

**ACCESS TO JUSTICE
AND
LEGAL SERVICES
AUTHORITIES**

ROLE AND RESPONSIBILITIES

- “.....And so we now set down the pivotal issues on which the submissions were focussed, reminding ourselves that we cannot travel beyond the Atlantic to lay down Indian law although counsel invited us, with a few citations, to embark on that journey. India is Indian, not alien, and jurisprudence is neither eternal nor universal but moulded by the national genius, life’s realities, culture and ethos of each country. To understand ourselves, we must listen to voices from afar, without forsaking our identity.”

----- Justice V.R. KRISHNA IYER, in *Nandini Satpathy v. P.L. Dani*,
(1978) 2 SCC 424 : 1978 SCC (Cri) 236.

International rankings of India [Source: Wikipedia]

List	INDIA Ranking/Total Countries	Source
Population	2 / 238	CIA World Factbook ^[1]
Fertility rate	103 / 210	Population Reference Bureau
Life expectancy	125 / 183	World Health Organization
Ethnic and cultural diversity	17/ 215	Fearon Analysis ^[4]
Global Hunger Index	103/119	International Food Policy Research Institute
Suicide rate	19 / 176	World Health Organization
Health Expenditure per capita (PPP)	141 / 190	World Health Organization
Human Capital Index	115 / 152	World Bank
Literacy rate	168 / 234	2011 Census of India
Human capital	103 / 130	WEF – The Global Human capital Report

World Happiness Report	140/156	United Nations	2019 report ^[11]
Human Development Index	129 / 189	United Nations	2019 report – score 0.647
Inequality-adjusted HDI	67 / 151	UNDP	2016 report – score 0.454
Social Progress Index	53 / 128	Social Progress Imperative	2017 – score 58.39
List of countries by homeless population	8 / 52	Business Standard	2011 – 1,770,000 homeless
Gender Inequality Index	76 / 188	UNDP	2017 – value: 0.524 ^[2] – female Labour force participation rate: 26.8% ^[15]
Intentional homicides	2 / 219	United Nations Office on Drugs and Crime	2015 – 41,623 Intentional homicides
Global Slavery Index	4 / 167	Walk Free Foundation	2016 – 18,354,700 living in modern slavery ^[18]
Global Terrorism Index	8/130	Institute for Economics and Peace (IEP)	2017

Per capita GDP	139 / 187	International Monetary Fund	2019 – US\$2,200
Number of Billionaires	3 / 71	Forbes	2018–131
GNI (PPP) per capita	124 / 179	World Bank	2015 – \$6,030 international dollars
Employment rate	42 / 47	OECD	2012 – 53.3% of 15–64 year olds in employment
Quality-of-life index	43 / 56	Economist Intelligence Unit [5]	2017
Passengers carried in rail transport	2 / 86	International Union of Railways	2016 ^{[23][24]} – 8.224 billion passengers
rail transport network size	3 / 149	International Union of Railways	2015 – 68,525 km
Traffic-related deaths	2 / 180	WHO	2013 – 238,562 deaths
Vehicles per capita	84 / 163		2015 – 0.167 per capita, 55,725,543 total

Telephone Lines in Use	11 / 218	CIA The World Factbook	2016 – 23 million est. (2019 Jan – 21.79 million [26] [27])
Mobile Phones in Use	2 / 222		1,181,971,713 lines (90.15% density) for 1.28 billion population, as of January 2019 [26]
Internet users (pct of population)	141 / 228	ITU estimate	2017 – 34.45% [28]
Fixed-Broadband Internet subscribers	10 / 228	ITU estimate	2017 - 17,856,024
Television broadcast stations	4 / 233		2016 – 857 licensed stations

<u>Film productions</u>	1 / 15	<u>UNESCO</u>	2014
<u>Cinema box office</u>	4 / 15	<u>MPAA</u>	2016 – \$1.9bn
<u>Cinema admissions</u>	1 / 10	<u>European Audiovisual Observatory</u>	2013 – 9,164,000,000

