

'Leaving No One Behind'

Access to Justice and Legal Aid Strategies in India¹

I. INTRODUCTION

Since 1995, legal services institutions (LSI) in India established under the Legal Services Authorities Act 1987 have provided legal services and advice to more than 15 million people.² The number of beneficiaries has seen a significant increase in the last few years, with more than 1.4 million having benefitted from legal aid and advice in 2018 alone.³ Interestingly, in 2016, the total number of beneficiaries was around 0.5 million.⁴ Arguably this increase can be attributed to widespread efforts by the LSI in India to fulfil their mandate of ensuring 'access to justice for all', and maybe also to better documentation and reporting of legal services provided.

In its Annual Report 2018, the National Legal Services Authority (NALSA), which is the nodal body that implements and monitors legal services in India has reported upon the various initiatives undertaken by LSIs across the country, such as legal empowerment camps, legal services clinics, legal literacy clubs in schools, digitisation of legal services, outreach through digital cinema and campaigns undertaken for select vulnerable groups.⁵ It also shared success stories from these initiatives, indicating their impact. Yet, one must bear in mind that even with these widespread efforts to improve access to legal services, the quality of services rendered still remains a concern.⁶

These efforts by LSIs in India are in concurrence with the 2030 Agenda for Sustainable Development which recognises "the need to build peaceful, just, and inclusive

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² As per statistics available on the NALSA website www.nalsa.gov.in.

³ National Legal Services Authority, 'Annual Report 2018', pp 5.

⁴ As per data collated by NALSA from April 2016 to March 2017 the total number of beneficiaries was 556689.

⁵ See National Legal Services Authority, 'Annual Report 2018' for detailed information on these initiatives.

⁶ To read more, see Commonwealth Human Rights Initiative, 'Hope Behind Bars? – Status Report on Legal Aid for Persons in Custody' 2018 Available at <http://www.humanrightsinitiative.org/publication/hope-behind-bars-status-report-on-legal-aid-for-persons-in-custody>.

societies which provide equal access to justice and are based on respect for human rights” and Goal 16 which highlights the importance of ensuring “access to justice for all” in achieving sustainable development. Additionally, legal aid also figures into discussions on poverty eradication (Goal 1), gender equality (Goal 5), decent work (Goal 8) and reducing inequalities (Goal 10). These goals are also covered in the recently prepared ‘Strategy for New India @75’ by the Government of India, which lays down its objectives till 2022-23. One of the objectives stated therein is ‘to ensure the safety and security of citizens and ensure access to effective legal systems and speedy delivery of justice’.⁷

<i>Total no. of beneficiaries of legal aid (April, 2018 to February, 2019)⁸</i>	
<i>Women</i>	222150
<i>Children</i>	57108
<i>Persons in custody</i>	160100
<i>Persons with Disability</i>	6148
<i>Industrial Workmen</i>	10194
<i>Transgender</i>	330
<i>Victim of trafficking human beings or beggars</i>	685
<i>Victims of mass disaster, violence, flood drought, earthquake and industrial disaster</i>	447575
<i>General whose annual income does not exceed prescribed limit</i>	118598
<i>Scheduled caste</i>	87237
<i>Scheduled Tribe</i>	105380
<i>Others</i>	168475
<i>Total</i>	1,383,980

In the last few years, the legal aid system in India has evolved and there has been a visible change in its functioning. India is the world’s second-most populous country and the seventh largest, thus, ensuring meaningful access to quality legal aid for marginalised or vulnerable populations, groups with special needs, and those living in rural, remote or under-served areas can be a daunting task. This paper documents various schemes framed by NALSA⁹, to provide access to free and competent legal services. It also considers the role of legal aid providers in particular paralegal

⁷Niti Ayog, ‘Strategy for New India @75’, 2018, pp 178 available at http://niti.gov.in/writereaddata/files/Strategy_for_New_India.pdf.

⁸ As per data received from NALSA in April 2019.

⁹ NALSA is the nodal agency to provide and monitor delivery of legal aid services across India.

volunteers and clinical legal initiatives in the implementation of these strategies. The paper thus seeks to highlight the benefits of the inclusion of paralegals and students as legal aid providers, especially in countries like India where over 80% of the population is eligible for legal aid and the per capita spend on legal aid is merely INR 0.75 (approx. \$0.011).¹⁰

The paper is divided into four sections. The current section introduces the paper and sets the context. Section II briefly summarises the constitutional and statutory framework of the legal aid system in India. Section III outlines the role of legal aid providers, especially paralegal volunteers and students, in the implementation of various legal aid strategies. Section IV documents the various schemes and campaigns undertaken by LSI in India and seeks to highlight the important role played by paralegals and students in their implementation.

