

CHRI 2020



# Hope Behind Bars?

**An assessment of changes in provision of legal services for persons in custody, 2018-2020**



**CHRI**

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

# Commonwealth Human Rights Initiative

The Commonwealth Human Rights Initiative (CHRI) is an independent, non-governmental, non-profit organisation headquartered in New Delhi, with offices in London, United Kingdom, and Accra, Ghana. Since 1987, it has worked for the practical realization of human rights through strategic advocacy and engagement as well as mobilization around these issues in Commonwealth countries. CHRI's specialisation in the areas of Access to Justice (ATJ) and Access to Information (ATI) are widely known. The ATJ programme has focussed on Police and Prison Reforms, to reduce arbitrariness and ensure transparency while holding duty bearers to account. CHRI looks at policy interventions, including legal remedies, building civil society coalitions and engaging with stakeholders. The ATI looks at Right to Information (RTI) and Freedom of Information laws across geographies, provides specialised advice, sheds light on challenging issues, processes for widespread use of transparency laws and develops capacity. CHRI reviews pressures on freedom of expression and media rights while a focus on Small States seeks to bring civil society voices to bear on the UN Human Rights Council and the Commonwealth Secretariat. A growing area of work is SDG 8.7 where advocacy, research and mobilization is built on tackling Contemporary Forms of Slavery and human trafficking through the Commonwealth 8.7 Network

CHRI has special consultative status with the UN Economic and Social Council and is accredited to the Commonwealth Secretariat. Recognised for its expertise by governments, oversight bodies and civil society, it is registered as a society in India, a limited charity in London and an NGO in Ghana.

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Through its research, reports, advocacy, engagement, mobilisation and periodic investigations, CHRI draws attention to the progress and setbacks on rights issues. It addresses the Commonwealth Secretariat, the United Nations Human Rights Council members, media and civil society. It works on and collaborates around public education programmes, policy dialogues, comparative research, advocacy and networking on the issues of Access to Information and Access to Justice.

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# List of Acronyms/Abbreviations

<b>ConPLVs</b>	Convict PLVs
<b>CoPLVs</b>	Community PLVs
<b>Cr.P.C.</b>	Code of Criminal Procedure, 1973
<b>DLSA</b>	District Legal Services Authority
<b>JVL</b>	Jail Visiting Lawyer
<b>LSI</b>	Legal Services Institutions
<b>MC</b>	Monitoring Committee
<b>MMC</b>	Monitoring & Mentoring Committee
<b>NALSA 2010 Regulation</b>	The NALSA (Free and Competent Legal Services) Regulations, 2010
<b>NALSA 2011 Regulation</b>	The NALSA (Legal Services Clinics) Regulations, 2011
<b>NALSA Early Access Framework</b>	NALSA Early Access to Justice at the Pre-Arrest, Arrest and Remand Stage framework 2019
<b>NALSA Model Scheme</b>	NALSA Model Scheme for Legal Aid Counsel in all the courts of Magistrates, 1998
<b>NALSA SOP 2016</b>	NALSA Standard Operating Procedures (SOP) for Representation of Persons in Custody 2016
<b>NALSA</b>	National Legal Services Authority
<b>No.</b>	Number
<b>PLV</b>	Paralegal Volunteer
<b>SDLSC/ TLSC</b>	Sub-Divisional/ Taluka Legal Services Committee
<b>SLSA</b>	State Legal Services Authority

# About the Report

This report marks the two-year anniversary of the public release of CHRI's *Hope behind Bars? - Status Report on Legal Aid for Persons in Custody, 2018*. Prior to the launch of the report, in July 2018, CHRI had engaged with the National Legal Services Authority (NALSA) to organise a roundtable consultation with all State Legal Services Authorities (SLSAs) to validate and further nuance the recommendations of the report. CHRI has since, periodically communicated with NALSA as well as SLSAs across various states to further the implementation of the recommendations from its report. CHRI also conducted visits to several states and made efforts to address concerns relating to the provision of legal aid for persons in custody through prison visits and interactions with legal aid functionaries and providers.

This report is an effort to analyse the changes that have been brought in by NALSA and improvements in implementation undertaken by SLSAs to improve access to legal services for persons in custody in India. The information has been sourced from information available from NALSA's website, its Annual Reports for 2018 and 2019, the India Justice Report 2019 and information received by CHRI from 14 SLSAs in 2019. The report also draws comparisons between the data available now and that from the 2018 Report. These examinations are vital to understand the progress of legal services institutions towards ensuring effective access to legal aid for persons in custody and improving the quality of services provided. Both are important parameters that enable the strengthening of institutional practices towards provision of legal services to persons in custody.

# I. Introduction

Legal aid continues to be the “hope” that many persons in custody turn to for a fair trial. Almost 80% of India’s 132 crore (1.32 billion) population is eligible for legal aid. An overwhelming number (41.5%) of those accused of criminal acts in India are from the economically weak and disadvantaged sections of society.<sup>1</sup> Few are aware of their rights or procedures relating to the police, prosecution and courts, or what the services of a lawyer involve. Given the indigence of the majority of suspects and accused, their extremely limited education and negligible knowledge of legal rights, it is hardly surprising that two-thirds of the prison population in India are undertrials.<sup>2</sup> In the last year itself, the country’s prison population increased by 2.69%, while the undertrial population spiked by 2.15%.<sup>3</sup> With many frailties at play: unnecessary arrests, longer trials and pendency, rising statistics of pretrial detention; the role of a competent lawyer has become more crucial than ever.

The Legal Services Authorities Act, 1987 has a four-tier structure designed to deliver standardised legal aid nationwide with the NALSA at the helm and institutions at the state, district and sub-divisional levels. Even with the presence of a framework, which is reasonably detailed and elaborate, actual delivery falls short. The quality of legal aid has often been criticised by its beneficiaries, especially persons in custody. In 2018, CHRI through its first national study on legal aid for persons in custody in India **‘Hope Behind Bars?’** sought to document the existing legal aid framework in the country aimed to protect the right of persons in custody to be legally represented in court. Based on responses to RTIs received from 29 states and union territories for information between June 2015 and July 2016, it analysed the implementation of three NALSA schemes and regulations which ensure access to legal aid for persons in custody. These included the NALSA 1998 Model Scheme which recommends appointment of remand lawyers at magistrate courts; the NALSA 2010 Regulations which deal with the appointment of legal aid providers and their monitoring; and the NALSA Regulations, 2011 which deal with setting up of legal aid clinics, including in prisons. It looked at both the structural framework and implementation data across all states/UTs in the country, and addressed two vital areas of legal aid delivery: early access to legal aid for persons in custody and quality of legal representation.

The 2018 report was released by CHRI on 9<sup>th</sup> September 2018. It was followed by a presentation on the findings of the report and a panel discussion on ‘improving quality of legal aid services’ and ‘the role of civil society and university-based law clinics on strengthening legal aid for persons in custody’. Prior to the launch of the report, in July 2018 CHRI had engaged with the National Legal Services Authority (NALSA) to organise a roundtable consultation with all State Legal Services Authorities (SLSAs) to validate and further nuance the recommendations of the report.

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<sup>1</sup> Prison Statistics India 2019 (PSI 2019), Pg 37, Chart 2.5, National Crime Records Bureau, Ministry of Home Affairs, India.

<sup>2</sup> Exactly 69.1% according to PSI 2019, Pg 33, Chapter 2.

<sup>3</sup> PSI 2019, Executive Summary, Pg xii.

## NATIONAL LEGAL SERVICES AUTHORITY: RECENT ACTIVITIES<sup>4</sup>

The year 2020, marks 25 years of NALSA's establishment pursuant to the enactment of the Legal Services Authorities Act, 1987.<sup>5</sup> At the end of 2019, there were 36 State Legal Services Authorities, 664 District Legal Services Authorities, 2254 Taluka Legal Services Authorities apart from the NALSA at New Delhi. In addition, there is a Supreme Court Legal Services Committee and 36 High Court Legal Services Committee.<sup>6</sup> Since its establishment, NALSA has taken a number of steps to extend the coverage and ambit of legal services. NALSA's Annual Report 2019 provides an insight into the activities conducted by LSIs over the last year. It is reported that, LSIs have conducted 196728 awareness campaigns which have been attended by 26835386 people across the country in 2019.<sup>7</sup> In 2018-2019, legal services institutions across India held 3165 Legal Empowerment Camps and approximately 37 lakh people are said to have benefitted from such camps.<sup>8</sup> The no. of total beneficiaries across the country was recorded at 12.20 lakh in 2019.<sup>9</sup>

Further, in reference to legal aid for persons in custody, the report provides that during the year, a total of 1098 jail legal aid clinics were operational which was accessed by more than 2.91 lakh persons in custody to seek legal assistance.<sup>10</sup> In 2018 and 2019, NALSA conducted campaigns for legal assistance for family members of prisoners<sup>11</sup> and enhancing legal services to women prisoners and their accompanying children in prisons<sup>12</sup>. SLSAs also conducted campaigns for convicts to organise camps to hold legal awareness camps, collect relevant documentation, draft relevant applications and approach relevant authorities to effectuate release in cases of incarceration beyond their imprisonment period.<sup>13</sup> NALSA also undertook new initiatives towards ensuring early access to legal aid through adoption of the *Early Access to Legal Aid at Pre-arrest, Arrest and Remand Stage framework* in August 2019.<sup>14</sup> The recent figures provided by NALSA indicate that in 2019, 6322 suspects were provided legal assistance at the pre-arrest stage at the police station; 1546 of these suspects were not ultimately arrested by the police. Similarly, 11356 arrestees were provided legal assistance at the police station before being produced at Courts. A further 72915 persons were provided legal assistance at the remand stage with 20745 bail applications being filed. Of these, 12456 bail applications were granted.<sup>15</sup>

<sup>4</sup> This does not cover activities undertaken by NALSA in response to the COVID-19 pandemic.

<sup>5</sup> The Act came into force on 9.11.1995.

<sup>6</sup> NALSA Annual Report 2019, Pg 4, available at <https://nalsa.gov.in/library/annual-reports/annual-report-2019>.

<sup>7</sup> *Ibid* at Pg 6.

