

COMPENDIUM - II



Compilation of NALSA Regulations alongwith Schemes of NALSA/HALSA

HARYANA STATE LEGAL SERVICES AUTHORITY (HALSA)

हरियाणा राज्य विधिक सेवा प्राधिकरण [हालसा]

HARYANA STATE LEGAL SERVICES AUTHORITY



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**LOK ADALAT
REGULATIONS 2009**

**PUBLISHED IN THE GAZETTE OF INDIA EXTRAORDINARY PART III
SECTION 4**

MINISTRY OF LAW & JUSTICE

(Department of Legal Affairs)

NATIONAL LEGAL SERVICES AUTHORITY

NOTIFICATION

New Delhi, 10th July, 2009

S.O. (E).- In exercise of the powers conferred by Section 29 of the Legal Services Authorities Act, 1987, the Central Authority hereby makes the following regulations, namely:

- 1. Short title and commencement.** – (1) These regulations may be called National Legal Services Authority (Lok Adalats) Regulations, 2009.
- (2) They shall come into force at once.¹
- 2. Definitions.** - In these Regulations, unless the context otherwise requires –
 - (a) ‘Act’ means the Legal Services Authorities Act, 1987 (39 of 1987).
 - (b) ‘Central Authority’ means the National Legal Services Authority constituted under Section 3 of the Act;
 - (c) ‘District Legal Services Authority’ means District Legal Services Authority constituted under Section 9 of the Act.
 - (d) ‘High Court Legal Services Committee’ means High Court Legal Services Committee constituted under Section 8A of the Act.
 - (e) ‘Lok Adalats’ means Lok Adalats to be organized under Section 19 of the Act.
 - (f) ‘Member Secretary’ means Member Secretary appointed under sub Section (3) of Section 6 of the Act.
 - (g) ‘State Authority’ means State Authority constituted under Section 6 of the Act.
 - (h) ‘Taluk Legal Services Committee’ means Taluk Legal Services Committee constituted under Section 11A of the Act

¹ Adopted in the Meeting of the Central Authority on 10 July, 2009.

3. Constitution of Lok Adalats

Lok Adalats may be organized by State Authorities/District Authorities/Supreme Court Legal Services Committee/ High Court Legal Services Committee/Taluk Legal Services Committees. The Lok Adalats shall be organized for a definite geographical area the aforesaid Authorities/Committees think fit. Special Lok Adalats shall be organized for all Family Courts at regular intervals.

4. Procedure for organizing Lok Adalat

- (a) The Member Secretary of the State Authority, the Secretary of the High Court Legal Services Committee or the District Authority or the Chairman of the Taluk Legal Services Committee as the case may be, may convene and organize Lok Adalats at regular intervals.
- (b) The Member Secretary, Secretary of the High Court Legal Services Committee or District Authority, Chairman of the Taluk Legal Services Committee, as the case may be, may associate the members of the legal profession, college students, social organizations, charitable and philanthropic institutions and other similar organizations for organizing the Lok Adalats.

5. Intimation to the State Authority

The Secretary of the High Court Legal Services Committee or the District Authority or the Chairman of the Taluk Legal Services Committee, as the case may be, shall inform the State Authority about the proposal to organize the Lok Adalat well before the date on which the Lok Adalat is proposed to be organized and furnish the following information to the State Authority, namely:-

- a. The place and the date on which the Lok Adalat is proposed to be organized.
- b. Whether any of the organizations as referred to in Regulation 4(b) above have agreed to associate themselves with Lok Adalat.
- c. Categories and nature of cases, viz. pending cases or pre-litigation disputes proposed to be placed before the Lok Adalat.
- d. Number of cases proposed to be brought before the Lok Adalat in each category.
- e. Any other information relevant to the convening and organizing of the Lok Adalat.

6. Notice to the parties concerned:-

The Member Secretary, Secretary of the High Court Legal Services Committee or District Authority, Chairman of the Taluk Legal Services Committee, as the

case may be, organizing the Lok Adalat shall inform every party concerned whose case is referred to the Adalat, well in time so as to afford him an opportunity to prepare himself for the Lok Adalat.

Provided that such notice may be dispensed with, if the court while referring the case to the Lok Adalat fixes/informs the date and time of the Lok Adalat in the presence of the parties / Advocates.

Provided further that if a party to the Lok Adalat is not willing to submit to its jurisdiction, the case may be considered on its merits by the court concerned.

7. Composition of the Lok Adalat:-

- (a) **At the State Authority Level** – The Member Secretary organizing the Lok Adalat shall constitute Benches of the Lok Adalats, each Bench comprising of a sitting or retired Judge of the High Court or a serving or retired Judicial Officer and any one or both of the following:
- i. A member of the Legal Profession;
 - ii. A Social Worker of repute who is engaged in the upliftment of the Weaker Sections of the people, including Scheduled Castes, Scheduled Tribes, women, children, rural and urban labour and interested in the implementation of Legal Services Schemes and Programmes.
- (b) **At the High Court Level** – The Secretary of the High Court Legal Services Committee organizing the Lok Adalat shall constitute Benches of the Lok Adalats, each Bench comprising of a sitting or retired Judge of the High Court or a serving or retired Judicial Officer and any one or both of the following:
- i. A member of the Legal Profession; and
 - ii. A Social Worker belonging to the category mentioned in Sub Para (a) above.
- (c) **At District Level** – The Secretary of the District Authority organizing the Lok Adalats shall constitute Benches of the Lok Adalats, each Bench comprising of a sitting or retired Judicial Officer and any one or both of the following:
- i. A member of the Legal Profession; and
 - ii. A Social Worker belonging to the category mentioned in Sub Para (a) above or a person engaged in para-legal activities of the area, preferably a woman.
- (d) **At Taluk Level** – The Chairman of the Taluk Legal Services Committee organizing the Adalat shall constitute Benches of the Lok Adalat, each Bench comprising of a sitting or retired Judicial Officer and any one or both of the following:

- i. A Member of the Legal Profession; and
- ii. A Social Worker belonging to the category mentioned in Sub Para (a) above or a person engaged in para- legal activities of the area, preferably a woman.

8. Allotment of cases to Lok Adalat:-

- (a) The Member Secretary, Secretary of the High Court Legal Services Committee or District Authority, Chairman of the Taluk Legal Services Committee, as the case may be, shall assign specific cases to each Bench of the Lok Adalat.
- (b) The Member Secretary, Secretary of the High Court Legal Services Committee or District Authority, Chairman of the Taluk Legal Services Committee, as the case may be, may prepare a 'cause list' for each Bench of the Lok Adalat and intimate the same to all concerned at least two days before the date of the Lok Adalat.
- (c) Every Bench of the Lok Adalat shall make sincere efforts to bring about a conciliated settlement in every case put before it without bringing about any kind of coercion, threat, undue influence, allurement or misrepresentation.

9. Holding of Lok Adalat:-

Lok Adalat may be organized at such time and place and on such days, including holidays as State Authority, High Court Legal Services Committee, District Authority, Taluk Legal Services Committee, as the case may be, organizing the Lok Adalat deems appropriate.

10. Jurisdiction of Lok Adalats

Lok Adalat shall have powers only for helping parties to arrive at a compromise or settlement between the parties to a dispute. Lok Adalat shall have no power whatsoever to issue a 'direction' or 'order' in respect of the dispute between the parties.

11. Reference of cases and matters

Lok Adalat shall get jurisdiction to deal with a case only when a court of competent jurisdiction orders the case to be referred in the manner prescribed in Section 20 Legal Services Authorities Act, 1987, or under Section 89 of the Code of Civil Procedure, 1908.

12. A mechanical reference of pending cases to Lok Adalat should be avoided. The referring court should be *prima facie* satisfied that there are chances of settlement of the case through Lok Adalat and the case is appropriate to be referred to Lok Adalat. Matters relating to divorce and criminal cases which are not compoundable under the Code of Criminal Procedure, 1973 (Act No. 2 of 1974) shall not be referred to Lok Adalat.

13. In a pending case where only one of the parties had made application to the court for referring the case to Lok Adalat, or where the court *suo motu* is satisfied that the case is appropriate to be taken cognizance of by Lok Adalat, the case shall not be referred to the Lok Adalat except after giving a reasonable opportunity of being heard to the parties.

14. Summoning of Records and the Responsibility for its safe custody:-

(a) Member Secretary, Secretary of the High Court Legal Services Committee, District Authority, Chairman of the Taluk Legal Services Committee, as the case may be, may call for the judicial records of those pending cases which are referred to the Lok Adalat under Section 20 of the Act from the courts concerned.

(b) If any case is referred to the Lok Adalat at the pre-litigation stage, the version of each party shall be obtained by the Member Secretary, Secretary of the High Court Legal Services Committee, District Authority, Chairman of the Taluk Legal Services Committee, as the case may be, for placing it before the Lok Adalat.

(c) The Officer duly authorized by the Member Secretary, Secretary of the High Court Legal Services Committee, District Authority, Chairman of the Taluk Legal Services Committee, as the case may be, shall be responsible for the safe custody of the records from the time he receives the same from the court till they are returned.

(d) The Judicial records shall be returned within **ten days** of the Lok Adalat irrespective of whether or not the case is settled by the Lok Adalat with an endorsement about the result of proceedings. In appropriate cases, the court concerned may permit the records to be retained beyond 10 days.

15. Every judicial authority is expected to co-operate in transmission of the Court records.

16. Pre-Litigation matters

In a Pre-litigation matter it may be ensured that the court for which a Lok Adalat is organized has territorial jurisdiction to adjudicate in the matter.

17. Before referring a Pre-litigation matter to Lok Adalat the Authority/Committee shall give a reasonable hearing to the parties concerned.

18. An award based on settlement between the parties can be challenged only on violation of procedure prescribed in section 20 of the Act only by filing a petition under Articles 226 and 227 of the Constitution of India.

Procedure in the Lok Adalats

19. Members of the Lok Adalat have the role of statutory conciliators only and have no judicial role. They, *mutatis mutandis*, may follow the procedure laid down in Sections 67 to 76 of the Arbitration and Conciliation Act, 1996.
20. Members of the Lok Adalat shall not pressurize or coerce any of the parties to compromise/settle cases or matters either directly or indirectly.
21. In a Lok Adalat the members shall discuss the subject matter with the parties for arriving at a just settlement or compromise. Members of the Lok Adalat shall assist the parties in an independent and impartial manner in their attempt to reach amicable settlement of their dispute. If necessary the assistance of an independent person or a trained mediator also may be availed of by Lok Adalat.
22. The Members of the Lok Adalat shall be guided by principles of justice, equity, fairplay, objectivity, giving consideration to, among other things, the rights and obligations of the parties, custom and usages and the circumstances surrounding the dispute.
23. The Lok Adalat may conduct the proceedings in such a manner as it considers appropriate taking into account the circumstances of the case, the wishes the parties may express, including any request by a party to the Lok Adalat to hear oral statements, and the need for a speedy settlement of the dispute.
24. The Lok Adalat shall not determine a reference, at its own instance, but shall determine only on the basis of a compromise or settlement between the parties by making an Award in terms of the compromise or settlement arrived at. It is made clear that no Lok Adalat has the power to “Hear” parties to adjudicate the dispute as a court does.
25. The award of the Lok Adalat is not an independent verdict or opinion arrived at by any decision making process.

26. Administrative assistance

Administrative assistance for facilitating Lok Adalat proceedings may be arranged by suitable institutions or persons.

27. Formulating compromise/settlements

The Lok Adalat may, at any stage of the proceedings, make proposal for a settlement of the dispute. Such proposal need not be accompanied by a statement of the reasons therefore.

28. Communication between Lok Adalat and parties

A Lok Adalat may invite the parties to meet it or may communicate with it orally or in writing. The Lok Adalat may meet or communicate with the parties

together or with each of them separately. The factual information concerning the dispute received from a party may be disclosed to the other party in order that the other party may have the opportunity to present any explanation. If such information is desired by the party to be kept confidential, the Lok Adalat shall not disclose such information to the other party.

29. Each party may on his own initiative or at the invitation of the Lok Adalat, submit suggestions for settlement of the dispute.
30. When it appears to the Lok Adalat that there exists elements of a settlement which may be acceptable to the parties, the terms of a possible settlement may be formulated by the Lok Adalat and given to the parties for their observations. Modifications, if any, suggested by the parties can be taken into consideration and terms of a possible settlement may be reformulated by the Lok Adalat.
31. If the parties reach a compromise or settlement of the dispute the terms of such compromise or agreement may be drawn up. The Lok Adalat may draw up or assist the parties in drawing up the compromise or settlement.

AWARD

32. Drawing up of the award is merely an administrative act by incorporating the terms of settlement or compromise agreed by parties under the guidance and assistance from Lok Adalat.
33. When both parties sign/affix their thumb impression and the members of the Lok Adalat countersign it, it becomes an Award. (See a Model Award in Appendix-I) Every Award of the Lok Adalat shall be categorical and lucid and shall be written in regional language used in the local courts or in English. It shall also contain particulars of the case (case no, name of court and names of parties), date of receipt, Register Number assigned to the case in the permanent Register (maintained as per Regulation– 44 below) and date of settlement. Wherever the parties are represented by counsel, they should also be required to sign the settlement / award before the members of the Lok Adalat affix their signature.

In cases referred to Lok Adalat from a court, it shall be mentioned in the Award that the plaintiff / petitioner is entitled to refund of the court fees remitted.

34. Where the parties are not accompanied/represented by counsel, the members of the Lok Adalat should also verify the identity of parties, before recording the settlement.
35. Member of the Lok Adalat shall ensure that the parties affix their signatures only after fully understanding the terms of settlement arrived at and recorded. The members of the Lok Adalat shall also satisfy themselves about the following before affixing their signatures:

- (a) That the terms of settlement are not *ex-facie* unreasonable for unconscionable or illegal or one-sided.
 - (b) That the parties have entered into the settlement voluntarily and not on account of any threat, coercion or undue influence.
36. Members of the Lok Adalat should affix their signatures only in settlement reached before them. They should avoid affixing signatures to settlement reached by the parties outside the Lok Adalat with the assistance of some third parties, to ensure that the Lok Adalats are not used by unscrupulous parties to commit fraud, forgery etc.
37. Lok Adalat shall not grant any bail or a divorce by mutual consent.
38. The original Award shall form part of the judicial records (in pre-litigation matter, the original Award may be kept with the Legal Services Authority / Committee concerned) and a copy of the Award shall be given to each of the parties [duly certifying them to be true by the officer designated by the Member Secretary, Secretary of the High Court Legal Services Committee or District Legal Services Authority, Chairman of Taluk Legal Services Committees, as the case may be, **free of charge**. The official seal of the Authority/Committee shall be affixed on all Awards.

CONFIDENTIALITY

39. The Members of the Lok Adalat and the parties shall keep confidential all matters relating to the proceedings in the Lok Adalat. The members of the Lok Adalat shall not be compelled to disclose the matters which took place in the Lok Adalat proceedings before any Court of Law, except where such disclosure is necessary for purposes of implementation and enforcement of the Award.
40. The views expressed and discussions made by parties during the proceedings of the Lok Adalat in respect of the possible settlement of a dispute shall not be brought in evidence in any other arbitral or judicial proceedings. The proposals made by the members of the Lok Adalat or admission made by any party or the conduct of the parties in the course of the Lok Adalat proceedings shall not be made use of in other court or arbitral proceedings.
41. Members of the Lok Adalat shall not record the statement of any of the parties or record any conduct of the parties in such a manner as it would prejudice such party in any other proceedings before a court or arbitrator. The Members shall not express any opinion which may be prejudicial to any party.
42. If any Member of the Lok Adalat violates the confidentiality and the ethical concerns which are akin to any other judicial proceedings, such member shall be removed from the panel of Lok Adalat Members.

FAILURE OF LOK ADALAT PROCEEDINGS

43. If a Pre-Litigation matter is not settled in the Lok Adalat, the parties may be advised to resort to other Alternative Dispute Resolution (ADR) techniques or to approach a court of law. In appropriate cases they may be advised about the availability of legal aid.

44. Compilation of results:-

At the conclusion of session of the Lok Adalat, the Officer designated by the Member Secretary, Secretary of the High Court Legal Services Committee or District Authority, Chairman of the Taluk Legal Services Committee, as case may be, shall compile the results for submission to the State Authority in the proforma given in Appendix-II.

45. Maintenance of Panel of names of Lok Adalat Members:-

The Member Secretary, Secretary of the High Court Legal Services Committee or District Authority, Chairman of the Taluk Legal Services Committee, as the case may be, shall maintain a panel of names of retired Judicial Officers, Advocates and Social Workers to work in Lok Adalats.

46. Procedure for maintaining record of cases referred under Section 20 of the Act or otherwise:-

a. The Officer designated by the Member Secretary, Secretary of the High Court Legal Services committee or District Authority, Chairman of the Taluk Legal Services Committee, as the case may be, shall maintain a **Permanent Register** wherein all the cases and Pre-litigation matters received by him by way of reference to the Lok Adalat shall be entered giving particulars of the:-

- i. date of receipt;
- ii. nature of the case/ pre-litigation matter;
- iii. such other particulars as may be deemed necessary;
- iv. date of compromise / settlement and the manner in which the case /matter was finally disposed of and;
- v. date of return of the case file.

b. A copy of the Award, if passed, duly certified in the manner stated in Regulation 33 shall be kept in the office of the Authority/ Committee as a permanent record.

c. Records other than the original of the Awards of pre-litigation Lok Adalats may be destroyed after a period of three years from the date of disposal of the matter by Lok Adalat.

47. Appearance of Lawyers and the Procedure to be followed in the cases before Lok Adalats:-

The appearance of lawyers on behalf of the parties at the Lok Adalat is not barred. The lawyers may be advised to avoid wearing their robes and bands while before the Lok Adalat. But an effort should be made to encourage parties to be present personally.

48. The above guidelines *mutatis mutandis* shall be applicable to the Lok Adalats organized by the National Legal Services Authority and Supreme Court Legal Services Committee also.

APPENDIX-I

BEFORE THE LOK ADALAT

HELD AT _____ [Organized by _____ Authority/ _____ Committee under Section 19, Legal Services Authorities Act 1987(Central Act)]

Petitioner/Plaintiff/Complainant:

Defendant/Respondent :

No. of proceedings of the _____ Court/ Authority/ Committee

Present:-

Name of Judicial Officer / :

Retired Judicial Officer

Name of Members : (1)

(2)

AWARD

The dispute between the parties having been referred for determination to the Lok Adalat and the parties having compromised/settled the case/matter, the following award is passed in terms of the settlement :

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The parties are informed that the court fee, if any, paid by any of them shall be refunded.

Petitioner/Plaintiff/Complainant

Defendant/Respondent

Judicial Officer

Member

Member

Date:

(Seal of the Authority/Committee)

APPENDIX-II

PROFORMA
DISPOSAL OF CASES IN LOK ADALAT

Place:			Date:		
			Nature of Cases disposed of		
Sl.No.	Case No.	Name of parties	Civil	Claims	Criminal
Total					

* * *

**(FREE AND COMPETENT
LEGAL SERVICES)
REGULATIONS, 2010**

PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART III, SECTION 4

MINISTRY OF LAW & JUSTICE

(DEPARTMENT OF LEGAL AFFAIRS)

NATIONAL LEGAL SERVICES AUTHORITY

NOTIFICATION

New Delhi, dated 9th September, 2010

No.L/61/10/NALSA. - *In exercise of the powers conferred by section 29 of the Legal Services Authorities Act, 1987 (39 of 1987) and in pursuance of the provisions in section 4 of the Act to make available free and competent legal services to the persons entitled thereto under section 12 of the said Act, the Central Authority hereby makes the following regulations, namely: -*

1. Short title, extent and commencement. –

- (1) These regulations may be called the National Legal Services Authority (Free and Competent Legal Services) Regulations, 2010.
- (2) They shall be applicable to Supreme Court Legal Services Committee, State Legal Services Authorities, High Court Legal Services Committees, District Legal Services Authorities and Taluk Legal Services Committees in India.
- (3) They shall come into force from the date of their publication in the Official Gazette.

2. Definitions. –

- (1) In these regulations, unless the context otherwise requires, -
 - (a) “Act” means the Legal Services Authorities Act, 1987 (39 of 1987);
 - (b) “Form” means a Form annexed to these Regulations;
 - (c) “front office” means a room in the Legal Services Institution where legal services are made available;
 - (d) “legal practitioner” shall have the meaning assigned to it in clause (i) of section 2 of the Advocates Act, 1961 (25 of 1961);
 - (e) “Legal Services Institution” means the Supreme Court Legal Services Committee, a State Legal Services Authority, the High Court Legal Services Committee, District Legal Services Authority or the Taluk Legal Services Committee, as the case may be;

- (f) “Para-Legal Volunteer” means a para-legal volunteer trained as such by a Legal Services Institution;
 - (g) “Secretary” means the Secretary of the Legal Services Institution;
 - (h) “section” means the section of the Act;
 - (i) “State regulation” means regulation made by the State Authorities under the Act.
2. All other words and expressions used but not defined in these regulations shall have the same meanings assigned to them in the Act.

3. Application for legal services.-

- (1) An application for legal services may be presented preferably in Form-I in the local language or English.
- (2) The applicant may furnish a summary of his grievances for which he seeks legal services, in a separate sheet along with the application.
- (3) An application, though not in Form-I, may also be entertained, if reasonably explains the facts to enable the applicant to seek legal services.
- (4) If the applicant is illiterate or unable to give the application on his or her own, the Legal Services Institutions may make arrangement for helping the applicant to fill up the application form and to prepare a note of his or her grievances.
- (5) Oral requests for legal services may also be entertained in the same manner as an application under sub-regulation (1) and (2).
- (6) An applicant advised by the para-legal volunteers, legal aid clubs, legal aid clinics and voluntary social service institutions shall also be considered for free legal services.
- (7) Requests received through e-mails and interactive on-line facility also may be considered for free legal services after verification of the identity of the applicant and on ensuring that he or she owns the authorship of the grievances projected.

4. Legal Services Institution to have a front office.-

- (1) All Legal Services Institutions shall have a front office to be manned by a panel lawyer and one or more para-legal volunteers available during office hours.

- (2) In the case of court based legal services, such lawyer shall after consideration of the application, forward the same to the Committee set up under regulation 7 and for other types of legal services, the panel lawyer in the front office may provide such legal services.
- (3) The panel lawyer in the front office shall render services like drafting notices, sending replies to lawyers' notices and drafting applications, petitions etc.
- (4) The panel lawyer in the front office may obtain secretarial assistance from the staff of the Legal Services Institutions.
- (5) In case of urgent matters, the panel lawyer in the front office may in consultation with the Member-Secretary or Secretary of the Legal Services Institutions provide legal assistance of appropriate nature:

Provided that the Committee set up under regulation 7 may consider and approve the action taken by the panel lawyer in the front office.

5. Proof of entitlement of free legal services. –

- (1) An affidavit of the applicant that he falls under the categories of persons entitled to free legal services under section 12 shall ordinarily be sufficient.
- (2) The affidavit may be signed before a Judge, Magistrate, Notary Public, Advocate, Member of Parliament, Member of Legislative Assembly, elected representative of local bodies, Gazetted Officer, teacher of any school or college of Central Government, State Government or local bodies as the case may be.
- (3) The affidavit may be prepared on plain paper and it shall bear the seal of the person attesting it.

6. Consequences of false or untrue details furnished by the applicant. –

The applicant shall be informed that if free legal services have been obtained by furnishing incorrect or false information or in a fraudulent manner, the legal services shall be stopped forthwith and that the expenses incurred by the Legal Services Institutions shall be recoverable from him or her.

7. Scrutiny and evaluation of the application for free legal services. –

- (1) There shall be a Committee to scrutinise and evaluate the application for legal services, to be constituted by the Legal Services Institution at the level of Taluk, District, State and above.
- (2) The Committee shall be constituted by the Executive Chairman or Chairman of the Legal Services Institution and shall consist of, -

- (i) the Member Secretary or Secretary of the Legal Services Institution as its Chairman and two members out of whom one may be a Judicial Officer preferably having working experience in the Legal Services Institution and;
 - (ii) a legal professional having at least fifteen years' standing at the Bar or Government pleader or Assistant Government Pleader or Public Prosecutor or Assistant Public Prosecutor, as the case may be.
- (3) The tenure of the members of the Committee shall ordinarily be two years which may be further extended for a maximum period of one year and the Member Secretary or Secretary of the Legal Services Institution shall, however, continue as the ex-officio Chairman of the Committee.
- (4) The Committee shall scrutinise and evaluate the application and decide whether the applicant is entitled to the legal services or not within a period of eight weeks from the date of receipt of the application.
- (5) If the applicant is not covered under the categories mentioned in section 12, he or she shall be advised to seek assistance from any other body or person rendering free legal services either voluntarily or under any other scheme.
- (6) The Legal Services Institution shall maintain a list of such agencies, institutions or persons who have expressed willingness to render free legal services.
- (7) Any person aggrieved by the decision or order of the Committee, he or she may prefer appeal to the Executive Chairman or Chairman of the Legal Services Institution and the decision or order in appeal shall be final.

8. Selection of legal practitioners as panel lawyers. –

- (1) Every Legal Services Institution shall invite applications from legal practitioners for their empanelment as panel lawyers and such applications shall be accompanied with proof of the professional experience with special reference to the type of cases which the applicant-legal practitioners may prefer to be entrusted with.
- (2) The applications received under sub-regulation (1) shall be scrutinised and selection of the panel lawyers shall be made by the Executive Chairman or Chairman of the Legal Services Institution in consultation with the Attorney-General (for the Supreme Court), Advocate-General (for the High Court), District Attorney or Government Pleader (for the District and Taluk level) and the respective Presidents of the Bar Associations as the case may be.

- (3) No legal practitioner having less than three years' experience at the Bar shall ordinarily be empanelled.
- (4) While preparing the panel of lawyers the competence, integrity, suitability and experience of such lawyers shall be taken into account.
- (5) The Executive Chairman or Chairman of the Legal Services Institution may maintain separate panels for dealing with different types of cases like, Civil, Criminal, Constitutional Law, Environmental Law, Labour Laws, Matrimonial disputes etc.
- (6) The Chairman of the Legal Services Institution may, in consultation with the Executive Chairman of the State Legal Services Authority or National Legal Services Authority as the case may be prepare a list of legal practitioners from among the panel lawyers to be designated as Retainers.
- (7) The Retainer lawyers shall be selected for a period fixed by the Executive Chairman on rotation basis or by any other method specified by the Executive Chairman.
- (8) The strength of Retainer lawyers shall not exceed, -
 - (a) 20 in the Supreme Court Legal Services Committee;
 - (b) 15 in the High Court Legal Services Committee;
 - (c) 10 in the District Legal Authority;
 - (d) 5 in the Taluk Legal Services Committee.
- (9) The honorarium payable to Retainer lawyer shall be, -
 - (a) Rs.10,000 per month in the case of Supreme Court Legal Services Committee;
 - (b) Rs.7,500 per month in the case of High Court Legal Services Committee;
 - (c) Rs.5,000 per month in the case of District Legal Services Authority;
 - (d) Rs.3,000 per month in the case of the Taluk Legal Services Committee:

Provided that the honorarium specified in this sub-regulation is in addition to the honorarium or fee payable by the Legal Services Institution for each case entrusted to the Retainer lawyer.

- (10) The panel lawyers designated as Retainers shall devote their time exclusively for legal aid work and shall be always available to deal with legal aid cases and to man the front office or consultation office in the respective Legal Services Institution.
- (11) The panel prepared under sub-regulation (2) shall be re-constituted after a period of three years but the cases already entrusted to any panel lawyer shall not be withdrawn from him due to re-constitution of the panel.
- (12) The Legal Services Institution shall be at liberty for withdrawing any case from a Retainer during any stage of the proceedings.
- (13) If a panel lawyer is desirous of withdrawing from a case he shall state the reasons thereof to the Member-Secretary or the Secretary and the latter may permit the panel lawyer to do so.
- (14) The panel lawyer shall not ask for or receive any fee, remuneration or any valuable consideration in any manner, from the person to whom he had rendered legal services under these regulations.
- (15) If the panel lawyer engaged is not performing satisfactorily or has acted contrary to the object and spirit of the Act and these regulations, the Legal Services Institution shall take appropriate steps including withdrawal of the case from such lawyer and his removal from the panel.

9. Legal services by way of legal advice, consultation, drafting and conveyancing. –

- (1) The Executive Chairman or Chairman of the Legal Services Institution shall maintain a separate panel of senior lawyers, law firms, retired judicial officers, mediators, conciliators and law professors in the law universities or law colleges for providing legal advice and other legal services like drafting and conveyancing.
- (2) The services of the legal aid clinics in the rural areas and in the law colleges and law universities shall also be made use of.

10. Monitoring Committee. –

- (1) Every Legal Services Institution shall set up a Monitoring Committee for close monitoring of the court based legal services rendered and the progress of the cases in legal aided matters.
- (2) The Monitoring Committee at the level of the Supreme Court or the High Court, as the case may be, shall consist of, -

- (i) the Chairman of the Supreme Court Legal Services Committee or Chairman of the High Court Legal Services Committee;
 - (ii) the Member-Secretary or Secretary of the Legal Services Institution;
 - (iii) a Senior Advocate to be nominated by the Patron-in-Chief of the Legal Services Institution.
- (3) The Monitoring Committee for the District or Taluk Legal Services Institution shall be constituted by the Executive Chairman of the State Legal Services Authority and shall consist of, -
- (i) the senior-most member of the Higher Judicial Services posted in the district concerned, as its Chairman;
 - (ii) the Member-Secretary or Secretary of the Legal Services Institution;
 - (iii) a legal practitioner having more than fifteen years' experience at the local Bar-to be nominated in consultation with the President of the local Bar Association:

Provided that if the Executive Chairman is satisfied that there is no person of any of the categories mentioned in this sub-regulation, he may constitute the Monitoring Committee with such other persons as he may deem proper.

11. Functions of the Monitoring Committee. –

- (1) Whenever legal services are provided to an applicant, the Member-Secretary or Secretary shall send the details in Form-II to the Monitoring Committee at the earliest.
- (2) The Legal Services Institution shall provide adequate staff and infrastructure to the Monitoring Committee for maintaining the records of the day-to-day progress of the legal aided cases.
- (3) The Legal Services Institution may request the Presiding Officer of the court to have access to the registers maintained by the court for ascertaining the progress of the cases.
- (4) The Monitoring Committee shall maintain a register for legal aided cases for recording the day-to-day postings, progress of the case and the end result (success or failure) in respect of cases for which legal aid is allowed and the said register shall be scrutinised by the Chairman of the Committee every month.

- (5) The Monitoring Committee shall keep a watch of the day-to-day proceedings of the court by calling for reports from the panel lawyers, within such time as may be determined by the Committee.
- (6) If the progress of the case is not satisfactory, the Committee may advise the Legal Services Institution to take appropriate steps.

12. Monitoring Committee to submit bi-monthly reports.–

- (1) The Monitoring Committee shall 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 Legal Services Institution.
- (2) After evaluating the reports by the Committee, the Executive Chairman or Chairman of the Legal Services Institution shall decide the course of action to be taken in each case.
- (3) It shall be the duty of the Member-Secretary or Secretary of the Legal Services Institution to place the reports of the Monitoring Committee before the Executive Chairman or Chairman of the Legal Services Institution and to obtain orders.

13. Financial assistance. –

- (1) If a case for which legal aid has been granted requires additional expenditure like payment of court fee, the fee payable to the court appointed commissions, for summoning witnesses or documents, expenses for obtaining certified copies etc., the Legal Services Institution may take urgent steps for disbursement of the requisite amount on the advice of the panel lawyer or Monitoring Committee.
- (2) In the case of appeal or revision the Legal Services Institution may bear the expenses for obtaining certified copies of the judgment and case records.

14. Payment of fee to the panel lawyers. -

- (1) Panel lawyers shall be paid fee in accordance with the Schedule of fee, as approved under the State regulations.
- (2) The State Legal Services Authority and other Legal Services Institution shall effect periodic revision of the honorarium to be paid to panel lawyers for the different types of services rendered by them in legal aid cases.
- (3) As soon as the report of completion of the proceedings is received from the panel lawyer, the Legal Services Institution shall, without any delay, pay the fees and expenses payable to panel lawyer.

15. Special engagement of senior advocates in appropriate cases. –

- (1) If the Monitoring Committee or Executive Chairman or Chairman of the Legal Services Institution is of the opinion that services of senior advocate, though not included in the approved panel of lawyers, has to be provided in any particular case the Legal Services Institution may engage such senior advocate.
- (2) Notwithstanding anything contained in the State regulations, the Executive Chairman or Chairmen of the Legal Services Institution may decide the honorarium for such senior advocate:

Provided that special engagement of senior advocates shall be only in cases of great public importance and for defending cases of very serious nature, affecting the life and liberty of the applicant.

16. Evaluation of the legal aid cases by the National Legal Services Authority and State Legal Services Authorities. –

- (1) The Supreme Court Legal Services Committee shall send copies of the bi-monthly reports of the Monitoring Committee of the Supreme Court Legal Services Committee to the Central Authority.
- (2) The High Court Legal Services Committees, the State Legal Services Authorities shall submit copies of the bi-monthly reports of their Monitoring Committees to their Patron-in-Chief.
- (3) The District Legal Services Authorities and Taluk Legal Services Committees shall submit copies of the bi-monthly reports of their Monitoring Committees to the Executive Chairman of the State Legal Services Authority.
- (4) The State Legal Services Authorities shall also send consolidated half-yearly reports of the Monitoring Committees, indicating the success or failure of each of the legal aided cases, to the Central Authority.
- (5) In appropriate cases, the Executive Chairman of the National Legal Services Authority may nominate and authorise the members of its Central Authority to supervise, monitor or advise the Legal Services Institution for effective and successful implementation of these regulations.

Form -I

National Legal Services Authority
(Free and Competent Legal Services) Regulations, -2010

(see regulation-3)

The Form of Application for Legal Services

(this may be prepared in the regional language)

- Registration No. :
1. Name :
2. Permanent Address
3. Contact Address with phone no. if any,
e-mail ID, if any. :
4. Whether the applicant belongs to the category :
of persons mentioned in section -12 of the Act
5. Monthly income of the applicant :
6. Whether affidavit/proof has been produced
in support of income/eligibility u/s 12 of the Act :
7. Nature of legal aid or advise required :
8. A brief statement of the case, if court based :
legal services is required.

Signature of the applicant

Place:

Date:

Form-II**National Legal Services Authority****(Free and Competent Legal Services) Regulation, 2010***(see regulation-11)***Information furnished to the Monitoring Committee about the legal Services provided**

- (i) Name of the Legal Services Institution. :
- (ii) Legal aid application number and date on which legal aid was given. :
- (iii) Name of the legal aid applicant. :
- (iv) Nature of case (civil, criminal, constitutional law etc,). :
- (v) Name and roll number of the lawyer assigned to the applicant. :
- (vi) Name of the Court in which the case is to be filed / defended. :
- (vii) The date of engaging the panel lawyer. :
- (viii) Whether any monetary assistance like, court fee, advocate commission fee, copying charges etc. has been given in advance? :
- (ix) Whether the case requires any interim orders or appointment of commission? :
- (x) Approximate expenditure for producing records, summoning of witnesses etc. :
- (xi) The expected time for conclusion of the proceedings in the Court. :

MEMBER-SECRETARY / SECRETARY**Dated:**

**NATIONAL LEGAL SERVICES AUTHORITY
(LEGAL AID CLINICS) REGULATIONS, 2011**

**TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY,
PART III, SECTION 4**

NATIONAL LEGAL SERVICES AUTHORITY

(LEGAL AID CLINICS) REGULATIONS, 2011

NOTIFICATION

New Delhi, dated 10th August, 2011

In exercise of the powers conferred by section 29 of the Legal Services Authorities Act, 1987 (39 of 1987) and in pursuance of the provisions in section 4 of the said Act the Central Authority hereby makes the following regulations, namely: -

- 1. Short title and commencement.**- (1) These regulations may be called the National Legal Services Authority (Legal Aid Clinics) Regulations, 2011.
 - (2) They shall come into force from the date of their publication in the Official Gazette.

