

CHRI 2021



RESPONDING TO THE PANDEMIC:
**Documenting Services by
Legal Services Institutions**



Volume - I



CHRI

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

ABOUT CHRI

The Commonwealth Human Rights Initiative (CHRI) is an independent, non-governmental, non-profit organisation headquartered in New Delhi, with offices in London, United Kingdom, and Accra, Ghana. Since 1987, it has worked for the practical realization of human rights through strategic advocacy and engagement as well as mobilization around these issues in Commonwealth countries. CHRI's specialisation in the areas of Access to Justice (ATJ) and Access to Information (ATI) are widely known. The ATJ programme has focussed on Police and Prison Reforms, to reduce arbitrariness and ensure transparency while holding duty bearers to account. CHRI looks at policy interventions, including legal remedies, building civil society coalitions and engaging with stakeholders. The ATI looks at Right to Information (RTI) and Freedom of Information laws across geographies, provides specialised advice, sheds light on challenging issues, processes for widespread use of transparency laws and develops capacity. CHRI reviews pressures on freedom of expression and media rights while a focus on Small States seeks to bring civil society voices to bear on the UN Human Rights Council and the Commonwealth Secretariat. A growing area of work is SDG 8.7 where advocacy, research and mobilization is built on tackling Contemporary Forms of Slavery and human trafficking through the Commonwealth 8.7 Network.

CHRI has special consultative status with the UN Economic and Social Council and is accredited to the Commonwealth Secretariat. Recognised for its expertise by governments, oversight bodies and civil society, it is registered as a society in India, a limited charity in London and an NGO in Ghana.

Although the Commonwealth, an association of 54 nations, provided member countries the basis of shared common laws, there was little specific focus on human rights issues in member countries. Thus, in 1987, several Commonwealth professional associations founded CHRI.

Through its research, reports, advocacy, engagement, mobilisation and periodic investigations, CHRI draws attention to the progress and setbacks on rights issues. It addresses the Commonwealth Secretariat, the United Nations Human Rights Council members, media and civil society. It works on and collaborates around public education programmes, policy dialogues, comparative research, advocacy and networking on the issues of Access to Information and Access to Justice.

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**RESPONDING TO THE PANDEMIC:
DOCUMENTING SERVICES BY
LEGAL SERVICES INSTITUTIONS**

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ABOUT THE REPORT

The COVID-19 pandemic and the subsequent containment measures adopted to reduce its spread brought about massive implications for access to justice and rule of law. On 24 March 2020, an unprecedented national lockdown of 21 days, to slow the spread of the virus, was enforced across India. This unprecedented measure led to extensive human suffering and rights violations in the months to come. The lockdown had huge socio-economic-legal implications. Reports of lakhs stranded on the streets emerged. There was a surge in the shadow pandemics of domestic violence and child abuse, along with spread of infections within prisons. The pandemic has led to the increased marginalisation of several vulnerable groups, especially migrant workers, women, senior citizens, prisoners, etc.

The global health crisis has also created a host of new legal challenges compelling the courts, its functionaries as well as Legal Services Institutions (LSIs) to be innovative to ensure their continued functioning and service delivery. Despite physical challenges and concerns of contracting the virus infection, the LSIs across the country were expected to play a significant and vital role in promoting inclusiveness towards access to justice. In the initial months of the lockdown, National Legal Services Authority (NALSA) and LSIs undertook several efforts to reach out to the vulnerable groups and address their legal concerns.

This report documents the many efforts and diverse practices undertaken by the LSIs during the nation-wide lockdown in responding to the unprecedented situation. The report, however, does not delve into the specifics of legal service delivery in particular to the quality of services provided or the process of provision of legal services. Through depiction of data shared by NALSA, it provides an insight into the comparative performance of different SLSAs (State Legal Services Authorities) between April and June 2020. It attempts an articulation of expectations from legal services providers amid the pandemic, and the functions of LSIs in India geared towards continued provision of legal services during the pandemic. It documents, through data and examples of assistance given, the services delivered to a range of beneficiaries including women, senior citizen, stranded persons, migrant workers, persons in custody, etc. It also raises concerns over dwindling funds for LSIs in 2020. The report also attempts to provide guidance on future priority areas for LSIs to enable and ensure availability of prompt and effective legal services for all.

INTRODUCTION

The world is standing at crossroads today as it faces a global public health crisis of unprecedented proportions. Only time will inform us about the quantum of the devastation triggered by COVID-19. Undoubtedly the pandemic has placed an unparalleled strain on the healthcare system as well as public services. The governments across the globe are devising mechanisms to respond to the demonstrable impacts of the pandemic on health of people as well as the economy.

India was hailed for having adopted a pragmatic approach by announcing a nation-wide lockdown with four hours' notice.¹ But in many aspects the pandemic has exposed the fault lines in country's resilience to face the looming crisis, in particular the realisation of constitutional values and principles. These intersect, overlap and amplify the ultimate effect.

The COVID-19 crisis is not a public health crisis alone and continues to impact civil liberties and human rights discourse. The past year has laid bare underlying social, political, and economic problems rooted in historical inequality, exclusion and injustice. The pandemic has made inequalities more visible - acute disparities in wealth, access to health, employment and livelihood, as well as the ability to adopt preventive and isolation measures. It has further laid bare the consequences of having overcrowded prisons; the rise of shadow pandemics of domestic violence and abuse; and the denial of payment of salaries and mass layoffs.

In India, the magnitude of dependence of the migrant workforce, while not new, was little known or documented prior to the pandemic. A combination of lack of opportunities and deplorable labour conditions, the public health crisis and the resultant lockdown compounded the difficulties of migrant workers. As a result, in the initial weeks of lockdown, the Indian highways were brimming with extensive 'reverse migration' as workers started heading back to their villages.

While the central and state government functionaries took upon themselves to respond to the crisis as it unfolded, the LSIs across the country too swung into action to provide legal aid to vulnerable sections of the society. The LSIs are statutory bodies constituted in states and union territories of India by the Legal Services Authorities Act, 1987 (herein after the Act). They are mandated to effectively realise Article 39A of the Constitution of India 1950, by guaranteeing access to justice for all.

This report documents the efforts undertaken by LSIs across the country and presents an analysis of various initiatives vis-à-vis the mandate set out under the Act. It documents the work of LSIs to support people through their hardships in these extraordinary circumstances. It advocates for the continued engagement of LSIs with legal aid beneficiaries to further its goal of 'ensuring access to justice for all'. The overall objective of the study is to produce a knowledge-base for academicians, researchers, practitioners, policy makers, as well as for LSIs and their personnel, that will inform future approaches and strategies in emergent and unpredictable situations.

Methodology: This report draws upon various information sources, including the information shared by NALSA, desk-based research on publicly available resources, including LSI websites, and social media posts and a summary of activities undertaken by LSIs as shared by NALSA. NALSA provided collated information for 36 states and union territories² for services provided from

1 <https://www.indiaamericatoday.com/article/modis-pragmatic-bold-step-21-day-complete-lockdown/>.

2 For the time period covered in this report, Jammu & Kashmir and Ladakh, while two separate UTs, were administered by the Jammu & Kashmir SLSA. Additionally, Daman and Diu and Dadra Nager Haveli were also separate UTs, both having been combined into one UT in August 2020.

April to June 2020. However, the information received from Uttar Pradesh was limited to only a few data points, while there was little or no information from union territories of Andaman and Nicobar Islands, Dadra and Nager Haveli, Daman and Diu and Lakshadweep. Therefore, information from these was not included in arriving at comparative figures or conclusions. While most of the information received from NALSA was numeric, it also shared examples of services provided by LSIs, some of which have been included in the report to shed some insight into the 'assistance' provided. Information on budgets and expenditures by states during April to June 2020 was not shared by NALSA, inclusion of which would have further enriched this study. Information on the functioning of legal services clinics was shared, but has not been included in the report as the figures seemed to overlap with other data sets, making the data unreliable.

Outline & Structure: The various themes covered in the report include assistance provided in domestic violence cases, stranded and migrant persons, senior citizens, persons in custody, outreach efforts, alternative dispute resolution mechanisms, capacity building initiatives and the crucial element of budgets and expenditures by LSIs. The report is divided into two parts. Volume-I has four chapters: Chapter I attempts an articulation of the expectations from legal service providers during the pandemic and the functions of legal services providers in India; Chapter II documents the services delivered by LSIs amid the pandemic; Chapter III speaks of budgets and expenditures of LSIs and Chapter IV seeks to identify future priority areas for LSIs. Volume-II provides state-wise data on services provided by LSIs.

LIMITATIONS

This study documents the efforts of the LSIs between April and June 2020, but is not an assessment of the services provided. An assessment on services, in absence of demand data, or specifics of procedures through which services was provided is difficult. It calls for a separate and empirical enquiry. Thus, readers may bear in mind that the report merely documents the service delivery, and does not assess the impact or quality of the service provided. While this is sufficient to assist in providing a comparative picture of services provided by LSIs across states, it cannot provide a more detailed assessment of service delivery.

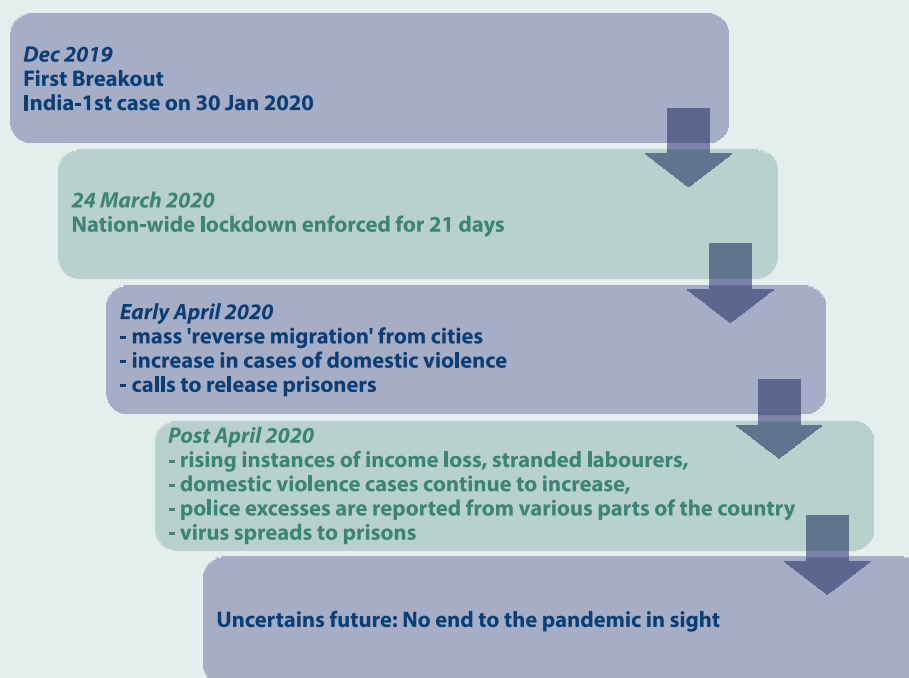
Another limitation is in the interpretation of the word 'assistance'. It is not clear, nor specified in the information shared by NALSA of the nature of assistance provided. Where relevant examples as shared by SLSAs have been cited, though they themselves pose further questions. Further, the study only documents efforts by state funded LSIs in India, but not of other legal services providers which may include civil society organisations and pro bono service providers etc.

While data has been provided by NALSA, there are some ambiguous categories, which may have resulted in data overlapping. Efforts have been made to point these out where relevant. Additionally, the data on number of beneficiaries provided assistance was not collated by LSIs separately, thus the figures have been inferred from the data provided, to enable a better understanding of efforts by each State LSI. These numbers are thus merely indicative, and should be considered as such.

Executive Summary

The pandemic has exposed and exacerbated the inequalities and injustices around the globe. It has given rise to justice challenges faced by different marginalized populations. In the Indian context, strict restrictions on travel and public activities in form of nation-wide lockdown had been placed with a notice of four hours on the evening of 24 March 2020. Unprecedented disruptions, numerous negative consequences for individuals as well as communities and society as a whole have also been witnessed. Millions faced the threat or loss of work, livelihood, housing, health and life.

The pandemic has led to an increased marginalisation of many vulnerable groups, especially migrant workers, women, senior citizens, prisoners, etc. Issues ranged from how to access crucially needed health and social benefits to obtaining redress for rights violations caused by government measures to stop the spread of virus. Towards this, the role of legal service providers is considered vital to ensure that all persons affected by virus have equal access justice.



Given the vital role of LSIs during this unprecedented crisis, this study documents the magnitude of response by LSIs vis-à-vis beneficiaries as mandated under Section 12 of the Legal Services Authorities Act, 1987. It provides illustrations of practices undertaken by LSIs for the period of April to June 2020 and attempts an articulation of expectations from legal services providers amid the pandemic and also provides guidance on future priority areas.

Listed below is a summation of each theme focused in the study, followed by a list of key findings and areas of prioritisation for future interventions.

I. Legal Services Providers and the Pandemic: Expectations

This chapter includes an articulation of the expectations upon legal services providers to respond to the pandemic, and then contextualises these expectations in the context of Indian legal aid system with reference to the functions set out in the Legal Services Authorities Act 1987.

A. Role of legal service providers during the pandemic: The expectation:

Increasing challenges to justice in wake of the pandemic have highlighted the role of legal service providers. They are acknowledged as important stakeholders in the process of addressing these challenges faced by different marginalised populations, and to help people understand and use the law to realise their rights. It is important that legal services providers adopt a people-centric approach in delivering services and advocating for long-term change and reforms. Varied areas in which they are expected to continue service delivery include:

- a) Support access to legal information and rights awareness;
- b) Ensure provision of legal aid and assistance to access basic services and social protection;
- c) Ensure access to justice and effective remedies for victims and survivors of violence, including sexual and gender-based violence;
- d) Support efforts to decongest detention facilities;
- e) Ensure provision of continued and safe access to legal services, including through hotlines and online services;
- f) Ensure timely prosecution of crimes motivated by stigma and discrimination;
- g) Address civil justice concerns as part of the socio-economic impact of the crisis; and
- h) Facilitate access to restorative justice services, such as online mediation and alternative dispute resolution as well as access to administrative legal services and legal documentation.

B. Legal services institutions in India and their functions:

The National Legal Services Authority (NALSA) is the apex body in India that lays down policies and principles for the effective provisioning of legal services. NALSA is mandated to constantly deliberate and assess the growing need and demand for legal assistance, towards framing of effective schemes that promote inclusiveness and further equal access to justice for all. It must through its legal services institutions spread across states, districts and talukas/sub-divisions/ tehsil, also promote measures for spreading legal literacy and legal awareness amongst the people.

A liberal interpretation of the persons eligible to receive legal assistance, which are enlisted in Section 12 of the Legal Services Authorities Act 1987, would include all persons impacted by the pandemic, being '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,' as beneficiaries of legal services.

Each of the LSIs constituted under the Act are assigned various functions and roles to ensure access to effective legal aid services at all stages. These include summarily:

Functions of NALSA

- a) To coordinate and monitor the functioning of LSIs;
- b) To give directions for the proper implementation of the legal services programmes;
- c) To monitor and evaluate the implementation of legal aid programmes at periodic intervals;
- d) To provide for independent evaluation of programmes and schemes implemented in whole or in part by funds provided under the Act.

