

CHRI 2019

# UNIVERSITY BASED LEGAL AID CLINICS AND PERSONS IN CUSTODY



A GUIDE



**CHRI**

Commonwealth Human Rights Initiative  
working for the *practical* realisation of human rights in  
the Commonwealth

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# ◀ Commonwealth Human Rights Initiative



The Commonwealth Human Rights Initiative (CHRI) is an independent, non-profit, non-partisan, international non-governmental organisation working in the area of human rights. In 1987, several Commonwealth professional associations founded CHRI, since there was little focus on human rights within the association of 53 nations although the Commonwealth provided member countries the basis of shared common legal system.

Through its reports, research and advocacy, CHRI draws attention to the progress and setbacks to human rights in Commonwealth countries. In advocating for approaches and measures to prevent human rights abuses, CHRI addresses the Commonwealth Secretariat, the United Nations Human Rights Council members, civil society and the media on criminal justice concerns. It works on and collaborates around public education programmes, policy dialogues, comparative research, media dissemination advocacy and networking on the issues of Access to Information and Access to Justice.

CHRI promotes adherence to the Universal Declaration of Human Rights, the Commonwealth Harare Principles and other internationally recognised human rights instruments, including domestic legislation supporting human rights in Commonwealth countries.

CHRI is headquartered in New Delhi, India, with offices in London, UK and Accra, Ghana.

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# UNIVERSITY BASED LEGAL AID CLINICS AND PERSONS IN CUSTODY

A GUIDE

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This guidebook on the role of university based legal aid clinics and legal aid for persons in custody has been produced by the Commonwealth Human Rights Initiative (CHRI) to further its mandate of strengthening legal aid delivery under the Prison Reforms Programme (PRP).

It has been conceptualised by Madhurima Dhanuka, Programme Head and written by Arijeet Ghosh, Project Officer at CHRI's PRP. We acknowledge the inputs given by Amrita Paul, Programme Officer, PRP. Mr. Sanjoy Hazarika, International Director and Ms. Richa, Communications Officer have helped with their editorial comments.

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We also wish to thank Gurnam Singh for the overall layout and design of this guidebook.



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Prisoners' rights and legal aid and advice for prisoners are a heady cocktail. When a person is locked up in jail – either as an undertrial prisoner or as a convict – he (or she) is on his own. There have been instances of harassment and bullying by co-prisoners, but it's worse when the jail staff is involved. That, coupled with little or no knowledge of his rights, leaves a prisoner at the mercy of 'the system'. It is in situations like these that a prisoner needs sound legal aid and advice, but with the quality of legal aid that is generally available (there are some outstanding exceptions), one can only sympathise with the prisoner. We need to turn things around on the rights of prisoners and on the availability of quality legal assistance to a prisoner and a good time to start is now.

What does a prisoner want? The primary need of a prisoner is contact with the outside world, contact with his family which the jail manual permits and contact with his lawyer which also is permitted. Unfortunately, my association with the legal aid authorities at various levels over more than a decade has revealed that a lawyer seldom communicates with the prisoner. The result is that the prisoner is often unaware of the progress, if any, in his case. The anxiety to know but not be able to know makes life difficult for the prisoner, who believes in his innocence or believes that he has a good justification for his offence and therefore blames society and the courts for his unwarranted incarceration.

There is a solution to tackle the problem – an example of hitting two birds with one stone. We need to harness the idealism and energy of law students who can be of great assistance in making prisoners aware of their rights and ensure their recognition and implementation and also facilitate them and the lawyers in communicating the day to day developments in the case and thereby expedite justice delivery. The Guide prepared by CHRI after intensive and extensive research on University Based Legal Aid Clinics and Persons in Custody is an important step in that direction. While the focus is domestic, the perspective is international and that makes the Guide a serious human rights document.

Undoubtedly, students can make a significant contribution to the human rights jurisprudence of prisoners through university based legal aid clinics. With the use of technology, tracking cases is now quite simple and in doing so, the clinic – managed by students under guidance – can keep a prisoner abreast of his case and also keep his family informed. The legal aid clinic can be a ‘legal home’ for the prisoner and his family and this would reduce the huge burden that they carry, not only due to legal pressures but also societal pressures such as the ignominy of being called a criminal or a family associated with a criminal. The legal aid clinic can therefore play a vital role in providing effective assistance at different levels.

An extension of the clinic is of course jail visits and the Guide prepared by CHRI lays emphasis on this, but another extension is a ‘home study’ where the clinic lawyer visits the prisoner’s home to understand the domestic compulsions. This is occasionally necessary since most prisoners come from relatively poor strata of society and sometimes financial and other domestic pressures make it difficult for family members to visit the clinic. A legal aid clinic of the type visualised by CHRI can also play the role of a ‘probation officer’ if and when a prisoner is granted bail or parole. Yet another extension is an interface between a clinic lawyer and the police stations, which ought to provide for legal aid to an accused in terms of the ‘direction’ given by the National Legal Services Authority (NALSA) in April 2018 and highlighted by CHRI in a subsequent publication of that year. Similarly, follow up in courts can and ought to be undertaken by the clinic lawyer in each case so that the accused is rest assured that his interests are being taken care of and the assigned student from the clinic learns the judicial process through his association with the case. In other words, the possibilities for a meaningful legal aid clinic are several and the Guide throws open these possibilities for consideration.

CHRI has prepared the Guide with the unstinted efforts of Arijeet Ghosh and Madhurima Dhanuka with significant inputs and suggestions given by several concerned citizens. It is a small but significant step in human rights jurisprudence, particularly prisoners’ rights and meaningful legal aid and advice. It should find a place in the Library of every Law College and University.



(Madan B. Lokur)

4th March, 2019



- **NALSA (Legal Services Clinics) Regulations, 2011<sup>1</sup>**
- **NALSA Front Office Guidelines, 2018<sup>2</sup>**
- **NALSA Standard Operating Procedure for Representation of Persons in Custody, 2016<sup>3</sup>**
- **NALSA Standard operating procedure for redressal of complaints/public grievances, 2016<sup>4</sup>**
- **NALSA Guidelines for Legal Services in Juvenile Justice Institutions<sup>5</sup>**
- **United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, 2012<sup>6</sup>**

1 Available at: <https://nalsa.gov.in/sites/default/files/scheme/NALSA%20LEGAL%20AID%20CLINICS%20REGULATIONS%2C%202011.pdf> (last accessed on 3rd January, 2019).

2 Available at: [https://nalsa.gov.in/sites/default/files/document/Front\\_Office\\_Guidelines.pdf](https://nalsa.gov.in/sites/default/files/document/Front_Office_Guidelines.pdf) (last accessed on 3rd January, 2019).

3 Available at: <https://nalsa.gov.in/sites/default/files/document/SOP-%20Persons%20in%20Custody.pdf> (last accessed on 3rd January, 2019).

4 Available at: <https://nalsa.gov.in/sites/default/files/document/SOP-%20COMPLAINT%20REDRESSAL%20MECHANISM.pdf> (last accessed on 3rd January, 2019).

5 Available at: <https://nalsa.gov.in/sites/default/files/document/Guidelines%20JJB.pdf> (last accessed on 3rd January, 2019).

6 Available at: [https://www.unodc.org/documents/justice-and-prison-reform/UN\\_principles\\_and\\_guidelines\\_on\\_access\\_to\\_legal\\_aid.pdf](https://www.unodc.org/documents/justice-and-prison-reform/UN_principles_and_guidelines_on_access_to_legal_aid.pdf) (last accessed on 3rd January, 2019).

# I. Introduction

Navigating through any legal system, specially the criminal justice system is a complex and an arduous task. Whether a victim, witness or accused, a criminal trial presents several challenges to an individual. While the victim not only faces an ordeal at a personal level, she also faces the responsibility of reporting a crime, testifying at trial as a witness and explaining the impact the crime had on her. On the other hand, an accused (who is presumed innocent until found guilty as per the law) faces social labelling as a criminal, can find it hard to navigate through criminal proceedings and also becomes subject to well-known human rights violations under custody (both police and judicial).

As access to justice is the cornerstone of any well-functioning democratic society, ensuring the same for persons coming in contact with the criminal justice system (especially persons in custody) is essential. Right from the time of first arrest, access to justice becomes necessary for persons in custody, of which, legal aid and assistance is one of the crucial aspects. For this purpose of providing prompt and effective access to legal aid and assistance, there exist constitutional and statutory guarantees which establish a legal aid institutional framework.

One aspect of this institutional framework is the establishment of legal aid clinics in universities across the country. Guideline 16 of the *United Nations Principles and Guidelines on Access to Legal Aid in the Criminal Justice System*, lays down guidelines for ‘partnerships with non-state legal aid service providers and universities’. Guideline 72 in particular mentions:

***72. States should, where appropriate, also take measures:***

- (a) To encourage and support the establishment of legal aid clinics in law departments within universities to promote clinical and public interest law programmes among faculty members and the student body, including in the accredited curriculum of universities;***
- (b) To encourage and provide incentives to law students to participate, under proper supervision and in accordance with national law or practice, in a legal aid clinic or other legal aid community scheme, as part of their academic curriculum or professional development;***

*(c) To develop, where they do not already exist, student practice rules that allow students to practice in the courts under the supervision of qualified lawyers or faculty staff, provided such rules are developed in consultation with and accepted by the competent courts or bodies that regulate the practice of law before the courts;*

*(d) In jurisdictions requiring law students to undertake legal internships, develop rules for them to be allowed to practice in the courts under the supervision of qualified lawyers.*

Over the years, CHRI has developed a long standing experience of working with university based legal aid clinics in Rajasthan and West Bengal. With several models being conceptualised and adopted, CHRI has been able to provide some pertinent suggestions for setting up of legal aid clinics. We have provided training and orientation to students and provided materials for legal awareness, documentation and reporting etc. All these are important elements that enable the smooth functioning of a legal aid clinic.