- 2. Definitions.** – (1) In these regulations, unless the context otherwise requires, -
 - (a) “Act” means the Legal Services Authorities Act, 1987 (39 of 1987);
 - (b) “District ADR centre” means the District Alternative Dispute Resolution Centre established with the funds of the 13th Finance Commission and includes any other similar facilities like Nyayaseva Sadans at the district level;
 - (c) “legal aid clinic” means the facility established by the District Legal Services Authority to provide basic legal services to the villagers with the assistance of Para-Legal Volunteers or Lawyers, on the lines of a primary health centre providing basic health services to the people in the locality and includes the legal aid clinic run by the law colleges and law universities;
 - (d) “legal services institution” means a State Legal Services Authority, District Legal Services Authority or the Taluk Legal Services Committee, as the case may be;
 - (e) “panel lawyer” means the panel lawyer selected under regulation 8 of the National Legal Services Authority (Free and Competent Legal Services) Regulations 2010;
 - (f) “para-legal volunteer” means a para-legal volunteer trained as such by a legal services institution;

- (g) “retainer lawyer” means a retainer lawyer selected under regulation 8 of the National Legal Services Authority (Free and Competent Legal Services) Regulations 2010;
- (h) “section” means the section of the Act;
2. All other words and expressions used in these regulations but not defined shall have the same meanings as assigned to them in the Act.
- 3. Establishment of legal aid clinic.-** Subject to the financial resources available, the District Legal Services Authority shall establish legal aid clinics in all villages, or for a cluster of villages, depending on the size of such villages, especially where the people face geographical, social and other barriers for access to the legal services institutions.
- 4. Eligibility criteria for free legal services in the legal aid clinic.-** Every person who fulfils the criteria specified in section 12 shall be eligible to get free legal services in the legal aid clinics.
- 5. The personnel manning the legal aid clinic.-** (1) Every legal aid clinic established under regulation 3 shall have at least two para-legal volunteers available during the working hours of the legal aid clinics.
- (2) The legal services institution having territorial jurisdiction or the District Legal Services Authority may depute trained para-legal volunteers to the legal aid clinics.
- (3) When lawyers are deputed to the legal aid clinic, it shall be the duty of the para-legal volunteers engaged in such clinic to assist the lawyers in drafting petitions, applications, pleadings and other legal documents.
- (4) The State Legal Services Authority may encourage para-legal volunteers to obtain diploma or degree in law for betterment of their prospects in the long run.
- 6. Deputing lawyers to the legal aid clinic. –** (1) The nearest legal services institution having territorial jurisdiction may depute its panel lawyers or retainer lawyers to the legal aid clinic.
- (2) If the matter handled by any such lawyer requires follow-up and continuous attention for a long duration, the same lawyer who had handled the matter may be entrusted to continue the legal services.
- 7. Frequency of visit by lawyers in the legal aid clinic. –** Subject to the local requirements and availability of financial resources, the legal services institution having territorial jurisdiction may decide the frequency of the lawyers’ visit in the legal aid clinics and if the situation demands for providing

continuous legal services, such legal services institution may consider arranging frequent visits of lawyers in the legal aid clinic.

- 8. Selection of lawyers for manning the legal aid clinics.-** (1) The Panel lawyers or retainer lawyers with skills for amicable settlement of disputes, shall alone be considered for being deputed to the legal aid clinic:

Provided that preference shall be given to women lawyers having practice of at least three years.

- 9. Legal services in the legal aid clinic. -** (1) Legal services rendered at the legal aid clinic shall be wide ranging in nature.

(2) The legal aid clinic shall work like a single-window facility for helping the disadvantaged people to solve their legal problems whenever needed.

(3) Besides legal advice, other services like preparing applications for job card under the Mahatma Gandhi National Rural Employment Guarantee (MGNREG) Scheme, identity card for different government purposes, liaison with the government offices and public authorities, helping the common people who come to the clinic for solving their problems with the government officials, authorities and other institutions also shall be part of the legal services in the legal aid clinic:

Provided that the legal aid clinic shall provide assistance by giving initial advice on a problem, assistance in drafting representations and notices, filling up of forms for the various benefits available under different government schemes, public distribution system and other social security schemes:

Provided further that, in appropriate cases, the legal services sought for by the applicants in the legal aid clinic shall be referred to the legal services institutions for taking further action.

- 10. Functions of para-legal volunteers in the legal aid clinic.-** (1) The para-legal volunteers engaged in the legal aid clinic shall provide initial advice to the persons seeking legal service, help such people, especially the illiterate, in drafting petitions, representations or notices and filling-up the application forms for various benefits available under the government schemes.

(2) para-legal volunteers shall, if necessary, accompany the persons seeking legal services to attend the government offices for interacting with the officials and for solving the problems of such persons.

(3) If services of a lawyer is required at the legal aid clinic, the para-legal volunteers shall, without any delay, contact the nearest legal services institution to make available the services of a lawyer.

(4) In case of emergency, the para-legal volunteers may take the persons seeking legal services in the legal aid clinic to the nearest legal services institutions.

(5) para-legal volunteers shall distribute pamphlets and other materials in aid of legal education and literacy to the persons seeking legal services in the legal aid clinic.

(6) para-legal volunteers shall take active part in the legal awareness camps organized by the legal services institutions in the local area of the legal aid clinic.

11. Location of legal aid clinic. – (1) Legal aid clinics shall be located at places where the people of the locality can have easy access.

(2) The legal services institutions may request the local body institutions, such as the village *panchayat*, to provide a room for establishing legal aid clinics:

Provided that if no such rooms are available, the District Legal Services Authority may take a room on rent till alternative accommodation is available for establishing the legal aid clinic.

12. Assistance of the local body institutions in obtaining a convenient room for the legal aid clinic. – (1) The State Legal Services Authority shall call upon the local body institutions like the village *panchayat*, *mandal* or block *panchayat*, municipality and corporation etc, to provide space for the functioning of the legal aid clinic.

(2) Since the legal aid clinic is for the benefit of the people in the locality, the State Legal Services Authority may impress upon the local body institution and the district administration the need to co-operate with the functioning of the legal aid clinics.

13. Sign-board exhibiting the name of the legal aid clinic. – (1) There shall be a sign-board, both in English and in the local language, depicting the name of the legal aid clinic, working hours and the days on which the legal aid clinic shall remain open.

(2) Working hours of the legal aid clinic shall be regulated by the legal services institution having territorial jurisdiction, in consultation with the District Legal Services Authority:

Provided that subject to the local conditions and requirements of the people in the locality, legal aid clinics shall function on all Sundays and holidays.

- 14. Infrastructure in the legal aid clinic.** – (1) Every legal aid clinic shall have at least the basic and essential furniture like a table and 5 to 6 chairs.

(2) If the legal aid clinic is established in the building of the local body institutions, such local bodies may be requested to provide the essential furniture for use in the legal aid clinic.

(3) If the legal aid clinic is established in hired premises, the District Legal Services Authority may provide the furniture required in the legal aid clinic:

Provided that if the District Legal Services Authority has its own building to establish legal aid clinic, the infrastructural facilities shall be provided by such Authority.

- 15. Publicity.** – (1) Local body institutions shall be persuaded to give adequate publicity for the legal aid clinic.

(2) The elected representatives of the local body institutions may be persuaded to spread the message of the utility of legal aid clinic to the people in his or her constituency or ward.

- 16. Para-legal volunteers or lawyers in the legal aid clinic shall attempt to resolve disputes amicably.** – (1) The para-legal volunteers or the lawyers engaged in the legal aid clinics shall attempt to amicably resolve the pre-litigation disputes of the persons brought to the legal aid clinics.

(2) If the para-legal volunteers or the lawyers feel that such dispute can be resolved through any of the ADR mechanisms, they may refer such disputes to the legal services institution having territorial jurisdiction or to the District ADR centre.

- 17. Honorarium for the lawyers and para-legal volunteers rendering services in the legal aid clinics.-** (1) Subject to the financial resources available, the State Legal Services Authority in consultation with the National Legal Services Authority may fix the honorarium of lawyers and para-legal volunteers engaged in the legal aid clinics:

Provided that such honorarium shall not be less than Rs. 500/- per day for lawyers and Rs. 250/- per day for the para-legal volunteers.

(2) Special consideration may be given in cases where the legal aid clinic is situated in difficult terrains and in distant places where transport facilities are inadequate.

- 18. The nearest legal services institutions to organise Lok Adalats at the legal aid clinic or near to its premises.** – (1) The nearest legal services institution having territorial jurisdiction or the District Legal Services Authority may

organise Lok Adalats for pre-litigation disputes at the legal aid clinic or in its vicinity.

(2) The Lok Adalats organized for pre-litigation settlement of the disputes sent from the legal aid clinic shall follow the procedure prescribed in sub-section (2) of section 20 and also the provisions in the National Legal Services Authority (Lok Adalats) Regulations, 2009.

19. Administrative control of the legal aid clinic.- (1) legal aid clinics shall be under the direct administrative control of the District Legal Services Authority

(2) The State Legal Services authority shall have the power to issue instructions and guidelines on the working of the legal aid clinics.

20. Maintenance of records and registers.- (1) lawyers and para-legal volunteers rendering service in the legal aid clinic shall record their attendance in the register maintained in the legal aid clinic.

(2) There shall be a register in every legal aid clinic for recording the names and addresses of the persons seeking legal services, name of the lawyer or para-legal volunteer who renders services in the legal aid clinic, nature of the service rendered, remarks of the lawyer or para-legal volunteer and signature of persons seeking legal services.

(3) The records of the legal aid clinics shall be under the control of the Chairman or the Secretary of the legal services institution having territorial jurisdiction over it.

(4) The District Legal Services Authority may require the legal aid clinic to maintain other registers also, as may be required.

(5) It shall be the duty of the para-legal volunteers and the lawyers in the legal aid clinic to hand over the registers to the legal services institution having territorial jurisdiction as and when called for.

21. Use of mobile Lok Adalat vehicle. – (1) The lawyers rendering legal services in the legal aid clinic or the para-legal volunteers may request the District Legal Services Authority to send the mobile Lok Adalat van with members of the Lok Adalat bench to the legal aid clinic for settlement of the disputes identified by them.

(2) The mobile Lok Adalat van fitted with the facilities for conducting the proceedings of the Lok Adalat may also be used for conducting Lok Adalat at the legal aid clinic or at a place near to it or even at village congregations such as *melas* and other festive occasions.

- 22. Legal aid clinics run by the law students.** – The above regulations shall *mutatis mutandis* be applicable to the student legal aid clinics set up by the law colleges and law universities:

Provided that students of law colleges and law universities also may make use of the legal aid clinics established under these regulations with the permission of the District Legal Services Authority.

- 23. Law students may adopt a village for legal aid camps.** – (1) Law students of the law colleges or law universities may adopt a village, especially in the remote rural areas and organise legal aid camps in association with the legal aid clinic established under these regulations.

(2) The law students may, with the assistance of the para-legal volunteers engaged in the legal aid clinics, conduct surveys for identifying the legal problems of the local people.

(3) The surveys referred to in sub-regulation (2) may include gathering information relating to the existing litigations and unresolved pre-litigation disputes also.

(4) The surveys referred to sub-regulation (2) may also focus on the grievances of the local people which would enable the National Legal Services Authority to take necessary steps by way of social justice litigation as provided in clause (d) of section 4.

(5) The law students conducting such surveys shall send reports to the State Legal Services Authorities with copies to the legal services institutions having territorial jurisdiction and also to the District Legal Services Authority.

- 24. Legal aid clinics attached to the law colleges, law universities and other institutions.** – (1) The law colleges, law universities and other institutions may set up legal aid clinics, as envisaged in clause (k) of section 4 attached to their institutions as a part of the clinical legal education.

(2) The law colleges, law universities and other institutions establishing such legal aid clinic shall inform the State Legal Services Authority about the establishing of such legal aid clinic.

(3) The State Legal Services Authority shall render the required technical assistance for the operation of such legal aid clinics and shall take measures to promote the activities of such legal aid clinics.

(4) The law students in the final year classes may render legal services in such legal aid clinics under the supervision of the faculty member of their institution.

(5) The State Legal Services Authority may organise alternative dispute resolution camps, including Lok Adalats, to resolve the problems of the people who seek legal aid in such legal aid clinics.

(6) The District Legal Services Authority may issue certificates to the students who complete their assignment in such legal aid clinics.

25. Services of para-legal volunteers trained by the Legal Services Authorities may be made available in the legal aid clinics run by the Law Colleges, Law Universities etc. – Trained para-legal volunteers may be deputed to the legal aid clinics established under regulation 24 for assisting the persons seeking free legal services and for interacting with the students and the members of the faculty.

26. The State Legal Services Authorities to conduct periodical review of the functioning of legal aid clinics.-(1) The State Legal Services Authority shall collect monthly reports from the District Legal Services Authorities, law colleges and law universities on the functioning of legal aid clinics working in their jurisdiction.

(2) The State Legal Services Authority shall conduct periodical review of the working of such legal aid clinics at least once in three months or more frequently.

(3) The State Legal Services Authority may issue directions from time to time for improving the services in the legal aid clinics to ensure that members of the weaker sections of the society are provided legal services in an efficient manner.

(4) The State Legal Services Authority shall send quarterly reports about the functioning of the Legal Aid Clinics within their jurisdiction to the National Legal Services Authority.

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**SCHEME FOR PARA-LEGAL VOLUNTEERS
(REVISED)**

&

**MODULE FOR THE ORIENTATION -
INDUCTION - REFRESHER COURSES FOR
PLV TRAINING**

SCHEME FOR PARA-LEGAL VOLUNTEERS (REVISED)

INTRODUCTION

During the year 2009 National Legal Services Authority (NALSA) brought out a scheme called the Para-Legal Volunteers Scheme which aimed at imparting legal training to volunteers selected from different walks of life so as to ensure legal aid reaching all sections of people through the process of Para-Legal Volunteers Scheme; ultimately removing the barriers into access to justice. The Para-Legal Volunteers (PLVs) are expected to act as intermediaries bridging the gap between the common people and the Legal Services Institutions to remove impediments in access to justice. Ultimately, the process aims at Legal Services Institutions reaching out to the people at their doorsteps rather than people approaching such Legal Services Institutions.

The western concept of 'Paralegals' cannot be totally adopted to Indian conditions having regard to illiteracy of large sections of the community: The hours of training as applicable to a regular academic course, cannot be adopted. It should be more like a bridge course conceptualised in a simple and need-based module. The PLVs have to be trained in the basics of different Laws which would be applicable at the grassroot level with reference to their day-to-day life, the subtle nuances employed in the working of a judicial system, and the functioning of various other stakeholders like the Police, officials from Social Welfare Department, Woman and Child Welfare Department and other departments dealing with different beneficial schemes of Central and State Governments including the protection officers involved with Domestic Violence and Juvenile Justice Acts.

With the basic knowledge in the laws and other available welfare measures and legislation, they would be able to assist their immediate neighbourhood; Those who are in need of such assistance, so that a person, who is not aware of such right is not only made to understand his rights, but also will be able to have access to measures involving implementation of such rights.

PLVs are not only expected to impart awareness on laws and the legal system, but they must also be trained to counsel and amicably settle simple disputes between the parties at the source itself; which could save the trouble of the affected travelling all the way to the Legal Services Authority/ADR Centres. If the dispute is of such a nature, which cannot be resolved at the source with the assistance of PLVs, they could bring such parties to the ADR Centres, where, with the assistance of the Secretary in charge either it could be referred to Lok Adalat or Mediation Centre or Legal assistance could be provided for adjudication in a court of law; depending upon the nature of problem.

Though initially the NALSA Scheme of training of the PLVs included the legal fraternity of Advocates, Advocate community, later on experience revealed, the same to be unfeasible on account of conflict with the professional status of Advocates. The reality that marginalised people living in distant places will not have the benefit of lawyer PLVs also contributed to the practice being discontinued, and NALSA deciding that Advocates shall not be enlisted or engaged as PLVs.

The past experience gained from the working of the system after 2009 and also ground realities ascertained from the paralegals in the respective jurisdiction showed us that there has to be a re-look into the entire matter and who best could fit the role of a Para-Legal Volunteer. Initially, the training programme of PLVs was only for two-three days. Since the obligations of PLVs were vast in nature, it was felt, there has to be longer duration of training provided to the PLVs. At the same time, the training curriculum for PLVs adopted by NALSA cannot be such as to be training PLVs to become full-fledged lawyers. PLVs are not expected to conduct themselves as legal professionals. The aim of the training should concentrate on basic human qualities like compassion, empathy and a genuine concern and willingness to extend voluntary service without expectation of monetary gain from it.

Then the line separating PLVs from professional lawyers should be zealously guarded.

MODALITIES

- Ideally every Taluk Legal Services Committee (TLSC) shall have a panel of PLVs; of a maximum number of 25 (50) on their roll at any given point of time. The District Legal Services Authority (DLSA) shall have 50 (100) active PLVs on their roll.

- PLVs shall be literate, preferably matriculate, with a capacity for overall comprehension.

- Preferably PLVs shall be selected from persons, who do not look up to the income they derive from their services as PLVs, but they should have a mind-set to assist the needy in the society coupled with the compassion, empathy and concern for the upliftment of marginalised and weaker sections of the society. They must have unflinching commitment towards the cause which should be translated into the work they undertake.

Groups from whom Para-Legal Volunteers can be selected

- Teachers (including retired teachers)
- Retired Government servants and senior citizens.
- M.S.W students and teachers.
- Anganwadi Workers.
- Doctors/Physicians.
- Students & Law Students (till they enroll as lawyers).
- Members of non-political, service oriented NGOs and Clubs.
- Members of Women Neighbourhood Groups, Maithri Sanghams and other Self Help Groups including of marginalized/vulnerable groups.
- Educated prisoners with good behaviour, serving long term sentences in prisons.

Any other person whom the District Legal Services Authority or Taluk Legal Services Committee deems fit to be identified as PLVs.

Selection of PLVs - District Level

Selecting the PLVs shall be by a Committee chaired by the Chairman of the District Legal Services Authority. The Secretary shall be one of the Members of the Committee. The Committee shall consist in all of three members including the Chairman

and the Secretary shall be one of the Members of the Committee. The third member, to be appointed at the discretion of the Chairman of the DLSA, shall be one capable of identifying suitable persons, who could be trained as PLVs. This selection process shall not be entrusted to any other body.

Selection of PLVs - Taluk Level

The Chairman of the District Legal Services Authority shall constitute a Committee consisting of the Chairman of DLSA, Member Secretary of DLSA and the Chairman of TLSC and a fourth person at the discretion of the Chairman of DLSA. The place of interview for Taluk Level PLVs shall be at the discretion of the Chairman of DLSA. The Member Secretary of DLSA shall co-ordinate with the selection process.

Empanelment process

Applications may be invited from the local residents by the respective DLSAs and TLSCs or Sub Divisional Legal Services Committee. There could be an advertisement, if required. Copies of either the advertisement or notice calling for applications could be sent to the offices of the Bar Association, Notice Board of the Court premises, Legal Services Authority Offices and District Panchayat Offices. The advertisement shall state the qualifications required for selection as PLVs as stated above with last date for the receipt of applications at the office of DLSA. There shall be a column in the application, wherein the candidate has to express willingness or place of preference to work at either district-level or taluk-level or village-level. In the advertisement there shall be clear mentioning that the work of PLVs does not carry any salary, remuneration or wages except honorarium fixed by the DLSA from time to time.

Method of Selection

The Selection Committee is entitled to use its discretion and shortlist the number of candidates for interview depending upon the number of applications received. Preference shall be given to women while selecting PLVs. Representation from suitable applicants belonging to SC/ST, minority and other backward classes must be ensured.

Training of PLVs

Under the supervision of Chairman of DLSA, PLVs shall undergo training programme, totally under the control of the Member Secretary. The training shall be held at a convenient place subject to discretion of the Chairman of DLSA. The number of PLVs to be trained at any given point of time in a training programme shall not exceed 50. Wherever the State Judicial Academy has facilities for training, the same may be availed of. The expenses for the training shall be incurred by the Judicial Academy for providing such facility to be reimbursed by the State Government/DLSA concerned.

Trainers/Resource Persons

- In consultation with the State Legal Services Authority, the Chairman of DLSA shall identify the trainers for training the PLVs and other resource persons.

- Suitable persons from the members of the Bar with training skills shall be included in the list of resource persons.
- Others could include:
- NGOs associated with the activities of Legal Services Authority, i.e., persons, who are exposed to the nature of work of the Legal Services Authority.
- Master Trainers of mediation.
- Law Teachers from Law Colleges.
- Post-Graduate students of Law.
- Retired Professors of Law.
- Retired Judicial Officers.
- Revenue Officers.
- Officers from Social Welfare Department,.
- Public Prosecutors.
- Police Officers.
- Psychiatrists/Psychologists/Mental Health experts.

Nature of Training

Training that is to be provided to the PLVs would be in accordance with the curriculum prescribed by the NALSA and will be in the following formant:

- (a) Orientation Programme. (b) Basic training.
- (c) Refresher course.

There shall be periodical refresher training in order to assess the quality of work turned out by the PLVs. The Legal Services Authorities need to assess the work of PLVs and assist them to identify the deficits and how to tackle the problems faced by the PLVs after their experience in the field. There shall be annual congregation of PLVs so as to facilitate an exchange of experience. There shall be district-wise half-yearly meetings of PLVs to resolve their doubts and facilitate the acquisition of knowledge and upgradation of their skills as per the module.

PLVs shall create awareness among citizens of the benefits of settlement of pending cases through Lok Adalats including the fact that the parties are entitled to refund of court fee and that there shall be no appeal.

Topics for Training

A uniform training module for PLVs shall be prepared by NALSA which shall be applicable to the entire country and the module shall have a special emphasis on the conduct and behaviour of PLVs. The module so prepared shall be translated into regional languages.

Identity Cards

After completion of the training by the District Legal Services Authority, the PLVs may be subjected to a written and oral test before the PLVs are declared to have successfully completed the training. On being declared successful, they may be given

identity cards bearing the emblem of the District Legal Services Authority. The identity card shall have (i) serial number; (ii) name and address of the PLV; (iii) contact number of the PLV; (iv) photograph of the PLV; (v) the date of issue and the period of validity of the identity card. It shall be clearly printed on the reverse side of the identity card that the loss of the identity card should be reported to the nearest Police Station as also its recovery.

The identity card shall not be used for availing of travelling concession either in bus or in any mode of transport.

It shall not be used for availing of any governmental benefits or loan by the holder of the card.

The identity card shall not be used for availing of any other facilities, except for the purpose of identification of the person as PLV.

Validity of Identity Cards

The validity of the identity card shall be for a period of one year. A new card shall be issued to the PLV, if the Chairman, District Legal Services Authority finds him/her eligible to continue as PLVs for more than one year.

Mentors for PLVs

DLSA and TLSC shall maintain a panel of Mentors/Guides whom the PLVs could contact in case of any clarification or assistance in connection with the discharge of their duties as PLVs. There shall not be more than ten PLVs for one Mentor.

Monthly Reports

A monthly report of the existing PLVs, PLVs newly recruited and the training given to the PLVs shall be submitted by the DLSA to the SLSA. The SLSA shall submit a consolidated report of the details of the number of PLVs trained, the resource persons engaged, expenses incurred and the refresher courses, if any, organised, pertaining to each month, to the National Legal Services Authority before 15th day of every month.

NALSA shall cause the copies of such reports sent to the National Committee for Para-Legal Training and Legal Aid Activities set-up by the Chief Justice of India.

The SLSAs shall submit to the NALSA a consolidated District-wise report on the activities of the PLVs, specifically the number of persons attended and the nature of advice given and action taken.

Duties of Trained Para-Legal Volunteers

Para-Legal Volunteer shall educate people, especially those belonging to weaker sections of the society, to enable them to be aware of their right to live with human dignity, to enjoy all the constitutionally and statutorily guaranteed rights as also the duties and discharge of obligations as per law.

Para-Legal Volunteers shall make people aware of the nature of their disputes/issues/problems and inform them that they can approach the

TLSC/DLSA/HCLSC/SLSA/SCLSC so as to resolve the dispute/issue/problems through these institutions.

Para-Legal Volunteers shall constantly keep a watch on transgressions of law or acts of injustice in their area of operation and bring them immediately to the notice of the TLSC through telephonic message or a written communication or in person to enable effective remedial action by the Committee.

When the PLV receives information about the arrest of a person in the locality, the PLV shall visit the Police Station and ensure that the arrested person gets legal assistance, if necessary, through the nearest legal services institutions.

The PLVs shall also ensure that the victims of crime also get proper care and attention. Efforts shall be made by the PLVs to secure compensation for the victims of crime under the provisions of Section 357-A Cr.P.C.

PLVs shall, with proper authorization from the DLSA/TLSC visit jails, lock-ups, psychiatric hospitals, children's homes/observation homes and shall ascertain the legal service needs of the inmates and intimate the authorities concerned about any absence noticed of basic essential necessities with special emphasis on hygiene.

PLVs shall report violations of child rights, child labour, missing children and trafficking of girl children to the nearest legal services institutions or to the child welfare committee.

Para-Legal Volunteers shall assist the DLSA/TLSC for organizing legal awareness camps in their area of operation.

Para-Legal Volunteers shall give information to the people of their locality about the legal services activities of SLSA/DLSA/TLSC/HCLSC/SCLSC and shall provide their addresses to the people so as to enable them to utilize the free services rendered by the above organizations to the eligible persons.

Para-Legal Volunteers shall generate awareness amongst people about the benefits of settlement of disputes including pre-litigation stage through Lok Adalats, Conciliation, Mediation and Arbitration.

Para-Legal Volunteers shall make people aware of the benefits of inexpensive settlement of disputes relating to Public Utility Services like P&T, Telephones, Electricity, Water Supply, Insurance and hospital services through Permanent Lok Adalat (PLA).

Para-Legal Volunteers shall submit monthly reports of their activities to the DLSA/TLSC under whom they are working in the prescribed format.

A diary to record the daily activities shall be maintained by each PLVs. The diary shall be printed and given to PLVs by the District Legal Services Authority. Such diary shall be verified and endorsed by the Secretary, DLSA or the Chairman, TLSC as the case may be.

Para-Legal Volunteers shall see that publicity materials on legal services activities are exhibited at prominent places in their area of activity.

Expenses incurred by Para-Legal Volunteers

Reasonable expenses incurred by Para-Legal Volunteers e.g Bus/Train fare, Postage, Telephone charges etc., may be reimbursed by the TLSC/DLSA/SLSA, on production of proof. Travel expenses limited to the lowest classes by road/rail/steamer to the legal aid beneficiaries brought by the Para-Legal Volunteers also may be reimbursed at the discretion of the Chairman.

The rate of daily honorarium payable to PLVs on the days of their engagement as such in metro-cities may be as determined by the SLSA.

The PLVs are not entitled to any travel expenses when they use the transport provided by SLSA/DLSA/TLSC.

Para-Legal Volunteers to work in the ‘Front Offices’ of the DLSA/TLSCs.

The Secretary, DLSA or TLSC may depute one or more PLVs to operate the ‘front offices’ of the legal services institutions.

Para-Legal Volunteers to work in the ‘Legal Aid Clinics’ of the DLSA/TLSCs.

The Secretary, DLSA or TLSC may depute PLVs in the Legal Aid Clinics set up under the National Legal Services Authority (Legal Aid Clinics) Regulations, 2011. The PLVs engaged in the Legal Aid Clinics shall function in such clinics in accordance with the provisions of the aforesaid regulations.

Honorarium for the PLVs rendering services in the Legal Aid Clinics and Front Offices.

The State Legal Services Authority in consultation with the National Legal Services Authority may fix an honorarium for the PLVs engaged in the legal aid clinics.

However, such honorarium for those who have rendered services on any day shall not be less than Rs.250/- per day.

The PLVs who bring legal aid applicants from the distant villages to the legal services institutions at the Taluk/District level and to the District ADR Centers shall also be eligible to receive honorarium for such day at the same rate.

PLVs shall also be eligible for honorarium if on any particular day they assist persons in connection with the PLV work by accompanying such persons to various offices including Courts, however, subject to proof.

Para-Legal Volunteers to assist in the legal literacy classes and camps.

The PLVs in consultation with the nearest legal services institutions shall organise micro-legal literacy camps in the area of their operation by organising legal

literacy classes for small groups of persons including labourers, women, children members of SC/ST etc. It shall be the duty of the PLVs to distribute information booklets and other publications of the Legal Services Authorities during the legal literacy classes.

Resolving local disputes through ADR mechanism.

The PLVs shall take efforts to bring the parties of the locality involved in disputes, to settlement, by using the machinery of Lok Adalat, Mediation or Conciliation at the District ADR Centers. If no District ADR Center has been set up in the District, the legal services institutions shall take steps for organising a suitable ADR mechanism like Lok Adalat, mediation, conciliation etc. in the village itself in coordination with the PLVs. The PLVs who bring such cases to the ADR process shall be entitled to receive the prescribed honorarium on the day when such proceedings are held.

Para-Legal Volunteers in Jails.

A few educated well-behaved prisoners serving long term sentences in the Central Prison and District Prisons may be identified for being trained as Para Legal Volunteers. Their services shall be available to the other prisoners in the jail including the under trial prisoners. The training of such PLVs may be conducted along with the other PLVs.

Payment.

They will be entitled to be paid as PLVs for the services rendered at the prescribed rate of honorarium payable to other PLVs.

Disqualifications of Para-Legal Volunteers and their removal.

The PLVs shall be disqualified and removed from the panel if he/she: Fails to evince interest in the Scheme.

- Has been adjudged insolvent.
- Has been accused of an offence.
- Has become physically or mentally incapable of acting as PLVs.
- Has so abused his/her position or misconducted in any manner as to render his/her continuance prejudicial to the public interest.
- If she/he is an active political enthusiast of a political party. Any such Para-Legal Volunteer may be removed by the Chairman, District Legal Services Authority after suitable enquiry and intimation of the same should be sent to the State Legal Services Authority.

National level meetings of Para-Legal Volunteers.

The State Legal Services Authority may select suitable PLVs for attending the National Level programmes relating to PLVs to be organised by the National Legal Services Authority as the case may be. The State Legal Services Authority may

recommend the names of PLVs who have given outstanding service for considering such PLVs for National awards to be instituted by the National Legal Services Authority.

The District Legal Services Authority to maintain a database of all Para-Legal Volunteers in the District.

The District Legal Services Authority shall maintain a directory of Para-Legal Volunteers and the same shall be updated periodically. The directory shall contain the details of the para-legal volunteers of District Authority and Taluk/Mandal/Sub-divisional Committees, their names, addresses, telephone/cell phone number, e-mail ID (if any), number and date of expiry of the identity card issued.

The State Legal Services Authority to maintain a database of all Para-Legal Volunteers in the State.

The State Legal Services Authority shall maintain a directory of Para-Legal Volunteers and the same shall be updated periodically. The directory shall contain the district wise details of the names of para-legal volunteers, their addresses, telephone/cell phone numbers, e-mail ID (if any), number and date of expiry of the identity card issued.

The Legal Services Authorities to work in co-ordination with the National Committee for Para-Legal Training and Legal Aid Activities set up by the Chief Justice of India.

The State, District and Taluk level legal services institutions shall work in coordination with the National Committee for Para-Legal Training and Legal Aid Activities set up by the Chief Justice of India. The directions, if any, given by the Hon'ble Chairman of the National Committee for Para-Legal Training and Legal Aid Activities shall be binding on all legal services institutions in the country.

MODULE FOR THE ORIENTATION - INDUCTION - REFRESHER COURSES FOR PLV TRAINING

I. ORIENTATION COURSE

Immediately upon initial empanelment the PLVs shall be given a day's orientation course.

Course objectives:

The objective of the Orientation Programme is to provide an overview of the role of the PLVs and lay down the Code of Ethics that they will be required to be adhered to.

The Orientation Programme should include inter alia the following:

- Introductions and Ice-Breaking Session
- Purpose & Role of PLVs.
- Basic Structure of the Constitution - Preamble etc.
- Obligations of the State under the Constitution to the marginalised classes of society(Directive Principles of State Policy)
- Fundamental Rights (including Articles 14,15,16,19,21,22)
- Duties of a responsible citizen to the community (Fundamental Duties).
- Article 39 A and Legal Services Authorities Act, 1987 and NALSA Regulations.
- Do's and Don'ts for PLVs.
- Dress Code and Standards of behaviour.
- Materials
- Ethics.

II INDUCTION COURSE

The induction training will be for a period of four days and should cover the following topics:

- Basic listening, communication, observation skills and Drafting skills.
- Family Laws (Marriage Laws, Adoption, Maintenance, Custody and Guardianship, Judicial separation & Divorce).
- Property Laws (Inheritance, Transfers of immovable property, Registration, Revenue Laws).

- Criminal Laws (IPC & Cr.P.C {minimum required knowledge, especially, bail, arrest etc. S.357 A Cr.P.C., Rights of Prisoners under Jail Manual and Prisoner's Act etc}).
- Labour Laws (Minimum Wages Act 1948, Workmen's Compensation Act 1923, Unorganised Workers Welfare and Social Security Act 2008, The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979, The Industrial Disputes Act, 1947 (Briefly), legal assistance under the NALSA Scheme (Legal Services to the Workers in the Unorganised Sector) Scheme, 2010.
- Gender Centric Laws/Women Laws - Equal Remuneration Act 1976, Maternity Benefit Act 1961, Protection of Women from Domestic Violence Act 2005, Medical Termination of Pregnancy Act 1971, Pre-Conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994, Sexual Harassment at Workplace, Important provisions of IPC - Sections 509, 354, 376, 304B, 366, 498A, 494, Dowry Prohibition Act, 1961.
- Laws relating to children - Juvenile Justice (Care and Protection of Children) Act, 2000, The Child Labour (Prohibition and Regulation) Act of 1986, Missing Children, The Factories Act 1948, Prohibition of Child Marriage Act, 2006.
- SC & ST (Prevention of Atrocities) Act, 1989 and The Protection of Civil Rights Act, 1955.
- Government orders and schemes promoting social welfare, including MNREGA, Social Security Schemes (pensions, antodaya, insurance etc), obtaining various certificates (such as caste, disability, birth, income etc), obtaining ration card, Aadhar card, National Population Register, Voter ID-card, etc, obtaining Passport.
- Visits to Govt. Offices, Courts, Police Stations, Prisons, Revenue Offices, DLSAs, TLSCs etc. Interaction with Protection Officers, CWCs/JJBs, appropriate authority under PCPNDT Act, 1994 etc.