Functions of SLSA

- a) To ensure the provision of legal services to persons who satisfy the criteria laid down under the Act;

- b) To undertake preventive and strategic legal aid programmes and;
- c) To conduct Lok Adalats.

Functions of DLSA/TLSC

- a) To co-ordinate the legal services activities in the district;
- b) To organise Lok Adalats; and
- c) To perform such other functions as the state authority may fix by regulations.

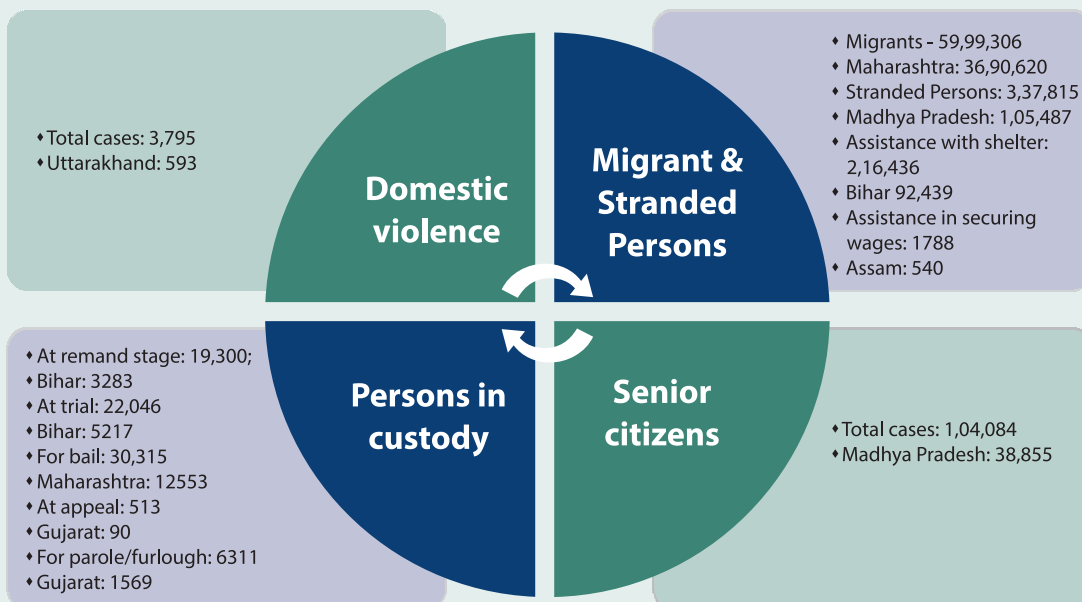
Several functions of the LSIs assumed importance in the early months of the pandemic, and in the circumstances that followed the national lockdown. Among these, the continued provision of legal services to eligible persons and undertaking of preventive and strategic legal aid programmes, were necessary to effectively respond to the emerging crisis. Whether they were able to respond to the emerging crisis effectively is documented in subsequent chapters.

II. Functioning of LSIs amid the Pandemic

One must bear in mind that the present exigencies compares to no precedent and the LSIs had little or no past experience of responding to a crisis similar to the one before us. A review of the data available on the assistance provided by LSIs from April to June 2020 reveals that many SLSAs remained committed to ensuring access to justice for all in the emergent circumstances. The LSIs continued the delivery of legal services despite the strict physical distancing measures imposed during the nation-wide lockdown. The various schemes and policies framed by NALSA as per Section 4(a) and (b) of the Act continued to inform their interventions, and service delivery to a range of beneficiaries.

As per the data received from NALSA, during this period LSIs provided legal assistance and legal services to more than 71 lakh beneficiaries. Almost 81% of these were migrants and stranded persons. Interestingly, the beneficiary numbers are almost six times that of the total beneficiaries' legal services reached out to in 2019 (12 lakhs). When calculated, it is inferred that assistance was provided to 629 persons per lakh population from April to June 2020. However, in absence of any specific demand data on the need for legal services amidst general population, it is difficult to state whether this was sufficient or not. Though there is a disparity between the beneficiary rates per lakh population, which ranges from 4006 beneficiaries per lakh population in Uttarakhand to 7.5 beneficiaries per lakh population in Tripura, it does indicate that not all SLSAs were able to proactively responding to the crisis.

More specifically, numeric data on services provided to a various range of beneficiaries, and the SLSAs which assisted in highest number of cases, is depicted below:



Outreach Activity

- 4066 legal awareness programmes via radio, television social media or physical events
- Haryana: 1954

Helpline

- Total calls on national helpline: 7675
- Himachal Pradesh: 4083
- Total calls on state/district numbers: 6,20,125
- Jharkhand: 5,76,831

Capacity Building

- Panel lawyers: 12849 trained in 246 programmes
- Himachal Pradesh: 9376 trained in 99 programmes
- Para legal volunteers: 3642 trained in 151 programmes
- Himachal Pradesh: 784 trained in 14 programmes

Indeed, the numbers appear to depict the magnitude and multitude of assistance advanced to beneficiaries. These numbers themselves are not free from error and do not answer some questions that are vital to this discourse. For instance, services were extended to victims of domestic violence through the One Stop Centres, but no information is available on how many OSCs continued to function during the lockdown, or the outreach efforts made to reach out to victims of domestic violence. While migrant workers form a major proportion of persons assisted, it is not clear what this 'assistance' would have included. This may have included provision of ration, shelter, water, medicines, in addition to any legal assistance or advice. Then, the distinction between providing assistance to migrants, and in assistance provided to travel to home state/district is not clear. It could also be that the latter was merely a subset of the former. There may also have been overlaps in cases of migrants assisted and where assistance was provided to secure wages. This ambiguity and possible overlapping in data highlight the need for NALSA to streamline their data documentation processes.

Even though the SLSAs are engaged in legal awareness programmes, it is not known whether information shared included emerging issues of rights violations such as domestic violence, denial of wages, denial of pension, denial of government benefits including ration etc. Further, for

programmes that were held online, one must question whether indeed those would have reached the intended audience, given the technology gap which may have limited access by beneficiaries. Other factor to consider when reviewing the data on trainings is the possibility of paralegals and panel lawyers having attended more than one training, meaning the actual number of persons trained would be lesser.

III. Budget and Expenditures

A concern to be highlighted here is on budgets. Have there been efforts to divert funds to LSIs to cover the provision of services to its increased beneficiary population? The answer unfortunately to this is in the negative as the Union Budget for 2020-21 confirms that there has been a reduction in funding earmarked for justice delivery and legal reforms. It now stands at Rs 100 crore, considerably less than the figure for last year, which was at Rs 160 core. One can only imagine the repercussions this dwindling budget must have had on LSIs, forcing them to not only reduce their workforce, but also curtail their activities. The absence of specific funds to cover the assistance the LSIs have provided during the initial months of the pandemic, and to support future activities that are imperative in ensuring equal access to justice for all persons impacted by the pandemic, is vital for ensuring that governments fulfil their obligations under Article 39 A of the Constitution of India.

IV. Future Priorities

In an effort to minimize the disruptions caused by COVID-19, legal services institutions have had to restructure their processes. In some instances, they have turned to virtual services to continue assisting the public while adhering to safety protocols. Now, a year into the pandemic, it is evident that LSIs must provide both in-person and virtual self-help services, with an emphasis on increasing awareness and access to information in order to enable equal access to services for its beneficiaries. Critical action is needed to ensure access to justice is inclusive. A proactive approach is necessary for securing and protecting the rights of people. Continued dissemination of information on rights and remedies; advocacy and information campaigns to dispel concerns related to the spread of COVID 19 is vital. All changes in accessing remedies via legal procedures must also be communicated promptly, clearly and accurately. Legal aid delivery, too, must be strengthened by effective monitoring over services delivered and by building capacities of legal aid providers.

Given the emergent need to take steps towards ensuring equal access to a fair, timely and effective justice system, while also ensuring effective oversight and accountability, 10 priority areas for consideration by NALSA and LSIs for future interventions are listed below:

1. Ensure the provision of effective and timely legal services to all persons eligible for availing legal services as per the Legal Services Authorities Act 1987;
2. Conduct district-level needs assessment exercises to enable formulation of localised strategy plans based on the demand, areas of assistance sought, beneficiaries, available resources to address emerging justice challenges due to the pandemic;
3. Effectively implement its various preventive and strategic legal aid programmes;
4. Encourage communication and exchange of stories of innovative and best practices and legal assistance provided by LSIs in the public domain. This will facilitate cross-learning and replication of good practices;
5. Continue to promote alternative dispute resolution mechanisms, including Lok Adalats, mediation, etc. for faster adjudication of claims and settlements arising due to the pandemic;

6. Conduct periodic capacity building programmes for legal services functionaries and providers to improve quality of services provided;
7. Build robust frameworks and systems invested to monitor and evaluate the working and implementation of regulations and schemes;
8. Strengthen documentation and reporting processes to ensure accurate data tabulation of services provided;
9. Evaluate the efficacy of various temporary and innovative solutions adopted during the pandemic, and consider their continued implementation; and
10. Conduct cost-evaluation exercise for ongoing activities, engage in evidence-based decision-making while deciding priority areas for future work and explore public private partnerships to bridge funding gaps on account of reduction in budget allocation.

I. Legal Services Providers and the Pandemic: Expectations

This chapter sets forth the expectations from legal services providers during the pandemic as collated from guidance notes and documents prepared by the UNODC, the UNDP and other organisations. It also provides an insight into the functions of the LSIs as per the Legal Services Authorities Act 1987 and applies them to the current pandemic to articulate what was expected of LSIs.

A. Role of legal service providers during the pandemic: The expectation

The underprivileged, poor and marginalised persons have faced unparalleled misery as an outcome of the response to COVID-19. In these times of great urgency and uncertainty, the role of legal services providers has assumed much importance. This has been recognised and reiterated through several calls for action, guidance notes and guidelines issued by various international bodies.³ At the 4th International Conference on Legal Aid in Criminal Justice Systems (ILAC), a special convening amidst COVID-19 to support access to justice for all, more than 800 legal aid policy makers and practitioners from 75 countries discussed how legal aid can help combat the inequalities intensified by the COVID-19 pandemic.⁴ At this conference, which concluded on 18 September 2020, a call for action was issued to legal aid providers to address the impact of COVID-19 on people deprived of their liberty, expand access to justice, and combat discrimination. A vital element of this call for action was the need for legal services providers to adopt people-centric approaches in delivering services and advocating for long-term change and reforms.

“Legal aid providers should centre in their work the individuals, families, and communities directly impacted by criminal justice systems, including by engaging in legal empowerment and legal information initiatives; partnering with community-based paralegals, community-led organizations and movements; and by elevating the voices and experiences of impacted individuals, including formerly incarcerated persons, victims of gender and sexual-based violence, and victims of police violence and torture.”⁵

Preparation by adopting a holistic and inclusive strategy for ensuring the continued functioning of the justice system and equal access to fair, timely, and effective justice services.

Response to critical issues related to reducing risks of COVID-19 in prisons and detention centres as well as issues to consider in ensuring access to justice for specific population groups, from access to legal aid and information, to comprehensive services for victims and survivors of violence, to protection of migrants and displaced populations.

Recovery to include ensuring access to justice to address civil justice concerns as part of the socio-economic impact of the crisis to ensure that the broader impact of the crisis and inclusive recovery needs are addressed.

3 For Guidance note on “Ensuring Access to Justice in the Context of COVID-19” UNODC & UNDP see https://www.unodc.org/documents/Advocacy-Section/Ensuring_Access_to_Justice_in_the_Context_of_COVID-191.pdf; For ‘Suggested Guidelines For Action Related To The Covid-19 Pandemic’, International Bridges to Justice see <https://www.ibj.org/covid-19/suggested-guidelines/>; for Coronavirus Pandemic: Guidance for Legal Aid Providers to Protect Health and Human Rights of Detainees, International Legal Foundation see <https://www.theilf.org/Items/Coronavirus-Pandemic%3A-Guidance-for-Legal-Aid-Providers-to-Protect-Health-and-Human-Rights-of-Detainees--;For> ‘Coronavirus Preventing harm and human rights violations in criminal justice systems’ Penal Reforms International see <https://cdn.penalreform.org/wp-content/uploads/2020/07/Coronavirus-briefing-July-2020.pdf>.

4 For more information on the conference see <https://ilac2020.rj.def.br/>.

5 Outcome Document Roadmap for Increasing Access to Justice Amidst the COVID-19 Pandemic - http://sistemas.rj.def.br/publico/sarova.ashx/Portal/sarova/imagem-dpge/public/arquivos/Outcome_Document.pdf.

Earlier in May 2020, UNODC and UNDP issued a Guidance Note on Ensuring Access to Justice in the Context of COVID-19.⁶ The Guidance Note presents key issues to consider in ensuring access to justice during the pandemic, and is divided into three sections: Preparation, Response, and Recovery.⁷ The note speaks of tailored approaches to the COVID-19 situation, which should include access to free legal aid for those who are being disproportionately impacted by emergency regulations or practices. Special emphasis is placed in the note towards ensuring legal representation, advice and assistance for prisoners and detainees, including those in administrative detention, to secure release or use of non-custodial measures and alternatives to imprisonment.⁸

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The guidance note puts forth several points vital to ensuring access to justice for all persons for consideration and action by practitioners and policy makers. Of these, several are relevant for consideration by legal services providers for their ongoing and future work. These include efforts to,

- **Support access to legal information and rights awareness:** The note iterates that advocacy and information campaigns related to the COVID-19 pandemic need to be developed in accessible languages and formats and disseminated through traditional and social mediums to target populations at risk and in need of protection. It also emphasises that any measures taken to change the way justice is delivered and sought, should be communicated promptly, clearly, accurately and through accessible means to the general public, defendants, witnesses, victims, civil parties, and lawyers.
- **Ensure provision of legal aid and assistance to access basic services and social protection:** The note states that legal aid providers should represent different groups of people unable to secure access to essential services (such as healthcare, social protection etc.), set in place as a COVID-19 response. It calls upon legal aid providers to assist individuals in addressing the challenges arising out of this crisis, including assistance in obtaining civil documentation by certain groups such as refugees, migrants and stateless persons. It encourages community-based paralegals to further legal empowerment efforts by providing access to information on rights, guidance on how to access benefits, and support to fill out forms.
- **Ensure access to justice and effective remedies for victims and survivors of violence, including sexual and gender-based violence:** The note while stressing upon the increasing instances of gender-based violence, including against LGBTQ+ persons and children, stressed upon the need to take measures to ensure continued access to essential support services. The need for prioritising protection measures to ensure that survivors can remain at home and protected from further violence was further reiterated.
- **Support efforts to decongest detention facilities:** While emphasising the increased vulnerabilities of people in detention, the note endorses efforts to decongest detention facilities, including prisons, police stations and immigration detention centres. It further iterates that effective decongestion of prisons requires the participation and coordination of many stakeholders, including corrections authorities, judiciary, police, prosecutors, defence

6 https://www.unodc.org/documents/Advocacy-Section/Ensuring_Access_to_Justice_in_the_Context_of_COVID-191.pdf

7 <https://www.unodc.org/unodc/en/frontpage/2020/May/unodc-and-undp-issue-guidance-note-on-ensuring-access-to-justice-during-the-covid-19-pandemic.html>

8 UNODC Guidance Document, pg 10.

lawyers, communities and civil society, human rights institutions, the legislature, and health professionals.