Legal aid clinics and university students have enormous potential to facilitate legal aid delivery. This guidebook has been prepared in order to promote and strengthen their role in enabling access to justice. It aims to enable students to engage with the criminal justice system through the means of legal aid delivery for persons in custody, whether at the police stations or prisons. Additionally, it provides guidance to university based legal aid clinics to expand the scope of legal aid work by collaborating with legal aid institutions established at various levels. We hope, that this guidebook will help university based legal aid clinics to achieve the constitutional aim of securing access to justice for the needy sections of the society and also become an indispensable part of the legal aid delivery system.

## II. University Based Legal Aid Clinics



Article 39-A of the Indian Constitution puts forth a positive obligation on the State to ensure that the Indian legal system is one that promotes justice based on equality of opportunity. It further requires that free legal aid should be provided as a means to secure justice for the most vulnerable and marginalised sections of the society. Under the auspices of this provision, Parliament enacted the *Legal Services Authorities Act of, 1987*, which establishes authorities and committees at all levels (national, state, district and taluka) for providing legal aid.<sup>7</sup> One of the major functions of the national and state level authorities is to engage and coordinate with civil society organisations, universities and law colleges for discharging their functions while promoting the aims and ambitions of Article 39A.

Law schools have been recognised as playing a pivotal role in promoting and providing justice through the field of legal aid.<sup>8</sup> The earliest recognition of the link between legal aid and legal education was by the *Expert Committee on Legal Aid of the Ministry of Law and Justice*, under the chairmanship of Justice V.R. Krishna Iyer.<sup>9</sup> The Committee advocated the need for creating networks of legal aid amongst courthouses, law schools and governmental bodies. Additionally, it also recommended the introduction of clinical legal education in law schools. The symbiotic benefit highlighted behind such an introduction was to expose students to real legal problems, meanwhile enabling an inexpensive and energetic resource for providing legal aid to India's population.<sup>10</sup> Based on this idea, the Bar Council of India (BCI) issued a directive<sup>11</sup> in 1997, directing all universities and law schools to incorporate four practical papers in their curriculum as a means of imparting clinical legal education to law students.

**Law schools have been recognised as playing a pivotal role in promoting and providing justice through legal aid initiatives.**

7 The contact lists of National Legal Services Authority and State Legal Services Authorities can be found on the following link: <https://nalsa.gov.in/node/16> (last accessed on 3rd January, 2019).

8 Frank Bloch and M.R.K. Prasad, "Institutionalizing a Social Justice Mission for Clinical Legal Education: Cross-National Currents from India and the United States", 13 *Clinical L. Rev.* 165 (2006), at p. 172.

9 Govt. of India, Ministry of Law, Justice, and Company Affairs, *Processual Justice To The People: Report of The Expert Committee on Legal Aid (1973)*, available at: <http://reports.mca.gov.in/Reports/15-Iyer%20committee%20report%20of%20the%20expert%20committee%20in%20legal%20aid,%201973.pdf> (last accessed on 13th August, 2018).

10 *Ibid.* at p. 26.

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

Clinical legal education offers an opportunity to law students and faculties to engage with the communities around them, in order to promote the aims of Article 39A. The four practical papers which are mandatory according to the BCI directive, formally introduced clinical legal education in law school curriculums and familiarises law students with litigation skills (Paper I), drafting skills such as pleading and conveyancing (Paper II), legal ethics (Paper III) and legal aid work and public interest lawyering (Paper IV).<sup>12</sup>

This coming together of legal aid delivery and the role that students play in it can prove to be mutually beneficial exchange between the two. While on the one hand, legal aid delivery institutions get the much needed human resources (without budgetary constraints); for students, it is getting introduced to the experience outside the texts and theories of classroom teaching. By getting to understand the problems faced by poor and marginalised groups of the society (including the criminal justice system), students learn and understand about their professional responsibilities to reinvigorate social justice by upholding rule of law and fighting for human rights. Such a clinical approach to legal education, helps students intervene in the legal system, gain experience and improve legal services.

Although the clinical legal education framework is limited to law schools in the country, it should not be seen as excluding others streams from forwarding the aims of Article 39A. Universities offering social work programmes, also have immense potential in carrying out legal aid work given their proximity to the grassroots. A healthy network between national law universities, law faculties of central universities and other institutions/universities involved with social work would not only provide enough motivated personnel, but will also help establish an 'intersectional' approach for providing legal aid. Such networking between different universities needs to be promoted.

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<sup>12</sup> Bloch and Prasad, (n 1) at p. 180.



## Current Status

In a 2011 study conducted by United Nations Development Programme (UNDP) on “*Law Schools Based Legal Service Clinics*”,<sup>13</sup> it was found that nearly 82% of the law colleges in India have designated faculty to conduct legal aid activity, but only a miniscule of them put in place an infrastructure or resources for conducting legal aid activity.<sup>14</sup>

One of the major findings of the study was an unsatisfactory performance in collaborations between the law school legal aid clinics and other bodies such as NGOs, State and District Legal Services Authorities as well as local government bodies.<sup>15</sup> Further, the report went on to recommend both to the Government of India as well as National Legal Services Authority (NALSA) to collaborate with legal aid clinics in law schools as a matter of policy.<sup>16</sup>

**UNDP has recommended both to the Government of India as well as National Legal Services Authority (NALSA) to collaborate with legal aid clinics in law schools as a matter of policy.**

Despite the huge potential that law school legal aid clinics have in improving access to justice and contribute to the realisation of Article 39A of the Constitution, there exist huge deficiencies in the legal aid framework at law schools. This, in fact, is corroborated with the findings of the UNDP report, which has highlighted lack of trained faculties, poor student quality and absence/lack of infrastructural and training facilities as some of the shortcomings.<sup>17</sup>

13 United Nations Development Programme, “A Study of Law Schools Based Legal Service Clinics”, Access to Justice for Marginalised People, 5th July, 2011, Available at: [http://www.in.undp.org/content/india/en/home/library/democratic\\_governance/a\\_study\\_of\\_law\\_school-basedlegalservicesclinics.html](http://www.in.undp.org/content/india/en/home/library/democratic_governance/a_study_of_law_school-basedlegalservicesclinics.html). (last accessed on 17th August, 2018).

14 Ibid. at pp. 2, 33 and 45.

15 Ibid. at pp. 2 and 77.

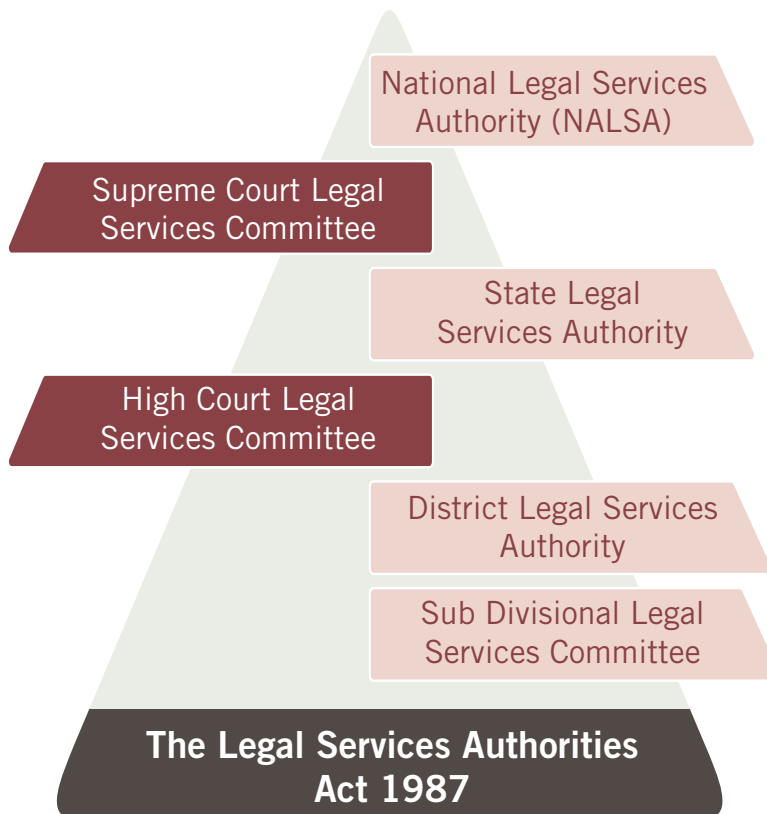
16 Ibid. at pp. 6-7.