III ADVANCE TRAINING

After the PLVs have had field experience for three months it is important that an advanced training programme is conducted lasting for three days. The occasion should be utilized by the Chairpersons of the DLSAs to discuss the work done by the PLVs, the shortcomings generally noticed and their continuance. The Mentors should also participate in this programme for guiding the PLVs to resolve the problems faced by the PLVs in the discharge of their duties and public interaction. The Chairpersons of the DLSAs should also obtain feedback from the PLVs in order to remove administrative bottlenecks. During this training programme the PLVs should be introduced to Special laws which could include:

- Right to Information Act, 2005
- Motor Vehicles Act, 1988

- Mental Health Act, 1987 and legal assistance under the NALSA scheme Legal Services to the mentally ill Persons and Persons with Mental Disabilities) Scheme, 2010.
- Maintenance and Welfare of Parents and Senior Citizens Act, 2007.
- Right to Education Act, 2009
- Alternate Dispute Resolution (S 89 C.P.C.)
- Basic skills in mediation and counseling Lok Adalat, including pre-litigation and its benefits.
- Plea-bargaining
- Rights of marginalised groups such as those living with HIV/AIDS, Disabled, trans genders etc.
- The Immoral Traffic (Prevention) Act, 1956 and issues relating to sex workers.
- Disaster Management and Legal assistance to victims of disaster under the NALSA Scheme - Legal Services to Disaster Victims through Legal Services Authorities.
- Environmental issues
- The Protection of Children from Sexual Offences Act, 2012.

Ideally, the SLSAs should by itself or through the DLSAs organize workshops at regular intervals on special topics which could be for a day or two. These should be need based, that is to say, if on a review of the working of the PLVs, the SLSAs/DLSAs feel that certain subjects need to be revisited and discussed again or that in a given area certain issues exist which need to be addressed or tackled and which have not been dealt with by the prescribed course content, such topics and issues should be discussed in the one day/two days workshops.

Inter-District workshops should be organised by the SLSAs for a day to encourage experience sharing and introduction of better practices. Good work done could be recognised and appreciated and commendation certificates given on the occasion.

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**SCHEME FOR LEGAL SERVICES
TO THE VICTIMS OF DISASTERS
THROUGH LEGAL SERVICES
AUTHORITIES**

SCHEME FOR LEGAL SERVICES TO THE VICTIMS OF DISASTERS THROUGH LEGAL SERVICES AUTHORITIES

1. Background

Sub clause (e) of Section 12 Legal Services Authorities Act, 1987 makes the victims of disasters who are under circumstances of undeserved want as a result of such disaster eligible for free legal services to file or defend a case. But in a disaster of catastrophic nature whether it is natural or manmade, the victims are often taken unawares and are subjected to face the grim situation of loss of life, becoming homeless, destruction of property or damage to or degradation of environment and subject to human sufferings and damage beyond the coping capacity of the community of the affected area.

Even though it is the duty of the Government and the Administration of the locality to come to the help of the victims of disasters, Legal Services Authorities by virtue of sub-clause (e) of Section 12 can play an effective role by coordinating the activities of the State Administration in the disaster management by way of strategic interventions in an integrated and sustainable manner, reducing the gravity of the crisis and to build a platform for early recovery and development. The Legal Services Authorities shall endeavour to help the victims and the administration for reducing risk and assisting them to adopt disaster mitigation policies and strategies, reducing the vulnerabilities of the geographical and social situation and strengthening their capacities for managing human made and natural disasters at all levels.

2. Name of the Scheme.

This Scheme shall be called the Scheme for Legal Services to the victims of disasters through Legal Services Authorities.

3. Objective

The objective of the scheme is to provide legal services to the victims of disaster-both manmade and natural - who are under circumstances of undeserved want being victims of mass disaster, ethnic violence, caste atrocities, flood, drought, earthquake or industrial disasters.

The intervention of Legal Services Authorities should be for coordinating the integrated, strategic and sustainable development measures taken by the Government and Disaster management Authorities for reducing the period of crises and for building a platform for early recovery and development. The thrust of the efforts for by the State Legal Services Authorities shall be for strengthening the capacity of the victims for managing the disaster at all levels and to coordinate with the Government departments and non-governmental organizations and also for providing legal aid to the victims,

4. Strategic Intervention by the State Legal Services Authorities.

The strategy for intervention by the Legal Services Authorities for helping the victims of disasters shall be on the following lines:

1. Ensuring immediate help by Governmental and Non-Governmental Agencies to the victims.
2. Coordinating the activities of different departments of the Government and the NGOs for bringing immediate relief.
3. Supervising the distribution of relief materials.
4. Supervising the construction of temporary shelter or transporting the victims to a safer place.
5. Supervising the reunion of families.
6. Supervising the health care and sanitation of the victims and preventing the spread of epidemics.
7. Supervising the needs of women and children.
8. Ensuring the availability of food, medicine and drinking water.
9. Supervising the reconstruction of damaged dwelling houses.
10. Supervising the restoration of cattle and chattel.
11. Legal Awareness Programmes in the relief camps on the legal rights of the victims,
12. Organising Legal Aid Clinics in the affected areas for assisting in reconstruction of valuable documents.
13. Assisting the victims to get the benefits of the promises and assurances announced by the Government and Ministers.
14. Assisting in the rehabilitation, care and future education of orphaned children,
15. Taking steps for appropriate debt relief measures for the victims.
16. Assisting in the rehabilitation of the old and disabled who lost their supporting families.
17. Assisting in the problems relating to Insurance Policies.
18. Arranging Bank Loans for restarting the lost business and avocations.

19. Arranging for phyciatrist's help / counselling to the victims who are subjected to physiological shock and depression on account of the disaster.

5. Machinery for Legal Services.

The State Legal Services Authorities shall establish a Core group in all districts under the control of the District Legal Services Authorities to spring into action in the event of a disaster, whether manmade or natural.

The Core group shall consist of a senior judicial officer, young lawyers including lady lawyers selected in consultation with the local bar association, Medical Doctors nominated by the local branch of the Indian Medical Association and the NGOs by accredited by the State Legal Services Authority. The Secretary of the District Legal Services Authority shall maintain a Register containing the Telephone numbers and the cell numbers of the members of the Core group.

STRATEGY FOR LEGAL AID TO THE VICTIMS

6. Ensuring immediate help by Governmental and Non Governmental agencies to the victims

The nodal agency for responding to a disaster shall be the State and District Disaster Management Authorities set up under the Disaster Management Act, 2006.

The State Legal Services Authority should immediately alert the District Legal Services Authority concerned who in turn shall get in touch with the Disaster Management Authority of the State and District and gather the details of the steps taken by the latter.

- (a) The Core group set up the District Legal Services Authority shall immediately proceed to the area where the disaster has occurred and get involved in the work of relief.
- (b) The District Legal Services Authority and the Core team shall coordinate the activities of the relief operations by involving themselves and without causing any hindrance to the smooth flow of the relief operations.

7. Coordinating different departments of the government and the NGOs for brining immediate relief.

The State Legal Services Authority at the apex level shall get in touch with the State Disaster Management Authority / Department to ensure that all the departments of the State Government including health, finance, social welfare and police are involved in the relief operations. The State Legal Services Authorities shall coordinate the implementation of the Plan of Action, if any, prepared by the Disaster Management Authorities.

- (a) The State and District Legal Services Authorities shall obtain a copy of the disaster management plan, if any, prepared by the State Disaster Management Authority / District Disaster Management Authority.
- (b) The State Legal Services Authority / District Legal Services Authority shall as far as practicable follow the aforesaid plan and, if necessary, make suggestions to the state administration or Disaster Management Authorities for improving the quality of relief operations.

8. Supervising the distribution of relief materials.

In the event of a disaster, the first and foremost step to be taken is to ensure that the victims are provided with adequate support to tide over their undeserved wants. This includes provision of food, safe drinking water and transferring the victims to safe shelters. The District Legal Services Authority in coordination with the Disaster Management Authority and State Government Departments, shall supervise effective and timely supply of relief materials to the victims of the disaster.

9. Supervising the construction of temporary shelters or transporting victims to safer place.

District Legal Services Authority and the Core team shall supervise construction of temporary shelters and transportation of victims to such shelters to other safer places. Any lapses can be reported to the government officer incharge to ensure that the lapses are remedied immediately.

10. Supervising the reunion of families.

A disaster may result in sudden disruption of the cohesive unit of families. Members of the family are likely to get separated on account of the disaster or by reason of the rescue operations or on account of medial emergencies. Separation can occur due to loss of life also. The Core team shall visualise such probable traumatic situations in the families affected by the disaster and shall take necessary steps for consoling the victims and shall take earnest search for the missing members of the families.

11. Supervising the health care of the victims and preventing the spread of epidemics.

The District Legal Services Authority shall take prompt steps for coordinating with the District Medical Officer for ensuring that the victims of the disaster are given proper medical care. The injured victims shall be given prompt treatment.

- (a) When a large number of affected persons are congregated in relief camps, adequate sanitation has to be ensured. Steps shall be taken to ensure that the public health authorities are performing cleaning and sanitation of the camps on a regular basis.

- (b) The District Legal Services Authority shall ensure that adequate preventive measures are taken by the health authorities against outbreak of contagious and infectious diseases and waterborn diseases can occur in the relief camps.
- (c) Right to health being a concomitant to the Right to Life guaranteed under Article 21 of the Constitution of India, the disaster victims are entitled to adequate health facilities and the Legal Services Authorities are duty-bound to ensure the same through appropriate measures.

12. Supervising the needs of women and children.

Women and children are beneficiaries of free legal aid under Section 12 of Legal Services Authorities Act. They are the most vulnerable group amongst the victims of any disaster. Safety of women and children in the camps and their valuables like ornaments and personal belongings are to be protected. The District Legal Services Authority shall ensure that the Police takes necessary steps for preventing theft and anti-social activities. Legal Services Authorities shall coordinate with the Police Officers to ensure the safety of women and children.

13. Ensuring the availability of food, drinking-water and medicine

The need for food, safe drinking water and medicine are basic human needs and hence are attributes of the Right to life under Article 21 of the Constitution of India. Legal Services Authorities can therefore rightfully intervene and coordinate with the State Government, District Administration and Health Authorities to ensure the availability of food, safe drinking-water and medicine to the victims living in the shelters.

14. Supervising the reconstruction of damaged dwelling houses

Housing is one of the important problems faced by the victims of disasters. Partial or total damage may occur to houses in disasters like earthquake, flood and communal riots. Assurances given by the Ministers and Government officials exgratia payment and funds for reconstruction of damaged houses of the victims may go unfulfilled or forgotten due to passage of time. Efforts shall be taken by the Legal Services Authorities to ensure that such promises are fulfilled and the promised funds 'or other relief measures are disbursed to the victims without delay.

15. Supervising the restoration of cattle and chattel

Loss of cattle, chattel and household articles are concomitant with all mass disasters. Thieves, looters and anti-socials have a field day during riots and ethnic violence and also during the havocs like flood, drought, pestilence and earth-quake. The District Legal Services Authority in coordination with the Police or Armed Forces shall ensure that the valuables belonging to the victims are not looted or stolen houses. Similarly, steps shall be taken to protect live-stocks and chattel also. The Legal

Services Authorities shall coordinate with the animal-husbandry department of the government to save the livestock.

16. Legal Awareness Programmes in the relief camps on the legal rights of the victims

Once the victims are relieved from the immediate shock an impact of the disaster, the Legal Services Authority may chose a convenient time and place near the relief camps for imparting legal awareness to the victims. Women lawyers may be entrusted with the job of conducting informal legal awareness programme, mainly related to the rights of the disasters victims to avail of the relief measures from the authorities, The legal remedies available and the mode in which the benefits of the offers and schemes announced by the government are to be availed of also may be included as topics. Legal Awareness Programmes shall not be conducted in a ceremonial manner. Inaugural function and other formalities shall be totally avoided. The ambience of disaster and the mood of grief stricken victims should be fully taken in to account by the resource persons and the steps for legal awareness shall be taken in such a manner as to go along with the measures for consolation and redressal of the grievances of the victims. Visits by women lawyers to the camps andhomes of the victim will be desirable.

17. Organising Legal Aid Clinics in the affected areas for assisting in the reconstruction of valuable documents

It is likely that the victims of disaster have lost their valuable documents like titled deeds, ration cards, identity cards, school and college certificates, certificate of date and birth, passport, driving licence etc. The District Legal Services Authority shall organise legal aid clinics in the affected areas and assist the victims to get duplicate certificate and documents by taking up the matter with the authorities' concerned. Arrangements for issuing Death Certificates of the deceased victims also shall be made.

18. Taking care of the rehabilitation and the future care and education of the orphaned children

Orphaned children are the living monuments of disasters. Loss of childhood, paternal affection are likely to haunt them for the rest of their lives. At times, the orphaned children may get affected with psychiatric problems also. The Legal Services Authority shall seek the help of voluntary organisations large business houses and Corporates for the educational needs and accommodation of such children till they attain the age of maturity. In appropriate cases, the Legal Services Authority may assist such children to be taken care of under provisions of the Juvenile Justice (care and protection) Act.

19. Taking steps for appropriate debt relief measures for the victims

Rehabilitation of disaster victims will be a gigantic challenge for any administration. The adequate funds should be made available to the victims who lost

everything in their life for rebuilding their avocation, buying agricultural implements and other implements required for their avocations in which they were engaged prior to the disaster. Victims belonging to fisherman community may require huge amounts for buying nets, boats and outboard engines. Such measures of rehabilitation may require the assistance of government departments concerned. The State Legal Services Authority shall coordinate with Public Sector Banks, Social Welfare Department and other departments concerned for helping the victims to re-start their avocations. In appropriate cases, provisions in the laws relating to debt relief shall be invoked.

20. Rehabilitation of the old and disabled who lost their supporting families

Persons with disabilities as defined in Clause (e) of Section 2 of Disabilities (Equal Opportunity) Protection of Rights and Full Participation Act, 1995 are entitled to free legal aid under Section 12 of the Legal Services Authorities Act. Senior citizens are entitled to certain benefits under the provisions of Maintenance and Welfare of Parents and Senior Citizen Act. The senior citizens and disabled persons who lost their support on account of disasters shall be identified and appropriate legal aid shall be given to them.

21. Problems relating to Insurance Policies

The Legal Services Authorities shall take up the insurance claims of the disaster victims with the Insurance Companies for settlement of such claims. Negotiations may be undertaken with the Insurance Company officials for a settlement favourable to the victims. In appropriate cases the service of Insurance Ombudsman also may be availed of.

22. Arranging Bank Loans for restarting the lost business and avocations

The victims who suffered substantial loss of their business and implements used in their avocations shall be helped by adopting proper restorative measures. For this purpose, efforts shall be made to make available financial assistance of nationalised banks and other public sector financial institutions. The Legal Services Authorities shall persuade the officials of such financial institutions to raise to the occasion for helping the victims.

23. Arranging for the services psychologists I psychiatrists help for counselling the victims suffering from psychological shock and depression on account of the disaster

Mental shock and the related psychiatric manifestations are usually seen associated with the traumatic effects of disasters on the victims and their family members. Sudden loss of human life and the horrifying experiences of the trauma of the disasters can result in mental shock and psychiatric problems not only to the victims but also to their family members. The District Legal Services Authority shall in coordination with the District Medical Officer make necessary arrangements for the services of psychiatrists and psychologists. The District Authority shall ensure the

presence of the members of the Core group at the relief camps everyday till the victims are rehabilitated.

24. District Legal Services Authority shall collect reports from the Core Group

District Legal Services Authority shall collect daily reports from the Core group working at the location of the disaster. Copies of such reports shall be sent to the State Legal Services Authority. The State Legal Services Authority shall consolidate the reports and send a comprehensive report to the National Legal Services Authority and copies thereof shall also be sent to the District Management Authorities of the State and District. Copies of the report shall be placed before the Patron-in-Chief of the State Authorities and also in the meeting of the State Authority. If any difficulty arises in giving effect to this Scheme, the State Legal Services Authority and District Legal Services Authority or the Core group may seek guidance from the Executive Chairman of the State Authority.

**NATIONAL LEGAL SERVICES AUTHORITY
(LEGAL SERVICES CLINICS IN
UNIVERSITIES, LAW COLLEGES
AND OTHER INSTITUTIONS) SCHEME, 2013**

**NATIONAL LEGAL SERVICES AUTHORITY (LEGAL SERVICES CLINICS
IN UNIVERSITIES, LAW COLLEGES AND OTHER INSTITUTIONS)
SCHEME, 2013**

Background

Section 4(k) of the Legal Services Authorities Act, 1987 mandates the National legal Services Authority 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.

The National Legal Services Authority has already notified the National Legal Services Authority (Legal Aid Clinics) Regulations, 2011 with the object of setting up of legal aid clinics in villages or for a cluster of villages, similar to the primary health centers set-up in the rural areas for the benefit of the rural population. These Regulations are applicable mutatis mutandis to student legal aid clinics. Regulations 22 to 26 of the National Legal Services Authority (Legal Aid Clinics) Regulations, 2011 pertain to the legal services clinics in the law colleges and universities.

The legal services clinics envisaged in Section 4(k) of the Legal Services Authorities Act, 1987 aims at two objects. One is to improve the clinical legal skills of the students and the second is to inculcate an attitude amongst the students to provide effective legal services to the poor and marginalized people.

It needs to be mentioned that the Bar Council of India, being acutely aware of the need to provide practical experience of legal practice to the Final year students of law, has provided in Clause 11 of the Schedule III to its Rules on Standards of Legal Education and Reorganization of Degrees in Law for the purpose of enrolment as Advocates an inspection of Universities for recognizing its degrees in law, that each institution shall establish a Legal Aid Clinic to be run by the students under the supervision of a Senior Faculty Member in co-operation with the Legal Services Authorities.

Thus, the Legal Services Clinics Scheme under Section 4(k) of the Legal Services Authorities Act, 1987 needs to be framed adopting holistic approach providing collaborative programme by involving Statutory bodies under the Legal Services Authorities Act, 1987 and Advocates Act, 1961 and extending support to universities, law colleges and other institutions in establishing and running legal service clinics.

It is in this background, scheme has been drawn up:-

1. This Scheme may be called the National Legal Services Authority (Legal Services Clinics in Universities, Law Colleges and other Institutions) Scheme, 2013.
2. The objectives of the scheme are:

- a. To set up nationwide collegiate Legal Services Clinics to familiarize law students of the country to the problems faced by the masses ignorant about their rights and remedies under the law.
 - b. To attain the ideals of “Social Economics and Political” justice as enshrined in the Constitution in the backdrop of poverty and inequality, by reaching out to the marginalized and the vulnerable communities through the collegiate Legal Services Clinics.
 - c. To spread legal awareness among students and people at large through aware camps, seminars, debates, legal counseling, poster making and street plays.
 - d. To expose students to community services.
 - e. To introduce the students to socio-economic impediments to access to justice.
 - f. To provide the students a plat form for the empowerment of socially and economically backward groups or individuals.
- a) Every university, Law College or other institution shall set up one or more Legal Services Clinics in their respective institution.
 - b) Depending on the needs of the people of any particular locality, the head of the institutions may set up off campus Legal Services clinics on or temporary basis.
 - c) Adequate publicity of the existence of the Legal Services Clinic and its location and working hours shall be given by the respective institution.
- a) Every Legal Services Clinics shall have at least one furnished room within the institution facilitating client counseling.
 - b) The Legal Services Clinic shall have a work station for the students in the Legal Services Clinic, installed with computer with internet and printer to facilitate research, preparation of cases, presentation, publication of legal aid literature, etc.
 - c) There shall be a class room adjoining to the workstation where the faculty members of the Legal Services Clinic may address the student, guide then or give them instructions and clear their doubts.
 - d) Edndeavour should be made to provide a people friendly environment at the Legal Services Clinic.
- a) Each Legal Services clinic shall have one or more Faculty member who possesses special skills and interest in clinical legal education to guide and supervise the students.
 - b) Each Legal Services Clinic shall also have ore or mole part time Guest Faculty member drawn from experienced lawyers including those on the

panel of the Legal Services Institutions and retired judicial officers and functionaries of the Legal Services Institutions.

- c) The honorarium payable to the Guest Faculty shall be as determined by the SLSAs and shall be payable by the District Legal Services Authorities concerned.
6. (a) Apart from the activities to be decided by the State Authorities, the activities of the Legal Services Clinics shall include:-
- i. Client counseling and follow up assistance to special reference to marginalized communities.
 - ii. Arranging workshops for various functionaries of the legal system such as lawyers, students, NGOs and government agencies.
 - iii. Carrying out field surveys.
 - iv. Organizing street plays and poster exhibitions on socio-legal issues.
 - v. Adopting village or villages or slum areas for legal services activities.
 - vi. Guiding parties to the local Legal Services Institution for litigation-related legal assistance at the Court or at the ADR Centre.
- (b) The students may take the help of or extend help to para-legal volunteers selected by the State/District Legal Services Authority in carrying out any of the activities under sub clause (a).
- (c) The District Legal Services Authority shall make available the services of para legal volunteers in the Legal Services Clinics.
- (d) The District Services Authority shall also assign a Panel/Retainer Lawyer to attend the Legal Services Clinics at such frequency as may be found appropriate.
- (e) The travel and incidental expenditure shall be met from the funds given by the District Legal services Authority.
- (f) The students shall always be conscious that they are only to provide the initial advice and assistance as provided for under the National Legal Services Authority (Legal Aid Clinics) Regulations, 2011.
- (g) The Chairperson and/or the Secretary of the District Legal Services Authority must visit at least one Legal Services clinic in the District in a month in order to monitor the work being done.
7. If in the course of their activities at the Legal Services Clinics as provided under Claus 6 of this Scheme, students identify issues that affect large groups of people, they may file Social Justice Litigation in the name of their Legal services Clinic with the approval of the concerned Legal Services Institutions.
8. (a) Every University, law College or other institution shall provide in their annual budget for a specific sum of money as a grant to the Legal services Clinic

which may include any grant given to the Law College or institution by the UGC or by the University to which it is affiliated for the purposes of legal aid activities.

(b) The District legal Services Authority shall also regularly provide such monthly sums not more than Rs.10000/-, and as may be fixed by the State Legal Services Authority, for the running of the Legal Services Clinic.

(c) The Legal Services Clinic may receive donations from individuals or from other bodies. Such donations shall be received only by the of the Law Colleges or other institutions for which receipts shall be issued. The donations so received can be used not only for meeting the expenses of running the Legal Services Clinic but also for its infrastructural development.

(d) The Head of the college/university or other institutions where the Legal Services Clinic is functioning shall furnish and utilization certificate signed by him at the end of every financial year for the funds received from the District Legal Services Authority.

(e) The Head of the university, college or other institution shall maintain proper and audited accounts of the funds receive and spent in respect of the Legal Services Clinic.

(f) The District Legal Services Authority shall have the power to inspect the accounts of the collegiate Legal Services Clinic functioning in the colleges, universities and other institution

9. Every Legal Services Clinic shall maintain records, of including the attendance of students, as required under Regulation 20 of the National Legal Services Authority (Legal Aid Clinics) Regulations, 2011.

10. The District Legal Services Authority may provide staff and infrastructural support as may be feasible including computers and the stationery required by the Legal Services Clinic for its day to day functioning.

11. The District Legal Services Authority shall send half yearly reports on the functioning of the Legal Services Clinics under its jurisdiction to the State Legal Services Authority.

12. The State Legal Services authority shall conduct a half-yearly review of activities in the Legal Service Clinics in the law colleges and universities and other institutions by inviting the Heads of the institutions, or his/her representatives and a representative of the students from each clinic. At these Meets, good work done may be appreciated and commendation certificates given to the best Legal Services Clinic.

13. The State Legal Services Authority shall furnish the details of the working of the Legal Services Clinics in the prescribed format to the National Legal Services Authority on yearly basis.

**NALSA (VICTIMS OF TRAFFICKING AND
COMMERCIAL SEXUAL EXPLOITATION)
SCHEME, 2015**

NALSA (Victims of Trafficking and Commercial Sexual Exploitation) Scheme, 2015

BACKGROUND

Under Section 4 (b) of the Legal Services Authorities Act, 1987, the “Central Authority”, i.e. the National Legal Services Authority, has been obligated to “frame the most effective and economical schemes for the purpose of making legal services available under the provisions” of the Act. The Preamble of the Legal Services Authorities Act, 1987, underscores that the legal services authorities are concerned with the weaker sections of the society and imposes a duty on them to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.

There can be no doubt that victims of commercial sexual exploitation, whether trafficked or voluntary sex workers are by far a highly marginalized group. Their rights are forgotten; their conditions of life and living are not anybody’s concern; what happens to them and their children interest no-one. Yet they are all entitled to benefits of the various schemes of the government by the mere fact of who they are. By their much marginalized existence they are entitled to all benefits that accrue to them as are available to other marginalized sections of the society.

Victims of trafficking for commercial sexual exploitation face a great deal of trauma not just following such trafficking but also after their rescue. They need to be protected against the traffickers who would want them to come back or not pursue their case. There are also livelihood issues and if a viable alternative is not given, chances of being re-trafficked are high.

In the case filed by PRAJWALA, being Writ Petition (C) No.56 of 2004 the NALSA has given a report in the Supreme Court to take the following actions in respect of victims of trafficking for commercial Sexual Exploitation and sex workers:

“The role of the legal services authorities as set out in the preliminary report is reiterated as follows:

- (a) Provide legal assistance to the victims of trafficking and sexual exploitation at the time of rescue and thereafter during trial.
- (b) Facilitate the accessing of the District Legal Services Authorities (DLSAs) for award of victim compensation under Section 357A Cr.P.C.
- (C) To monitor and act as social auditors of the existing facilities available for rehabilitation of rescued victims of sexual exploitation and trafficking.
- (d) DLSAs can spread awareness in the community through the panel lawyers and para-legal volunteers about the issues of trafficking particularly in vulnerable areas and among vulnerable groups.

(e) The DLSAs can act as converging nodes to ensure that the government schemes meant for the marginalized actually reach them as such access to the government support does have a positive impact in preventing trafficking and falling prey to traffickers.

(f) Initiate steps to sensitize the corporate world to support rehabilitation measures for trafficked victims including skill building and employment under the head of CSR.

(g) SLSAs can also assist in the training and sensitization of stakeholders, like police, lawyers including legal services lawyers, prosecutors, government servants and the judiciary.

(h) SLSAs may also collaborate with the local educational institutions and civil society organizations and NGOs working in this field.”

The NALSA believes that it is necessary to draw up a scheme to give a framework for the legal services authorities at different levels to put into action the undertaking given to the Supreme Court. To that end the present Scheme has been drawn up. It is expected that the Legal services authorities at all levels would be able to render legal services effectively to these vulnerable people by following the present schemes.

NAME OF THE SCHEME

The Scheme shall be called **“NALSA (Victims of Trafficking and Commercial Sexual Exploitation) Scheme, 2015”**.

The objective of the Scheme is to provide legal services to address the concerns of victims of trafficking including women of all age groups and at every stage: ie prevention, rescue and rehabilitation.

The thrust of the Scheme is to provide economic and social pathways for these marginalized groups so that they are socially included and thus get all social protections available to an ordinary citizen. The interventions of the legal services authorities should be to ensure the protection of the dignity of the victims which is as much their fundamental right to a life as of any other citizen.

In order that the already marginalized voluntary sex workers are not excluded from the assistance of the legal services authorities, they are also considered victims of commercial sexual exploitation, apart from those children and adults who are trafficked for the purpose.

STRATEGY FOR LEGAL SERVICES TO THE VICTIMS

The strategy of the legal services must be guided by a 360 degree approach. Thus, children, young adults of whatever sex, adolescent girls, young women and older women should all be included in the action plan. The legal services authorities

must also develop an action plan for prevention, rescue and rehabilitation and not merely for one of these aspects. Further the legal services authorities must document each case and carry out a follow up at least for three years so that reintegration of the victim into the society is complete.

Enabling trafficked women to get their entitlements by completing all due diligence processes

The action plan must be to use the existing welfare schemes of the Government, both central as well as the state, with a life-cycle approach to strengthen social security, social development and welfare in order to cover prevention of trafficking and rehabilitation of the victims. DLSA can request NGOs/CBOs to use tools such a micro planning and surveys to ascertain the demand for schemes and thereafter set up Help Desks across the district to facilitate registration for the schemes. Simultaneously the victims/community members could be motivated and educated about how to apply for schemes they wish to enroll or register for.

The DLSA, with the support of the concerned department could facilitate the applicant to fulfill the procedures stipulated under each scheme and comply with all the due diligence processes. This would include enabling the applicant to get the supportive documents that are required to be furnished in order to establish eligibility for the benefits under a scheme, such as getting proof of residence, age certificate, nativity certificate, incomplete certificate, etc. Once all the due diligence is over and the scheme sanctioned, DLSA should provide support to the community till the scheme gets delivered or the benefit reaches the beneficiary.

The Available Schemes

- 1. ICDS or Childcare development –0-6 years, pregnant women and lactating mothers (as care givers)**
- 2. Food security or ration cards**
- 3. Social security or Pension for the elderly women**
- 4. Educational schemes including midday meal, bridge schools, residential schools of Sarva Shiksha Abhiyan, Sabala; scholarships for the primary, secondary and higher education from Social Welfare Department for adolescents and specifically girls**
- 5. Livelihood- Skill Development, Financial Inclusion, Micro Enterprise- from SC/ST/BC/Minority and Women’s Development Corporation and CSR funds from government and public sector undertakings**
- 6. Housing or Subsidy for Construction and Land Pattas from Urban Development, Housing Corporation**

7. **Universal entitlements- Jan Dhan, Aadhar, Voter Card SHG membership**
8. **Legal aid schemes- Legal Literacy, Para Legal Volunteers, Legal Services clinics to ensure free legal aid and protection**

Role of LSAs

The most important role of the SLSAs/DLSAs is to maintain convergence oversight. While the administrative convergence for all the schemes no doubt will be under the District Collector, the protection convergence will have to be overseen by the SLSAs and the DLSAs. To converge social and legal protection for marginalized women SLSAs and DLSAs will provide the oversight on the process of convergence by bringing together the administrative convergence provided by the District Collector and those generated by the structures or community organizations that are facilitating the process on the ground and are rooted in the community and its realities and have played significant roles in preventing HIV, trafficking and violence against women and girls. In this background, the role of the SLSAs/DLSAs would be in:

Bridging the Gap- between all departments and trafficked women, women in sex work and those vulnerable to trafficking and extreme violence

Enhancing Engagement- Scheme Education Drive Organized by DLSA bringing together Community organizations and its members and government-department-district and sub-district administration

Facilitating Participation and Ownership- Led by DLSA in collaboration with community organizations through community meetings and camps

Sensitization- Enabling all departments and institutions to learn about dynamics of community, remove misconceptions

Strengthening Accountability –Through an MIS capturing all processes from identifying entitlement holder to scheme delivery.

Forging Partnerships – At the more micro level the collaborations will be with Community Organizations and NGOs working with sex workers and victims of trafficking and sexual exploitation. They will facilitate the process of reaching out to the many hidden members of the community and shape the process of community mobilization.

At the meso level, the partnership should be with and between district administrative mechanisms such as Department of Women and Child Development (especially Child Protection/Welfare Committees and Anti Human Trafficking Units) and the DLSA. This will highlight initiatives at the ground level with the community or beneficiaries.

The third level of partnership will be at the macro level with the Department of Women and Child which implements many schemes for victims of trafficking and also runs shelter homes for those rescued; Ministry of Home Affairs, Ministry of Social Justice and Empowerment and Rural Livelihood Mission which also has the mandate of prevention of human trafficking and will be vital partner to strengthen protection and safety nets to the beneficiaries.

Action Plan

The first step that the DLSA should take is to reach out to the Non-Governmental Organizations and Community Based Organizations (CBOs) working in the field. To do this, the SLSAs must contact the UNICEF or UNODC. State Agencies such as Department of Women and Child, Rural Livelihood Missions. They must also seek the assistance of the National Aids Control Organization (NACO) and the State and District Aids Control Societies (SACS & DACS). Thus, the SLSAs/DLSAs would be able to obtain information about trafficking as well as sex workers.

The second step would be to catalyze inter departmental convergence both at the State and further down to the district level so that an all inclusive and comprehensive response from all concerned departments and stakeholders emerges and essential inter-sectoral linkages, processes and mechanisms get established.

Trafficking: As regards trafficking, from the Anti Human Trafficking units in the State and with the help of the NGOs/CBOs, the DLSA should map out the vulnerable areas and the vulnerable populations within its jurisdiction. Then preventive strategies can be put into motion. These would be spreading information about schemes and connecting the vulnerable people to such schemes so that they benefit from them. This would also include spreading awareness about the law and about the dangers posed by prospective traffickers. The children and adolescent children could be made aware of the dangers of strangers befriending them and the parents cautioned about the falsity of promises made to them of better education for their children in cities. Young adults could similarly be warned about false promises of jobs and better lives.

The SLSAs/DLSAs should create a team of panel lawyers and social workers to spread awareness about the welfare schemes of the government. The PLVs should be used to ensure that all the due diligence processes including eligibility documents and proofs are collected to enable the vulnerable communities to access the various schemes. The DLSA should use their PLVs and their offices wherever necessary to interact with the Administrative heads such as the District Collector or Chief Secretary to ensure the final realization of the scheme.

The PLVs attached to or assigned to a police station in compliance of the orders of the Supreme Court of India to handle cases of missing children should be given special training by the SLSAs/DLSAs to sensitize them on children's issues as well as trafficking issues, so that they are responsive. These PLVs must inform the

SLSAs/DLSAs whenever such a case of trafficking is reported or arrest of a sex worker occurs at the police station.

Sex Workers: One method of understanding community needs is to organize meetings between the Member Secretary SLSA or Full Time Secretary DLSA and the community leaders where the community leaders can explain the difficulties they face in accessing social entitlements especially the social security schemes such as widow and old age pension schemes even though they fall under eligible category.

The other method is to organize public hearings where community members would “depose”, or in other words relate their experience with governance at all levels. The “jury” should be made up of DLSA Chairperson and/or Full time Secretary, other judicial officers wherever possible, high government functionaries such as DC, Principal Secretaries or Chief Secretaries, police officers and protection officers. The SLSAs/DLSAs should also involve senior advocates and panel lawyers in such programmes.

After the deposition the Member Secretary/Secretary as the case may be or the panel advocate should explain to the community about the legal services available in the Legal Services Authority and encourage them to file complaints and seek free legal aid whenever their rights are infringed or they have a legal problem such as inheritance etc. The Legal Services Authority can enable the target groups to redress the violence and harassment they face in their day to day life. In cases of violence from partners or husbands, the DLSA along with Protection Officers can provide legal aid and counselling services.

The DLSAs can accredit Para Legal Volunteers drawn from the community and train them as per the NALSA module. These PLVs can then act as the front line workers of the Authority as far as the community is concerned. The effort must be to ensure “saturation coverage” by having representation from all the blocks of the district and ultimately the entire State.

Once again, the DLSAs should assess the need for schemes in the community and facilitate the access of the community to the various welfare schemes of the government in the manner as mentioned hereinbefore.

Prevention: While ensuring the implementation of government welfare schemes, the SLSAs/DLSAs should pay attention to the structure already available under the Integrated Child Protection Scheme, particularly the setting up of the Village Level Child Protection Committees (VLCPC). These committees are made up of Panchayat members, school teachers, students and parents from the community. Special awareness programmes should be organized for the VLCPC to keep a watch on the children in the village. The teachers should be sensitized to keep a watch for children missing from school and report them, so that further enquiries about their well being are promptly made.

