our jail mail marking this event [last year](#), we bring you an update on the latest developments in legal aid.

During the first 10 years of the Legal Services Act, persons in custody were probably not of interest. This was evident in the lack of any reference to prisons in the [speech](#) made by Hon'ble Y.K. Sabarwal, the then Chief Justice of India, when he spoke at the National Legal Literacy Day in 2005. A decade later, the momentum had shifted towards conversations around legal aid for persons in custody. When the minister of law and justice, Mr D.V. Sadananda Gowda spoke at NALSA's last annual meeting on 9th April 2016, he categorically stated, *"It is almost a failure of our legal aid system that most of those who could have been released but for the lack of legal aid or money for surety or bail bonds are poor and marginalised...We might have travelled miles, but we have many more miles to travel. Regular oversight on this cause is required to ameliorate the situation."*

The year that was:

This day last year, the National Legal Services Authority (NALSA) introduced [seven new legal aid schemes](#). Among these, two schemes were related specifically to ensuring legal aid to mentally ill prisoners and children and juveniles. This year too, we anticipate NALSA to come up with new initiatives, hopefully with respect to use of technology to strengthen legal aid delivery.

On 19th March 2016, NALSA Director, Rajesh Kumar Goel, Director engaged with the civil society and shared NALSA's new initiatives in the National Consultation on Prisoners' Rights, Legal Aid & Prison Reforms co-organized by Human Rights Law Network, Commonwealth Human Rights Initiative, Tata Institute of Social Science and International Bridges to Justice and Multiple Action Research Group.

In April 2016, NALSA conducted its annual meeting in Hyderabad where amendments to the existing legal aid schemes were discussed, specifically on appointment of remand advocates and increase in remuneration of legal aid lawyers. Subsequently in May 2016, NALSA circulated Standard Operating Procedures for Representation of Persons in Custody, which among other directives, also ordered the appointment of jail visiting lawyers in each prison and mandated visits twice a week.

Legal aid services to those in custody, has been in the limelight recently on account of the on-going public interest litigation in the Hon'ble Supreme Court of India in *Re Inhuman Conditions in 1382 Prisons*, where, for the first time, the Supreme Court catapulted the legal services authorities to the forefront of ensuring that undertrials are no longer detained unnecessarily or for prolonged periods of time.

Additionally, 2016 also saw legal aid services coming within the focus of the Parliamentary Standing Committee on Personnel, Public Grievances, Law, and Justice, which has been asked to review the legal aid system in India.

What the Commonwealth Human Rights Initiative (CHRI) did this year:

This year, CHRI came out with two watch reports on Access to Legal Aid for prisoners in [Rajasthan](#) and West Bengal. We also prepared two posters on legal aid and steps leading from arrest to appeal for prisoners.

- ❖ We also made submissions to the Parliamentary Committee on Personnel, Public Grievances, Law, and Justice on [Basic Principles of the Public Defender System](#) and [Access to Legal Aid](#) in the course of our work this year. CHRI also presented its [recommendations](#) on legal aid schemes to the committee earlier this year.
- ❖ We also organized an [Online Consultation on Early and Effective Access to Legal Aid](#). The report of the consultation will be shared soon.
- ❖ We have prepared a survey-based report on working of legal aid clinics in West Bengal. The report will be available shortly on our website.
- ❖ We have also initiated a Right to Information based National Study on legal aid for persons in custody. This report is scheduled to be launched next year. To date, we have received responses from 15 states and union territories.

International developments:

In 2012, UN General Assembly unanimously adopted the [Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems](#). To further the implementation of these principles, in 2014 the *Johannesburg Declaration on the Implementation of the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems* was issued as an outcome of the 1st International Conference on Legal Aid in Criminal Justice Systems held in Johannesburg in June 2014.

Subsequently, in 2015 access to justice for all features as one of the Sustainable Development Goals ([Goal 16](#)), which has provided further momentum globally to advocacy around ensuring legal aid for persons in custody. The United Nations Office on Drugs & Crime has also prepared a Model Law on Legal Aid which is expected to be released soon. In a follow up to Johannesburg, the [2nd International Conference](#) on Access to Legal Aid in Criminal Justice System is going to be held from 15-17 November 2016 in Buenos Aires, Argentina. CHRI plans to attend.

Repository on legal aid schemes:

CHRI is developing an online repository of all schemes and regulations pertaining to legal aid services for persons in custody and would be sharing the same soon.

What you can do:

- ❖ Share with us any schemes/letters/circulars/legislations, national or state wide, which pertain to access to legal aid for persons in custody.
- ❖ Advocate with NALSA to disclose all relevant information pertaining to ensuring access to legal aid services for persons in custody on their website.

Best Regards,

Sana Das
Coordinator, Prison Reforms Programme

About *Jail Mail*

Jail Mail is a regular series of Prison Reform Updates from CHRI for readers interested in the rights of prisoners and the reform of prisons as a matter of public concern. The engagement of civil society in the management and monitoring of prisons and the rights of prisoners is vital to the transparency of this traditionally closed institution and to ensure the practical realisation of the rights of those behind bars. *Jail Mail* invites discussion between civil society members and those entrusted to oversee and manage prisons.

Evidence-based research and watch reports of CHRI's Prison Reforms Programme, interviews with critical stakeholders, topical issues and developments concerning the liberty of prisoners, and health of prisons in India and around the world will form the sources of *Jail Mail*. Its periodicity will depend on the urgency of issues and the interest they generate.

About CHRI and the Prison Reforms Programme

The Commonwealth Human Rights Initiative (CHRI) is an independent, non-partisan, international non-governmental organisation, mandated to ensure the practical realisation of human rights across the Commonwealth. CHRI was founded in 1987 by Commonwealth professional associations; it is headquartered in New Delhi, India since 1993, and has offices in Accra, Ghana and London, UK.

The Prison Reforms Programme of CHRI is more than 15 years old. The programme focuses on improving prison monitoring through the strengthening of undertrial review mechanisms and prison visiting system nationally, and ensuring early safeguards against unnecessary pre-trial detentions, specifically in Rajasthan and West Bengal. The programme also advocates for timely repatriation of foreign national prisoners and immediate release of asylum seekers. Evidence-based research, advocacy, capacity-building of actors of the criminal justice system including prison officials, welfare and probation officers, criminal defense lawyers, magistrates, legal aid functionaries and civil society actors are the regular activities of the programme.

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