

LEGAL AID CLINICS IN PRISONS



A GUIDEBOOK FOR LAW SCHOOLS



REDRESSING INJUSTICE

FOSTERING PROFESSIONALISM

STRENGTHENING RULE OF LAW

Behind Bars not Beyond Justice

WHAT ARE LEGAL AID CLINICS



- Students working in university based clinics—supervised by a law professor or practicing lawyer—provide legal assistance to poor and marginalized clients, while gaining exposure to the problems faced by these groups.
- Legal aid clinics train law students in the spirit of social justice and public service, and to provide legal services in the community
- Legal Aid Clinics have three main objectives: promoting human rights by improving access to the legal system; fostering professionalism and a sense of public service among students; and strengthening civil society and the rule of law.

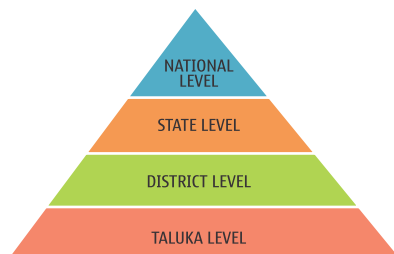
WHY ESTABLISH LEGAL AID CLINICS IN PRISONS

- Prisoners are often unable to afford lawyers as they are in most cases the sole bread earners of their families. Even when they could afford a lawyer during the initial stages of trial, subsequently they become unable to pay the fees and end up without a lawyer.
- State sponsored legal aid mechanisms do not adequately reach prisons. It is commonly seen that the educated and affluent class who can afford good lawyers, get bail more easily than the illiterate indigent accused person, this necessitates access to state sponsored legal aid to prisoners.
- Lack of access to lawyers often leads to unnecessary and prolonged detention especially in cases of indigent defendants.
- The National Legal Services Authority (Legal Aid Clinics) Scheme 2010, adopted in the meeting of the Central Authority of NALSA held on 8.12.2010 at Supreme Court of India, mandates the setup of legal aid clinics in the community.