Corruption Perceptions Index	78 / 180	Transparency International	2018 [31]
Press Freedom Index	140 / 180	Reporters Without Borders	2019 [32]
Soft power	24 / 25	Monocle	2016–17 [33]
Monocle Soft power in Asia	7 / 10	Monocle	2016–17 [34]
The Asia Soft power 10	8 / 10	Portland	2018 [35]
Rule of Law Index	66 / 113	World Justice Project	2016
Democracy Index	42 / 167	Economist Intelligence Unit	2017 – score 7.23 – Flawed democracy
Democracy Ranking	65 / 112	democracyranking.org	2014–2015
Corporate Governance	20 / 38	GMI Ratings	2010
E-Government	96 / 192	UN	2018 [36]
Global Peace Index	136/163	Institute for Economics and Peace (IEP)	2018

Religion			
Hindu	1st	2011 Census of India ^[43]	2011 – 966,257,353 (India: 79.80%, World:)
Muslim	2nd	2011 Census of India	2011 – 172,245,185 (India: 14.23%, World: 9.57%) ^[44]
Christian	3rd	2011 Census of India	2011 – 27,819,588 (India: 2.30%, World: 1.16%)
Sikh	1st	2011 Census of India	2011 – 20,833,116 (India: 1.72%, World: 90.02%)
Buddhist	9th	2011 Census of India	2011 – 8,442,972 (India: 0.70%, World: 63%)
Jain	1st	2011 Census of India	2011 – 4,451,753 (India: 0.37%, World: 64%) ^[45]
Zoroastrian	1st	2011 Census of India	2001 – 69,000 (India: 0.006%, World: 50%)
Bahá'í Faith	-	2011 Census of India	2011 – 4,572 (India: 0.0%, World: 0.0%)

Preamble

- **WE, THE PEOPLE OF INDIA**, having solemnly resolved to constitute India into a **SOVEREIGN SOCIALIST SECULAR DEMOCRATIC** REPUBLIC and to secure to all its citizens:
- **JUSTICE** social, economic and political;
- **LIBERTY** of thought, expression, belief, faith and worship;
- **EQUALITY** of status and of opportunity;
- and to promote among them all
- **FRATERNITY** assuring the **dignity of the individual** and the unity and integrity of the Nation;
- IN OUR CONSTITUENT ASSEMBLY **this twenty-sixth day of November, 1949**, do HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.

Article 14 :: Equality before Law	Article 38 :: State to secure social order for the protection of welfare of the people.
Article 15 :: Prohibition of discrimination on the grounds of religion, race, caste sex or place of birth	Article 39 :: Certain principles of policy to be followed by the states
Article 19 :: Protection of certain rights regarding freedom of speech etc.	Article 39 A :: Equal justice and free legal aid
Article 21 :: Protection of life and personal liberty	Article 41 :: Right to work, education etc.
Article 21A :: Right to education	Article 42 :: Provision for just and humane conditions of work and maternity relief
Article 22 :: Protection against arrest and detention in certain cases.<u>Nandini Satpathy v. P.L.Dani 1978 AIR 1025</u>	Article 45 :: Provision for early childhood care and education to children below the age of six years
Article 23 :: Prohibition of traffic in human beings and forced labour.	Article 46:: Promotion of educational and economic interests of civil castes, scheduled tribes etc.
Article 24 :: Pohibition of employment of children in factories etc.	Article 51 A : Fundamental Duties

TRINITY OF INDIAN CONSTITUTION

ARTICLE 14

ARTICLE 19

ARTICLE 21

**Fundamental
Rights are**

GUARANTEED

FUNDAMENTAL DUTIES: ART-51A

- (a) to abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem;
- (b) to cherish and follow the noble ideals which inspired our national struggle for freedom;
- (c) to uphold and protect the sovereignty, unity and integrity of India;
- (d) to defend the country and render national service when called upon to do so;
- (e) to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women;
- (f) to value and preserve the rich heritage of our composite culture;
- (g) to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures;
- (h) to develop the scientific temper, humanism and the spirit of inquiry and reform;
- (i) to safeguard public property and to abjure violence;
- (j) to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement.]
- (k) 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 and fourteen years.

