



FOREWORD

PROFESSOR ALAN PATERSON, CHAIR, INTERNATIONAL LEGAL AID GROUP

Dear Colleagues

Greetings from the International Legal Aid Group at a time of global turmoil in relation to legal aid. The COVID-19 virus has exposed the frailty of our justice systems when it comes to delivering access to justice. Faced by large scale closure of civil courts, except for a few high profile on-line offerings and precious few criminal trials, the litigation work of the legal aid practitioners has been drying up dramatically. Legal Aid Boards have been scrambling to ease the cash flow problems of the suppliers in the private profession through advanced or interim payments, but this cannot continue for many months. ILAG has lent its weight in support of a survey by the Global Access to Justice team led by Diogo Esteves from Brazil, into the impact of COVID-19 on justice systems, the rule of law and legal aid. We hope to publish the results of the survey in three weeks time in a special issue Newsletter. In the meantime we are delighted to bring you two pieces by Roger Smith (former editor of the Newsletter) on COVID-19 and on Legal Technology, which promises to be a vital tool for justice systems for coping with COVID-19 and sustaining the sector in the recovery phase. The third piece is on prisons in India. It again is timely, given that COVID-19 is at its most deadly in the closed, mass packed environment epitomised by incarceration today. Legal aid is vital to assist accused persons to avoid pre-trial detention or to seek early release in order to protect their health. Finally, we are greatly indebted to Peter Van Den Biggelaar (a vice-chair of ILAG and our ever-industrious Newsletter Editor) for putting together this edition of the Newsletter.



Alan (Paterson)

Chair, ILAG

Eleven Things Legal Aid Administrators Need to Know about A2JTech



ROGER SMITH IS AN EXPERT IN DOMESTIC AND INTERNATIONAL ASPECTS OF LEGAL AID, HUMAN RIGHTS AND ACCESS TO JUSTICE.

This article is an edited version of one that appeared in the law-tech-a2j.org blog that Roger writes funded by the Legal Education Foundation. It first appeared in January.



Those involved in administering legal aid cannot help but notice that a legal tech revolution is spreading like an Australian bushfire through the legal profession. They must wonder whether they should get stuck in and, depending on their orientation, look for savings or opportunities to extend services. And if their own intellectual curiosity is not enough, their ministers and masters will certainly be on the line pretty soon. So, I offer this quick crib for hard-pressed administrators required to give a quick update on what is happening.

1. A2JTech is LegalTech's baby sister

Commercial investment in legal tech is running at over \$US1bn a year. There is no global estimate available for A2JTech, ie technology developed specifically for the access to justice and legal aid fields. However, if you discount crossover fields and court investments in digital delivery, it is doubtful if the comparable investment amounts to \$10m. (The US Legal Services Corporation is probably the biggest single funder with its \$4m Technical Innovation Grants programmes.) Be cautious and you could put a maximum figure of \$50m on it. The investment is still tiny in itself and in comparison. So, from that alone, you would expect much less impact.

2. Business Management is the biggest area of investment

Most A2J organisations invest both in general business management (eg Microsoft Office suites) and specific products like case management systems. These have often been developed internally but various commercial companies, notably Canadian provider Clio, are developing rivals that offer standardisation, high quality and the opportunity to be used as platforms into which other products can be plugged. Clio – targeting small and medium sized legal firms but stretching to not for profits and legal aid practices – has just received \$250m venture capital funding. So, hard-nosed players are backing their success.

3. There may be other areas of 'trickle down' from commercial development

The A2J sector suffers in the tech field not only from low levels of available cash but also – and for a variety of reasons – low levels of clean data about their users and their problems. There may, however, be areas like family, employment and some immigration programmes where there is at least the possibility that commercial products might be developed for paying customers that can

be recycled or opened up for low or no income users and their lawyers. This is hazardous and the Dutch Rechtswijzer was a largely family product whose hopes of exactly this cross-subsidy were dashed by failure of sufficient paying take up.

4. There has been, as yet, no 'killer app'

In the time that I have been writing about A2JTech, at least three candidates have emerged for killer app status, the key use of digital that transforms delivery. The first was the wholesale investment in assisted DIY in family cases made by the English firm Co-operative Legal Services. This offered multiple packages. They bombed and family legal services – which it threatened to transform – carry on much as before. Then came the Rechtswijzer – with its guided pathways, online mediation and assisted online dispute resolution. It burst on the scene and dominated discussion for a couple of years. Then it too failed. It could not meet the financial targets set for it by the Dutch Legal Aid Board. Finally, came Nadia – a highly sophisticated chatbot with a realistic face and the golden voice of Cate Blanchett. She looked like the future of video delivery of AI assisted interactive assistance. She was – all too soon – the past. Too expensive and the AI was not quick enough.