<sup>8</sup> *Ibid* at Pg 15 and NALSA Annual Report 2018, Pg 12, available at <https://nalsa.gov.in/library/annual-reports/annual-report-2018>.

<sup>9</sup> *Ibid* at Pg 5.

<sup>10</sup> *Ibid* at Pg 14.

<sup>11</sup> NALSA Annual Report 2019, Pg 20-22; Campaign reached out to 157,206 prisoners.

<sup>12</sup> NALSA Annual Report 2018, Pg 16-17; One to one interactions with 14,788 women prisoners where 2088 legal awareness camps organised and 2942 provided legal assistance.

<sup>13</sup> NALSA Annual Report 2018, Pg 23-24,; NALSA Annual Report 2019, Pg 24.

<sup>14</sup> <https://nalsa.gov.in/library/17th-all-india-meet-of-state-legal-services-authorities-17th-18th-aug-2019-at-nagpur>.

<sup>15</sup> NALSA's Annual Report 2019.



In June 2020, NALSA adopted and released the Handbook of Formats to standardise documentation and reporting of legal services, thus initiating efforts to improve quality of legal aid services.<sup>16</sup> Through the Handbook, NALSA seeks to strengthen its internal processes of documentation and reporting mechanisms and enable provision of effective, efficient and quality legal services.

CHRI has continued to communicate with NALSA as well as SLSAs across various states to press for the implementation of the recommendations from its report. CHRI also conducted visits to over 12 states (including Rajasthan, West Bengal, Haryana, Punjab, Karnataka, Odisha, Andhra Pradesh, Kerala, Madhya Pradesh, Assam, Manipur, Tripura, Meghalaya and Mizoram), and made efforts to address concerns relating to the provision of legal aid for persons in custody through prison visits and interactions with legal aid functionaries and providers. Our engagements with NALSA and SLSAs have involved providing inputs to ongoing initiatives, reporting on observations made during our prison visits, collaborating on conducting joint studies, dissemination of information, education and communication material and capacity building initiatives. This present report is an effort to analyse the changes that have been brought in by NALSA and improvements in implementation undertaken by SLSAs to improve access to legal services for persons in custody in India.

This report provides an analysis of changes in legal aid delivery for persons in custody since 2018, which includes an evaluation of data received in response to letters written to SLSAs<sup>17</sup> with regard to prison legal aid clinics, monitoring of legal services, legal aid at police stations and legal aid during remand hearings. It also includes an assessment of the changes that have been effectuated by NALSA towards implementation of the recommendations from the 2018 report. The assessments on the findings and recommendations, for changes between 2018 and 2020, are thereafter summarised and areas requiring continued attention and prioritisation by NALSA and SLSAs are set forth in the final section. The information stated in this report has been sourced from information available from NALSA's website, its Annual Reports for 2018 and 2019, the India Justice Report 2019<sup>18</sup> and information received by CHRI from 14 SLSAs.

The report also draws comparisons between the data available now and that from the 2018 Report. These examinations are vital to understand the progress of legal services institutions towards ensuring effective access to legal aid for persons in custody and improving quality of services provided. Both are important parameters that enable the strengthening of institutional practices towards provision of legal services to persons in custody.

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<sup>16</sup> <https://nalsa.gov.in/library/handbook>.

<sup>17</sup> The information from the SLSAs was received between 30<sup>th</sup> January 2019 to 18<sup>th</sup> September 2019.

<sup>18</sup> <https://www.tatatrusters.org/insights/survey-reports/india-justice-report>.

## II. An evaluation of changes post the 2018 Report

After the release of the 2018 report, CHRI shared the specific state findings along with recommendations with individual SLSAs. It has since continued to monitor the changes in legal service delivery for persons in custody, through its engagements with legal aid functionaries, legal aid providers and through prison visits in many states. The 2018 Report had indicated low compliance in appointment of full-time secretaries for DLSAs, low per capita allocation of budgets, poor utilisation of funds by SLSAs and lack of a grievance redressal mechanism for dealing with complaints by legal aid beneficiaries. It also highlighted implementation gaps with regard to the functioning of legal aid clinics in prisons, remand lawyers and monitoring mechanisms (See box for summary of findings of the 2018 Report). Since 2018, several of these issues have been addressed by NALSA, and are assessed hereunder.

### KEY FINDINGS FROM THE 2018 REPORT

1. Only 92% of the 659 jails, for which information was received, had constituted a jail legal aid clinic. More than 50% of the clinics were constituted between 2015 and 2016.
2. While only three-quarters of the clinics had appointed jail visiting lawyers, convict paralegals were appointed in only a third. Registers are crucial to record, monitor and follow up on requests made by inmates in the clinics, yet only 35% of the districts (93 of 251 districts) maintained registers in the jail legal aid clinics.
3. Only 60% of the districts which responded to the RTI constituted a monitoring committee. Of these only 23% were maintaining documentation and had dedicated staff.
4. There was no national or state scheme/regulation which established a mechanism to provide legal aid at the police station.
5. The RTI responses pointed to a 14% under-utilisation of funds allocated to State Legal Services Authorities, wherein states like Bihar, Sikkim and Uttarakhand utilised less than half of their allocated funds. On the other end of the spectrum, Delhi, Gujarat, Punjab, Rajasthan and few others spent more funds during the year than were allocated to them.
6. Only 339 of the 520 DLSAs, for which information was received, had full time secretaries.
7. Legal services institutions assign legal aid lawyer on receipt of a legal aid application. While in many cases, this process was completed in a day, in some cases it took a few days, and in others, it took months. Analysing details of 804 cases from 170 districts in 21 states, the average number of days between application and assignment was 11 days. Rajasthan, where assignment takes the longest, on average, assigned lawyers in 48 days.
8. In total, 256 complaints were received by the legal services institutions for fees/consideration sought by legal aid lawyers. Of these, 179 complaints were from Delhi. These complaints led to the removal of 65 lawyers from the panel. Given the number of legal aid providers, the number of legal aid cases taken up and the oral complaints from the inmates, the number of complaints is minuscule. This could be because either the inmates are not aware of the grievance redressal mechanism or cannot access the mechanism.

9. Most legal services institutions do not maintain any data on representation and outcome of legal aided cases. Of the districts where panel lawyers were appointed, only two-thirds provided information about the representation of cases. Only half the institutions provided information on the outcome of cases. Most either chose to not respond to the query or said that they did not maintain this data. The outcome of the legal aid provided may not be reflective of the quality of legal representation at the level of individual cases. However, spatial and temporal analysis of the supply of legal aid and its outcome would help LSIs ascertain the standard of delivery and the progress made over time and jurisdictions.
10. The per capita spending on legal aid in India is just Rs 0.75 (\$0.008 USD). In Australia, it is \$23 and in Argentina \$17.

As of 2019, the per capita spending seems to have increased slightly to Rs 0.99, with the total budget allocated by NALSA being Rs. 138.5 crores.<sup>19</sup> Further, it is reported that against 664 DLSAs, the number of sanctioned posts of full-time secretaries to DLSAs stood at 603, while the number of full-time secretaries in place was 525.<sup>20</sup> In terms of grievance redressal, NALSA has prepared the Standard Operating Procedures for Redressal of Complaints/Grievances, and also developed a portal on its website for submission of online complaints. However, there is no research to document the efficacy of this mechanism yet. In terms of compliance with existing mechanisms to ensure access to effective legal aid for persons in custody, CHRI had in 2019 sought data from SLSAs on four major parameters – legal aid clinics in prisons, monitoring of legal services, legal aid at police stations, and lastly legal aid at courts.

Data Requested from SLSAs			
Legal Aid in Prisons	Monitoring of legal services	Legal Aid at Police Station	Legal Aid in Courts
<ul style="list-style-type: none"> <li>total number of prisons</li> <li>total number of jail legal aid clinics</li> <li>total number of community PLVs attached to these clinics</li> <li>total number of convict PLVs attached to these clinics</li> <li>total number of jail visiting lawyers attached to these clinics</li> </ul>	<ul style="list-style-type: none"> <li>total number of DLSAs,</li> <li>total number of MMCs setup in DLSAs</li> <li>total number of SDLSCs/ TLSCs,</li> <li>total number of MMCs setup in SLDSC/TLSCs</li> <li>sample format for daily reports &amp; reports to SLSA</li> </ul>	<ul style="list-style-type: none"> <li>total number of police stations</li> <li>total number of legal aid clinics in police stations</li> <li>total number of paralegals attached to police stations</li> <li>total number of lawyers attached to police stations</li> </ul>	<ul style="list-style-type: none"> <li>total number of production courts</li> <li>total number of remand lawyers attached to each court</li> </ul>

In response to its letters, CHRI received responses from only 14 States, namely Arunachal Pradesh, Gujarat, Haryana, Himachal Pradesh, Kerala, Karnataka, Manipur, Meghalaya, Mizoram, Nagaland, Punjab, Rajasthan, Telangana and Uttarakhand. The following section provides an analysis of the responses, and

<sup>19</sup> As per the NALSA Annual Report 2019 the total budget allocated for legal aid in 2019 was 138.5 crores (Pg 49), and as per the World Bank statistics, India's population is 136.6 crores.

<sup>20</sup> India Justice Report 2019, pg 82.

tries to assess the changes between the 2016 and 2019. In order to better understand the compliance rates, for the purpose of this analysis, and for the first parameter ‘Legal Aid Clinics in Prisons’ the states have been categorised on the basis of number of prisons within their jurisdiction. This categorisation and rationale, which is a departure from our analysis in the 2018 report, we found was important to better assess and understand compliance and implementation of various schemes across states. Further, each of these broader parameters indicates towards other basic qualifications. For example, the choice of categorising states on the basis of less than 50 prisons, between 50 and 100 prisons and greater than 100 prisons draws upon the geographical expanse as well as the larger number of prisons for the state in addition to administrative presence in the governance of the state. These features are intrinsically linked to the capacity of SLSAs to effectively function and ensure compliance of various schemes.