17 Ibid. at pp. 33-34.

# LEGAL AID FOR PERSONS IN CUSTODY IN INDIA

Articles 21 and 39A of the Indian Constitution along with The Legal Services Authorities Act, 1987, govern the functioning of the legal aid system in India

## ORGANISATIONAL SETUP



## ELIGIBILITY CRITERIA

- a member of a Scheduled Caste or Scheduled Tribe
- a victim of trafficking in human beings or beggars
- a mentally ill or otherwise disabled person
- a woman or a child
- in custody, including juvenile and psychiatric homes
- a victim of a mass disaster, ethnic violence, caste atrocity, flood, drought, earthquake or industrial disaster
- in receipt of annual income less than as may be prescribed by the Government
- an industrial workman

## MONITORING OF LEGAL AID

Monitoring and Mentoring Committees for Legal Services Institutions are constituted under NALSA (Free and Competent Legal Services) Regulations, 2010. They are mandated to monitor legal aid delivery as well as evaluate the working of legal aid lawyers.



## AVAILABILITY OF LEGAL AID AT DIFFERENT STAGES OF CRIMINAL PROCEEDINGS



POLICE STATION	COURT	PRISON
As per Article 22(1) and 39A Constitution of India 1950 and S. 41D Code of Criminal Procedure 1973 every person is entitled to legal aid at police station. However, there is no provision of permanent legal aid clinic in police stations apart from the limited presence of a paralegal under NALSA's Scheme for Para-Legal Volunteers (Revised). They are also not available round the clock.	For unrepresented persons, at first and subsequent productions in court, remand lawyers are to be appointed in all production courts under NALSA's Model Scheme for 'Legal Aid Counsel' in all Courts of Magistrates, 1998. For unrepresented persons during trial, panel lawyers are appointed under the NALSA (Free and Competent Legal Services) Regulations, 2010 and S. 304 Code of Criminal Procedure, 1973.	A legal aid clinic is to be constituted in each prison manned by paralegal volunteer and jail visiting lawyer to provide legal assistance to under-trials and convicted prisoners under NALSA's Standard Operating Procedure for Representation of Persons in Custody, 2016, NALSA (Legal Aid Clinics) Regulations, 2011 and NALSA's scheme for Para-Legal Volunteers (Revised). In some prisons convicts are also trained as paralegals.

### ◀ III. CHRI's Experience of working with Legal Aid Clinics in Law Schools



CHRI is an independent, non-partisan, international non-governmental organisation, mandated to ensure the practical realisation of human rights in the countries of the Commonwealth. The Prison Reforms Programme at CHRI aims at increasing transparency of a traditionally closed criminal justice system by resorting to increase access to justice for prisoners and ensuring accountability of the prisons as well as the police department. A major area of its work is focused on highlighting failures of the legal system that result in terrible overcrowding and unconscionably long pre-trial detention and prison overstays, and engaging in interventions to ease this. The expertise garnered by working in this area, has also enabled CHRI to act as 'partner' when collaborating with different organisations in promoting the aims of access to justice.

As a part of its mandate, the Prison Reforms Team has engaged with Legal Aid Clinics in law schools, as a means to tap into its immense potential to increase access to justice in the prisons framework of the country. CHRI believes that such legal aid clinics will contribute to the realization of rights of prisoners and also help introduce law students to the most neglected front of the criminal justice system, i.e. prisons. A brief introduction to our successful collaborations are provided below:

#### **A) Shadhinota - National University of Juridical Sciences, West Bengal**

In 2010, CHRI collaborated with the Legal Aid Society of the prestigious National University of Juridical Sciences in West Bengal (WBNUJS) to launch project '*Shadhinota*'. It has been recognised by the United Nations Development Programme (UNDP) as one of the best models of an effective collaboration between an NGO and a law school legal aid clinic.<sup>18</sup> The project aimed at building a bridge between the inmates in need of legal help and legal aid lawyers who were mandated by the Legal Service Authorities Act, 1987 to render effective legal aid. The primary objective of the project was based on the principle of 'access to justice for all' so that justice is not denied to citizens by reason of economic or other disabilities.

Project '*Shadhinota*' has been primarily focussing on two areas: 1) Improving access to legal aid for prisoners; and 2) conducting Legal Awareness Camps in prisons and correctional homes.

<sup>18</sup> Ibid. at pp. 47-48.

Additionally, the project has also ventured into the area of assisting the working of the prison legal aid clinics and in monitoring of services by both the District Legal Services Authorities (DLSAs) and State Legal Services Authority (SLSA). For the implementation purposes, CHRI has worked with one faculty advisor, two student coordinators and several student volunteers who were selected to work on these projects.

## **B) Swadhikaar - National Law University, Jodhpur**

CHRI and Centre for Legal Aid and Social Services (CLASS), National Law University, Jodhpur collaborated in 2012 to launch the '*Swadhikaar*' project. Swadhikaar- which means "my rights"- aimed to empower the prisoners in the city of Jodhpur, Rajasthan. CLASS students and CHRI lawyers intended to assist the needy and indigent pre-trial and under-trial prisoners through effective legal representation towards early and suitable non-custodial measures.

Acting as a bridge between prisoners without counsel or awareness of free legal aid or rights of prisoners and the legal aid and judicial system, the collaboration helped in referring cases to state legal aid lawyers as well as private pro-bono lawyers, thereby influencing legal representation for prisoners. Additionally, Periodic Review Mechanisms in Prison (PRC) were put in place through frequent prison study visits by students who were accompanied by CHRI representatives. Such initiatives not only helped in improving prisoners' ability to represent themselves in court, but also helped in improving the communication between the various actors in the criminal justice system. At the same time, the process will help sharpen the attention and skills of young lawyers towards rectifying fallacies in the criminal justice system, while building openness in the prison environment.

To increase legal awareness amongst prisoners', the initiative also drafted a newsletter for prisoners called "*Abhyudaya*", that aimed at capturing the experiences of students and lawyers involved in Swadhikaar. Published in Hindi language, it consisted of views and interviews of various representatives of the criminal justice system, prisoners, and students, which was aimed to be circulated amongst law students, prison staff, legal aid and other lawyers and paralegals working for the benefit of prisoners.

### **C) Nabachetana: A Step Towards Legal and Social Empowerment- Amity Law School, Kolkata**

The *Nabachetana* project aimed at establishing “Nabachetana Legal Aid Committee” (NLAC) in Amity Law School, Kolkata, which was supposed to provide direct legal aid and assistance to the general communities/public and conduct legal awareness camps in selected wards of West Bengal. For achieving its objectives, the project intended to adopt wards in Kolkata to conduct its activities. The legal aid clinic, through the utilisation of the legal awareness resources and tools provided by CHRI, aimed at empowering people by enhancing awareness of their basic rights and privileges. In order to benefit law students, CHRI would conduct training/orientation for members of the NLAC; formulate the contours of the legal aid camps i.e. content, scope, methodology and duration, and; identify the wards and locations to hold the camps.

Apart from using resources like videos, posters and pamphlets, the collaboration also introduced a first of its kind training tool called the Virtual Police Station (VPS), developed by CHRI in cooperation with Rajasthan Police. It allows the police, civil society and public to virtually enter a police station and explore every room in 360 degrees and learn about processes. It provides basic introduction to the police station by using simple non-technical language of procedures that are performed every day and juxtaposes them with how the police should ideally work. Most importantly, it reaffirms legal rights and procedures to be followed when dealing with victims, arrested persons, and witnesses. This model was conceptualised a year back and initial orientation programmes were held. But due to certain external factors actual clinics have not been conducted yet.





**Legal Literacy  
and Awareness  
Camps**

**Free  
Legal Advice**

**Prison Visits**

**Referral and  
Mediation  
Services**



## ◀ IV. Elements of a Model Legal Aid Clinic for Persons in Custody



Based on our experience of collaborating with legal aid clinics in law schools, we have prepared the contours of a model legal aid clinic in any university. These clinics, we believe, can diversify the existing legal aid clinic work to persons in custody while addressing issues of their right to access to justice as well as a fair trial. These elements, which encompass a larger role of students, can be considered while conceptualising legal aid clinics by universities.

### A) Objectives of the Legal Aid Clinic

Based on the potential of the work a particular legal aid clinic can do, the objectives would vary. It might not be just limited to ensuring legal aid for persons in custody, and can have broader aims as well. However, the following broad themes should be necessarily involved as the primary objectives of any legal aid clinic at law schools.

- a) Conducting **legal literacy and awareness camps** specifically aimed at sensitising the marginalised and vulnerable communities about their right to free legal aid. Additionally, holding focussed camps with the regard to rights of the prisoners to ensure access to justice and fair trial.
- b) Providing **free legal advice** to communities and public at large.
- c) Acting as a bridge for **referral and mediation services** between people in need (specifically prisoners), government legal aid lawyers and private pro-bono lawyers.
- d) Establishing or being part of the prison oversight mechanisms, board of visitors or under trial review committees and conduct frequent **prison visits**, under supervision of faculty in-charge, to monitor and evaluate conditions inside prisons in the particular State.



## 1. STRUCTURE OF THE LEGAL AID CLINIC

Every legal aid committee should have a full-time faculty, dedicated to the clinic and trained to carry out clinical legal education work (in case of law universities). Although the number of students participating in the legal aid clinic will be decided by the university itself, for the purpose of collaboration, the specific projects may have student intern/volunteers ranging between 2-15, as the need be.

