STATUS OF LEGAL AID FOR PERSONS IN CUSTODY
CHRI’s Work On Legal Aid

A. Setting up Legal Aid Clinics in Rajasthan and West Bengal

B. Advocacy with Legal aid institutions at the National, State and District level (NALSA, SLSAs and DLSAs)

C. Training of Legal Aid Lawyers

D. Training of Paralegal Volunteers

E. Watch Reports on the Implementation of Legal Aid schemes
Why should we evaluate the Status?

A. To understand the extent of the problem
B. To compare the extent of the problem in different geographies
C. To compare the extent of the problem over years
D. To look for and advocate specific solutions
How to evaluate the Status of Legal Aid?

A. What should be the parameters/indicators?

B. Can these parameters be quantified?

C. Where is the information on these parameters?
PARAMETERS

1. Number of beneficiaries
2. Early access to legal aid
3. Quality of legal aid
4. Legal aid budgets
5. Status of the infrastructure and processes
STATUS OF LEGAL AID

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

2. EARLY ACCESS TO LEGAL AID
AT TRIAL, AT CHARGESHEET, AT SUBSEQUENT REMAND, AT FIRST PRODUCTION, AT ARREST, PREVENTING CONFLICTS

3. QUALITY OF LEGAL AID
PRESENCE OF LAWYER IN COURT, DEFENDS THE CLIENT, VISITS HIM IN JAIL

4. LEGAL AID BUDGETS
MINISTRY OF LAW & JUSTICE- HEAD- ‘OTHER EXPENDITURES’
STATUS OF LEGAL AID IN RAJASTHAN

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

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

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

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

(Source: Crime In India, NCRB and Rajasthan SLSA Website)
CHRI’s STATUS REPORT ON THE IMPLEMENTATION OF THREE NALSA SCHEMES IN RAJASTHAN
RAJASTHAN PRISON : PROFILE

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

Demographics: 82% Inmates are either SC, ST or OBC
LEGAL AID FOR PERSONS IN CUSTODY: THE SCHEMES

➢ NALSA (FREE AND COMPETENT LEGAL SERVICES) REGULATIONS 2010

➢ NALSA (LEGAL AID CLINICS) REGULATIONS, 2011

➢ NALSA’S ‘MODEL SCHEME FOR LEGAL AID COUNSEL IN ALL COURTS OF MAGISTRATES’ AND RLSLA’S LEGAL ASSISTANCE TO PERSON IN CUSTODY SCHEME GUIDELINES 2012
EARLY AND EFFECTIVE LEGAL AID

◆ THE RIGHT PERSON

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

◆ AT THE RIGHT PLACE

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

◆ AT THE RIGHT TIME

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

◆ DOING THE RIGHT THING

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

AT THE RIGHT PLACE

POLICE STATION

COURT

JAIL

PARALEGAL VOLUNTEERS

REMAND AND BAIL LAWYERS

PANEL LAWYERS

RETAINER LAWYERS

PARALEGAL VOLUNTEERS

JAIL VISITING LAWYERS
MANDATE

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

GAP

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

RECOMMENDATIONS

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

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

- Represent the client effectively in court
- Meet the client in police station, court and prison
- Reporting to the legal services institutions
- Informing progress to prisoner & prison

PARALEGAL VOLUNTEERS

- Ensure regular working of the clinic
- Provide legal assistance to the accused
- Co-ordinate with the jail visiting lawyer
- Reporting to the legal services institutions
NALSA

(FREE AND COMPETENT LEGAL SERVICES)

