

“VAYONANMA” (വയോനന്മ)



"VAYONANMA"

INTRODUCTION

"Mata Pitha, Guru, Daivam" the ancient adage encapsulates the primacy of parents and senior citizens in Indian culture, tradition and values. Article 21 in Part- III of the Constitution of India mandates 'life and personal liberty' for all in our country. Article 41 in part IV further mandates "public assistance" interalia in cases of "old age " and undeserved want. Several legislations including the Maintenance and Welfare of Parents and Senior Citizens Act 2007 cater to parents and senior citizens. The preamble to the Legal Services Authorities Act, 1987 mandates provision of " free and competent legal services to the weaker sections of the society, which includes senior citizens. Hence NALSA has formulated the aforesaid scheme pursuant to its statutory obligation under section 4(b) of the Legal Services Authorities Act, 1987. KeLSA the SLSA has the statutory mandate to frame the most effective and meaningful strategic interventional programmes for legal services to the weaker sections of society under section 7(c) of the said Act. Hence this strategic interventional programme pursuant to the NALSA (Legal Services to Senior Citizens)Scheme, 2016 , which is most relevant for Kerala, considering the demographic transition in Kerala, the state which has the highest population of senior citizens in the country.

BACK GROUD: Kerala, "Gods Own Country" is a "grey state" having the highest population of senior citizens in the country. While the national average is 8% the percentage in Kerala is 12.6% going by the last census of 2011. Further Kerala is increasingly becoming disproportionately female and the percentage of the very old is also increasing exponentially. While in 1961, the percentage of elderly was 5.83% of the total population, the corresponding figures for 1991, 2001 and 2011 were 8.82%, 9.79% and 12. 83% as evident from statistics of the social justice department. The Kerala State Policy for Senior Citizens, 2013 which revised the first state policy of 2006 highlights the exponential increase in the elderly population in Kerala which is in fact far more than the percentage of increase in the total population.

This demographic transition has unleashed a plethora of issues legal, social and economic in the state, including the grave problems of welfare and protection of the aged in addition to elder abuse, psychological, physical, economic, sexual, social and political. Despite the state Policy for Older Persons, 2013 and the several welfare schemes launched by the Government of Kerala through its social justice department the senior citizens in Kerala are largely unaware of their rights and legal entitlements. The policy, welfare schemes and the authorities under the Act of 2007 have not been able to address the myriad issues legal, social, economic and political faced by senior citizens in the state. This programme hence seeks to meaningfully effectuate the NALSA Scheme for legal services to senior citizens in Kerala customising the scheme to the peculiar socio-economic and legal requirements of Kerala state.

OBJECTIVES

1. To enable all senior citizens, in Kerala to obtain all legal rights and entitlements under the Constitution, various statutes, including the Maintenance and Welfare of Parents and Senior Citizens Act 2007, so that they can live a life of dignity.
2. To enable all senior citizens in Kerala to obtain the benefits of all welfare schemes of the Government of Kerala and welfare pensions under various Welfare Fund Boards of the State Government.

3. To strengthen and prioritize legal aid and representation at the State, District and Taluk Levels to senior citizens entitled to free legal aid under section 12 of the Legal Services Authorities Act, 1987.

4. To ensure that all statutory authorities and institutions under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 are established in all Districts and to monitor the functioning of such authorities and institutions to alert the Government on the inadequacies of such authorities and institutions.

5. To create and spread awareness about the rights and entitlements of senior citizens under various laws and Governmental Schemes and programmes through the District Legal Services Authorities and Taluk Legals Services Committees, Panel Lawyers, Para Legal Volunteers, Law Students and Legal Services Clinics.

6. To enhance capacities at all levels of Panel Lawyers, Para Legal Volunteers in Legal Services Clinics, Government Officers tasked with implementation of the various schemes, service providers, police personnel, non-governmental organisations by organizing training, orientation and sensitisation programmes, including legal services camps and medical camps involving Geriatricians.