## 2. WHAT CAN STUDENTS EXPECT?

For a legal aid clinic project, the students willing and interested to be the part of the same can expect the following:

- a) Enhancing their understanding of law, legal procedures and dispensation of justice at the ground level.
- b) Familiarising themselves with the procedures of the Criminal Justice System in regard to remand, detention, arrest procedures, bail requirements, foreign national prisoners and legal aid rights.
- c) Gaining insight into the functioning of prisons, prison departments and the rights of prisoners.
- d) Contributing actively to improve prisoners' ability to represent themselves in court and achieve early non-custodial measures.

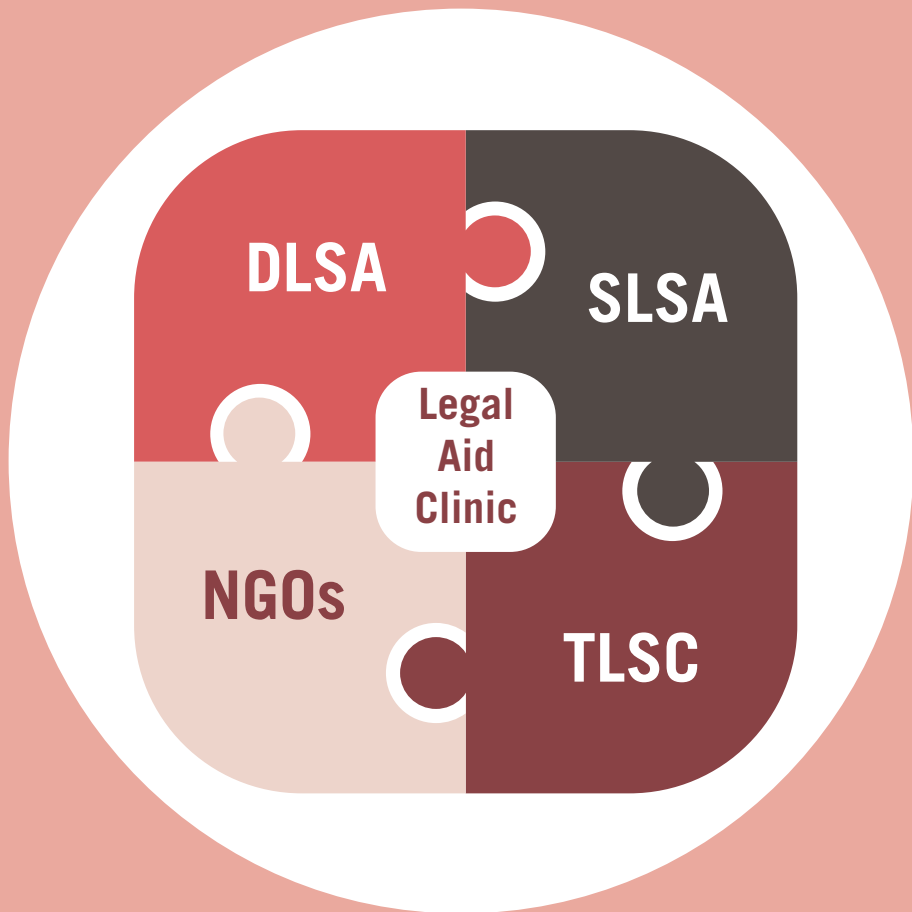
## 3. PREPARATORY ACTIVITIES

- a) Training of volunteers to work efficiently in providing legal assistance specifically in regard to prisons.
- b) Help in procuring access to prisons in a particular State.

**Training of student volunteers before working in prison should be compulsory.**

## 4. RESOURCE MATERIALS

- a) **Pamphlets and posters** on Arrest and Detention, Legal Aid, First Information Report, Victims of Sexual Offences and Police Interrogation and Questioning, Release under s. 436A Code of Criminal Procedure, 1973 (maximum period of detention for an Under-trial prisoner), assistance for Mentally ill Prisoners etc. can be used as a legal resource for spreading awareness and legal literacy.
- b) **Videos or doodles** focusing on the right of access to legal aid of prisoners can be prepared and used during legal awareness camps.



## 5. COLLABORATION

If engaging with state, district or taluk legal services authority or with another organisation, it is advisable to have a Memorandum of Understanding (MOU) between the respective parties, clearly laying down the activities and intended outcomes of the collaboration.

**It is advisable to have a Memorandum of Understanding (MOU) between the respective parties, clearly laying down the activities and intended outcomes of the collaboration.**

## 6. REPORTING AND DOCUMENTATION

Regular reporting, and documenting of visits made, services provide and outcomes thereof much be ensured in order to maintain the efficacy of the clinics. Formats should be prepared and provisions put in place for periodic reporting.

### **A MOU should contain:**

- 1. Overall intent / Objective**
- 2. Parties**
- 3. Time period**
- 4. Assignment / Activities / Responsibilities**
- 5. Reporting / Documentation procedures**
- 6. Financial Arrangements (if any)**
- 7. Signature of Parties**



## ◀ V. Access to Justice and Clinics: Expanding Horizons



The National Legal Services Authority says that there exists 733 legal aid clinics across law schools in India.<sup>19</sup> Law students in these clinics can be considered as a huge source of legally trained minds, who can at the basic level, promote the objectives of Article 39A. As the legal services authorities can benefit from the assistance of law students, the possibility of expanding the scope of law school legal aid clinics to other areas need to be explored. Although the focus here has been on law students due to their familiarity in the area of law, it should not lead to the presumption that students in universities of various other fields are not capable of establishing and working in legal aid clinics. Law is also being taught as additional courses in other fields such as social work, who are also equally capable of setting up a legal aid clinic (with specific emphasis on assisting persons in custody).

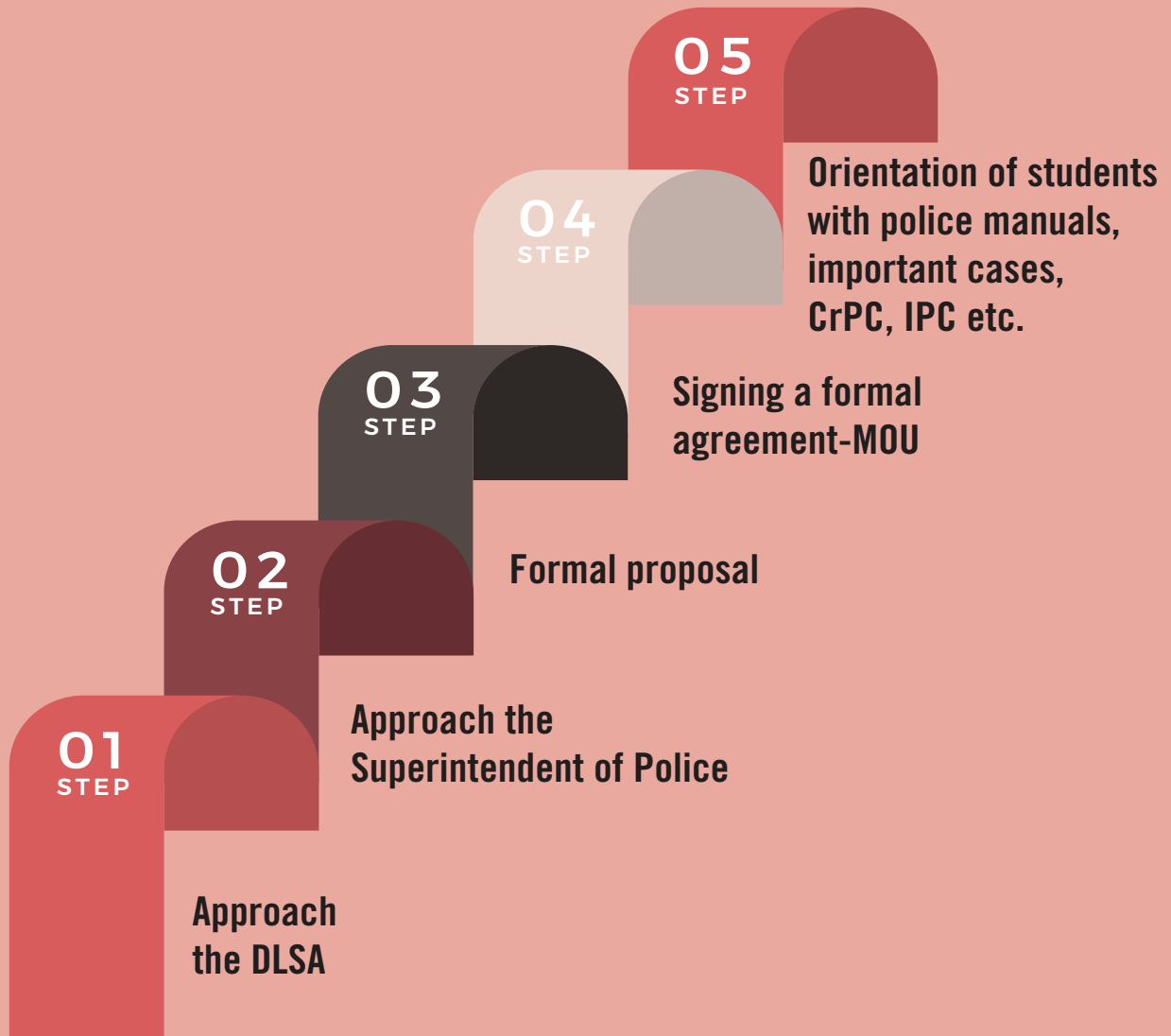
As the stakeholders involved in the criminal justice system are the prison departments, the police and the judiciary, student run legal aid clinics can explore the option of extending its reach by collaborating with these stakeholders, and assist in legal aid delivery. This can be done in the following ways:

### A) Legal Aid Clinics at Police Stations

Although there exists no mandate to set up legal aid clinics at Police Station, the importance of legal assistance at this level cannot be undermined. The police is the first point of contact for the community when it comes to the Criminal Justice System. Providing legal aid and assistance at the level of police stations, has immense potential in dealing with issues such as arbitrary detention, arrests, illegal detentions and custodial violence. It can further provide the general public or witnesses basic legal information, that they are mostly unaware of. The law school legal aid clinics can take an opportunity to close this gap of lack of legal assistance at the level of the police by setting up legal aid clinics in their local police stations.