## A. Jail Legal Aid Clinics

The NALSA Standard Operating Procedures for Representation of Persons in Custody 2016 and NALSA (Legal Services Clinics) Regulations 2011 mandates that every jail in India should have a legal aid clinic. **The 2018 report had reported that 92% of the 659 jails, for which information was received, had constituted a jail legal aid clinic.** It further highlighted that while the responsibility for the functioning of these clinics was upon convict paralegals and jail visiting lawyers, **only three-quarters of the clinics had appointed jail visiting lawyers whereas convict paralegals were appointed in only a third.**

The data received from 14 states indicates an improvement in compliance rates, in terms of both constitution of jail legal aid clinics and appointment of legal aid providers to these clinics. Under this parameter, analysis of responses of states has been made w.r.t the number of prisons, comprising three categories of states: category 01 with less than 50 prisons [11 States namely Manipur (2), Meghalaya (5), Mizoram (9), Arunachal Pradesh (9), Uttarakhand (10), Nagaland (11), Himachal Pradesh (12), Haryana (19), Punjab (24), Gujarat (28) and Telangana (35)]; category 02 with 50 – 100 prisons [2 States namely Kerala (53), Karnataka (63)] and; category 03 with more than 100 prisons [1 State namely Rajasthan (144)].

Further, NALSA’s Annual Report 2019 reports that during the year 2019, a total of 1098 Jail Legal Aid Clinics were functioning across the country. It further reported that through these Legal Aid Clinics, 2.91 lakh prison inmates were able to access legal representation, requisite legal advice, updates of their cases in courts etc.<sup>21</sup>

Data on Jail Legal Aid Clinics and Legal Aid Providers (2019)						
S. No.	Name of SLSA	No. of Prisons	No. of Jail Legal Aid Clinics	No. of Community PLVs (CoPLVs)	No. of Convict PLVs (ConPLVs)	No. of Jail Visiting Lawyers (JVLs)
1	Arunachal Pradesh	9	5	5	8	15

<sup>21</sup> Annual Report of NALSA 2019, available at <https://nalsa.gov.in/library/annual-reports/annual-report-2019>, Pg 14.

Data on Jail Legal Aid Clinics and Legal Aid Providers (2019)						
S. No.	Name of SLSA	No. of Prisons	No. of Jail Legal Aid Clinics	No. of Community PLVs (CoPLVs)	No. of Convict PLVs (ConPLVs)	No. of Jail Visiting Lawyers (JVLs)
2	Gujarat	28	49	57	29	345
3	Haryana	19	19	70-80	84	76
4	Himachal Pradesh	12	12	9	35	48
5	Manipur	2	2	13	13	1
6	Meghalaya	5	5	10	1	8
7	Mizoram	9	9	9	4	Nil
8	Nagaland	11	11	11	2	11
9	Punjab	24	24	20	70	120
10	Telangana	35	36	24	28	84
11	Uttarakhand	10	9	20	22	80
12	Karnataka	63	61	22	43	105
13	Kerala	53	53	53	2	66
14	Rajasthan	144	81	151	23	65

- (i) **Number of jail legal aid clinics:** The analysis of the responses received reveals that under
- Category 1, barring two States,<sup>22</sup> rest of the 9 States have the clinics in each of their prisons.
  - Category 2, Kerala has a clinic in each of its Prison; whereas in Karnataka, barring two prisons all have legal aid clinics.
  - Category 3, in Rajasthan the rate of compliance stands at 56.25% with only 81 of the 144 prisons having a clinic.

Data on Jail Legal Aid Clinics (2019 & 2016)				
S. No.	Name of SLSA	No. of Prisons	No. of Jail Legal Aid Clinics in 2019	No. of Jail Legal Aid Clinics in 2016
1	Arunachal Pradesh	9	5	3
2	Gujarat	28	49	NI
3	Haryana	19	19	13
4	Himachal Pradesh	12	12	12

<sup>22</sup> Uttarakhand and Arunachal Pradesh.

Data on Jail Legal Aid Clinics (2019 & 2016)				
S. No.	Name of SLSA	No. of Prisons	No. of Jail Legal Aid Clinics in 2019	No. of Jail Legal Aid Clinics in 2016
5	Manipur	2	2	2
6	Meghalaya	5	5	4
7	Mizoram	9	9	7
8	Nagaland	11	11	NI
9	Punjab	24	24	20
10	Telangana	35	36	32
11	Uttarakhand	10	9	10
12	Karnataka	63	61	36
13	Kerala	53	53	23
14	Rajasthan	144	81	79

- (ii) **No. of Community PLVs (CoPLV) attached to these Clinics:** The analysis reveals that under
- Category 1**, Gujarat (57), Haryana (70-80), Manipur (13), Meghalaya (10) and Uttarakhand (20) have more than 1 CoPLV for each Prison, on average. Punjab (20) and Arunachal Pradesh (5) have a minimum of 1 CoPLV for each CH barring 4 CHs, on average. Mizoram (9) and Nagaland (11) have 1 CoPLV for each Prison, on average. Telangana (24) has CoPLVs for each prison, barring 11 CHs, on average and Himachal Pradesh has 9 CoPLVs for 12 prisons.
  - Category 2**, Kerala has a CoPLV for each prison, on average; whereas in Karnataka, there are only 22 CoPLVs appointed for 61 prisons legal aid clinics.
  - Category 3**, having appointed 151 CoPLVs, Rajasthan has a minimum of 1 CoPLV for each of the 81 Prison Legal Aid Clinics.

Data on Jail Legal Aid Clinics and Community PLVs (2019 & 2016)					
S. No.	Name of SLSA	No. of Jail Legal Aid Clinics in 2019	No. of Community PLVs (CoPLVs) in 2019	No. of Jail Legal Aid Clinics in 2016	No. of Community PLVs (CoPLVs) in 2016
1	Arunachal Pradesh	5	5	3	0
2	Gujarat	49	57	NI	NI
3	Haryana	19	70-80	13	151
4	Himachal Pradesh	12	9	12	3

### Data on Jail Legal Aid Clinics and Community PLVs (2019 & 2016)

S. No.	Name of SLSA	No. of Jail Legal Aid Clinics in 2019	No. of Community PLVs (CoPLVs) in 2019	No. of Jail Legal Aid Clinics in 2016	No. of Community PLVs (CoPLVs) in 2016
5	Manipur	2	13	2	NI
6	Meghalaya	5	10	4	375
7	Mizoram	9	9	7	NI
8	Nagaland	11	11	NI	NI
9	Punjab	24	20	20	1
10	Telangana	36	24	32	10
11	Uttarakhand	9	20	10	0
12	Karnataka	61	22	36	1
13	Kerala	53	53	23	NI
14	Rajasthan	81	151	79	NI

(iii) **No. of Convict PLVs (ConPLV) attached to these Clinics:** Responses indicate that under,

- Category 1**, Gujarat (29), Haryana (84), Himachal Pradesh (35), Manipur (13), Punjab (70) and Uttarakhand (22) have more than 1 ConPLV for each Prison, on average. Mizoram has appointed only 4 ConPLVs for its 9 Clinics. Arunachal Pradesh has appointed only 8 ConPLVs for its 5 Clinics. Telangana (28) has CoPLVs for each prison, barring 7 CHs, on average. Nagaland and Meghalaya have appointed only 2 ConPLVs and 1 ConPLVs respectively for their Legal Aid Clinics.
- Category 2**, Kerala has only 2 ConPLVs; whereas Karnataka has appointed 43 ConPLVs with a rate of compliance of 70.49%.
- Category 3**, Rate of compliance stands at 28.39% with 23 ConPLVs appointed to the existing Prison Legal Aid Clinics.

### Data on Jail Legal Aid Clinics and Convict PLVs (2019 & 2016)

S. No.	Name of SLSA	No. of Jail Legal Aid Clinics in 2019	No. of Convict PLVs (ConPLVs) in 2019	No. of Jail Legal Aid Clinics in 2016	No. of Convict PLVs (ConPLVs) in 2016
1	Arunachal Pradesh	5	8	3	0
2	Gujarat	49	29	NI	NI
3	Haryana	19	84	13	42
4	Himachal Pradesh	12	35	12	8

Data on Jail Legal Aid Clinics and Convict PLVs (2019 & 2016)					
S. No.	Name of SLSA	No. of Jail Legal Aid Clinics in 2019	No. of Convict PLVs (ConPLVs) in 2019	No. of Jail Legal Aid Clinics in 2016	No. of Convict PLVs (ConPLVs) in 2016
5	Manipur	2	13	2	0
6	Meghalaya	5	1	4	30
7	Mizoram	9	4	7	2
8	Nagaland	11	2	NI	NI
9	Punjab	24	70	20	44
10	Telangana	36	28	32	14
11	Uttarakhand	9	22	10	2
12	Karnataka	61	43	36	1
13	Kerala	53	2	23	7
14	Rajasthan	81	23	79	10

- (iv) **No. of Jail Visiting Lawyers (JVLs) attached to these Clinics:** Responses indicate that under,
- Category 1**, Arunachal Pradesh (15), Gujarat (345), Haryana (76), Himachal Pradesh (48), Meghalaya (8), Punjab (120), Telangana (84) and Uttarakhand (80) have more than 1 JVL appointed to each of their respective Prison Legal Aid Clinic within the premises of the Prison, on average. Nagaland has appointed 11 JVLs for its 11 Jail Legal Aid Clinics i.e. 1 for each Clinic, on average. Manipur has appointed only 1 JVL. Mizoram did not share information on this parameter.
  - Category 2**, Both Kerala (66) and Karnataka (105) have a minimum 1 JVL for each of its Clinics in the Prisons.
  - Category 3**, the rate of compliance stands at 80.25% with 65 JVLs appointed to the 81 Jail Legal Aid Clinics.