- **Ensure provision of continued and safe access to legal services, including through hotlines and online services:** The note calls upon states to prioritise resources and efforts to ensure continuity and access to essential services for addressing rights violations during the pandemic. It suggests that states should prepare for an increase in demand for emergency hotlines, shelters, essential housing, legal aid, and police and justice services. In this context, the note states that legal aid providers be supported to ensure the provision of continued and safe access to legal services, including through hotlines and online services. It further states that hotline staff should also be equipped with up-to-date information on the solutions and protection measures available to victims or those at risk while emergency measures are in place and when measures are scaled down.
- **Ensure timely prosecution of crimes motivated by stigma and discrimination:** With border closures and restrictions on movement, fear of the pandemic has resulted in an increase of xenophobia and hate crimes targeting 'outsiders' who are perceived as bringing the virus into communities. Further, Government responses may also fuel community divisions, particularly when quarantine measures target a specific population group. In this context, the note emphasises that legal aid providers should help to ensure that justice systems address such crimes swiftly and thoroughly.
- **Address civil justice concerns as part of socio-economic impact of the crisis:** The note candidly states that with no clarity on how long the crisis will last or whether there will be recurrent waves, the impact of COVID-19 will be felt long after the public health emergency recedes. Thus, systems will need to be put in place to provide legal advice and services dedicated to emerging concerns including:
 - Unemployment and social security benefits
 - Labour disputes with the increase in job losses and unemployment
 - Housing disputes from evictions and inability to pay rent
 - Bankruptcies and insolvency
 - Health and safety risks faced by workers, including exposure to COVID-19
- **Facilitate access to restorative justice services, such as online mediation and alternative dispute resolution as well as access to administrative legal services and legal documentation:** The note encourages community-based dispute resolution, and states that engaging traditional, religious, and community leaders in resolving disputes and tensions that may be exacerbated due to COVID-19 can be a useful complement to formal justice mechanisms.

As a recovery measure the guidance note ends with a summary of legal empowerment strategies vital to address the impact of the pandemic. These include:

- Provision of access to legal information and rights awareness;
- Legal assistance to challenge injustices and realise rights, including strategic litigation against systematic discrimination;
- Strengthened networks and capacities to advocate for and claim rights;
- Participation in decision-making related on COVID-19 policies and recovery plans;
- Support to access social and economic benefits.

These pointers encompass the vital role envisaged of legal service providers as stakeholders in the process of addressing the justice challenges faced by different marginalised populations, and to help people understand and use the law to realise their rights. As COVID-19 crisis continues to expose

and exacerbate inequalities and injustices around the globe, it is vital to conduct an assessment of how state-funded legal services institutions in India have responded to the crisis situation. However, before this enquiry is initiated, it is important to understand the mandate and functions of LSIs in India, particularly those relevant in the context of pandemic.

B. Legal services institutions in India and their functions:

NALSA is the apex body in India that lays down policies and principles for the effective provisioning of legal services. In accordance with the objectives laid down in the Act, NALSA is required to constantly deliberate and assess the growing need and demand for legal assistance. NALSA is mandated to frame effective and cost-efficient schemes that promote inclusiveness and further the aim of achieving access to justice for all. It must also promote measures for spreading legal literacy and legal awareness amongst the people with the dual purpose of educating persons of their rights and to enhance access to legal services that would enable the protection of rights.

Towards this, NALSA has framed a number of regulations, guidelines and schemes for raising awareness; provisioning of services for vulnerable and marginalised groups; and for implementing and monitoring legal aid programmes in the country. The legal aid machinery in India includes LSIs at the national, state, district and taluka/sub-divisional/tehsil level. The LSIs have also been constituted at the high courts and Supreme Court for provision of legal aid for matters filed in these courts. In terms of budget, NALSA receives grant-in-aid from the central government, particularly from the Ministry of Law and Justice, for implementing legal aid schemes and programmes. The grants are further disbursed by NALSA to the State Legal Services Authorities and Supreme Court Legal Services Committee. State governments also provide grants to the SLA.

Legal Services Institutions in India

- ✓ National Legal Services Authority - 1
- ✓ Supreme Court Legal Services Committee - 1
- ✓ State Legal Services Authority - 36
- ✓ High Court Legal Services Committee - 36
- ✓ District Legal Services Authority - 665

The Act identifies the beneficiaries for whom legal services are to be provided. The term 'legal services' has been defined to include the rendering of any service in the conduct of any case or other legal proceeding before any court or other authority or tribunal and the giving of advice on any legal matter. The beneficiaries according to Sec 12 include:

- a) A member of a Scheduled Caste or Scheduled Tribe;
- b) A victim of trafficking in human beings or beggar;
- c) A woman or a child;
- d) A mentally ill or otherwise disabled person;
- 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; or in a juvenile home; or in a psychiatric hospital or psychiatric nursing home;
- h) In receipt of annual income less than the amount prescribed by the Government.

Each of the LSIs are assigned various functions and roles under the Act to ensure access to effective legal aid services at all stages. The Act lays down the functions of the central, state, district and taluk authorities in sections 4, 7, 10 and 11B, respectively. NALSA has been assigned the function of coordinating and monitoring the functioning of LSIs as well as voluntary social service institutions and other legal services organisations and giving general directions for the proper implementation

of the legal services programmes. It has also been assigned the task of monitoring and evaluating the implementation of legal aid programmes at periodic intervals, and providing for independent evaluation of programmes and schemes implemented in whole or in part by funds provided under the Act. The SLSAs are mandated to ensure the provision of legal services to persons who satisfy the criteria laid down under the Act; to undertake preventive and strategic legal aid programmes and; to conduct Lok Adalats. The LSIs at the district and taluk level are required to perform activities delegated to them and co-ordinate activities under their jurisdiction.

FUNCTIONS OF LEGAL SERVICES INSTITUTIONS

Sec 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 IVA 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;
- (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 for 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) Coordinate and monitor the functioning of 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 given general directions for the proper implementation of the Legal Services programmes.

Sec 7 - Functions of the State Authority-

- (a) It shall be the duty of the State Authority to give effect to the policy and directions of the Central Authority.
- (b) 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:-
 - (i) give legal service to persons who satisfy the criteria laid down under this Act;
 - (ii) conduct Lok Adalats, including Lok Adalats for High Court cases;
 - (iii) undertake preventive and strategic legal aid programmes; and
 - (iv) perform such other functions as the State Authority may, in consultation with the Central Authority, fix by regulations.

Sec 10 - Functions of District Authority.-

- (a) It shall be the duty of every District Authority to perform such of the functions of the State Authority in the District as may be delegated to it from time to time by the State Authority.
- (b) Without prejudice to the generality of the functions referred to in sub-section (1) the District Authority may perform all or any of the following functions, namely:-
 - (i) co-ordinate the activities of the Taluk Legal Services Committee and other legal services in the District;
 - (ii) organise Lok Adalats within the Districts; and
 - (iii) perform such other functions as the State Authority may fix by regulations.

Sec 11B - Functions of Taluk Legal Services Committee.-

The Taluk Legal Services Committee may perform all or any of the following functions, namely:-

- (i) co-ordinate the activities of legal services in the taluk;
- (ii) organise Lok Adalats within the taluk; and
- (iii) perform such other functions as the District Authority may assign to it.

Functioning amid the pandemic: As mentioned earlier, the Act sets in place mechanisms towards guaranteeing the benefits and privileges of social welfare legislations for all persons. It calls upon LSIs to promote and secure the welfare of beneficiaries. While almost 80% of India's population is eligible for legal aid,⁹ one could interpret all persons impacted by the pandemic, as beneficiaries under Section 12(e) of the Act.¹⁰ Further, several functions of the LSIs assumed importance in the early months of the pandemic and in the circumstances that followed the national lockdown. Among these, the continued provision of legal services to eligible persons and undertaking of preventive and strategic legal aid programmes, were necessary to effectively respond to the emerging crisis.

To enable this, it was vital that the LSIs innovated to the emerging circumstances and along with legal service providers continued the delivery of legal services despite the restrictions imposed by the nation-wide lockdown. To this effect, the various schemes and policies framed by NALSA as per

⁹ Sec 12 Legal Services Authorities Act 1987.

¹⁰ As per Section 12(e) of the Act any 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; is eligible for legal assistance.

sections 4(a) and (b) of the Act provided the necessary framework for service delivery to a range of beneficiaries. These schemes seek to promote an inclusive legal system and ensure fair and meaningful justice to the marginalized and disadvantaged sections, including disaster victims¹¹, victims of trafficking¹², workers in the unorganised sector¹³, children¹⁴, persons with mental illness¹⁵, tribals¹⁶, victims of drug abuse¹⁷, senior citizens¹⁸, victims of acid attacks¹⁹ and for persons in custody²⁰.

But one must consider that service delivery amid the pandemic would not have been an easy task. LSIs in their 25 years of existence, like many other functionaries, have not had to respond to exigencies in the nature of a pandemic like the present one. Some experience could probably be drawn from the response of the Kerala SLSA to the Kerala floods and Punjab SLSA to the Amritsar train mishap, both of which occurred in 2018. [See the box for more detail]

Kerala Floods: In the months of July and August 2018, heavy rains in Kerala resulted in huge loss of life and property. Many people lost their lives, many were marooned in their submerged homes, while thousands got displaced. To respond to such a crisis, the Kerala SLSA took the following actions:

1. Formed a core group to coordinate the rescue and relief activities under the NALSA (Legal Services to Disaster Victims through Legal Services Authorities) Scheme, 2010.
2. Instructed PLVs to determine the status of basic facilities and coordinated with government departments & NGOs towards their provision.
3. Provided basic amenities such as food, clothes and medicines through judicial officers and LSI stakeholders.
4. Created a distress relief fund to procure relief materials and providing financial aid to the needy.
5. Made available counselling to victims and mediators from mediation centre.
6. Established 'Neethidhara' or help desks in affected areas to restore valuable documents such as title deeds, ration cards, driving license, etc.

Amritsar Train Accident: On 20 October 2018, about 61 people lost their lives and many were severely injured in a horrific train accident which occurred during the Dussehra celebrations in Amritsar, Punjab. To respond to the crisis, the Punjab SLSA took the following steps:

1. Constituted rescue teams for three DLSAs – Amritsar, Tarn Taran and Kapurthala - to assist the administration in ferrying the victims to hospitals.
2. Made available information on blood donors through WhatsApp groups.
3. Established help desks in all hospitals treating the victims to assist people in understanding their rights and to process the claims.
4. Gathered information on the deceased, injured, relatives and their contact details, which was forwarded to the concerned DLSA and the help desk.
5. Assisted in procuring necessary medicines for the injured, and in locating and reuniting family members who went missing.

11 NALSA (Legal Services to Disaster Victims through Legal Services Authorities) Scheme, 2010.

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

13 NALSA (Legal Services to the Workers in the Unorganised Sector) Scheme, 2015.

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

15 NALSA (Legal Services to the Mentally Ill and Mentally Disabled Persons) Scheme, 2015.

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

17 NALSA (Legal Services to the Victims of Drug Abuse and Eradication of Drug Menace) Scheme, 2015.

18 NALSA (Legal Services to Senior Citizens) Scheme, 2016.

19 NALSA (Legal Services to Victims of Acid Attacks) Scheme, 2016.

20 NALSA Early Access to Justice at Pre-Arrest, Arrest and Remand Stage Framework 2019 and NALSA Standard Operating Procedures for Representation of Persons in Custody 2016.

There is no doubt that the pandemic has resulted in individuals being disproportionately impacted by derogations of rights. Lockdown restrictions, including closure of public transport, suspension of regular court work, reliance on digital means for procuring essentials, uncertain economic conditions etc, led to one crisis after another. For example, the UN Secretary-General's Policy Brief: *The Impact of COVID-19 on Women*²¹ shows a dramatic increase in domestic violence and child abuse and lack of protection for women and children due to measures requiring people to remain confined to their homes. Prisons and correctional facilities reported a rising number of persons contracting the virus; therefore, taking steps to respond to the growing realities were vital. Denial of wages, and mass lay-offs and dwindling economies led to mass exodus of migrants everywhere. These and many other instances meant that thousands across the country were in dire need of legal assistance, advice and support. Were the legal services institutions in India able to respond to this emerging crisis effectively? Documentation of the services provided by LSIs has been undertaken in the next chapter. This is based on the data received for 36 SLSAs from NALSA for the period between April to June 2020.

21 <https://asiapacific.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2020/policy-brief-the-impact-of-covid-19-on-women-en.pdf?la=en&vs=1406>.

II. Functioning of LSIs amid the pandemic

This chapter documents the functioning of the LSIs in response to the pandemic between April to June 2020. Information received from NALSA indicates that a range of beneficiaries benefitted from service provided by LSIs including women, senior citizens, migrants, stranded persons, persons in custody, etc. In addition to providing data on cases assisted, an effort has been made to provide details of assistance provided in particular cases by various SLSAs and DLSAs. This is done to enable a better understanding of the varied assistance that was sought by beneficiaries during this period. Information was also shared where possible. This indicates that LSIs adapted to virtual means to enable service delivery. LSIs also made efforts to utilise this period to enhance capacities of legal service providers through training workshops and webinars.

A. Assistance in cases of domestic violence and abuse

The year 2020 marked 25 years of the *Beijing Declaration and Platform for Action*²² adopted at the Fourth World Conference on Women. While 2020 would have been about reviewing the progress made since 1995, the pandemic, given its unprecedented nature, negatively impacted the fragile and long-drawn process of attaining gender equality. For far too many women in the world, as well as in India, gaps continued to persist. There is a wide berth to be bridged between the promise of justice and realities in communities, workplace and within homes i.e. on the domestic front. Women often face legal discrimination, patchy legal protection, discriminatory social norms and other forms of disadvantages - poverty, ethnicity, disability, geography - in their race to demand equality. For most, these vulnerabilities, when equated with their cumulative personal and situational factors, exacerbate their access to effective and prompt legal assistance.

In the global setting, the *Women, Peace and Security Index* offers insights into the risks posed to women. As per the index, there are serious concerns of legal discrimination against women in India. These could be in the form of owning property, keeping a job and maintaining self-reliance.²³ Further, the index also captures the percentage of females aged one year and above to feel a sense of safety which is as low as 64% for India.²⁴ Lastly, the index also indicates that in India the percentage of women who have experienced physical or sexual violence being committed by their partner is 22%.²⁵

People whose human rights are least protected are likely to experience unique difficulties from COVID-19.²⁶ The pandemic, lockdowns and emergency orders have increased risks for women in abusive relationships. The UN Secretary-General's Policy Brief, *The Impact of COVID-19 on Women*²⁷, released in April 2020, indicated a dramatic increase in domestic violence and child abuse cases, as well as the lack of adequate protections for women and children due to measures requiring people to remain confined to their homes.