A similar awareness and sensitization programme should be organized for the Anganwadi and Health workers for younger children and adolescent girls. Again, the

SLSAs/DLSAs must ensure that children remaining absent are followed up and reported immediately.

PLVs drawn from the VLCPCs and Anganwadis as well as teachers should be trained with special emphasis on the issues of trafficking and sexual exploitation. The work of these PLVs must be closely monitored. At the same time these PLVs must be given effective mentors and support so that any incident reported is given full and complete attention by the SLSA/DLSA concerned.

Student Legal Literacy Clubs should be encouraged to write about and talk and discuss about trafficking issues. These clubs could play the role of peer educators about the dangers of growing up and how to keep oneself safe.

The SLSAs/DLSAs should strengthen groups who are working to prevent child marriages and empowerment of women. Many times, child and forced marriages are a prelude to trafficking for sexual exploitation. Apart from spreading awareness student groups should be formed in vulnerable areas and communities to report on child marriages and initiate preventive action.

While dealing with women already in sex work, the SLSAs/DLSAs should focus on the livelihood alternatives to help these women come out of the profession and prevent their children entering it. Women could be encouraged to save money and channelize the money into entrepreneurship which would ensure their social recognition and assimilation. The SLSAs/DLSAs should help the women to protect themselves from domestic violence and provide legal assistance to follow up court cases. They should help these women access all government schemes as mentioned above.

Strategies of prevention and protection of victims of trafficking implemented by the Rural Livelihood Missions should also be understood and explored so as to replicate some of the successful methods and establish collaborative efforts.

Rescue and Rehabilitation: The protocol for the One Stop Crisis Centre would no doubt be available for the rescued victims of trafficking. Apart from ensuring compliance of the directions of the Supreme Court in Prajwala's case, the SLSAs/DLSAs must also follow up with the rehabilitation of the victim chiefly through access to government schemes to provide a stable alternate livelihood for the victims. The DLSAs should ensure that panel lawyers and PLVs help the victims to get their FIR registered and are present during remand proceedings to oppose bail etc. The Panel lawyers should obtain court orders for protection of witnesses wherever necessary and to counsel the victims before deposition and be present during trial including recording of the statement of the victim. The panel lawyers and PLVs should also help the victim to apply to the DLSAs for release of compensation under the Victims Compensation Scheme and also to access other welfare schemes of the Govt. meant for the rehabilitation of such victims.

Management Information Systems: The SLSAs and DLSAs will have to develop a sound MIS so that every activity under this scheme is recorded, followed up and

assessed. Similarly, the assistance of the PLVs and the Panel lawyers given to the victims will have to be recorded and monitored closely by the Secretary DLSA. Where the DLSA has facilitated the rehabilitation, there must be a tracking of the person for at least three years so that the rehabilitation is complete and there is no danger of re-trafficking.

Transgenders: The provisions of this scheme will be applicable to all Transgenders as well.

**NALSA (LEGAL SERVICES TO THE
WORKERS IN THE UNORGANIZED
SECTOR) SCHEME, 2015**

NALSA (Legal Services to the Workers in the Unorganized Sector) Scheme, 2015

1. Background

1.1 One of the major characteristics of the Indian economy is the contribution of a vast majority of labour employed in the unorganized sector. The economic survey of India (2007-2008) and National Sample Survey Unorganized sector (2009-2010) have estimated the employment in this sector at about 93-94% of the total workforce. Its contribution to the GDP is estimated to be more than 50%.

1.2 Majority of unorganized workers (about 52 per cent) are employed in agriculture. Other major categories include construction workers, workers in small enterprises, workers employed through contractors even in large enterprises, artisans/craftsman, home based workers, workers depending upon forest produce, fisheries, self-employed workers like rickshaw pullers, auto drivers, coolies etc.

1.3 The distinguishing feature of the unorganized sector is non-applicability of most of the labour laws and other regulations providing for decent working conditions, job security and social security to the workers. The unorganized workers lack collective bargaining power and are therefore susceptible to excessive exploitation. They work under poor working conditions and receive far lower wages/remuneration as compared to the organized sector, even for comparable jobs. Most of the employment in this sector is seasonal and the workers therefore have no job guarantee. This also leads to large scale migration of workers from one place to another leading to un-stability of work and residence which further often leads to discontinuity of the education of their children. In cities, they live in slums without proper housing and sanitation. Health care and maternity benefits which are statutorily available in the organized sector are not available for them. The legislations providing for social securities for old-age, health-care and assistance in the event of death, marriages and accidents etc. like the Workmen's Compensation Act, 1923; Employees State Insurance Act, 1948; Maternity Benefits Act, 1961; Industrial Disputes Act, 1974; Payment of Gratuity Act, 1972; Employees Provident Fund and Miscellaneous Provisions Act, 1952 etc., do not apply to them. The combined effect to the above factors is that many of them are generally, forced to lead an undignified and servile life.

1.4 Existing Legal Frame Work

Although there are a large number of categories of employment in the unorganized sector, legislation providing for working conditions etc., have been enacted only in respect of few categories like:-

- Dock Workers (Regulation of Employment) Act, 1948;
- Beedi and Cigar Workers (Conditions of Employment) Act, 1966;
- Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979;
- Cine-Workers and Cinema Theatre Workers (Regulation of Employment) Rules, 1984;
- Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996;
- Prohibition of Employment As Manual Scavengers And Their Rehabilitation Act, 2013.

1.5 In order to provide for social security to all categories of unorganized workers, the Central Government has also enacted an umbrella legislation by the name of Unorganized Workers Social Security Act, 2008. Various social security schemes have been/are required to be floated for the benefit of the workers under the Building and Construction Workers Act, 1996 and Unorganized Workers Security Act, 2008.

2. Scheme for providing legal services.

2.1 The enactment of the few statues as mentioned herein above does not appear to have made any appreciable difference to the lives of the workers inter-alia, for the following reasons:-

- a) The Social Security Act, 2008 does not statutorily provide any mechanism to implement the schemes and there appears to be no sanction against a refusal of the concerned authorities to extend the benefits of the schemes to eligible workers.
- b) Very few States have constituted the Social Security Boards and have framed rules as envisaged under Section 14 of the Act. The result is that in many states, no welfare schemes are being administered and even where the schemes are in place, there is no effective monitoring. Similarly, all the states have not yet established the Building and other construction Workers Welfare Boards as mandated under the Building and other Construction Workers (Regulation and Conditions of Service) Act, 1996 and consequently, no schemes have been floated for these workers.
- c) Although cess is being collected by many states under Building and Other Construction Workers Welfare Cess Act 1966, utilization of cess amount for the benefit of the workers is abysmally low. This may be due to very low registration of workers and / or non extension of benefits even to the registered workers.

- d) The schemes and the benefits available thereunder are not being sufficiently publicized. Workers in the unorganized sector being generally uneducated and not unionized are mostly unaware of the schemes.
- e) Workers Facilitation Centres as envisaged under Section 19 of the Social Security Act 2008 have not been set up by any state.
- f) There is no responsibility of the employer/contractor to get their workers registered under any of the schemes. It is for the workers to apply for the same and they are unable to do so due to lack of awareness and complexity of the procedure.
- g) Separate registration is required for each scheme which makes it difficult for workers to avail benefits under all the schemes available to them in case of need.
- h) The registration under the scheme is generally non-portable and therefore, workers in the most of the categories being migrant workers are unable to avail the benefits and are therefore reluctant to register themselves under the scheme.

2.2 The Legal Services Institutions can play an important role in bridging the gap between the implementing authorities and target beneficiaries. With this object in view, the National Legal Services Authority had adopted the Scheme i.e. National Legal Services Authority (Legal Services to the workers in the Unorganized Sector) Scheme, 2010 in the meeting of the Central Authority of NALSA held on 08.12.2010.

2.3 However the magnitude of the problem and the fact that the benefits of the legislations are still elusive to the needy workers even after several years of their enactment has given rise to the need for more focused attention to this sector. The present revised scheme is meant to achieve this purpose.

The terms PLVs, Legal Services Clinics, Front Office, Panel Lawyers and Retainer Lawyers will mean the same as defined under the National Legal Services Authority (Free and Competent Legal Services) Regulations, 2010 and National Legal Services Authority (Legal Services Clinics) Regulations, 2011 and the NALSA Scheme for Para Legal Volunteers (Revised) and Module for the Orientation – Induction – Refresher Courses for PLV Training.

3. Name of the Scheme

The Scheme shall be called “**NALSA (Legal Services to the Workers in the Unorganized Sector) Scheme, 2015**”.

4. Objectives

1. To institutionalize essential legal services to all unorganized workers.

2. To get the gaps in legislation/implementation plugged through coordination with government authorities and by initiating public interest litigation.
3. To mobilize the machinery of the State Government and the District Administration to identify and register all unorganized workers in all categories and to extend the benefits of all governments schemes, as applicable to them.
4. To spread awareness among the employees regarding the statutory provisions and the need for providing decent working conditions, living wages and social security to the workers.
5. To disseminate information among the workers regarding their entitlements under the existing legislations and schemes.
6. To provide counseling and assistance to all categories of unorganized workers for their registration with the concerned authorities under the schemes available for their category.
7. To assist the workers in availing the benefits of the scheme for which they are registered as per their need/entitlements.

5. Guiding Principles

The following principles shall be borne in mind by all Legal Services Institutions while implementing the scheme for the unorganized workers:-

- 5.1 The Preamble of the Constitution of India assures equality of status and opportunity to all citizens and to promote among them fraternity, assuring the dignity of the individual. Article 42, mandates that the State shall make provision for securing just and humane conditions of work and for maternity relief. By virtue of Article 43, the State is obliged to secure to all workers, work, a living wage, condition of work ensuring a decent standard of life and full enjoyment of leisure, social and cultural opportunities.
- 5.2 The Preambular promise of upholding the dignity of the individual cannot be fulfilled unless the dignity of labour is ensured.
- 5.3 The unorganized sector is one of the marginalized sections of the society and they, as citizen of the country, are equally entitled to the right of work, just and humane conditions of work, living wages, maternity relief and a decent standard of work. It is the statutory mandate of the Legal Services Authorities to facilitate realization of this constitutional assurance. The Legal Services Authorities have to act as watchdogs against administrative inaction.
- 5.4 The welfare measures initiated by the Government in the form of legislations or schemes etc. require the intended beneficiaries or the victims to mobilize the

system for realization of their rights/entitlements. The workers in the unorganized sector belonging as they do to the deprived and vulnerable sections of the society do not possess the capacity to mobilize the system. It is the job of the Legal Services Authorities to provide them support in getting justice to their doorsteps.

- 5.5 The large number of categories of the unorganized workers, large population in each category and their vast geographical spread necessitates a project-approach to the issue of providing legal services to them. An institutionalized setup, committed work force and sustained efforts for a considerable period of time are required to be able to make them capable of realizing their constitutional rights.

Plan of Action

6. Setting up of Special Cells

- 6.1 In order to provide effective legal services to the workers in this sector, each State Legal Services Authorities (SLSAs) shall constitute a special cell focusing exclusively on these services. The cell shall, be manned by one panel lawyer specializing in Labour Laws, one counselor/consultant having requisite qualification/experience in relevant field, wherever feasible, representative of an NGO doing demonstrably good work in the area and such number of Para Legal Volunteers, as the SLSA may prescribe.
- 6.2 The functions of the special cell shall be:
- i) to organize and conduct Legal Awareness/Literacy programmes, training programmes and seminars for unorganized workers;
 - ii) to co-ordinate with government authorities in relation with registration and extension of the benefits of the schemes to the unorganized workers;
 - iii) to facilitate and provide assistance in filing, processing and furnishing application form for registration and in availing benefits of the schemes to the unorganized workers;
 - iv) to provide legal assistance and legal aid to the unorganized workers in respect of any claim or defence before any court or other authority;
 - v) any other function that the State Authority may prescribe for them.
- 6.3 The special cell shall work under the guidance of the Member Secretary or any other officer of the Authority, as nominated by the State Authority, and shall file periodic reports of the progress of its assigned duties with him.
- 6.4 The members of the cell shall be paid honorarium for each of the duties at such rates, as may be fixed by the State Authority.

7. Identification of Unorganized Workers

- 7.1 The first job for the Legal Services Institutions is to identify the categories and population of unorganized workers operating in their respective areas, by seeking the data available with the Labour Department/Social Welfare Department of the State and if necessary, conducting surveys either themselves or in collaboration with law students and NGOs operating in the area.
- 7.2 In the process of identification, special efforts should also be made to identify any child labour or bonded labour and in case any workers in the said prohibited categories are found, the Legal Services Authorities shall inform the concerned authorities and facilitate their rescue, release and rehabilitation, as provided under the Bonded Labour System (Abolition) Act 1976, The Child Labour (Prohibition and Regulation) Act, 1986 and Juvenile Justice Act, 2000.
- 7.3 The State Authority may fix timelines for identification of all categories depending upon the area, population and other relevant factors in each state.

8. Conditions of work and minimum wages

The State and District Legal Services Authorities shall, in collaboration with the State and District Administration and local NGOs, assess the need of statutory regulation of conditions of work and minimum wages etc., for the categories of Unorganized Workers particularly, of Domestic Workers and if found necessary, the State Legal Services Authority shall take the requisite steps to get the same notified.

9. Setting up of State Social Security Board and Building & Other Construction Workers Welfare Boards

Wherever the Social Security Board and Building & Other Construction Workers Welfare Boards have yet not been set up, the State Legal Services Authorities shall coordinate with the State Government and, if necessary, institute, with the approval of the Hon'ble Executive Chairman, SLSA, Public Interest Litigation in the respective High Courts for getting these boards set up, as soon as possible.

10 Utilization of Cess

State Legal Services Authorities shall coordinate with the Building and Construction Workers Welfare Boards to ensure that the cess collected by them does not keep lying in fixed deposits and is actually utilized for the benefit of the needy workers as per the schemes available. The State Authorities shall seek relevant information from the boards, encourage the workers to apply for the benefits and then, coordinate with the boards to provide the said benefits.

In case of denial of due benefits to any worker, legal remedies can be prosecuted on his behalf by the State Legal Services Authority through the Special Cell for Unorganized Workers.

11 Government Schemes under the statutes

Legal Services Authorities shall move the State Governments to notify the schemes relevant to the category of unorganized sector operating in the States. This also, if necessary, can be achieved through institution of Public Interest Cases, with the approval of the Hon'ble Executive Chairman.

12 Legal Awareness

- 12.1 After identification of the unorganized workers in each category, legal awareness programmes may be organized about the different schemes and social security measures available for such categories. The special cells for unorganized workers shall organize legal literacy camps for this purpose preferably, at their place of work itself or at community centres etc.
- 12.2 All State Legal Services Authorities shall publish booklets/pamphlets containing the details of the available schemes, their eligibility criteria and procedure for registration for obtaining the benefits as per the requirements of the workers. Copies of the booklets/pamphlets shall be kept available in all front offices, Legal Services Clinics and the place of sitting of the Special Cell and shall be distributed in the legal awareness/literacy programmes.
- 12.3 Information regarding the abovesaid details should also be disseminated through Doordarshan, All India Radio and Community Radio.
- 12.4 The Labour and Social Welfare Departments of the State should be requested to display the telephone numbers and helpline numbers of the Legal Services Institutions and the members of the Special Cell.

13 Specialized Training for PLVs

State Legal Services Authorities shall conduct specialized training programmes for the paralegal volunteers focusing on the needs of the particular categories of Unorganized Workers as are operating in that area and the benefits which they can avail from the government schemes. PLVs should be trained inter-alia to educate the workers, help them identify the benefits they should seek and to liaise with the Authorities for making the said benefits available to the needy workers.

14 Workers Facilitation Centres

State Legal Services Authorities shall coordinate with the Labour Departments of the State for setting up of worker's facilitation centres as envisaged under Section 9 of the 2008 Act. They may also set up legal services

clinics manned by specially trained PLVs/NGOs, to be attached to such centres.

15 Decent Working Conditions

Some of the Statutes like the Building and Other Construction Workers (Conditions of Service) Act and Beedi and Cigar Workers Conditions of Employment Act have provisions to regulate the minimum working conditions for all workers employed in the said sectors. Even in other sectors where the statutory provisions are not available, the requirements of having proper wages and humane work conditions cannot be over emphasized.

State Legal Services Authorities may launch campaigns, in collaboration with law students and suitable NGOs to ensure that the employers provide decent conditions of work to the unorganized sector workers, abiding by all the statutory provisions laid down for this purpose.

16 Seminars for Employers

State Legal Services Authority and the Special Cell for unorganized sector shall organize seminars/colloquia for making employers aware of their statutory duties and the need to fulfill the genuine requirements of the workers.

17 Rehabilitation Schemes

Certain statutes provide for rehabilitation of workers like in Section 13 of the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013. State Legal Services Authorities shall coordinate with the concerned State Authorities either themselves or through coordinating with NGOs to frame rehabilitation schemes for the erstwhile manual scavengers as per the provisions of the said Acts.

18 Legal Assistance and Legal Representation

The special cell for Unorganized Workers shall provide counseling legal assistance and legal aid by way of legal representation before any court or other authority, as required, to all Unorganized Workers.

**NALSA (CHILD FRIENDLY LEGAL SERVICES
TO CHILDREN AND THEIR PROTECTION)
SCHEME, 2015**

**NALSA (Child Friendly Legal Services to Children and their Protection)
Scheme, 2015**

1. Introduction and Background

“It cannot be questioned that children are amongst the most vulnerable sections in any society. They represent almost one-third of the world’s population, and unless they are provided with proper opportunities, the opportunity of making them grow into responsible citizens of tomorrow will slip out of the hands of the present generation.....” The said observation made in **Salil Bali Vs. Union of India (UOI and Anr, 2013VII AD (S.C.)** by Supreme Court goes on to show that it is our obligation to the young generation to open up all opportunities including the legal services for every child to unfold its personality and rise to its full stature, physical, mental, moral and spiritual.

2. International Commitments

- 2.1 While adopting the declaration of the Rights of the Child on 20th November, 1959, the General assembly of the United Nations laid down ten principles designed to enable children, irrespective of race, colour, sex, language, religion or origin, to develop physically, mentally, morally, spiritually and socially in a healthy and normal manner and in conditions of freedom and dignity.
- 2.2 The United Nations standard minimum rules for the administration of Juvenile Justice (“The Beijing Rules,” 1985) call on states to ensure that throughout the proceedings the Juvenile shall have the right to be represented by a Legal Advisor or to apply for free legal aid where there is provision for such aid in the Country.
- 2.3 The United Nations Convention on the Rights of the Child (UNCRC) is a comprehensive, internationally binding agreement on the rights of children, adopted by the UN General Assembly in 1989. The purpose of the UNCRC is to outline the basic human rights that should be afforded to children. There are four broad classifications of these rights. These four categories cover all civil, political, social, economic and cultural rights of every child which are as follows:-
- (a) Survival rights: include the child’s right to life and the needs that are most basic to existence, such as nutrition, shelter, an adequate living standard, and access to medical services
 - (b) Development rights: include the right to education, play, leisure, cultural activities, access to information and freedom of thought, conscience and religion.

- (c) Protection rights: ensure children are safeguarded against all forms of abuse, neglect and exploitation, including special care for refugee children; safeguards for children in the criminal justice system; protection for children in employment; protection and rehabilitation for children who have suffered exploitation or abuse of any kind.
- (d) Participation rights: encompass children's freedom to express opinions, to have a say in matters affecting their own lives, to join associations and to assemble peacefully. As their abilities develop, children are to have increasing opportunities to participate in the activities of their society, in preparation for responsible adulthood.

3. Constitutional Assurances

3.1 The framers of our constitution were well aware of the fact that the development of the nation can be achieved by the development of the children of the nation & it is necessary to protect the children from exploitation as well. The Indian constitution accords rights to children as citizens of the country, and in keeping with their special status the State has even enacted special laws. The Constitution promulgated in 1950, encompasses most rights included in the UN Convention on the Rights of the Child as Fundamental Rights and Directive Principles of State Policy.

3.2 It is the constitutional right of every citizen under Article 22 of Constitution of India to be defended by a legal practitioner of his choice. One of the fundamental principles to be followed in the administration of Juvenile Justice is ensuring Legal Services at the State expenses. It is a mandatory duty of Legal Services Authority that free legal aid services be made available to every Juvenile.

The following are the provisions of the Indian Constitution relating to children;

- (a) Article 14 provides that the State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.
- (b) Article 15(3) provides that nothing in this Article shall prevent the State from making any special provision for women and children.
- (c) Article 21 provides that no person shall be deprived of his life or personal liberty except according to procedure established by law.
- (d) Article 21A provides that the State provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine.

- (e) Article 23(1) provides that traffic in human beings and beggar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.
- (f) Article 24 provides that no child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment.
- (g) Article 29(2) provides that no citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them.
- (h) Article 39(e) provides that the state shall, in particular, direct its policy towards securing that the health and strength of workers, men and women, and the other and the tender age of children are not abused and that citizens are not forced by economic necessity to under avocations unsuited to their age or strength.
- (i) Article 39(f) provides that the state shall, in particular, direct its policy towards securing that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.
- (j) Article 45 provides that the State shall endeavour to provide early childhood care and education for all children until they complete the age of six years.
- (k) Article 47 provides that the State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties.
- (l) Article 51A(k) provides that it shall be the duty of every citizen of India who is a parent or guardian to provide opportunities for education to his child or, as the case may be, ward between the age of six to fourteen years.

4. Other Legislations

Apart from the Constitution there are a number of legislations which deals with children. The following are some of them:

- (a) The Guardian and Wards Act 1890

This Act deals with the qualifications, appointment & removal of guardians of children by the courts & is applicable to all children irrespective of their religion.

(b) The Child Labour (Prohibition and Regulation) Act 1986

This Act came into force to prohibit the engagement of children in certain employments and to improve the conditions of work of children in certain other employments. Under the Act “Child” means a person who has not completed his fourteenth year of age. The Act is intended to ban the employment of children i.e., those who have not completed their 14 years in specified occupations and processes.

(c) The Pre-Natal Diagnostic Technique (Regulation and Prevention of Misuse) Act 1994

This Act provides for the regulation of the use of pre-natal diagnostic techniques for the purpose of detecting genetic or metabolic or chromosomal abnormalities or certain congenital malformation or sex-linked disorders & for the prevention of the misuse of such techniques for the purpose of pre-natal sex determination leading to female foeticide.

(d) JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2000

This Act deals with the law relating to juveniles in conflict with law & children in need of care & protection, by providing for proper care, protection & treatment by catering to their development needs & by adopting a child-friendly approach in the adjudication & disposition of matters in the best interest of children & for their ultimate rehabilitation through various institutions established under the Act.

(e) THE COMMISSIONS FOR PROTECTION OF CHILD RIGHTS ACT, 2005

This Act provides for the constitution of a National Commission and State Commissioners for Protection of Child Rights and Children’s Courts for providing speedy trial of offences against children or of violation of child rights and for matters connected therewith or incidental thereto.

(f) THE PROHIBITION OF CHILD MARRIAGE ACT, 2006

This Act restrains the solemnization of child marriages by laying down the minimum age for both boys & girls. According to Section 2(a) of the Prohibition of Child Marriage Act, 2006 a “child” means a person who, if a male, has not completed twenty-one years of age, and if female, has not completed eighteen years of age.

(g) THE RIGHT OF CHILDREN TO FREE AND COMPULSORY EDUCATION ACT, 2009

Article 21A of the Constitution, provides that the State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine. Parliament has made the law contemplated by Article 21A by enacting the Right of Children to Free and Compulsory Education Act, 2009. This Act provides for free and compulsory education to all children of the age of six to fourteen years.

(h) THE PROTECTION OF CHILDREN FROM SEXUAL OFFENCES ACT, 2012

An Act to protect children from offences of sexual assault, sexual harassment and pornography and provide for establishment of Special Courts for trial of such offences and for matters connected therewith or incidental thereto.

5. Entitlement to Legal Services

5.1 Children are the beneficiaries of legal services under the Legal Services Authorities Act, 1987. The Act was enacted to constitute legal services authorities for providing 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.

5.2 Under Section 12(c) of Legal Services Authorities Act, 1987 a child who has to file or defend a case is entitled to legal services. Therefore, it is the duty of various State Legal Service Institutions to provide free legal aid to juvenile in conflict with law and work towards speedy disposal of cases.

5.3 In this background, the Scheme has been drawn up for the legal services institutions (State Legal Services Authorities, District Legal Services Authorities, Taluk Legal Services Committees, High Court Legal Service Committees, Supreme Court Legal Services Committee) to be followed while they deal with legal services to the children.

6. Name of the Scheme

This Scheme Shall be called “**NALSA (Child Friendly Legal Services to Children and their Protection) Scheme, 2015**”.

7. Definitions

In this scheme unless the context otherwise requires,

- a) “Act” means the Legal Services Authorities Act, 1987 (39 of 1987).
- b) “JJ Act” means The Juvenile Justice (Care and Protection of Children) Act, 2000 (56 of 2000).

- c) “JJ rules” means Juvenile Justice (Care and Protection of Children) Rules, 2007.
- d) “Legal Service” has the same meaning as defined under Section 2 (c) of Legal Services Authorities Act, 1987.
- e) Legal Services Clinic means a clinic as defined under regulation 2 (C) of National Legal Services Authority (Legal Services Clinics) Regulations, 2011.
- f) Legal Services Institution means a State Legal Service Authority, Supreme Court Legal Service Committee, High Court Legal Services Committee, District Legal Service Authority or Taluk Legal Service Committee, as the case may be.
- g) Panel Lawyer means the panel lawyer selected under Regulation 8 of the National Legal Service Authority (Free and Competent Legal Services) Regulations 2010.
- h) Para Legal Volunteers means a Para Legal Volunteer defined and trained under the NALSA Scheme for Para Legal Volunteers (Revised) and Module for the Orientation – Induction – Refresher Courses for PLV Training and engaged as such by a legal services institution.
- i) All other words and expressions used but not defined in this Scheme and defined in the Legal Services Authorities Act, 1987 (39 of 1987) or the National Legal Services Authorities Rules, 1995 or National Legal Services (Free and Competent Legal Services) Regulations, 2010 shall have the same meaning respectively assigned to them in the said Act or Rules or Regulations.

8. Objective

- 8.1 In Delhi, 16-year-old ‘X’ is accused of stealing a cell phone. In Mumbai, 12-year-old ‘Y’ is the victim of sexual abuse. In Calcutta, 10-year-old ‘Z’'s parents are fighting over his custody. In Chennai, 13-year-old ‘S’ was rescued from a factory who found to be trafficked. Everyday children such as these come in contact with the justice system, where formal and informal justice providers make decisions that have the potential to influence the future course of their lives. What rights do these children have when they come in contact with the law? Are they entitled to any type of legal assistance? If so, how might those services best be made available and actually reach children in crisis or in need? How can legal services be made “child-friendly” given logistical and financial limitations? And how does the concept of child-friendly justice play out in informal justice systems? The purpose of this Scheme is to suggest a conceptual and practical framework for addressing these questions, with

the ultimate goal to provide children with meaningful, effective affordable and age-appropriate legal assistance “on the ground”.

8.2 The Main objectives of the Scheme are:-

- i) To outline the basic rights and benefits that should be afforded to children.
- ii) To ensure legal representation to the children in need of care and protection and children in conflict with law at all levels;
- iii) To strengthen legal services, institutional care, counseling and support services at the national, state, district and Taluka levels;
- iv) To create an environment in the Juvenile justice system in which children are valued, encouraged and affirmed and have their rights respected and are treated as individuals.
- v) To enhance capacities at all levels, of all functionaries including, PLVs, Panel Lawyers, counselors, service providers, NGOs, local bodies, police, judiciary and other concerned departments of State Governments, to undertake responsibilities for providing child friendly legal services;
- vi) To ensure that mandatory authorities and institutions, like JJBs, CWCs, other welfare committees, observation and shelter homes, psychiatric hospital or psychiatric nursing home, commissions boards, office of probation officers etc. under various child friendly legislations have been set up;
- vii) To have database of all the existing central or state schemes, policies, regulations, SOPs, police directives, conventions, rules, declarations, comments, and reports etc. available for child welfare and protection;
- viii) To organize awareness programmes to educate public at large including all stakeholders i.e. PLVs, Panel Lawyers, member of JJBs and CWCs, welfare officers, counselors, probation officers, police, public prosecutor, judicial officers, care takers of various homes, educational and medical institutions etc., on child rights and their protection on available child protection services, schemes and structures at all levels;
- ix) To undertake and organize training, orientation and sensitization programs, for senior police officers, SJPU, JWOs, panel lawyers, PLVs member of JJBs and CWCs, welfare officers, counselors, probation officers, public prosecutor, judicial officers, care takers of various homes for their skill enhancement and for creating a sense of responsibility amongst them;
- x) To organize seminars, colloquia, workshops and conferences relating to law and schemes on child rights and allied fields.

- xi) To develop effective coordination and interface with all Govt. Bodies or functionaries, Institutions, Authorities, NGOs and other Organizations concerning or entrusted with the responsibilities relating to child rights;
- xii) To Undertake research and documentation to study the various schemes, laws etc. to find out the gap and then to make suggestions to the appropriate authorities;

9. The key principles that should be kept in mind by legal services institutions at all levels are:-

- 9.1 **Best interests of the child:-**Every child has the right to have his or her best interests given primary consideration while providing legal services to the children in need of care and protection and child in conflict with law.
- 9.2 **Welfare of the child:-** The welfare of children must always come first, regardless of all other considerations. Early intervention and support should be available to promote the welfare of the child.
- 9.3 **Right to dignity:-** Every child has the right to be treated with dignity and compassion and its worth is to be respected and protected.
- 9.4 **Right to equality and no discrimination:-**A child shall be treated without discrimination of any kind, irrespective of the child's cast, race, religion, beliefs, age, family status, culture, language, ethnicity, disabilities if any or place of birth.
- 9.5 **Principle of right to be heard:-**Every child has right to be informed, right to be heard and to express views and concerns freely.
- 9.6 **Principle of right to safety:-** Every child has right to safety at all stages and he or she shall not be subjected to any harm, abuse or neglect etc.
- 9.7 **Principle of confidentiality:-**The privacy of a child shall be protected by legal services institutions at all levels.

10. Plan of Action

- 10.1 Constitution of boards, committees, commissions, etc.
 - a) Under section 4 of JJ Act the State Government has been authorized to constitute Juvenile Justice Board in every district. SLSAs shall ensure that Juvenile Justice Board is established in each district separate from the regular court and where no such board has been set up, SLSA will take up the matter on urgent basis with State Government so that JJB is established in every district.

- b) Section 29 JJ Act allows the State Government to form Child Welfare Committees in relation to child in need of care in every district. Such committees will consist of a Chairperson and four other members appointed by the State Government including one woman. SLSAs shall ensure that Child Welfare Committees are established in each district and where no such committee has been set up, SLSA will take up the matter on urgent basis with State Government so that committee is established in every district.
- c) JJ Act contemplates constitution of Special Juvenile Police Unit (SJPU) to deal with Juvenile in conflict with law. In every police station at least one police officer specially instructed and trained is required to be designated as Juvenile/Child Welfare officer to deal with the Juvenile. (section 63, JJ Act and rule 11 of JJ Rules). SLSAs shall ensure that such Special Juvenile Police Unit has been established.
- d) SLSAs shall ensure that list of designated Juvenile Welfare Officers and members of SJPU's with contact details be prominently displayed in every police station in the state.
- e) Under section 62A of JJ Act, every state government shall constitute a child protection unit for the state and for every district to take up the matters relating to children in need of care and protection. SLSAs shall ensure that such child protection Unit has been established.
- f) Under section 17 of Commission for Protection of Child Rights Act 2005, State is under obligation to constitute State Commissioners. SLSAs shall ensure that such commission u/s 17 of Commission for protection of Child Rights Act 2005 has been constituted and working effectively. **(Re. Exploitation of Children in Orphanages in the State of Tamil Nadu Vs. Union of India (UOI) and Ors. (2014) 2SCC180).**
- g) Under section 16 of The Prohibition of Child Marriage Act, 2006, the State Government is authorized to appoint for the whole State, or such part thereof as may be, an officer or officers to be known as the Child Marriage Prohibition officer to prevent child marriage and to deal the matters connected thereto. SLSA shall take up the matter with state for appointment of the Child Marriage Prohibition Officer, wherever they have not been appointed.

10.2 Observation and Shelter Homes

- a) Juvenile in conflict with law are kept in a home and not in jail or lockup. There are two categories of homes for juveniles in conflict with law, namely observation homes and special homes. Juvenile is kept in the Observation Home pending inquiry against him by the Board and such home are to be established and maintained by the State Government in

every district or group of districts (section 8 of JJ Act r/w rule 16(1) of JJ rules).

- b) Similarly, special homes are to be set up in every district or group of district separately for boys and girls to house juveniles, if found guilty on conclusion of inquiry (section 9 of JJ Act r/w rule 16(1) of JJ Rules).
- c) Under section 34 of JJ Act, State Governments have been empowered to establish and maintain either by themselves or in association with voluntary organizations, children homes in every district or a group of districts for the reception of child in need of care and protection during the pendency of any inquiry and subsequently for their care, treatment, education, training, development and rehabilitation.
- d) SLSAs shall keep the updated record of as to how many institutions i.e. children homes, shelter homes and observation homes, either run by the State Governments or by Voluntary Organizations for Children in need care and protection or children in conflict with law are there in the state.
- e) All such homes or institutions run by the State Government or by Voluntary Organizations for Children in need care and protection have to be registered under the provisions of Section 34 of JJ Act, read with Rule 71 of the said Act.
- f) Any unregistered institutions for children in need of care and protection are there then they have to be shut down or taken over by the State Governments. **(Re. Exploitation of Children in Orphanages in the State of Tamil Nadu Vs. Union of India (UOI) and Ors. (2014)2 SCC 180)**. In this regard SLSAs shall take up the matter with the state government so that needful could be done in respect of unregistered institutions.
- g) SLSAs shall ensure that there are observation homes, shelter homes and child care homes in sufficient numbers registered with the government to house the juvenile in conflict with law and child in need of care and protection.
- h) Each SLSA shall constitute a committee namely “Observation and Children Home Committee” for every district in the state comprising of District Secretary as chairperson, one panel lawyer and probation officer as members. The committee so constituted shall formulate a calendar of its visit to each of home situated in the district at least once in a month.
- i) Broadly the functions of the committee would be to see that observation homes, special homes and children homes are child friendly and it should not look like a jail or lockup and should have a good quality of care and facilities. It should have sanitation and hygiene, clothing and bedding, meals and diet, medical and mental health care, tie up with

local primary health centre, maintaining the health record etc. if anything deficient is noted by the committee then SLSA will take up the matter with concerned authorities for necessary action at their end and shall follow up the matter.

10.3 Legal Services Clinics

- a) SLSAs shall set up Legal Services Clinic at every Juvenile Justice Board and Child Welfare Committee in each district in the state.
- b) Opening of Legal Services Clinic shall be communicated to all Government bodies, department including Police, NGOs along with relevant contact numbers and addresses of the clinics.
- c) PLV's shall be deputed in such clinics.
- d) SLSAs shall display the contact number and the other information of the clinic in its all offices at state, district and Taluka service level.
- e) The legal services clinics so established shall be governed by the National Legal Services Authority (Legal and clinics) regulation 2011 in respect of their functioning, infrastructural facilities, maintenance of record and register, visit of panel lawyers, deputing of PLVs and control over such clinic.
- f) All DLSAs shall set up legal literacy club in each of the schools in the District under the control of DLSA with co-ordination with the principals.