ROLE OF JUDGES IS
NOW

MULTIFACTED
PROACTIVE
NOT ISOLATIONIST

Preamble

An Act to constitute legal services authorities to provide free and competent legal services to the weaker sections of the society to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities, and to organise Lok Adalats to secure that the operation of the legal system promotes justice on a basis of equal opportunity

Legal Services Authorities Act, 1987.

A three tier system.

National Legal Services Authority

The Chief Justice of India is the Patron in Chief. The senior most Judge of the Supreme Court of India is the Executive Chairman of NALSA. [Sec. 2]

State Legal Services Authority

The Chief Justice and the by practice senior most Judge of Gauhati High Court are the Patron-in-Chief and the Executive Chairman of ASLSA respectively. [Sec.6]

District Legal Service Authority

District Legal Services Authority (DLSA) is headed by the District Judge as the Chairperson. [[Sec.9](#)]

Other Legal Authorities :

Supreme Court Legal Services Committee

A sitting Judge of the Supreme Court shall be the Chairman.

High Court Legal Services Committee

A sitting Judge of the High Court shall be the Chairman

Taluk Legal Services Committee

Senior Most Judicial Officer operating within the jurisdiction of the Committee to be the
ex-office Chairman

- **4. Functions of the Central Authority.**—The Central Authority shall, perform all or any of the following functions, namely:—
- (a) lay down policies and principles for making legal services available under the provisions of this Act;
- (b) frame the most effective and economical schemes for the purpose of making legal services available under the provisions of this Act;
- (c) utilise the funds at its disposal and make appropriate allocations of funds to the State Authorities and District Authorities;
- (d) take necessary steps by way of social justice litigation with regard to consumer protection, environmental protection or any other matter of special concern to the weaker sections of the society and for this purpose, give training to social workers in legal skills;
- (e) organise legal aid camps, especially in rural areas, slums or labour colonies with the dual purpose of educating the weaker sections of the society as to their rights as well as encouraging the settlement of disputes through Lok Adalats;
- (f) encourage the settlement of disputes by way of negotiations, arbitration and conciliation;
- (g) undertake and promote research in the field of legal services with special reference to the need for such services among the poor;
- (h) to do all things necessary for the purpose of ensuring commitment to the fundamental duties of citizens under Part IV-A of the Constitution;
- (i) monitor and evaluate implementation of the legal aid programmes at periodic intervals and provide for independent evaluation of programmes and schemes implemented in whole or in part by funds provided under this Act;
- ²[(j) provide grants-in-aid for specific schemes to various voluntary social service institutions and the State and District Authorities, from out of the amounts placed at its disposal of the implementation of legal services schemes under the provisions of this Act;]
- (k) 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;
- (l) 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;
- (m) make special efforts to enlist the support of voluntary social welfare institutions working at the grass-root level, particularly among the Scheduled Castes and the Scheduled Tribes, women and rural and urban labour; and
- (n) co-ordinate and monitor the functioning of ³[State Authorities, District Authorities, Supreme Court Legal Services Committee, High Court Legal Services Committees, Taluk Legal Services Committees and voluntary social service institutions] and other legal services organisations and give general directions for the proper implementation of the legal services programmes.

State Legal Services Authority

SEC.6. CONSTITUTION OF STATE LEGAL SERVICES AUTHORITY.—(1) Every State Government shall constitute a body to be called the Legal Services Authority for the State to exercise the powers and perform the functions conferred on, or assigned to, a State Authority under this Act.