<sup>19</sup> Information available at: [https://nalsa.gov.in/sites/default/files/document/Legal\\_Service\\_Clinics,April-2017\\_to\\_March-2018.pdf](https://nalsa.gov.in/sites/default/files/document/Legal_Service_Clinics,April-2017_to_March-2018.pdf) (last accessed on 3rd September, 2018).





## a. Setting up the clinic

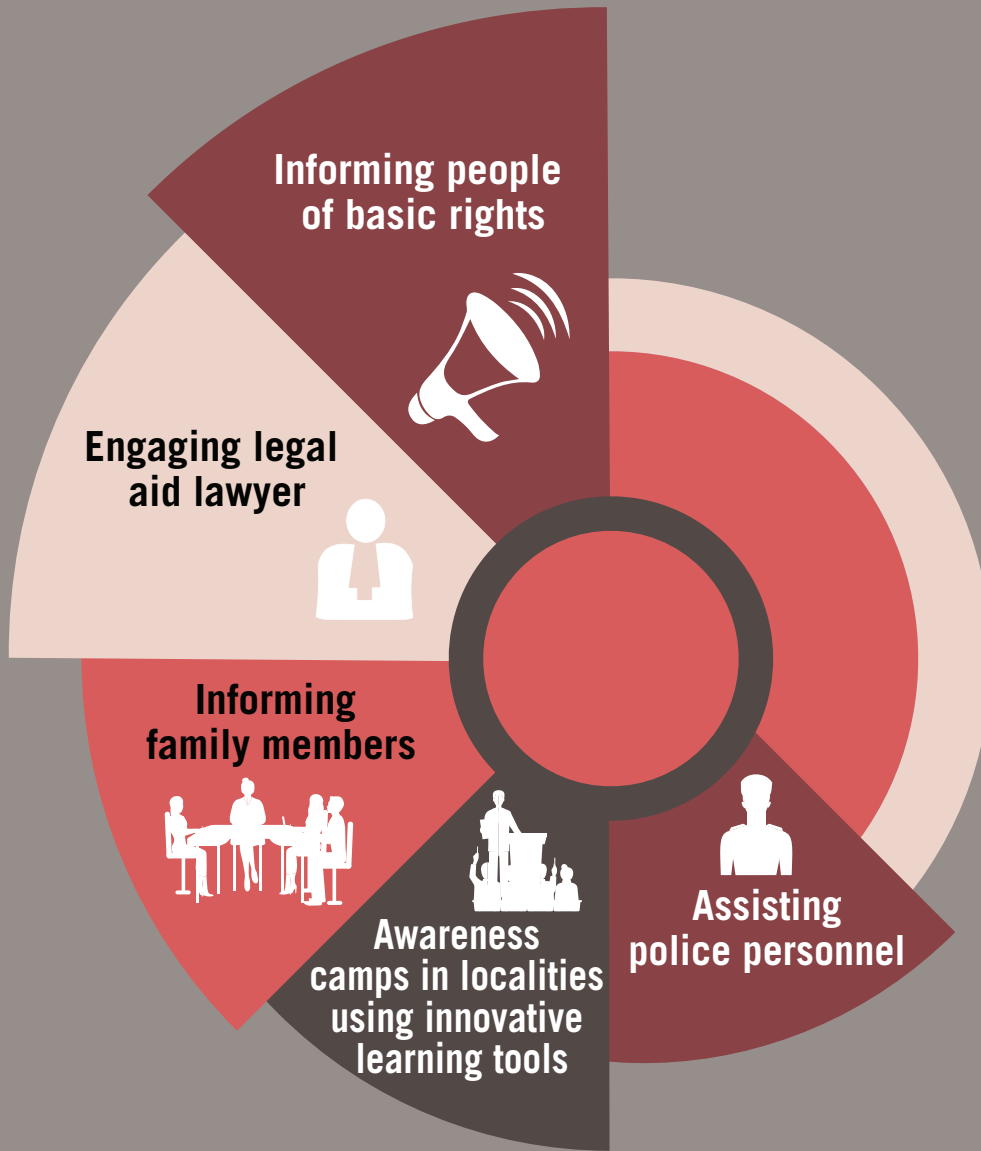
The following procedure can be undertaken to set up Legal Aid Clinics in Police Stations:

- i. The relevant stakeholders in attempting to set up a legal aid clinics in police stations are the Police as well as the DLSA. As the Superintendent of the Police is in-charge of the district, permissions would be required from him to gain access to police stations. The Secretary of the DLSA can also be approached in this regard.
- ii. Once the preliminary discussions are done, the Superintendent of Police should be approached with a formal proposal of setting up a legal aid clinic in the district police stations under their jurisdiction.
- iii. After a formal agreement between the law school legal aid clinic, the Superintendent of Police and the DLSA, specifying the activities and project outlines is entered into, the legal aid clinic can be launched at the police stations. This can be in the form of an MOU, or in the form of a written permission granted from both the DLSA and the Superintendent of Police to establish a legal aid clinic and work in collaboration with respective stakeholders.
- iv. Orientation of the students should be carried out which should familiarise them to the functioning of the police. Police Manuals of the respective state should be depended upon this record, which will familiarise the students with the administrative set up of the police station, the protocols involved, guidelines on conduct of the police, and recording of data such as the Memo of arrest and inspection memo.
- v. Orientation of students should also include familiarity with legislations such as The Police Act of 1861, the Code of Criminal Procedure, 1973, the Indian Penal Code, 1860 as well as landmark judgments regarding arrests such as *Joginder Kumar v State of U.P. and Ors*<sup>20</sup> and *D.K. Basu v State of W.B.*<sup>21</sup>

**Before approaching the Superintendent, it would be advisable to first approach the DLSA to request them for their guidance.**

<sup>20</sup> (1994) 4 SCC 260.

<sup>21</sup> (1997) 1 SCC 416.



## **b. Activities**

- i. Law students can engage in appraising those coming to police station of basic rights and procedures that are involved.
- ii. With the help of legal aid providers from DLSAs, the law students can help in assisting the accused by ensuring representation for those who are unrepresented at the time of arrest and interrogation. Such a mechanism is an essential safeguard against arbitrary detentions and custodial violence.
- iii. It is often the case that the family of the person arrested is not aware of the arrest taking place. Awareness of family members, also acts a safeguard against custodial violence. For this, students can act as liaising agents, and help inform the family members of the person arrested at the earliest possible.
- iv. The students can also observe whether arrest procedures are being followed such as production of accused in front of a Magistrate within 24 hours of arrest, proper information being and recording of data such as the Memo of arrest and inspection memo. They can also help in helping the people to file FIRs, and address situations such as refusal of filing FIRs.
- v. As most of the persons arrested are unaware of the bail provisions, students can assist in informing the persons about their offence being bailable or non-bailable. Further, their families can be informed on the basics of bail bonds and surety.
- vi. The students can also conduct awareness camps in localities using Virtual Police Stations, which has been developed by CHRI in collaboration with Rajasthan police as a training tool for raising awareness on functioning of Police Stations.
- vii. They could also support the police personnel, who often are overworked or lack resources, in ensuring that the duty of the police to inform the arrested persons on the charges they have been arrested for as well as their rights as a person in custody.

```
graph TD; A[Approach DLSA] --> B[Deliberation on activities]; B --> C[Signing MOU]; C --> D[Students training and orientation, including client counselling];
```

**Approach DLSA**

**Deliberation on  
activities**

**Signing MOU**

**Students training and orientation,  
including client counselling**

## B) Legal Aid Clinics in Prisons



The inability of majority numbers of prisoners to get access to legal assistance is well known. In situations where the prisoners could afford lawyers, subsequently, as the trial progresses, the affordability reduces. Although there exist State sponsored legal aid mechanisms, they do not adequately reach the prisons. As a general observation, it has been noticed that the educated and affluent classes are able to take advantage of the legal framework surrounding bail provisions, whereas the illiterate indigent accused prisoner remain wanting. Lack of access to lawyers also often leads to unnecessary and prolonged detention. While the NALSA (Legal Services Clinics) Regulations, 2011<sup>22</sup> has mandated the setting up of legal aid clinics in the community, jails, protection homes and juvenile justice homes law students can use it as an opportunity to expand the work of their already existing legal aid clinics.