REGULATIONS 2010

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

LSA TO SEND FORM II TO THE MC

MAINTAIN REGISTERS FOR PROCEEDING

SEPARATE STAFF

CALL REGISTERS & REPORTS FROM THE LAWYER

SEND BI-MONTHLY REPORT TO THE SLSA

SLSA TO SUGGEST NEXT COURSE OF ACTION TO THE MC

MONTHLY REPORTS FROM THE LAWYER

REPORTS ABOUT JAIL VISITS

REGULATION 12

ONLY 8 DISTRICTS CONSTITUTED A MC

NO FORM II WERE SENT

REGISTERS MAINTAINED IN ONLY 2 MC

1 MC HAD A SEPARATE STAFF

BI-MONTHLY REPORT WAS SENT FROM ONE DISTRICT

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

SIKAR, HANUMANGARH

SIKAR

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

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

CONSTITUTION OF THE CLINIC

WORKING OF THE CLINIC

APPOINTMENT OF PLVS & TRAINING

APPOINTMENT OF JVLS & VISITS

MAINTAINING REGISTERS

MONTHLY REPORTS

CLINICS IN JAILS & POLICE STATIONS

JLAC IN 44 OF 93 JAILS

3 AS PER THE MANDATE
10- NOT OPERATIONAL

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

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

REGISTERS MAINTAINED IN ONLY 14 JLAC

REPORT SENT BY ONLY ONE JLAC (AJMER)
RSLSA’s LEGAL ASSISTANCE TO PERSON IN CUSTODY SCHEME GUIDELINES 2012

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

- **APPOINTMENT OF R&B LAWYERS**
  - Regularly- 5 Jodhpur Practice
  - Only 7 out of 33

- **OPPOSITION OF REMAND**
  - Only 11 out of 33

- **SUBMITTING MONTHLY REPORT**
  - Mostly 3 or 6 monthly
    - Submitted after the term

- **ISSUANCE OF ATTENDANCE CERTIFICATES**
  - Only 2
    - (Chittorgarh & Hanumangarh)

- **MONTHLY CERTIFICATES & REPORTS TO LSA**
  - Time Bound Submission Actions

- **SUBMISSION OF QUARTERLY REPORTS TO SLSA**
  - Releases
RECOMMENDATIONS IN COMMON FOR ALL THREE SCHEMES: TOWARDS ACHIEVEMENT OF ARTICLE 22(1)