The most fruitful area of development is likely to be the integration of self-assembly and self-assisted documentation systems to guide users. There are signs of these becoming more sophisticated and adding an explanatory and educational function to simply asking for information to populate a form. But there is not enough use yet to call this a killer app. Generally, there should be more space for interactive advice and information giving using developments like guided pathways and chatbots.

5. The most successful tech deployment for service delivery in A2J supplements, rather than replaces, conventionally delivered individual services

Take a moment (you can use the search facility on the blog) and look up projects like FLOWS, Project Callisto, the Citizens Advice strategic plan and Justfix.nyc. These are a diverse list of products and services that integrate individual and digital assistance in different ways. They do not seek to replace individualised services.

For all that, more use might be made of how individualised services are delivered – in particular, with more video in the mix. But there seems a limit to people's tolerance of digital only delivery. This can irritate governments and the UK is not the only country to wish to deliver its benefits system with marginal assistance other than digital. Right now, however, that seems at the limits of users' competence and confidence.

6. Development is patchy and characterised by interesting but diverse challenge funding programmes

This is early days in the tech revolution. Remember that the iPhone was only launched in 2007. Agencies are still exploring what is possible through tech. The LSC TIG (US), NESTA/SRA (UK), and HiiL (Netherlands) are all running programmes that are exploring the possibilities by canvassing a pretty broad range of applicants for funding. The results can be interesting but patchy. Projects can last – even when seen as successful – only for the duration of the funding and then fall by the wayside when no sustainable alternative comes forward.

7. There is an absence of much rigorous and public evaluation

It is a brave and confident organisation that announces that a once much trumpeted project was a failure or even releases the objective data on use of a once hyped website or document assembly programme. So, getting at 'what works – 'or what does not – is harder than it should be. This is an area where there is a common interest around the world in publication, evaluation and analysis. The sector needs to address this.

8. Court/tribunal digitalisation may jumpstart legal service digitalisation

England and Wales is leading the global dash for the savings that are promised by digitalising courts and tribunals. There is every sign that others are following in increasing numbers. Whatever you think of this development, one consequence is that those helping users will need to adapt to digital and that this will transform their delivery of services.

9. Everyone talks about AI but it is not very relevant yet in A2JTech

There is a widely held but vaguely expressed view in governments around the world that somehow AI will solve the access to justice problem. It won't and AI is not really very important in A2JTech at the present time. But, there are areas where it may have some uses – for example, the use of natural language processing or managing the triage/referral process. But, for the present, AI is marginal in this field.

10 We are at the beginning of interactive use of the net for A2J and there will be imaginative responses yet to be explored.

My example of this is what is now the range of products which were led by Project Callisto. This allows the victims of sexual harassment to make encrypted notes of incidents and perpetrators which remain secret until someone else with access to the programme makes a matching entry. A person can then approach those involved and the establishment of a course of action can be begun. Who would have predicted this kind of use of the recording, encryption, data comparison, human-digital mix? But what a potentially useful tool against serial perpetrators in campus universities.

And the big takeaway? Be in no doubt. Those expensive lawyers and troublesome practitioners are not replaceable by a bunch of websites, document self-assembly programmes and apps. But, as a legal aid administrator, you could think of extending their effectiveness and – how outrageous even to think this let alone express it – challenging any of their complacency – by funding properly researched A2JTech products and services.

11. Technology is inherently international and challenges national boundaries

This is good news. And not a new idea for members of ILAG. How could a good and competent administrator know what is going on without attending the ABA annual TechFest in Chicago, Clio's conference in San Diego, HiiL's annual get-together in The Hague or the Legal Geek event in London? Actually Covid 19 gives possibilities here because you can attend many of these sorts of events virtually at the moment and this is likely to be a legacy of the pandemic. You won't need to get

on a plane to find out what is going on. No time for virtual attendance at these things: read this blog at law-tech-a2j.org to keep in touch.

COVID 19: WE ARE NOT ALONE



ROGER SMITH IS AN EXPERT IN DOMESTIC AND INTERNATIONAL ASPECTS OF LEGAL AID, HUMAN RIGHTS AND ACCESS TO JUSTICE.