During the early phases of lockdown, the country witnessed many horrifying experiences of domestic violence, both in urban and rural areas.²⁸ With the lockdown having forced people to

22 https://www.un.org/en/events/pastevents/pdfs/Beijing_Declaration_and_Platform_for_Action.pdf.

23 <https://giwps.georgetown.edu/country/india/>.

24 *Ibid.*

25 *Ibid.*

26 Hall, Kelli Stidham et al. 2020. "Centring Sexual and Reproductive Health and Justice in the Global COVID-19 Response." *The Lancet* 395 (10231): 1175–77. doi: [https://doi.org/10.1016/S0140-6736\(20\)30801-1](https://doi.org/10.1016/S0140-6736(20)30801-1).

27 <https://asiapacific.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2020/policy-brief-the-impact-of-covid-19-on-women-en.pdf?la=en&vs=1406>.

28 <https://timesofindia.indiatimes.com/life-style/relationships/love-sex/domestic-violence-cases-in-india-on-the-rise-during-lockdown-says-report/articleshow/75801752.cms>.

stay indoors, a rise in cases of domestic violence was reported in India. Loss of income and the stress arising from pandemic situation, were major contributors.²⁹ Within a few days of nation-wide lockdown, the National Commission of Women (NCW) noted a considerable rise in the number of domestic violence complaints received.³⁰ Between 23 March and 16 April, 2020, a total 587 cases were registered, which is a big jump from the 396 cases registered between 27 February and 22 March, 2020. One can safely assume that these numbers are only indicative of the magnitude of the issue, and reality must be far grimmer than reported.

To respond to this emerging crisis, the NALSA, in coordination with the Ministry of Child and Women Development, issued directions to all SLSAs to strengthen the functioning of the One Stop Centres (OSCs) in each state to assist and extend legal assistance to women facing domestic violence and abuse. In addition to counselling for victims, the OSCs are aimed at providing relevant legal advice and assistance necessary. They are intended to support women affected by violence, in private and public spaces, within the family, community and at workplace.³¹ Aggrieved women facing any kind of violence due to attempted sexual harassment, sexual assault, domestic violence, trafficking, honour related crimes, acid attacks or witch-hunting who have reached out to or been referred to the OSC are to be provided with specialised services. The OSC is also tasked to facilitate immediate, emergency and non-emergency access to arrange services, including medical, legal, psychological and counselling support, under one roof to fight any forms of violence against women. Information is, however, not available on how many of the OSCs continued to function during the lockdown and whether any overt efforts to reach out to women were made during this period. Furthermore, to further ease up access to the OSC, the NCW launched a WhatsApp number to encourage reporting of cases by victims.³² Figures indicate that more than 1000 complaints were received by WhatsApp communications to the NCW.

Table 1: Information on cases received by National Commission for Women³³

	March 2020	April 2020	May 2020	June 2020
Complaints				
- Received	1347	800	1500	2043
- Closed	1347	800	220	592
Complaints via WhatsApp				
- Received	-	199	528	322
- Closed	-	199	510	236

From April to June 2020, a total of 3795 cases relating to domestic violence were dealt by LSIs across the country. Among these, Uttarakhand dealt with the highest number (593), followed by Delhi (556) and Chandigarh (336). A total of 452 petitions were filed by LSIs in courts under Domestic Violence Act, wherein Madhya Pradesh (84) filed the highest number of petitions, followed by Jammu & Kashmir (79). A total of 694 cases were resolved through counselling/mediation, wherein Gujarat (114) resolved the highest, followed by Tamil Nadu (108).

Some figures here are pertinent to note: Uttar Pradesh, though a highly populous state, assisted in only 47 cases and Telangana in one case. This is surprising given that UP reported the second highest

29 <https://thewire.in/women/lockdown-domestic-violence-government>.

30 <https://timesofindia.indiatimes.com/india/lockdown-saw-significant-rise-in-domestic-violence-complaints-to-ncw/articleshow/76240502.cms>.

31 https://wcd.nic.in/sites/default/files/OSC_G.pdf.

32 https://wcd.nic.in/sites/default/files/Advisory%20dated%2025.03.2020%20for%20OSC-WHL_0.pdf.

33 <http://ncw.nic.in/newsletters>. Please note that the term 'closed' is not defined, and it is assumed that it meant that assistance was provided, the issue resolved or no further assistance was required.

number of cases of cruelty against women, and Telangana fifth highest in 2019.³⁴ In 2019, more than 1.2 lakh incidents of cruelty by husband or family members, and 553 incidents where the protection of women from domestic violence, were reported.³⁵ In comparison, this appears like a minimalistic number. Yet, with the absence of any demand data w.r.t. requirement of legal assistance in cases of domestic violence by women, or any data from 2019 on legal assistance provided by LSIs, it is difficult to assess whether the efforts of LSIs were sufficient to respond to cases of domestic abuse.

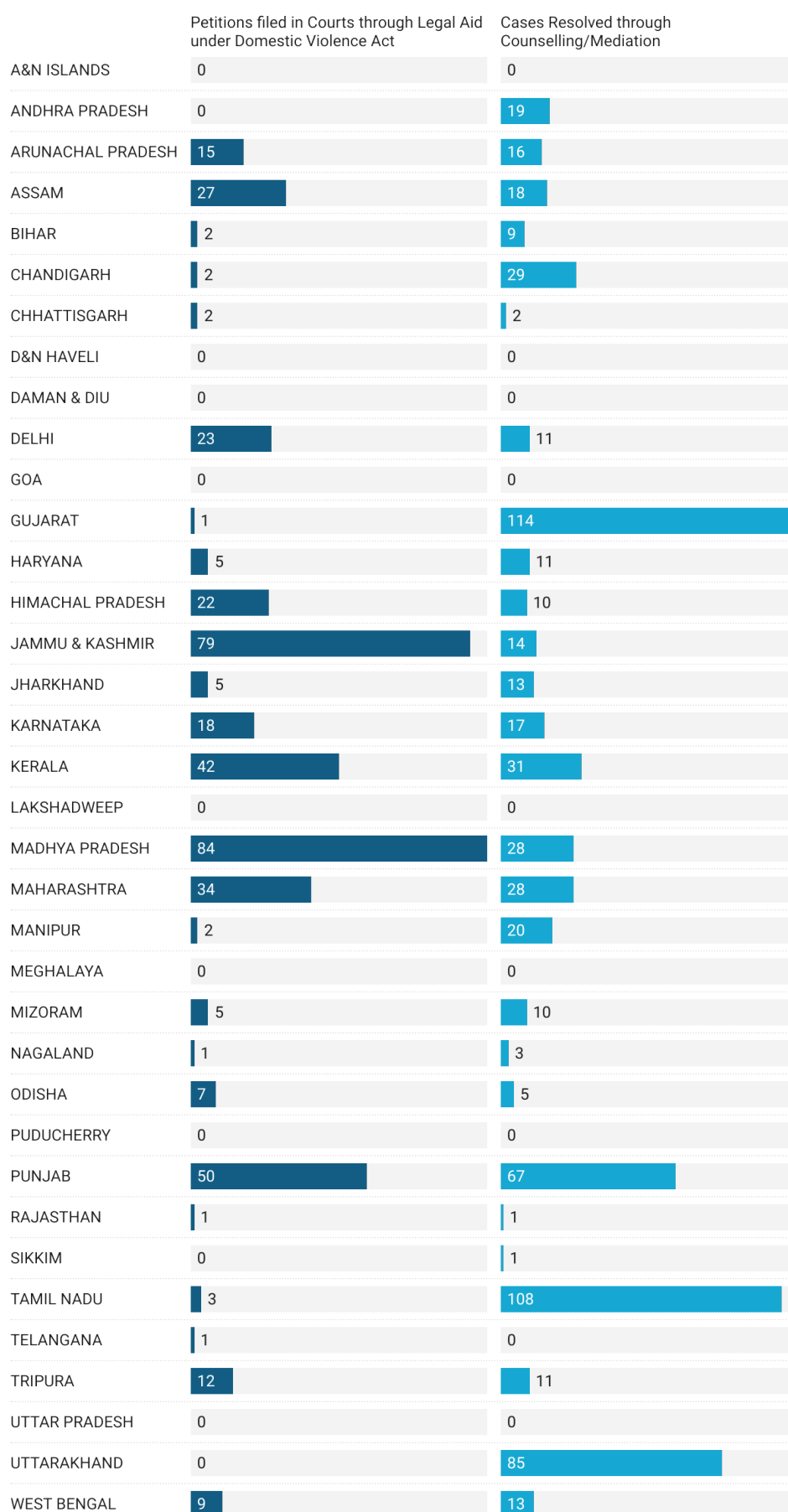
The assistance included provision of tele-counselling to couples, facilitating registration of complaints against abusive family members, encouraging victims to raise their voice against the abuse and file complaints, assistance in filing petitions before competent authorities, securing maintenance from husband for upkeep of wife and child. The initiative taken by the Delhi SLSA, which involved collaboration with Mother Dairy booths, pharmacist and chemists to encouraging reporting of abuse, was innovative. This may, after ascertaining the modalities and benefits, be considered for replication in other parts of the country, on a regular basis.

- ◆ Delhi SLSA collaborated with Mother Dairy booths, pharmacists and chemists throughout the national capital region for information on victims of domestic violence and also launched a mobile application to deliver legal aid to these individuals.
- ◆ In Surat, Gujarat, a woman contacted the OSC regarding mental and physical violence meted out by her husband. The panel advocated counselled both husband and wife, and advised the husband to refrain from any act of violence against the wife.
- ◆ In Gurdaspur, Punjab, a video went viral on social media depicting acts of violence against a woman residing in the district. The DLSA took immediate steps to approach the victim, and encourage her for recording her statement. However, some resistance was witnessed from the police, but due to efforts by the DLSA, a FIR was successfully registered in the police station.
- ◆ In Khandwa, Madhya Pradesh, the DLSA assisted in a case in coordination with the Cell for Crime Against Women. A woman was separated from her husband and child, and sought intervention from the DLSA for the custody of her child. After counselling of husband, the child was handed over to the mother, and husband agreed to pay maintenance.

34 Crime in India 2019, https://ncrb.gov.in/sites/default/files/crime_in_india_table_additional_table_chapter_reports/Table%203A.2_2.pdf.

35 Crimes in India 2019, https://ncrb.gov.in/sites/default/files/crime_in_india_table_additional_table_chapter_reports/Table%203A.2_2.pdf.

ASSISTANCE IN CASES OF DOMESTIC VIOLENCE AND ABUSE



B. Assistance to stranded and migrant people

The COVID-19 pandemic has so far infected more than a crore people in India and claimed over 1,00,000 lives. In addition to impacts on health, movement and realisation of rights, the impact on economies and employment has been enormous. The International Labour Organization (ILO) in April 2020 estimated that four out of five people in the global workforce of 3.3 billion were currently not at work due to full or partial lockdown closures.³⁶

It has been documented that over 60 percent of all workers globally are informally employed: 90% in developing countries and 67% in emerging countries.³⁷ According to the Government of India's Periodic Labour Force Survey, in 2017-18, 85% of workers were in the informal sector and another 5% were employed in the formal sector. It further stated the formal sector too had informal conditions and lacked social protections or other employment-related benefits. The report also indicates the unemployment rate in India had more than doubled between 2012 and 2018 and touched 23%.³⁸ In June 2020, ILO's *'Rapid Assessment of the Impact of the COVID-19 Crisis on Employment'* stated that India was already facing impacts of a slower growth rate at the beginning of 2020.³⁹ This coupled with the suspension of economic activities amid the 21-day lockdown and beyond instituted by the Government of India rendered a further blow to workers. According to World Bank, within India, an estimated 40 million internal migrant workers were severely impacted by the lockdown.⁴⁰

With the nation-wide lockdown came travel bans and enforcement of social distancing measures (and not mere physical distancing). Due to closure of economic activities, job losses and means to access basic amenities and facilities, which were dependent upon a daily or monthly income, were lost. Internal migrant workers found themselves stranded with inadequate access to housing and shelter, reduced daily incomes and a risk of contracting the virus. Left with no other alternative, they ardently waited to return to their native place and communities of origin. The loss of jobs and livelihood thus had ruptured an important lifeline to several migrant households.

In April 2020, the Stranded workers Action Network (SWAN) had found that 50% of workers had rations left for less than one day; 74% had less than half their daily wages remaining to survive for the rest of the lockdown; and 89% had not been paid by their employers at all during the lockdown.⁴¹ According to a submission in the Supreme Court, more than 6 lakh workers were housed in relief camps⁴² and 2.2 million people relied upon the emergency food supplies. There had been an additional stimulus package introduced by the Finance Minister to directly aid poorer communities affected by the coronavirus lockdown to the tune of \$22.6 billion or 1.7 trillion rupee.⁴³

Within the constitutional framework, labour rights and their protection find guarantees in Articles 14-16 (Equality before law), Article 19(1)(c) (right to form associations), Articles 23-24 (prohibition of trafficking and forced labour), Article 38 (promotion of welfare among people) and Articles 41-43A (right to work, right to a living wage and equal pay for equal work regardless of gender). In context of legal assistance for stranded persons and migrants during the pandemic, among the several preventive and strategic welfare schemes formulated by NALSA, two assume importance -

36 www.wider.unu.edu/sites/default/files/Publications/Working-paper/PDF/wp2020-43.pdf.

37 https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms_626831.pdf.

38 http://www.mospi.gov.in/sites/default/files/publication_reports/Annual%20Report%2C%20PLFS%202017-18_31052019.pdf.

39 https://www.ilo.org/newdelhi/whatwedo/publications/WCMS_748095/lang--en/index.htm.

40 <https://openknowledge.worldbank.org/bitstream/handle/10986/33634/COVID-19-Crisis-Through-a-Migration-Lens.pdf?sequence=5&isAllowed=y>; Pg 27.

41 21 Days and Counting: COVID-19 Lockdown, Migrant Workers, and the Inadequacy of Welfare Measures in India, SWAN (15th April 2020); <http://strandedworkers.in/mdocuments-library/>.

42 WP (Civil) No. 468/2020; Order dated 31/3/2020.

43 <https://www.weforum.org/agenda/2020/03/india-stimulus-support-lockdown-pandemic-covid19-epidemic-economics/>.

NALSA (Legal Services to the Workers in the Unorganized Sector) Scheme, 2015⁴⁴ and Scheme for Legal Services to Disaster Victims through Legal Services Authorities⁴⁵.

With COVID-19 being largely categorised as a disaster, one can assume that the situation called upon LSIs to extend support and assistance (legal and otherwise) to all stranded persons and migrants. Both the schemes, when read together, mandated the LSIs to set up special cells to identify, register, counsel, inform and facilitate the entitlements available to the unorganised labour under various government schemes. An assessment of the information shared by NALSA indicates that LSIs were cognizant of the grave and depraved situation faced by migrant labourers during the lockdown.