- (2) A State Authority shall consist of—
 - (a) the Chief Justice of the High Court who shall be the Patron-in-Chief;
 - (b) a serving or retired Judge of the High Court, to be nominated by the Governor, in consultation with the Chief Justice of the High Court, who shall be the Executive Chairman; and
 - (c) such number of other members, possessing such experience and qualifications as may be prescribed by the State Government, to be nominated by that Government in consultation with the Chief Justice of the High Court.
- (3) The State Government shall, in consultation with the Chief Justice of the High Court, appoint a person belonging to the State Higher Judicial Service, not lower in rank than that of a District Judge, as the Member-Secretary of the State Authority, to exercise such powers and perform such duties under the Executive Chairman of the State Authority as may be prescribed by that Government or as may be assigned to him by the Executive Chairman of that Authority:

State Legal Services Authority

7. FUNCTIONS OF THE STATE AUTHORITY.

(1) It shall be the duty of the State Authority to give effect to the policy and directions of the Central Authority.

(2) Without prejudice to the generality of the functions referred to in sub-section (1), the State Authority shall perform all or any of the following functions, namely:—

(a) give legal service to persons who satisfy the criteria laid down under this Act;

(b) conduct Lok Adalats, including Lok Adalats for High Court cases;

(c) undertake preventive and strategic legal aid programmes; and

(d) perform such other functions as the State Authority may, in consultation with the Central Authority, fix by regulations.

Sec. 11. District Authority to act in co-ordination with other agencies and be subject to directions given by the Central Authority, etc.

In the discharge of its functions under this Act, the District Authority shall, wherever appropriate, act in co-ordination with other governmental and non-governmental institutions, universities and others engaged in the work of promoting the cause of legal services to the poor and shall also be guided by such directions as the Central Authority or the State Authority may give to it in writing.

12. Criteria for giving legal services.—Every person who has to file or defend a case shall be entitled to legal services under this Act if that person is—

- (a) a member of a Scheduled Caste or Scheduled Tribe;
- (b) a victim of trafficking in human beings or *begar* as referred to in Article 23 of the Constitution;
- (c) a woman or a child;
- (d) 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;]
- (e) a person under circumstances of undeserved want such as being a victim of a mass disaster, ethnic violence, caste atrocity, flood, drought, earthquake or industrial disaster; or
- (f) an industrial workman; or
- (g) 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 in a juvenile home within the meaning of clause (j) of Section 2 of the Juvenile Justice Act, 1986 (53 of 1986), or in a psychiatric hospital or psychiatric nursing home within the meaning of clause (g) of Section 2 of the Mental Health Act, 1987 (14 of 1987); or
- (h) in receipt of annual income less than rupees nine thousand or such other higher amount as may be prescribed by the State Government, if the case is before a court other than the Supreme Court, and less than rupees twelve thousand or such other higher amount as may be prescribed by the Central Government, if the case is before the Supreme Court.

LOK ADALATS

Chapter VI

Sec. 19(5):

(5) A Lok Adalat shall have jurisdiction to determine and to arrive at a compromise or settlement between the parties to a dispute in respect of—

(i) any case pending before; or

ii) any matter which is falling within the jurisdiction of, and is not brought before,

- any court for which the Lok Adalat is organised:
- Provided that the Lok Adalat shall have no jurisdiction in respect of any case or matter relating to an offence not compoundable under any law.

Award of Lok Adalat

Sec. 21. Award of Lok Adalat.—

1) Every award of the Lok Adalat shall be deemed to be a decree of a civil court or, as the case may be, an order of any other court and where a compromise or settlement has been arrived at, by a Lok Adalat in a case referred to it under sub-section (1) of Section 20, the court-fee paid in such case shall be refunded in the manner provided under the Court Fees Act, 1870 (7 of 1870).

(2) Every award made by a Lok Adalat shall be final and binding on all the parties to the dispute, and no appeal shall lie to any court against the award.

Section 22-C. Cognizance of cases by Permanent Lok Adalat

(1) Any party to a dispute may, before the dispute is brought before any court, make an application to the Permanent Lok Adalat for the settlement of dispute:

- Provided that the Permanent Lok Adalat shall not have jurisdiction in respect of any matter relating to an offence not compoundable under any law:
- Provided further that the Permanent Lok Adalat shall also not have jurisdiction in the matter where the value of the property in dispute exceeds ten lakh rupees:
- Provided also that the Central Government, may, by notification, increase the limit of ten lakh rupees specified in the second proviso in consultation with the Central Authority.