A. ORIENTATION OF DUTY HOLDERS
B. DETAILED APPOINTMENT LETTERS OF THE ACTORS
C. RESPONSIBILITY NOTE FOR THE ACTORS
D. FEEDBACK FROM THE CLIENT
E. STANDARDISED FORMATS
F. USE OF TECHNOLOGY: INTERLINKAGES IN THE PLATFORMS
G. CALENDARS AND TRACKING MECHANISM FOR THE SLSA – DASHBOARD
<table>
<thead>
<tr>
<th>DISTRICT</th>
<th>PANEL LAWYERS</th>
<th>REMAND &amp; BAIL LAWYERS</th>
<th>JAIL VISITING LAWYER</th>
<th>PRISONER PARALEGAL VOLUNTEER</th>
<th>LEGAL AID CLINICS</th>
<th>MONITORING COMMITTEE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ajmer</td>
<td>08-Jan-16</td>
<td>15-Feb-16</td>
<td>08-Jan-16</td>
<td>NOT APPOINTED</td>
<td>CONSTITUTED</td>
<td>CONSTITUTED</td>
</tr>
<tr>
<td>Alwar</td>
<td>12-Jan-16</td>
<td>11-Feb-16</td>
<td>12-Jan-16</td>
<td>11-Feb-16</td>
<td>CONSTITUTED</td>
<td>CONSTITUTED</td>
</tr>
<tr>
<td>Banswara</td>
<td>09-Jan-16</td>
<td>3-Feb-16</td>
<td>09-Jan-16</td>
<td>3-Feb-16</td>
<td>CONSTITUTED</td>
<td>CONSTITUTED</td>
</tr>
<tr>
<td>Barmer</td>
<td>18-Jan-16</td>
<td>11-Feb-16</td>
<td>NOT APPOINTED</td>
<td>11-Feb-16</td>
<td>CONSTITUTED</td>
<td>CONSTITUTED</td>
</tr>
<tr>
<td>Baran</td>
<td>15-Jan-16</td>
<td>18-Feb-16</td>
<td>15-Jan-16</td>
<td>18-Feb-16</td>
<td>CONSTITUTED</td>
<td>CONSTITUTED</td>
</tr>
<tr>
<td>Bharatpur</td>
<td>NOT APPOINTED</td>
<td></td>
<td>NOT APPOINTED</td>
<td>11-Feb-16</td>
<td>CONSTITUTED</td>
<td>CONSTITUTED</td>
</tr>
<tr>
<td>Bikaner</td>
<td>12-Jan-16</td>
<td>15-Feb-16</td>
<td>12-Jan-16</td>
<td>15-Feb-16</td>
<td>CONSTITUTED</td>
<td>NOT CONSTITUTED</td>
</tr>
<tr>
<td>Bhilwara</td>
<td>NOT APPOINTED</td>
<td>NOT APPOINTED</td>
<td>12-Jan-16</td>
<td>30-Feb-16</td>
<td>CONSTITUTED</td>
<td>CONSTITUTED</td>
</tr>
<tr>
<td>Bundi</td>
<td>08-Jan-16</td>
<td>20-Feb-16</td>
<td>08-Jan-16</td>
<td>20-Feb-16</td>
<td>NOT CONSTITUTED</td>
<td>CONSTITUTED</td>
</tr>
<tr>
<td>Churu</td>
<td>15-Jan-16</td>
<td>19-Feb-16</td>
<td>15-Jan-16</td>
<td>19-Feb-16</td>
<td>CONSTITUTED</td>
<td>CONSTITUTED</td>
</tr>
<tr>
<td>Chittorgarh</td>
<td>15-Jan-16</td>
<td>NOT APPOINTED</td>
<td>15-Jan-16</td>
<td>NOT APPOINTED</td>
<td>CONSTITUTED</td>
<td>CONSTITUTED</td>
</tr>
<tr>
<td>Dausa</td>
<td>12-Jan-16</td>
<td>09-Feb-16</td>
<td>12-Jan-16</td>
<td>09-Feb-16</td>
<td>CONSTITUTED</td>
<td>CONSTITUTED</td>
</tr>
<tr>
<td>Dholpur</td>
<td>NOT APPOINTED</td>
<td></td>
<td>NOT APPOINTED</td>
<td>11-Feb-16</td>
<td>CONSTITUTED</td>
<td>NOT CONSTITUTED</td>
</tr>
<tr>
<td>Dungarpur</td>
<td>08-Jan-16</td>
<td>16-Feb-16</td>
<td>08-Jan-16</td>
<td>16-Feb-16</td>
<td>CONSTITUTED</td>
<td>NOT CONSTITUTED</td>
</tr>
<tr>
<td>DISTRICT</td>
<td>NALSA 2010 REGULATIONS</td>
<td>NALSA 2011 REGULATIONS</td>
<td>NALSA MODEL SCHEME</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>------------</td>
<td>------------------------</td>
<td>------------------------</td>
<td>--------------------</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>INMATES REPRESENTED</td>
<td>BI-MONTHLY REPORTS FROM</td>
<td>MONTHLY REPORT FROM</td>
<td>WORK REPORTS FROM</td>
<td>ATTENDANCE CERTIFICATES</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>MC TO SLSA</td>
<td>JAIL PLV</td>
<td>R&amp;B LAWYERS</td>
<td>FROM R&amp;B LAWYERS</td>
<td></td>
</tr>
<tr>
<td>Ajmer</td>
<td>23</td>
<td>2</td>
<td>7</td>
<td>1</td>
<td>0</td>
<td>11</td>
</tr>
<tr>
<td>Alwar</td>
<td>11</td>
<td>1</td>
<td>11</td>
<td>2</td>
<td>1</td>
<td>24</td>
</tr>
<tr>
<td>Banswara</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>3</td>
<td>2</td>
<td>12</td>
</tr>
<tr>
<td>Barmer</td>
<td>23</td>
<td>1</td>
<td>4</td>
<td>0</td>
<td>2</td>
<td>5</td>
</tr>
<tr>
<td>Baran</td>
<td>12</td>
<td>1</td>
<td>4</td>
<td>2</td>
<td>3</td>
<td>16</td>
</tr>
<tr>
<td>Bharatpur</td>
<td>9</td>
<td>0</td>
<td>0</td>
<td></td>
<td>1</td>
<td>34</td>
</tr>
<tr>
<td>Bikaner</td>
<td>14</td>
<td>1</td>
<td>4</td>
<td>2</td>
<td>4</td>
<td>12</td>
</tr>
<tr>
<td>Bhilwara</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>2</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td>Bundi</td>
<td>12</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>2</td>
<td>0</td>
</tr>
<tr>
<td>Churu</td>
<td>24</td>
<td>1</td>
<td>2</td>
<td>1</td>
<td>1</td>
<td>4</td>
</tr>
<tr>
<td>Chittorgarh</td>
<td>22</td>
<td>1</td>
<td>0</td>
<td>2</td>
<td>0</td>
<td>23</td>
</tr>
<tr>
<td>Dausa</td>
<td>1</td>
<td>2</td>
<td>11</td>
<td>1</td>
<td>1</td>
<td>13</td>
</tr>
<tr>
<td>Dholpur</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>2</td>
<td>23</td>
</tr>
<tr>
<td>Dungarpur</td>
<td>23</td>
<td>1</td>
<td>1</td>
<td>2</td>
<td>1</td>
<td>21</td>
</tr>
</tbody>
</table>
THE DEVIL LIES IN THE DETAILS
BARMER