Data on Jail Legal Aid Clinics and Jail Visiting Lawyers (2019 & 2016)					
S. No.	Name of SLSA	No. of Jail Legal Aid Clinics in 2019	No. of Jail Visiting Lawyers (JVLs) in 2019	No. of Jail Legal Aid Clinics in 2016	No. of Jail Visiting Lawyers (JVLs) in 2016
1	Arunachal Pradesh	5	15	3	10
2	Gujarat	49	345	NI	NI
3	Haryana	19	76	13	367
4	Himachal Pradesh	12	48	12	12
5	Manipur	2	1	2	NI



Data on Jail Legal Aid Clinics and Jail Visiting Lawyers (2019 & 2016)					
S. No.	Name of SLSA	No. of Jail Legal Aid Clinics in 2019	No. of Jail Visiting Lawyers (JVLs) in 2019	No. of Jail Legal Aid Clinics in 2016	No. of Jail Visiting Lawyers (JVLs) in 2016
6	Meghalaya	5	8	4	80
7	Mizoram	9	Nil	7	4
8	Nagaland	11	11	NI	NI
9	Punjab	24	120	20	73
10	Telangana	36	84	32	178
11	Uttarakhand	9	80	10	NI
12	Karnataka	61	105	36	587
13	Kerala	53	66	23	535
14	Rajasthan	81	65	79	326

## B. Monitoring of Legal Services

Monitoring Committees were originally set up under the NALSA (Free and Competent Legal Services) Regulations 2010. In 2018, the Regulations were amended, and the Monitoring Committees became 'Monitoring and Mentoring Committees'.<sup>23</sup> Subsequently, NALSA also issued '*Guidelines for functioning of Monitoring and Mentoring Committees at District Level*' in 2019. These committees are mandated to oversee and assess quality of legal services provided. They are required to do this by regularly reviewing the working of legal aid lawyers vis-à-vis ongoing-legal aid cases. The 2018 report estimated **that only 60% of the districts which responded to the RTI constituted a Monitoring Committee.**

Since 2016, there has been an overall increase in compliance standards as regards establishing these Committees for all barring Arunachal Pradesh and Manipur where MMCs continue to not be constituted. The responses reveal that barring Arunachal Pradesh and Manipur, compliance as regards setting up of MCs is 100% at the level of the DLSA. When compared with the state at SDLSC/ TLSC, 5 States<sup>24</sup> have not set up any MCs; 1 State has not shared responses on the count. With respect to the states of Kerala, Gujarat and Karnataka; they have a compliance rate of 91.9%, 86.9% and 47.18% respectively. Remaining have full compliance. Further, sample formats for reporting were provided by – Punjab SLSA, Telangana SLSA, Rajasthan SLSA, Haryana SLSA and Himachal SLSA.

<sup>23</sup> Substituted vide notification dated 22/10/2018, published in the Gazette of India on 25/10/2018.

<sup>24</sup> Arunachal Pradesh, Manipur, Meghalaya, Nagaland and Uttarakhand.

### Data on Monitoring and Mentoring Committees (2019)

S. No.	SLSA	Total no. DLSA's	Monitoring & Mentoring Committee in DLSA's	Total no. of SDLSC/TLSC	Monitoring & Mentoring Committee in SDLSC/ TLSC
1	Arunachal Pradesh	20	Nil	Nil	Nil
2	Gujarat	32	32	252	219
3	Haryana	22	22	33	33
4	Himachal Pradesh	11	11	42	42
5	Manipur	9	Nil	Nil	Nil
6	Meghalaya	11	10	3	Nil
7	Mizoram	8	8	NI	NI
8	Nagaland	NI	3	0	0
9	Punjab	22	22	40	40
10	Telangana	11	11	78 <sup>25</sup>	75
11	Uttarakhand	13	14	31	Nil
12	Karnataka	28	28	142	67
13	Kerala	14	14	62	57
14	Rajasthan	35	35	180	180

### C. Access to Legal Aid at Police Stations

The early stages of the criminal justice process—the first hours or days of police custody or detention – are crucial for those who have been arrested or detained in respect of a criminal offence. At the time of releasing Hope Behind Bars?, **there was no national or state scheme/regulation which established a mechanism to provide legal aid at the police station. None of the states which had responded to CHRI's RTIs said they have any scheme to provide legal aid at the police station.** In August 2019, NALSA released its *Early Access to Justice at Pre-Arrest, Arrest and Remand Stages framework*<sup>26</sup> which aims at the following:

1. To provide legal assistance to needy suspects and arrestees during interrogation and other early stages of investigation.
2. To decrease the vulnerabilities of suspects and arrestees.
3. To assist in avoiding unnecessary arrests.
4. To assist the arrestees in filing bail applications and furnishing bail bonds.

<sup>25</sup> Only 75 SDLSCs were reported to be functional.

<sup>26</sup> <https://nalsa.gov.in/acts-rules/guidelines/early-access-to-justice-at-pre-arrest-arrest-and-remand-stage>.

In furtherance of the framework, CHRI asked questions related to the number of police stations, establishment of legal aid clinics at the police stations, appointment of both paralegals and lawyers to the legal aid clinics to assist the beneficiaries in our letter to the SLSAs. The framework adopted by NALSA in 2019 enables the mechanism for creation of a roster of legal aid lawyers at the police station by persons in need. The framework, however, does not capture or elaborate upon the vital role of the paralegal volunteer that of bridging the gap between the beneficiary and the legal aid mechanism in addition to creation of legal awareness among the needy. Yet, the conjoint reading of the NALSA's Para-Legal Volunteers Scheme (Revised) with that of the NALSA Early Access Framework empowers the paralegal to provide assistance to arrested persons. The information received also indicates that paralegals have been appointed at police stations in several states, and that clinics have been setup. However, what constitutes a police station legal aid clinic remains ambiguous, whether just the appointment of paralegal and lawyer constitute a clinic, or a dedicated space is allocated within each police station, is not clearly known, and requires further enquiry.

The responses are analyzed in several categories, divided on the basis of the number of districts or the number of police stations in each district, and reveal that among the **states with less than 15 districts**, namely Himachal Pradesh (12), Meghalaya (11), Mizoram (8), Nagaland (12) and Uttarakhand (13), Himachal Pradesh has 126 police stations with 68 legal aid clinics at police stations; Meghalaya has 33 police stations with no legal aid clinic established at police stations; Mizoram has 38 police stations with 12 legal aid clinics among these police stations; Nagaland has 95 (including Outposts) police stations with no legal aid clinics established at police stations and lastly, Uttarakhand has 142 police stations and only 48 legal aid clinics at police stations. Data further indicates that Himachal Pradesh has 1 PLV and no lawyer appointed to man the clinics. Meghalaya even though has no legal aid clinic has deputed 90 PLVs and requested lawyers to be available on call basis. Mizoram has deputed 21 PLVs for its 12 clinics at police stations, but no lawyers. Nagaland has neither any clinics at police stations and nor have they deputed PLVs or lawyers to be available. Lastly, Uttarakhand has appointed 75 PLVs to be attached to police stations but no lawyers to be made available.

In **states with more than 15 districts**, namely Arunachal Pradesh (22), Gujarat (33), Haryana (22), Manipur (16), Punjab (22) and Telangana (33), Arunachal Pradesh has 87 police stations with no legal aid clinics established at police stations; Gujarat has 583 police stations for its 33 districts and have established only 55 legal aid clinics; Haryana has 323 police stations, but no specific details were provided as to the number of legal aid clinics established at police stations. Manipur has 113 police stations for its 16 districts and has set up a sole legal aid clinic. Punjab having fared the best among this category, has set up 170 legal aid clinics among its 356 police stations. Lastly, Telangana has 671 police stations along with 47 legal aid clinics. As regards deputation of PLVs and lawyers to man the legal aid clinics, Arunachal Pradesh has deputed 22 PLVs and 1 lawyer; Gujarat has appointed 156 PLVs on rotation basis along with 207 lawyers on rotation. Manipur has appointed 2 PLVs and 1 lawyer; Punjab has appointed the maximum number of PLVs at 168 in this category along with 18 lawyers and lastly, Telangana has appointed 82 PLVs for these clinics. Haryana has not shared specific details but states that legal aid is provided over telephone.

Further, in Kerala which has 14 Districts and 476 Police Stations, 311 legal aid clinics have been set up among these police stations. 389 PLVs and 60 lawyers have been deputed to man these clinics to assist beneficiaries. Karnataka has 30 districts and 1002 Police Stations, and only 1 legal aid clinic has been set up amongst them. 23 PLVs and 31 lawyers have been deputed to man these clinics. In Rajasthan which has 33 Districts and 856 police stations, 673 Legal Aid Clinics have been set up among these police stations setting the compliance at 78.62%. 450 PLVs have been deputed to man these clinics, though not aided by any lawyers.

<b>Data on Legal Aid at Police Station (2019)</b>					
<b>S. No.</b>	<b>SLSA</b>	<b>Total no. of Police Stations</b>	<b>Total no. of Legal Aid Clinics at Police Stations</b>	<b>Total no. of paralegals attached to Police Stations</b>	<b>Total no. of lawyers attached to Police Stations</b>
1	Arunachal Pradesh	87	Nil	22	1
2	Gujarat	583	55	156	207
3	Haryana	323	0	0	0
4	Himachal Pradesh	126	68	1	Nil
5	Manipur	113	1	2	1
6	Meghalaya	33	Nil	90	On call
7	Mizoram	38	12	21	Nil
8	Nagaland	95	0	0	0
9	Punjab	356	170	168	18
10	Telangana	671	47	82	0
11	Uttarakhand	142	48	75	Nil
12	Karnataka	1002	1	23	31
13	Kerala	476	311	389	60
14	Rajasthan	856	673	450	0

#### **D. Legal Aid at Courts**

NALSAs Model Scheme for Legal Aid Counsel in all Courts of Magistrate, 1998 mandates the appointment of remand and bail lawyers (also known as legal aid counsels) to be attached to each magistrate court. These lawyers are expected to be present during remand hours in their designated courts to oppose remand, apply for bail and file other applications for those who need a legal aid lawyer. They are expected to submit their monthly work reports to the DLSA and courts are to issue monthly attendance certificates for them. Following is the response received from the SLSA's. In 2019, NALSA sought to streamline and strengthen the functioning of remand lawyers, through inclusion of their specific role within the framework for *Early Access to Justice at the Pre-Arrest, Arrest and Remand Stage*.