7. To establish Legal Services Clinics as envisaged under the NALSA (Legal Services Clinics) Regulations 2011, in all Maintenance Tribunals, Appellate Authorities, Government Old Age Homes, Pakalveedus and all other institutions for Senior Citizens in the state of Kerala.

8. To liaison with other statutory authorities in Kerala like the Kerala State Human Rights Commission, Kerala State Women's Commission, Kerala State Commission for Persons with Disabilities for meaningful enforcements of all rights and entitlements of senior citizens cognizant of the fact that women and the physically and mentally challenged among the senior citizens are the most vulnerable and deprived in society.

9. To assist the government in effective implementation of the revised State Policy for Senior Citizens, 2013 and to initiate policy and law reforms including the setting up of a separate department for senior citizens in Kerala.

10. To actively and effectively liaison with Corporates, NGOs in the field of “aged care and geriatrics” to ensure effective legal and medical aid to senior citizens in Kerala undergoing institutional care and to promote “aging at home” under the State Policy of 2013 and effective use of CSR funds in aged care institutions in the Government Hospitals and other institutions.

11. Actively and effectively assisting the Police and Government Authorities in creating a data base of Senior citizens in all Districts and Taluks under DLSA’s & TLSC’s and for effective implementation of the Kerala Police Circular No. 16/2010 dated 11/3/2010 of PHQ, Thiruvananthapuram.

12. Promoting research and undertaking research and documentation both legal and medical in the realm of geriatrics and gerontology to ascertain gaps and requirements in the existing legal and medical frame work and to make suggestions to appropriate authorities to improve the entire legal ecosystem for senior citizens

PLAN OF ACTION (CORE ACTIVITIES)

I. Legal Representation

a) All senior citizens who are entitled to legal aid under Section 12 of the Legal Services Authorities Act, 1987 shall be provided legal aid on a priority basis.

b) It is essential that the Legal Services Institutions are accessible in terms of physical infrastructure for the senior citizens. Accordingly, steps to be taken by Legal Services Institutions to ensure accessibility such as having the front office on the ground floor.

c) KeLSA to ensure that the senior citizens do not have to face any kind of discomfort in legal procedural wrangles.

d) Every District Legal Services Authority and Taluk Legal Services Committee shall designate at least 10 panel lawyers in each District and 5 lawyers in TLSC as Senior Citizens Support Lawyers for the purpose of this programme.

e) The District Legal Services Authorities shall also depute sufficient number of PLVs for the implementation of this programme and for this purpose they shall draw upon PLVs who are trained to attend to the problems of senior citizens. Efforts should also be made to identify and train PLVs from amongst the senior citizens, both men and women. There shall be a minimum of 10 PLVs at the District level and 5 PLVs at the Taluk level to support the activities of the SCSLs.

f) The PLV's shall act as the interface between the senior citizens in the community who are unable to access the Legal Services Institutions and the Legal Services Institutions. Where it is not possible for the senior citizens to reach the Legal Services Institutions on account of their conditions, the Legal Services Institutions shall reach out to them through SCS lawyers and PLVs.

g) KeLSA shall provide training to SCS panel lawyers to enable them to sensitively deal with cases of senior citizens. The KeLSA shall ensure that the legal services provided to senior citizens are of the highest quality so that meaningful and effective legal services can be provided to them.

II. Legal Services Clinics

a. KeLSA shall set up Legal Services Clinics at every Tribunal and Appellate Tribunal established under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 and also in Government Old Age Homes.

b. Opening of the Legal Services Clinics shall be communicated to all the Government bodies and departments including the police, NGOs.

c. The Legal Services Clinics so established shall be governed by the National Legal Services Authority (Legal Services Clinics) Regulations, 2011 in respect of their functioning, infrastructural facilities, maintenance of records and registers, deputing of PLVs and control over such clinics.

d. The KeLSA and DLSAs shall encourage the students in Legal Services Clinics set up in colleges and universities to visit old age homes and provide legal services to senior citizens in the community.

e. The Legal Services Clinics shall also facilitate the widows and senior citizens in getting pensionary benefits and other entitlements.