II. LEGAL AID SYSTEM IN INDIA

(i) *Constitutional Provisions:* Under Indian law, Article 39A of the Constitution of India 1950, mandates the State to provide free legal aid to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities. It has also been established that the right to free legal services is an essential ingredient of 'reasonable, fair and just' procedure for a person accused of an offence and thus is implicit in the guarantee of Article 21 of the Indian Constitution."¹¹ On numerous occasions, the Supreme Court of India too has emphasised on the importance of legal representation and on access to state-funded legal aid services, and the duty of magistrates to ensure no individual goes unrepresented in any proceeding before the court.¹²

¹⁰ Commonwealth Human Rights Initiative, '10 Things You Should Know About Legal Aid In India' Available at <http://www.humanrightsinitiative.org/download/1542086129Ten%20things%20you%20need%20to%20know%20about%20legal%20aid%20in%20India.pdf>.

¹¹Hussainara Khatoon (IV) v State of Bihar AIR 1979 SC 1369. Article 21 of the Constitution of India 1950 states that 'no person shall be deprived of his life or personal liberty except according to procedure established by law'.

¹² Khatri & Others v. State of Bihar & Ors (1981) 1 SCC 627 ; Mohammed Ajmal Mohammad Amir Kasab @ Abu Mujahid Vs. State of Maharashtra [2012] 8 SCR 295.

(ii) *Statutory Provisions:* In addition to the constitutional mandate, the Legal Services Authorities Act (hereinafter referred to as the Act) was enacted in India in 1987, and was enforced in 1995. The Preamble to the Act states it to be an act to ‘constitute legal services authorities to provide free and competent legal services to the weaker sections of the society to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities, and to organise *Lok Adalats*¹³ to secure that the operation of the legal system promotes justice on a basis of equal opportunity.’

As per Section 2(1)(c), legal services provided under the Act would include the rendering of any service in the conduct of any case or other legal proceeding before any court or other Authority or tribunal and the giving of advice on any legal matter. Chapters II and III of the Act lay down provisions for constitution of LSI at all levels viz. national, state, districts and sub-divisions. Provisions are also made for constitution of committees at the appellate courts, i.e. High Court and Supreme Court as well. Thus, as per the Act, across

India, the following LSIs exist: the National Legal Services Authority (NALSA) in Delhi, State Legal Services Authority (SLSA) in each state and Union Territory, District

Legal Services Institutions in India

- ✓ **01 National Legal Services Authority**
- ✓ **01 Supreme Court Legal Services Committee**
- ✓ **36 State Legal Services Authorities**
- ✓ **36 High Court Legal Services Authorities**
- ✓ **665 District Legal Services Authorities**
- ✓ **2254 Sub-Divisional Legal Services Committees**

Legal Services Authority (DLSA) in each district, Sub Divisional authorities in each sub-division, High Court Legal Services Committee (HCLSC) in each High Court and Supreme Court Legal Services Committee (SCLSC) in the Supreme Court.

Each of the LSIs is assigned various functions and roles under the Act to ensure access to effective legal aid services at all stages. The NALSA has been assigned the function of coordinating and monitoring the functioning of LSIs, as well as voluntary social service institutions and other legal services organisations and giving general

¹³ Lok Adalats translate in English into Public Courts and are an alternative dispute resolution mechanism which is used widely in India as a forum where cases pending or at pre litigation stage in a court of law are settled.

directions for the proper implementation of the legal services programmes. It has also been assigned the task of monitoring and evaluating the implementation of legal aid programmes at periodic intervals, and providing for independent evaluation of programmes and schemes implemented in whole or in part by funds provided under this Act.

Chapter IV of the Act lays down the entitlement to legal services in India. In majority jurisdictions across the world, one finds that a person is entitled to legal aid if two conditions are satisfied: the person does not have sufficient means to afford the costs of legal assistance, and if the interests of justice so require. In India, Section 12 of the Act lays down the criteria for eligibility for legal aid services and includes within its ambit various vulnerable categories of persons as well as those whose annual incomes fall below a prescribed sum. This entitlement exists irrespective of the means test.

ELIGIBILITY CRITERIA FOR LEGAL AID

a member of a Scheduled Caste or Scheduled Tribe

a victim of trafficking in human beings or beggar

a mentally ill or otherwise disabled person;

a woman or a child

in custody, including juvenile and psychiatric homes

a victim of a mass disaster, ethnic violence, caste atrocity, flood, drought, earthquake or industrial disaster

in receipt of annual income less than as may be prescribed by the Government

an industrial workman

(iii) *Regulatory Provisions:* In addition to the statutory framework, there exist three regulations that provide further guidance for effective functioning of the LSI viz. NALSA (Lok Adalat) Regulations, 2009; NALSA (Free and Competent Legal Services) Regulations, 2010 and NALSA (Legal Services Clinics) Regulations, 2011. While the regulations on *lok adalats* and legal services clinics provide guidance for their functioning, the NALSA (Free and Competent Legal Services) Regulation 2010 lays down a framework for the monitoring and evaluation of the quality of legal aid services provided. The various regulations and schemes also mandate that the LSIs appoint individuals to provide legal services. These include panel lawyers, retainer

lawyers, jail visiting lawyers, remand lawyers and convict or community paralegal volunteers.¹⁴

The regulations also direct the setup of monitoring committees at each level -- the Supreme Court, High Court, District and Sub-Division¹⁵ -- with the intent of ensuring accountability of legal aid services rendered. The regulations envisage a reporting model¹⁶ wherein the monitoring committee must submit bi-monthly reports containing its independent assessment on the progress of each and every legal aid case and the performance of the panel lawyer or retainer lawyer to the Executive Chairman or Chairman of the LSI.