10.4 Legal Representations.

Statutory provisions

- a) Under section 12(1) (c) of the Act every child who has to file or defend a case is entitled to free legal services.
- b) The Board is to ensure free legal aid to all juvenile through State Legal Aid Services Authority or recognized voluntary legal services organizations or the University legal services clinics. (Rule 3.1 (d) (iii)r/w 14(2) of JJ Rules).
- c) The Legal Officer in the District Child Protection Unit and the State Legal Aid Services Authority shall extend free legal services to all the Juveniles. (Rule 14(3) of JJ Rules).
- d) Under section 40 of Protection of Children from Sexual Offences Act, 2005, the Legal Services Authority shall provide a lawyer to the family or the guardian of the child, if they are unable to afford a legal counsel.

Role of SLSAs

- a) To meet the requirement of law, SLSAs shall constitute a separate panel of trained and committed advocates to represent child/Juvenile before every forum i.e. JJBs, CWCs etc., so that meaningful and effective legal services could be provided at the ground level.
- b) SLSAs shall ensure that legal services provided to child or Juvenile is of high quality and that it is effective which requires competent and dedicated panel lawyers at JJB and CWC's.
- c) SLSAs shall supervise and monitor the working of panel lawyers and have mechanism of surprise check.
- d) The remuneration to the panel lawyer may be released on the basis of work done report countersigned by the JJB or CWCs wherever the panel lawyer is deputed.
- e) SLSA shall ensure an effective coordination between legal officer, panel lawyer and Legal Services clinic established at JJBs and CWCs so that every child is legally represented and provided free legal aid and other necessary support.

10.5 **Training and orientation programme**

- a) All SLSAs shall strictly adhere to various guidelines already issued by NALSA for training the designated juvenile/child welfare officers attached to every police station and the members of the special juvenile police unit and also for legal services in juvenile justice institutions in connection with the compliance of the order dated 12.10.2011 and 19.08.2011 of Hon'ble Supreme Court of India in **Sampurna Behrua V. Union of India & Ors.** in Writ Petition (C) No.473/2005).
- b) Every State Legal Services Authority shall coordinate with the head of the concerned Police Department to ensure that a Standing Order outlining the roles, responsibilities and functions of Special Juvenile Police Units and Juvenile/Child Welfare Officers is issued. Such Standing Order shall be based on the JJ Act, JJ Rules/the applicable Rules (If State Government has notified its own Juvenile Justice Rules) and the judgment of the Hon'ble Supreme Court in **Sheela Barse V. Union of India (1986 SCALE (2) 230); (1987)3SC50.** State Legal Services Authority shall render assistance in drafting and preparing such Standing Order. State Legal Services Authority shall also ensure that such Standing Order is translated into local language and is made available at all the Police Stations.
- c) In order to be effective, the concepts and potential of legal service to serve children must be communicated effectively. This requires that Legal Service

Provides, whether they are lawyers, PLVs, Police Officer or Judicial Officers require effective training in how to communicate with children.

- d) Children legal service providers, judicial officer, panel lawyers, police officers, JJB's, CWCs whether or not formally trained with the law, should receive on-going training in the areas of relevance to the rights of the children.
- e) To the extent possible, training in substantive legal concepts and applicable laws, regulations and rules as well as skills training in advocacy should be problem based and interactive.
- f) Law relating to Juveniles is comprised of constitutional provisions, legislations, schemes, reports, international convention, rules. The challenge is how to convey this information in meaningful way to those who are working on the ground on behalf of the children. Therefore, the training material for such functionaries should contain all important information which is necessary for solving the problem of children.

10.6 Legal Awareness

- a) All SLSAs shall publish booklets/pamphlets/legal service manual containing the details of the available schemes pertaining to the child rights. Copies of booklets/pamphlets/legal service manual shall be kept available in all front offices, legal services clinics, JJBs, CVCs, police stations etc.
- b) Information regarding the above details should also be disseminated through Doordarshan, All India Radio and Community Radio.
- c) All SLSAs shall spread awareness amongst the public about children rights and their protection in collaboration with educational institutions, State Commission for Protection of Child Rights, NGOs etc.
- d) Essay competitions, street play competitions, poster making competitions, painting competitions and even debate are other means of spreading awareness of child rights amongst school and college students.
- e) PLVs may be asked to create an effective outreach campaign through the distribution of posters using child appropriate messaging.
- f) In addition to informing individual children about their right to legal assistance, it is also important to engage in outreach to communities and public and private agencies as a way of building support for legal empowerment and an effective working relationship with Legal Service providers.
- g) Many children in need of legal service live in remote rural areas. As a result, the children often find it impossible to physically access legal services where they live. To overcome this barrier, SLSAs may take some initiative including

mobile clinic and one Stop Centre programmes offering a range of legal services to the children at the same location.

- h) DLSAs can take the services of PLVs deputed at each police station, in compliance of the direction in *Bachpan Bachao Aandolan vs Union of India* for conducting initial interviews and investigations, to provide counselling and to work as a link between the children and his or her family.
- (i) Each SLSA shall take up the matter with the State Government so that child rights could be included in the school curriculum of all schools to enable children to know their rights.
- (j) SLSAs shall spread awareness about the newly added provisions of section 357 A CrPC and any Victim Compensation Scheme of the State so that immediate compensation is released to the children.
- (k) Each SLSA shall develop directory on legal services which must be available ready with all key stake holders.
- (l) *Each SLSA shall organize intensive legal awareness campaigns at all levels about children's right to education as well as fundamental duties of parents to send their children to schools.*
- (m) There is a need for creating awareness about the availability of non-institutional services such as adoption, sponsorship and foster care for children.
- (n) SLSAs shall endeavour the accreditation of NGOs having sound credentials and involved in matters of children who are in need of care and protection.
- (o) *To initiate awareness programme that enable community mobilization and outreach to change social norms perception and attitudes and to educate the villagers and communities about the harm caused to children on account of child marriages especially on their health and personality and also on their future productivity.*
- (p) To have greater social community engagements through PLVs to prevent young girls from being coerced into early marriage
- (q) Each SLSA shall take up necessary step to solve the problem of Child Labour by working in villages with the help of PLVs to sensitize families about the long term benefits of education and to make them aware that child labour is not acceptable.
- (r) There should be awareness programme at all levels for the effective prohibition of all forms of labour for children upto 14 years of age and to effectively address the issues of trafficking of children.
- (s) Each SLSA should work together with the State Government for strengthening existing framework so that the promise of free and equality education to

children between the age of 6 and 14 can be implemented across the State.

- (t) Vulnerability to trafficking for Child Labour or destitution increases during disasters and natural calamities. Therefore, the core group constituted by the SLSAs under the NALSA scheme i.e “A Scheme For Legal Services To Disaster Victims Through Legal Services Authorities”, must ensure that all measures are taken to protect the rights of these children and for their welfare.
- (u) SLSAs must draw an action plan so that the problem of Child Labour is systematically eliminated from the society.
- (v) To eliminate the menace of child labour and to effectuate the mandate of the Constitution, Supreme Court had given a large number of mandatory directions in *M.C. Mehta v. State of Tamil Nadu* reported as (1996) 6 SCC 756. One of the important directions was to direct an employer to pay a compensation of Rs. 20,000/- for having employed a child below the age of 14 years in hazardous work in contravention of Child Labour (Prohibition & Regulation) Act, 1986 . The appropriate Government was also directed to contribute a grant/deposit of Rs. 5,000/- for each such child employed in a hazardous job. The said sum of Rs. 25,000/- was to be deposited in a fund to be known as Child Labour Rehabilitation-cum- Welfare Fund and the income from such corpus was to be used for rehabilitation of the rescued child.

A LSAs -ordinate with police, labour department and other authorities concerned for compliance of the aforesaid directions and follow up the matter.

11. Database

All SLSAs shall have database of all the existing central or state schemes, policies, regulations, SOPs, police directives, conventions, rules, declarations, comments, and reports etc. available for child welfare and protection so that same may be used as and when required for legal awareness and for providing legal services to the Juveniles.

**NALSA (LEGAL SERVICES TO THE
MENTALLY ILL AND MENTALLY
DISABLED PERSONS) SCHEME, 2015**

NALSA (LEGAL SERVICES TO THE MENTALLY ILL AND MENTALLY DISABLED PERSONS) SCHEME, 2015

BACKGROUND

Persons with disabilities, especially those suffering from mental illness and other barriers like mental retardation are usually not those who catch the attention of the authorities that be. They are sidelined and are viewed only from the prism of the paternalistic “social welfare” which looks upon them merely as persons who are in need of special protection by the State and the society. India is a signatory to the UN Convention on the Rights of Persons with Disabilities (CRPD) 2008 and since our country has ratified the Convention, it is obligatory for our legal system to ensure that human rights and fundamental freedoms of persons with disability (including mentally ill persons and persons with mental disabilities) are enjoyed on equal basis with others and to ensure that they get equal recognition before the law and equal protection of the law. The Convention further requires us to ensure effective access to justice for persons with disabilities on an equal basis with others.

Under Section 12 of the Legal Services Authorities Act, 1987, persons who are disabled as defined in clause (i) of Section 2 of the Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 and those in a psychiatric hospital or in a psychiatric nursing home within the meaning of clause (q) of Section 2 of the Mental Health Act, 1987 are entitled to legal services. Hence NALSA had drawn up a scheme to provide effective legal services to the mentally ill and mentally disabled, in 2010, in terms of its mandate under S.4 (b) of the Legal Services Authorities Act, 1987.

Though the Scheme was first launched in 2010, from the reports received from all the States on its implementation, it appears that there is a need to review the scheme to strengthen the services rendered by the State Legal Services Authorities/Legal Services Institutions to these marginalised people to enable them to access justice. There is imperative need for a proactive outreach to these people. So far, the SLSAs/DLSAs seem to be concerned only with matters reaching them. Even then, there remains much to be done in court related activities.

It is in this background, that this new Scheme for Legal Services to the Mentally Ill and Mentally Disabled persons has been drawn up as “**NALSA (Legal Services to the Mentally Ill and Mentally Disabled Persons) Scheme, 2015**”.

OBJECTIVES

This Scheme includes fresh guidelines to the Legal Services Institutions (State Legal Services Authorities, District Legal Services Authorities, Taluk Legal Services Committees, High Court Legal Services Committees, Supreme Court Legal Services

Committee) to be followed while they render legal services to the mentally ill and persons with mental disabilities. The objective is to ensure that the mentally ill or mentally disabled are not stigmatized and they are dealt with as individuals who are to be helped to enforce all rights they are entitled to and as assured to them by law.

The terms PLVs, Legal Services Clinics, Front Office , Panel Lawyers and Retainer Lawyers will mean the same as defined under the National Legal Services Authority (Free and Competent Legal Services) Regulations, 2010 and National Legal Services Authority (Legal Services Clinics) Regulations, 2011 and the NALSA Scheme for Para Legal Volunteers (Revised) and Module for the Orientation — Induction — Refresher Courses for PLV Training.

PART- I:

PRINCIPLES

While dealing with Mentally Ill or Mentally Disabled Persons, the Legal Services Institutions must keep in mind the following factors:-

1. **Mental illness is curable** - The Legal Services Institutions shall keep in mind the fact that mental illness is curable on proper medication and care.
2. **Mentally disabled persons are not mentally ill persons**-Mentally disabled persons are suffering from mental disabilities due to developmental disorders. Mental Retardation (MR) is of permanent nature and is not curable. So also Autism and Cerebral Palsy. They are, therefore, treated as persons with disabilities under Section 2 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation)Act, 1995 (PWD Act). The statutory provisions for the welfare of mentally disabled persons are (i) PWD Act, 1995 and; (ii) National Trust for the Welfare of Persons with Autism, Cerebral Palsy Mental Retardation and Multiple DisabilitiesAct, 1999.
3. **Mentally ill and Mentally disabled persons are entitled to all human rights and fundamental freedoms**- While dealing with mentally ill and mentally disabled persons for rendering legal services it shall be the prime concern of the legal services institutions to promote, protect and ensure the full and equal enjoyment of human rights and fundamental freedoms of these persons.
4. **Respect for the inherent dignity of mentally ill & mentally disabled persons** - The legal services institutions shall promote respect for the inherent dignity, individual autonomy including independence of mentally ill & mentally disabled persons.
5. **Non-discrimination** - The legal services institutions shall not discriminate mentally ill & mentally disabled persons merely because of his/her state of mental health. Rather, they are to be dealt with greater sensitivity and care.

6. **Reasonable Accommodation** — The legal services institutions shall make provisions including reasonable accommodation to ensure that persons with mental illness or mental disabilities have equal access to any scheme, programme, facility or service offered.

7. **The right of mentally ill persons to get treatment**-Right to treatment and to get proper health care, emanating from Article 21 of the Constitution of India is equally applicable to all mentally ill persons. Mentally ill persons are deprived of treatment either due to lack of information or due to illegal confinement because of superstition or lack of means or stigma. Therefore the legal services institutions shall ensure that such persons are able to access treatment facilities available in the psychiatric hospitals or psychiatric nursing homes by invoking the provisions in chapter IV of the Mental Health Act, 1987.

(8) **Informed consent for treatment** — Legal services institutions shall ensure that when a person is subjected to treatment for mental illness, his / her informed consent is obtained. If any person is incapable of giving such consent, the informed consent of his / her relatives or friend and in their absence, the satisfaction of the court under Part II Chapter V of Mental Health Act, 1987 shall be ensured.

(9) **Prevention of exploitation and abuse of mentally disabled persons**— Mentally disabled persons, particularly female mentally disabled, are one of the vulnerable groups most likely to be exploited. Therefore, the legal services institutions shall come to the assistance of mentally disabled persons in preventing their exploitation including sexual abuse and also for taking legal action against the abusers and exploiters.

(10) Mentally disabled persons and, by and large, mentally ill persons, cannot fruitfully utilize information, because of their mentally challenged situation. Hence, they cannot be imparted with optimum legal literacy to empower them to access justice. Therefore, legal service institutions should assess and audit their eligibilities and needs, in terms of the laws, on collective as well as individual basis, and such requirements shall be addressed by extending legal services.

PART-II

LEGAL SERVICES TO THE MENTALLY III AND MENTALLY DISABLED PERSONS IN PSYCHIATRIC HOMES, HOSPITALS AND OTHER SIMILAR FACILITIES AND IN JAILS

The Mentally Ill and Mentally disabled persons used to be kept in jails under the head of “non-criminal lunatics”. Through directions of the Hon'ble Supreme Court of India in Sheela Barse Vs. Union of India and others (Criminal Petition No.237/1989) the Supreme Court deprecated this practice and declared that the admission of the non-criminal mentally ill persons in the jails was illegal and unconstitutional. The Supreme Court further directed that henceforth only Judicial Magistrates and no Executive Magistrate shall send a person who is mentally ill to places of safe custody for treatment.

The Judicial Magistrates are also obligated to first seek the advice of a professional or psychiatrist before doing so. The Judicial Magistrates are also required to, as per the directions of the Supreme Court of India to send quarterly reports to the High Court setting out the number of cases sought to be screened and sent to places of safe custody and the action taken by the Judicial Magistrates thereon.

The Supreme Court of India transferred the records of the case to each High Court requesting the High Courts to register the records so received as a Public Interest Litigation treating the High Court Legal Services Committee as the Petitioner, to assist the High Court in the matter of monitoring compliance of the orders and directions of the Supreme Court of India and the orders of the High Court which may be passed from time to time.

In order to comply with the directions of the Supreme Court of India, the following actions need to be taken:

At Jails:

The SLSAs will have to first ensure that the Public Interest Litigation is registered in the High Court and an Hon'ble Judge is designated to deal with the matter, as directed by the Supreme Court of India.

The SLSAs will carry out inspection of all jails with the assistance of the State Mental Health Authority (SMHA) or any other team constituted by the High Court or under the directions of the High Court to ascertain whether there are any mentally ill and mentally disabled persons in the jails and if there are, to immediately seek appropriate directions from the High Court with regard to their shifting out and their treatment.

The SLSAs will in coordination with the SMHA constitute a team of psychiatrists/psychologists /counsellors to visit the jails and assess the state of mental health of the inmates in jail. Depending on the need assessment by the team, SLSAs will initiate corrective measures necessary to facilitate the treatment of the jail inmate by psychologists or psychiatrists.

In compliance of the orders of the Supreme Court of India, the Judicial Magistrates should also send quarterly reports to the High Court setting out the number of cases screened and sent to places of safe custody and the action taken by the Judicial Magistrates thereon. Intimation regarding every such reporting shall be given by the Judicial Magistrate to the SLSA, which, in turn, shall ensure that the said quarterly report gains prompt attention of the designate Hon'ble Judge and shall seek such directions and orders as may be found necessary; either general in nature, or as regards any particular individual or issue. SLSA shall, in the event of any such direction or order being issued, notify the DLSA/TLSC concerned to aid and monitor its compliance, and shall also bring to the notice of the designate Hon'ble Judge any non-compliance or deficiency in compliance of any such direction or order.

At psychiatric hospitals, homes and facilities:

The SLSAs should request the High Court for the constitution under Section 37 of the Act a Board of Visitors for all psychiatric hospitals, homes and similar facilities, whether government run or privately run in the State, in which the Member Secretary/Full Time Secretary, SLSAs/DLSAs should also be a Member. The Board of Visitors should regularly visit these to assess the living conditions of the inmates in these facilities, homes or hospitals.

The SLSAs/ Board of Visitors should review the persons in these hospitals, homes and facilities to ascertain whether there are any cured persons staying there whose families appear reluctant to take them back or are themselves not able to contact their families. Whenever the SLSAs/DLSAs or Board of Visitors find such inmates the SLSAs/DLSAs must take all steps to facilitate restoration, including providing legal representation in court to seek orders for restoration of the cured person with the family.

Legal services institutions shall during their visits to the psychiatric hospitals or homes or facilities ascertain through interaction with inmates, doctors and staff as to whether any of the persons admitted there are victims of forced admission or not. In such cases, legal services shall be given to such persons for their release from the psychiatric hospitals or homes or facilities.

SLSAs/DLSAs should setup Legal Services Clinics at the psychiatric hospitals, homes and facilities in order to provide legal assistance wherever required to the Mentally Ill/ mentally disabled persons and their families to address legal issues concerning the mentally ill and mentally disabled persons.

Such a legal clinic should be manned by Para Legal Volunteers and Panel Lawyers who are sensitive to such issues and persons.

It would be quite appropriate to train the doctors, nurses and other para medical staff/administrative staff at the mental health facilities as Para Legal Volunteers so that the best legal services can be provided keeping in mind the welfare of the mentally ill / mentally disabled persons.

The Clinic should also help in ensuring that the homes meant for the mentally ill and mentally disabled persons have all facilities, including for learning appropriate skills for independent and/or assisted living and earning. The legal services institutions may approach the Government, and if necessary the High Court for appropriate directions, to ensure the availability of such facilities.

The Legal Services Institutions should also connect the mentally disabled persons with the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities so that benefits provided under the "National Trust For Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999" are assured to these persons and their families.

- Legal Services Institutions should involve through the PLVs the para medical staff/administrative staff and doctors at the mental health facilities to identify the relatives and homes of those patients in relation to whom such facts are not available on record and take appropriate steps through the different legal services institutions to reach to the relatives of the patients to facilitate re-union of the patients with the near and dear ones.
- Patients, who are housed in mental health centres, homes and facilities, away from their domicile and home, must be considered for providing legal assistance to ensure their transit to mental health centres, homes and facilities nearer to their native place. This can be done with the involvement of SLSAs and DLSAs.

LEGAL SERVICES TO THE MENTALLY ILL AND MENTALLY DISABLED PERSONS WHO ARE WANDERING, HOMELESS AND DESTITUTES

Under the Mental Health Act, 1987, Section 23, the officer in charge of a police station can take or cause to be taken into protection a wandering mentally ill person or a dangerous mentally ill person within the limits of his station and produce such person before the Magistrate under Section 24 for passing reception orders authorizing the detention of the said person as an inpatient in a psychiatric hospital or psychiatric nursing home for purposes of treatment.

Similarly, under Section 25, a police officer or a private person who has reason to believe that a mentally ill person within the limits of his station is not under proper care and control or is ill-treated or neglected by relatives or other the persons having charge of such mentally ill person, can report the matter before the Magistrate . The Magistrate can pass an order of reception or even fine the person who is responsible for neglecting the mentally ill.

In the case of the homeless or destitute mentally disabled person, ordinarily the matter must be reported to the Local Level Committee through a registered organization as prescribed under the National Trust For the Welfare of Persons with Autism, Cerebral Palsy Mental Retardation and Multiple Disabilities Act, 1999 and Rules and Regulations thereunder. It is the Local Level Committee which would pass appropriate directions for the care of the neglected or destitute mentally disabled person.

Action to be taken by legal services institutions

- The legal services institutions must draw up a panel of sensitive and sensitized legal services lawyers to represent the best interests of the mentally ill person at the time of the production of the person under Section 24 or Section 25 of the Mental Health Act, 1987 and assist the Magistrate while passing an order that would be in the welfare of the mentally ill person.
- The legal services institutions must assist the police through its PLVs assigned to the police stations to refer the mentally disabled persons, who are neglected, homeless or destitute to the Local Level Committee set up under Section 13 of the National Trust for the Welfare of Persons with Autism, Cerebral Palsy

Mental Retardation and Multiple Disabilities Act, 1999 so that orders such as the appointment of guardian, whether individual or institutional, for the care and rehabilitation of the mentally disabled person is ensured.

- Legal services institutions must devise sensitization programme with the junction of mental health officials including doctors, police officials and judicial magistrates dealing with inquisition proceedings to evolve locally conducive mode to ensure that wandering mentally ill persons are identified and dealt with securing their human rights by obtaining appropriate judicial orders as may be found necessary in each case.

LEGAL SERVICES TO MENTALLY ILL AND MENTALLY DISABLED PERSONS DURING COURT PROCEEDINGS

The two statutes governing the rights of mentally ill persons and the mentally disabled persons are the Mental Health Act 1987 and the National Trust for the welfare of persons with Autism, Cerebral Palsy Mental Retardation and Multiple Disabilities Act 1999. Both entail a hearing before the passing of appropriate orders by the Magistrate or the Local level committee as the case may be. It is important that the legal services institutions participate in them through the PLVs or the Panel lawyers.

- It shall be the duty of the legal services institutions to depute its retainer/panel lawyer to the court where an application for reception orders has been moved or is under consideration under Section 19, 20, 22 24,25,26,27, or 28 of the Mental Health Act, 1987.
- The legal services institutions may request the Magistrates who deal with such application to give notice to the legal services institutions in all cases, for protecting the interest of the mentally ill persons in relation to whom the application for reception or discharge order is being made.
- The retainer/panel lawyer shall gather the details of the circumstances and shall liaise with the relatives of the alleged mentally ill persons, doctors in the psychiatric hospital or psychiatric nursing homes or any other competent person to ensure that the condition of the person against whom the application for reception/discharge order has been made warrants such an order from the court.
- The Legal services institutions having local jurisdiction shall keep a list of the mentally ill persons against whom reception orders have been passed by the courts and shall monitor the progress of treatment of mentally ill persons in the psychiatric hospitals or psychiatric nursing homes where the mentally ill persons is detained as per the reception order.
- The legal services institutions shall bring to the notice of the Magistrate concerned about any cured mentally person remaining in the psychiatric

hospitals or psychiatric nursing homes where such mentally ill person has been sent as per the reception order.

- The legal services institutions should through the PLVs/panel/retainer lawyers help the cured voluntary patients for moving requests for discharge under Section 18 or by an involuntary patient under Section 19.
- The legal services institutions should through the clinics or as part of the Board of visitors always keep track of admissions under Section 19(1) of the Act so that detention beyond the period of the first ninety days is only on the orders of the court.
- The legal services institutions shall also keep track of cases under Section 20 of the Act, so that no cured patient is allowed to remain in the psychiatric hospital, home or facility by default. They must move applications for discharge as soon as the patient is cured.
- The legal services institutions shall also keep track of cases under Section 20 of the Act, in relation to wandering or destitute mentally ill persons, so that the requirements under Section 28 of the Act, of a ten day review by the Magistrate of the need to keep a person under observation is strictly complied with and no person is detained longer than needed for the issuance of the certificate of mental illness under Section 24(2) (a) of the Act.
- The legal services institutions through their legal services clinics and PLVs and panel, retainer lawyers should keep track of discharge of patients and wherever necessary should aid and assist the patient to move the application for discharge to the medical officer in charge or to the court which had passed the reception orders.
- The legal services clinics and PLVs and panel/retainer lawyers should also render assistance the inpatients to obtain leave of absence as provided under Section 45 and Section 46 of the Act. They should also assist the filing of appeals as provided for under Section 49 of the Act.
- The legal services institutions shall also participate in inquisition proceedings under Section 50 of the Act to protect the interests of the mentally ill person. A request must be made to the District Judge to issue notice to the legal services institution whenever an application under Section 50 comes before it.
- Where an alleged mentally ill person is possessed of property and if no persons mentioned in clauses (a) to (d) of Sub-section (1) of Section 50 of Mental Health Act is coming forward with an application for holding judicial inquisition under Chapter VI of the Mental Health Act, the legal services institutions shall take appropriate steps for initiating judicial inquisition regarding the mental condition of the alleged mentally ill persons, custody of his/her person and management of his/her property. For this purpose the legal

services institutions may contact any of the aforesaid persons referred to in clauses (a) to (d) of Sub-section (1) of Section 50 of Mental Health Act, 1987 in writing and may also take up the matter with the Advocate General of the state or with the collector of the appropriate district in terms of clause (d) of Sub-section (1) of section 50 of that Act. Legal services institutions must extend legal aid to the mentally ill persons involved in such matters by providing effective assistance as may be appropriate and requested for by the collector concerned to aid and assist in preparing and processing such proceedings.

- The legal services institutions should follow up every case where as guardian of the person is appointed under Section 53 and/or the manager of the property has been appointed under Section 54 or an order of maintenance has been passed under Section 71 and Section 79 of the Act and take every step to protect the interests of the mentally ill person.
- The legal services institutions should render all help to pursue appeals as provided under Section 76 of the Act.
- The legal services institutions should through the legal services clinics and PLVs and through visits including as Member of the board of visitors that there are no transgression are noticed, shall bring it to the notice of the High Court.
- As the National Trust for the Welfare of persons with autism, cerebral palsy, mental retardation and multiple disabilities Act 1999, is a comprehensive Act to provide for the care of the mentally disabled, including assistance in care to parents of the mentally disabled and also for arranging the care and finances of the mentally disabled after the death of the parents through appointments of guardians, it is important that legal services institutions inform the public of the Act and further help them to benefit from it. The PLVs and the legal services clinics should come to the assistance of the mentally disabled and their families in the matter of appointment of guardians.
- Legal services institutions shall come to the help of mentally ill and the mentally disabled in protecting their rights of inheritance owing properties and enjoying financial rights. The persons with mental illness or mental disability have rights with others to inherit property, both movable as well as immovable, and also have a right to control their financial affairs and have access to bank loans, mortgages and other forms of financial credit, which can be accessed by them personally or through a support person who has no interest in conflict to the persons with mental illness or mental disability. Legal services institutions should render all legal help in realizing this.
- Legal services institutions shall assist the mentally disabled for obtaining all benefits under the persons with disabilities (equal opportunities, protection of rights and full participation) Act, 1995.

- The legal services institutions shall find out the different beneficial schemes for the mentally disabled and their families. The legal services institutions shall assist the mentally disabled and their families to avail the benefits under such schemes.

AWARENESS AND SENSITIZATION PROGRAMME

- The legal services institutions shall organize awareness programmes especially in rural areas, to educate people that mental illness is curable and there is no stigma attached to mental illness or mental disabilities.
- The legal services institutions should explain the need for equal treatment of mentally ill with other persons in the society. In such special legal awareness camps the presence of psychiatric lawyers and social workers can help the participants to clear their doubts and misconception about mental illness and mental disabilities.
- The legal services lawyers in such camps may educate the public and families on the property and other legal rights and the other provisions of law relating to the mentally ill and mentally disabled persons.
- The state Legal Services Authority/District Legal Services Authority may organize training programme in association with the Judicial Academy to sensitize the judicial officers about the socio-legal problems faced by the mentally ill and mentally disabled persons, their parents, relatives and family members.
- Similar programmes may be organized with the help of the bar associations to sensitize the panel lawyers and the other members of the legal profession.

The legal services institutions shall co-ordinate with NGOs and other volunteer social organizations for dealing with the issues relating to mentally ill and mentally disabled persons.

**NALSA (EFFECTIVE IMPLEMENTATION
OF POVERTY ALLEVIATION SCHEMES)
SCHEME, 2015**

NALSA (EFFECTIVE IMPLEMENTATION OF POVERTY ALLEVIATION SCHEMES) SCHEME, 2015

1. Background

Under Section 4 (I) of the Legal Services Authorities Act, 1987, the National Legal Services Authority envisaged as the Central Authority under the Act, is obligated to “take appropriate measures for spreading legal literacy and legal awareness amongst the people and, in particular, to educate weaker sections of the society about the rights, benefits and privileges guaranteed by social welfare legislations and other enactments as well as administrative programmes and measures”. The Preamble of the Legal Services Authorities Act, 1987, underscores that the legal services authorities are concerned with the weaker sections of the society and imposes a duty on them to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.

Very often intended beneficiaries of poverty alleviation and social security measures are unable to access the benefits due to severe lack of capabilities, social structures, economic marginalization and exploitation, social values, cultural norms, discrimination etc. In this context, the role of legal services authorities must be a proactive one where measures designed to alleviate poverty must be brought to the attention of the intended beneficiaries. Further, legal services authorities are very well suited to facilitating access to such poverty alleviation measures due to their last mile presence. Therefore this scheme lays down a mechanism for identification of poverty alleviation and social security measures, a framework for facilitating access to such measures by intended beneficiaries and a model for effective review of these processes. In designing this scheme, the concern that there could be local variations and requirements have been particularly considered and sufficient flexibility has been built in for local legal aid authorities to adapt this national scheme according to their needs.

This scheme is built on the foundation that poverty is a multi-dimensional experience and is not limited to issues of income. Multi-dimensional poverty includes issues like health (including mental health), housing, nutrition, employment, pension, maternal care, child mortality, access to water, education, sanitation, subsidies and basic services, social exclusion, discrimination etc. Further, in identifying the specific schemes for implementation at the state and district level, legal services authorities are expected to be cognizant of the fact various vulnerable and marginalized groups experience poverty in myriad and unique ways.

2. Name of the Scheme

This Scheme shall be called “**NALSA (Effective Implementation of Poverty Alleviation Schemes) Scheme, 2015**”.

3. Definitions

- 1) “Act” means the Legal Services Authorities Act, 1987.
- 2) “Central Authority” means the National Legal Services Authority constituted under Section 3 of the Act.
- 3) “Complainant Beneficiary” refers to any Scheme Beneficiary who files a complaint against any designated authority or officer who is identified as the designated authority or officer under any of the Poverty Alleviation Schemes.
- 4) “District Authority” means a District Legal Services Authority constituted under Section 9 of the Act.
- 5) “Legal Services officer” refers to any person who is designated as such for the purpose of this Scheme.
- 6) “Para-legal volunteers” refers to ‘PLV’ as defined and trained under the NALSA Scheme for Para Legal Volunteers (Revised) and Module for the Orientation-Induction-Refresher Courses for PLV Training.
- 7) “Poverty Alleviation Schemes” refer to any scheme/programme/ launched either by the Central Government, or the State Government, that is aimed at addressing any dimension of poverty. They also include social security measures.
- 8) “Scheme Beneficiaries” include:
 - a. Scheduled Castes of Scheduled Tribes;
 - b. all persons eligible for applying under the Poverty Alleviation Schemes; and
 - c. other persons for whom special economic, social or political measures are taken including but not limited to children, women and transgenders.
- 9) “State Authority” means State Legal Services Authority constituted under Section 6 of the Act.
- 10) “Taluka Legal Services Committee” means a Taluka Legal Services committee constituted under Section 11-A of the Act.
- 11) The terms Legal Services Clinics, Front Office, Panel Lawyers and Retainer Lawyers will mean the same as defined under the National Legal Services Authority (Free and Competent Legal Services) Regulations, 2010 and National Legal Services Authority (Legal Services Clinics) Regulations, 2011.

4) Objectives of the Scheme

The main objectives of the Scheme are as follows:

- 1) To ensure access to basic rights and benefits afforded to socially or economically weaker sections of society;
- 2) To strengthen legal aid and support services at the national, state, district and taluka levels for persons belonging to socially or economically weaker sections in accessing Poverty Alleviation Schemes;
- 3) To spread awareness about the Poverty Alleviation Schemes through the members of the District Authority, Taluka-Legal Services Authority, panel of lawyers, social workers, para-legal volunteers, and students in legal aid clinics.;
- 4) To create a database of all the existing central or state schemes, policies, regulations, policy directives, conventions, rules, and reports available concerning Poverty Alleviation Schemes along with the latest funding information on these schemes;
- 5) To undertake and organize training and orientation programmes, for panel lawyers, para-legal volunteers, officers under Poverty Alleviation Schemes, student volunteers in legal aid clinics for their skill enhancement and for developing a sense of deeper engagement amongst them for implementing this Scheme; and
- 6) To develop effective coordination and interface with all government bodies or functionaries, institutions, authorities, NGOs and other organizations concerning or entrusted with the responsibilities relating to welfare of socially/economically weaker sections of the society.

5) Identification of Poverty Alleviation Schemes

- 1) Every State Authority shall identify the existing and active Poverty Alleviation Schemes applicable in the state and circulate a list of the same every twelve months to all the District Legal Services Authorities in the state. The list shall include the following:
 - a. Poverty Alleviation Schemes applicable in that State along with the names of the specific districts in which they are applicable in that year;
 - b. The intended beneficiaries under each of the Poverty Alleviation Schemes;
 - c. The name of the designated authority or the designated officer to be approached to access each of the Poverty Alleviation Schemes, as identified under each of them;

- d. The list of documents required to access each of the Poverty Alleviation Schemes, as identified under each of them;
 - e. The benefits under each of the Poverty Alleviation Schemes, as provided for in each of them;
 - f. The amount of funds allocated to each of the Poverty Alleviation Schemes by the Central Government, or the State Government, or both of them, as the case may be, for the particular year;
- 2) The list prepared by every State Authority under sub-clause (1) shall be circulated annually to all the District Authorities. A copy shall also be sent to the Central Authority.
 - 3) The State Authority shall also upload the list under sub-clause (1) on their website.
 - 4) Every District Authority shall, on the receipt of the list prepared under sub-clause (1), within 7days of receipt of the list, send a copy of the list to the following functionaries;
 - a. All Taluka Legal Services Committees in the district;
 - b. All the village panchayats in the district;
 - c. People working in legal services clinics, members of Panchayats, law students and other para-legal volunteers who volunteer to assist in the implementation of the Scheme.

6) Organization of Awareness programmes

- 1) The State Authorities in collaboration with concerned District Authorities shall take steps for conducting awareness programmes to generate awareness about various Poverty Alleviation Schemes available in that District. Steps shall also be taken by Taluka Legal Services Committees to create awareness Poverty Alleviation Schemes, in Panchayat meetings, town hall meetings, Pulse Polio camps, festival gatherings or other village gatherings.
- 2) All State Authorities shall send a list of such programmes organized in their respective jurisdictions every six months to the Central Authority.