An analysis of the information reveals that for **states with less than 15 districts** namely Himachal Pradesh (12), Meghalaya (11), Mizoram (8), Nagaland (12) and Uttarakhand (13), Himachal has 163 production courts and 163 remand lawyers and thereby having 1 lawyer for each court. Similarly, Nagaland also has 24 remand lawyers for 24 production courts, thereby having 1 lawyer for each court. Meghalaya has 42 production courts and 27 remand lawyers. There is an assurance that a minimum 1-2 lawyers are available at each court premise on a daily basis. Mizoram has a difficult ratio between the number of production courts and remand lawyers at 41:5; with lawyers available only at Aizawl, Champhai and Lawngtlai. Lastly, Uttarakhand has 151 production courts and 103 remand lawyers and are at a deficit of 48 lawyers to achieve a 1:1 ratio for ensuring access to effective legal representation.

In **states with more than 15 districts**, namely Arunachal Pradesh (22), Gujarat (33), Haryana (22), Manipur (16), Punjab (22) and Telangana (33), Arunachal Pradesh has 15 production courts and 32 remand lawyers, thereby having more than 1 lawyer for a single court. Similarly, even Gujarat has 1364 remand lawyers for its 562 production courts, translating into having more than 2 lawyers available for a single court. Manipur has 40 remand lawyers for 40 production courts, thereby having 1 lawyer for each court. Similarly, Telangana also has 170 remand lawyers for its 170 production courts, thereby having 1 lawyer for each court. Haryana has 280 production courts and only 203 remand lawyers, having deployed 1 panel advocate deployed for each magistrate court. Sometimes 1 panel advocate is appointed for 2 or 3 courts considering the burden during remand hours in court. The appointment is undertaken on rotation basis. Punjab has 569 production courts and 145 remand lawyers, translating into the ratio of 4:1.

Further, Kerala has 211 Production Courts and 130 Remand Lawyers (though 630 Remand Lawyers have been appointed). Karnataka has 524 Production Courts and has not provided information about the number of remand lawyers appointed to these courts. In 2016, Kerala had appointed 24 Remand Lawyers in three districts and Karnataka had appointed a total of 245 Remand Lawyers in 14 districts. Rajasthan has 953 Production Courts and 828 Remand Lawyers, translating into some Courts not having lawyers on a regular basis; or probably that lawyers are being deputed on a rotational basis. In 2016, Rajasthan had appointed 614 Remand lawyers for 729 magistrate courts in 25 districts.

Data on remand lawyers (2019 & 2016)						
S. No.	SLSA	Districts	Total No. of Production Courts	Total no. of Remand Lawyers in 2019	Total no. of remand lawyers in 2016	Total no. of Remand Lawyers attached to Courts
1	Arunachal Pradesh	22	15	32	0	Ranges from 1 to 7
2	Gujarat	33	562	1364	NI	1364

Data on remand lawyers (2019 & 2016)						
S. No.	SLSA	Districts	Total No. of Production Courts	Total no. of Remand Lawyers in 2019	Total no. of remand lawyers in 2016	Total no. of Remand Lawyers attached to Courts
3	Haryana	22	280	203	160	1 panel advocate deployed with each Magistrate court. Sometimes 1 panel advocate is appointed for 2 or 3 courts considering the burden during remand hours in court. Done on a rotation basis
4	Himachal Pradesh	12	163	163	130	1 in each Court
5	Manipur	16	40	40	41	1
6	Meghalaya	11	42	27	24	1-2 in each court
7	Mizoram	8	41	5	38	Aizwal- 3 Champhai- 1 Lawngtlai- 1
8	Nagaland	12	24	24	NI	1 in each Court
9	Punjab	22	569	145	40	86
10	Telangana	33	170	170	117	170
11	Uttarakhand	13	151	103	NI	1
12	Karnataka	30	524	NI	245 <sup>27</sup>	
13	Kerala	14	211	630	24 <sup>28</sup>	130
14	Rajasthan	33	953	828	614 <sup>29</sup>	13

## Verdict: Changes between 2016 and 2018

The responses received from SLSAs reflect several marked changes with regard to constitution of clinics, monitoring and mentoring committees and appointment of legal aid providers since 2016. These changes are documented below, under the same categories for which information was sought.

<sup>27</sup> In 14 districts.

<sup>28</sup> In 3 districts.

<sup>29</sup> In 25 districts.

## **A. Establishing of Jail Legal Aid Clinics and appointment of legal aid providers**

- # Higher levels of compliance as regards establishing and setting up Jail Legal Aid Clinics, except Arunachal Pradesh and Uttarakhand.
- # States have made significant efforts to arrive at 1:1 ratio with number of CoPLVs: Number of Prisons.
- # States having less than 50 prisons have shown a higher incidence of appointing a minimum of 1 convict paralegal volunteer. For two states- Kerala and Rajasthan, rate of compliance is lacking. Karnataka has substantially increased the number of ConPLVs. Kerala has substantially reduced the number of ConPLVs, though Rajasthan has marginally increased yet has still not arrived at appointments for more than 25% of its prisons.
- # On account of appointment of JVLs, 7 states have considerably reduced the numbers of JVLs across their jurisdictions; and 3 states have increased the number of JVLs being appointed across the prisons. On the whole, the prisons in each of the states continued to have a minimum of 1 JVL (barring the state of Mizoram which did not provide information in this respect).

## **B. Monitoring of Legal Services**

- # Barring Arunachal Pradesh and Manipur, compliance as regards setting up of MC is 100% at the level of the DLSA across the remaining States.

## **C. Setup of Legal Aid Clinics at Police Stations**

- # The frontrunners have been Kerala, Punjab and closely followed by Gujarat. Kerala has established legal aid clinics in 65.33% of police stations (i.e. 311) as well as appointed 389 PLVs and 60 lawyers. Punjab has established legal aid clinics in 47.7% of police stations (i.e. 170) and appointed 168 PLVs and 18 lawyers, followed by Gujarat where legal aid clinics have been setup in 9.4% of police stations (i.e. 55) coupled with appointing 156 PLVs and 207 lawyers to man them.
- # Rajasthan deserves special mention with setting up of legal aid clinics in 78.6% of police stations (673) to be manned only by 450 PLVs.
- # Himachal Pradesh even though has legal aid clinics in 54% of police stations (i.e. 68) but with only 1 PLV.

## **D. Provision of Legal Aid at Courts**

- # Broadly, there has been considerable scaling up regarding empaneling remand lawyers at courts in order to ensure access to legal aid beginning from first production. Barring Mizoram, where there has been a significant reduction in the number of remand lawyers available from 38 to 5 for 41 production courts, there have been improved efforts in other states to ensure the appointment of a minimum number of remand lawyers.

Moreover, as per NALSA's Annual Report 2019, during the year 2019, a total of 1098 jail legal aid clinics were functioning across the country. It further stated that through these legal aid clinics, 2.91 lakh prison inmates were able to access legal representation, requisite legal advice, updates of their cases in courts

etc.<sup>30</sup> It further provides that in 2019, 6322 suspects were provided legal assistance at the pre-arrest stage at the police station. 1546 of these suspects were not ultimately arrested by the police. Similarly, 11356 arrestees were provided legal assistance at the police station before being produced at courts. A further 72915 persons were provided legal assistance at the remand stage with 20745 bail applications being filed. Of these, 12456 bail applications were granted.<sup>31</sup>

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<sup>30</sup> Annual Report of NALSA 2019, available at <https://nalsa.gov.in/library/annual-reports/annual-report-2019>, Pg 14.

<sup>31</sup> *Ibid* at pg 18.



### III. Evaluation of status of Recommendations from 2018 report

While ensuring ‘access’ to legal services is vital, equally important is to ensure that such access is ‘effective’ or in lay man’s terms ‘of good quality’. The right to legal aid and a fair trial depends on more than the ‘mere presence of a lawyer’. The actual realisation of this right lies in the quality of legal representation it encompasses, i.e. the lawyer must be well-trained, skilled and experienced, at the least. Better quality representation can make a real difference in both the outcome and services received by the vulnerable people in the justice system. The importance of quality assurance is also enshrined in the *UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems 2012* (Guideline 16); where it calls upon governments to set quality standards for legal aid and to establish monitoring and evaluation mechanisms to ensure that the legal aid provided is of a minimum quality. Thus, efforts to document provisions for access to legal aid must necessarily also document the monitoring frameworks that are aimed at ensuring quality of services provided.

Keeping this in mind, there are primarily three schemes/regulations of NALSA that form the foundation to ensure early and effective access to legal aid for persons in custody. These are the NALSA Model Scheme which recommends appointment of remand lawyers at magistrate courts; the NALSA 2010 Regulations which deals with the appointment of legal aid providers and their monitoring; and the NALSA 2011 Regulations which deals with setting up of legal aid clinics, including in prisons. It is with this as the premise, that the 2018 Report had set forth detailed recommendations on these 3 schemes/regulations, in a bid to improve legal aid delivery for persons in custody.

In this section, a recommendation-wise assessment has been undertaken to document the changes effectuated in policy provisions by NALSA, to implement the recommendations set forth by the 2018 Report.