Picture by Frank Winkler via Pixabay

This is an edited version of an article published initially on the blog (3 April 2020) that Roger edits for the Legal Education Foundation: law-tech-a2j.org. It is a summary of initial responses to the global Covid 19 pandemic by access to justice organisations around the world.

We are all dealing with the unprecedented shock of Covid 19. We are doing that, in most jurisdictions, while being physically isolated. This is not a good time and it will not end soon. The impact of the pandemic will get worse, for us both collectively and individually. One saving grace is, however, that we – you – are not alone. Everyone is in the same boat. And, all round the world, those working in legal aid and legal services face the same challenges and seek to overcome the same obstacles. There may be some comfort in just recognising that and hearing what people are doing – plus some inspiration in the best practices that emerge. This is an opening collection of first responses in different jurisdictions. I had intended to edit them and integrate them into a more analytic piece but, actually, the different voices are perhaps more powerful standing alone as an initial indication of responses. They are necessarily random – but hopefully representative.

Unpicking themes will follow. This is only an initial attempt to develop some form of strategic overview. For the moment, we can probably divide this into three phases which are broadly, but not entirely, sequential. These are:

- internal reorganisation around remote working for staff;
- the production of immediate information on key legal issues affected by Covid 19 and immediate responses to changes in court and tribunal procedures (in practice, this is intricately bound up with internal organisation);
- the longer term development of services both for support of staff and the assistance users which are dependent on remote delivery. We are barely at the beginning of this phase.

Technology has suddenly become key to all three and the learning curve has been steep. I took out a zoom subscription barely ten days ago: I am now tutoring others in its use. That is probably pretty typical.

The two previous blogs on this website last month by Dr Simon Davey, one written with Martha de la Roche, were aimed at identifying the management and strategic issues which arise for legal services organisations – many of which are general to a much wider group of information and advice providers: <https://law-tech-a2j.org/coronavirus/an-implications-map-for-legal-and-advice-needs-right-now-and-in-the-future/> and <https://law-tech-a2j.org/advice/getting-through-this-and-moving-forward-learning-and-sharing-in-a-time-of-coronavirus/>.

Kate Fazio's subsequent [article](#) provides a practical example of how an excellent organisation in Australia has responded to the crisis. As another example of immediate response, here is Sherry MacLennan at Legal Aid British Columbia:

We've been very much focused on adapting both our workforce and our services to appropriately socially distanced models, and this work is ongoing. For now, all of our intake is done by phone, and our in person advice service models (duty counsel, family duty counsel, etc) are adapting to video and phone services. In terms of public legal information, we have about one million people using our websites each year (Legal Aid site, Aboriginal Legal Aid, Family Law in BC and MyLawBC). Our priority has been to make people aware our services are still available, where changes have been made and to create alerts about changes in court processes by linking directly to the court sites. This has been important given the daily changes announced by the courts. We are now focused on creating greater awareness of our digitally delivered services that are relevant to public needs during the pandemic. First on [MyLawBC](#) – free mediation online for parenting issues, safety planning for those in abusive relationships, free wills and debt/mortgage help. For people with family law problems, our Family Lawline provides six hours advice and coaching over the phone for financially eligible people. We are also ramping up our LiveChat service on the Family Law website – law students and staff who are legal information specialists answering questions from the public related to family law issues and we have increased staffing on our Call Centre to answer legal information questions. In development is the addition of Covid related family law information. In lieu of our regular community training workshops, we are doing a lot of one to one outreach to social service agencies and community workers by phone to let them know what is available and about

new online resources, like our [training videos](#) on the law. In BC, there are a number of legal information providers, and our colleagues at Peoples Law School quickly got out some great information [here](#).

Terry Stokes of [rightsnet](#) in the U.K. reports on their immediate [response](#) as a second tier organisation that provides a community for advice providers:

we've created a new **social welfare law update page** that's being reviewed and updated daily: we've launched a new online forum to facilitate **discussion and casework support** related to the outbreak: we've **opened up access** to our coronavirus-related news stories in order that they might now also be accessed without a rightsnet subscription you'll see that these stories are now all tagged with 'Open access'; we've launched a second new forum, 'The Social', that we hope might play a part in helping us all to steer a course through the next few weeks and months ... and provide more of a social, less work-focused space to catch up with like-minded members of the rightsnet/access to justice community.