COMMON CHALLENGES FACED BY MIGRANT WORKERS ACROSS THE COUNTRY

- ▶ Physical distancing was impossible in overcrowded neighbourhoods and informal settlements;
- ▶ Police harassment resulted in the confiscation of goods, fines, physical violence and abuse;
- ▶ Restrictions on mobility made it difficult for informal workers to collect income support;
- ▶ Limited access to information on the virus and knowledge regarding how it spreads;
- ▶ Increasing threat of domestic violence for women informal workers;
- ▶ Inability to search for alternative employment to earn wages.

Assistance to migrant workers and stranded persons: From April to June 2020, data indicates that assistance was provided to 57,82,870 migrants in coordination with the District Administration in terms of transit, food, etc. Maharashtra provided a chunk of this assistance (36,90,620), followed by Uttarakhand (4,31,986) and Haryana (3,26,183). Further it has been reported that 3,37,815 persons were assisted with respect to travelling to home states or home districts by the LSIs. Madhya Pradesh (1,05,487) provided the highest assistance in this category, followed by Bihar (47,571) and Andhra Pradesh (36,873). No data from Uttar Pradesh was available, and nil cases were assisted in Mizoram or Sikkim.

It is not clear what this 'assistance' would have included. This may have included provision of ration, shelter, water, medicines, in addition to any legal assistance or advice. The distinction between providing assistance to migrants, and assistance provided to travel to home state/district is not clear. It could also be that the latter was merely a subset of the former. No information has been provided on the role of the district administrations in this process either.

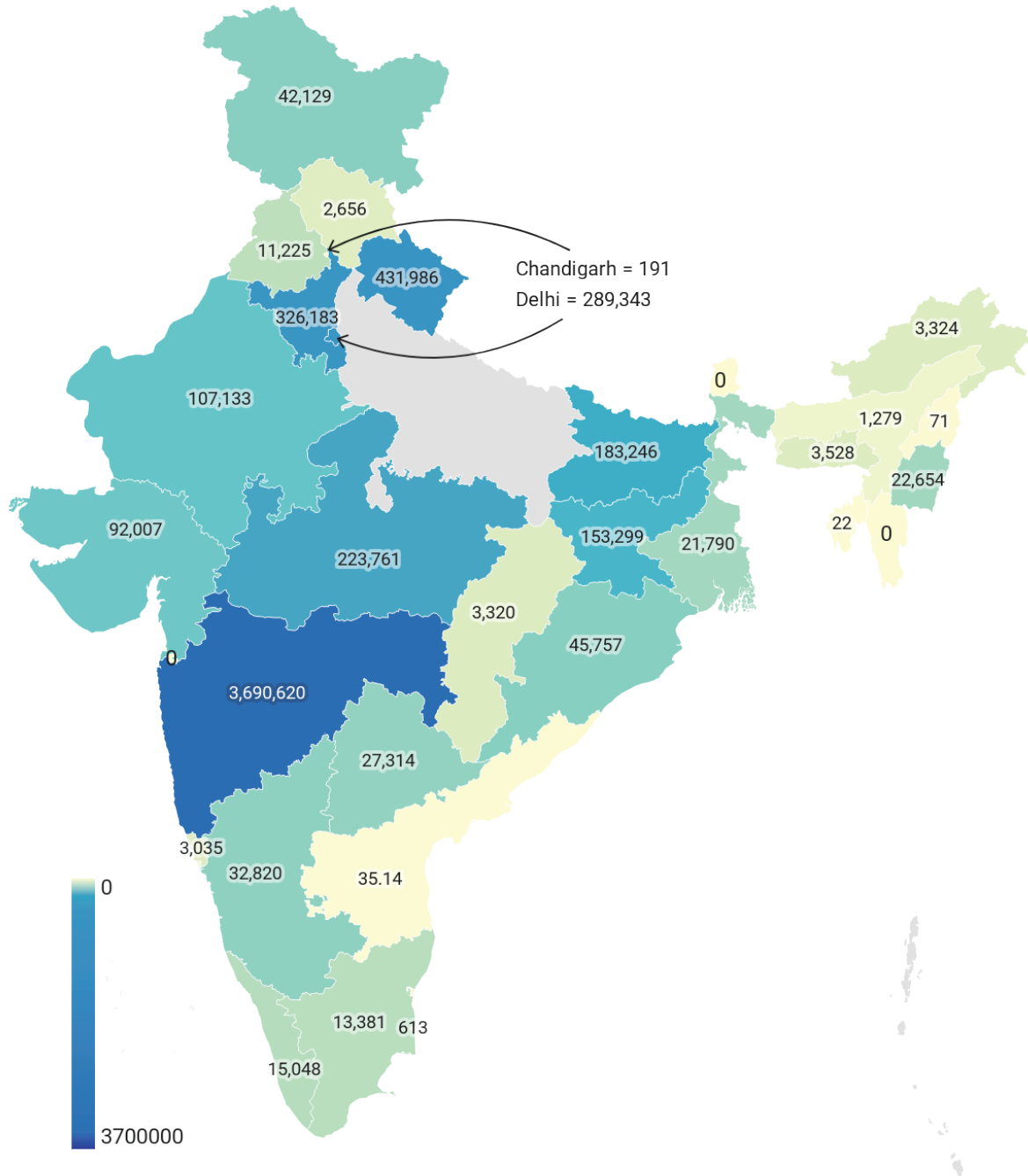
During April and June 2020, a total of 2,16,436 persons were assisted with regard to shelter and other related concerns for money. Bihar (92,439) and Rajasthan (36,041) provided a substantial part of this assistance. SLSAs also conducted surprise visits to shelter camps established for migrant people, and inquired about the health, food and other facilities of inmates. In one particular case in Karnataka, immediate steps were undertaken to depute a female caretaker when a surprise visit found that no female caretaker had been assigned to the shelter home to care for women housed there.

44 <https://nalsa.gov.in/acts-rules/preventive-strategic-legal-services-schemes/nalsa-legal-services-to-the-workers-in-the-unorganized-sector-scheme-2015>.

45 <https://nalsa.gov.in/acts-rules/preventive-strategic-legal-services-schemes/schemes-for-legal-services-to-disaster-victims-through-legal-services-authorities>.

- ◆ In Tamil Nadu, 2053 stranded persons approached LSIs who return to their home states or hometowns. DLSAs took steps to arrange transit for these persons in coordination with the district administration and NGOs.
- ◆ Manipur SLSA provided assistance to 20,000 people of the state stranded in different parts of the country in coordination with SLSAs across the country. Based on various reports published in the news and social media of hardships faced by Manipuris stranded all over the country, it requested SLSAs to provide all possible help and assistance to all stranded persons. Subsequently, several SLSAs distributed ration, or assisted in transit or opened special legal aid clinics for students from the North Eastern states of India. Manipur SLSA also assisted in ensuring transit by generation of e-pass and coordinating with SLSAs of respective states for local transportation.
- ◆ Madhya Pradesh SLSA collaborated with the NLIU, Bhopal to launch a platform 'Centre for Labour Laws', (www.mazdoormitra.info). Steps were also taken to secure wages of labourers through effective interaction with relevant duty holders. PLVs also reached out to help migrants who had returned from various places to get employment under the aegis of the Zila Panchayat. Assistance was also provided to prepare necessary documents to start business of fruit vendors.
- ◆ Ranchi DLSA provided assistance to 40 labourers stuck in Ranchi in a small makeshift room, without any money, ration, or other amenities. Case details were shared by the paralegal, whereupon the DLSA took upon itself to provide cooked food for several days, sharing pertinent information on precautionary measures against COVID-19 and linking them to other government authorities and NGOs for securing basic amenities.
- ◆ Barnala DLSA registered 191 unregistered labourers on COVA application to provide them benefits of various state government schemes.
- ◆ In Odisha, the DLSA rescued a migrant labourer who had been driven out of his village, and handed him over to the local sarpanch with clear instructions to take care. The labourer had returned from Bangalore, and after completing the mandatory quarantine in the quarantine facility, was denied access to his village. Thereafter he spent six days in a deserted space with little access to food or shelter, before he came in contact with the DLSA.
- ◆ In Chhattisgarh, the DLSA made arrangement for the safe travel of a 8-month pregnant migrant woman labourer who commenced her return from Ambikapur, Chhattisgarh to Sagar, Madhya Pradesh on foot. She reached the Migrant Workers Camp help desk of DLSA Anuppur, whereupon the DLSA first had her medically examined, and then arranged for her travel to Sagar.

ASSISTANCE TO STRANDED AND MIGRANT PEOPLE



ASSISTANCE TO STRANDED AND MIGRANT PEOPLE

	People Assisted with Shelter Problem/Lack of Money	People Assisted with Travelling to Home States/Districts
A&N ISLANDS		
ANDHRA PRADESH	4.07	36.87
ARUNACHAL PRADESH	249	1,380
ASSAM	683	122
BIHAR	92,439	47,571
CHANDIGARH	7	55
CHHATTISGARH	23	797
D&N HAVELI	0	0
DAMAN & DIU	0	0
DELHI	264	6,419
GOA	4,229	3,405
GUJARAT	1,884	12,271
HARYANA	8,121	20,103
HIMACHAL PRADESH	244	3,169
JAMMU & KASHMIR	1,590	21,376
JHARKHAND	4,744	5,791
KARNATAKA	6,414	2,210
KERALA	574	6,674
LAKSHADWEEP		
MADHYA PRADESH	6,332	105,487
MAHARASHTRA	15,359	9,660
MANIPUR	3,290	547
MEGHALAYA	35	12
MIZORAM	4	2
NAGALAND	39	73
ODISHA	5,507	6,596
PUDUCHERRY	2	113
PUNJAB	71	4,413
RAJASTHAN	36,041	26,145
SIKKIM	0	0
TAMIL NADU	9,409	2,053
TELANGANA	662	1,025
TRIPURA	30	23
UTTAR PRADESH		
UTTARAKHAND	5,764	8,211
WEST BENGAL	8,353	5,239

Assistance in securing wages: With rising instances of labourers and workers being denied wages by their employers during the lockdown, it was imperative that LSIs respond to the grievances of workers in relation to payment of their salaries and wages. Towards this, during the period of April to June 2020, LSIs dealt with 1788 grievances related to wages. Assam accounted for majority of these at 540, followed by Uttarakhand with 400 cases and Haryana with 298 cases. These numbers appear to be minimalistic, as one can safely assume that the number of cases where wages were denied would have been much higher. It is not apparent from the data or information received whether LSIs undertook efforts to raise awareness on issues related to denial of wages and remedies available. It could also be that during reporting, LSIs did not report them within this data head, but within the general sphere of providing assistance to migrants. This ambiguity and possible overlapping in data indicates the need for NALSA to streamline their data documentation processes.

- ◆ As part of the Rajasthan SLSA efforts to provide support to stranded migrants, the DLSAs were instructed to investigate whether migrant workers received the relief provided by the state government. The DLSAs also collaborated with other labour organisations to investigate whether migrant workers received relief provided by state government. This investigation revealed that 90% of labourers had not been paid wages since lockdown restrictions were enforced. In his response to the report, the Secretary, Labour, employment, skill and entrepreneurship department agreed that labourers had not been paid till April and they were trying to resolve this at the earliest.
- ◆ Goa SLSA through its paralegals intervened in several cases to ascertain that wages are paid to the labourers. In one instance, an employer was made to pay a sum of money to three labourers from Chhattisgarh, who had been denied wages by their employer. On a similar complaint by two labourers from Bihar, the PLV took immediate action and subsequently the employer made the payment of their due amount.
- ◆ In MP, in Chhindwara district complaints were received from labourers on the Majdoor Mitra portal, whereby immediate interventions were made to resolve the issue and secure payment of wages.
- ◆ DLSA Dehradun successfully intervened to ensure that professors of a Pharmacy College received their salaries from the management. The DLSA also successfully intervened to assist a driver who had been dismissed without notice by his employer. Their timely intervention enabled the driver to be reinstated.
- ◆ TN SLSA and Coimbatore DLSA initiated necessary action to respond to a complaint by 26 migrant workers employed in a biscuit company in Coimbatore. The workers had complained that neither were they being paid their wages, nor being permitted to go home. The DLSA reached out to Annur Tashildhar to take necessary action, whereupon the company not only agreed to pay their wages, but also arranged for their temporary accommodation. The Tashildhar thereafter arranged for train tickets for the migrant workers return to their native place.
- ◆ DLSA Hamirpur, Himachal Pradesh successful intervened in a complaint made by a labourer regarding shortage of ration and denial of wages by his contractor. The DLSA took up the matter with the district administration and provided the complainant with ration.

46 <https://www.hindustantimes.com/india-news/rajasthan-migrants-not-paid-wages-since-lockdown-started-reveal-findings/story-S7XVfBsBa-1OKjjdlmzjaJ.html>.

There are more than 10 crore senior citizens in India.⁴⁸ In 2016, NALSA had adopted the *NALSA (Legal Services to Senior Citizens) Scheme*. The main objective of the scheme was to strengthen legal aid, advice, and counselling to senior citizens at the national, state, district and taluka level to enable them to avail benefits of various legal provisions, ensure access to governmental schemes and programmes. It also aimed to devise ways to extend healthcare facilities, and physical and social security measures in coordination with police, healthcare authorities and the district administration, etc. The scheme envisaged reaching out to senior citizens through legal service clinics and paralegals, who were to act as the interface between senior citizens in communities and the LSIs as well as the police, district administration, healthcare professionals and other authorities.

Aligned with this mandate, LSIs undertook various activities and a total of 1,04,084 senior citizens were provided assistance between April to June 2020. Of these, Madhya Pradesh dealt with 38,855 such instances, followed by Tamil Nadu LSIs where 23,188 cases were assisted. It is not clear what the assistance would have included. But from the examples shared by SLSAs, it indicates that it may have included provision of medicines, groceries, domestic help, resolving pension related issues, rent issues with landlords or tenants etc. There are no comparative figures available from previous years on legal assistance provided by LSIs to senior citizens.⁴⁹ Therefore, any further analysis of these figures is difficult.

- ◆ JK SLSA launched a helpline to support senior citizens. It intended to provide assistance to the elderly who were facing tremendous difficulty to manage their day-to-day needs, particularly groceries, medicines, etc.
- ◆ In Delhi, DLSA Shahdara initiated a Project called “Varishth Suraksha Kavach”. The project aimed to get Senior Citizens registered with the Senior Citizens Security Cell of the Delhi Police so that their safety and security is ensured. Once registered, the senior citizens could avail all kinds of help at their doorstep by the Delhi Police, be it personal problems, domestic help verification, field visits, etc.
- ◆ DLSA Bhavnagar, Gujarat assisted a senior citizen to clear her dues and reinstate her pension which had been discontinued due to some discrepancy.
- ◆ DLSA Jabalpur, MP provided legal assistance to a 77-year-old man who was facing eviction by his son and family from his own house. A petition was filed in the High Court by a panel advocate, whereby a stay on eviction was obtained.
- ◆ DLSA Jamshedpur, Jharkhand provided assistance to two elderly women aged 65 and 70 years who had been evicted by their landlords. The DLSA’s timely intervention with the landlord ensured the return of the women to their vacated quarters.
- ◆ DLSA Ranchi, Jharkhand intervened in the case of a person with mental illness, who was reported to be lying on the streets in Ranchi. He was provided with food and in coordination with local authorities was sent for proper examination and treatment at the Ranchi Institute of Neuro-Psychiatry & Allied Sciences. Unfortunately, he passed away and in absence of any contact for his family, the DLSA provided necessary assistance for his cremation.
- ◆ DLSA Hojai, Assam rescued two elderly men, aged 60 and 65 years, from the highway, who were subsequently sent to old-age homes in Assam. In another case, assistance was provided to a visually impaired elderly woman in the form of securing donation of essential food items and some money through a local NGO.

