

WORKSHOP REPORT

ROLES & DUTIES OF PARA-LEGAL VOLUNTEERS¹

27th January 2020

Objective and Methodology

The workshop was aimed at training Para-Legal Volunteers (PLVs) appointed by the DLSA, Murshidabad at police stations and Correctional Homes throughout the district of Murshidabad.

Through interactive sessions, PLVs were encouraged to share their own stories and experiences and put forth queries to panellists to better understand their roles and functions. The aim was to enable PLVs to discharge their functions more efficiently and facilitate effective access to justice. The focus of the session was on the following aspects:

- ✓ Raising awareness on fair trial rights
- ✓ Identification of impediments towards effective functioning of PLVs
- ✓ Imparting of necessary knowledge with respect to the roles and duties of PLVs
- ✓ Equipping PLVs to carry out their functions both at the Correctional Homes and Police Stations efficiently.
- ✓ Enabling knowledgeable and informed interventions through maintenance of proper documentation
- ✓ Formulation of better logistics to enable effective access to justice

Summary of sessions

The training commenced with a round of introductions and explaining of the rationale behind and scope of the workshop by Amrita Paul, Senior Programme Officer, Prison Reforms Programme, CHRI. The scope of the workshop was laid down.

Thereafter, the participants discussed the inviolable Fair Trial Rights assured to the accused followed by the role and duties of a PLV as envisioned in the Revised Scheme of the NALSA. The sessions were interactive as the participants were eager to share their experiences and address the various issues which they were facing in course of their work.

INTRODUCTION

Commonwealth Human Rights Initiative (CHRI), in collaboration with District Legal Services Authority (DLSA) Murshidabad, organized a one day workshop for all the Para-Legal Volunteers (PLVs) appointed by DLSA, Murshidabad for the District on 'Roles & Duties of Para-Legal Volunteers' on 27th January 2020.

The genesis of PLVs lies in the Legal Services Authorities Act 1987 which was enacted to ensure access to justice for all, by establishing dedicated legal services authorities, such as the National Legal Services Authority (at the National level), State Legal Services Authorities (for the respective States) and District Legal Services Authorities (for the respective districts and functioning under the SLSAs), among others. The mandate of these authorities is to provide free and competent legal services to the weaker sections of the society and ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other factors.

In 2010, the Chief Justice of India set up a National Committee for Paralegal Training and Legal Aid Activities. Pursuant to its vision, the National Legal Services Authority (NALSA) framed its Paralegal Volunteer Scheme (PLV Scheme) which, inter alia, provided that: *'Paralegal volunteers help the poor and disadvantaged to free them from the stranglehold of the mighty and powerful for protecting their legal rights. The ultimate object of paralegal volunteers is to help the legal services institutions established under the Legal Services Authorities Act, 1987 for bringing the voice of the voiceless to be heard and to get their grievances redressed. It is indeed a part of the preventive and strategic legal aid programme contemplated under Section 7 (2) (c) of the Legal Services Authorities Act, 1987*

¹ Prepared by Amrita Paul and Kritika Swami and edited by Deepan K Sarkar, Prison Reforms Programme, CHRI.

The introductory session was followed by an address by the DLSA Secretary, Murshidabad, who highlighted concerns of absence of clarity vis-à-vis roles and functions of PLVs. He emphasized that the performance of PLVs was dissatisfactory in general. Lending clarity as to roles and functions of PLVs was identified as one of the primary issues.

Report on Proceedings

The first session began with Ms. Amrita Paul, Senior Programme Officer, CHRI, explaining CHRI's background, mandate and nature of work to the participants. She then went on to describe the role of a PLV as being indispensable in the legal aid machinery. Fundamental questions such as “*who are Paralegal Volunteers?*” and “*what is their role and their functions?*” were shared with the participants. Some participants responded by saying that PLVs help in completing the communication channels between the legal and judicial system on the one hand and illiterate and/or low-income groups in need of legal assistance on the other. The session discussed threadbare, the roles and functioning of PLVs and the manner in which PLVs could make greater impact through their work.

Since the first step towards implementation is awareness, focusing on the importance of fair trial rights, Ms. Paul elucidated that the current laws governing the police force as well as prisons have become anachronistic. Such laws had been enacted to further colonial interests and perhaps were not entirely suitable for a post-independent India in the 21st century. However, steps have been taken in the last several years to ensure that rights of persons behind bars are not forgotten. The Supreme Court and the High Courts have been active in this regard, and so had been civil society, in initiating dialogue with stakeholders to ease access to justice.

The session expanded upon the question of rights of prisoners, and whether prisoners have any rights, to begin with, and if so, then what are these rights. Ms. Paul gave an overview of such rights, which included: -

- Right to speedy trial (including the Constitutional protection afforded by Articles 21 and 29A)
- Right of access to legal aid at police station itself, within the first 24 hours post arrest.
- Right to be produced before a Magistrate at the earliest / within 24 hours. (The role of a Judicial Magistrate at the time of first production was also explained to the PLVs present)
- Ensuring full medical check-up before admission into a correctional home; among many others.