By contrast to second tier rightsnet, Ontario's legal community clinics are very much in the front line: Lenny Abramowitz reports:

Clinics have just been declared an "essential service" in Ontario, and so are permitted to remain open. All the community clinics are remaining open, but have put into place social distancing measures:

Physical offices are either closed or operated by a skeleton staff;

New intake is over the phone or via email

Staff are mostly working from home using an expanded Citrix system

Meetings are taking place via Skype for business.

Although the courts and the tribunals have essentially shut down at this point, clinics are being contacted by many new clients seeking assistance with accessing the newly expanded government income replacement programs. The Association of Clinics is working with LAO to try to support clinics in working remotely, and in getting on top of the new programs and legislation.

Among Ontario's clinic structure is CLEO, Community Legal Education Ontario, which has established [a page](#) of specific information on C19 issues supplemented by live chat. A number of jurisdictions have good coverage of current issues. An example would be the [appropriate page](#) of the AdviceNow website in England and Wales. Another example is the [equivalent page](#) of the magnificently named People's Law School in Canada.

Like a number of other legal aid providers around the world, the US Legal Services Corporation has [received](#) additional funding to assist during the outbreak. It received \$50m 'to help LSC's 132 grantees assist low-income clients facing job losses, evictions and other problems stemming from the pandemic.' Glenn Rawdon of the US Legal Services Corporation had a helpful tip:

Many of our legal aid offices have had to close to keep staff safe. One practice that is spreading for these shuttered offices is the installation of video doorbells. A staff person monitors visitors remotely and can provide instructions on how to reach assistance via phone, email, or the web. This is a more personal approach than just hanging a sign on the door a very clever, low-cost solution to address issues caused by the crisis.

The US federal organisation and large size has encouraged remote national liaison and a number of organisations like the [Self Represented Litigants Network](#) have been mapping responses around the country. LawHelp Interactive has a [youtube](#) recording of an interesting Community Call online.

Candice Johnson of PILnet in the US reports

To support civil society as they navigate the legal issues impacting their organizations, PILnet is working with law firms in our network to create legal resources for civil society organizations and social enterprises. In order to make these resources as effective as possible, we have asked for feedback from our partners in civil society and social enterprises on which legal topics are most relevant for them. The survey [can be found here](#). In addition, PILnet's clearinghouses continue to operate as usual. If any civil society organization or social enterprise is need of legal support of any kind, they should [contact us](#) and we will locate free legal assistance for them. We also continue to make [available free webinars](#) on a variety of topics of use to civil society organizations. Last but not least, PILnet has created a [COVID-19 Legal Resource page](#). We are still developing this and will add more resources in the next week.

Back in England and Wales, the co-ordination role has been taken up by the Litigants in Person Network. Martha de la Roche, its network development manager, says:

As a starter, we have pulled together a list of remote working resources and materials: <http://www.lipnetwork.org.uk/topics/post/remote-working-materials-and-resources> and started a forum page to keep track of who is doing what in terms of collective or collaborative approached to addressing the COVID-19 situation: <http://www.lipnetwork.org.uk/noticeboard/message/1693>

The US has an enviable range of resources of different kinds. This is [Quinten Steenhuis](#), one of Greater Boston Legal Services and now of Suffolk Law School, reporting in on its activity which is directed to the issue of remote court proceedings:

At Suffolk Law School in response to a call from our Chief Justice and the Access to Justice Commission, we are working on creating an assembly line that will triage and turn key court forms for emergency matters into simple online interviews. We're focusing on building a replicable workflow that can help any jurisdiction rapidly turn PDFs into Docassemble interviews with acceptable fidelity for delivering online help, engaging non-programmers at key stages in the process in a drop-in way, and the possibility to use those as the base for more sophisticated forms over time. Hoping this will be useful for people around the world who need to suddenly move paper processes online. Our workflow is built around Trello, Python, Github, and the Docassemble platform.

Andrea Perry-Peterson from Queensland reminds us that some private providers have been active: 'some resources are appearing from private firms, especially boutique firms practising in employment law such as <https://resolution123.com.au/blog/coronavirus-employee-legal-rights/>. I interviewed "Barefoot Law" (effectively a sole trader) in Episode 19 of my [Reimagining Justice] podcast and Mark is continuing to provide information through webinars and

templates like this <https://www.barefootlaw.net.au/covid19-template-letters?fbclid=IwAR1jXvIwAgpMagkWphAAve67y-X7FG2vwespeD8w-QhNrjhhhC6DJOSNh4M> ‘ Her latest podcast is an interview with Dr Natalie Bryrom of the Legal Education Foundation (LEF – usual disclosure). She is the author of a a LEF briefing with important safeguards for those rapidly devising remote court and tribunal hearings which are discussed in an earlier post.