WHO ARE THE STAKEHOLDERS

LEGAL SERVICES AUTHORITIES



JUDICIARY



PRISON DEPARTMENT



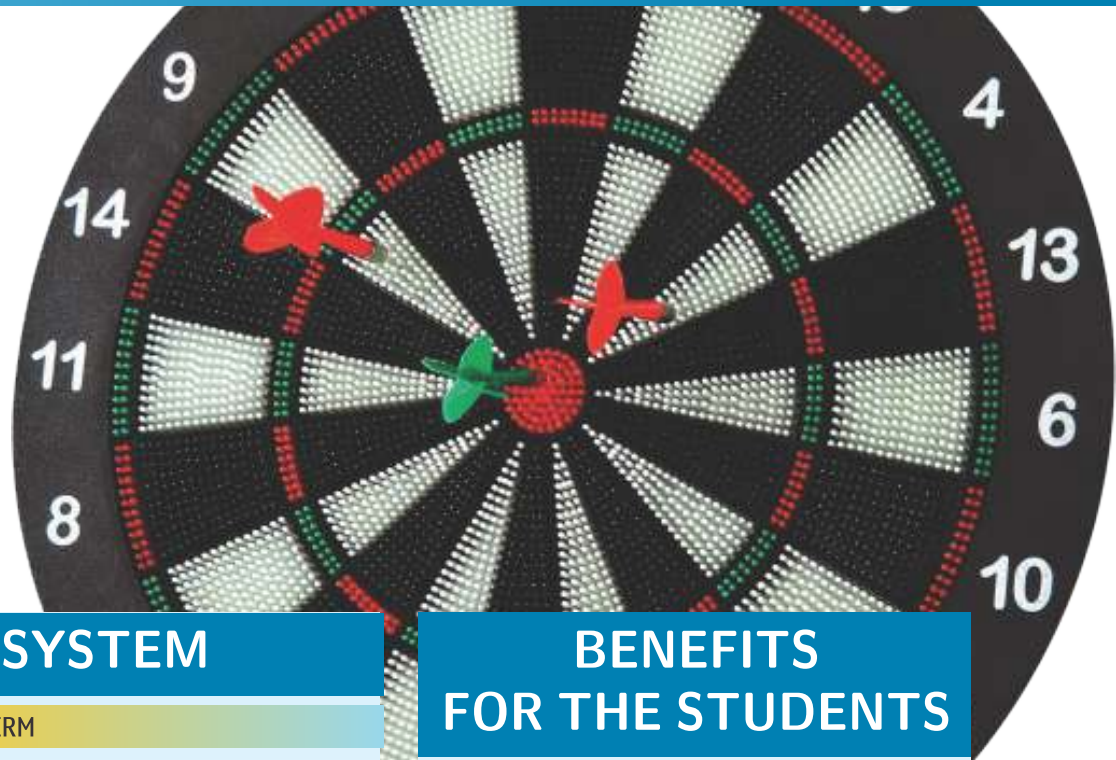
PRISONER



LAW COLLEGE/STUDENTS



LEGAL AID CLINICS IN PRISONS



AIMS & OBJECTIVES

BENEFITS TO THE SYSTEM

SHORT TERM

- Creating awareness amongst prisoners of their rights.
- Securing appointment of legal aid lawyers
- Identifying and assisting persons illegally detained or suitable for release.
- Assisting vulnerable groups like juveniles in prison, mentally ill inmates, prisoners of foreign origin.
- Establishing a mode of clinical legal education – hence sensitising future lawyers to problems in the existing criminal justice system.
- Documentation of problems/issues within the criminal justice system.