III. Legal Awareness

a) KeLSA shall draw up yearly programme for creating awareness on the rights of senior citizens and should endeavour to create a culture which is sensitive to the rights and needs of senior citizens.

b) The Legal Services Institutions shall organize awareness programmes to sensitize people to the needs of the senior citizens and that it is the moral duty of children to take care of senior citizens and not to leave them in a destitute condition in their old age.

c) The Legal Services Institutions should explain the need to treat the senior citizens with dignity.

d) SLSAs along with DLSAs shall conduct awareness programmes to generate awareness about the entitlements of the senior citizens under various laws and government schemes.

e) KeLSA, DLSAs and Taluk Legal Services Committees shall also create awareness regarding the availability of legal services for senior citizens to facilitate access to their entitlements.

f) Special awareness drives may be undertaken in old age homes or other places frequented by senior citizens and PLVs and students may be encouraged to actively participate in such programmes.

g) While organising awareness programmes, the DLSAs and Taluk Legal Services Committees may also coordinate with the relevant health department to organise special health or check-up camps for senior citizens such as general health camps, eye check-up camps etc. or with the police to have a special registration drive for senior citizens.

h) All possible methods of spreading awareness should be used such as Doordarshan, All India Radio, private TV channels, hoardings, organising cultural programmes and setting up stalls at religious fairs, festivals.

i) KeLSA should engage with senior citizens and actively avail of their services in carrying out awareness programmes on various issues as the senior citizens may have greater credibility and appeal in an area.

IV. Training and orientation Programme

KeLSA shall conduct training and orientation programmes for panel lawyers and PLVs to sensitize them on how to deal with cases of senior citizens and to build their capacity, knowledge and skill. Sensitization programmes should also be organized for other stakeholders such as the government functionaries, police personnel and NGOs.

V. Identification of issues affecting Senior Citizens

KeLSA and DLSAs shall make an endeavour to identify the core issues which affect the senior citizens in a particular area and deal with them accordingly. While some issues may be common across geographical barriers, there may be some issues which are unique to some areas such as in some areas, the senior citizens being on their own may be a major issue as their families may have migrated to cities or other countries. Certain health problems may be more acute in a particular area.

KeLSA and DLSAs shall then seek solutions to the issues that arise on regional basis and use their resources to implement the solutions including through coordination with the concerned governmental agencies.

KeLSA, DLSAs should facilitate the setting up of self-help groups of senior citizens to encourage community support and to reduce a sense of dependency on the part of the senior citizens.

VI.Implementation of various Schemes

- a) KeLSA shall take all steps to disseminate information regarding the policies, schemes, programmes to the senior citizens and government functionaries.
- b) KeLSA shall ensure that such information is prominently displayed in old age homes, hospitals and other places which are frequented senior citizens,
- c) KeLSA may liaise with the law enforcement authorities to address the security concerns of senior citizens and to enhance the interface between the police and the senior citizens such as through increased patrolling, maintaining regular contact with senior citizens once every week or every fortnight. KeLSA, DLSAs may depute PLVs to assist in the registration of senior citizens with the police stations, in getting servant and tenant verifications done and such other matters which concern the security of the senior citizens.
- d) Legal services to be provided would include informing the beneficiaries about the different government schemes to which they are entitled and the benefits thereunder, assisting the beneficiaries to procure the documents required for availing the benefits under the schemes; informing the beneficiaries of the name and address of the designated authority or the officer who may be approached for availing the benefits under the schemes; offering to send para-legal volunteers with the beneficiaries to the office of the designated authority or to the officer concerned under any of the schemes.
- e) KeLSA shall develop effective coordination and interface with all the governmental bodies or functionaries, non-governmental organizations and other organizations concerning the welfare of senior citizens to ensure that the benefits of the various schemes that exist for senior citizens reach the senior citizens.