IMPORTANT REGULATIONS

- ✓ The National Legal Services Authority (Lok Adalats) Regulations, 2009.
- ✓ The National Legal Services Authority (Free and Competent Legal Services) Regulations, 2010.
- ✓ The National Legal Services Authority (Legal Aid Clinics) Regulations, 2010.
- ✓ NALSA Witness Protection Scheme, 2018
[2018 SCC OnLine SC 3018]

The National Legal Services Authority (Legal Aid Clinics) Regulations, 2010.

Reg. 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.

Reg. 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.

Reg. 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.

Reg. 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.

Reg. 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** organised by the legal services institutions in the local area of the legal aid clinic.

Reg. 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.

Reg. 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.

Reg. 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.

Reg. 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.

Reg. 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.

Reg. 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.

Reg. 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.

Witness Protection Scheme, 2018

[2018 SCC OnLine SC 3018]

Clause 5. FILING OF APPLICATION BEFORE COMPETENT AUTHORITY:

:: The application for seeking protection order under this scheme can be filed in the prescribed form before the **Competent Authority** of the concerned District where the offence is committed, through its Member Secretary along with supporting documents, if any.

Clause 2 (c) “Competent Authority” means a Standing Committee in each District chaired by District and Sessions Judge with Head of the Police in the District as Member and Head of the Prosecution in the District as its Member Secretary. [Definition Clause 2 (c)]

IMPORTANT

SCHEMES OF

THE NALSA

ACTIVITIES OF LEGAL SERVICES AUTHORITIES

- Providing Legal Aid
- Spreading Legal Awareness
- Spreading Legal Literacy at every nook and corner.
- Setting up Legal Aid clinics.
- Organizing Lok Adalat.
- Mediation in Pre-Institution Mediation under “Commercial Courts Act Pre- Institution Mediation 2015”.
- Implementation of Victim Compensation.
- Coordination with line departments and other non government organisations so that the general public can avail most of the help.

- To provide speedy justice to the Jail inmates, applicants excluded from the NRC list and victims of petty crimes and issues.
- Training to PLV's, Police officers, Legal Aid Counsels, Jail PLVs, gaonburah's and others.
- Publicity through various modes of media such as banner, street play etc.
- Visit to children home/jail/ destitute home /old age home/ swadhargreh/UjjalaGreh/home for mentally challenged person/ juvenile home.
- Skill enhancement programme / Workshop / Vocational training programme for jail inmates for their rehabilitation etc.

The Legal Services Authorities Act, 1987

Khatri (2) v. State of Bihar, (1981) 1 SCC 627

"5.Mr K.G. Bhagat on behalf of the State agreed that in view of the decision of this Court the State was bound to provide free legal services to an indigent accused but he suggested that the State might find it difficult to do so owing to financial constraints. We may point out to the State of Bihar that it cannot avoid its constitutional obligation to provide free legal services to a poor accused by pleading financial or administrative inability. The State is under a constitutional mandate to provide free legal aid to an accused person who is unable to secure legal services on account of indigence and whatever is necessary for this purpose has to be done by the State. The State may have its financial constraints and its priorities in expenditure but, as pointed out by the court in *Rhem v. Malcolm* "the law does not permit any Government to deprive its citizens of constitutional rights on a plea of poverty" and to quote the words of Justice Blackmun in *Jackson v. Bishop* "humane considerations and constitutional requirements are not in this day to be measured by dollar considerations".