It is within this framework that LSIs function in India, with the mandate to undertake initiatives to ensure 'access to justice for all'¹⁷. It is clear from the legislative framework that the scope of legal aid services in India is not just limited to court-based legal services i.e. representation in court. It also includes within its ambit legal awareness, alternate dispute resolution systems, capacity building, research, etc. This necessitates the appointment of a large number of legal aid providers to effectively fulfil the mandate as enshrined in the Indian Constitution. The role of para-legal volunteers and clinical legal education initiatives assumes importance in this context, and is discussed in the next section.

III. PARA LEGAL VOLUNTEERS AND CLINICAL LEGAL EDUCATION INITIATIVES

'To reach and include the last disadvantaged man, in the most remote corner of the country, is what the legal services authorities at all levels throughout the country seek to achieve.'¹⁸ However, merely the presence of LSI offices at districts and sub-divisions does not fulfil that mandate. It is in this context that PLVs and students can

¹⁴ See NALSA (Free and Competent Legal Services) Regulations 2010, NALSA Para Legal Volunteer Scheme, Legal Aid Counsel at Magistrate Court Scheme 1998, NALSA Standard Operating Procedures for Representation of Persons in Custody 2016.

¹⁵ Regulation 10 of NALSA (Free and Competent Legal Services) Regulation 2010.

¹⁶ Regulation 12 of NALSA (Free and Competent Legal Services) Regulation 2010.

¹⁷ This is the motto of all the legal service institutions in India – ensuring access to justice for all.

¹⁸ See NALSA's Training Module for Paralegal Volunteers, Foreword by Executive Chairperson, available at

https://nalsa.gov.in/sites/default/files/scheme/Scheme_%28Para_Legal_Volunteers%29.PDF.

significantly aid the efforts of legal services authorities. They can act to bridge the gap between people and the justice system. Two schemes in particular outline the role of paralegals and students in the delivery of legal aid in India, viz. NALSA Para Legal Volunteer Scheme and NALSA (Legal Services Clinics in Universities, Law Colleges and Other Institutions) Scheme, 2013. These are discussed in detail in this section.

- (i) *Para Legal Volunteers:* In 2010, the Chief Justice of the Supreme Court of India set up a National Committee for Para Legal Training and Legal Aid Activities. Pursuant to its vision, NALSA framed its Para Legal Volunteer Scheme,¹⁹ placing emphasis on the need of intermediaries between the common man and LSIs. In the scheme document it was stated that,

'Para-legal volunteers help the poor and disadvantaged to free them from the stranglehold of the mighty and powerful for protecting their legal rights. The ultimate object of para legal volunteers is to help the legal services institutions established under the Legal Services Authorities Act, 1987 for bringing the voice of the voiceless to be heard and to get their grievances redressed. It is indeed a part of the preventive and strategic legal aid programme contemplated under Section 7 (2) (c) of the Legal Services Authorities Act, 1987.'

No. of PLVs deployed (March 2018) ²⁰					
Police Station	Front Office	Prisons	Child Welfare Centres/Juvenile Justice Boards	Others	Total
4949	2000	1955	688	17317	26909 ²¹

As of January 2019, there are more than 70,000 trained paralegal volunteers (PLVs) connected with LSIs across India.²² These are attached with various institutions/legal

¹⁹ NALSA's Para Legal Volunteer Scheme available at <http://nalsa.gov.in/schemes.html>.

²⁰ As per statistics available at www.nalsa.gov.in/sites/default/files/document/PLVs_as_on_March-2018.pdf.

²¹ As PLVs are often deployed on rotational basis, the exact number of PLVs deployed is higher than this figure. The exact figure has not been made available by NALSA in the public domain yet.

²² As per data received from NALSA in April 2019.

aid clinics such as police stations, front offices of legal services institutions,²³ prisons, child welfare centres, etc.

PLVs are generally drawn from various sections of the society and include teachers, local leaders, medical professionals, social workers, etc. Interestingly, NALSA's Paralegal Volunteer Scheme also provides for a unique category of persons who can be trained as PLVs -- long-term convict prisoners. The scheme recommends the training of educated, well-behaved prisoners serving long-term sentences in central prisons and district prisons as PLVs. Once trained, they are attached to prison legal aid clinics mandated to be established in every prison.²⁴

In India, PLVs are not permitted to appear in court and can only provide basic legal advice and ensure inmate interaction with legal aid lawyers where needed. The minimum qualification for becoming a PLV is matriculation and NALSA's Paralegal Volunteer Scheme aims to train volunteers selected from various walks of life to ensure that legal aid reaches all sections of people through the PLVs.