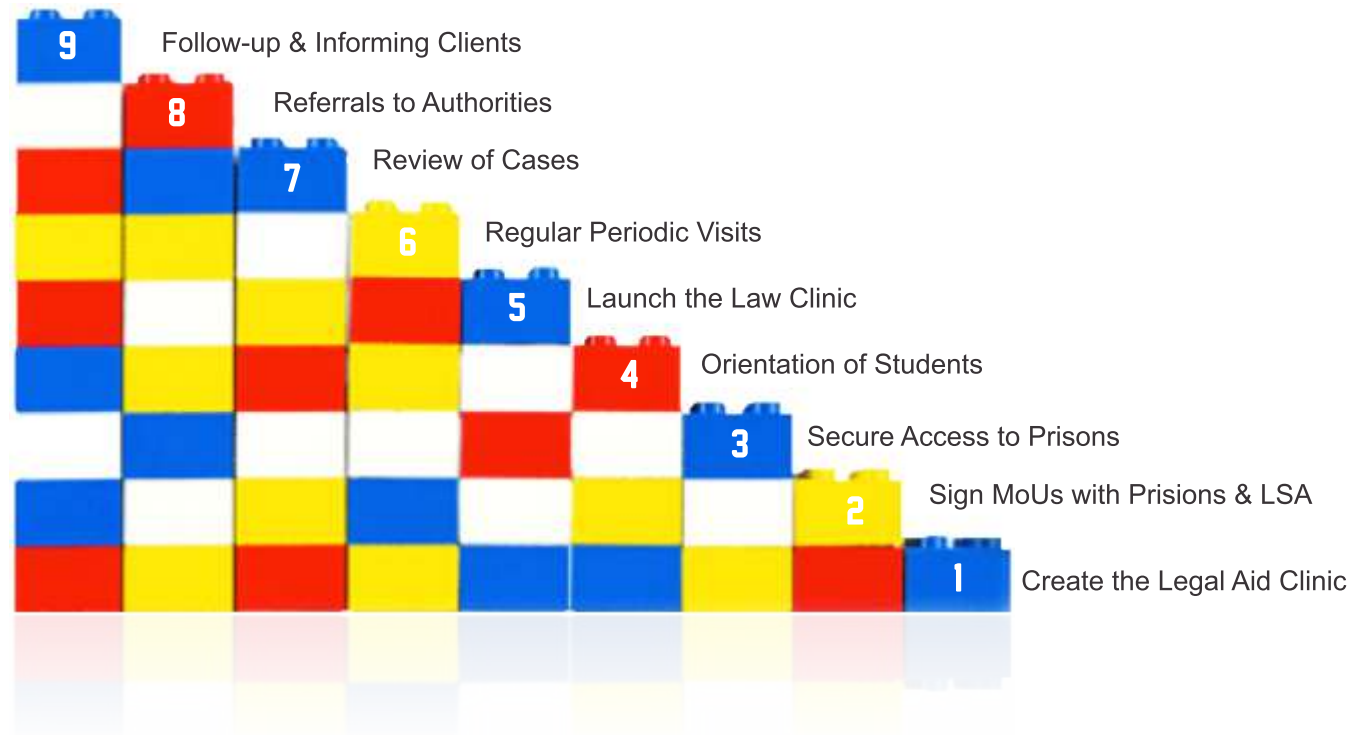
LONG TERM

- Institutionalising mechanisms to prevent unnecessary detention.
- Ensuring early access to legal aid for indigent defendants and undertrials.
- Increasing prisoner confidence in the legal aid system.
- Raising awareness amongst prison staff on legal procedures.
- Monitoring the quality of legal aid.
- Improving coordination between the Prison Department and the Legal Services Authorities.
- Identification of systemic gaps within the criminal justice system and striving to bridge the same.
- Collection of information leading to strategic litigation.

BENEFITS FOR THE STUDENTS

- Provides real-life work experience to students.
- Students get exposed to the problems faced by poor and marginalized groups of the society and those within the criminal justice system.
- Students learn about their professional responsibilities to sustain and support the rule of law, human rights and social justice.
- Students learn how to intervene in legal system and improve legal services through referral solutions.

9 EASY STEPS TO SET-UP LEGAL AID CLINICS IN PRISONS



RESOURCES INVOLVED



- Travel costs for the prison visits
- Stationary costs for documentation & follow-up
- Postal charges for communications with concerned authorities
- Students to conduct prison visits
- Faculty member to oversee the prison visits
- Student coordinator to coordinate data collection and subsequent follow-up
- Students will need to take out time from their regular schedules to conduct and follow up on prison visits.



LEGAL AID CLINICS IN PRISONS



SET-UP : FUNCTIONING OF LEGAL AID CLINICS

Composition of the Legal Aid Clinic:

Ideally a legal aid clinic should consist of at least 5 student volunteers to conduct the prison visits, 1 student coordinator & 1 Faculty member who has expertise in criminal law and litigation. It will also be beneficial to involve any alumni students who are at present practicing in the district courts nearby.

Orientation of Students:

It is very important to conduct an orientation program with students involved in the legal aid clinics to train them on the following aspects:-

- a) Basic concepts of criminal procedural law, viz. relevant sections of Indian Penal Code & Code of Criminal Procedure; fair trial guarantees under constitutional & international law; stages of trial from arrest to appeal.
- b) Client counselling: basic essential questions to ask prisoners, how to interact with prisoners etc.
- c) Basic Etiquettes: What to do & not to do during prison visits, e.g. not to divulge personal information etc.

Conducting Prison Visits:

It would be in the interest of the clinic that the first visit should constitute a 2-hour Legal Aid Camp which involves the presence of senior members of the judiciary, prison department, and the legal services authority who can inform the prisoners about the legal aid clinic.

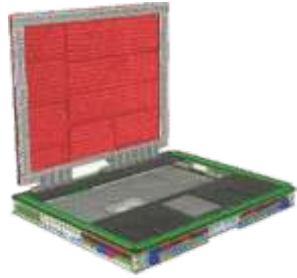
This camp would help in spreading the word about the legal aid clinics and building a sense of confidence amongst prisoners.

Subsequent visits can be conducted on a weekly basis with prior intimation to the prison authorities. It is always better to fix one particular day of the week for the visits. This has many benefits viz. prisoners will be prepared with their cases prior to the visit, prison authorities can make proper arrangements for your visit & students can manage their classes accordingly.

Cases of Interest:

Prison visits might lead to information on a number of issues, however, one may choose to prioritize the following issues:-

- Prisoner does not have a lawyer.
- Prisoner has applied to the legal services authority but a lawyer has not been appointed
- Lawyer has been appointed by the legal services authority but lawyer is not appearing in court.
- Legal aid lawyer appointed through legal services authority has asked for money.
- Prisoner was less than 18 years of age at time of incident/arrest/detention.
- Prisoner has not been charge-sheeted within 60-90 days of arrest (as case maybe)
- Prisoner has not been produced in court in the last 15 days or more.
- Prisoner being an under-trial has completed one-half/maximum term for offence.
- Prisoners family is not aware of his/her detention.