- ***Sunil Batra v. Delhi Admn., (1978) 4 SCC 494 : 1979 SCC (Cri) 155,***
- **197-B.** (1) Section 56 must be tamed and trimmed by the Rule of law and shall not turn dangerous by making the Prison “brass” an *imperium in imperio*. The Superintendent’s power shall be pruned and his discretion bridled in the manner indicated.
- (2) Under-trials shall be deemed to be in custody, but not undergoing *punitive* imprisonment. So much so, they shall be accorded more relaxed conditions than convicts.
- (3) Fetters, especially bar fetters, shall be shunned as violative of human dignity, within and without prisons. The indiscriminate resort to handcuffs when accused persons are taken to and from court and the expedient of forcing irons on prison inmates are illegal and shall be stopped forthwith save in a small category of cases dealt with next below. Reckless handcuffing and chaining in public degrades, puts to shame finer sensibilities and is a slur on our culture.
- (4) Where an undertrial has a credible tendency for violence and escape a humanely graduated degree of “iron” restraint is permissible if — only if — other disciplinary alternatives are unworkable. The burden of proof of the ground is on the custodian. And if he fails, he will be liable in law.
- (5) The “iron” regimen shall in no case go beyond the intervals, conditions and maxima laid down for punitive “irons”. They shall be for short spells, light and never applied if sores exist.
- (6) The discretion to impose “irons” is subject to quasi-judicial oversight, even if purportedly imposed for reasons of security.
- (7) A previous hearing, minimal may be, shall be afforded to the victims In exceptional cases, the hearing may be soon after. The Rule in *Gill case* and *Maneka Gandhi case* gives the guidelines.

- (8) The grounds for “fettters” shall be given to the victim. And when the decision to fetter is made, the reasons shall be recorded in the journal and in the history ticket of the prisoner in the State language. If he is a stranger to that language it shall be communicated to him, as far as possible, in his language. This applies to cases as much of prison punishment as of “safety” fettters.
- (9) Absent provision for independent review of preventive and punitive -action, for discipline or security, such action shall be invalid as arbitrary and unfair and unreasonable. The prison officials will then be liable civilly and criminally for hurt to the person of the prisoner. The State will urgently set up or strengthen the necessary infra-structure and process in this behalf — it already exists in embryo in the Act.
- (10) Legal aid shall be given to prisoners to seek justice from prison authorities, and, if need be, to challenge the decision in court — in cases where they are too poor to secure on their own. If lawyer’s services are not given, the decisional process becomes unfair and unreasonable, especially because the Rule of law perishes for a disabled prisoner if counsel is unapproachable and beyond purchase. By and large, prisoners are poor, lacking legal literacy, under the trembling control of the jailor, at his mercy as it were, and unable to meet relations or friends to take legal action. Where a remedy is all but dead the right lives only in print. Article 39-A is relevant in the context. Article 19 will be violated in such a case as the process will be unreasonable. Article 21 will be infringed since the procedure is unfair and is arbitrary. In *Maneka Gandhi* the Rule has been stated beyond mistake.
- (11) No “fettters” shall condone beyond day time as punitive fettters on locked-in detenus are ordinarily uncalled for, viewed from considerations of safety.
- (12) The prolonged continuance of “irons”, as a punitive or preventive step, shall be subject to previous approval by an external examiner like a Chief Judicial Magistrate or Sessions Judge who shall briefly hear the victim and record reasons. They are ex-officio visitors of most central prisons.
- (13) The Inspector General of Prisons shall, with quick despatch consider revision petitions by fettered prisoners and direct the continuance or discontinuation of the irons. In the absence of such prompt decision, the fettters shall be deemed to have been negatived and shall be removed.

NALSA & Early Access to Justice at Pre-Arrest, Arrest and Remand Stage

The Hon'ble Supreme Court in ***Nandini Satpathy v. P.L. Dani, (1978) 2 SCC 424 : 1978 SCC (Cri) 236*** observed the need for providing legal assistance at early stages.