48 http://mospi.nic.in/sites/default/files/publication_reports/ElderlyinIndia_2016.pdf.

49 NALSA’s Annual Reports 2018 and 2019 do not provide any specific data on senior citizens.

ASSISTANCE TO SENIOR CITIZENS

MADHYA PRADESH	38,855
TAMIL NADU	23,188
BIHAR	10,742
TELANGANA	9,256
RAJASTHAN	3,799
UTTARAKHAND	3,070
JAMMU & KASHMIR	3,028
JHARKHAND	2,507
WEST BENGAL	1,998
MAHARASHTRA	1,518
ANDHRA PRADESH	1,413
HARYANA	1,100
MANIPUR	1,098
GUJARAT	640
PUNJAB	455
KERALA	373
ARUNACHAL PRADESH	225
DELHI	210
NAGALAND	167
KARNATAKA	135
CHHATTISGARH	100
GOA	99
ASSAM	60
ODISHA	40
HIMACHAL PRADESH	4
PUDUCHERRY	4
CHANDIGARH	0
D&N HAVELLI	0
DAMAN & DIU	0
MEGHALAYA	0
MIZORAM	0
SIKKIM	0
TRIPURA	0

D. Assistance to persons in custody

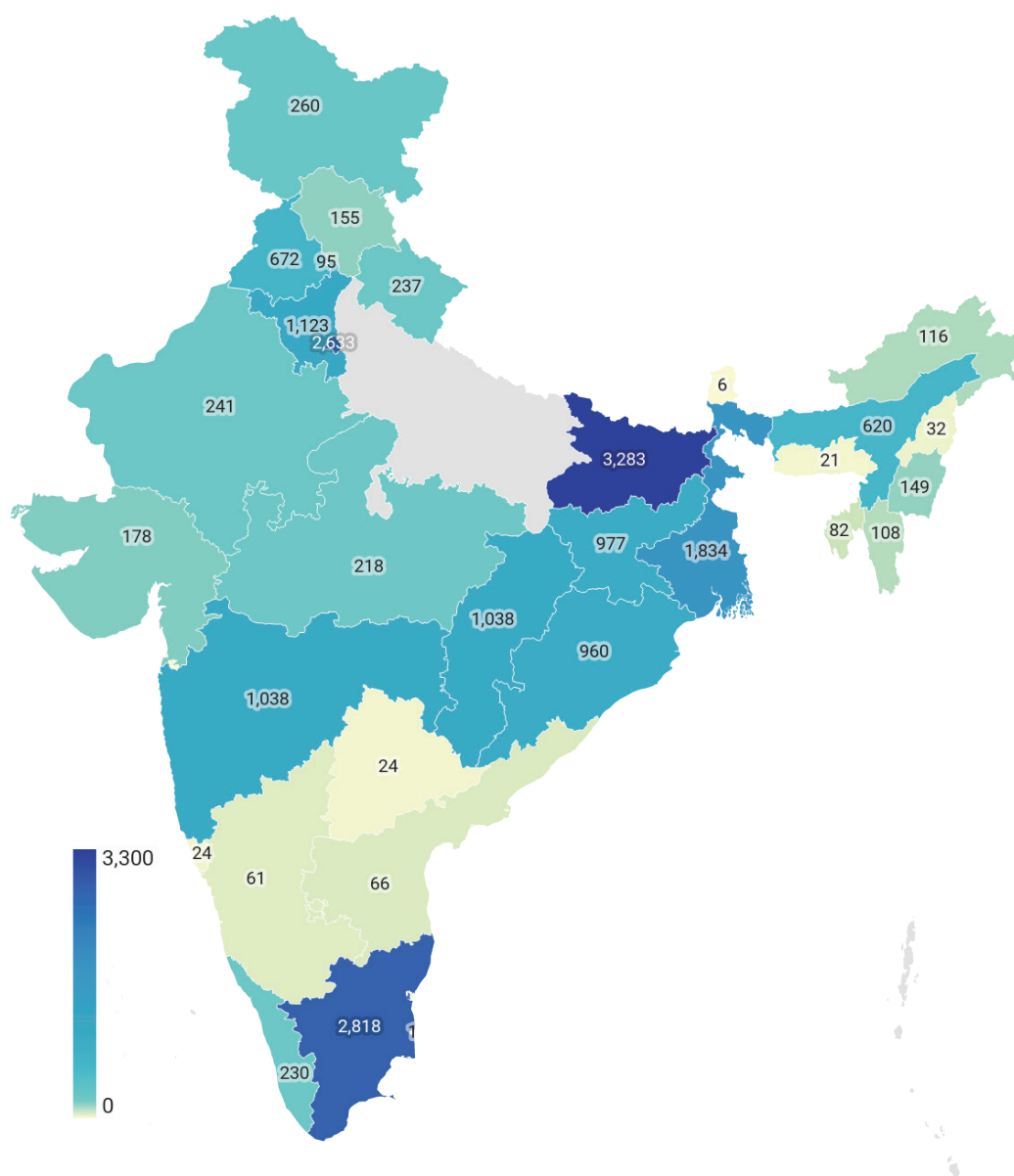
The right to free legal aid and assistance is implicit in the guarantees of Article 21 and 39A of the Indian Constitution. Thus, it is essential that access to effective legal assistance should be made available at all stages of a criminal process. While there exists no single scheme for legal aid for persons in custody, multiple schemes exist that ensure access to legal aid at the time of arrest, production for hearings in court, during trial proceedings and for appeal proceedings. These include NALSA's Early Access to Justice at Pre-Arrest, Arrest and Remand Stage Framework, NALSA's

Model Scheme for Legal Aid Counsel in all Courts of Magistrates 1998, NALSA Standard Operating Procedure for Representation of Person's in Custody 2016 along with provisions in the Code of Criminal Procedure 1973.

i) Assistance at the remand stage: Data provided by NALSA indicates that during this period a total of 19300 persons were provided legal representation at remand stage; 8854 bail applications were filed of such persons at remand stage and; 6152 of such bail applications were allowed. Of these, Bihar (3283) provided assistance to the highest number of persons, followed by Tamil Nadu (2818). The highest number of bail applications were filed in West Bengal (1621) and Delhi (1612). There are some data anomalies as well. For instance, for Tamil Nadu the figures indicate that 732 bail applications were filed, but 1669 were allowed. Similar is for J&K where 31 bail applications were filed, but 51 were allowed.

This data also throws up some interesting questions with respect to arrests, court production hearings and functioning of remand lawyers during this period. Whether these hearings were being conducted virtually or in-person is not known. Data is also not available centrally on number of arrests during this period, thus making any assessments difficult to confirm whether LSIs ensured that legal assistance was provided in all cases of remand hearings, as per the mandate.

AT REMAND STAGE



AT REMAND STAGE

	Bail Applications Filed for Persons at Remand Stage	Bail Applications Allowed
A&N ISLANDS		
ANDHRA PRADESH	57	41
ARUNACHAL PRADESH	75	39
ASSAM	373	165
BIHAR	137	47
CHANDIGARH	0	0
CHHATTISGARH	773	286
D&N HAVELI	0	0
DAMAN & DIU	0	0
DELHI	1,612	607
GOA	9	4
GUJARAT	76	28
HARYANA	184	140
HIMACHAL PRADESH	30	18
JAMMU & KASHMIR	31	51
JHARKHAND	40	17
KARNATAKA	78	77
KERALA	116	66
LAKSHADWEEP		
MADHYA PRADESH	141	110
MAHARASHTRA	809	465
MANIPUR	85	61
MEGHALAYA	4	2
MIZORAM	36	32
NAGALAND	21	20
ODISHA	836	404
PUDUCHERRY	1	0
PUNJAB	325	278
RAJASTHAN	462	229
SIKKIM	2	2
TAMIL NADU	732	1,669
TELANGANA	17	17
TRIPURA	98	19
UTTAR PRADESH		
UTTARAKHAND	73	44
WEST BENGAL	1,621	1,214

ii) *Assistance to prisoners:* With 4,78,600 persons in custody,⁵⁰ and occupancy rate of prisons in India at 118.5%⁵¹ at the end of 2019, the threat of the virus spreading in prison was real. As of 12 October, 2020, more than 18000 cases of infections of prisoners and staff have already been reported.⁵² Among the majority of India's overcrowded prisons, physical distancing is not an option. In spaces like prisons, where close confinement, shared facilities and poor hygiene practices are fairly commonplace; inmates and prison staff live in constant fear of contracting the virus. The United Nations High Commissioner for Human Rights, Michelle Bachelet, had urged governments "*not to forget those behind bars*" and to protect those working in closed facilities in their overall efforts to contain the pandemic.⁵³

50 Prison Statistics of India, 2019; Executive Report, pg ix.

51 *Ibid.*

52 <https://www.humanrightsinitiative.org/content/stateut-wise-prisons-response-to-covid-19-pandemic-in-india>.

53 <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25745&LangID=E>.

PRISONS AMID THE PANDEMIC

Instances of increased transmission of COVID-19 within prison systems have had an amplifying effect on the epidemic in the general population. Higher incidences of admissions, releases, overcrowding and little means to maintain appropriate physical distance within prisons, would aid in spreading the virus; and has thus formed an intrinsic linkage between public health concerns and prisons. Further, the risk and potential impact of the coronavirus entering prisons is further aggravated due to the health profile of prison populations, which tends to be significantly lower when compared to the community at large. This is due to a higher prevalence of communicable diseases, tuberculosis, Hepatitis C and HIV, in addition to mental health and drug use disorders in prisons. Prison officers are equally exposed to an enhanced risk of infection due to their close and continued interaction with prisoners.

To iterate the Nelson Mandela Rules 2015, the provision of health care for prisoners is a State responsibility. Prisoners should enjoy the same standards of health care that are available in the community, and should have access to necessary healthcare services free of charge, without discrimination on the grounds of their legal status. Further, prisons should be an integral part of national health and emergency planning to deal with the COVID-19 pandemic. In the *Parmanand Katara* judgment, access to emergency care was declared a fundamental right by the Supreme Court, founded on and integral to the principle of the right to life and dignity, enshrined in Article 21 of the Constitution of India.

Moreover, every person has the right to personal liberty and security, including freedom from unlawful or arbitrary arrest or detention. The right to be zealously represented to protect life and liberty constitutes a human right. Similarly, even persons deprived of their liberty do enjoy a range of civil, political and other second-generation rights. Right to health is protected under international human rights law, including article 12 of ICESCR. States must refrain from “*denying or limiting equal access for all persons, including prisoners or detainees ... to preventive, curative and palliative health services*”. Among efforts to ‘leave no one behind’, steps taken towards prioritizing releases and sustained decongestion efforts are vital. A separate enquiry is thus required to document decongestion efforts by courts across the country.⁵⁴

It is imperative that the fundamental requirements of fair trial are guaranteed even during a public health emergency. These fair trial rights include the right to equality before the law, the right to an independent and impartial judge, the right to access legal advice, the right to appeal decisions in a timely manner to reduce risks of arbitrary detention and the right to access court to challenge deprivation of liberty and be brought before a judge. Towards accessing these rights, timely access to a lawyer is pivotal and this meant that it was imperative to ensure that persons in custody had access to effective legal representation.

However, with the lockdown enforced, and visitation to prisons almost stopped, private lawyers and other civil society representatives found it difficult to access their clients or provide assistance. This conferred upon LSIs the vital task to ensure that the prison legal aid clinics, constituted in prisons across the country, continued to provide legal assistance and advice to prisoners. In many states, it may have been that only LSIs continued to have access to prisons and were able to interact with prisoners either physically or through virtual means. It was also important that LSIs made efforts to engage in awareness activities for prisoners to apprise them about the virus, precautionary measures, procedures for filing urgent bail applications, complaints to relevant authorities regarding unnecessary restrictions such as forced isolation, or lack of communication with lawyers etc.

⁵⁴ Please see CHRI’s report – Responding to the Pandemic: Prisons and Overcrowding 2020, <https://humanrightsinitiative.org/download/Responding%20to%20the%20Pandemic%20%20Prisons%20&%20Overcrowding%20Vol%201.pdf>.

In March 2020, the Supreme Court in *In Re: Contagion of COVID 19 Virus in Prisons*⁵⁵ directed states and union territories to constitute *High Powered Committees (HPC)* to determine classes of prisoners to be released on parole or interim bail for a specified time period. It was further directed that “*The Undertrial Review Committee contemplated by this Court In re Inhuman Conditions in 1382 Prisons, (2016) 3 SCC 700, shall meet every week and take such decision in consultation with the concerned authority as per the said judgment.*” With LSIs being an integral part of Under Trial Review Committees, these directives entailed that legal service providers coordinate with functionaries to assist in decongestion measures. This included assistance in identifying eligible cases of prisoners, filing of bail applications in concerned courts, representing clients in court, filing of parole applications, etc. These functions were vital to ensure that releases were effectuated.

According to NALSA’s interim report⁵⁶ released in May 2020, a total of 42,529 undertrials and 16,391 convict prisoners had been released in pursuant to recommendations of the HPCs. Further, as per data received from NALSA for the period April to June 2020, 22,046 undertrials were represented during trials, and 30,315 bail applications were filed for undertrials. Unlike for remand bail applications, data on number of bails granted is not available for this data point. Further, 513 convicts were provided assistance in filing of appeals and 6311 convicts were provided assistance in filing applications for parole/furlough.

Bihar provided assistance to the highest number of undertrials during trial (5217), followed by Madhya Pradesh (3874) and Delhi (2260). Least assistance was provided by Telangana (19), Goa (21) and Arunachal Pradesh (22).⁵⁷ No information was shared by Uttar Pradesh. In terms of number of bail applications filed for undertrials, Maharashtra filed the highest (12553) followed by Rajasthan (2531) and West Bengal (2220).

Even though the reported releases of convicts are near about 16,391, LSIs assisted only 512 convicts in filing of appeals and 6311 convicts were provided assistance in parole/furlough. The latter constitute almost 39% of the total convicts released. Gujarat provided assistance to highest number of convicts for filing appeals (1569), followed by Madhya Pradesh (1305) and Haryana (1295). Nil cases were assisted in seven states/UTs (Arunachal Pradesh, Dadra & Nagar Haveli, Daman & Diu, Manipur, Nagaland, Puducherry and Sikkim). Fourteen states and UTs (Arunachal Pradesh, Bihar, Dadra and Nagar Haveli, Daman & Diu, Goa, Jammu and Kashmir, Maharashtra, Manipur, Mizoram, Nagaland, Puducherry, Sikkim, Telangana) provided no assistances to convicts for filing of parole/furlough.