A. National Legal Services Authority (Free and Competent Legal Services) Regulations, 2010		
S. No.	Recommendations from 2018 Report	Current Status
1	<p>The duration between the application for legal aid for person in custody and actual appointment of the legal aid lawyer should not be more than 24 hours.</p> <p><b>Relevant Provision:</b> Reg. 7(4)</p> <p><b>Rationale:</b> The existing provision allowed 8 weeks whereas procedural requirements should not delay access to legal aid, especially when liberty is at stake.</p>	<p>Pursuant to an amendment made in October 2018, the decision on the application is to be made immediately and should not exceed <b>7 days</b>. [Reg. 7(2)]</p> <p>(Amendment vide notification dated 22/10/2018, published in the Gazette of India on 25/10/2018)</p>
2	<p>The strength of the panel lawyers should be based on a specific parameter- this could be the prison population/ population of the district, number of foras where presence in required/ demand for legal aid.</p> <p><b>Relevant Provision:</b> Reg. 8</p> <p><b>Rationale:</b> Many districts have unreasonably large or small panels. Smaller, more focused panels, with adequate number of criminal lawyers, would be easier for the authorities to manage/monitor.</p>	<p>Pursuant to an amendment made in September 2019, the <b>size of the panel</b> is to be <b>optimised</b> so that each lawyer can be allotted sufficient cases. [Reg. 8(2)]</p> <p>(Amendment vide notification 28/08/2019, published in the Gazette of India on 06/09/2019)</p>
3	<p>The role of the retainer lawyer requires clarity. After the 2016 NALSA letter,<sup>32</sup> retainer lawyers are also expected to work as remand advocates and in some states also visit jails. Retainer lawyers are mandated to man the front office among other tasks, whereas the remand lawyers are expected to be present in their assigned court.</p> <p><b>Relevant Provision:</b> Reg. 8(6, 10), NALSA 2016 Letter</p> <p><b>Rationale:</b> Tasks assigned are distinct. If they are expected to take up both roles, then the role would require structuring. Telangana SLSA in February 2016 issued a letter<sup>33</sup> to the DLSAs where it mentioned 'One <i>Advocate cannot be appointed both as Legal Aid Counsel and Retainer Lawyer in view of the nature of the work</i>'.</p>	<p>Amendments were brought into the Regulations in 2018 and 2019 to lend some clarity to the role of retainer lawyers. These included:</p> <ul style="list-style-type: none"> <li>- provision specifying that retainer lawyers will man the Front Office of LSIs [Reg 4(1)]</li> <li>- retainer lawyers to be selected from among panel lawyers</li> <li>- retainer lawyers working to be fixed on a rotation basis</li> <li>- number of retainer lawyers not to exceed the minimum requirement as determined by the Executive chairman or chairman</li> </ul> <p>(Amendments vide notification dated 22/10/2018, published in the Gazette of India on 25/10/2018 and vide notification 28/08/2019, published in the Gazette of India on 06/09/2019)</p>
4	<p>The period of appointment of retainers should be defined and specified. The minimum tenure should also be specified.</p> <p><b>Relevant Provision:</b> Reg. 8(7)</p> <p><b>Rationale:</b> This study found that the term of retainer lawyers is either too short or too long. Both have their limitations.</p>	<p>Also, duty notes for retainer lawyers has been included in NALSA's Handbook of Formats 2020<sup>34</sup> (pg 9).</p>

<sup>32</sup> Letter Re D/o No-L/43/2015/NALSA/1948 dated 5-July-2016.

<sup>33</sup> Telangana SLSA Roc No. 1046/TLISA/SW/2016 dated 22-feb-16.

<sup>34</sup> <https://nalsa.gov.in/library/handbook>.

5	<p>Legal aid lawyers should be mandated to meet their clients in prisons &amp; courtroom regularly. The SDLSCs &amp; DLSAs may provide vehicles to ferry lawyers from the court complex to the prison once in a day so as to ensure that panel lawyers may meet their clients in prison. This may be most relevant for places where the distance between the court and prison is considerable.</p> <p><b>Relevant Provision:</b> No Regulation. Suggest Inclusion in Reg. 8</p> <p><b>Rationale:</b> Regular interaction between the lawyer and inmate is important:</p> <p>a) to understand the case b) to inform the client about the status of the case. Sikkim SLSA recognizing this issued a letter<sup>35</sup> directing the panel lawyers to visit the prisons and that the Legal Aid Institutions would reimburse the taxi fare. It also mentioned that the jail authorities will maintain a register to record visits.</p>	<p>NALSA issued Front Office Guidelines<sup>36</sup> in 2018, wherein the responsibility of providing information regarding updates on cases to legal aid beneficiary has been assigned to the Front Office, which is to be established at each Legal Services Institution. The guidelines state that the panel lawyers/retainer lawyers/PLVs be trained in updating legal aid beneficiaries regarding court-based matters through SMS and emails. It is further stated that legal aid beneficiaries be regularly updated about the progress of the case.</p> <p>[Front Office Guidelines 2(vii) and 3(6)]</p>
6	<p>Standard format should be followed for monitoring the work of legal aid providers. This can be done through regular progress reports and completion reports by panel lawyers. NALSA's Legal Services Card for each case may be kept at the front office for this purpose. The paralegals retainers may call the panel lawyers or the panel lawyers may visit the front office to inform and record the progress of the case after every hearing.</p> <p><b>Relevant Provision:</b> Reg. 11(3) and 14(3)</p> <p><b>Rationale:</b> Currently no format exists. Copy of the judgment is provided as a substitute of the completion report.</p>	<p>Additionally, the Monitoring &amp; Mentoring Committee too are mandated to maintain a register for monitoring the day-to-day progress of the case. [Reg. 11(2) and 11(5)]. (Amendment vide notification dated 22/10/2018, published in the Gazette of India on 25/10/2018)</p> <p>Further, several formats have been included for documenting work of legal aid providers in NALSA's Handbook of Formats 2020.</p>
7	<p>The report of the Monitoring Committee at DLSA and SDLSC to the SLSA should be monthly and not bi-monthly.</p> <p><b>Relevant Provision:</b> Reg. 12</p> <p><b>Rationale:</b> It is impractical for the MC to send bi-monthly reports in all legal aid cases and SLSA to be able to give advice on all these cases from all the legal aid institutions twice a month.</p>	<p>There have been no changes to the regulation.</p> <p>However, NALSA's Handbook of Formats 2020 includes formats for reporting by DLSAs on 'Monthly Statement Regarding MMCs' to be submitted monthly to SLSA (pg 48).</p>
8	<p>Standard format for reporting by the Monitoring Committee to the SLSA should be followed.</p> <p><b>Relevant Provision:</b> R. 12</p> <p><b>Rationale:</b> A structured format would allow monitoring committees to frequently send reports to the SLSA and the SLSA to give its comments.</p>	<p>NALSA's Handbook of Format provides a format for reporting by SLSA on MMCs (pg 49).</p>

<sup>35</sup> Sikkim SLSA Letter Reference No. 7/SLSA/194 dated 19-Jul-06.

<sup>36</sup> <https://nalsa.gov.in/acts-rules/guidelines/front-office-guidelines>.

9	<p>The lawyer assigned to the Monitoring Committee should be remunerated for the task.</p> <p><b>Relevant Provision:</b> Reg. 12</p> <p><b>Rationale:</b> To be able to monitor the quality of the intervention of legal aid lawyers, the lawyer assigned to the monitoring committee must take a bigger role in coordinating the activities. He should be remunerated for this task.</p>	<p>The Regulations were amended in October 2018, whereby all members of the MMC except serving judicial officers are to be paid an honorarium as fixed by the Executive Chairman. [Reg. 10(6)]</p> <p>(Amendment vide notification dated 22/10/2018, published in the Gazette of India on 25/10/2018)</p>
10	<p>The monitoring committee should conduct monthly meetings with all the panel lawyers (who have been assigned legal aid cases) to discuss any challenges they are facing in their respective cases or with any court or police practice/ procedure.</p> <p><b>Relevant Provision:</b> Reg. 12</p> <p><b>Rationale:</b> The work of the monitoring committee should not be restricted to just evaluating the work of the legal aid lawyers but also to mentor and assist them.</p>	<p>In October 2018, vide an amendment the words ‘to guide and advise the panel lawyers’ was included to the Reg 10(1) and the role to ‘mentor the panel lawyers and guide them in providing quality legal services’ was included in Reg 11(4).</p> <p>(Amendment vide notification dated 22/10/2018, published in the Gazette of India on 25/10/2018)</p>
11	<p>The monitoring committee must maintain information on the outcome of the cases where legal aid was provided.</p> <p><b>Relevant Provision:</b> Reg. 12</p> <p><b>Rationale:</b> This study showed that most of the legal aid institutions do not maintain information of the outcome of the legal aid provided. This hampers the effective monitoring of legal services being provided.</p>	<p>In October 2018, vide amendments to Reg 11, the MMC is required to maintain an exhaustive record of information on all legal aided cases, day-to-day progress and end result (acquittal or conviction); which shall be scrutinized every month by the Member Secretary or Secretary or Chairman. R.11(5)</p> <p>(Amendment vide notification dated 22/10/2018, published in the Gazette of India on 25/10/2018)</p>
12	<p>A separate note for the functioning of the monitoring committee must be prepared by NALSA.</p> <p><b>Relevant Provision:</b> Reg. 12</p> <p><b>Rationale:</b> This study showed that monitoring committees in general (where constituted) did not function as per the mandate. An SOP/ guiding note would be useful for the committee.</p>	<p>NALSA has prepared the <i>Guidelines on Functioning of Mentoring and Monitoring Committees</i> which provide basic guidance for MMCs functioning in districts, and streamline monitoring processes and evaluation of performance standards of lawyers.<sup>37</sup></p>

<sup>37</sup> <https://humanrightsinitiative.org/download/NALSA%20-%20Guidelines%20for%20Mentoring%20&%20Monitoring%20Committees.pdf>.