### a. Setting up the clinic

The following procedure can be undertaken to set up a legal aid clinic in the prisons:

- i. Get in touch with the Member Secretary of your District Legal Services Authority (DLSA). The DLSA is the first point of contact, as they can help secure access to the prisons that fall within their jurisdiction. The legal aid lawyers from DLSA's frequently visit the district prisons as a part of their mandate and have an easy access to the district prisons.
- ii. Approach the DLSA with proposals of projects that the law students can carry out in collaboration with the DLSA. Also, DLSAs have their on-going projects, where the law students can assist and pitch in.
- iii. The next step is to sign a MOU with DLSA laying down the projects intended to be undertaken, the time frame for the project and the kind of access and documents required. If it is not possible for the legal aid clinics to formally sign MoUs with DLSAs, they can negotiate with the DLSA for a written permission to work in collaboration with DLSA as well as DLSA prison legal aid clinics.

**The DLSA is your first point of contact, as they can help secure access to the prisons that fall within their jurisdiction.**

<sup>22</sup> Section 3 (a) and (b) of NALSA (Legal Services Clinics) Regulations, 2011.

**Strengthening Legal  
Aid Services**

**Prison  
Visits**

**One Stop  
Clinics**

**Report Writing  
and  
Urgent Action  
Letters**

- iv. It is essential that the law students are made aware of their responsibilities when they get involved with legal aid clinics. Prior to the start of the projects, the students should be made aware of basic concepts of criminal procedural law viz. relevant sections of the Indian Penal Code, 1860 and the Code of Criminal Procedure, 1973. It is important that the students are well versed with the stages of trial, starting from arrest to appeal. While a criminal law professor from their university can be engaged for such orientation, organisations such as ours (CHRI) can also be contacted for such orientations.
- v. The students will also need to be made aware of the basics of client counselling and etiquettes that need to be kept in mind while visiting prisons, or assisting the DLSA in their interactions with prisoners.

**b. Activities Involved**

- i. The primary aim of the students working inside prisons should be to strengthen and improve the quality of legal services being provided. For this, carrying out prison visits is essential, as it will help them in engaging with all relevant stakeholders such as the prisoners, the prisons department as well as legal aid lawyers/paralegal volunteers who visit the prisons as part of their mandate through the DLSA / State Legal Services Authority (SLSA).
- ii. Post prison visits, it is important that each of the visits is documented. For this, the students can utilise questionnaires to record information or use laptops. However, certain prisons need prior permission of entering the prison premises with laptops, and the member secretary of the DLSA can help secure such permissions.
- iii. The rich data that is collected from prisons can be disseminated in multiple ways. Students should aim at report writing bringing out trends that can impact prison reforms. Other than that, students can involve themselves in activities such as legal consultations (by assisting legal aid lawyers), grievance redressal (by helping prisoners get access to legal aid lawyers (if any), help them in filing appeals for their convictions and also make them aware of the status of their appeals).
- iv. Students can also collaborate with the DLSA to carry out legal awareness camps in all the district jails falling under their jurisdiction.
- v. Students should aim to make these legal aid clinics inside prisons as 'One Stop Clinics' for documentation purposes. They can help in recording and updating data of the inmates as well as writing simple applications on behalf of undertrial

**Assisting Women  
Prisoners  
with Children**

**Shifting  
Juviles to  
Juvenile  
Homes**

**Implementing  
RTE by Becoming  
Teachers**



prisoners on a range of issues. These can include an application for the reduction of bail amount, conversion of surety bail to cash bail or Personal Recognizance Bond, and draft furlough or parole applications. They can also request for release on probation if the accused is ready to plead guilty in their case and the offence falls under the purview of the Probation of Offenders Act, 1958.

- vi. A particular area where students should invest in is working with women prisoners. Students can help pregnant women inside the prisons by making them aware of the special privileges they can avail inside the prison relating to nutrition requirements etc. They can also help in writing down their applications to be taken to a hospital for delivery.
- vii. A particular problem that persists with women inmates after delivery, in contravention of the existing provisions, is that the birth certificate of their child mentions 'Jail' as a place of their birth. 'Jail' as a place of birth has a certain societal stigma attached to it. At the outset, students can help procuring birth certificates for such children, and also ensure that the birth certificate does not mention 'jail' as a place of birth.
- viii. As children under the age of six years are permitted to reside with their mother inside the prison, students can help in identifying such mothers and help them in bringing their child inside the prison to live with her. It is further mandated that children of women prisoners should be transferred to a child care institution after they have attained the age of six years, and do not have any guardians to look after them outside the prison. Students can help in liaising between the stakeholders involved to help in such transfers.
- ix. As a part of Right to Education initiative, it is essential that children inside the prison are provided education. As most of the prisons have difficulty in collaborating with NGOs to provide teaching facilities inside prisons, students can take up this role by collaborating with prisons in their states.
- x. Students can also carry out survey to identify prisoners who are juveniles and help in transferring them to Juvenile Homes. This can be done directly in tandem with the Superintendent of the particular Prison, or by bringing the case(s) to the notice of the DLSA or Undertrial Review Committee (UTRC) of the particular prison.
- xi. Students can help inform undertrial prisoners about their eligibility of default bail under Section 167 of Code of Criminal Procedure (CrPC). Also, they can help identify inmates who are eligible for release under Sections 436 or 436A, CrPC as they have exceeded their maximum sentence. For this, they can approach the DLSA or the UTRC.

## C) Collaborations with ‘High Court Legal Services Committee’, ‘District Legal Services Authority’, ‘Taluk Legal Services Committee’



As per Section 5 and Section 11 of the National Legal Services Authority Act, 1987, the National Legal Services Authority as well as the State and District Legal Services Authorities are supposed to effectively co-ordinate and collaborate with universities in discharge of their functions. However, as was highlighted in the UNDP report, the Law School Legal Aid Clinics have fallen short of effective collaborations with civil society organisations, NGO's as well legal services authorities. Collaboration with District Legal Services Authority/Taluka Legal Services Committee at the local level and High Court Legal Services Committee at the state level can be explored by law school legal aid clinics in this regard. Such collaborations in the form of assistance by law students can be complementary in nature where while students get access to the legal aid framework and mandates that are being implemented through these Legal Services Committees, the committees themselves can use the services of such student volunteers in furtherance of their work.

### a. Assisting the Front Office

As per the Front Office Guidelines issued by the National Legal Services Authority,<sup>23</sup> a front office is a room in the legal services institution where legal services are made available. Based on the National Legal Services Authority (Free and Competent Legal Services) Regulations, 2010, all Legal Services Institutions are mandated to have a front office at the level of the State, District and Taluk. Such front offices should consist of retainer lawyers, para legal volunteers (PLVs), panel advocates as well as people with qualifications in social work, psychiatry or psychology. With the aim of providing efficient, effective and meaningful legal services to people seeking legal aid, such front offices can gain from the involvement of law school students. Students can take turns and sit in the front office to provide legal guidance and information to citizens approaching the legal service institution.

**The law school legal aid clinic should ask the High Court Legal Services Committee/District Legal Services Authority/Taluk Legal Service Committee members to conduct an orientation for the assistance that law students are supposed to provide.**

<sup>23</sup> Available at: [https://nalsa.gov.in/sites/default/files/document/Front\\_Office\\_Guidelines.pdf](https://nalsa.gov.in/sites/default/files/document/Front_Office_Guidelines.pdf) (last accessed on 3rd September, 2018).

Every High Court Legal Services Committee is headed by a judge of the High Court. In order to gain access to the front office, it is advisable to contact the respective Judge through the faculty member of the Law School Legal Aid Clinic. For access to front office of District Legal Services Committee and Taluka Legal Services Committee, then the secretary of these committees should be approached.

After a formal agreement, it is imperative that the law school legal aid clinic should ask the High Court Legal Services Committee/District Legal Services Authority/Taluk Legal Service Committee members to conduct an orientation for the assistance that law students are supposed to provide.

### **b. Activities Involved**

While assisting the retainer lawyers, para legal volunteers and panel advocates, the law students can assist in the following activities:

- i. Help provide legal advice to the visitors seeking legal aid through the front office.
- ii. Help in drafting applications, petitions and replies for the visitors of the legal aid front office.
- iii. As each front office mandatorily has a legal aid helpline number, law students can also attend to it. However, an orientation regarding client counselling and interaction etiquettes should be carried out.
- iv. Help in documenting legal aid applications received by the front office including Front Office Registers, Legal Aid Monitoring Registers and Legal Services Helpline Registers.
- v. Provide research assistance to the lawyers associated with the Front Office of High Court Legal Services Committee/District Legal Services Committee/Taluk Legal Service Committee.
- vi. Help in legal awareness campaigns by organising legal aid camps addressing the public on functioning of courts, procedural and substantive law.
- vii. Help act as a bridge between the legal aid beneficiary and the panel lawyers who are marked for her matter, and also follow up and update the beneficiary regularly about the status of the case on a day to day basis.
- viii. One persisting problem in regard to effective legal representation has been the difficulty

in procuring documents for litigation from the inmates themselves. Students can plug into this area and help in document collection by contacting the lawyer of the inmate and asking as well as procuring the documents that would be required.