PLVs are often hailed as the face of LSIs and a means to reach out to the community. This reflects the intent to ensure that legal services must also reach out to people at their doorsteps rather than people approaching legal services institutions. Under NALSA's PLV Scheme, the following roles are envisaged for PLVs. They should,

- a) be trained in basics of different laws in order to be of service to people of the community with reference to day to day issues.
- b) in addition to imparting awareness on laws and the legal system, also brief the counsel and try to amicably settle disputes between parties at the source itself.
- c) educate people, especially those belonging to weaker sections of the society, to enable them to be aware of their rights to live with human dignity and enjoy all constitutionally and statutorily guaranteed rights as also their duties and to discharge obligations as per law.

²³ For more information on Front Office see National Legal Services Authority, Front Office Guidelines available at https://nalsa.gov.in/sites/default/files/document/Front_Office_Guidelines.pdf

²⁴ NALSA Standard Operating Procedures for Representation of Persons in Custody 2016 available at <https://nalsa.gov.in/sites/default/files/document/SOP-%20Persons%20in%20Custody.pdf>.

- d) make people aware of the nature of their disputes, issues and problems and inform them that they can approach the concerned LSI for resolution of disputes or problems.
- e) provide information to people of their locality about legal services activities and provide address of the nearest legal services authority.
- f) keep watch on transgressions of law or acts of injustice in their area of operation and bring them to the notice of the LSI.
- g) visit the police station upon receipt of information about the arrest of a person in the locality and ensure that arrested person gets legal assistance.
- h) ensure that victims of crime get proper care and attention.
- i) visit prisons, lock ups, psychiatric hospitals, children's homes, observation homes to ascertain legal services needs of inmates.
- j) report violations of child rights, child labour, missing children, child marriages and trafficking of girl children to the nearest LSI.
- k) Assist legal services authorities in organising legal awareness camps particularly for groups such as women, unorganised labour, drug users/victims, etc.
- l) Maintain regular documentation of daily activities and submit monthly report of activities.

The list of duties mentioned above covers a large number of aspects. PLVs are thus not just mandated to ensure legal representation, but have a wide range of activities to conduct and are also responsible for regular documentation of the same. An analysis of the mandates, framework and data given earlier is reflective of the pivotal role PLVs play in the expansion and implementation of legal services in India.

(ii) *Clinical Legal Education Initiatives:* There are more than 20,000 legal services clinics established across various parts of the country as of February 2019. Around 900 of these are established in law colleges. It is reported that in 2018, of the 1,497,556 persons who visited the legal services clinics, 1,174,544 were provided legal assistance.²⁵

²⁵ National Legal Services Authority, 'Annual Report 2018', pp 11.

Legal services clinics have been established as per the NALSA (Legal Services Clinics) Regulations 2011. The regulations seek the setting up of clinics in villages, prisons, educational institutions, community centres, protection homes, courts, juvenile justice boards and other areas. While PLVs have an important role to play in the functioning of all these clinics, the clinics established in law colleges also warrant the involvement of law students in the functioning of the clinics.

<i>No. of Legal Services Clinics (February 2019)</i>							
<i>Law Colleges</i>	<i>Villages</i>	<i>Community Centres</i>	<i>Courts</i>	<i>Prisons</i>	<i>Observation Homes/Child Welfare Centres/Juvenile Justice Boards</i>	<i>Others</i>	<i>Total</i>
<i>873</i>	<i>13402</i>	<i>1406</i>	<i>989</i>	<i>1114</i>	<i>403</i>	<i>3269</i>	<i>21456</i>

One of the earliest recommendations to introduce clinical legal education in law schools can be found in the report of the *Expert Committee of Legal Aid of the Ministry of Law & Justice 1973*.²⁶ The report stressed on how the introduction of clinical legal education initiatives would also ‘expose students to real legal problems, meanwhile enabling an inexpensive and energetic resource for providing legal aid to India’s population’.

Section 4(k) of the Legal Services Authorities Act, 1987 mandates NALSA to develop, in consultation with the Bar Council of India, programmes for clinical legal education and promote guidance and supervise the establishment and working of legal services clinics in universities, law colleges and other institutions. Subsequently in 1997, the Bar Council of India (BCI) directed²⁷ all universities and law schools to incorporate four practical papers in their curriculum as a means of imparting clinical legal education to

²⁶ Govt. of India, Ministry of Law, Justice, and Company Affairs, Processual Justice To The People: Report of The Expert Committee on Legal Aid (1973), available at: <http://reports.mca.gov.in/Reports/15-lyer%20committee%20report%20of%20the%20expert%20committee%20in%20legal%20aid,%201973.pdf>.

²⁷ Bar Council of India, Circular No. 4/1997 (issued on 21st October, 1997).

law students viz. litigation skills, drafting skills, legal ethics, and legal aid work and public interest lawyering. Additionally, the NALSA (Legal Services Clinics) Regulations 2011 also mandates the establishment of clinics in law colleges and universities.