Back in Canada, Dave Nolette of the Justice Education Society (JES) in British Columbia reports: JES has been quite progressive with our organizational response to COVID. This is particularly necessary as we work and have staff in different countries, plus many of our staff and consultant travel regularly ... For a couple of weeks now, almost all JES staff have been working from home. We have weekly check-in meetings with all staff – one English call, one Spanish – via Zoom. We also have weekly teams meetings, plus we connect frequently with staff based on project work. We are now creating a staff portal using MyHub. It will help us provide organizational messaging, and more importantly, provide a platform for staff to connect and share. In particular, we have asked staff to share personal stories: cat videos, child pics, wellness tips, etc. Yesterday, as an example, one of our staff lead us in a virtual yoga session. It’s my turn to add to the COVID themed song of the day. I have chosen: <https://www.youtube.com/watch?v=otCpCn0l4Wo> (I was thinking of going with Bee Gees *Staying Alive*, but that seemed too dramatic). March is our year-end and about 80 per cent of our projects have deliverable deadlines for next week. We are doing our best to meet deliverables, though of course, our work has been impacted. In BC, schools are closed indefinitely. Plus, courts are closed except for urgent hearings. We have suspended all school and community group court visits through to the end of June. Staff who would normally deliver this program, as well as staff that provide public facing legal help have been tasked with other projects. We are using this time to support more online delivery of legal education. So, for example, we have a Speakers Bureau that schools and groups can use to book live streaming presentations. A number of judges and lawyers have stepped forward and agreed to participate. JES Educators will also present ... In terms of legal information for the public, we are working on that now ... We’ve actually produced content, only to have it withdrawn in the review process as developments changed. That being said, we are pulling together legal information regarding employment, housing, court procedures, domestic violence, etc. On the longer term, For some months, we have been talking about being more flexible regarding work hours and in particular, enabling JES staff to work regularly from home ... In this new environment, we are finding the need for great communication (time to buy Zoom stock) and greater performance management. We need improved tracking of tasks, progress and expectations. Despite this new work reality being thrust upon us, we are finding that it is working quite well. Work is getting done ... With remote work, we need more communication and management to address [the issue of staff working productively from home] However, I expect like many organizations, we are discovering just how much is possible to do and get done with staff working from home. We expect this change to have a long-standing impact and ultimately be incorporated into a new JES policy.

Finally, the Citizens Advice service in England and Wales probably has the most sensitive indicator of people’s need for advice. This is the dashboard showing hits on its national advice website. As of this morning, this was showing the top four trending content as: **Coronavirus – if your employer has told you not to work – Citizens Advice** 144,922 unique visits; **If you can’t pay**

your bills because of coronavirus – Citizens Advice 77,997 unique visits; Coronavirus – check what benefits you can get – Citizens Advice 72,568 unique visits; Coronavirus – what it means for you – Citizens Advice 71,835 unique visits. Not much doubt then as to the biggest categories of advice. For a fascinating description of how Coronavirus impacted over the month, see a video produced by Tom McInnes, Citizens Advice’s chief analyst. This is really valuable information, which many organisations can probably glean from analytics figures on their websites, on what issues people are actually seeking help in relation to C19. They seem, initially, to be employment, benefits and debt. No doubt there will be others to come.

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GLOBAL ACCESS TO JUSTICE PROJECT QUESTIONNAIRE - COVID-19

Diogo Esteves, professor of law at Fesudeperj, researcher at the Fluminense federal university’s program of sociology and law, public defender of state of Rio de Janeiro – Brazil, will publish the outcome of Global Acces to Justice research about the effects of the covid-19 virus in the next Ilag newsletter. 51 countries have responded to his questionnaire.

DATA ANALYSIS: INDIAN PRISON STATISTICS V. GLOBAL PRISON TRENDS



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An analysis of prison trends globally indicates that while overall crime rates around the world have declined, the number of people in prison on any given day is rising.ⁱ This can be linked to the increasing use of pre-trial detention, lack of legal representation, less liberal use of

provisional release procedures such as bail, and imposition of lengthier sentences. These in turn, contribute to prison overcrowding which often results in human rights violations.

The situation is no different in the Indian context, with the country’s prison population having increased at a higher rate than the rest of the world. According to a report published by the Institute of Criminal Policy Research based on the data at the end of October 2015, the world’s prison population has increased by “almost 20%”, slightly higher than the 18% increase in the world’s general population, since 2000.ⁱⁱ India’s prison population, from 2000 to 2018 has increased by a staggering 71%ⁱⁱⁱ against an estimated increase of 28.5% in the country’s general population^{iv}. This article analyses India’s prison statistics against global prison trends.