“**67.** The symbiotic need to preserve the immunity without stifling legitimate investigation persuades us to indicate that after an examination of the accused, where lawyer of his choice is not available, the police official must take him to a Magistrate, doctor or other willing and responsible non-partisan official or non-official and allow a secluded audience where he may unburden himself beyond the view of the police and tell whether he has suffered duress, which should be followed by judicial or some other custody for him where the police cannot reach him. That collocater# may briefly record the relevant conversation and communicate it — not to the police — but to the nearest Magistrate. Pilot projects on this pattern may yield experience to guide the practical processes of implementing Article 20(3). We do not mandate but strongly suggest.”

- The spirit and sense of Art. 22 (1) is that it is fundamental to the rule of law that the services of a lawyer shall be available for consultation to any accused person under circumstances of near-custodial interrogation.
- In the year 2009, section 41D was introduced in the Code of Criminal Procedure in order to give statutory recognition to the right to legal assistance to a person when he is arrested and interrogated.

Requirement for Legal Assistance at Early Stage

- The inclusion of Section 41A to the CrPC has created a pre-arrest stage, thereby, necessitating the enforcement of the right to legal aid even prior to arrest when a suspect can be issued a notice of appearance to appear before the police for questioning.
- Remand stage: Similarly, at the remand stage, efficient representation to unrepresented arrestees is quite imperative to ensure that unnecessary arrests are challenged, bail applications are filed ,unnecessary remands are resisted and procedural rights are protected.

Objective for devising framework for Early access to justice :

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

Role of State Legal Services Authorities:-

- All persons in custody, which would obviously include detention at pre-arrest stage and, between arrest and production in the Court, are entitled to free legal services by virtue of section 12 of the Legal Services Authorities Act, 1987. Since a large number of them do not have an opportunity or means to engage a lawyer on their own, Legal Services Authorities have an important role to play in reaching out to them. Effective implementation of early access to justice framework requires coordination between the police authorities and legal services authorities

Legal Awareness & Literacy

- **Legal Awareness/Literacy** : NALSA along with other Legal Services Institutions undertakes various awareness activities in order to make people aware of their rights and about the role, activities and functioning of the legal services institutions. A variety of tools are used in order to achieve this objective like conducting seminars, lectures; distribution of pamphlets; participation in Doordarshan programmes, broadcasting jingles, live phone-in programmes etc; floating mobile multi-utility vans for spreading awareness through public interactions; nukkad nataks; short documentaries; cultural programmes by school children on legal issues; various competitions like painting, essay writing, debates and declamation etc. on legal issues. Specific issues are taken up for legal literacy programmes varying from place to place depending upon the needs of a locality and its people. Internship programmes are organised for law students to promote the role and importance of legal services activities. Legal Aid Clinics are also being run in law colleges to further the attainment of objectives of Legal Services. Various legal literacy programmes are organized at school and college levels.

Extensive use of technology

- Use of Video Conferencing facilities with the Jails and DLSA.
- Use of mobile phones, preferably with sequential numbers of the districts.
- Use of Front Offices

Lok Adalats :

P.T. Thomas v. Thomas Job, (2005) 6 SCC 478

19. Benefits under Lok Adalat

- 1. There is no court fee and if court fee is already paid the amount will be refunded if the dispute is settled at Lok Adalat according to the rules.
- 2. The basic features of Lok Adalat are the procedural flexibility and speedy trial of the disputes. There is no strict application of procedural laws like the Civil Procedure Code and the Evidence Act while assessing the claim by Lok Adalat.
- 3. The parties to the dispute can directly interact with the judge through their counsel which is not possible in regular courts of law.
- 4. The award by the Lok Adalat is binding on the parties and it has the status of a decree of a civil court and it is non-appealable, which does not cause the delay in the settlement of disputes finally.
- In view of above facilities provided by “the Act” Lok Adalats are boon to the litigating public that they can get their disputes settled fast and free of cost amicably.
- **23.**Though the award of a Lok Adalat is not a result of a contest on merits just as a regular suit by a court in a regular trial is, however, it is as equal and on a par with a decree on compromise and will have the same binding effect and be conclusive. Just as the decree passed on compromise cannot be challenged in a regular appeal, the award of the Lok Adalat, being akin to the same, cannot be challenged by any of the regular remedies available under law, including by invoking Article 226 of the Constitution and challenging the correctness of the award, on any ground. Judicial review cannot be invoked in such awards, especially on the grounds as were raised in the revision petition.
- 24.** The award of Lok Adalat is final and permanent which is equivalent to a decree executable, and the same is an ending to the litigation among parties.