Despite these directives, in a 2011 study conducted by United Nations Development Programme (UNDP) on “*Law Schools Based Legal Service Clinics*”,²⁸ it was found that even though nearly 82% of the law colleges in India have designated faculty to conduct legal aid activity, only a small fraction have put in place infrastructure or resources for conducting legal aid activity.²⁹ One of the policy recommendations made in the report was for NALSA to ‘frame a policy on collaboration, budgeting and monitoring law school clinics.’

Thereafter, in 2013, the NALSA (Legal Services Clinics in Universities, Law Colleges and Other Institutions) Scheme 2013 was framed. The scheme envisages the setting up of one or more legal services clinic in their respective institutions, and also suggests the establishment of campus clinics, depending on necessity. The scheme outlines the following objectives of the clinics:

- a) To set up a nationwide collegiate of legal services clinics to familiarise law students across the country of the problems faced by masses, in particular those who are ignorant about their rights and remedies under the law.
- b) To attain the ideals of ‘social, economic and political’ justice as enshrined in the Constitution in the backdrop of poverty and inequality by reaching out to the marginalised and vulnerable communities through the clinics.
- c) To spread legal awareness among students and people at large through awareness camps, seminars, debates, legal counselling, poster-making and street plays.
- d) To expose students to community services.
- e) To introduce students to socio-economic impediments to access to justice.

²⁸ United Nations Development Programme, “*A Study of Law Schools Based Legal Service Clinics*”, Access to Justice for Marginalised People, 5th July, 2011, Available at: http://www.in.undp.org/content/india/en/home/library/democratic_governance/a_study_of_law_school_basedlegalservicesclinics.html.

²⁹ Ibid. at pp. 2, 33 & 45.

- f) To provide the students a platform for the empowerment of socially and economically backward groups of individuals.

Clinical legal education initiatives are often seen as a mutually beneficial exchange whereby on the one hand, legal aid delivery institutions receive much-needed human resources bypassing their budgetary constraints, and on the other, students get the opportunity to study the problems faced by vulnerable groups of the society (including the criminal justice system). 'Such a clinical approach to legal education, helps students intervene in the legal system, gain experience and improve legal services'.³⁰

In 2018, it was reported that of the 66,961 persons who visited the 916 clinics set up in colleges and universities across India, 46,091 were provided legal assistance.³¹ Recently NALSA constituted a committee to encourage and monitor initiatives undertaken by legal services clinics in colleges and universities across India.

Interestingly, these initiatives can also be seen in coherence with Guideline 11 and 16 of the *United Nations Principles and Guidelines on Access to Legal Aid in the Criminal Justice System 2012*. While the former emphasises enabling paralegals to provide legal aid in the nationwide legal aid systems, the latter lays down guidelines for 'partnerships with non-state legal aid service providers and universities'.³² While these guidelines speak in reference to legal aid in the criminal justice system, the role of paralegals and students is equally valuable in ensuring access to legal aid for civil and administrative matters and in empowering poor and marginalised populations.

³⁰ For more ideas see Commonwealth Human Rights Initiative, 'Guidebook: University Based Legal Aid Clinics and Persons in Custody', 2019 available at www.humanrightsinitiative.org/publication/guidebook-university-based-legal-aid-clinics-and-persons-in-custody.

³¹ National Legal Services Authority, Annual Report 2018, pp 11.

³² Rule 72. States should, where appropriate, also take measures:

(a) To encourage and support the establishment of legal aid clinics in law departments within universities to promote clinical and public interest law programmes among faculty members and the student body, including in the accredited curriculum of universities;

(b) To encourage and provide incentives to law students to participate, under proper supervision and in accordance with national law or practice, in a legal aid clinic or other legal aid community scheme, as part of their academic curriculum or professional development;

The next section explores these roles in the context of various schemes, campaigns and activities of NALSA which are reliant upon active participation of PLVs for their effective implementation.

IV. SCHEMES AND CAMPAIGNS

After the establishment of LSIs at various levels, and in accordance with sections 4(a) and (b) of the Legal Services Authorities Act 1987, a number of schemes have been framed over the last few years, particularly in 2015 and 2016. These cover a broad range of beneficiaries and are in line with NALSA's vision to promote an inclusive legal system to ensure fair and meaningful justice to marginalised and disadvantaged sections. The responsibility to implement these schemes often falls upon PLVs; as such a summary of the schemes, their objectives and role envisioned for PLVs³³ is given below:

1. ***NALSA (Legal Services to Disaster Victims through Legal Services Authorities)***

Scheme, 2010: Disaster victims are entitled to free legal services under Section 12(e) of the Legal Services Authorities Act. This scheme aims to ensure provision of legal services and assistance to disaster victims in availing benefits of government schemes during crises. This includes assistance in procuring copies of lost documents, availing insurance claims, bank loans, etc.