As stated above, the purpose of the workshop was to further empower PLVs in discharging their functions at specifically police stations and correctional homes. To this end, common circumstances of violation of human and legal rights for persons in custody, and how a PLV could mitigate these violations were discussed. The session discussed the necessary skillset required of a PLV to ensure that persons in custody are aware of their legal rights and receive access to legal aid at the earliest. The session also covered certain prevalent practices in the criminal justice machinery that violate these legal rights, such as the arbitrary / unnecessary and routine extension of remand, procedure and protocol followed at the time of a person's arrest, irregular production of a person in remand and NALSA's scheme on Early Access to Justice at Pre-Arrest, Arrest and Remand stage (announced in August 2019).

Among the issues highlighted by PLVs, the following merit a mention:

1. PLVs highlighted the positive correlation between successful completion of a case to the effective working of and payment to PLVs. They raised concerns that payment to several PLVs by the DLSA is dependent on the successful completion of the cases that are either allotted or referred to them. It was suggested that mechanism could be evolved by the legal services authorities to assess the quality of work undertaken by the PLVs. Several participants specifically mentioned durations for which that had not been paid by the authorities. The feedback received from PLVs showed a significant difference in the regularity of payments to PLVs, ranging from 2 months in Lalbagh to almost 2 years in Murshidabad.

2. PLVs also highlighted issues of non-payment for days where PLVs were required to attend training workshops etc.
3. Insofar as PLVs at police stations were concerned, Mr Majumdar said it was the duty of a PLV to ensure that persons being brought to police stations get proper assistance in understanding the legal steps such persons could take in their defence. He highlighted the importance of a PLV's work in that they are the first responders in the legal aid mechanism to be present at a police station and available to an arrested person.
4. However, PLVs stationed at Police Stations alleged that they faced a range of challenges:
 - a. Proper infrastructural facilities were not being provided to PLVs at Police Stations.
 - b. Several participants at the workshops alleged that there was no seating area or arrangements provided to them and that they would have to make do with makeshift arrangements during every visit.
 - c. This posed a challenge to the credibility, legitimacy and accreditation of their work as necessary and vital.
 - d. The participants shared that they had been made to realize that their intervention/ assistance to the persons brought to Police Stations was limited to matrimonial cases and cases of missing children.
 - e. PLVs had been routinely facing barriers in accessing accused persons in police custody who were necessarily to be made aware of their rights, among many others, that of the right to legal aid.
 - f. Most of the participants conveyed a sense of uncertainty and unease over how to tackle the aforesaid situation.
 - g. Due to the workshop they had become aware of their role and functioning, but were unable to implement the same on ground. The PLVs also raised the possibility of personal vendetta if they continued to insist on discharging their duties even after obstruction by the police authorities.

Notwithstanding the challenges, the workshop also identified a best practice from the Kandi sub-division where PLVs had been provided with adequate infrastructure. The PLVs there had also faced systemic prejudice and resistance from the police administration, but with time there had been better coordination and cooperation amongst them, leading to a more efficient functioning of the Kandi Police Station legal aid clinic.

The session included extensive discussion on the various issues faced by PLVs in the course of their day-to-day work both inside prisons and police stations.

Alongside fair trial rights of persons in custody, the session generally covered rights of persons in custody along with common instances where several of these rights could stand violated due to the detainee's lack of awareness. For example, a common issue for inmates was the lack of basic knowledge of their rights to appeal to both High Court and Supreme Court. In addition, there have been several instances where families of prisoners have had no information regarding their detention, information about their case status or their whereabouts or overall condition.

The working of Jail Legal Aid Clinics (JLACs) was extensively discussed in the workshop, including the methods of documentation used by PLVs in their interaction with persons in custody at Police Stations and Correctional Homes. There was consensus among participants that documentation was an important tool towards efficient functioning of PLVs.

The various processes and logistics pertaining to the day-to-day work of PLVs were discussed threadbare, all of which has been explained and discussed in *Connecting the Dots*.

The workshop concluded with the participants being *id idem* on working further towards finding and implementing solutions discussed in the workshop.

Follow up Steps

At the conclusion of the workshop, certain follow-up steps were identified:

1. Sharing of the report of the instant workshop with the Secretary, Murshidabad DLSA and the functionaries of SLSA to enable continuance of similar capacity building exercises and interactions.
2. Following up with DLSA Murshidabad for passing of requisite orders for streamlining of services rendered by PLVs at police stations and prisons.
3. Continuing to assist in finding practical solutions to systemic problems insofar as PLVs are concerned.
4. Recommending to the authorities that Kandi Police Station Legal aid clinic manned by PLVs appointed by the respective SDLSC/ TLSC be treated as the model legal aid clinic at police stations to help sensitize the police administration in all other police stations within the Murshidabad district.