- ix. It is always difficult for inmates to procure legal aid lawyers at the High Court level. Difficulties include delay in appointment of High Court lawyers, lack of communication between the inmate and lawyer, as well as geographical proximity of the High Court. Students from universities, which are generally situated in State capitals, can help in addressing these issues.
- x. Assist in uploading legal aid applications on the Web Portals (if any), and maintaining a digital record of legal aid applications received by way of post, email, and web portal.

## D) Collaboration with National Legal Services Authority (NALSA)

The NALSA is mandated to legally empower the marginalised and excluded groups of the society by providing effective legal representation, legal literacy and legal awareness. For this, NALSA provides free legal services at the national, state and district level, organises Lok Adalat (both nationally and at the State level), holds Legal Literacy awareness camps and also initiates social action litigation. Additionally, it has also introduced individual schemes<sup>24</sup> such as NALSA (Victims of Trafficking and Commercial Sexual Exploitation) Scheme, 2015, NALSA (Child Friendly Legal Services to Children and their Protection) Scheme, 2015, NALSA (Legal Services to Victims of acid attacks) Scheme, 2016 to name a few, which aim at providing effective and economical legal services to such weaker sections of the society.



With research being a primary focus of law students, the possibility of collaboration with NALSA needs to be explored. Primarily considering this opportunity as a “top-down approach”, law school legal aid clinics can influence the working of SLSAs/DLSAs/TLAs by suggesting policy changes to NALSA, which sits at the apex of the Legal Aid framework in the country.

<sup>24</sup> Available at: <https://nalsa.gov.in/content/individual-schemes> (last accessed on 5th September, 2018).

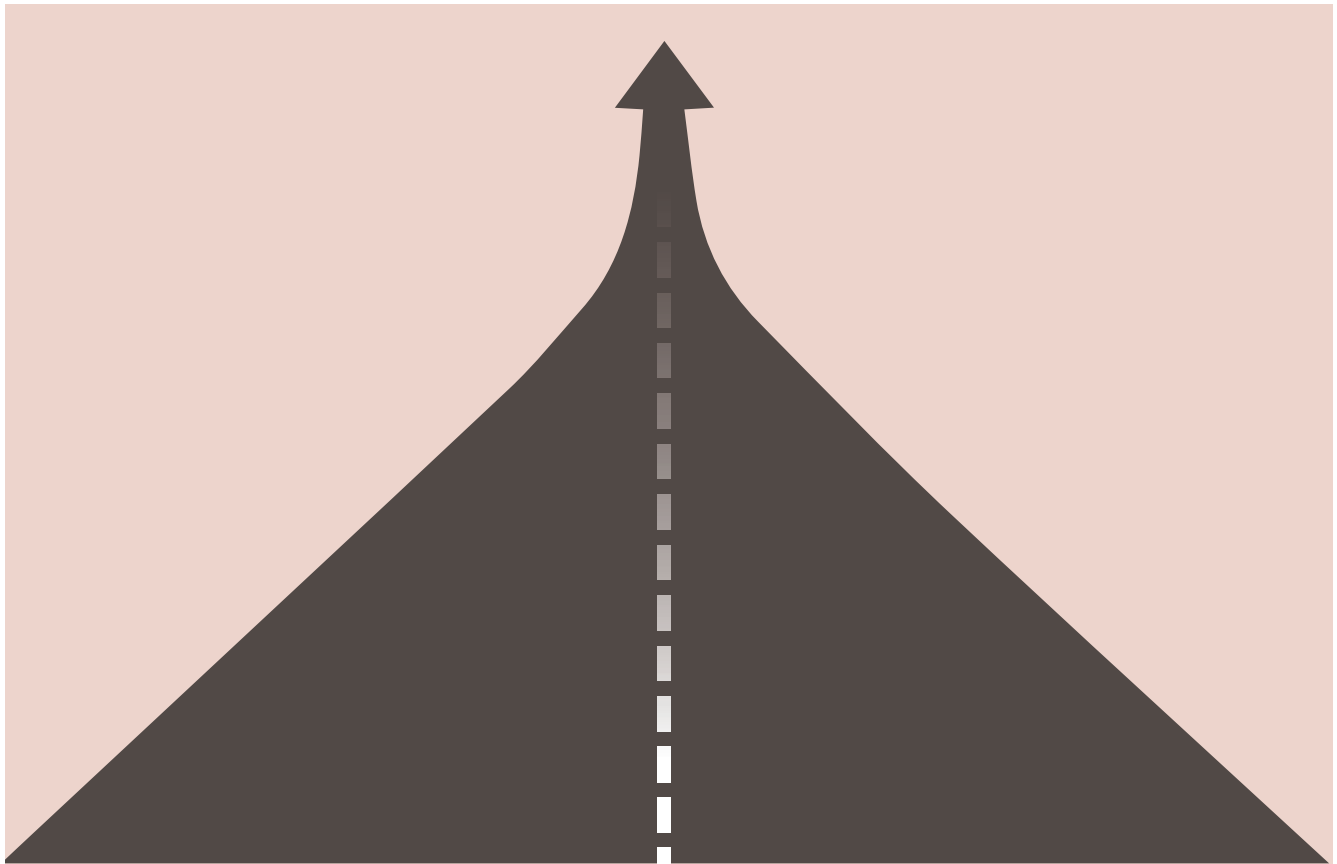
## **a. Activities Involved**

- ii. As the NALSA is mandated to formulate schemes for efficient legal aid to vulnerable sections of the society, law students can plug in this process by identifying sections of the society which are in need of legal aid through their individual grassroots experience.
- iii. Law students can assist in drafting functioning guidelines based on their experience at the State level, and help in making the DLSAs/TLSAs more effective in their functioning.
- iv. The possibility of 'adopt a village' model should be discussed with NALSA. Under such a model, every legal aid clinic can adopt a village in the vicinity of their clinic and aim to make it a model village for implementation of legal aid schemes. If made into a scheme by NALSA, such model villages have huge potential of achieving the aims of legal aid for all.
- v. Deliberate, discuss and collaborate for formulating various policy initiatives for legal aid schemes.
- vi. Provide assistance and help in expanding the scope of the Social action litigation at the State level.
- vii. Conduct studies regarding the efficacy and functioning of Lok Adalats being conducted by NALSA at state level, to bring out the possible deficiencies that exist.
- viii. Assist legal aid lawyers at both Supreme Court and High Court level in conducting research.
- ix. Carry out Impact Assessment Studies on behalf of the NALSA to analyse and evaluate the schemes that are already put in practice so as to make suggestions to improve its implementation and efficiency.
- x. Collaborate with NALSA to establish 'legal literacy clubs' in local schools and colleges as part of legal literacy and awareness campaigns.
- xi. Help and assist Legal Aid Helpline numbers to gain real-time knowledge of problems existing in the area of legal aid delivery.

## ◀ VI. Way Forward



As a human rights organisation which has been dedicated to work and improve access to justice in India and outside - specifically in relation to prisons and prisoners' rights, CHRI works to strengthen the role of university based legal aid clinics in ensuring effective and prompt access to legal aid. It would also be prepared to work as knowledge partners with any such upcoming legal aid clinic initiative, engage in orientation and training of the students and assess the performance and outcomes of this work.





### **NALSA (Legal Services Clinics) Regulations, 2011 (Excerpts)**

**3. Establishment of Legal Services clinic** – Subject to the financial resources available, the District Legal Services Authority shall establish legal Services clinics in-

- (a) all villages, or for a cluster of villages, depending on the size of such villages, which shall be called the village Legal Care and Support Centre; and
- (b) jails, educational institutions, community centres, protection homes, Courts, juvenile justice boards and other areas, especially where the people face geographical, social and other barriers for access to the legal services institutions.

**22. Legal Services clinics run by the law students** – The above regulations shall *mutatis mutandis* be applicable to the student Legal Services 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 Services clinics established under these regulations with the permission of the District Legal Services Authority.

**23. Law students may adopt a village for Legal Services 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 Services clinic Village Legal Care and Support System Centre established under these regulations.
- (2) The law students may, with the assistance of the para-legal volunteers engaged in the Legal Services 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 Services clinics attached to the law colleges, law universities and other institutions –**

- (1) The law colleges, law universities and other institutions may set up Legal Services 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 Services clinic shall inform the State Legal Services Authority about the establishing of such Legal Services clinic.
- (3) The State Legal Services Authority shall render the required technical assistance for the operation of such Legal Services clinics and shall take measures to promote the activities of such Legal Services clinics.
- (4) The law students in the final year classes may render legal services in such Legal Services 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 Services in such Legal Services clinics.
- (6) The District Legal Services Authority may issue certificates to the students who complete their assignment in such Legal Services clinics.

**25. Services of para-legal volunteers trained by the Legal Services Authorities may be made available in the Legal Services clinics run by the Law Colleges, Law Universities etc. –** Trained para-legal volunteers may be deputed to the Legal Services 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.