Role of PLV: The scheme seeks intervention by LSIs through PLVs to coordinate the activities of different departments supervising reunion of families; supervising health care and sanitation; ensuring availability of food, medicine and drinking water; awareness on rights of victims; assisting in restoration of valuable documents etc.

2. ***NALSA (Victims of Trafficking and Commercial Sexual Exploitation) Scheme,***

2015: All victims of trafficking are entitled to legal aid under the Act. This scheme seeks to ensure legal assistance is provided to all victims of trafficking, including children, adolescent girls and women of all ages. It also lays emphasis on raising awareness and capacity building of all stakeholders, including those in the law

³³ For detailed list of duties of PLVs for each scheme, see National Legal Services Authority, 'Module for Training of Para Legal Volunteers', 2017 available at www.nalsa.gov.in/sites/default/files/document/Training_Module_for_PLVs.pdf.

enforcement and justice delivery system, to help them effectively deal with issues of trafficked and sexually exploited women and children.

Role of PLVs: The scheme requires PLVs to inform LSIs whenever a case of trafficking is reported or the arrest of a sex worker occurs at the police station and; to ensure that due diligence is followed, including the collection of eligibility documents, to ensure community access to benefit schemes.

3. ***NALSA (Legal Services to the Workers in the Unorganised Sector) Scheme, 2015:*** This scheme makes it obligatory for LSIs to create awareness amongst workers in the unorganised sector about their rights under the law and assist them in securing benefits under the schemes of the Act and also those put in place by state governments.

Role of PLVs: PLVs under the scheme should organise and conduct legal awareness, training and literacy programmes for unorganised workers; coordinate with government functionaries for the registration and extension of benefits to unorganised workers; to provide assistance in filing, processing and furnishing application forms for availing benefits of schemes; to provide legal assistance to legal aid workers in respect of any claims or defense before court or other authorities, etc.

4. ***NALSA (Child Friendly Legal Services to Children and their Protection) Scheme, 2015:*** This scheme aims to improve access to justice for children. Its main purpose is to facilitate proper implementation of the existing legislations and policies that benefit children, and to ensure effective legal assistance to children in conflict with the law or who require care and protection. It envisages the setting up of legal services clinics in all Juvenile Justice Boards and Child Welfare Committees;³⁴ the constitution of a separate panel of trained and committed advocates; the setting up of legal literacy clubs in schools; provision of legal training and orientation for all functionaries who come in contact with children under legislation enacted for their protection to secure child-friendly justice.

Role of PLVs: To counsel children in a friendly manner; communicate their concerns to the legal aid lawyers; share their information to assist juvenile justice boards to prepare effective care plan for them; connect them to schools under the Right to

³⁴ As per the Juvenile Justice (Care and Protection of Children) Act, 2015.

Education Act; draw up awareness programmes to educate public at large on child rights and their protection, and available schemes; create effective outreach campaigns through the distribution of posters using child-appropriate messaging, etc.

5. NALSA (*Legal Services to the Mentally Ill and Mentally Disabled Persons*)

Scheme, 2015: The objective of the scheme is to ensure that persons with mental health issues, or intellectual or cognitive disabilities are not stigmatised and are able to avail all the rights they are entitled to and as assured to them by law. This scheme requires the setting up of legal services clinics in mental health facilities to render assistance to persons with mental health issues regarding the enforcement of their rights. It also mandates regular inspection of mental health facilities by Legal Services Authorities to ensure that the living conditions for all patients are safe and that no patients remain in the facility beyond the period of their treatment.

Role of PLVs: To visit psychiatric hospitals and nursing homes to look for cases of forced admission or those who have been kept in these facilities beyond the period of their treatment; to help identify relatives and counsel them to take back treated people; to spread legal awareness about the rights of mentally ill persons; to be alert and prevent the exploitation of persons with mental illnesses and assist in legal action against their abusers or exploiters, etc.

6. NALSA (*Effective Implementation of Poverty Alleviation*) Scheme, 2015:

The main objective of the scheme is to ensure access to basic rights and benefits under the poverty alleviation schemes and programmes of the government to economically and socially vulnerable sections of the society by strengthening legal aid and support at all levels. This is to be achieved through the legal services clinics, awareness programmes, panel lawyers, paralegals, and publicity through print and electronic media.

Role of PLVs: PLVs should accompany the scheme beneficiaries to the office of the designated authority to assist them in fulfilling all formalities; inform the scheme beneficiary of the process to register complaint and provide assistance if required in filing complaint; spread awareness among target groups of new schemes and policies framed by the government, etc.

7. **NALSA (Protection and Enforcement of Tribal Rights) Scheme, 2015:** The scheme is aimed at ensuring access to justice to the tribal population in India, including access to rights, benefits, legal aid and other legal services so that the assurance of the Constitution of justice, social, economic and political is meaningfully experienced by them. The Legal Services Authorities are required to reach out to these communities proactively and engage para-legal volunteers from the community who can speak in the local language which can help them understand the nature of remedies that the legal services can provide for their problems.