7) Legal Services Officers and Para-Legal Volunteers

- 1) Every District Authority and Taluka Legal Services Authority shall designate at least these panel lawyers as Legal Services Officers for the purpose of this Scheme.
- 2) District Authorities shall constitute teams of PLVs under a Legal Services Officer to implement this Scheme and the Legal Services Officer will supervise

and mentor the PLVs in his team to help the beneficiaries access the various schemes of the Govt.

- 3) District Authorities shall conduct specialized training programs for panel of lawyers, members working in legal services clinics, members of panchaytas, law students and other para-legal volunteers to assist in the implementation of the Scheme, to sensitise them regarding the needs of persons belonging to socially and economically weaker sections and the benefits that they can avail through Poverty Alleviation Schemes.

8) Legal assistance for access to Poverty Alleviation Schemes

Legal assistance must be provided to all the Scheme Beneficiaries seeking access to Poverty Alleviation Schemes. Legal services to be provided by Legal Services Officers or volunteers under this Scheme includes, inter-alia;

- 1) Informing the Scheme Beneficiaries about each of the Poverty Alleviation Schemes to which they are entitled, and the benefits thereunder
- 2) Assisting the Scheme Beneficiary in procuring the documents required for availing the benefits under any of the Poverty Alleviation Schemes
- 3) Informing the Scheme Beneficiary of the name and the address of the designated authority or the officer to be approached for registration under any of the Poverty Alleviation Schemes
- 4) Offering to send para-legal volunteers including from the legal services clinics with Scheme Beneficiaries to the office of the designated authority or the officer to be approached under any of the Poverty Alleviation Schemes
- 5) Informing the Scheme Beneficiary of her opinion to register a complaint with the Legal Services Officer or para-legal volunteer, about any designated authority or officer under any of the Poverty Alleviation Schemes who refuses to cooperate with a Scheme Beneficiary in providing her access to the benefits that she is entitled to under the Poverty Alleviation Schemes
- 6) Maintaining a record of all the complaints received under sub-clause (5)
- 7) Providing Scheme Beneficiaries with the contact number, if available, of the Legal Services Officer, and availability of the Legal Services Officer on call during working hours for such Scheme Beneficiaries to whom contact number is provided

9) Action by Legal Services Officers on complaints

- 1) On receiving complaints under sub-clause (5) 8, each Legal Services Officer shall herself personally accompany the Complainant Beneficiary to the office of the designated authority for officer, and assist the Complainant Beneficiary

in availing the benefit that she is entitled to under the Poverty Alleviation Scheme.

- 2) In case the designated authority or officer fails to register the Complainant Beneficiary in the Poverty Alleviation Scheme, the Legal Services Officer shall submit a complaint to the District Authority. The letter of complaint shall describe the conduct of the designated authority or officer who refused to register the Complainant Beneficiary under the Poverty Alleviation Scheme, and circumstances of such refusal and whether refusal was despite submission of all necessary documents.

10) Action by District Authority and State Authority on complaints

- 1) On receiving a complaint regarding the designated authority or officer, the District Authority shall seek a report from the concerned officer regarding the reasons for denying the benefits under the Poverty Alleviation Scheme to the Complainant Beneficiary. In the event that sufficient reason is not provided by the concerned officer for refusal to register the Complainant Beneficiary in the Poverty Alleviation Scheme or to provide benefits under the Poverty Alleviation Scheme, the District Authority shall immediately communicate to the superior officer in the department the details of the refusal to provide access to the Poverty Alleviation Scheme.
- 2) If the superior officer, in the opinion of the District Authority, also withholds the benefit under the Poverty Alleviation Scheme without sufficient cause, the District Authority shall then communicate the same to the State Authority.
- 3) On receiving such communication from the District Authority, the State Authority may choose to further pursue the matter with the concerned department or file appropriate legal proceedings to ensure that the Complainant Beneficiary receives the benefit under the Poverty Alleviation Scheme.
- 4) The District Authority, through para-lagal volunteers or legal services clinics, shall provide regular updates to the Complainant Beneficiary about the status of the complaint.

11) Evaluation of the Scheme

- 1) Every Legal Services Officer shall follow-up with each Scheme Beneficiary who sought legal assistance under this Scheme and record:
 - a. if such person was able to register under the Poverty Alleviation Scheme sought to be registered under and whether such benefits were being received

- b. any grievances experienced by the Scheme Beneficiaries in getting registered and availing benefits under the various Poverty Alleviation Schemes.
- 2) The District Authority shall compile the observations made under sub-clause (1) for all the Legal Services Officers working under the Scheme in the district, and shall send a copy of such observations in a compiled document to the State Authority every six months.
- 3) The State Authority shall consolidate the compiled documents received from all the District Authorities under sub-clause (2), and effectiveness of this Scheme. The minutes of such meeting shall be recorded and published as a public document.
- 4) If in the meeting under sub-clause (3), the State Authority finds a substantive or procedural defect in any of the Poverty Alleviation Schemes which makes seeking benefits under the scheme a problem for the Scheme Beneficiaries, such defect must be brought to the notice of the Central Government or the State Government, as the case may be improving the specific Poverty Alleviation Scheme and/or its effective implementation.

**NALSA (PROTECTION AND ENFORCEMENT
OF TRIBAL RIGHTS) SCHEME, 2015**

NALSA (Protection and Enforcement of Tribal Rights) Scheme, 2015

BACKGROUND

Although the Census of 2011 enumerates the total population of Scheduled Tribes at 10,42,81,034 persons, constituting 8.6 percent of the population of the country, the tribal communities in India are enormously diverse and heterogeneous. There are wide ranging diversities among them in respect of language spoken, size of population and mode of livelihood. As per the Census of India 2011, the number of individual groups notified as Scheduled Tribes is 705.

The North Eastern States are not a homogeneous block, because of the diversities amongst themselves. There are about 220 ethnic groups with equal number of language and dialects. These groups can be broadly categorized into three main groups of Tibeto-Burman, Mon-Khmer and Indo-European.

Certain tribes have been characterized as particularly vulnerable Tribal Groups (PVTGS) (earlier known as Primitive Tribal Groups) on the basis of their greater 'vulnerability' even among the tribal groups. PVTGs, currently include 75 tribal groups, who have been identified as such on the basis of the following criteria: 1) forest – dependent livelihood, 2) pre-agricultural level of existence, 3) stagnant or declining population, 4) low literacy rates and 5) a subsistence – based economy. As per the 2001 census, these 75 PVTGs had a total population of 27,68,322. The majority of the PVTG population lives in the six states of Maharastra, Madhya Pradesh, Chattisgarh, Jharkhand, Odisha, Andhra Pradesh and Tamil Nadu. The PVTGs among the tribes need special attention due to their vulnerability.

Up till independence the tribal population lived in comparative isolation from the national scene and lived almost a self-sufficient life in the remote and rugged forested tracts. The interactions of the colonial administrative machinery with the tribes in India were largely of authoritarian and exploitative nature. They were largely interested to let them remain isolated and had no intention to integrate them with mainstream of national life.

After independence, the India constitution adopted many provisions to provide tribal people with special status and Parliament through various protective legislations made conscious efforts to safe guard their interest. Planning Commission of India through its development initiative adopted Tribal SUB Pla (TSP) approach and under Panchayati Raj Institutions the Provisions of the Panchayats (Extension to Scheduled Areas) Act 1996 (PESA) was legislated.

Despite all these efforts made to improve the socio-economic conditions of tribes it is still a fact that the life situations of Scheduled Tribes (STs) have improved only marginally. The Human Development Index (HDI) of the STs is much lower than the rest of the population. The gap in the literacy rate is high. There are more ST

families below the poverty line than those from other communities. Their percentage in government jobs is not in proportion to their population despite the provision of reservation. Their condition, thus, is far worse than that of the rest of the population and they have not been able to reach the envisaged level of development, where they could benefit from the opportunities offered by a fast expanding economy.

It was in this background that the NALSA felt the need to draw up a Scheme for the Tribal People. To facilitate this, a committee was constituted to study the issue and come up with suggestions. The Committee submitted a comprehensive report to the Hon'ble Executive Chairman, NALSA on 9.8.2015 on the occasion of World Tribal Day. The present Scheme is based on the report of the Committee.

The Scheme may be called “**NALSA (protection and Enforcement of Tribal Rights) Scheme, 2015**”.

OBJECTIVES

The scheme is aimed at ensuring access to justice to the Tribal People in India. The access to Justice would be facilitated in all its connotations i.e access to rights, benefits, legal aid, other legal services etc. so that the assurance of the constitution of justice social, economic and political is meaningful experienced by the tribal population in the country.

Several rights are guaranteed to the tribal people under:

- The Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 – (FRA)
- The Scheduled caste and Scheduled Tribes (Prevention Of Atrocities) Act, 1989
- The right of children to Free and Complusary Education Act, 2009.
- The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013,
- Panchayats (Extension to Scheduled Areas) Act 1996 – (**PESA**) and
- Fifth and Sixth Scheduled of the Constitution of India.

These provisions are not implemented stringently, leading to violation of their legal rights. Such violations are one of the prime reasons for the marginalization of the tribal people.

This Scheme is intended that these legal rights are not violated.

The terms PLVs, Legal Services Clinics, Front Office, Panel Lawyers and Retainer Lawyers will mean the same as defined under the National Legal Services Authority (Free and Competent Legal Services) Regulations, 2010 and National Legal

Services Authority (Legal Services Clinics) Regulations, 2011 and the NALSA Scheme for Para Legal Volunteers (revised) and Module for the Orientation – Induction – Refresher Course for PLV Training.

Part I: An Overview of the issues of Tribal people

A. Vulnerability issues

1. The lack of literacy amongst the tribal people is a crucial issue. As a consequence, the tribes remain unaware of their fundamental legal and statutory rights. They also lack knowledge about the welfare scheme run by the government for their well-being, thereby resulting in lack of participation from their side.
2. Non implementation of the Scheme introduced by the government to resolve the problems is another major concern. However, non-implementation of programme for tribal welfare is also due to lack of skilled work force in the tribal areas.
3. Numerous armed conflicts affect large parts of tribal areas in contemporary India spanning the central region to the North east, leading to severe problems in accessing legal and administrative mechanisms and in the implementation of beneficial schemes.
4. In the recent years the state police and the paramilitary forces have been accused of grave human rights violations in the tribal areas including of alleged fake encounters and rape.
5. A number of tribal people are put in jails allegedly as Maoists. There have been cases of people staying in Jail for days, without their name in the charge-sheet. Bails are not granted as cases are serious such as waging war against India, sedition and so on.
6. The unfamiliar judicial processes make the tribal people dread the court, even if they are the ones who are suffering from lawlessness. They feel that the laws like Scheduled caste and Scheduled Tribes (Prevention of Atrocities) Act 1989 do not exist for the protection of tribal people.
7. Migrating tribes face difficulties in accessing the welfare scheme run by the government. Some are totally devoid of any access.
8. There are preconceived notions or assumptions regarding the primitivism and backwardness of PVTGs. It is essential for government bodies to shed assumptions of tribal backwardness and savagery and devaluation of the culture and tradition of these communities.
9. Many PVTGS and Schedules Tribes (STs) are forest dwellers and depend heavily on land and forest resources for their subsistence. Over time, their

habitat has been declared as Reserved Forest, Protected Forest, leaving them vulnerable to displacement and eviction without compensation.

10. All tribes in the list of PVTGs have not been granted ST status thereby increasing the vulnerability of these tribes, who lack the protections and rights offered by the Fifth Scheduled and the Provisions of Panchayat (Extension to Scheduled Areas) Act, 1996.
11. For PVTGs, the implementation of FRA has been poorest since their habitat rights are not clearly defined or understood by the Forest Department. No disaggregated information and data at the national level on status of the implementation of the provision for rights of PVTGs particularly of habitat rights under the FRA are available.
12. The North Eastern States share a large area of international boundary with the neighbouring countries of Bhutan, CHima Myanmar and Bangladesh which makes it a very fertile ground for cross border terrorism, drug smuggling, arms smuggling, infiltration etc.
13. Another issue which is of serious concern is human trafficking. Tribal people from central India and Assam appear particularly prone to trafficking.
14. Another issue is that till recently there has been no division of executive and judiciary. The institutions set up under the Sixth Scheduled apply customary laws which have their own issues as they are not codified.
15. Due to insurgency and law & order problems in the North east, there is absence of faith in the system. There has been a tendency of the public to take law into their hands, in what amounts to “mob justice” by dismantling/destroying houses of the suspected/accused persons and ostracizing the family which leads to serious social problems. Even doctors and hospitals have not been spared for their alleged negligence in treatment of patients.
16. In the remote areas and villages large numbers of tribal people still believe in “Which hunting”.
17. Tribal people are not treated with dignity and so feel alienated. For instance, the Jarawas tribes in Andaman Islands are treated like animals by the tourists. They are teased and tormented as if they are monkeys/animals and fun derived from derived from their angry responses. Similar experience were earlier common in Bastar where cultural mores were never understood.

B. Land Related Problems

1. Forest and hills are the main source of tribal identity. It is in this context that the devastation of lives of tribal people caused by loss of access to forest and involuntary displacement from their land has to be understood. Dispossession takes place both directly by depriving tribal communities of their land, habitat,

livelihood, political system, culture, values and identify and indirectly through denials of benefits of development and of their rights.

2. Under the resettlement and rehabilitation (R&R) programme, land is not replaced and there is meager reconstitution of livelihood. Almost all the R&R colonies lack proper public health facilities, protected drinking water, marketing, schools and transportation.
3. Dependence on forests for food in the form of shifting cultivation fruits and flowers, small game, tubers for medicines, fodder, material for house building, raw material for traditional art and crafts income by selling firewood, leaf-plates, fruits etc is substantial. This loss, due to displacement is not compensated and also affects food security.
4. A major portion of land falls under forest areas. Most of the tribal people of the interior areas are staying on forest lands without having any right, title, interest on those lands and there are no such legal provisions for those homeless tribal people for protection and enforcement of their rights under “The Scheduled Tribes And Other Traditional Forest Dwellers (Recognition Of Forest Rights) Act 2006”.
5. Another major problem with tribal people is a result of development projects viz. construction of dams, forest sanctuaries, mining operations, etc. These developments lead to an influx of non-tribal people, seeking employment in these areas forcing the tribal people to migrate. Hence, the tribal people have not been able to reap the benefits of development projects.
6. Growing indebtedness contributes as one of the most important reasons for land alienation and displacement of tribal people. Tribal indebtedness (they are often tricked into accepting loans with exorbitant interests) often leads to situations of bonded labour.
7. Further there have been violations of PESA which endow Gran Sabha “the power to prevent land alienation of land in the scheduled areas and to take appropriate action to restore any unlawful alienated land of a scheduled tribe”. In case of acquisition of forest lands, it is mandatory to consult with gram sabha of the affected area and obtain their free consent. However, often gram sabhas are neither sent notices for consultation, nor are their consent signatures taken.
8. The compensation given to the tribal people under the right to fair compensation and transparency in Land Acquisition, Rehabilitation and resettlement Act 2013 is meager and the living conditions that are provided on resettlement are very poor.
9. Another problem with tribal people is that instead of individual rights in the land, they believe in community rights and this written proof of ownership are mostly not available in cases of litigation relating to land. The claims of tribal

people in this respect are mostly based on oral evidences with consequential difficulties in establishing individual rights.

C. Legal Issues

The legal issues faced by the tribal people are as follows:

1. The recognition of rights of tribal people before their displacement from protected areas (Pas) is not being completed. Tribal people are evicted before verification and settlement of claims under the FRA. This has caused a decline in the economic status, as well as erosion in their customary forest practices.
2. Incorrect assumption by the Forest departments with regard to the FRA has led to violation of their legal rights. For instance, at some of the Forest Departments, it was believed contrary to the provisions of section 4(2) of the FRA that rights under FRA could not be claimed in protected areas (Pas) and that FRA is not applicable in Tiger Reserves.
3. Some problems that arise for tribal communities in claiming habitat rights include:
 - Lack of clarity over definition and interpretation of what is entailed in habitat rights.
 - Multiple interpretations of habitat, especially if the user rights of other, non PVTG groups sharing the same territory are involved.
 - If the traditional habit boundaries of PVTGs overlap with wild life habitats; and
 - A lack of awareness among such communities about the terms in which to articulate such claims.
4. There has been little perceptible effort to create awareness among women regarding the process of claim making verification and the rules relating to it provided under the FRA.
5. Claims filed by tribal people under the FRA are being rejected without assigning reasons or based on wrong interpretation of the other traditional forest dwellers (OTFD) definition and the dependence clause or simply for lack of evidence or absence of GPS survey (a lacuna which only requires the claim to be referred back to the lower level body or because the land is wrongly considered as not forest land or because only forest offence receipts are considered as adequate evidence.
6. The rejections are not being communicated to the claimants and their rights to appeal are not being explained to them nor its exercise facilitated. There is a

need for awareness amongst tribal people so that they can protect their legal rights against such practices.

7. Section 3(1) (m) of the FRA, regarding the rights of persons illegally displaced or evicted by development projects without proper compensation has not been implemented at all.
8. Lack of effective consultations with Gram Sabha and recognition of their rights of ownership in farm produce.

D. Other Legal Issues

1. Criminal charges are filed, maliciously, against the tribal people and in some cases non tribal people who protest against the acquisition of land and thereby against the establishment of acquisition of land and thereby against the establishment of developmental projects. It has been found that between 2005 and 2012, over 95 percent of the cases were found to be baseless and ended in acquittal.
2. Discrimination, violence and police brutality is experienced at regular intervals by the people belonging to the De-notified tribes because of the Habitual Offenders Act 2000.
3. In Andaman and Nicobar the 'Jarawa' tribe face incidents of sexual exploitation. Also the people of the tribe were asked to give their blood samples for DNA testing without their informed consent.
4. A study for the planning commission revealed that 4.3 percent of the rehabilitated bonded laborers belong to scheduled tribes. This suggests that many tribal families are trapped in bondage. The main reason for bondage that is cited is indebtedness and flood.

E. Issues related to education

The scenario of education in India regarding the tribal people has improved but there are some problems which still persist. The issues relating to education are as follows:

1. There are a large number of schools which do not have minimum facilities.
2. Even where there is reasonable infrastructure and student enrolment, regular school attendance is a problem in the tribal areas, due to distances and poverty.
3. Teacher absenteeism is high.
4. There is poor level of student learning and high dropout rate at class X. A possible explanation for this is the failure in the tribal students to cope up.
5. There is a marked gender gap. There is a need for greater gender focus and social mobilization to encourage education of girls.

6. Once the tribal students manage to take admission, they are humiliated in various ways that they are demoralized. This leads to a high school dropout rate. Derogatory names being given to tribal students from the North East are well-known.
7. There are residential schools for tribal girls which are often in the news for corruption, bad maintenance of facilities and sexual exploitation of resident girls.
8. As nomadic tribes are always on the move, their children, miss out on education provided by the government for free.
9. Most of the tribal communities in India have their own mother tongue. But in most of the states, official/regional languages are used for classroom teaching are not understood by the tribal children particularly at primary level of schooling.
10. There is a need of familiarity for teachers teaching tribal children with tribal culture and language so that learning is hassle-free. For instance, most of the district officials, being from outside do not understand the languages of the people like gondi and halbi. Even the teachers in schools do not understand these languages.
11. Tribal children are not at ease in structured class rooms due to their affinity to nature causing them to lose interest in formal education as is presently provided.
12. The main reason of literacy amongst tribal people is low involvement of parents and community in education of tribal children and inadequate quality schools in tribal areas. The tribal community is mostly unaware about the benefits of education.

F. Health Issues

The tribal population face several health issues:

1. The national health model is primarily designed for the non tribal areas. It does not take into account the different belief system, different disease burden and healthcare needs as well as the difficulties in delivering care in a geographically scattered, culturally different surrounded by forests and other natural forces.
2. There is a lack of healthcare human resources that is willing, trained and equipped to work in tribal areas. Though buildings are built and health care institutions created in the form of health sub-centres, PHCs and CHCs, they often remain dysfunctional. This is further compounded by inadequate monitoring, poor quality of reporting and accountability.
3. Factors such as unfriendly behavior of the staff language barrier large distances poor transport low literacy low literacy and low health care seeking lead to lower utilization of the existing health care institutions in tribal areas.

4. The absences of participation of ST people or their representatives in shaping and smoking plans or implementing services in the health sector often ends up targeting wrong priorities.
5. The tribal population is seriously affected by high consumption of alcohol and smoking, often resulting in addiction. Immediate and serious corrective policy measures to curb the same are necessary.
6. Child marriage among the different tribal communities is still prevalent as illiterate tribal people follow their old customs without understanding the laws of the land which results in poor health.
7. Tribal people seek treatment modes based upon their customary beliefs without resorting to nay modern medicines even when they contract modern day illnesses leading to high mortality even in curable situations.
8. The Jarawas remain vulnerable to outside diseases to which they have little or no immunity. When the tourists enter their areas, they contract new disease because of them. Their women and girls are also being sexually abused which result in many disease for which the tribal people have no cure.
9. The immunization programme of the government has not reached te tribal areas.
10. Tribal populations are highly malnourished. PVTGs inhabit areas that are inaccessible by road and therefore they cannot travel easily to anganwadi centre where food is prepared. Moreover their hamlets are considered too small to open an anganwadi centre. The result is that their children do not get the nourishment provided under the government schemes.
11. Rules have been framed to prohibit the killing of forest animals without giving an alternative to tribal people who traditionally hunt them for food, leading to loss of nutrient food to these communities.
12. The tribal areas face acute water problems including water pollution and tribal health suffers as a consequence.
13. A very pernicious effect of violence and killing is the rise in mental disorder cases.
14. In areas of high literacy, as in the North East lack of employment amongst skilled youth has resulted in mental depression and high suicidal tendencies.
15. Health issues arising out of drug see such as HIV AIDS and mental disorder is high in the North Eastern states located in close proximity to the Golden Triangle. Drugs such as Ketamine pseudoephedrine etc are being smuggled into these regions with catastrophic effect on the families of drug users.

G. Livelihood

1. Due to absence of modern day skills and education tribal people mainly depend on their traditional skills for livelihood which is not profitable.
2. Although very few are landless, the land that tribal people possess is not very productive.
3. Due to language and cultural barriers, they lack modern skills of agriculture and agriculture based activities.
4. Further as a result of their living in difficult terrain and their aloofness from others they are not able to get adequate prices of their produce and products.
5. Inadequate transportation and communication facilities in their areas compounded by their reluctance in using such means also lead to failure to obtain good prices for their produce.
6. Adherence to traditional practices such as jhum cultivation for livelihood is an important reason that they live below poverty line.
7. When land is taken away from them from development work or they alienate their land, or they are denied access to forests for collecting forest produce tribal people are left with no means of survival and are reduced to impoverishment and starvation.

Part-II: Role of Legal Services Authorities

As is evident from the issues listed above, the State Legal Service Authorities have an important role to play in assisting tribal people in access to justice. The State Legal Services Authorities (SLSAs) will have to bridge the divide between the tribal communities and the Government and Judiciary. The SLSAs will have to ensure that rule of law prevails. Restore faith in the legal system efficacy of rule of law is of prime importance amongst the tribal people. The SLASs should explore activities in these areas.

The SLSAs should take the following inactivates:

A. Litigation related

1. They should constitute an exclusive panel of lawyers drawn from the tribal communities who should be paid good fees.
2. The tribal people should be given suitable legal aid in litigation and in appropriate cases, senior lawyers should be engaged on their behalf even if on payment of special fee, so that the rights and interests of tribal people are protected.

3. The Judiciary operates in Hindi and English leaving poor tribal people at the mercy of lawyers and judges from outside their community. They are the ones who need access to justice and should be supported by SLSAs.
4. Panel lawyers must sincerely represent the tribal people in the courts, explaining to them the process and the law so that distrust of the system is eliminated and there would be greater understanding of the processes of the court.
5. Panel lawyers must assist the tribal people in clarifying areas of confusion or overlapping of jurisdiction of the normal courts and the traditional village authority courts at the village level and help people in the smooth functioning of the justice system.
6. Panel lawyers must visit jails and set up legal services clinics in jails to tackle long term imprisonment without bail and also follow up cases where there are no charges made out so that there is early release from prison.
7. Panel lawyers should with the help of para legal volunteers facilitate the tribal people for getting compensation of their acquired land and assist them from rehabilitation.
8. The issues requirements and legal needs as well as availability of educational and medical facilities in tribal areas must be identified with the assistance of PLVs and action for judicial redressal initiated in appropriate cases.
9. The full time Secretaries/judicial officers should interact with the persons of such area in order to identify their problems and needs and in order to assure them that they will be given suitable assistance and services for their genuine legal and other requirements and rights.
10. Where any tribal person is facing prosecution in a court of law, he should be indentified and given proper legal aid and assistance by legal services authority from the inception of the proceedings against him, that is from the time of his interrogation.
11. The SLSAs must open legal services clinics wherever feasible to be visited by tribal lawyers.
12. The SLSAs must make use of the multi utility vehicles to reach out to sparsely populated tribal areas not only for spreading awareness but also to extend prompt legal assistance to the trial people who may have criminal civil revenue or forest rights issues.
13. The SLSAs must co-ordinate with government departments such as the forest department to settle habitat claims and compensation claims through the mobile lok adalats.

14. Legal assistance must be promptly given to the tribal people to approach the High Court under its writ jurisdiction both for civil as well as criminal matters. The High Court legal services committees must empanel committed lawyers who are tribal people themselves or have a good understanding of tribal issues and are able to personally communicate with tribal people.
15. Social Justice Litigation with the approval of Hon'ble Executive Chairman, SLSA may be initiated whenever required.

B. Para Legal Volunteers (PLVs)

1. Each District Legal Services Authority, with the help of statistical and other Government department should indentify the areas of the districts where there are tribal population and reach out to them through the Para Legal Volunteers.
2. In order to gain trust of the tribal communities, to know the problems of each such community and also to communicate with them effectively during awareness programme it is necessary that para legal volunteers must be selected from amongst such tribal people. The SLSAs should prepare exclusive panel of para legal volunteers (PLVs) from these communities under the direct mentorship and control of the full time secretary DLSAs.
3. Such PLVs should be properly trained in respect of their roles to reach out proactively to the tribal people and to become the go to person for the tribal community he/she is assigned to serve.
4. The SLSAs through the PLVS should help the illiterate tribal people requiring legal assistance in filling up forms and filing applications for getting benefits of various schemes made by Government to do so for their getting such benefits.
5. Legal Services Authority could play a vital role in providing medical help with assistance of Para Legal Volunteers from amongst the tribal community. The needy persons may be identified with the help of Para Legal Volunteers and with assistance of the local legal services authority, such tribal people may be facilitated in getting suitable medical assistance and medicines as well as benefits of medical schemes.
6. The PLVs must be the voice of the tribal people to communicate to the concerned authorities when there are issues relating the schools, absence of teachers and harassment of tribal children etc as listed in Part-I of this Scheme.
7. The PLVs may be useful in the matters of human trafficking for identifying the victims of trafficking and taking suitable action for obtaining victim compensation and accessing various rehabilitation schemes.

8. The PLVs must assist trafficked children when they are rescued and produced before the child welfare committees (CWCs). They should help the CWCs in tracking out the families of the victims.
9. The PLVs must and hold the victims when they have to testify in the Court.
10. The PLVs must be the bridge between the tribal people and the panel lawyers and must assist both the tribal person as well as the lawyer so that the case of the tribal is effectively understood and heard by the court.
11. The PLVs must also be the connect between the government departments and the tribal people to ensure that the food and rations meant for the tribal people reach them even when they live in remote and sparsely populated areas in the State.
12. Documentary proof of land is mostly not available with tribal people. The tribal people may in such cases, need legal assistance for getting proper compensation and rehabilitation. PLVs should help the tribal people to collect all documents and other evidence so that displaced tribal people may be rehabilitated properly.
13. The PLVs must visit jails and interact with inmates to find out about their cases and report to the full time Secretary of the DLSAs about them so that immediate follow up can be taken for their release on bail or expenditure hearing of their cases.

C. Awareness

1. Legal Awareness in tribal area should be different that the ordinary mode of awareness programmes. Audio visual mode will be more useful in this respect. Awareness may be through organizing cultural programmes such as dances, dramas, etc. in which the involvement of tribal people must be ensured. Folk songs and dances of such tribal people may be utilized for effectively conveying messages to them. The awareness programme in tribal area must be carefully carried out by persons having full knowledge of their problem and solution.
2. There is requirement for spreading legal awareness amongst tribal people about forest laws and consequences of infringing the provisions of law.
3. The SLSAs should organize intensive legal awareness programme in tribal areas enlightening the Tribal community about the benefits of education, their rights and entitlement under various government schemes and benefits of modern technology which may be helpful in improving their occupational works.

4. The tribal community may be informed that education to their children may secure their future because such children may get jobs in public or private sector where reservation policy is applicable.
5. School legal literacy clubs should be started in tribal dominated areas to reach out to tribal children to encourage them to stay in school, while at the same time sensitizing other students and teachers of the special needs of tribal children.
6. The SLSAs with the assistance of Govt. agencies and NGOs may organise training programmer by audio visual mode and also by showing them practical demonstrations of modern technology for gainful agricultural work.
7. Medical awareness programme may be organized in tribal areas to teach them the benefits of safe drinking water nutrition and care of pregnant women as well as immunization programme with NGOs working in the field.
8. The SLSAs should take other initiatives like establishing a community radio in the villages to bridge linguistic divide.

**NALSA (LEGAL SERVICES TO THE VICTIMS
OF DRUG ABUSE AND ERADICATION OF
DRUG MENACE) SCHEME, 2015**

**NALSA (LEGAL SERVICES TO THE VICTIMS OF DRUG ABUSE AND
ERADICATION OF DRUG MENACE) SCHEME, 2015**

1. Background

- 1.1. The phenomenal rise in drug trafficking and drug abuse amongst the youth, children and adolescents has serious implications, adversely affecting national health and economy. Curbing is the highest priority for the State as well as the society.
- 1.2. It is an open secret that drugs have spread their dreaded tentacles on innocent children, adolescents, youth and women. The horrible dimension, which this menace has acquired, can be gauged from the average age of initiation of drugs which is as low as nine-ten years. Recent empirical studies reveal that about 7 crore people in India are involved in substance abuse, out of whom about 17% are addicts.
- 1.3. The illicit cultivation of plants wherefrom the substances/drugs are derived is an area of major concern. Generally, people are unaware of the ill effects of such cultivation. In order to prevent illicit cultivation of substances, participation of Panchayati Raj Institutions and Local Bodies is necessarily required.
- 1.4. Although many agencies of the State as well as Non-Governmental Organizations are working in the field for eradication of drug trafficking and drug abuse, there is lack of coordination amongst them. Individual efforts of different functionaries and agencies have not achieved the desired results. Experience shows that the victims of drug abuse have no idea how to tackle the issues of treatment and rehabilitation.
- 1.5. Considering the fact that Legal Services Institutions can contribute a lot to curb the menace, a resolution was passed in the 13th All India Meet of State Legal Services Authorities held at Ranchi (Jharkhand), concluding that Drug Addiction and Drug Abuse should be a major area of concern for all Legal Services Institutions and a necessity was felt to examine the issue therein.

2 Existing Legal Provisions

- 2.1. The efforts to combat the menace of Narcotic Drugs and Trafficking started at the International level with Single Convention on Narcotic Drugs by the United Nations in March, 1961 and thereafter a protocol amending the resolution of this Convention was adopted in March, 1972. The United Nations Convention on Psychotropic Substances was held in 1971, followed by United Nations Convention against illicit Trafficking in Narcotic Drugs & Psychotropic Substances, 1988. India is signatory to all such Conventions.

- 2.2. Article 47 of the Constitution of India mandates that State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health.
- 2.3. The growing trend of illicit drug traffic and drug abuse, at the National level, has led to the passing of comprehensive legislations: (i) The Drugs and Cosmetics Act, 1940 and (ii) The Narcotic Drugs & Psychotropic Substances Act, 1985, for prohibition, control, regulation, cultivation, manufacture; sale transportation, consumption etc. of narcotic drugs and psychotropic substances, despite tough laws, illicit drug trade, in an organized manner, is growing manifold.
- 2.4. It is in this background that it was felt by NALSA that Legal Services Institutions have a significant role to play in supply and demand reduction and de-addiction and rehabilitation. A committee was constituted for the purpose of understanding the dimensions of the problem and defining the role of the Legal Services Institutions to effectively address the problem. This Scheme has been framed on the deliberations of the Committee based on this inputs received at the Regional Conference on the '*Drug Menace in India- Overview, Challenges and Solutions*' at Manali, Himachal Pradesh.

3 Name of the Scheme

The Scheme shall be called “**NALSA (Legal Services to the Victims of Drug Abuse and Eradication of Drug Menace) Scheme, 2015**” (hereinafter referred to as “the Scheme”).

4 Definitions

In this scheme unless the context otherwise requires,

- a) “Act” means the Legal Services Authorities Act, 1987 (39 of 1987)
- b) “NDPS Act” means The Narcotic Drugs and Psychotropic Substances Act, 1985 (Act no.61 of 1985)
- c) “Legal Service” means as defined under Section 2(c) of Legal Services Authorities Act, 1987.
- d) Legal Services Clinic means a clinic as defined under regulation 2 (c) of National Legal Services Authority (Legal Services Clinics) regulations, 2011.
- e) Legal Services Institution means a State Legal Service Authority, Supreme Court Legal Services Committee, High Court Legal Services Committee, District Legal Services Authority or Taluk Legal Service Committee, as the case may be.

- f) Panel Lawyer means the panel lawyer selected under regulation 8 of the National Legal Services Authority (free and competent legal services) regulations, 2010.
- g) Para Legal Volunteer means a Para Legal Volunteer defined and trained under the NALSA Scheme for Para Legal Volunteers (Revised) and Module for the Orientation-Induction-Refresher Courses for PLV Training trained as such by a legal services institution.
- h) All other words and expressions used but not defined in this scheme and defined in the Legal Services Authorities Act, 1987 (39 of 1987) or the National Legal Services Authorities rules, 1995 or National Legal Services Authority (Fee and Competent Legal Services) Regulations, 2010 shall have the same meaning respectively assigned to them in the said Act or Rules or Regulations.

5 The Objectives of the Scheme

- 5.1. To disseminate awareness amongst the general masses regarding the Legal Provisions, various Policies, Programmes and Schemes, in respect of Narcotic Drugs and Psychotropic Substances as well as to create awareness about the ill effects of drug abuse amongst the children in schools and colleges, street children, urban slum children, injective drug user(s), families, prisoners, workers in unorganized Sector, Chemists, drug pedlars, sex workers and general masses etc.
- 5.2. Organizing literacy camps for sensitizing the farmers who are carrying out permissible cultivation of various substances/source plants about the adverse health and life threatening effects of consumption of such drugs and substances.
- 5.3. To sensitize the various stakeholders viz; Judiciary, Prosecution, Members of Bar, Police, Forensic Laboratories, De-addiction Centres, Corrective Homes, Rehabilitation Centres, School College and University administration, Children Homes, Old-age Homes, NariNiketans, Schools for Special Children, Ministerial Staff of Courts, etc. about the drug menace and effective measures to curb it.
- 5.5. To mobilize the available infrastructure in identifying the victims of drug abuse, their treatment and post detoxification rehabilitation.
- 5.6. To tap the potential of the Panchayati Raj Institutions/Local Bodies at grassroot level for intervention and prevention of drug abuse and destruction of illicit cultivation of plants used to derive the drugs/substances.
- 5.7. To maintain effective coordination with the Drug De-Addiction Centres, and Rehabilitation Centres etc. for better facilities and respect for the rights of the victims and to intervene, if any, breach is noticed.