- Any case which is pending before a Court or any dispute which is not brought before a Court but may be filed before a Court can be referred to Lok Adalat. However, matters relating to divorce or matters relating to an offence not compoundable under any laws cannot be referred to Lok Adalat.

- **Composition of Lok Adalat -**

- **Lok Adalats** may be organised by State Legal Services Authority, High Court Legal Services Committee, District Services Authority or Taluk Legal Services Committee.
- **National Level Lok Adalats** are held for at regular intervals where on a single day Lok Adalats are held throughout the country, in all the courts right from the Supreme Court till the Taluk Levels wherein cases are disposed off in huge numbers.
- **Permanent Lok Adalat**, organized under Section 22-B of The Legal Services Authorities Act, 1987. Permanent Lok Adalats have been set up as permanent bodies with a Chairman and two members for providing compulsory pre-litigative mechanism for conciliation and settlement of cases relating to Public Utility Services like transport, postal, telegraph etc. Here, even if the parties fail to reach to a settlement, the Permanent Lok Adalat gets jurisdiction to decide the dispute, provided, the dispute does not relate to any offence. Further, the Award of the Permanent Lok Adalat is final and binding on all the parties. The jurisdiction of the Permanent Lok Adalats is upto Rs. Ten Lakhs. Here if the parties fail to reach to a settlement, the Permanent Lok Adalat has the jurisdiction to decide the case. The award of the Permanent Lok Adalat is final and binding upon the parties. The Lok Adalat may conduct the proceedings in such a manner as it considers appropriate, taking into account the circumstances of the case, wishes of the parties like requests to hear oral statements, speedy settlement of dispute etc.

Mediation & Conciliation

- Supreme Court has constituted **Mediation and Conciliation Project Committee (MCPC)** to oversee the effective implementation of **Mediation** and Conciliation. The disputes are not only resolved through Mediation and conciliation but training is also provided to the Mediators through a uniform Mediation Training Manual of India.

Free Legal Aid and
jail appeals to
High Court and
Supreme Court

Issues relating to Appeals:

1. Lack of legal information and awareness about the right to appeal against conviction.
2. Lack of awareness about entitlement to free legal aid.
3. Lack of interaction with the empanelled lawyers representing them before Supreme Court and High Courts.
4. Lack of information about the status of their appeals/SLPs/bail applications.
5. Lack of knowledge and information of Parole, Commutation and Remission.

DLSAs should ensure:

- ❖ First, name of the counsel along with his mobile number and email ID will be provided by DLSA to the convict and his family members.
- ❖ Ensuring the benefit of parole, commutation and remission reaches the poor convicts.

Appeals in High Courts:-

The appeals of convicts, requiring free legal services, which are to be filed in the High Court should be sent to the High court Legal Services Committee (HCLSC) along with necessary documents. An application for legal aid, copy of the judgment should ideally be enclosed with the jail appeal application.

The High Court Legal Services Committee shall make an endeavour during the campaign period to file the appeals in the matters qua which legal aid applications have been received by it. In case, the appeals have not been filed due to deficiency of documents then, in such a scenario, it shall directly contact Secretary, DLSA who shall ensure the submission of requisite documents for filing appeals to the HCLSCs without any further delay.

Appeals in Supreme Court Legal Services Committee

- ❖ The High Court Legal Services Committees shall process the matters relating to filing of SLPs/ appeals pending with them for submission to the Supreme Court Legal Services Committee.
- ❖ The District Legal Services Authorities shall submit the necessary documents to the respective High Court Legal Services Committee alongwith the legal aid applications of the convicts, who are identified, for filing SLPs/appeals in the Hon'ble Supreme Court.

Jai Hind