Role of PLVs: PLVs can identify areas where there is tribal population and proactively reach out to them; assist LSIs to identify issues, requirements and legal needs of tribal population; handhold victims during testimonies in court, etc.

8. **NALSA (Legal Services to the Victims of Drug Abuse and Eradication of Drug Menace) Scheme, 2015:** This scheme seeks to spread awareness among all stakeholders about the ill-effects of drug abuse and the legislative provisions, government schemes, policies, etc., available for victims, to work with government and non-government agencies to prevent drug use, and for putting in place effective de-addiction and rehabilitative facilities. It envisages creation of a database of all existing policies and schemes for the prevention of drug abuse and rehabilitation of victims by the legal services authorities in each state. This database is required to be disseminated widely to all stakeholders including local bodies, educational institutions, street children, jails, sex workers, chemists, cultivators, victims of drug abuse and their families, among others.

Role of PLVs: PLVs should spread awareness about the different kinds of drugs and their potency for addiction; counsel farmers who engage in cultivation of certain drugs; counsel family members of addicts to be supportive of addicts; connect unemployed to welfare schemes; keep a watch on rehabilitation centres and report any human rights violations, etc.

9. **NALSA (Legal Services to Senior Citizens) Scheme, 2016:** The main objective of the scheme is to strengthen legal aid, advice, and counselling to senior citizens at the national, state, district and taluka level to enable them to avail benefits of various legal provisions, ensure access to governmental schemes and programmes, and devise ways to extend health-care facilities, and physical and social security measures in

coordination with the police, health-care authorities and the district administration, etc. The scheme envisages reaching out to the senior citizens through legal services clinics and paralegals, who are to act as the interface between senior citizens in communities and the Legal Services Institutions as well as the police, district administration, health-care professionals and other authorities.

Role of PLVs: PLVs should make efforts to understand problems of senior citizens; visit homes and day-care centres and bring any human rights violations to the knowledge of the DLSA; spread awareness on rights of senior citizens, etc.

10. ***NALSA (Legal Services to Victims of Acid Attacks) Scheme, 2016:*** The main objectives of the scheme are to create and spread awareness about the entitlements of victims, and to facilitate their access to medical facilities, rehabilitative services, adequate compensation and other benefits under various legal provisions and government schemes. It envisages the setting up of legal services clinics in hospitals with facilities for treatment of burns, wherein the legal aid providers can be regular touch with the victims and their relatives to ensure all possible assistance.

Role of PLVs: PLVs should provide assistance to families of victims; ensure that victims are able to avail various rehabilitative services available to them; inform LSI if any hospital refuses to treat acid attack victims; assist in applying for compensation, etc.

11. ***NALSA's Compensation Scheme for Women Victims/Survivors of Sexual Assault/other Crimes, 2018:*** The main objective of the scheme is to streamline the procedures for grant of compensation to women victims, survivors of sexual assaults or other crimes. It lays down framework for a Women Victims Compensation Fund, eligibility criteria, procedure for making application, guidance for legal services authorities in awarding compensation, etc.

Role of PLVs: PLVs should assist victims in filing of applications and follow up for the same; and ascertain that they don't face discrimination or harassment while accessing the system and seeking compensation.

12. ***Schemes for ensuring access to legal aid for persons in custody:*** While there exists no single scheme for legal aid for persons in custody, multiple schemes exist that ensure access to legal aid at the time of arrest, production hearings in court, during

trial proceedings and in prisons. NALSA's Model Scheme for Legal Aid Counsel in all Courts of Magistrates 1998, NALSA Standard Operating Procedure for Representation of Person's in Custody 2016 along with provisions in the Code of Criminal Procedure 1973 ensure access to legal aid for persons in custody at various stages of a criminal proceeding including at arrest, during trial and in prison.

Role of PLVs: PLVs should assist in filing of legal aid applications by accused persons; regularly follow up on case progress and inform accused person from time to time; organise awareness programmes for prisoners, etc.

Similar to PLVs, students involved with university based legal aid clinics also assist in implementation of the various schemes. They often undertake initiatives for raising awareness around the benefits of each scheme. They also render assistance to PLVs and legal aid lawyers in performance of their tasks by conducting research, drafting applications, etc. Students can, in particular, undertake initiatives to ensure access to effective legal services for persons in custody.³⁵ Activities such as conducting prison visits, interviewing prisoners, assisting the PLVs at the LSI front offices, drafting applications for bail or appeal, etc., are usually undertaken by students.