Prison Population and Incarceration Rates: India has the 5th highest prison population in the world. The United States ranks 1st, and is followed by China, Brazil, Russia and then India. India forms 4.22% of the world’s total prison population. U.S. and China together form 34.6% of the

world's total prison population. In Asia, China has 41% of the continent's total prison population followed by India with 11.2%.^v

Further, despite being ranked 5th for the largest prison population, India ranks 11th for lowest incarceration rate (34) among 223 countries. U.S. has the highest incarceration rate of 655 per 100,000 general population. In Asia, India has the lowest incarceration rate. China with the second highest prison population is ranked at 131 out of 223 countries.^{vi}

Overcrowding: Overcrowding in prisons is pervasive across the globe with 124 of 205 countries, having an overcrowded prison system.^{vii} As on 31st December, 2018 India's prison system was overcrowded by 17.6%.^{viii} However, statistical determination of overcrowding of the entire prison system of a country is a national average of occupancy levels of all the prisons. This can often be an under-assessment of the actual magnitude unless rates for prison-wise overcrowding too are considered. For example, one state in India has an occupancy rate as high as 176% while another at the lower extreme has just 30%.^{ix}

India ranks at 87 (out of 205) in the world and 16th (out of 27) in Asia in terms of national occupancy rates.^x In the last six years, despite an increase of 13.9% in its prison capacity, the country's occupancy rate remained at 117%.^{xi} This is because of the same rate of increase in the prison population.^{xii} Overcrowding in prisons despite a proportionate increase in infrastructural capacity can be because of multiple factors impacting admission and release of prisoners, such as increase in number of arrests by police^{xiii}, higher preventive detentions, and poor performance of release mechanisms like review boards, etc.

Pre-trial Detention: Pre-trial detention refers to the confinement of persons, accused of offences, whose guilt is yet to be established by the court. Such detention is not a sanction but a temporary measure to prevent the accused from tampering with evidence, influencing the witnesses or cause any other influence on the course of investigation or trial. Globally, an estimated 25% of world's prisoners are pre-trial detainees.^{xiv} Only in 21% of the 217 countries across the world, the pre-trial prisoners form more than half of their prison population.^{xv} India with 69.4% of its total prison population as pre-trial detainees, stands at 16th position.^{xvi} While the world's pre-trial prison population increased by 15% from 2000 to 2016, India's pre-trial prison population increased by more than 25% in just last 10 years. During the same period, the convict population in India increased by 13%, almost half the rate of increase in the pre-trial population.^{xvii}

Further, trends indicate that in India, the duration of imprisonment pending trial too is increasing. The share of pre-trial detainees who have spent more than a year in prison increased from 19% in 2000 to 25% in 2018.^{xviii} Prolonged detentions of pre-trial detainees is a deviation from the criminal justice principle and the right of an accused to be 'presumed innocent until proven guilty'.

Women Prisoners: Globally, around 7% of the prisoners are women^{xix} whereas in India, women form 4.1% (19,242) of its total prison population. 68% of these women prisoners are pre-trial detainees.^{xx} From 2000 to 2018 the rate of increase of India's women prisoner population is more than double of the global rate. India's women prison population increased by 117.7% since 2000, against an increase of 53% in the world's women prison population.^{xxi}

These figures, showing minimal representation of women in prison population on one hand and an alarming increase in their population on the other hand, raise further concerns. Women prisoners face multiple layers of vulnerability. Prison systems, historically having catered primarily to men, have become gender-exclusive. Prisons are neither designed nor administered keeping in mind gender perspectives. This has led to non-prioritisation of gender-based needs of prisoners.

As on December, 2018 only 15 of total 36 states and union territories in India had separate prisons for women.^{xxii} In all other prisons, women are confined to separate enclosures inside male prisons. It is often observed that the women prisoners housed in such enclosures have limited access to the prison area outside the enclosures. This means that the open spaces for recreation, prison workspace, prison legal aid clinic, library, etc. are inaccessible for women prisoners.