A comparison between the number of prisoners assisted in a quarter in 2019 and prisoners assisted in April to June 2020 suggests an overall decrease of 1.5%. Nineteen states, however, indicate an increase in this category; with UTs such as Jammu & Kashmir having assisted 491 prisoners, as compared to 53 and Chandigarh 492 as compared to 77, and states like Odisha 1292 as compared to 242, Manipur 206 compared to 51 in a quarter in the previous year.

Unfortunately, the information received from NALSA does not provide any insight into the role of legal services providers in effectuating releases,⁵⁸ or whether LSI functionaries continued to visit prisons during this period, or if they failed to fulfil their mandate.

55 Suo Motu Writ Petition (Civil) No. 1/2020.

56 https://www.livelaw.in/pdf_upload/pdf_upload-374882.pdf

57 Dadra and Nagar Haveli, Daman and Diu and Puducherry reported nil cases under this data head.

58 Some insight into their functioning is documented in Responding to the Pandemic: Prisons and Overcrowding at <https://humanrightsinitiative.org/download/Responding%20to%20the%20Pandemic%20Prisons%20&%20Overcrowding%20Vol%201.pdf>

- ◆ In Sikkim, jail-visiting lawyers and paralegal volunteers continued their interaction with persons in custody and assisted them in their cases. They continued to report on cases to the monitoring and mentoring committees twice each month even during this period.
- ◆ In Manipur, assistance was provided to an undertrial lodged in a central jail who hailed from an adjoining district. The panel lawyer effectuated his release and informed his family of his release and arranged for his travel.
- ◆ In Gujarat, ration kits were provided to released prisoners in coordination with the prison department, NGOs and district administration.
- ◆ In Maharashtra, panel lawyers and paralegals assisted in identifying prisoners eligible to be considered for release by the High Powered Committees and Under Trial Review Committees.

ASSISTANCE TO PRISONERS

	Undertrials Represented During Trials	Bail Applications Filed for Undertrials	Convicts Provided Legal Assistance in Filing of Appeals	Convicts Provided Legal Assistance for Parole/Furlough
A&N ISLANDS				
ANDHRA PRADESH	95	19	6	81
ARUNACHAL PRADESH	22	24	0	0
ASSAM	380	275	29	11
BIHAR	5,217	463	3	0
CHANDIGARH	213	213	6	178
CHHATTISGARH	302	873	81	83
D&N HAVELI	0	0	0	0
DAMAN & DIU	0	0	0	0
DELHI	2,260	2,113	33	1,129
GOA	21	5	6	0
GUJARAT	1,317	1,317	90	1,569
HARYANA	648	1,728	21	1,295
HIMACHAL PRADESH	40	13	2	19
JAMMU & KASHMIR	202	231	29	0
JHARKHAND	1,300	1,639	39	25
KARNATAKA	343	439	31	43
KERALA	114	35	4	
LAKSHADWEEP				
MADHYA PRADESH	3,874	2,105	22	1,305
MAHARASHTRA	1,154	12,553	2	0
MANIPUR	57	42	0	0
MEGHALAYA	42	155	3	2
MIZORAM	132	124	16	0
NAGALAND	54	16	0	0
ODISHA	267	261	4	61
PUDUCHERRY	0	1	0	0
PUNJAB	590	522	6	99
RAJASTHAN	1,139	2,531	40	3
SIKKIM	59	3	0	0
TAMIL NADU	260	263	6	29
TELANGANA	19	53	5	0
TRIPURA	31	4	2	2
UTTAR PRADESH				
UTTARAKHAND	125	75	15	47
WEST BENGAL	1,769	2,220	12	330

ASSISTANCE TO PRISONERS

Name of the SLSA	Total Prisoners Assisted, April-June 2020	Avg. Prisoners Assisted in a 3-Month Period in 2019	Percent Change in Prisoners Assisted, 2019 vs 2020 (3-month Period)
ANDHRA PRADESH	248	313	-20.80
ARUNACHAL PRADESH	138	71	95.70
ASSAM	1,040	831	25.20
BIHAR	8,503	4,584	85.50
CHANDIGARH	492	77	536.90
CHHATTISGARH	1,504	3,106	-51.60
DELHI	6,055	4,599	31.70
GOA	51	78	-34.40
GUJARAT	3,154	1,490	111.70
HARYANA	3,087	1,775	73.90
HIMACHAL PRADESH	216	128	69.10
JAMMU & KASHMIR	491	53	822.10
JHARKHAND	2,341	1,046	123.90
KARNATAKA	478	2,134	-77.60
KERALA	348	2,273	100.00
MADHYA PRADESH	5,419	12,365	-56.20
MAHARASHTRA	2,194	1,597	37.40
MANIPUR	206	51	303.90
MEGHALAYA	68	43	57.20
MIZORAM	256	343	-25.40
NAGALAND	86	220	-60.90
ODISHA	1,292	242	434.40
PUDUCHERRY	1	85	-98.80
PUNJAB	1,367	3,483	-60.80
RAJASTHAN	1,423	2,898	-50.90
SIKKIM	65	70	-6.80
TAMIL NADU	3,113	1,310	137.70
TELANGANA	48	1,468	-96.70
TRIPURA	117	61	93.40
UTTARAKHAND	424	280	51.40
WEST BENGAL	3,945	1,735	127.40
TOTAL	48,170	48,806	-1.30

E. Outreach and Legal Awareness Activities

Among the various functions of LSIs, outreach activities and legal awareness are considered vital to empower communities. Over the years, LSIs have engaged in innovative activities and practices towards outreach. These include legal services camps, legal literacy clubs, use of digital and print media etc. In 2019, LSIs had conducted 196728 legal awareness camps.⁵⁹

The pandemic made it extremely crucial for people to be made aware of the virus, precautions and preventive measures. With traditional means of outreach like camps or direct interactions nearly impossible to conduct, amid the lockdown restrictions, LSIs adopted different strategies to spread awareness. These included:-

- a) webinars and video conferencing,
- b) radio programmes,
- c) outreach through YouTube etc.,
- d) posters which were displayed and also circulated and also circulated through social media tools such as Facebook, WhatsApp etc.

The various topics covered during these programmes, in addition to sharing information about the virus, included the Juvenile Justice Act, the Protection of Children from Sexual Offences Act, victim compensation schemes, amendments to the Motor Vehicle Act, 2019, domestic violence during lockdown and other topics aimed at raising legal awareness of constitutional rights and duties.

During April to June 2020, a total of 1321 programmes related to legal aid were conducted, 93 programmes were conducted through radio, including community radio, 79 programmes were conducted via TV and 2573 programmes conducted through social media tools, including YouTube. However, the distinction between legal awareness programmes and other programmes conducted via TV, Radio or YouTube is not clear.

Punjab conducted more than half of the total programmes (810), followed by Bihar (200) and Madhya Pradesh (119). Noticeably, some states such as Goa, Mizoram, Meghalaya Dadra & Nagar Haveli and Daman & Diu, seem to have not engaged in any awareness raising activity. Other states too fare poorly, which is surprising given that raising awareness is one of the primary functions of LSIs, and the situation too called upon them to engage more in awareness raising activities.

However, even for the programmes held, it is not clear as to where or how these programmes were held, or how many persons attended or benefitted. Further, for programmes that were held online, one must question whether indeed those would have reached the intended audience, given the technology gap which may have limited access by beneficiaries.

⁵⁹ <https://nalsa.gov.in/library/annual-reports/annual-report-2019>; Pg 6.

- ◆ Assam SLSA's legal services mobile utility van traversed in and around several prime locations within the city and displayed informative video clippings on the virus prepared by the World Health Organisation and National Health Mission and a message developed by the SLSA in local language. The message was also played on short intervals over microphones as part of alertness drive.
- ◆ Manipur SLSA made extensive use of TV and Radio Channels through tie-ups with All India Radio and Doordarshan Kendra, Imphal for legal awareness to reach out to remote areas. Discussion programmes as well as phone-in programmes were conducted on domestic violence, consumer rights, right to food, awareness etc. All programmes were also broadcasted on YouTube for maximum outreach. A short film 'Chakhaogiwakat' was produced in local language to provide awareness on right to food under the National Food Security Act and disseminated widely.
- ◆ Gujarat SLSA published informative posters with contact details of paralegals and lawyers to assist migrant workers seeking to go back to their native place.
- ◆ Haryana SLSA instructed its DLSAs to create awareness on the financial package announced by the Haryana government for economically weaker sections of the society and to extend assistance for availing benefits under various other schemes. The DLSAs actively used online platforms to conduct webinars, conferences, online meetings to share information. Haryana SLSA conducted 100 legal awareness camps, for women to sensitise them on topics such as sexual harassment and domestic violence. These camps benefitted 11,500 women.

OUTREACH & LEGAL AWARENESS ACTIVITIES

Name of SLSA	Programmes Related to Legal Aid	Radio Programmes Conducted	TV Programmes Conducted	Social Media Programmes Conducted
A&N ISLANDS	-	-	-	-
ANDHRA PRADESH	0	5	3	2
ARUNACHAL PRADESH	2	0	0	0
ASSAM	19	10	3	88
BIHAR	200	7	1	15
CHANDIGARH	7	1	0	2
CHHATTISGARH	2	0	0	2
D&N HAVELI	0	0	0	0
DAMAN & DIU	0	0	0	0
DELHI	13	1	7	139
GOA	0	0	0	4
GUJARAT	4	3	7	4
HARYANA	14	10	2	1,944
HIMACHAL PRADESH	5	4	2	39
JAMMU & KASHMIR	37	1	0	33
JHARKHAND	6	6	0	28
KARNATAKA	0	0	10	50
KERALA	3	1	0	8
LAKSHADWEEP	-	-	-	-
MADHYA PRADESH	119	3	13	54
MAHARASHTRA	0	7	2	6
MANIPUR	0	1	10	10
MEGHALAYA	0	0	0	0
MIZORAM	0	0	0	0
NAGALAND	2	0	0	1
ODISHA	25	10	2	2
PUDUCHERRY	1	0	0	0
PUNJAB	810	1	1	88
RAJASTHAN	43	5	8	4
SIKKIM	1	10	3	0
TAMIL NADU	4	5	3	4
TELANGANA	0	2	2	30
TRIPURA	0	0	0	0
UTTAR PRADESH	-	-	-	-
UTTARAKHAND	0	0	0	14
WEST BENGAL	4	0	0	2
TOTAL	1,321	93	79	2,573

F. Assistance via Helplines

Amid restrictions on movement and closure of usual spaces for provision of legal assistance, LSIs promoted the use of its helpline numbers. In various states dedicated helplines were established to reach out to affected people. As a response, the helplines proved to be a highly accessible way of getting legal aid during the pandemic. LSIs reportedly received numerous calls by migrants, stranded persons, victims of domestic violence, distress calls for those without ration etc. Several

DLSAs diverted their helpline numbers to mobiles of panel advocates and paralegals to enable prompt delivery of assistance.

During April to June 2020 a total of 7675 calls were received on the national helpline number 15100 whereby 7260 persons were provided legal assistance; with maximum from Himachal Pradesh (4083), followed by Karnataka (1757). As regards the state/district helpline numbers, 620125 calls were received and 619131 persons were given legal aid; maximum from Jharkhand (576831), followed by Jammu & Kashmir (27836). In total, 6,26,391 people were provided with legal information and advice through helplines.

ASSISTANCE VIA HELPLINES

Name of the SLSA	Legal Assistance Provided Through the National Legal Aid Helpline		Legal Assistance Provided through State/District Helplines	
	Total Calls Received	Persons Provided Legal Advice	Total Calls Received	Persons Provided Legal Advice
A&N ISLANDS	-	-	-	-
ANDHRA PRADESH	75	75	346	346
ARUNACHAL PRADESH	0	0	22	22
ASSAM	0	0	15	15
BIHAR	0	0	73	47
CHANDIGARH	29	29	645	289
CHHATTISGARH	470	470	1	0
D&N HAVELI	0	0	0	0
DAMAN & DIU	0	0	0	0
DELHI	146	145	4,242	4,230
GOA	0	0	0	0
GUJARAT	0	0	429	429
HARYANA	9	9	1,501	1,501
HIMACHAL PRADESH	4,083	4,083	2,264	2,264
JAMMU & KASHMIR	153	86	28,296	27,836
JHARKHAND	0	0	576,831	576,831
KARNATAKA	1,757	1,757	240	240
KERALA	12	12	370	370
LAKSHADWEEP	-	-	-	-
MADHYA PRADESH	514	125	198	78
MAHARASHTRA	0	0	169	163
MANIPUR	0	0	50	38
MEGHALAYA	22	22	26	26
MIZORAM	0	0	0	0
NAGALAND	0	0	7	7
ODISHA	0	0	70	66
PUDUCHERRY	0	0	19	3
PUNJAB	0	0	618	618
RAJASTHAN	46	135	2,794	2,846
SIKKIM	0	0	5	5
TAMIL NADU	66	66	602	579
TELANGANA	6	6	212	134
TRIPURA	0	0	4	72
UTTAR PRADESH	-	-	-	-
UTTARAKHAND	200	153	76	76
WEST BENGAL	87	87	0	0
TOTAL	7,675	7,260	620,125	619,131

G. Alternative Dispute Redressal Mechanisms

One of the primary mandates of the LSIs in India is to conduct *Lok Adalats*, which is an alternative dispute redressal (ADR) mechanism. *Lok Adalats* afford a forum where disputes pending in the courts or even at the pre-litigation stage are settled amicably.⁶⁰ In 2019, a total of 59,17,932 cases were settled via *Lok Adalats* across the country.⁶¹ Cases settled usually include matters related to Negotiable Instruments Act, bank recovery cases, labour dispute cases, service matters, criminal compoundable matters, etc.

However, given the current protocols of public health and physical distancing requirement the conduct of *Lok Adalats* in their usual form was not possible. In April and May, no *Lok Adalats* could be conducted. Only one *Lok Adalat* was conducted by the Madhya Pradesh High Court Legal Services Committee in end June. However, post June, LSIs decided to switch to online platforms to continue conducting *Lok Adalats* and *e-Lok Adalats* were conceptualised. Since then several states, including Chhattisgarh, Karnataka, Delhi have conducted *e-Lok Adalats*.

Combining technology and ADR mechanisms to sustain the conduct of *Lok Adalats* amidst the pandemic is commendable. However, efforts should be made to ensure that persons living even in the remotest corners of the country would also be able to access justice through digital means.

H. Capacity Building Initiatives

Another important responsibility of LSIs is to constantly build capacities of legal service providers to keep them abreast of developments in law and policies. Over the past several years, NALSA has prioritised efforts to build capacities of its functionaries. In 2019, 2559 training sessions were organised by LSIs across the country.⁶² During April to June 2020, LSIs utilised technology to conduct capacity building of its functionaries and organised 397 training workshops for panel lawyers and paralegals on various topics including domestic violence, juveniles, offences against children, victim compensation schemes, Motor Vehicles Act etc.