DOCUMENTING AND REPORTING

Documenting Prison Visits

It is essential that each prison visit be documented well. It is important for students to take down all relevant information pertaining to the prisoners' case viz. name, father's name, age, date of admission, case reference number, offences charged with, concerned court etc. Students can decide either to use questionnaires to record the information or directly enter it in their laptops which can later be integrated into one master excel sheet for review and follow-up.

Sample Forms are given on Page 7.

Review of Cases

A review meeting must be conducted once every week, after each prison visit. Students can discuss each case in details, understand the legal process involved and decide what action is to be taken in each case in details. The meeting can be moderated by the faculty member. To increase knowledge of students, review meetings can include short presentations by students on any particular legal issue.

Taking Further Action

Once action plan has been decided and duly recorded for each case, work can be allocated to the students. To ensure accountability, name of the student being allocated the work should be mentioned in the documentation, along with timeline for completion of the task so assigned.

The action taken on each case should be duly informed to the prisoner on the next prison visit. Where correspondence has been sent to any authority, a copy of the letter should be provided to the prisoner and where possible to the prison officials for their records.

Follow-up

Where no response is received from the concerned authority, follow-up letters must be sent at timely intervals. If still no response is received, students may ask the faculty members to contact the authorities via telephone or try and schedule a meeting to discuss the case in hand.

Reporting

A report conveys specific information regarding the work and progress of the legal aid clinics to the various stakeholders. Reports are written to keep everyone informed about the goals and achievements of the clinics.

A report should be prepared every quarter and circulated to all the stakeholders. Reports can include information on the prison visits, for example, the total number of inmates assisted, outcome of the interventions made.

Impact Assessment

It is important to regularly review the outcome of efforts made by evaluating the total number of prisoners assisted against number of prisoners released on bail, acquitted or convicted, number of lawyers appointed, cases where no progress has been made etc.

An impact assessment can help evaluate the success of the clinic and enable the members to assess their shortcomings and improve further work.

I really loved being a part of Shadhinota for the past two years and more than just making me feel important, Shadhinota has taught me a lot. It has given me an inside view of the prisons in Kolkata...It's a very sad state of affairs, and it is going to take a long time to change it. But I sincerely believe that with dedicated people like us working for the cause, will definitely help us achieve our objective.

Shruthi Srinivasan
National University of Juridical Sciences,
Kolkata

Working in a legal aid clinic has made me aware of the true role and importance of a lawyer in society and the great happiness realized from trying to perform it honestly.

Deepan Kumar Sarkar
Calcutta University, Kolkata

I've realised that behind a few success stories there is strong group resolution, tremendous and relentless investment of effort and a rather patient wait to see the results manifest and justice be delivered to those suffering within the criminal justice system.

Monalisa
National University of Juridical Sciences
Kolkata

Being a first year law student, I learnt a lot being a part of 'Shadhinota', while interning at CHRI. I have gained more knowledge about CrPC and its working than I think I could've ever had staring at a white board, because learning is not just about reading the fine print...

Tanya Sahay
Hidayatullah National Law University
Raipur



The Commonwealth Human Rights Initiative (CHRI) is an international, independent non-profit organisation headquartered in India. Its objectives are to promote the practical realisation of human rights in the Commonwealth. In addition to a broad human rights advocacy programme, CHRI advocates access to information and access to justice.

Prison Reforms Programme

As part of its Access to Justice programme, the prison reforms programme focuses on increasing transparency of a traditionally closed system. The programme aims at ensuring accountability of the legal system towards reducing overcrowding and unnecessary long pre-trial detention and prison overstay. Strengthening review and prison oversight mechanisms towards fulfilling rights guaranteed by constitutional and international safeguards for prisoners is the major focus.



COMMONWEALTH HUMAN RIGHTS INITIATIVE

55 A, Third Floor, Siddhartha Chambers-1,
Kalu Sarai, New Delhi - 110016

Tel: 91-11-43180200

Fax: 91-11-26864688

E-mail: info@humanrightsinitiative.org

Website: www.humanrightsinitiative.org