Health Conditions in Prisons: India's per prisoner medical expenditure has increased by 61% in the last ten years however it still remains nominal at \$ 0.6 (USD) per prisoner per day.^{xxiii} In 2018, healthcare/medical expenditure on prisoners in India was 4.3% of its total expenditure on prisoners.^{xxiv} This is extremely low in comparison to 18% in U.S., 13% in U.K.: England and Wales and 9% each in Australia and Germany. However, countries like Ireland and South Africa have similar figures as that of India. ^{xxv}

Access to medical aid in prisons is a serious concern all across the globe.^{xxvi} Rampant overcrowding, poor nutrition, unhygienic and stressful living conditions coupled with lack of medical personnel negatively impacts health of prisoners. It also places them at high risk of contracting fatal diseases, that can often lead to untimely death.

In 2018, there were 1845 deaths in Indian prisons.^{xxvii} With 5 prison deaths per day, India's prison mortality rate at 3.96 per 1000 prisoners is highest among U.S. (in 2014, 2.75 in state prisons and 1.4 in local jails^{xxviii}), Australia (1.8 in 2018^{xxix}) and England and Wales (3.62^{xxx} in 2019).

A study conducted in 24 high income countries (Europe and North America) found that the annual suicide rate per 100,000 prisoners was highest at 180 in Norway, followed by 176 and 165 in France and Iceland respectively and lowest in Croatia at 10, followed by 24 in Poland and 23 in U.S.^{xxxi} India's prison suicide rate per 100,000 at 28^{xxxii} is at the lower end of the spectrum however it is higher than India's general suicide rate of 16.3 per 100,000 population.^{xxxiii}

Conclusion

Nelson Mandela famously said, 'The way that a society treats its prisoners is one of the sharpest reflections of its character'. Prison conditions and the state of prisoners reflect a state's commitment to human rights. Indian constitutional courts have often observed that it is the state's duty to protect the rights of prisoners as incarceration is only a curtailment of right to free movement and all other rights, most importantly the right to dignity and life, remain intact. However, prison statistics, both global and in India, indicate that prisoners continue to remain an extremely vulnerable population across the world.

It is a state's sovereign duty to ensure that the prisoners' rights are protected and incarceration is used sparingly and strictly proportional to the cause of justice in each case. This necessitates that states must not only proactively disclose information related to prisons and prisoners, but also regularly evaluate their prison systems based on these statistics, and formulate policies to reduce

imprisonment rates, overcrowding and ensure that rights of prisoners are protected. Further, increased incarceration rates can also be linked to increased criminalisation of poverty as the poor often remain oblivious of legal protections and safeguards against unnecessary and prolonged detentions. In 2010, the UN recommended that member states should endeavour to reduce pretrial detention, where appropriate, and promote increased access to justice and legal defence mechanisms.^{xxxiv} In 2012, the UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, provided several guidelines for ensuring effective state funded legal representation for pre-trial detainees. Therefore, it is imperative that policy interventions on addressing prison issues must also focus on enhancing the quality, capacity and scope of free legal services.

Launched in 2000, the **World Prison Brief** is a freely accessible online database hosted by the Institute for Crime & Justice Policy Research (ICPR), at Birkbeck, University of London. It provides regularly updated information about prison systems throughout the world compiled from governmental and official sources. Along with country wise information on prison population, use of imprisonment for women, juvenile and foreign national, extent of pre-trial detention, prison overcrowding, news and reports on prison conditions and other resources it also provides trend data on prison population rates, pre-trial population and women prisoners of over 170 countries.

The Commonwealth Human Rights Initiative (CHRI) is an independent, non-profit, non-partisan, international non-governmental organisation working in the area of human rights. Through its reports and periodic investigations, CHRI continually draws attention to the progress and setbacks to human rights in Commonwealth countries. The Prison Reforms programme is a part of CHRI's Access to Justice Programme. It seeks to increase transparency of a traditionally closed system and expose malpractices. Apart from highlighting failures of the legal system that result in overcrowding and unacceptably long pre-trial detention and prison overstay, it engages in interventions and advocacy for legal aid and policy changes to revive prison oversight systems.

Penal Reforms International (PRI) is a non-governmental organisation that works globally on a range of topics revolving around the criminal justice system including the prison conditions. PRI monitors and advocates for implementation of regional and international norms of criminal justice, human rights and rule of law through regional and international advocacy. It produces 'information resources for policy-makers and criminal justice agencies, including research reports, policy briefings and training materials.' The periodical report, Global Prison Trends is PRI's flagship series which identifies 'topical developments and challenges in criminal justice, and prison policy and practice.'

ⁱ Global Prison Trends, 2018 – Penal Reforms International. Available at: <https://www.penalreform.org/resource/global-prison-trends-2018/>

ⁱⁱ Ibid.