## ◀ Annexure 2: Sample Format



### FOR DOCUMENTATION OF PRISONER INFORMATION AND SUBSEQUENT FOLLOW UP ACTION

#### STEP 1: QUESTIONNAIRE

No.		
1	Name of the Jail	
2	Name of the inmate	
3	Age	
4	Gender	
5	Father's Name	
6	Date of Arrest	
7	Date of Admission in the Judicial Custody	
8	Case Reference No.	
9	Belongs to SC/ST/OBC/Other	
10	Education	
11	Family Income (per month) (at present)	Rs. 500 Rs. 500 – Rs. 1000 Rs. 1000 – Rs. 2000 Rs. 2000 – Rs. 5000 Rs. 5000 – Rs. 10,000 Rs. 10,000
12	Occupation	
13	How many cases filed against the Interviewee	
14	Whether convicted in any offence at present	
15	All the offences with which charged	
16	Type of Offence	
17	Offence 1	
18	Offence 2	

19	Offence 3	
20	Offence 4	
21	Concerned Court	
22	Sentenced Awarded (in case of convict)	
23	Whether bail applied	Yes No
24	If yes, in what courts Magistrate	Sessions High Court Supreme Court
25	Reasons for denial	
26	Whether have a lawyer	Yes No
27	If yes, private or legal aid	Private lawyer Legal aid lawyer
28	If legal aid, have you ever paid him any money	Yes No
29	If yes, for what purposes	Fees Photocopying and Printing To take out copies of orders To pay the public prosecutor To pay the judge Others, please specify: ..... ..... ..... .....
30	What is the stage of his case:	Committal Framing of Charges Evidence Judgment Sentencing
31	When was the last production	
32	Number of productions in the court	

33	Whether non-production because of lack of escort	
34	How often do you meet the lawyer	Regularly Rarely When he needs money Only in court
35	Last meeting with the lawyer	
36	Where does the interviewee usually meet the lawyer	Prison Court
37	Does the lawyer even visit the interviewee in prison	Yes No
38	Does the Lawyer provide sufficient information about the case to you	Yes No
39	Are you happy with your lawyer	
40	Half Period (in years)	
41	Date of half Period	
42	Maximum of Period Completed	
43	Total Detention Period (in years)	
44	Personal Views of the interviewee on Cases charged with/family problems etc	
45	Family contact details	

## STEP 2: EVALUATION AND STEPS TO BE TAKEN

A large, empty rectangular box with a thin black border, intended for the user to write their evaluation and the steps to be taken.

Name: \_\_\_\_\_

Signature: \_\_\_\_\_





## STEP 5: PREPARATION OF BRIEF CASE NOTE

S.NO. \_\_\_\_\_

### **CASE DETAILS:**

Name:

Father's Name:

UTP/Convict:

Name of prison where detained:

Case Ref No.:

Court:

Offences Charged:

Date of Admission:

Total period of detention:

Sentence Awarded (in case of convict):

### **POINTS OF CONCERN:**

### **PROPOSED ACTION TO BE TAKEN:**

Attach copies of relevant documents.

## ◀ Annexure 3: Form I - Brief Case Record



### To be completed by lawyer assigned to the police station

**Police Station:**

**S.NO.** \_\_\_\_\_

**Date and Time of Call:**

**Date and Time of Visit:**

#### **BASIC CASE DETAILS:**

Name: \_\_\_\_\_

Father's Name: \_\_\_\_\_

Address and Family Contact Details: \_\_\_\_\_

\_\_\_\_\_

Representation Status: \_\_\_\_\_

Informed the Arrestee about his/her:

- ✓ Right to be informed of the reasons of arrest
- ✓ Right to remain silent
- ✓ Right to legal aid
- ✓ Right to be produced in front of the magistrate within 24 hours
- ✓ Right to bail in case of a bailable offence
- ✓ Right to have the presence of a lawyer during interrogation
- ✓ Right against torture, inhumane and degrading treatment
- ✓ Right to inform family/ relative/ close friend about the arrest

#### **CASE DETAILS NARRATED BY THE ARRESTEE AND THE ASSISTANCE SOUGHT:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



- ✓ Whether explained the nature of the alleged offence/s to the arrestee
- ✓ Whether explained the basic legal procedural during remand stage and the law on bail to the arrestee

Age as per warrant: \_\_\_\_\_

Age claimed by accused: \_\_\_\_\_

FIR No. : \_\_\_\_\_

Concerned Court: \_\_\_\_\_

Offences Accused of : \_\_\_\_\_

Details of Co-Accused, if any: \_\_\_\_\_

Date and Time of Arrest: \_\_\_\_\_

Place of Arrest: \_\_\_\_\_

How was arrest made: \_\_\_\_\_

Whether family was informed about the arrest: \_\_\_\_\_

Whether taken directly from the place of arrest to the police station: \_\_\_\_\_

Details of the personal belongings at the time of arrest: \_\_\_\_\_

Whether slapped/ beaten up by police: \_\_\_\_\_

Name of Investigating Officer (IO): \_\_\_\_\_

Date and Time of First Production: \_\_\_\_\_

Whether physically produced during first production: \_\_\_\_\_

Any other case/s ongoing against accused or was previously convicted: \_\_\_\_\_

\_\_\_\_\_

Any other relevant detail/ Comments: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Name and Signature of Lawyer

This note has been handed over to advocate \_\_\_\_\_ on \_\_\_\_\_(date).











CHRI believes that the Commonwealth and its member countries must be held to high standards and functional mechanisms for accountability and participation. This is essential for human rights, transparent democracies and Sustainable Development Goals (SDGs). CHRI specifically works on strategic initiatives and advocacy on human rights, Access to Justice and Access to Information. It focuses on research, publications, workshops, analysis, mobilisation, dissemination and advocacy and informs the following principal programmes:

## 1. Access to Justice (ATJ)

**Police Reforms:** In too many countries the police are seen as an oppressive instrument of state rather than as protectors of citizens' rights, leading to widespread rights violations and denial of justice. CHRI promotes systemic reform so that the police act as upholders of the rule of law rather than as enforcers of a regime. CHRI's programme aims at mobilising public support for police reforms and works to strengthen civil society engagement on the issues. In East Africa and Ghana, CHRI examines police accountability and political interference.

We are preparing to add a portfolio on anti-discrimination on the basis of colour, appearance and gender.

**Prison Reforms:** CHRI's work in prisons looks at increasing transparency of a traditionally closed system and exposing malpractices. Apart from highlighting failures of the legal system that result in overcrowding and unacceptably long pre-trial detention and prison overstay, we engage in interventions and advocacy for legal aid and policy changes to revive prison oversight systems. Attention to these areas can bring improvements to the administration of prisons and conditions of justice.

## 2. Access to Information

CHRI is acknowledged as a key organisation working on the promotion of Access to Information. It encourages countries to pass and implement effective Right to Information laws. It routinely assists in the development of legislation and has been particularly successful in promoting Right to Information laws and practices in India, Sri Lanka, Afghanistan, Bangladesh, Ghana, and more recently, Kenya. In Ghana, CHRI is the Secretariat for the RTI civil society coalition.

We regularly critique new legislation and intervene to bring best practices into governments and civil society knowledge both at a time when laws are being drafted and when they are first being implemented. We have experience of working in hostile environments as well as culturally varied jurisdictions; these enable us to bring valuable insights into countries seeking to evolve new laws on right to information. In Ghana, for instance, it has been promoting knowledge about the value of Access to Information and to campaign for the introduction of an effective law.

### South Asia Media Defender's Network (SAMDEN)

CHRI has developed a regional network of media professionals to address the issue of increasing attacks on media workers and pressure on freedom of speech and expression in South Asia, especially in rural areas. This network, the South Asia Media Defenders Network (SAMDEN) recognises that such freedoms are indivisible and know no political boundaries. Anchored by a core group of media professionals who have experienced discrimination and intimidation, SAMDEN is developing an interactive website platform to highlight pressures on media, issues of shrinking media space and press freedom. It is also working to mobilise media so that strength grows through collaboration and numbers. A key area of synergy lies in linking SAMDEN with the Right to Information movements and activists.

### **3. International Advocacy and Programming**

CHRI monitors the compliance of Commonwealth member states with human rights obligations and advocates around human rights exigencies where such obligations are breached. CHRI strategically engages with regional and international bodies including the Commonwealth Secretariat, Ministerial Action Group, the UN and the African Commission for Human and People's Rights. Ongoing strategic initiatives include advocating for and monitoring the Commonwealth reform, reviewing promised by Commonwealth members at the UN Human Rights Council, and the Universal Periodic Review. We advocate for the protection of human rights defenders and civil society spaces and monitor the performance of National Human Rights Institutions in the Commonwealth while pressing for their strengthening.



In 1997, the Bar Council of India emphasised on the importance of clinical legal education and made it a mandatory course across law schools in India. The idea behind this decision was not only based on imparting students with practical knowledge of law, but also engage students with communities at the grassroots to promote legal awareness while ensuring access to justice for the most vulnerable and marginalised sections of the society. Legal aid clinics at law schools and various other legal aid awareness programmes became one of the mediums of achieving the aims of Article 39A which tapped on a rich resource of legally trained minds: law students at law universities.

While access to justice remains a dream yet to be realised, there exists an overt focus on ensuring it at the community level. Persons in custody in particular, remain a neglected group for whom access to justice remains essential. Commonwealth Human Rights Initiative has been particularly working in the area of prison reforms and prisoner's rights, meanwhile focusing on ensuring effective justice for persons in custody. This guidebook intends to be a resource document for legal aid clinics (not limited to law universities) who intend to work in the area of legal aid delivery for persons in custody.



**CHRI**  
Commonwealth Human Rights Initiative  
working for the *practical* realisation of human rights in  
the Commonwealth

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