13	<p>Legal services institutions should appoint adequate number of law students to assist the panel lawyers with case law research.</p> <p><b>Relevant Provision:</b> Reg. 9</p> <p><b>Rationale:</b> Legal services institutions should also act as resource centres for legal aid lawyers. Legal services institutions should tie up with local law colleges and seek assistance from 4th, 5th year law students on rotational basis. Law students may be assigned on rotation basis to the LSIs who should be available to provide research to the legal aid lawyers.</p>	<p>NALSA has, pursuant to the discussions at the 29th Central Authority Meet in 2018, constituted a committee for framing guidelines for legal services institutions engagement with legal aid/ services clinics set up in Law Colleges and Universities.<sup>38</sup></p>
14	<p>The training/orientation of the legal aid providers (Panel Lawyers, Retainer Lawyers), should be conducted, preferably, within the first month of their appointment.</p> <p><b>Relevant Provision:</b> No Regulation. Suggested Inclusion in Reg. 8</p> <p><b>Rationale:</b> Legal Aid lawyers should be trained/oriented to the schemes, their responsibility and reporting mechanisms. As panel lawyers are appointed for a three-year term, this would not lead to un-necessary use of resources.</p>	<p>In October 2018, provisions were inserted in Reg. 8, stating that panel lawyers shall undergo training periodically as per modules<sup>39</sup> prepared by NALSA and SLSA and that this would be a relevant consideration for retention and continuation. [Reg. 8(18) and 8(19)]</p> <p>Further, Reg 11(3) was amended to include a provision that MMCs would assist the LSIs in organising training programmes for panel lawyers to enhance their skills.</p> <p>(Amendment vide notification dated 22/10/2018, published in the Gazette of India on 25/10/2018)</p>
15	<p>There should be a standard format of legal aid application register and assignment register at legal aid institutions for persons in custody.</p> <p><b>Relevant Provision:</b> Reg. 3</p> <p><b>Rationale:</b> In order to evaluate the time taken in processing legal aid applications and keep a record of the legal aid lawyers assigned for persons in custody, a separate register should be maintained.</p>	<p>NALSA Handbook of Formats 2020 includes formats for registers. (Section 2)</p>
16	<p>There should be a standard format of the monitoring committee register to be maintained by the legal aid institution.</p> <p><b>Rationale:</b> This study showed that the formats maintained by some legal aid institutions were problematic and it was impossible to review proceedings in the format used by them.</p>	<p>NALSA Handbook of Formats 2020 includes formats for registers. (Section 2)</p>
17	<p>At the time of appointment, along with the appointment letters, duty notes should be given to panel and retainer lawyers.</p> <p><b>Relevant Provision:</b> Reg. 8</p> <p><b>Rationale:</b> Duty notes assist legal aid providers in legal aid delivery.</p>	<p>NALSA Handbook of Formats 2020 includes formats for registers. (Section 1)</p>

<sup>38</sup> NALSA Annual Report 2018, pg 34 <https://nalsa.gov.in/library/annual-reports/annual-report-2018>.

<sup>39</sup> <https://nalsa.gov.in/training-modules>.

18.	There should be a standard letter to the legal aid beneficiary in custody specifically mentioning contact details of lawyer and that they are not expected to pay any fees to the panel lawyer. Also the letter should mention that they can complain regarding the same and should also provide the process for registering the complaint. <b>Relevant Provision:</b> Reg. 8(15) <b>Rationale:</b> Measures need to be taken to ensure that panel lawyers do not ask money or any other consideration in legal aid cases.	NALSA Handbook of Formats 2020 includes formats for registers. (Section 1)
19.	The frequency of part payment of the honorarium should be increased. <b>Rationale:</b> Usually panel lawyers are paid honorarium in two instalments, one at the outset of the case and the next at the conclusion of the case. Given the long duration of cases, lawyers remain unpaid which often acts as a disincentive.	There have been no amendments to Reg. 13 and 14. NALSA prepared 'Recommendations about minimum fee payable to the panel lawyer by SLSAs' <sup>40</sup> , but they were silent on these aspects.

## B. THE NALSA (LEGAL SERVICES CLINICS) REGULATIONS, 2011

S. No.	Recommendation	Current status
1	A comprehensive standard operating procedure on functioning of Jail Legal Aid Clinics (JLAC) and the role of the legal aid providers in these clinics must be formulated. <b>Relevant Provision:</b> Reg. 4 <b>Rationale:</b> While JLACs have been setup under NALSA 2011 Regulations, the particular details on functioning of such clinics has not been addressed in much detail either by the Regulations or by the NALSA SOP 2016.	No further guidelines have been issued.
2	Legal Aid clinics shall also be constituted at police stations in line with Regulation 4. <b>Relevant Provision:</b> Reg. 4 <b>Rationale:</b> Sec. 12 of LSA Act, Sec. 41D of CrPC, read with Art. 39A of the Constitution of India suggests that all persons in custody, including those detained at the police station are entitled to legal aid. As per Regulation 4, those eligible under Section 12 of the LSA Act are entitled to benefits of legal aid clinics. Persons in custody (police custody) fulfil the Section 12 Act criteria and therefore entitled to get benefit of legal aid clinics.	In August 2019, NALSA finalised its <i>Early Access to Justice at the Pre-Arrest, Arrest and Remand Stage</i> framework, with the objective of providing legal assistance in pre-arrest, arrest and remand stage; to decrease the vulnerabilities of suspects and arrestees; to assist in avoiding unnecessary arrests; and to assist the arrestees in filing bail applications and furnishing bail bonds. <sup>41</sup> However, the framework does not envisage the constitution of 'legal aid clinics' at the Police Station. It does however mandate LSIs to prepare awareness materials for suspects and arrested persons, and implement the framework.

<sup>40</sup> <https://nalsa.gov.in/acts-rules/guidelines/minimum-fee-recommended-by-nalsa-for-panel-lawyers>.

<sup>41</sup> <https://nalsa.gov.in/acts-rules/guidelines/early-access-to-justice-at-pre-arrest-arrest-and-remand-stage>.

3	<p>Jail Visiting Lawyers (JVLs) should have access to the new entrant ward (<i>Mulahiza ward</i>) of the prison. Paralegal volunteers (PLVs) either convict or community can also ensure that new inmates are brought to the clinic.</p> <p><b>Relevant Provision:</b> Reg. 6</p> <p><b>Rationale:</b> Mechanisms should be in place to ensure that inmates in need of legal assistance are not missed.</p>	<p>NALSA's Handbook of Formats, includes duty notes to be issued to each functionary of the jail legal aid clinics to clarify their roles (Section 1).</p> <p>Additionally, NALSA SOP 2016 specifically places a responsibility upon the JVLs and PLVs to interact with new entrants.</p>
4	<p>Posters should be put up at the legal aid clinics as well as other prominent areas in the prison including the new entrant's wards about the right to legal aid and time and place of JLACs.</p> <p><b>Relevant Provision:</b> Reg. 13</p>	<p>The Regulations were amended in 2014 to include provision for display of signboard exhibiting name, working hours and other details in clinics, but no specific mandate for jail legal aid clinics exists.</p>
5	<p>The frequency of the visit to jails should be based on the prison population.</p> <p><b>Relevant Provision:</b> Reg. 7</p> <p><b>Rationale:</b> The frequency of visits of lawyers in jails have been mandated by NALSA as either twice or four times a week in recent communications. This however should be based on the prison population. Haryana SLSA in a letter dated 8<sup>th</sup> January 2010 suggested the frequency to range between five times to twice a week based on the population of the prisons.</p>	<p>The NALSA SOP 2016 mandates that visits should be made at least twice each week. No further guidance is available.</p>
6	<p>Where possible information Kiosks can be placed in every jail so that inmates can use them to access basic information on their case as well as view updates.</p> <p><b>Rationale:</b> Inmates are usually unaware of status of their case. Kiosks linked to e-courts websites for checking status of case would assist prisoners in knowing status of their case.</p>	<p>While there have been efforts in several states to install kiosks, a mandatory provision is yet to be included in the Regulations.</p>
7	<p>JVLs &amp; PLVs should identify inmates eligible for review by Under Trial Review Committees (UTRCs) and bring them to their notice, as well as to the notice of the concerned courts.</p> <p><b>Rationale:</b> The JVL can assist in identifying inmates whose detention may not be necessary.</p>	<p>In December 2018, NALSA finalized Standard Operating Procedures for UTRCs<sup>42</sup>, which enlists the role for PLVs and JVLs to assist in preparation of lists identifying inmates eligible for release by UTRCs. The role of JVLs and PLVs was also mentioned in the Supreme Court directives on UTRCs.</p>
8	<p>JVLs should also identify cases in which bail has been granted but the inmates are unable to secure bail due to lack of surety. In all such cases, applications for reduction of surety can be filed in court.</p>	
9	<p>JVLs should identify persons arrested under preventive provisions (S 107,151 CrPC) and have spent more than a week in prison and take appropriate action.</p>	

<sup>42</sup> <https://nalsa.gov.in/acts-rules/guidelines/standard-operating-procedure-sop-guidelines-for-utrcs>.

10	<p>The training of the legal aid providers (JVL, Convict and Community PLVs) should be conducted, preferably, within the first month of their appointment.</p> <p><b>Rationale:</b> Legal Aid Providers should be trained/oriented to the scheme, their responsibility and reporting mechanisms. This would improve their functioning. NALSA might consider preparing video training modules to standardize training across the country.</p>	There are no provisions for specific training of JVLs and PLVs. Trainings continue to be conducted as part of general training of lawyers and PLVs.
11	<p>Standard format should be followed for monitoring the work of legal aid providers through periodic reports of JVLs, convict PLVs and Community PLVs.</p> <p><b>Relevant Provision:</b> Reg. 20</p> <p><b>Rationale:</b> The reports for submission by jail visiting lawyers and paralegals are not standardized. This makes monitoring difficult.</p>	NALSA's Handbook of Formats 2020 includes formats for documenting and reporting of Jail Legal Aid Clinic cases.
12	<p>The Legal aid registers in the clinic- i) Legal Aid Clinic Work Register, ii) Attendance Register should be standardised.</p> <p><b>Relevant Provision:</b> Reg. 20</p> <p><b>Rationale:</b> The registers followed by many jails do not capture important details regarding the inmate.</p>	
13.	<p>Identity cards for JVLs and PLVs should be prepared to facilitate their visits to prison.</p> <p><b>Rationale:</b> To facilitate the visit of JVLs and reduce the possibility of non-legal aid lawyers canvassing for cases in prison in garb of legal aid, identity cards may be issued for JVLs as well as PLVs.</p>	No such provision has been introduced.
14.	<p>The PLVs must send a monthly status of provisions (stationery and forms) at the clinic to the legal aid institutions.</p> <p><b>Rationale:</b> Shortage of forms and basic provisions like papers for drafting applications, pen, stapler, <i>vakalatnama</i> etc. often delay the functioning of the clinics.</p>	While no special format has been mentioned, these details can be recorded in comments section of the formats provided in NALSA's Handbook of Formats 2020 (pg 25 and 32).
15.	<p>Honorarium for convict PLVs should be fixed per visit to clinics and the mode and frequency of payment should be defined.</p> <p><b>Relevant Provision:</b> R. 17 (1)</p> <p><b>Rationale:</b> While the NALSA 2011 Regulations clearly mention that honorarium would be paid to paralegal volunteers manning the clinics, there is lack of clarity about the payment to convict paralegals.</p>	There continues to be ambiguity in this regard as no provisions have been introduced by NALSA.
16.	<p>At the time of appointment, along with the appointment letters, duty notes should be given to JVLs &amp; PLVs.</p>	NALSA's Handbook of Formats 2020 includes these formats.(Section 1)