NALS (FREE AND COMPETENT LEGAL SERVICES) REGULATIONS 2010

1 DISTRICT JAIL AND 1 SUB JAIL
2 TALUKA LEGAL SERVICES COMMITTEES

APPOINTMENTS
- Panel lawyers: No
- Retainers: No

REPRESENTATIONS
- By Panel lawyers: No
- By Retainers: No

REPORTING
- Completion report submitted by panel lawyers: No

MONITORING
- Monitoring Committee constituted: Yes
- Date of Constitution: N.R.
- Bimonthly Report sent by MC: No

FUNCTIONS OF MC
- MC Register Maintained: N.R.

TALUKA INFORMATION
- NIL

TOTAL
- 0

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

LEGAL AID CLINIC
- LAC constituted: Yes (September 2012)
- Days of Operation: 200/192

JAIL VISITING LAWYERS
- Lawyers: No
- No. of Visits: Nil/48

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

ROLE OF DLSA
- PLV Trainings Conducted: No
- Honorarium Paid to PLV: No
- Honorarium Paid to JVL: Nil
- Reports submitted by PV: No

SUB-JAIL INFORMATION
- LAC Constituted: Date of Constitution
- Balotra: June 2012

TOTAL
- 10

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

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

REPRESENTATIONS
- Persons Represented: N.R.

REPORTING
- Monthly Reports Prepared by All Lawyers: N.R.

MONITORING
- Number of Work Reports submitted: N.R.

TALUKA INFORMATION
- No response received.

TOTAL
- 0
II CHRI’s SUGGESTED FORMAT

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

<table>
<thead>
<tr>
<th>Name of the Court</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name of the Presiding Officer: ____________________________</td>
</tr>
<tr>
<td>Name of the Remand &amp; Bail Lawyer: ________________________</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>SNo</th>
<th>Title of the Case</th>
<th>Case No.</th>
<th>Dates of the hearings in the month</th>
<th>Interventions in the Case</th>
<th>Applications Filed</th>
</tr>
</thead>
</table>

Signature of the Presiding Officer

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

<table>
<thead>
<tr>
<th>Date</th>
<th>Time</th>
<th>Called/ Visited</th>
<th>Name of the Case represented</th>
<th>Intervention Made</th>
<th>Signature of the Lawyer</th>
<th>Signature of the Court</th>
</tr>
</thead>
</table>

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

WORK REGISTER

In Tabular Format:

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