In addition to these schemes, NALSA in 2018 launched the following three campaigns:

- a) **Door-to-door campaign:** A campaign titled 'connecting to service' was conducted in 2018 to raise awareness among the public about the various functions and activities of legal services authorities and the availability of free legal services to weaker and marginalised sections of the society. As an outcome 39,68,380 people persons were informed about the availability of free legal services from across 66,010 villages and 3,91,222 persons in need of legal services were identified.
- b) **Campaign for women prisoners:** This campaign was conducted by LSIs across the country in May 2018. The main objective was to constitute teams of lawyers, prison officers, and medical officers to visit prisons and interact with all women prisoners and ascertain their legal, medical, educational and vocational needs. As an outcome, 14,788 women prisoners were met, 2,088 legal awareness camps and 987 medical

³⁵ Commonwealth Human Rights Initiative, 'Guidebook: University Based Legal Aid Clinics and Persons in Custody', 2019 available at www.humanrightsinitiative.org/publication/guidebook-university-based-legal-aid-clinics-and-persons-in-custody.

camps were held, 2,942 prisoners were given legal aid, 450 prisoners were trained as women PLVs, and 5,089 were connected to education or vocational courses.

- c) ***Campaign for convict prisoners:*** The campaign was conducted by LSIs to visit prisons and interact with convicts in 2018. It aimed to address issues such as lack of information on cases, raise awareness on the right to legal aid for appeal and procedures, and share information on parole, furlough, remission, etc. It also sought to ascertain that prisoners were not detained beyond the term of their sentences. Unfortunately, the outcome for this campaign has not yet been made available by NALSA, as such its impact is not yet documented.

These schemes and campaigns are reflective of the range of issues that Indian LSIs cover and address each day. Without the workforce of PLVs and students, these schemes and campaigns would have been meaningless and created an undue burden on LSIs. Thus, in a large country as India, the vital role of PLVs and students in ensuring prompt and effective legal services, must be acknowledged.

V. CONCLUSION

Access to legal aid is central to ensuring access to justice, especially for the poorest and most vulnerable people. As emphasised by the *United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems*, legal aid is an essential aspect of a fair, humane, and efficient criminal justice system based on the rule of law. 'Without access to legal aid, millions of people around the world are at high risk of having their rights ignored or violated when they interact with a criminal justice system, including through arbitrary pretrial detention, torture, coerced confessions, and/or wrongful convictions'.³⁶

In the Indian context, and perhaps for other jurisdictions as well, 'access to justice is much more than improving an individual's access to courts, or guaranteeing legal representation, it is ensuring that legal and judicial outcomes are just and equitable.'³⁷

³⁶ UNODC and UNDP, 'Global Study on Legal Aid: Global Report', 2016, Preface.

³⁷ National Legal Services Authority, 'Annual Report 2018', pp 1.

‘Although traditional methods of delivering justice—through formal or customary courts, police, and lawyers—are critical to ensuring peaceful and stable societies, they are not enough.’³⁸ In addition to being able to ‘access’ the justice system, one must also understand the law and legal processes, only then one can truly realise their rights. This essentially means that legal empowerment is intrinsically linked to legal aid, as it places the power in the hands of the people, enabling people to exercise their rights and pursue remedies in areas affected by law and policies.³⁹ Fulfilling such a broad mandate can be a daunting task if sufficient legal aid providers are not recruited by LSIs.

Thus, both PLVs and students engaged in legal services clinics act as the backbone of the Indian legal aid system, and collectively work to bridge the gap to bring about a connection between people and LSIs. They are and will continue to play a vital role in ensuring that legal services can reach those who live in the remotest corners of the country. One can find numerous success stories reported by LSIs which highlight the same.⁴⁰ These stories are testament to the indispensability and importance of the work of PLVs in the Indian legal aid system. It is thus hoped that PLVs will continue to be an integral part of the legal aid system in India and that in the near future there will be an increase in clinical legal education initiatives to further expand the reach of LSIs across India.

³⁸ TAP Network, ‘Advocacy: Justice and the SDGs’, 2016, pp 6.

³⁹ *ibid.*

⁴⁰ National Legal Services Authority, ‘Annual Report 2018’, pp 61.

Abstract

Legal aid is an essential tool in ensuring equal access to justice for all. In order to attain the aspirations of the 2030 Agenda on Sustainable Development (Goal 16 and Target 16.3 in particular), and with particular attention to “leaving no one behind”, it is important to work towards enhancing meaningful access to quality legal aid for marginalised or vulnerable populations, groups with special needs, and those living in rural, remote or underserved areas.

Paralegal volunteers and university-based law clinics take on great significance to achieve these goals in India, given the vastness of its geographies. CHRI has engaged with both paralegals and clinical legal education initiatives over the past ten years to enhance meaningful access to quality legal aid. It is our belief that paralegals are increasingly being recognised as the backbone of our extensive legal aid system. Equally important have been efforts by students attached with university-based clinics and civil society organisations. Additionally, over the past few years, legal aid institutions in India have undertaken initiatives to ensure access to legal aid for all -- especially the marginalised and vulnerable populations. These include initiatives such as door-to-door campaigns, the implementation of various schemes for vulnerable groups, campaigns for prisoners, using audio-visual/technological aids to promote public legal education, etc.

The paper will explore the various strategies adopted by legal services institutions in India over the past few years that are aimed at enhancing access to legal aid for all. The paper will place emphasis on the efforts to include clinical legal education as a means to attain that goal, as well as increased involvement of trained paralegals in ensuring that no one is indeed left behind.