- 5.8. To coordinate the activities of various stakeholders working in the field.
- 5.9. To ensure essential legal services to the victims of drug trafficking and drug abuse.

Plan of Action

6 Establishment of Special Units

- 6.1. The State Legal Services Authority (hereinafter referred to as SLSA) shall, within one month of the communication of this scheme, establish Special Units in all Talukas/Mandals/Sub Divisions in the State, consisting of Judicial Officer (s), young lawyer (s) to be nominated by the Chairman, DLSA, Medical Officer (s) to be nominated by the Chief Medical Officer concerned, a Revenue/Police/Forest Officer (s) nominated by the Chief Secretary, social worker, Para Legal Volunteer and a representative of NGO (s) having done substantial work for eradication of drug menace or rehabilitation and de-addiction, and accredited with NALSA. The Special Units shall be headed by the Chairman of the Taluka/Mandal/Sub Divisional Legal Services Committee (hereinafter referred to as TLSC), under the overall supervision of the Chairman, DLSA.
- 6.2. Such Special Units shall comprise of not more than ten members. The Secretary, DLSA shall be the Nodal Officer for the District. The Secretary, Taluka Legal Services Committee shall be Secretary of the Special Units.
- 6.3. After the constitution of the Special Units, the DLSAs, shall conduct training programmes for members of the Special Units, as per module of NALSA.
- 6.4. The Special Units shall submit regular action taken reports to the SLSA through Chairman, DLSA, who will forward it along with his/her comments.
- 6.5. The Special Units shall, in terms of the scheme, within 15 days of its constitution, prepare a Micro Level Programme to be carried out/performed in their respective areas for tackling, intervention & prevention of drug abuse.
- 6.6. Such programme (s) shall be forwarded by the Chairman of the DLSA to the Member Secretary of the SLSA, who, in turn, shall place the same for approval, before the Executive Chairman. The Executive Chairman SLSA, may accord sanction with or without amendments, within 15 days.
- 6.7. Apart from the functions assigned to them under the provisions of this scheme, the Special Units shall also perform any other function, which SLSA may assign from time to time.

7 Creation of Database

The SLSAs shall create a Database of all the existing Policies, Schemes, Regulations, Directives, Preventions, Rules, Declarations and Reports available

for effective prevention, protection, rehabilitation, elimination of Narcotic Drugs and Psychotropic Substances and upload the same on its website and share the same with NALSA.

8 Implementation of various schemes

- (a) The SLSAs shall take all steps to disseminate the information regarding policies, schemes, programmes to the general public and in particular, to the victims of Drug abuse, their families and the functionaries of De-addiction/Rehabilitation Centres.
- (b) The Special Units shall display such information prominently in their offices and shall get suitable booklets/pamphlets/placards etc, printed, as approved by the SLSA.

9 Destruction of illicit cultivation

The SLSAs shall coordinate with the State Governments for the destruction of illicit cultivation of cannabis and opium as well as any other plant used to derive Narcotic and Psychotropic Substances. The SLSAs may also urge the State Government to include such destruction as admissible work under MNREGA Scheme. This will pave the way for the destruction of illicit plants on a large scale besides, encouraging community involvement in the entire campaign.

10 Participation of Local Bodies/Panchayati Raj Institutions at grassroot level

The participation of these institutions shall be in the following manner:-

- a) Special Units shall coordinate with the Panchayati Raj Institutions to identify areas, where substances such as charas/ganjaetc are being illegally cultivated. Reports so prepared by the Special Units shall be forwarded to the SLSA through the Chairman DLSA and with the approval of the Executive Chairman, SLSA, the matter shall be taken up with the concerned authorities for appropriate action.
- b) The Special Units shall seek assistance of Panchayati Raj Institutions to identify the drug addicts and injective drug addicts and injective drug user(s) for making arrangements for their treatment and rehabilitation.
- c) The Special Units shall also seek assistance of the Panchayati Raj Institutions for spreading awareness about ill effects of drugs in the rural areas.
- d) The Special Units should as far as is possible associate the MahilaMandals and YuvakMandals or other similar self helpgroups of the area in such campaigns.

11. Awareness

11.1. Awareness in Schools/Colleges

The Special Units shall coordinate with Legal Literacy Clubs in schools and Legal Services Clinics in colleges to conduct awareness and sensitization programmes in the Schools and Colleges, to make students aware of the ill effects of drugs.

- (a) The awareness and sensitization programmes could be conducted through various modes, such as;
 - i. Starting awareness campaign in the school/cluster of schools under the banner of “run against drug abuse” by associating the “Icons” of the area.
 - ii. Awareness camps
 - iii. Holding regular Parents-Teachers meetings
 - iv. Through Mass Literacy campaigns
 - v. Through Symposiums, Seminars, Debates etc.
 - vi. Organizing quiz and essay writing competitions about the ill effects of drug abuse
 - vii. Nukkad Nataks; Any other similar and innovation manner
 - viii. Any other similar and innovative manner
- (b) The teachers in the schools/colleges should also be involved in awareness/sensitization programmes.
- (c) Pamphlets/booklets prepared by the NALSA/SLSA should be distributed to the students in awareness/sensitization programmes.
- (d) Such pamphlets/booklets will also be distributed at all awareness camps and also help at front offices and legal services clinics.
- (e) Inclusion of Chapter on Drug Abuse in School and College Curriculum- An endeavour for compulsorily getting a chapter on drug abuse included in the curriculum of Schools and Colleges, by taking up the matter with respective Education Boards and Universities.

11.2 Awareness to the families of the victims of Drug Abuse

Children generally become victims of drug abuse in those families where the affectionate bond between children and parents is either loosened or obliterated or where parents or family members consume drugs/substances.

- a) The Special Units should identify the families of victims of drug abuse and the parents who are habituated to either one or other forms of addiction and shall sensitize them to build parental bonds with their children, supervise their

activities and to talk to the teachers about their children and their behaviour and that drug addiction can be cured.

- b) Awareness must be raised to aid in the de-stigmatization of addiction as well as the mental illnesses arising out of it, in order for addiction to be recognized as any other health problem and treated at the earliest.

11.3 Awareness amongst Street Children

- a) Large number of victims of drug abuse are the street children. They are the most neglected and vulnerable class, generally abandoned and left out by their families. Hence, there is a greater need to ensure their safety along with NGOs working with street children.
- b) The Special Units shall identify the addicted street and urban slum children and make arrangement for admitting them to De-Addiction Centre(s) or Rehabilitation Centre (s), as the case may be.

11.4 Awareness amongst the victims of drug abuse

With the identification of the drug addicts, Special Units shall conduct regular sensitization programme(s) for them by associating Psychologists and Doctors. Role Models and the persons who have achieved success in the field of Sports, Cinema, Literature etc. may be associated in such programmes.

11.5 Awareness Programmes for sex workers

The Special Units shall organize strategic awareness programmes in the red-light areas, targeting the sex workers and their children about the ill effects of drug abuse.

11.6 Awareness Programmes in Jails

The Legal Services Institutions shall organize periodical awareness and sensitization programmes for inmates of jails and jail staff about the ill-effects of the narcotic drugs.

11.7 Awareness amongst General Public

- a) The Special Units shall periodically organize Legal Literacy Camps on ND&PS Act in the areas where farmers are permitted to cultivate opium or other such plants with special focus on spreading awareness about the ill effects of illegal sale or consumption of narcotic substances.
- b) The general public shall be made aware of the fact that giving secret information to police about illegal possession, transportation, sale or cultivation etc. of drugs or prohibited and banned drugs is protected under law and their identity is kept secret.

- c) The Special Units shall also organize regular Legal Literacy Camps for transporters and taxi operators for educating them about the consequences and ill effects of drugs.
- d) The Legal Services Institutions Special Units shall display sign boards, hoardings etc. about the stringent provisions of the NDPS Act and ill effects of drug abuse at public places such as Bus-Stands, Railway Stations, Airports, Public and Private Schools, Universities, Panchayat Bhawans, Courts, District Collectorate, SDM offices etc.
- e) The Special Units shall organize awareness camps in Villages, Fairs and Festivals about the ill effects of the drug abuse.
- f) The Special Units shall organize awareness camps in resettlement colonies, residential areas, market places by involving various organizations/associations.
- g) The SLSAs will endeavour to involve Postal Authorities, Courier Agencies, and Financial Institutions to sensitize their staff about the drugs being transported clandestinely through these agencies.

11.8 Awareness amongst Chemists and Peddlers

- a) The Special Units shall sensitize the chemists and druggists about the ill effects of the drugs.
- b) Chemists may be trained to watch out for children and youth who are buying prescription drugs on a regular basis and refuse to sell them such drugs.
- c) The Drug Peddlers shall be identified and similar sensitization programmes shall also be conducted for them.
- d) Police could also be sensitized to be involved in the prevention of addiction by keeping a watch on suspicious activities by street vendors, paan stalls etc.

11.9 Awareness through Electronic and Print Media

SLSAs should organize regular Radio talks and Television programmes on harmful effects of drugs and means to curb the same. Judicial Officers, Lawyers, Psychologists, Psychiatrists, Police Officers, Icons etc. shall be associated in these programmes.

12 Co-ordination with De-addiction/Rehabilitation Centres

- a) The Special Units shall visit the Rehabilitation and De-addiction Centre(s) situated within their jurisdiction at least once in a month. The Special Units will draw up a list of rehabilitation and de-addiction centres in the Taluk and will continuously update the information. It shall also forward the list to the SLSA along with details of who is running the same and their background.

- b) The Special Units will inspect the facilities at the rehabilitation/de-addiction centre(s) to assess the adequacy of the facilities.
- c) The Special Units shall inspect the record regarding visits of the counselor, psychologist and Doctors.
- d) The Special Units will check the staff ratio to see that there is no shortage of staff and staff strength is commensurate to the number of victims at the drug rehabilitation centres.
- e) Whenever the Special Units find inadequacy in staff, infrastructure or facilities, the Special Units will make appropriate recommendations in this regard to the DSLA, who, shall take up the matter with the concerned authorities and ensure that the deficiencies are removed.
- f) In case, the Special Unit comes across any violation of human rights of victims, it shall promptly file a report with the Chairman, TLSC who shall look into the report and apply his mind before initiating legal proceedings. The TLSC will also grant legal assistance where such proceedings are to be initiated on behalf of the victim.
- g) The Special Units shall gather information from the rehabilitation centre(s) and shall send monthly report to the DLSA concerned, mentioning therein, the details of victims, activities undertaken and visits of Psychologist(s) and Doctor(s) and the corrective measures, if any, taken on the report of the Special Units.
- h) The Special Units will arrange and organize periodical awareness camps for the victims. Cultural and other Socially Active Groups shall be associated in such awareness camps with an aim to bring the victims to the main stream of the society.

13. Training/Refresher Courses for Stakeholders

The SLSAs shall arrange and organize either by themselves or along with the State Judicial Academies, sensitization programmes, refresher courses, special trainings and conferences for Judicial Officers, Prosecutors, members of the bar, police officers and ministerial staff of the Courts.

14. Observance of International Day against Drug Abuse on 26th June

All Legal Services Institutions with the help of Special Units shall organize awareness programmes on 26th June every year for observing “International Day against Drug Abuse and Illicit Trafficking” for creating awareness about drug abuse and its consequences.

15 Association of Reformed Drug Addicts

The Special Units shall identify former drug addicts in their areas and associate them in the awareness camps to share their experiences.

16 Anti Drug Clubs

- a. The School and College authorities shall be requested and involved by Special Units for opening Anti Drug Clubs in the School(s)/College(s) so that students become role models and make their colleagues aware of ill effects of drugs.
- b. The Special Units shall organize sensitization programmes through Anti Drug Clubs in School(s)/College(s). Legal literacy clubs and legal services clinics should be used for this as mentioned earlier.

17. Involvement Para Legal Volunteers

The Para-Legal Volunteers shall be imparted training about various Schemes, who in turn visit different areas and make aware and sensitize people about the ill-effects of the Narcotic Drugs and Psychotropic Substances.

18. Recognition of Good Work

At the end of every financial year, the SLSA should commend outstanding work done by the members of the best Special Units in the State.

**'DOVE MISSION' AND 'KUTTY MISSION' OF
THE KOTHAMANGALAM TALUK LEGAL
SERVICES COMMITTEE IN KERALA
(SUPPORTED BY THE NATIONAL LEGAL
SERVICES AUTHORITY)**

NATIONAL LEGAL SERVICES AUTHORITY, NEW DELHI

‘DOVE Mission’ and ‘KUTTY Mission’ of the Kothamangalam Taluk Legal Services Committee in Kerala (supported by the National Legal Services Authority)

GUIDELINES I.

Objective.

1. The objective of the ‘Dove Mission’ and ‘Kutty Mission’ shall be to take necessary steps for preventing and eradicating domestic violence in the Kothamangalam Taluk under the auspices of the Taluk Legal Services Committee, Kothamangalam in the Ernakulam District of the State of Kerala. The term ‘domestic violence’ shall have the same meaning as assigned to it in the Protection of Women from Domestic Violence (PWDV) Act 2005.
2. The aforesaid two projects shall be a part of the preventative and strategic legal aid programme of the Taluk Legal Services Committee (TLSC) as envisaged in Section 7(2)(c) of the Legal Services Authorities Act, 1987.
3. These projects shall be implemented with the assistance of the members of the local body institutions, ‘Jagratha Samithy’, teachers including Anganwadi teachers, NGOs and Para Legal Volunteers (PLVs) identified and trained by the Legal Services Authority.
4. The implementation of the projects shall be guided by the directions issued by the National Legal Services Authority.
5. Directions issued by the Executive Chairman of Kerala State Legal Services Authority shall be binding on those who execute the aforesaid projects.
6. The District Legal Services Authority, Ernakulam, shall have the immediate control and supervision of the project.

II.

Procedure for Implementation of the Project.

1. The TLSC shall organise surveys in the different wards of the municipality and panchayats within the Taluk to identify the families or houses affected with domestic violence.
2. The survey shall be conducted by the PLVs or law students specially engaged by the TLSC. Assistance of the local ‘Jagratha Samithy’, members of the local body institutions and NGOs also may be sought for.
3. Before presuming that a family / house is affected with domestic violence, care shall be taken to ascertain whether the incidents of domestic violence are

repetitive in nature or whether such incidents are only solitary or emotional outbursts at random that could be corrected by appropriate counselling.

4. The survey shall focus on the reasons for the incidence of domestic violence; for example:
 - (a) drunken behaviour of a family member;
 - (b) use of drugs or narcotic substances;
 - (c) lack of harmonious relationship;
 - (d) personality conflicts;
 - (e) repetitive incidents of quarrelsome behaviour;
 - (f) sexual assaults / sexual aberrations;
 - (g) financial / economic problems;
 - (h) demand for dowry;
 - (i) other reasons.
5. After conducting survey, the TLSC may send a team consisting of lawyers, social workers, PLVs and members of 'Jagratha Samithy' to the families or homes identified to be affected by domestic violence.
6. The parties to domestic violence may be called to a convenient place for conciliation and counselling.
7. Services of experts like sociologists, psychologists, psychiatrists, medical doctors and economists may be availed of in appropriate cases.
8. A panel of sociologists and economists available in the Taluk e.g faculty members of the relevant disciplines in the Arts and Science Colleges and a panel of sociologists, psychologists, psychiatrists and medical doctors who can provide voluntary services from within the Taluk also may be maintained.
9. In appropriate cases, where services of specialists in psychiatry, medicine or psychology is required from outside the Taluk, reasonable expenses for bringing them may be met by the TLSC.
10. Counselling the parties involved in the domestic violence shall be one of the important steps. Sometimes repeated counselling may be necessary.
11. Services of the functionaries of religious institutions cast/religious organisations also may be made use of.
12. Counselling shall be conducted at a congenial place away from public institutions like court, police station or panchayat office. A neutral place agreeable to the parties shall, as far as practicable, be ideal for conducting counselling.

13. During the counselling process parents and relatives of the parties may also be involved. However, involvement of parents of the parties may be made use of only if they maintain a non-partisan and unbiased approach.
14. Individual problems of the parties to domestic violence such as psychiatric problems, alcoholic/narcotic habits may require special assistance by doctors, psychologist, and psychiatrists. Services of these professionals shall be used in a discreet manner. However, the privacy and confidentiality of the parties shall be maintained scrupulously.
15. The Chairman of the TLSC may set up different committees/teams for counselling in different wards. Members of the local body institutions and the 'Jagratha Samithy' of each ward shall co-operate with the committees/teams set up by the Chairman, TLSC.
16. Counselling shall focus on the principles of equality and fundamental rights of both the male and female members of a family. If the parties in a domestic violence are not husband and wife, but a female member of a family suffering domestic violence from a male member or another female in the family, appropriate counselling may be given to both the parties.
17. If any legal issue is the cause of domestic violence, services of a lawyer may be made use of.
18. As far as practicable, involvement of police officers in resolving the family dispute may be avoided, except in the circumstances where the cause of violence is due to the influence of a person un-related to the family.

III.

Empowerment of Women Members of the Identified Families.

1. The TLSC and all persons connected with this project shall endeavour to empower the women in the identified families and make them aware of their fundamental right to equality and shall endeavour to facilitate the overall development of the family and its members.
2. The teams deputed by the TLSC shall make suggestions to the affected women the ways and means to become self-reliant and economically independent, given the fact that economic independence of women reduces the incidence of domestic violence.
3. If the women in the identified families are not earning members, the team may give advice for improving the economic status of the family by the women engaging in micro-enterprises and other income generating activities.

4. The TLSC may help the women concerned to obtain bank loans and assistance of government departments for setting up home-based or micro-level activities that would generate income for the family.

IV.

Legal Awareness Classes at Ward Level.

1. The TLSC may organise ward level legal awareness programmes at convenient places.
2. The legal awareness programmes may be organised for the members of all houses in a locality.
3. There shall be no formal functions like inauguration, inviting VIPs etc in such legal awareness programmes.
4. The legal awareness programmes shall be made as informal as possible.
5. Services of women lawyers, law students and PLVs also may be used in such programmes.
6. PLVs may be deputed for distributing pamphlets relating to prevention of domestic violence.
7. The women in the locality shall be made aware of the different provisions of the Protection of Women from Domestic Violence (PWDV) Act 2005 and the different functionaries there under. Addresses, location and the contact number of the Probation Officers, Service Providers etc shall be made available to all women in the locality.
8. No special provision may be made for food and refreshments in such programmes. As far as practicable, the participants themselves may be encouraged to make available such refreshments, as a community effort.
9. As far as practicable, the gathering in the legal awareness programmes shall not exceed 50. Men also may be encouraged to attend such programmes.

V.

Monitoring of the Identified Families.

1. The 'Jagratha Samithy' of each village and the members of the team set up by the TLSC for a locality shall be vigilant in preventing the incidents of domestic violence in the locality.
2. Without infringing the rights of privacy, the identified families shall be under the discreet monitoring by the 'Jagratha Samithy' / team.

3. If there is a manifest indication of domestic violence such as physical violence in the identified family, the members of the 'Jagratha Samithy' may knock at the door or push the bell button - if the house has a calling bell.
4. The members of the 'Jagratha Samithy' may advise the perpetrator of physical violence to resist from the proceeding with it and apprise such person of the legal consequences.
5. 'Jagratha Samithy' and members of the team shall keep such instances confidential and shall not divulge the details thereof to the general public or to the media.
6. In an actual scene of domestic violence, the approach of the 'Jagratha Samithy'/teams shall be conciliatory, advisory and impartial in nature and they shall maintain utmost restraint, level-headedness and maturity.
7. After having been able to resolve the domestic problems of an identified family, the 'Jagratha Samithy' /team members may have friendly visits to the identified families and may share the happiness of the family with its members.
8. The local body institutions may take measures for appreciating the peaceful post-incident life of the identified family members.

VI. 'Kutty Mission'.

1. The child victims of domestic violence may be given immediate help by the TLSC.
2. Urgent steps may be taken for rehabilitation of a child in extreme cases of violence in the family.
3. The TLSC shall take steps for early restoration of the child to the parents, as far as practicable, to both parents. The TLSC may seek the assistance of the Child Welfare Committee (CWC) set up under the Juvenile Justice (Care and Protection of Children) Act 2000.
4. The TLSC shall take steps to see that children enjoy the love and affection of both parents.
5. The TLSC shall encourage setting up of legal literacy clubs in all High Schools.
6. The members of the legal literacy clubs may be made aware of the provisions of the PWDV Act and also about the rights of the children.

7. The members of the legal literacy clubs may be encouraged to inform the quarrelling parents and elders in the family about the legal consequences of domestic violence. Under the project 'Kutty Mission' all efforts shall be taken to make the children aware of the legal consequences of domestic violence and they may be advised to report such matters to the teachers, who in turn, through the legal literacy clubs, inform the TLSC about the incidents of domestic violence.

VII. Social Audit.

1. The TLSC shall conduct Social Audit of the two projects with a view to assess the impact on and the usefulness of the project to the people of the Taluk.
2. For this purpose, the TLSC shall organise public meetings at block / ward level and shall record the opinions of the people.
3. The TLSC may prepare a format / proforma for recording the opinions, suggestions and criticisms of the project. A PLV shall be entrusted with the recording of the opinions during the proceedings of the Social Audit.
4. Social Audit shall be conducted in each block / ward at frequent intervals not exceeding three months and TLSC in consultation with the District Legal Services Authority. The DLSA shall evaluate the results of the Social Audit and shall issue necessary directions to the TLSC to make amends and for improving the implementation of the projects.
5. MPs, MLAs and members of the local body institutions shall be encouraged to participate in the Social Audit proceedings.

VII. Finance & Audit.

1. The National Legal Services Authority has supported the projects of 'Dove Mission' and 'Kutty Mission' undertaken by the Kothamangalam TLSC.
2. The funds required for implementation of this project may be provided to the Kothamangalam TLSC by the State Legal Services Authority through the District Legal Services Authority, Ernakulam.
3. Donations/Contributions, if any, by any other government departments or institutions shall be received only by the District Legal Services Authority, Ernakulam.

4. The TLSC may maintain proper accounts for the funds received from the District, State/National Legal Services Authority for implementation of the projects. The fund may be deposited in the regular bank account of the TLSC.
5. Income and expenditure relating to the implementation of the two projects shall be audited by a Chartered Accountant, as early as possible after the 31st March of every year, and utilisation certificate signed by the Chairman, TLSC shall be sent to the State Legal Services Authority through the District Legal Services Authority, Ernakulam. The Kerala State Legal Services Authority shall forward such statement of accounts and utilisation certificate to the National Legal Services Authority.
6. The funds provided by the National Legal Services Authority may be utilized for meeting the expenditure like setting up of a 'front office' with necessary furniture for such office; purchase of a computer with printer and internet facility; creating a website for the projects and for paying honorarium to the PLVs, specialist professionals including lawyers who render service during the counselling and awareness programmes. Special permission shall be obtained from the Executive Chairman of the Kerala State Legal Services Authority for other items of expenditure.
7. A separate identifiable account relating to the funds provided by National Legal Services Authority may also be maintained by the TLSC, in addition to its regular books of account.

**PARAMETERS AND PROCEDURES FOR
IDENTIFYING AND ACCREDITATION OF NON-
GOVERNMENTAL ORGANIZATIONS BY
LEGAL SERVICES INSTITUTIONS.**

**PARAMETERS AND PROCEDURES FOR IDENTIFYING AND
ACCREDITATION OF NON-GOVERNMENTAL ORGANIZATIONS BY
LEGAL SERVICES INSTITUTIONS.**

BACKGROUND

1. The fundamental obligation of Legal Services Institutions (LSIs) under the Legal Services Authorities Act, 1987 (the Act) is to serve the weaker sections of society by providing inclusive justice including legal awareness and legal access in an amicable manner. LSIs constituted under the Act have to ensure justice by transmitting knowledge, creation awareness and by amicable redressal of grievances through negotiation, discussion, mutual co-operation and co-ordination amongst all the stakeholders by adopting appropriate institutional mechanisms such as Lok Adalats, Permanent Lok Adalats and Mediation.
2. LSIs spread across the country under the Act are under an obligation to remove impediments which arise in the weaker sections of society realizing benefits available under legislation and welfare schemes. Large public funds are allotted to ensure justice, social, economic and political for the poor. These benefits must percolate to those for whom they are intended.
3. A nationwide network has been envisaged under the Act for providing legal aid and assistance. National Legal Services Authority (NALSA) is the apex body constituted to lay down policies and principles for making legal services available under the provisions of the Act and to frame effective and economical schemes for legal services. NALSA also disburses funds and grants to State Legal Services Authorities (SLSAs) and Non-Governmental Organizations (NGOs) for implementing legal services schemes and programmes.
4. NALSA has laid emphasis on legal awareness and legal access campaigns. Almost all SLSAs identify credible NGOs through whom legal literacy campaigns may be taken to tribal, backward and far-flung areas in the country. The effort is to publicize various kinds of legal service schemes so that the target group, for whom the Act is meant, may become aware of these beneficial provisions and approach legal services functionaries.
5. Multiplicity of laws and agencies, cumbersome procedures, unjustified delays and apathy of official agencies have led to the growth of civil society activities. Civil society organizations in India are doing impressive work and the approach of NALSA should be to support their work. NALSA needs to proactively engage with NGOs to become responsible stake holders in furthering the aims and objectives of the legal services movement. The LSI should themselves reach out to the NGO who have a proven track record of exemplary service and encourage new NGOs to work as partners.

6. Civil society organizations have a vital role to play in fostering an awareness of legal rights and in facilitating access to socio-economic welfare based initiatives. As a matter of principle, the association of such organizations in the activities of NALSA will enable NALSA to reach out to a large cross-section of society whose needs are served by these organizations. Engaging with civil society organizations working in areas such as gender, child rights, tribal welfare, health, education, differently abled, under-trials and convicts will enable NALSA to reach out to the marginalized. At the same time, it is necessary for NALSA to put into place an objective and transparent process of accreditation. A large part of the non-governmental and voluntary sector is unorganized and unregulated, as a result of which doubts can on occasion arise about the credibility of the institution. A proper process of accreditation would ensure that only those NGOs are selected for association with the activities of NALSA who have a demonstrated track record and ability to fulfill a transparent, accountable and rights based pattern of activities.

NEED FOR ACCREDITATION

7. Though the SLSAs in some States have been engaging with NGOs for various outreach programmes, the need to have a uniform policy for accreditation and funding of NGOs has always been felt. In this connection, it is relevant to refer to a letter (No.2(1)/98-NALSA/1388-1404) dated 23.6.1998, by the then Hon'ble Executive Chairman of NALSA which reads as follows:-

“I feel that NALSA should now take concrete steps to establish a nationwide network of voluntary agencies for spreading legal literacy, legal awareness and publicity for legal services. State Legal Services Authorities (SLSAs) are in a better position to identify and select genuine NGOs and Social Action Groups which are willing and well equipped to support us. The SLSAs can monitor and supervise the programmes entrusted to these voluntary organizations and grants-in-aid to such groups can be sanctioned upon the recommendations of the SLSAs.

May, I, therefore, request you to initiate steps to identify and contact such voluntary agencies and Social Action Groups and send a list thereof to NALSA. The applications for grants-in-aid from such groups be also forwarded to NALSA. It is, however, made clear that selection alone would not entitle any NGO to claim grant-in-aid from NALSA as a matter of right because the grants are sanctioned after proper scrutiny of the merits of the project proposals. In my view one NGO/Social Action Group can be given accreditation for every District in a State which should work under direct supervision of the District Judge who is Ex-officio Chairman of District Legal Services Authority also. This strategy would ensure a meaningful implementation of the projects supported by NALSA.”

8. In the 13th All India Meet of SLSAs held on 21st & 22nd March, 2015 at Ranchi, it was observed that while engaging with NGOs three things need to be identified i.e. (i) subject, (ii) method of accreditation and (iii) mechanism of association for spending the funds. Accordingly, with a view to evolving a thorough mechanism for accreditation of NGOs, a Committee comprising Hon'ble Mr. Justice D.Y. Chandrachud, Hon'ble Mr. Justice Hemant Gupta and Hon'ble Mr. Justice D.N. Patel was constituted at National Level to suggest as to how to identify and accredit NGOs, how to associate with them and also how to monitor their activities. The process and parameters for accreditation and funding of NGOs are being laid down on the basis of the recommendations of the Committee.

PURPOSE OF ACCREDITATION

9. The accreditation process is a certification system but it also focuses on empowering the organization to achieve excellence. It gives ample opportunity to the organization to systemize, organize, develop and comply with minimum standards and desirable norms. The accreditations process helps the organization not only to comply with norms, but to develop, update and review existing policies and norms. Accreditation helps the organization in ensuring transparency with and outside the organization, mobilizing resources, donor support and brand building.

ENGAGEMENT WITH LEGAL SERVICES INSTITUTIONS.

10. Collaboration with NALSA/SLSAs is envisaged at two levels:

The first is where the organization does not seek any funding from LSIs and only seeks an association with or participation in a particular project of the organization by NALSA/SLSAs or seeks to participate in NALSA/SLSA's projects/schemes

The second is where a commitment of funds by NALSA/SLSAs is required in a project initiated either by the organization or by NALSA/SLSAs.

ASSESSMENT COMMITTEE

11. There shall be a committee at the District/State/National level to assess the credibility, effectiveness and track record of the NGOs. The committee at the National level shall be constituted by the Hon'ble Executive Chairman NALSA, at the State and the District level by the Hon'ble Executive Chairman SLSA.
12. **Constitution of the Committees:**
- (i) The Assessment Committee at the District level shall be headed by the Chairman of DLSA and shall have the Secretary DLSA, one senior

panel/retainer lawyer and one suitable level officer from the district administration as its members.

- (ii) The Assessment Committee at State level shall be headed by the Member Secretary, SLSA. The members will include one senior panel/retainer lawyer and one officer not below the rank of a Director from the State Government.
- (iii) The Assessment Committee at the National level will be headed by the Member Secretary, NALSA and shall have members as determined by the Hon'ble Executive Chairman, NALSA.

PROCESS OF ACCREDITATION

13. The NGOs desirous of working with the LSIs at the Taluk/District level may apply for accreditation to the concerned DLSAs and similarly, NGOs desirous of working at the State and National level may apply directly to the concerned SLSA and NALSA respectively. The accreditation process as envisaged in this report will comprise of four steps: self-assessment, assessor's assessment, recommendation and accreditation. The concerned LSIs will review the NGOs self-assessment report to ensure that information and documents have been duly provided in accordance with guidelines issued on the subject. Based on the assessment by the Committee, the concerned LSI may forward all the materials along with the report of the Assessment Committee to NALSA through proper channel. After reviewing all materials so received from the concerned LSI, NALSA may accreditate the organization on the basis of fulfillment of minimum and desirable norms.
14. **Stage of Identifying NGOs:** NGOs working for any social cause compatible with the aims and objectives of LSIs at Taluk Level or District Level may be identified by the concerned District level authority with the approval of the concerned SLSA and at the State Level by the SLSA. NGOs having a national presence can be identified by NALSA.
15. **Application for Accreditation:** The NGOs desirous of accreditation shall apply to the concerned District/State/National level authority giving a self-assessment in the prescribed proforma. The application shall also contain a self-certification that it has never been blacklisted by any Govt. Department. The applications so received shall be forwarded to the District/State and National level Assessment Committee through the Secretary, DLSA/Member Secretary, SLSA or Member Secretary, NALSA as the case may be, along with his comments, if any.
16. **Assessment of NGOs:** On receiving the applications, District/State/National level Assessment Committee shall assess the viability and suitability of accrediting and engaging with the concerned NGO on the parameters as hereinafter prescribed. The Committee may inter alia conduct physical verification, review of operational and financial aspects of the NGO and

discussion with its personnel. The Committee may also interview beneficiaries and other key stakeholders and, if necessary, also conduct interview beneficiaries and discussion with its personnel. The Committee may also interview beneficiaries and other key stakeholders and, if necessary, also conduct interviews and meetings with current and past donors in order to have a better idea about the authenticity of the NGO.

17. **Report of the Assessment Committee:** The reports of the District Assessment Committee and the State Assessment Committee shall be submitted to the Hon'ble Executive Chairman, SLSA through the Member Secretary, SLSA. The report of the National Assessment Committee shall be submitted to the Hon'ble Executive Chairman, NALSA through Member Secretary, NALSA.
18. **Recommendation:** Having received the report of the Committee, the Hon'ble Executive Chairman of the concerned SLSA may review the same and if satisfied, may forward his/her recommendations to NALSA. The said recommendations shall be forwarded to the Hon'ble Executive Chairman, NALSA by the Member Secretary.
19. **Accreditation:** The Hon'ble Executive Chairman of NALSA may take a decision in the matter of granting accreditation of an NGO for all levels including at the National Level or at the State, District, Taluk or Regional Level.

PARAMETERS FOR ACCREDITATION OF NGOs

20. **Registration:** The NGO should be registered as a trust/society or should be a company registered under Section 25 of the Companies Act, 1956. Registration documents of the NGO should be submitted.
21. **Aims & Objectives:** The vision/purpose/mandate/mission, which drives the organization, must be defined and articulated. The aims and objectives must not in any way be in conflict with the objectives of LSIs.
22. **Management:**
 - a. The NGO should be committed to and must practice good governance in order to enhance effectiveness.
 - b. It must disclose the details of Board Members namely their names, age, position and occupation.
 - c. The Board must ensure compliance with applicable laws and statutory regulations.
 - d. The Board must have regular meetings to review the progress of the projects undertaken by the NGO.

- e. The Board must approve programmes, budgets, annual activities report and audited financial statements.

23. **Human Resources:**

- a. The NGO must have sufficient number of personnel with suitable qualification, experience and skills to carry out the activities as envisaged in its Memorandum and Articles of Association.

- b. The personnel working with the NGO should be adequately trained to build a people friendly attitude.

- c. There must be a mechanism in place to check any violation of laws by any of its employees/volunteers/agents etc.

24. **Activities:**

- a. The NGO should have been functioning for a minimum period of two years for the Taluk and District level and for a minimum of three years for the State and National level from the date of its registration.

- b. The activities of the NGO must be in line with its vision/aims and objectives.

- c. The NGO should be able to demonstrate the performance through defined indicators against stated objectives.

25. **Accountability and Transparency:**

- a. Organization must be accountable and transparent to the community served, to the state, the public, donors, staff, volunteers and other stake holders.

- b. Duly audited accounts statement of the NGOs including balance sheet, income and expenditure statement, schedules, notes on accounts and the statutory auditor's reports etc. should be available for inspection by the LSIs.

- c. There should be no serious adverse reports on any material point.

- d. The organization's Annual Report should be distributed and communicated to the stakeholders and be made available on request every year, within eight months of the end of the organization's financial year.

- e. The Annual Report must contain a description of the main activities, a review of the progress and results achieved in the year; and information on the Board member's names, position in the Board, remuneration or reimbursement and should contain brief financial details.