### C. NALSA LEGAL AID COUNSEL IN ALL COURTS OF MAGISTRATES SCHEME 1998

S. No.	Recommendation	Present status
1.	There is a need to clarify the role of a remand lawyer. <b>Relevant Provision:</b> Reg. 2 <b>Rationale:</b> Currently there is an overlap between the work of the remand and panel lawyers.	NALSA's <i>Early Access to Justice at the Pre-Arrest, Arrest and Remand Stage</i> framework 2019, has further elaborated upon the role of remand lawyers. <sup>43</sup>
2.	Duty notes should be given to remand lawyers at the time of appointment. <b>Rationale:</b> The duty note would assist their functioning and help the LSI monitor their work.	NALSA's <i>Handbook of Formats 2020</i> includes duty notes to be given to remand lawyers. (pg 11)
3.	The tenure of remand lawyers should be fixed. <b>Relevant Provision:</b> Reg. 8(7) <b>Rationale:</b> Different states have different tenures for remand lawyers ranging from 3 months to 2 years.	No specific provisions have been included in NALSA's Early Access Framework that defines the tenure of remand lawyers.
4.	The appointment process of the next batch of remand lawyers should start three months in advance. <b>Rationale:</b> Often the appointment process is initiated after the completion of tenure of the remand lawyers which creates a gap.	No specific provisions have been included to regulate this.
5.	Remand lawyers should also be appointed to Executive magistrate courts dealing with Sec 107–110 & 151 CrPC. cases. <b>Rationale:</b> Often, police use these sections to unnecessarily detain persons without following due process. It is essential to have lawyers at magistrate court. For instance, Rajasthan SLSA has broadened the scope of the Remand Scheme to include Executive magistrate courts.	Reg 4.3.1 of NALSA's Early Access Framework 2019 stipulates the deputation of remand lawyers at Executive Magistrate courts.
6.	The training of remand Lawyers should be conducted, preferably, within the first month of their appointment. <b>Rationale:</b> NALSA to prepare video modules on training for standardization. This would improve the functioning of the scheme and better orient the lawyers about their role.	Reg 5.2 of NALSA's Early Access Framework 2019 mandates legal services authorities to organize specialised trainings and refresher courses for remand lawyers on relevant issues concerning arrest, remand and bail.
7.	Standard format should be followed for monitoring the work of remand Lawyers - a) Work Reports b) Attendance Certificates <b>Rationale:</b> It is important to monitor the work of remand lawyers. In absence of standardized documentation and reporting on this, monitoring is difficult.	NALSA's <i>Handbook of Formats 2020</i> includes duty notes to be given to remand lawyers. (pg 14)
8.	Standard format should be followed for remand lawyer's attendance register.	

<sup>43</sup> <https://nalsa.gov.in/acts-rules/guidelines/early-access-to-justice-at-pre-arrest-arrest-and-remand-stage>.

9.	<p>The LSIs should ensure that every production court displays the name and particulars of remand lawyers appointed for each section.</p> <p>Rationale: The Scheme mandates display of information with name and particulars of remand lawyer inside every court room.</p>	<p>Reg 4.3.1 of NALSA's Early Access Framework 2019 mandates DLSAs to send duty rosters of remand lawyers to the courts. Reg 5 (i) mandates LSIs to use leaflets, hoardings and other tools for raising awareness.</p>
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## IV. Looking Ahead: Future Priorities

This report provides insights into the various changes effectuated by NALSA towards streamlining and strengthening legal aid delivery for persons in custody. These changes have included amendments to existing regulations, adoption of new frameworks and guidelines and monitoring to improve compliance with various provisions and schemes. The increase in compliance levels is indicated from data comparisons from 2016 to 2019. The data affirms the increase in number of jail legal aid clinics, as well as a rise in the appointment of personnel to manage these clinics. There is a higher level of compliance with respect to the constitution of the Monitoring & Mentoring Committees, though its functioning needs further enquiry. Efforts to secure access to legal aid at pre-arrest and arrest, while at their nascent stage are appreciable, though future efforts need to prioritise its effective implementation.

Efforts such as the 2018 Report by CHRI are instrumental in documenting the policy and implementation gaps that exist within systems that hinder effective legal service delivery. Even though much seems to have changed in terms of the frameworks that regulate legal service delivery for persons in custody, much remains to be done. With a measly Rs 0.99 per capita spend for legal services, there is need to revisit budgets allocated to NALSA.

Moreover, in reference to the three schemes/regulations which seek to ensure effective access to legal aid for persons in custody, it is recommended that NALSA and other legal services authorities may undertake the following efforts to further bridge existing gaps:

### **NALSA Regulations 2010**

- # Ensure that the documentation and reporting formats, as included in NALSA's Handbook of Formats are adopted by all SLSAs
- # Ascertain the duration taken for appointment of legal aid lawyers in all cases, and particularly for persons in custody, does not exceed 7 days, as mandated. The use of technology maybe explored towards ensuring this.
- # Conduct regular induction and refresher training courses for panel lawyers.
- # Conduct research on issues related to payment of legal aid lawyers, including frequency, rates, process of effectuating payments.
- # Prioritise efforts to ensure compliance with amended provisions and guidelines regulating the functioning of the Monitoring and Mentoring Committees.
- # Conduct in-depth enquiry to assess the constitution and functioning of the MMCs across the country and document the day to day functioning of the Committee, difficulties in monitoring cases, and set forth a detailed operations manual to streamline its functioning.
- # Undertake partnerships with university legal aid clinics to fortify efforts of legal aid provision, as well as engagement in training initiatives for legal aid providers in collaboration with law universities.

### **NALSA Regulations 2011**

- # Ensure 100% compliance of constitution of jail legal aid clinics in all prisons and appointment of legal aid providers including jail visiting lawyers and paralegal volunteers to effectively conduct the clinics.

- # Ensure that specialised training courses are conducted for training of jail visiting lawyers, community paralegals and convict paralegals attached to jail legal aid clinics.
- # Streamline the functioning of jail legal aid clinics by framing of detailed operation manuals.
- # Collate information regarding payment of convict PLVs engaged with jail legal aid clinics.
- # Incorporate provisions that mandate client interaction by panel lawyers, particularly where clients are in custody, both before and after each hearing.

#### **NALSA Legal Aid Counsel at Magistrate Court Scheme**

- # Ensure appointment of remand lawyers for all magistrate's courts and to optimize their rosters and tenures.
- # Conduct regular and specialized training workshops for remand lawyers on arrest, bail and remand laws.
- # Ensure display of details of remand lawyers appointed to each court, along with contact details in each magistrate court
- # Ensure adoption of formats for reporting and documentation by remand lawyers.





# CHRI PROGRAMMES

CHRI seeks to hold the Commonwealth and its member countries to high of human rights, transparent democracies and Sustainable Development Goals (SDGs). CHRI specifically works on strategic initiatives and advocacy on human rights, Access to Justice and Access to Information. Its research, publications, workshops, analysis, mobilisation, dissemination and advocacy, informs the following principal programmes:

## 1. Access to Justice (ATJ) \*

**\* 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 enforcers of a regime. CHRI's programme in India and South Asia aims at mobilising public support for police reforms and works to strengthen civil society engagement on the issues. In Tanzania and Ghana, CHRI examines police accountability and its connect to citizenry.

**\* Prison Reforms:** CHRI's work in prisons looks at increasing transparency of a traditionally closed system and exposing malpractices. Apart from highlighting systematic failures that result in overcrowding and unacceptably long pre-trial detention and prison overstay, it engages in interventions and advocacy for legal aid. Changes in these areas can spark improvements in the administration of prisons and conditions of justice.

## 2. Access to Information

**\* Right to Information:** CHRI's expertise on the promotion of Access to Information is widely acknowledged. It encourages countries to pass and implement effective Right to Information (RTI) 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, Ghana and Kenya. In Ghana, CHRI as the Secretariat for the RTI civil society coalition, mobilised the efforts to pass the law; success came in 2019 after a long struggle. 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. It has experience of working in hostile environments as well as culturally varied jurisdictions, enabling CHRI bring valuable insights into countries seeking to evolve new RTI laws.

**\*Freedom of Expression and Opinion -- South Asia Media Defenders Network (SAMDEN):** CHRI has developed a regional network of media professionals to address the issue of increasing attacks on media workers and pressure on freedom of speech and expression in South Asia. This network, the South Asia Media Defenders Network (SAMDEN) recognises that such freedoms are indivisible and know no political boundaries. Anchored by a core group of media professionals who have experienced discrimination and intimidation, SAMDEN has developed approaches to highlight pressures on media, issues of shrinking media space and press freedom. It is also working to mobilise media so that strength grows through collaboration and numbers. A key area of synergy lies in linking SAMDEN with RTI movements and activists.

## 3. International Advocacy and Programming

Through its flagship Report, Easier Said Than Done, CHRI monitors the compliance of Commonwealth member states with human rights obligations. It advocates around human rights challenges and strategically engages with regional and international bodies including the UNHRC, Commonwealth Secretariat, Commonwealth Ministerial Action Group and the African Commission for Human and People's Rights. Ongoing strategic initiatives include advocating for SDG 16 goals, SDG 8.7 (see below), monitoring and holding the Commonwealth members to account and the Universal Periodic Review. We advocate and mobilise for the protection of human rights defenders and civil society spaces.

## 4. SDG 8.7: Contemporary Forms of Slavery

Since 2016, CHRI has pressed the Commonwealth to commit itself towards achieving the United Nations Sustainable Development Goal (SDG) Target 8.7, to 'take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms.' In July 2019 CHRI launched the Commonwealth 8.7 Network, which facilitates partnerships between grassroots NGOs that share a common vision to eradicate contemporary forms of slavery in Commonwealth countries. With a membership of approximately 60 NGOs from all five regions, the network serves as a knowledge-sharing platform for country-specific and thematic issues and good practice, and to strengthen collective advocacy.



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