ⁱⁱⁱ India's total prison population in 2000 was 272,079 and in 2018 it rose to 466,084.

^{iv} <https://www.worldometers.info/world-population/india-population/>.

^v World Prison Brief Data. Available at: <https://www.prisonstudies.org/highest-to-lowest/prison-population-total>.

^{vi} Ibid.

^{vii} Ibid.

^{viii} Prison Statistics India 2018, National Crime Records Bureau, Ministry of Home Affairs, Government of India. Available at: <http://ncrb.gov.in/StatPublications/PSI/Prison2018/PrisonStat2018.htm>.

^{ix} Ibid.

^x Supra note 1.

^{xi} Supra note 4.

^{xii} India's prison population increased by 13.1% in last six years (2018-2013). Supra note 4.

^{xiii} Not all the persons arrested are sent to prisons however, it is an important indicator to assess the increase in prison population.

^{xiv} Supra note 5. According to the World Prison Brief's World Pre-trial/Remand Imprisonment List, 3rd Edition, as on November 2016 there were 2,565,637 pre-trial/remand prisoners in the world. Available at: https://www.prisonstudies.org/sites/default/files/resources/downloads/wp tril_3rd_edition.pdf.

^{xv} Supra note 1.

^{xvi} Supra note 1.

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- ^{xvii} Ten things you should know about Indian prisons – An analysis of Prison Statistics India 2018, Commonwealth Human Rights Initiative. Available at: <https://www.humanrightsinitiative.org/publication/jail-mail-ten-things-you-should-know-about-indian-prisons-an-analysis-of-ncrbs-prison-statistics-india-2018>.
- ^{xviii} Supra note 5.
- ^{xix} According to the Word Prison Brief's World Female Imprisonment List, 4th Edition, as on September 2017 there were 714,417 female prisoners in the world. Available at: https://www.prisonstudies.org/sites/default/files/resources/downloads/world_female_prison_4th_edn_v4_web.pdf.
- ^{xx} Supra note 8.
- ^{xxi} Supra note 5.
- ^{xxii} Supra note 8.
- ^{xxiii} Supra note 8.
- ^{xxiv} Supra note. 8.
- ^{xxv} Sridhar, Shivpriya et al. "The Costs of Healthcare in Prison and Custody: Systematic Review of Current Estimates and Proposed Guidelines for Future Reporting." *Frontiers in psychiatry* vol. 9 716. 20 Dec. 2018. Available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6306428/#B20>.
- ^{xxvi} Penal Reforms International – Key Facts: Health. Available at: <https://www.penalreform.org/issues/prison-conditions/key-facts/health/>.
- ^{xxvii} Supre note 8.
- ^{xxviii} Russo, Joe, Dulani Woods, John S. Shaffer, and Brian A. Jackson, *Caring for Those in Custody: Identifying High-Priority Needs to Reduce Mortality in Correctional Facilities*. Santa Monica, CA: RAND Corporation, 2017. https://www.rand.org/pubs/research_reports/RR1967.html.
- ^{xxix} Deaths in custody in Australia 2017-18, Laura Doherty & Samantha Bricknell, ISSN: 2206-7930, Australian Institute of Criminology Published: 20/02/2020. Available at: <https://aic.gov.au/publications/sr/sr21>.
- ^{xxx} Safety in Custody Statistics, England and Wales: Deaths in Prison Custody to December 2018 Assaults and Self-harm to September 2018, Ministry of Justice, Jan. 2019. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/774880/safety-in-custody-bulletin-2018-Q3.pdf.
- ^{xxxi} Seena, Taanvi et al. "Suicide in Prisons: an international study of prevalence and contributory factors." *The Lancet Psychiatry* Vol. 4, Issue 12, Pg. 946-952. Dec. 2017. Available at: [https://www.thelancet.com/journals/lanpsy/article/PIIS2215-0366\(17\)30430-3/fulltext#back-bib1](https://www.thelancet.com/journals/lanpsy/article/PIIS2215-0366(17)30430-3/fulltext#back-bib1).
- ^{xxxii} Supra note 8.
- ^{xxxiii} Global Health Observatory data repository, World Health Organisation. Available at: <http://apps.who.int/gho/data/view.main.MHSUICIDEREGv?lang=en>.
- ^{xxxiv} Salvador Declaration on Comprehensive Strategies for Global Challenges: Crime Prevention and Criminal Justice Systems and Their Development in a Changing World 2010.