VII. Creation of Data base

a) KeLSA shall prepare a database of all the existing Central or State Schemes, policies, regulations, policy directives concerning senior citizens and the same may also be published in the form of pamphlets or booklets to be used in dissemination of information and creating awareness about the rights of senior citizens.

b) KeLSA and DLSAs shall publish information booklets in regional languages explaining in simple terms:

- 1) provisions of law such as on maintenance, Wills, social welfare schemes;
- 2) details about access to remedies; and
- 3) contact details of helpline numbers available across the state.

Such information booklets may be distributed to senior citizens and used during awareness programmes.

c) DLSAs shall also maintain a database of hospitals, medical centres and other facilities which may be available for senior citizens in their area.

d) The information maintained by DLSAs shall be circulated to the Taluk Legal Services Committees, village panchayats, legal services clinics and PLVs.

e) KeLSA/DLSAs shall also upload the data collected on their website.

f) DLSAs shall prepare a database of senior citizens in their area so that PLVs may be deputed for their assistance as and when necessary. Such database may also be shared with law enforcement agencies to address the security concerns of senior citizens. This would also enable the DLSAs to provide immediate assistance to persons in distress by coordinating with the concerned departments such as health or police departments.

MACHINERY FOR PROGRAMME IMPLEMENTATION

I. STEERING COMMITTEE

A steering committee headed by a Hon'ble Judge of the High Court of Kerala and comprising of a Senior District Judge (Selection Grade) of the Kerala Higher Judicial Service and a designated Senior Lawyer (Practicing Advocate) all nominated by the Hon'ble Executive chairman, KeLSA will provide guidance and strategic assistance to KeLSA for implementing the programme. The Hon'ble Judge so nominated by the Hon'ble Executive chairman shall be the Chairman of the Apex Body i.e Steering Committee. The Member Secretary, KeLSA shall convene the meetings of the Steering committee as and when directed by the Hon'ble Chairman, Steering Committee.

II. STATE COORDINATOR

The State Coordinator shall be a Senior Advocate, a practicing lawyer nominated by the Hon'ble Executive Chairman, KeLSA. The State Coordinator shall implement the programme in coordination with the District Level Nodal Officers in all Districts, Taluk Level Nodal Officer in all Taluks and the specially empanelled 'Senior citizen Support lawyers' (SCSL) under DLSAs / TLSCs in consultation with the Member Secretary, KeLSA.

III. DISTRICT NODAL OFFICER AND TALUK NODAL OFFICER

The Hon'ble Chairman, DLSA and The Hon'ble Chairman, TLSC will nominate District Level and Taluk Level Nodal Officers with the approval of the Hon'ble Steering committee. The District Level and Taluk Level Nodal Officer shall be the single point of contact for the Courts, Maintenance Tribunals, Appellate Tribunals, Old Age Homes, SCSLs (SCS), Para Legal volunteers, Psychologists, Social Workers and all other stakeholders in the field under the programmes. The Secretary DLSA shall ordinarily be the District Nodal Officer for the programme,

IV.SENIOR CITIZENS SUPPORT LAWYERS (SCSL)

Applications will be invited every 2 years from eligible lawyers preferably from among Senior and Junior Panel Lawyers of DLSA/ TLSC to be empaneled as “SCSL” through a selection process to be adopted by DLSA as instructed by Hon’ble Steering Committee of KeLSA as per the broad guidelines stated below:

- There shall be a Panel of minimum 15 and maximum 30 “SCSL” at the High Court Legal Services Committee, for cases in the Hon’ble High Court.
- A Minimum of 10 and maximum of 20 “SCSL” shall be empanelled under each DLSA and a minimum of 5 and a maximum of 10 “SCSL” shall be empanelled under each TLSC in the Districts.
- The “SCSL” shall have a minimum of 5 years (for Seniors) and 3 years (for Juniors) practice at the Bar and they should not look to the income that they derive from their service as “SCSL”. They should have a mindset to assist the “Senior Citizens” with compassion, empathy, patience and commitment. For the High Court Panel the experience at the High Court Bar shall be of minimum 5 years.
- The selection of SCSL shall be based on merit, knowledge, expertise, integrity, reputation and experience of the lawyers. Lawyers having qualification or experience in geriatric care or who are practicing regularly before Maintenance Tribunals and Appellate Tribunals and associated with NGOs and other stakeholders engaged in the protection, welfare and care of Senior Citizens shall be given priority.
- The selection committee shall be constituted by the Hon’ble Executive Chairman, KeLSA, for the HCLSC, DLSAs and TLSCs.

V.SENIOR CITIZENS SUPPORT PLVs (SCSPLVs): There shall be empaneled a minimum of 10 and maximum of 20 and a minimum of 5 and maximum of 10 PLVs in every DLSA & TLSC respectively as “Senior Citizens Support PLVs”, Such PLVs shall be selected from the existing panels of PLVs based on knowledge and experience in legal services for the aged protection, care and welfare.

VI.GERIATRICIANS,GERONTOLOGISTS,ADULTPSYCHOLOGISTS, COUNSELLORS, SOCIAL WORKERS EXPERTS IN AGED CARE

The HCLSC, DLSAs and TLSCs shall prepare panels of such experts in the field of gerontology, aged care and aged counselling to be assist the SCSLs in the effective discharge of their duties. The panels shall be prepared in consultation with the Member Secretary and under the guidance of the Steering Committee.

ROLE OF HCLSC/DLSA/TLSC

Office space planning and providing infrastructure for effective consultation between Senior Citizens and SCSLs and SCSPLVs preferably in the KeLSA, ADR Centres, DLSA offices/ TLSC Offices/Collectorate/Mini Civil Station, near Maintenance Tribunals, Appellate Tribunals and Family Courts, First Class Magistrate Courts and the office of HCLSC.

- Assisting KeLSA in selection of SCSL and SCSPLVs at High Court, District Level and Taluk Level.
- Ensuring effective monitoring of empanelled SCSLs, SCSPLVs for efficient and meaningful legal services to senior citizens at all levels.
- Arranging periodical training programmes and refresher courses for SCSLs and SCSPLVs at district and taluk levels engaging leading professionals in gerontology, geriatrics, aged care, adult psychologists, lawyers etc

- Monthly reporting of all activities at the High Court, District and Taluk Levels under the programme in the stipulated forms issued by KeLSA by lawyers and PLVs.
- Arrangement and prompt disbursement of remuneration to panel lawyers (SCSL), SCSPLVs, experts, resource persons as per norms of NALSA and KeLSA.

MONITORING AND EVALUATION

The work and performance of SCSL and SCS PLVs shall be closely monitored by the Secretary HCLSC, DLSA, TLSC and a monthly review meeting will be organized under the chairmanship of Hon'ble chairman DLSA, the District Nodal officer of DLSA and Taluk Nodal officers of TLSCs shall attend. The minutes of the meeting shall be sent to Member Secretary, KeLSA. A quarterly performance evaluation meeting for empaneled lawyers at the High Court shall be held by the Hon'ble Chairman, HCLSC.

A half yearly meeting for assessment and evaluation of performance of all SCSLs and SCS PLVs in the state shall be made by the Member Secretary,, KeLSA with the assistance of HCLSC and DLSAs and the minutes of the meeting shall be placed before the Hon'ble Executive Chairman, KeLSA.

FINANCIAL OUTLAY

Payment of Honorarium: Payment of honorarium to the empanelled 'SCSLs and SCSPLVs, experts, resource persons will be in accordance with the norms laid down by NALSA and KeLSA from time to time.