RELEASE OF GRANTS

26. Need for funding NGOs:

a. There are several NGOs working with various marginalized sections of the society with an objective of ameliorating their conditions. They may be working in the field of health, education, self-employment, personal safety and liberty, against exploitation or for social up-liftment or general well-being to name a few. Many of these areas have interface with law. It is here that the LSIs with their organized structure and expertise can help integrate their efforts to bring about real and measureable social and economic up-liftment.

b. NGOs can help carry forward the projects initiated by the LSIs by providing their expertise in the domain field and manpower, which is essential for an effective outrage.

c. Both the above categories of projects can be carried out either through NGOs own funds or wherever needed, through funding by NALSA either wholly or partially.

PRINCIPLES FOR RELEASE OF GRANT

27. In order to progressively eradicate specific social evils prevailing in the affected areas of the state, the concerned LSI may release a grant in aid for a specific viable project envisaging financial support to the accredited NGO in order to carry out activities identified for dealing with a particular social evil with measureable impact indicators.

28. The guidelines envisage financial support to NGOs for a periods upto three years or the completion of the project, whichever is earlier to carry out the activities identified in the policy with measureable impact indicators. Based on merits and proper justification, NALSA may extend the period of funding for a maximum period of five years.

29. The decision on providing financial support will be taken on the basis of the merits of the project proposal together with the credibility and past record of the applicant organization, and on the recommendations of the Assessment Committee.

30. An NGO seeking grants for a new project would be required to furnish complete information about all sources of funding and a list of projects financed/supported through such funding.

31. The activities conducted by the NGO under the project shall at all times be subject to scrutiny and supervision by the Secretary/Member Secretary of the concerned LSI.

32. No grants will be released for acquisition of immoveable assets or for construction of buildings.

33. The Budget estimates for the budget as projected by the NGO should disclose specific quantified and qualitative targets for each stage and each activity.

34. Release of subsequent installments of the grant shall be conditional upon the NGO providing reasonable evidence of proper utilization of the previous installments.

35. Release of subsequent grants will be conditional on satisfactory operation of the activities of the organization as established through monitoring reports and periodical inspections.

PROCEDURE

36. **Application for Grant:** An accredited NGO shall apply for grants in the prescribed proforma to the District, State or the National Legal Services Authority as the case may be.

37. Applications for funding in case of LSIs projects shall be accompanied by a detailed project proposal providing inter-alia, the following information:

- a. Background of the organization.
- b. Details of its key functionaries.
- c. Experience of handling similar projects in the past/evidence of capacity for undertaking such projects.
- d. Expected outcome of the project, on measureable parameters.
- e. Duration of the project.
- f. Detailed methodology to be adopted.
- g. Estimated timelines.
- h. Estimated costs activity wise.
- i. Other sources of funds.
- j. Amount of grant required.

38. In case of funding of projects initiated by the NGOs, the following additional information shall be provided by the NGOs:

- a. Aims and objective of the project.
- b. Geographical area/target group(s) to be covered.
- c. The manner in which the project shall contribute towards achieving the objective and goals of the LSI.

39. **Assessment by Committee:** The applications for grant along with the full project proposal shall be sent by the concerned LSI to the Assessment Committee for arreditation of NGOs at the District, State and National Level and such Committee shall access the need, viability, utility and economic feasibility of the project and the capacity and suitability of the NGO to carry out the same and report to the concerned LSI. The reports of the Committees at the District and the State Level shall be sent to the Executive Chairman, SLSA through the Member Secretary, Similarly, the report of the National Assessment Committee shall be forwarded to the Executive Chairman, NALSA.

40. **Recommendation:** Having received the report of the Committee, the Executive Chairman of the concerned SLSA may review the same and if satisfied, the concerned SLSAs may forward the recommendation to NALSA to take the final decision for release of grants.

41. **Sanction/ Release of grants:** The Executive Chairman, NALSA shall take the final decision in the matter of release of grants to the NGOs. If sanctioned, NALSA shall send a sanction order to the concerned SLSA and shall transfer the amount to the SLSA, preferably by electronic transfer mode. The sanction order shall clearly specify the object of the grant and the conditions attached to the grant.

42. **Agreement:** The recipient of funds shall have to enter into an agreement with the LSI. A standard agreement format will be prescribed for this purpose which will be made public through the website of the LSI. The NGO will be required to report on the physical and financial progress periodically in the prescribed format(s).

43. **Disbursement to the NGO:** The grant shall be released to the NGO by the concerned SLSA in case of financing of projects at the Taluk/District or State level and by NALSA in case of financing a national level project. The grant may be released in suitable stages on its executing a surety bond in the amount as determined by NALSA/SLSAs.

44. **Performance and Accounts:** The NGO shall file a quarterly performance report and statement of accounts with the concerned LSI. The Secretary/Member Secretary of the LSI shall periodically assess the performance by way of physical inspection, by seeking filed reports or in any other matter as deemed suitable.

45. **Annual Accounts:** The NGO shall file its annual audited accounts with the concerned LSI, which shall be subject to scrutiny by the SLSA/NALSA.

46. **Utilization Certificate:** On the completion of the project, the NGO shall submit a utilization certificate duly certified by its auditors, along with duly audited Statement of Account and a performance report containing full details of the activities conducted under the project and indicating whether the qualitative and quantitative targets have been met and if not, the reasons therefor.

RESPONSIBILITIES OF ACCREDITATED NGOS

47. Accredited organizations will be responsible for:

a. Providing information to the LSIs on any changes in their byelaws, registration, tax status, FCRA Status, governing board, management committees and other items related to the legal entity of the organization every year.

b. Submitting audited statements and report of activities on a yearly basis to the LSI or at shorter intervals as may be acquired.

c. Providing support to the LSI in organizing and conducting capacity building programmes for partner organizations or other civil society organizations on a need based manner.

d. Providing mentoring support to other organizations to improve their organizational capacities.

e. Attending the meetings organized by the LSI whenever call.

f. In case of voluntary withdrawl from accreditation, informing the LSI one month in advance in writing about the same.

RIGHT OF ACCREDITATED NGOS

48. Accredited NGOs may:

a. Produce the certificate of accreditation to any other agencies/institutions as proof of credibility.

b. Participate in capacity building programmes or coordination meetings organized for accredited members by the accrediting LSI.

c. Access periodic information services provided by the accreditation agency or any other resource agencies referred by the LSI.

d. Access any information or guidelines pertaining to programme planning, programme development and programme management available with the LSI.

e. Use the LSI as a reference for their resource mobilization processes (technical and financial resources). In such cases the organization should apply and/or inform the LSI 10 days in advance about the programme and agency which they seek to approach.

LIABILITY

49. The accredited NGO shall carry out its assigned Project/Activities and shall utilize the funds of the LSI in tune with the terms and conditions of the accrediting body. The accredited NGO shall be liable to complete the

Project/Activities within time and utilize the fund only for carrying out the Project/Activities.

50. On receiving any complaint of the contravention of any of the terms, conditions, aims and objectives by an accredited NGO or in connection with spending of the fund or allied matters, the concerned LSI shall get the matter inquired into and send its recommendations to NALSA through proper channel. The final decision to withdraw accreditation shall be taken by the Executive Chairman, NALSA or his delegate.

51. In case a criminal offence is registered against an NGO or against any of its key office bearers, the accreditation would be automatically terminate.

**NALSA (LEGAL SERVICES TO
SENIOR CITIZENS) SCHEME, 2016**

NALSA (LEGAL TO SENIOR CITIZENS)
SCHEME, 2016

1. UND

1.1 The Senior Citizens a class in ¹ are a reservoir of and yet in many cases are such like. gap work and

1.2 Over the with in there has been a 11, “the

in the of the 1 to 10 2011. Thus about of the is above 60 years. The

age with the 11. 1.3 face unique on account of loss of with a loss of income and

for the The more acute with the break-up of the

elderly being left to fend for There is of

1.4 There is also evidence and abuse of the
older
abuse besides
Records

society.

1.5 The issue to
time since 1948. The
where an Plan of Action on was adopted with the
objective to
with the
needs of the elderly. In 1991, the UN adopted certain
aimed at care, and

2. CONSTITUTIONAL

2.1 The of India the right to life of
21. include the

the State shall,
within the limits and make effective

State to promote with special care the of the weaker

and 46 are Directive of State impose positive on the State and are in the of the country.

2.2 Entry 9 in the State the Seventh to the to old age pension, social the 'Welfare are several

3. FRAMEWORK

3.1 Most of the as exists relates to provision for for the who were not able to since Under the and 1956 aged are

to even if the latter are able to earn for A person is also bound to and if they are poor and not to the

3.2 the father or mother, who is unable to claim from if they neglect or re fuse to the filed

and the
 petition her son under the file a
Violence Act, 2005 if she **of Women from Domestic**

3.3 the need to rights of senior citizens and to
 further the the **and Welfare of**
Parents and Senior **2007** was enacted. Under this Act, an
 can be made
 adoptive or father or mother; and (b) 'Senior
 Citizen', i.e. has age years or above. The

one or more of his/her children, i.e., son, and

more each for the purpose of one or
 and

Act, the is
 notice of the or is has
 the for the same is not
 without notice of

prop^rerty way of gift or subject to the that the
 the
 ne^eds, and refuses or fails to provide such and

3.4 Another feature of the Act is that of senior

life

-for the

-that the State

beds for all citizens and that facility for queues are of chronic, for senior and

4. GO FOR SENIOR CITIZENS

4.1 come up with

on senior citizens, older women, income security and services, old age pension and access to

i)

and Old Age Home^s, Day Care Centres, Mobile Medicare Units and to provide non-

ii) Rebate Tax

Act, 19⁶¹, section 80D under section 80D for of ailment is for senior citizens, time income tax

iii)

years,

age

iv) Under the central Rs.200/- Rs.500/- Old Age Pension is given towards Pension at the rate of 60 rate of senior citizens of 80 years and above and the same is

the States.

v)

flights.

vi)

for lower berths, counters for senior citizens for use of senior citizens are at District

vii)

Road for senior citizens and even fare

viii)

like kidney problem, cardiac problem,

ix)

60 years from the BPL were given priority for

x) Under the Scheme being by the

xi) 60 Shops. over

xii) Priority in giving by the Ministry of

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4.5 The of the
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purpose under the ” of the Act.
Further Section enjoins the “Central Authority” to take

benefits

Likewise,
State
Services to and
Thus the Act itself casts a duty upon the Legal
to spread about the laws and various
and to and

5. NAME OF THE SCHEME

5.1 The Scheme shall be called “**NALSA (Legal Services to Senior Citizens)**”. In this the age of 60

5.2 The
same

20 Scheme

6. O OF THE SCHEME

Scheme are

1) To outline the basic rights that should be to

2)

of the

3) To ensure
to the

4) To ensure that the
the under the **and Welfare of
Parents and Senior 2007**, old age homes for senior

5) To create

Taluka

Services panel

6) To enhance at all levels of lawyers,
in legal services officers
tasked with the of the various service
police by

7) To and to study the various
laws etc. to find out the gaps, the needs and to make

The ultimate objective of the Scheme that the a
life

7. PLAN OF ACTION

7.1

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set up.

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of one

the Section 15 of the

up the issue
State

b) Section 19 of the **Senior**
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for Senior Citizens i.e. senior citizens who do not have
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time up with
the State
of Old Age Homes for Senior Citizens. The SLSAs and
DLSAs may also explore the up

c) the old age ensure
that the tre^{ate}d

7.2

a) SLSAs shall set up Legal Services Clinics at every Tribunal and **Welfare**

b) While _____ is a bar to lawyers _____ the said
it shall be ensured that _____ are
in the _____

c)

d) The Legal Services Clinics so _____ shall be
National Legal Services Authority (Legal Services Clinics)
2011 in respect of their _____

e) The _____ the
provide _____

f) The _____ the

7.3

a)

b) _____ in terms

_____ for the
be _____ ensure
_____ on the

c) that the to face any kind

d) Every District Legal and Taluka Legal Services shall at least three panel lawyers as Legal

e) The District Legal shall also depute for the Scheme purpose are attend to the made

f) The are unable to Legal and the Legal Services Where it is for the

g) SLSAs shall provide to panel lawyers to enable them to that the legal are of the provided to them.

7.4

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b) on
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c) the
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7.5 **D**

a) All SLSAs shall have of all the Central or State
policies, policy senior

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b) SLSAs and DLSAs shall publish booklets in

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3) state.
and

c)

d) The

and PLVs.

e)

f)

the security
DLSAs to provide

This enable the
to persons in by

7.6

a) SLSAs all steps to

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d) Legal services to be provided would include the

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p the required for the benefits under the
name

the
with the office of the

- e) effective
bodies or welfare of senior
that the

7.7

- a) a culture which

- b) The
to people to the care leave

- c) The Legal Services need to treat the

- d) SLSAs along with DLSAs shall conduct to

- e) SLSAs, DLSAs and Taluka Legal Services shall also
create

- f) places and PLVs and

- g) While organizing awareness programmes, the DLSAs and Taluka Legal Services Committees may also coordinate with the relevant health department to organize special health or check-up camps for senior citizen such as general health camps, eye check-up camps etc. or with the police to have a special registration drive of senior citizens.
- h) All possible methods of spreading awareness should be used such as Doordarshan, All India Radio, private TV channels, hoardings, organizing cultural programmes and setting up stalls at religious fairs, festivals.
- i)

7.8

O

also be and skill. should

7.9 **O**

citizens. of the rights of senior

**NALSA (LEGAL SERVICES TO
VICTIMS OF ACID ATTACKS)
SCHEME, 2016**

NALSA (LEGAL TO VICTIMS OF ACID ATTACKS)
SCHEME, 2016

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2015. The are of the rural areas and some such to

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on the right to live
crime. This is

”

The Justice

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2.1 The right to life
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 41
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3.

3.1 In the absence of any specific to deal with of acid
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women. We
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 Central
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 3.4
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 each of acid attack. The Member of the State
wide

in the
 acid attack victim could take the benefit Victim

the
 who the District felt would of
the and the

and the the Court in
and Anr. V. Union and Ors. WP (Civil)
15 where State

given in this case was that all the *States and Union* should

3.6 It is thus seen that acid attacks have been as

State in with the Central for
funds for the the such

for to victims of acid attacks. The Central

with an to and Victim

of the Central
upto

above the
is need

for
provide

NALSA

to the

4. **Role of Legal Services**

4.1 The of the
the

are not denied to citizen reason or or other

the

to “frame most effective for the
under the ” of the Act.
” to take

Services to and State
Thus the Act and a duty upon the
to spread about the laws and various
and

of section 2 of the Persons with

5. NAME OF THE SCHEME

5.1 The shall be

.

5.2 The same as National and
10 Services 2011 and NALSA

6. OF THE SCHEME

The are

- 1) various
- 2) To enable the services;
- 3) To create attacks the District Legal Services Taluka Legal clinics;
- 4) To enhance in services clinics, the

by and

5)

The ultimate of the that the
a life

7. PLAN OF ACTION

7.1 Legal

a) the heirs

b) that the to
face

c) 164 Cr.P.C.,
etc.

d) Every District Legal Services Authority and Taluka Legal Services
shall at least one panel lawyer as Legal Services

e) The

f) The made
the

7.2 Legal Services Clinics

a) referred

medical

b) The

c) The

the

that the

entitled

to with the State

or the

as

15.

d) The

that the

able to avail of

for them.

e) The

f)

of the Legal Services Clinics shall be

all the

g) The

Legal

Authority

Services Clinics)

National

2011 in

7.3

with the

a) The

with the

same in line with

the

the

Court.

b) The

to ensure that

funds are always

for

as

c) The

up the

names

of the

7.4

- a) All SLSAs of the same
- b) of the
- c) The lists shall be annually to all the District shall the same to the
- d) SLSA

7.5

- a) policies,
- b) Legal services to be benefits the to the required for the under the the of the name and of the authority or the office the
- c) SLSAs shall develop effective and with all the other ensure the benefits the welfare of acid attacks to various for

7.6

a) The Legal Services shall to
people to the needs of the victims of acid so that the
provides support to them which is for their

b)
Victim and the
under the same

c) SLSAs, DLSAs Services shall also create
services of acid

d) SLSAs, DLSAs and Taluka Services shall
drives to over the counter sale of acids stands

be

e) All of should be used such as

7.7 **and**

a)
attacks and to build their and skill.
be such as the

b) State

to

**SCHEMES FOR ENFORCEMENT
OF SINGLE WOMEN'S RIGHTS**

SCHEMES FOR ENFORCEMENT OF SINGLE WOMEN'S RIGHTS

Legal Services Authorities Act, 1987 was enacted to

- Provide Free & Competent Legal Services to weaker sections of the society.
- Ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.
- To organize Lok Adalats to secure that the operation of legal system promotes justice on basis of equal opportunity.

Aforesaid Act was enacted to achieve the goals enshrined in directive principle contained in Article 39 A of the Constitution, added by 42nd Amendment Act, 1976 in order to ensure equal justice as promised to all citizens by the preamble and to further the guarantee of equality before law, which was meaningless to a poor man as long as he was unable to pay for his legal advisor.

Section 12 of the Legal Services Authorities Act, 1987 to be read with Rule 19 of the Haryana State Legal Services Authorities Rules, 1996 provide the criteria for giving legal services. Amongst other category of people, women, irrespective of their financial or social status, are entitled to free legal services, which include rendering of any service in the conduct of any case or other legal proceedings before any Court/Authority and giving of advice on any legal matter.

Women constitute strategic segment of the society and our constitution provides for support mechanism in the shape of protective discrimination for them. However, despite various schemes of social upliftment and programmes of women empowerment, much is still to be done. It is felt that even amongst women, a large segment of single women, (who include abandoned, widowed, deserted, separated, unmarried and divorced) is more vulnerable to atrocities & general discrimination and is deprived of reaping the fruits of legal aid benefits, for want of awareness or due to illiteracy.

Recently, a report appeared in a leading Daily Newspaper "Tribune" on 16th October, 2011 highlighting the plight of such single women. It was reported that there are 36 million single women in India according to 2001 census, numbering more than the population of Canada. This figure is only of those single women, who are legally divorced, separated and widowed. As per the report, a survey was conducted by 'National forum for single women's rights', which found that 75% of the sampled women lived on less than minimum daily wages in their states and yet only 21% of them were actually recognized as poor by the Government. The single women who include widows, divorcees, separated, deserted and unmarried are part of work force, which is mostly unorganized, majority of whom find the going tough. Particularly, in rural areas, they have to constantly battle not only societal prejudices but also have to fight for survival. The atrocities faced by widowed women on the part of their in-laws

after the death of husband are more acute, as they are caught between rigid social & religious customs. There is no official estimate of abandoned, deserted and unmarried women, multitudes of whom live invisibly, often at the mercy of callous family customs and beyond the reach of public welfare.

The challenges faced by the single women are manifold. They are not only vulnerable as both physical and financial insecurity stalks their existence but often face overt discrimination. Many such women despite technically heading the households being providers for their children, are hardly named as heads of families in ration cards. Only some of them receive social security benefits.

Haryana State Legal Services Authority has implemented scheme of Para-legal Volunteers. These volunteers are expected to act as intermediaries/bridge between the common people and legal services institutions and thereby removing the barriers of "Access to Justice". Besides this, Haryana State Legal Services Authority has opened legal aid clinics in cluster of villages of all the Districts of Haryana, which are manned by Para-legal Volunteers and Panel Advocates.

It is felt that in order to ameliorate the condition of single women and to help them achieve their rights; our Para-legal Volunteers can visit every village falling under the area of their operation and identify such single women so as to provide necessary legal services to them. Considering the fact that single women may not be in a position to approach legal services institutions, our effort should be to reach them as "Access to Just for all" is our motto.

Apart from this, it is felt that no woman will be able to assert her right, unless she is aware about the same. Therefore, it will be the duty of Para-legal Volunteers to make such women aware about their rights particularly to make them aware how to claim their rights to land and other property; how to claim maintenance; how to break with the traditions in their caste or community; to guaranteed wage equal to that of men, which will help them afford food, better nutrition and shelter.

Para-legal Volunteers (female) will further help single women to approach the concerned authorities for issuance of ration cards, old age pension, job card, BPL cards etc and to claim maintenance and property rights. Para -Legal Volunteers / Panel Advocates will also create awareness amongst such single women about their constitutional & statutory rights and further apprise them of the various schemes of this Authority or NALSA and other social security governmental schemes, which are beneficial to them. Educated or otherwise interested single women may also be trained as Para Legal Volunteers; as such women will be more helpful in providing succor to similarly placed single women.

It is hoped that by said effort of legal services authorities, various kinds of atrocities faced by single women can be avoided. Said efforts will be helpful in bringing to the fore the problems of this marginalized section of the society and ensure that benefits of statutory provisions and social security schemes reach these needy women without any hiccups.

In view of the all above, it is proposed that directions be sent to all the District & Sessions Judge/Additional District & Sessions Judge-I-cum- Chairmen, District Legal Services Authorities in Haryana, to direct **female** Para-legal Volunteers of their respective districts to visit every village falling under the area of their operation (cluster) and to identify the single women and provide them all sort of legal services, whichever is required and to help/guide them to approach legal services institutions, if and when it is required to assert their rights. Special workshops may also be conducted to make these women aware of their rights. Interested women of this segment of society may also be trained as 'Para Legal Volunteers'.

OR

Any other order as your lordship feels proper.

Sd/- (Deepak
Gupta) Member
Secretary,
HALSA

Sd/-
Hon'ble Executive Chairman

From

Deepak Gupta,
Addl. District & Sessions Judge-cum-Member Secretary,
Haryana State Legal Services Authority,
SCO No. 142- 143, 1st Floor, Sector 34-A,
Chandigarh.

To

All the District & Sessions Judges/
Additional District & Sessions Judges-I-cum-Chairmen,
District Legal Services Authorities,
in the State of Haryana.

No.14690-710/2011 /MS/HALSA,
Dated, Chandigarh, the 18.11.2011.

Subject: Schemes for enforcement of Single Women's Rights.

Sir/Madam,

Women constitute strategic segment of the society and our constitution provides for support mechanism in the shape of protective discrimination for them. However, despite various schemes of social upliftment and programmes of women empowerment, much is still to be done. It is felt that even amongst women, a large segment of single women, (who include abandoned, widowed, deserted, separated, unmarried and divorced) is more vulnerable to atrocities & general discrimination and is deprived of reaping the fruits of legal aid benefits, for want of awareness or due to illiteracy.

Recently, a report appeared in a leading Daily Newspaper "Tribune" on 16th October, 2011 highlighting the plight of such single women. It was reported that there are 36 million single women in India according to 2001 census, numbering more than the population of Canada. This figure is only of those single women, who are legally divorced, separated and widowed. As per the report, a survey was conducted by 'National forum for single women's rights', which found that 75% of the sampled women lived on less than minimum daily wages in their states and yet only 21% of them were actually recognized as poor by the Government. The single women who include widows, divorcees, separated, deserted and unmarried are part of work force, which is mostly unorganized, majority of whom find the going tough. Particularly, in rural areas, they have to constantly battle not only societal prejudices but also have to fight for survival. The atrocities faced by widowed women on the part of their in-laws after the death of husband are more acute, as they are caught between rigid social & religious customs. There is no official estimate of abandoned, deserted and unmarried women, multitudes of whom live invisibly, often at the mercy of callous family customs and beyond the reach of public welfare.

The challenges faced by the single women are manifold. They are not only vulnerable as both physical and financial insecurity stalks their existence but often face overt discrimination. Many such women despite technically heading the

households being providers for their children, are hardly named as heads of families in ration cards. Only some of them receive social security benefits.

Haryana State Legal Services Authority has implemented scheme of Para-legal Volunteers. These volunteers are expected to act as intermediaries/bridge between the common people and legal services institutions and thereby removing the barriers of "Access to Justice". Besides this, Haryana State Legal Services Authority has opened legal aid clinics in cluster of villages of all the Districts of Haryana, which are manned by Para-legal Volunteers and Panel Advocates.

It is felt that in order to ameliorate the condition of single women and to help them to achieve their rights; our Para-legal Volunteers can visit every village falling under the area of their operation and identify such single women so as to provide necessary legal services to them. Considering the fact that single women may not be in a position to approach legal services institutions, our effort should be to reach them as "Access to Justice for all" is our motto.

It is hoped that by said effort of legal services authorities, various kinds of atrocities faced by single women can be avoided. Said efforts will be helpful in bringing to the fore the problems of this marginalized section of the society and ensure that benefits of statutory provisions and social security schemes reach these needy women without any hiccups.

Hon'ble Mr. Justice S.K.Mittal, Judge, Punjab and Haryana High Court, Chandigarh and Executive Chairman of this Authority has desired me to request you that **female** Para-legal Volunteers of your respective districts be directed to visit every village falling under the area of their operation (cluster) regularly:

1. to identify the single women and provide them all sort of legal services, whichever is required;
2. to help/guide them to approach legal services institutions, if and when it is required to assert their rights.
3. to make these women aware of their rights, special workshops may also be conducted.

His Lordship has also directed that interested women of this segment of society may also be trained as 'Para Legal Volunteers'.

You are further requested to do the needful and send a report to this Authority so that the same may be placed before the Hon'ble Executive Chairman of this Authority.

Sd/-
Member Secretary,
Haryana State Legal
Services Authority,
Chandigarh.

MODEL PROSECUTION SCHEME

MODEL PROSECUTION SCHEME

Under Section 12 of the Legal Services Authorities Act, 1987 read with rule 19 of Haryana State Legal Services Authority Rules, 1996 women and children are entitled for Legal Services irrespective of their income.

Women and Children are vulnerable section of society. Victims want decent treatment, quick investigations, speedy and effective trials of the culprits sans hassles of their repeated appearance before the police and in Courts.

The rape victim is generally shaken when she reaches police station. She is put to questioning by the police. Acute trauma and mental distress visit the victims. Right from the start, such victims need social, psychological and legal support in continuum.

Even though there are public prosecutors in all the trial courts but due to numerical deficiency and over busy schedule of the public prosecutors, in cases of crimes against the woman and child there is dire need of additional legal support to provide succour to the victims.

The model prosecution scheme is based upon the judgement of the Hon'ble Supreme Court in **Delhi Domestic Working Women's Forum versus Union of India 1995(1) R.C.R.(Criminal) 194**. In the said judgement, the Hon'ble Supreme Court laid the following broad parameters:

- (1) The complainants of sexual assault cases should be provided with legal representation. It is important to have some one who is well acquainted with the criminal justice system. The role of the victim's advocate would not only be to explain to the victim the nature of the proceedings, to prepare her for the case and to assist her in the police station and in Court but to provide her with guidance as to how she might obtain help of a different nature from other agencies, for example mind counselling or medical assistance. It is important to secure continuity of assistance by ensuring that the same person who looked after the complainant's interests in the police station represent her till the end of the case.
- (2) Legal assistance will have to be provided at the police station since the victim of sexual assault might very well be in a distressed state upon arrival at the police station, the guidance and support of a lawyer at this stage and whilst she was being questioned would be of great assistance to her.
- (3) The police should be tinder a duty to inform the victim of her right to representation before any questions were asked of her and that the police report should stage that the victim was so informed.

(4) A list of advocates willing to act in these cases should be kept at the police station for victims who did not have a particular lawyer in mind or whose own lawyer was unavailable.

(5) The advocate shall be appointed by the court, upon application by the police at the earliest convenient moment, but in order to ensure that victims were questioned without undue delay, advocates would be authorised to act at the police station before leave of the Court was sought or obtained.

(6) In all rape trials anonymity of the victim must be maintained, as far as necessary.

(7) It is necessary, having regard to the Directive Principles contained under Article 38(1) of the Constitution of India to set up Criminal Injuries Compensation Board. Rape victims frequently incur substantial financial loss. Some, for example, are too traumatized to continue in employment.

(8) "Compensation for victims shall be awarded by the Court on conviction of the offender any by the Criminal Injuries Compensation Board whether or not a conviction has taken place. The board will take into account pain, suffering and shock as well as loss of earnings due to pregnancy as a result of the rape.

Keeping in view the said judgement of the Hon'ble Supreme Court of India, the following points must be kept in mind while implementing the model prosecution scheme:

Role of the panel lawyer appointed to help victim

- (1) explain to the victim the nature of the proceedings; and
- (2) to prepare victim for the case; and
- (3) to assist victim in the police station and in Court
- (4) to provide the victim with guidance as to how victim might obtain help of a different nature from other agencies, for example mind counselling or medical assistance.

Other important points

(1) The complainants of sexual assault cases should be provided with legal representation. It is important to secure continuity of assistance by ensuring that the same person who looked after the complainant's interests in the police station represent her till the end of the case.

(2) Legal assistance will have to be provided at the police station since the victim of sexual assault might very well be in a distressed state upon arrival at the police station, the guidance and support of a lawyer at this stage and whilst she was being questioned would be of great assistance to her.

(3) A list of advocates (on duty as per roster) should be kept at the police station for victims who did not have a particular lawyer in mind or whose own lawyer was unavailable.

Following important instructions may be noted in this regard:

(1) Appointment of lady advocates:

Under the scheme Secretary, District Legal Services Authority will appoint lady advocates, who will be required to visit the Police Stations falling under the jurisdiction of concerned courts allotted to them under the scheme and will give legal assistance to the victims of rape and other crimes against women and children.

All the SHO/In charge of Police Stations in the State of Haryana to do the needful and to co-operate with the lady advocates appointed by the Chief Judicial Magistrates-cum-Secretaries, District Legal Services Authorities in the State of Haryana, in discharge of the aforesaid duty by them. **(Letter No.10681/2009/MS/HLSA Dated 31.8.2009)**

2. SHO to assist :

All the SHOs/In-charge of Police Stations must be directed to immediately intimate the lady Legal Aid Prosecution Counsel, appointed by the Chief Judicial Magistrate-cum-Secretary, District Legal Services Authority, whenever a woman/child victim of rape or any other offence approaches the police station and to co-operate with the Lady Legal Aid Prosecution Counsels in discharging their duties.

(No.11292-313/2012/MS/HALSA Dated, Chandigarh, the 24.7.2012)

3. Travelling allowances:

The Hon'ble Executive Chairman has approved the Model Scheme for Legal Aid Prosecution Counsel for victim's and other crime against women and children for implementing in all Districts of Haryana. Under the scheme you may appoint lady advocates. They will be required to visit the Police Station falling under the jurisdiction of concerned courts allotted to them under the scheme and will give legal assistance to the victims of rape and other crimes against women and children. They will be paid an amount of Rs.500/- per case for attending Investigations, Remand & Committal Proceedings (if any). They will also be entitled to travelling expenses at the following rates.

Upto 20 kilometers	:	Rs. 100/-
Upto 40 kilometers	:	Rs. 150/-
Upto 60 kilometers	:	Rs. 200/-
Upto 80 kilometers	:	Rs. 250/-

At the stage of trial, if the Secretary, District Legal Services Authority is satisfied that any victim of sexual offence against women and children, needs legal assistance, then Legal Aid Counsel may be provided to her/him and Legal Aid Counsels shall be paid legal fee as per scheduled already fixed by Haryana State Legal Services Authority vide letter No.5015-34/MS/HSLSA dated 8.7.2002.

(Letter No.10643-10661/2009/MS/HSLSA Dated, Chandigarh, the 31.8.2009)

HALSA TOLL FREE HELPLINE NUMBER

1800-180-2057

(Timing 9.00 AM to 05.00 on any working day)

Helpline Numbers of District Legal Services Authorities

(Timing 10.00 AM to 1.00 PM and

2.00 PM to 5.00 PM on any working day)

Sr. No.	District	Telephone Number	Sr. No.	District	Telephone Number
1.	Ambala	0171-2532142	11.	Kaithal	01746-235759
2.	Bhiwani	01664-245933	12.	Mewat at Nuh	01267-271072
3.	Faridabad	0129-2261898	13.	Narnaul	01282-250322
4.	Fatehabad	01667-231174	14.	Panchkula	0172-2585566
5.	Gurgaon	0124-2221501	15.	Panipat	0180-2640125
6.	Hissar	01662-270078	16.	Palwal	01275-259304
7.	Jind	01681-245048	17.	Rohtak	01262-257304
8.	Jhajjar	01251-252013	18.	Rewari	01274-220062
9.	Kurukshetra	01744-220216	19.	Sirsa	01666-247002
10.	Karnal	0184-2266138	20.	Sonepat	0130-2220057
			21.	Yamuna Nagar	01732-220840



HARYANA STATE LEGAL SERVICES AUTHORITY, CHANDIGARH

THIS AUTHORITY PROVIDES FREE LEGAL SERVICES TO THE POOR AND WEAKER SECTIONS OF SOCIETY.

"WHO ARE ELIGIBLE TO GET FREE LEGAL SERVICES"

Any citizen of India whose annual income from all sources does not exceed Rs.1,50,000/- or such higher amount as may be notified by the State Government from time to time, shall be entitled to legal services under clause (h) of Section 12 of the Act. The State Legal Services Authority, High Court Legal Services Committee, District Legal Services Authority and the Sub-Divisional Legal Services Committee, as the case may be, may grant legal services to any other person irrespective of his income:-

- To a member of Scheduled Caste or Scheduled Tribe or Backward Classes;
- To a victim of trafficking in human beings or beggar as referred in Article 23 of the Constitution;
- To a woman;
- To a child, i.e. person who has not attained the age of 18 years or if he is under the guardianship under the Guardians and Wards Act, 1890 the age of 21 years;
- To a person with disability as defined in clause (i) of Section 2 of the Persons with Disabilities (Equal Opportunities Protection of Rights and Full Participation) Act, 1995 (1 of 1996);
- To a person, under circumstances of undeserved want such as being victim of a mass disaster, ethnic violence, caste atrocity, flood, drought, earthquake or industrial disaster; or
- To an industrial workman; or
- To a person in custody, including custody in a protective home within the meaning of clause (g) of Section 2 of the Immoral Traffic (Prevention) Act, 1956(104 of 1956), or "Children's Home, Observation Home, Shelter Home and Special Home within the meaning of clause (e), (o), (u) and (v) respectively of section 2 of Juvenile Justice (Care and Protection of Children) Act, 2000(56 of 2000)."
- To a person in a psychiatric hospital or psychiatric nursing home within the meaning of clause (q) of Section 2 of the Mental Health Act, 1987; or
- In a test case, the decision of which is likely to affect cases of numerous other persons belonging to the poor and weaker sections of the society; or
- To a person, in a special case, which for reasons to be recorded in writing is considered otherwise deserving of legal service where the means test is not satisfied; or
- To a person in the case where the High Court or the Supreme Court provides legal service under any order in that case legal service would be deemed to have been provided by the Authority/Committee in relaxation of all the conditions laid down in this rule; or
- To a person in case of public interest litigation.
- To an ex-serviceman, and the families of such persons who have died in action; or
- To riot victims, and the families of such persons as well as terrorist victims and families of such persons; or
- To freedom fighters; or
- Transgender people; or
- Senior Citizen that is person who is citizen of India and has attained the age of 60 years or above.
- HIV positive persons or AIDS patients.

"WHOM TO CONTACT TO GET FREE LEGAL SERVICES"

- At High Court Level : Member Secretary, Haryana State Legal Services Authority, Plot No.9, Sector-14, Panchkula.
- At District Level : Chairman/Secretary, District Legal Services Authority or any Legal Aid Clinic or Front Office of District Legal Services Authority.
- At Sub-Divisional Level : Chairman, Sub-Divisional Legal Services Committee or any Legal Aid Clinic or Front Office of Sub-Divisional Legal Services Committee.