These workshops were attended by 12859 panel lawyers and 3642 paralegals. Himachal Pradesh conducted the highest number of trainings for lawyers (99), followed by Karnataka (39) and Nagaland (27). Uttar Pradesh conducted the highest number of trainings for paralegal volunteers (31) followed by Nagaland (25) and Puducherry (24). It is not known whether these trainings were conducted in person, or online.

60 As per the Legal Services Authorities Act, 1987 the award (decision) arrived at the *Lok Adalat* is deemed to be a decree of a civil court and is final & binding on all parties and no appeal against such an award lies before any court of law. Where parties are not satisfied, they can initiate litigation by approaching the appropriate court. The members of the *Lok Adalat* are to assist in an independent and impartial manner to reach an amicable settlement.

61 NALSA Annual Report 2019.

62 https://mphc.gov.in/PDF/web_pdf/LU/lok-adalat-notice-25-06-2020.PDF

CAPACITY BUILDING INITIATIVES

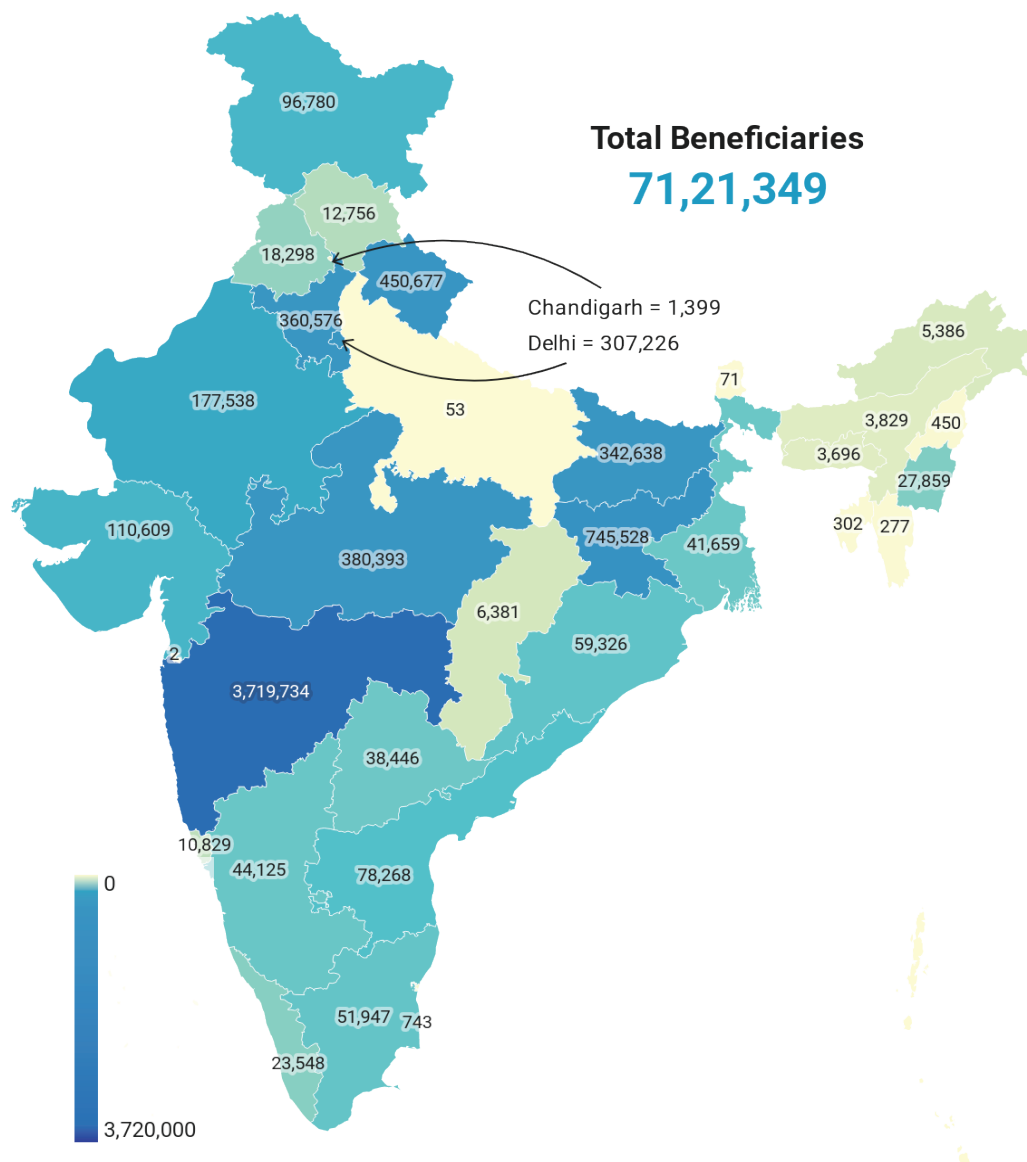
Name of the SLSAs	Panel Lawyers		PLVs	
	Training Programmes Conducted	No. of Participants	Training Programmes Conducted	No. of Participants
A&N ISLANDS	0	-	-	-
ANDHRA PRADESH	0	0	0	0
ARUNACHAL PRADESH	1	20	2	185
ASSAM	0	0	0	0
BIHAR	0	0	2	57
CHHATTISGARH	1	13	3	46
D&N HAVELI	0	0	0	0
DAMAN & DIU	0	0	0	0
DELHI	99	9,376	14	784
GOA	0	0	0	0
GUJARAT	0	0	0	0
HARYANA	39	1,088	23	366
HIMACHAL PRADESH	0	0	2	56
JAMMU & KASHMIR	0	0	0	0
JHARKHAND	9	169	11	366
KARNATAKA	0	0	0	0
KERALA	0	0	3	142
LAKSHADWEEP	0	0	0	0
MADHYA PRADESH	27	-	-	-
MAHARASHTRA	1	4	1	1
MANIPUR	1	58	1	62
MEGHALAYA	0	0	1	3
MIZORAM	0	0	0	0
NAGALAND	0	0	0	0
ODISHA	0	0	0	0
PUDUCHERRY	0	0	0	0
PUNJAB	25	344	31	543
RAJASTHAN	26	456	3	71
SIKKIM	0	0	0	0
TAMIL NADU	10	314	1	8
TELANGANA	0	0	0	0
TRIPURA	0	0	0	0
CHANDIGARH	7	330	4	90
UTTAR PRADESH	0	0	0	0
UTTARAKHAND	0	0	0	0
WEST BENGAL	0	0	24	262
TOTAL	246	12,859	151	3,642

I. Number of beneficiaries assisted

Since 1995, LSIs have provided legal services and advice to more than 1.5 crore people.⁶³ The number of beneficiaries has seen a significant increase in the last few years with more than 12 lakh persons having benefitted from legal aid and advice in 2019 alone.⁶⁴ Arguably, this increase can be attributed to widespread efforts by the LSI in India to fulfil their mandate of ensuring 'access to justice for all' and maybe also to better documentation and reporting of legal services provided.⁶⁵ At the same time, concerns have been documented on the veracity of the beneficiary data,⁶⁶ with concerns of ambiguity in recording of data and definitions of categories.

As per the data received from NALSA, while categories of beneficiaries are not clearly listed, for the purpose of this study, the following categories of beneficiaries and cases assisted have been identified. As per the table, a total of more than 71 lakh beneficiaries have been assisted, of which 81% were migrants. Astonishingly, this figure is nearly six times that of the total number of beneficiaries assisted by LSIs in 2019.

NUMBER OF BENEFICIARIES ASSISTED



63 As per statistics available on the NALSA website www.nalsa.gov.in.

64 National Legal Services Authority, 'Annual Report 2019'.

65 Madhurima Dhanuka, Leaving No One Behind and Access to Justice Strategies in India, 2019 available at <http://internationallegalaidgroup.org/index.php/conferenecs/ottawa-2019/conference-papers?download=378:leaving-no-one-behind-access-to-justice-and-legal-aid-strategies-in-india>.

66 India Justice Report 2019 pg 81.

J. Performance of SLSAs

As the pandemic continued to pose difficulties in functioning and performance of duties by LSIs, an analysis of the data shared by NALSA provides evidence to bring forth which SLSAs remained vigilant during these times, and continued to provide services, in responding to the crisis. Even though gaps are apparent in the data received, they do not negate the findings by themselves. The reality is that during April to June 2020, services have been provided to a range of beneficiaries and assistance has been given in a large number of cases, more than 71 lakh persons to be precise.

In order to examine the response by SLSAs, one can look at the number of beneficiaries assisted per lakh population by each SLSA. (See table below) According to this data, Uttarakhand SLSA assisted the highest (4005 persons per lakh population), followed by Maharashtra (3021 persons per lakh population), Jharkhand (1931 persons per lakh population), Delhi (1641 persons per lakh population) and Haryana (1278 persons per lakh population).

In terms of number of beneficiaries alone, Maharashtra reached out to the highest (37,19,734), partly due to the high proportion of migrants it is said to have assisted. Jharkhand assisted 7,45,528, Uttarakhand 4,50,677 and Madhya Pradesh 3,80,393.

PERFORMANCE OF SLSAs

Name of the SLSA	Total Beneficiaries	General Population	Beneficiaries Per Lakh Population
ANDHRA PRADESH	78,268	53,903,393	145
ARUNACHAL PRADESH	5,386	1,570,458	343
ASSAM	3,829	35,607,039	11
BIHAR	342,638	124,799,926	275
CHANDIGARH	1,399	1,158,473	121
CHHATTISGARH	6,381	29,436,231	22
DELHI	307,226	18,710,922	1,642
GOA	10,829	1,586,250	683
GUJARAT	110,609	63,872,399	173
HARYANA	360,576	28,204,692	1,278
HIMACHAL PRADESH	12,756	7,451,955	171
JAMMU & KASHMIR	96,780	13,895,343	696
JHARKHAND	745,528	38,593,948	1,932
KARNATAKA	44,125	67,562,686	65
KERALA	23,548	35,699,443	66
MADHYA PRADESH	380,393	85,358,965	446
MAHARASHTRA	3,719,734	123,144,223	3,021
MANIPUR	27,859	3,091,545	901
MEGHALAYA	3,696	3,366,710	110
MIZORAM	277	1,239,244	22
NAGALAND	450	2,249,695	20
ODISHA	59,326	46,356,334	128
PUDUCHERRY	743	1,413,542	53
PUNJAB	18,298	30,141,373	61
RAJASTHAN	177,538	81,032,689	219
SIKKIM	71	690,251	10
TAMIL NADU	51,947	77,841,267	67
TELANGANA	38,446	39,362,732	98
TRIPURA	302	4,169,794	7
UTTARAKHAND	450,677	11,250,858	4,006
WEST BENGAL	41,659	99,609,303	42
TOTAL	7,121,294	1,132,371,683	629

III. Budget and Expenditures

An important aspect to be considered in respect to the services provided by LSIs are its budget and expenditures. While information was sought from NALSA to understand the budgets spent by NALSA and LSIs from April to June 2020, this data was not shared. This section pulls together figures on budgets and expenditures as available in various annual reports of NALSA and other public sources.

For the activities of NALSA and LSIs across the country, budget outlays are sourced from both the centre and state budgets. Additionally, costs ordered by courts in judicial proceedings are sometimes also directed to be deposited in the legal aid funds. Each year, a demand for grants is placed by NALSA to the Ministry of Law and Justice for allocation of funds towards legal services activities such as representation in court cases, Lok Adalats, counselling of beneficiaries, legal advice and legal awareness.

In 2018, India spent 0.08%⁶⁷ of its GDP on the judiciary. In the Union Budget for 2020-21, there was a reduction in funding earmarked for justice delivery and legal reforms and funds for autonomous bodies such as the National Judicial Academy, NALSA, the Indian Law Institute and New Delhi International Arbitration Centre has been reduced from Rs 159 crore in 2019-20 to Rs 117 crore.⁶⁸

Years	2018-19	2019-20	2020-21	2021-22
Budget Allocation	150 crore	140 crore	100 crore	100 crore

This reduction of budget allocation for NALSA can be seen for the past four fiscal years and comes to about 33% from 150 Cr for 2018-2019 to 100 Cr for 2020-2021⁶⁹ as well as 2021-22⁷⁰. There has been no revision in the outlay, even though the number of beneficiaries has risen multi-fold during the pandemic. Further, no additional funds towards enabling effective legal assistance during the pandemic appears to have been allocated by the government. In terms of expenditures, the following table suggests that in 2019-2020 NALSA had expended 84% of its total allocation.⁷¹

S. No		2017 - 18	2018 - 19	2019-20
1	Allocation of Fund	115,00,00,000	155,00,00,000	142,00,00,000
2	Interest + Other Receipt	2,20,96,502	2,19,07,402	45,46,635
3	Carry Forward	98,64,12,903	57,24,08,677	43,27,63,155
4	Total Available (1+2+3 = 4)	2,15,85,09,405	214,43,16,079	1,85,73,09,790
5	Total Expenditure	1,59,07,58,059	178,49,66,646	1,56,15,35,972
6	% Expenditure of the Total Funds Available	73%	83.5%	84%

From the analysis, it can be seen that the utilisation of funds by NALSA has increased over the years. For each year, the funds also include the carry-forward amounts from last years, which are available

67 <https://www.cbgaindia.org/wp-content/uploads/2019/01/Memorandum-on-Budgeting-for-Judiciary-in-India.pdf>; Pg 3.

68 <https://www.theweek.in/news/biz-tech/2020/02/01/budget2020-allocation-for-judiciary-expenditure-has-been-reduced.html>.

69 <https://www.indiabudget.gov.in/doc/eb/sbe64.pdf>.

70 *Ibid*

71 Rajya Sabha, Unstarred Question No 582, Answered on 17th September 2020. Question asked by Dr. Bhagwat Karad.

for expenditure. The increase in spending can be explained by the increase in number of activities and engagements by LSIs over the past years. These are reported by NALSA in its annual reports, a summary of which can be seen for 2017⁷² and 2019⁷³ in the table below.

The data indicates an increase in beneficiaries by 83% since 2017. However, there has also been a 76% increase in number of cases being disposed through Lok Adalats, 73.9% increase in legal awareness camps organised and 46.3% increase in trainings conducted for panel lawyers and paralegals.

The months between April and June 2020 have seen LSIs providing assistance to over 70 lakh beneficiaries, which is almost six times more than the total beneficiaries LSIs assisted in 2019.⁷⁴ Yet it is noticed that the budget allocation for 2020-2021 has been reduced considerably. There are no reports of additional funds having been allocated to LSIs to bolster its COVID-19 response. This would mean that LSIs would have to cut down their activities for the remaining part of the year. It may not be able to continue providing legal assistance and services with the same fervour as before. This is alarming as there is a high likelihood of the demand for legal aid increasing as a repercussion of the pandemic.

72 <https://nalsa.gov.in/newsletter/5>; <https://nalsa.gov.in/newsletter/6>.

73 <https://nalsa.gov.in/library/annual-reports/annual-report-2019>.

74 See Section I.

IV. Future Priorities

The global health crisis continues to affect more people at an exponential rate. Governments across the world have taken a kaleidoscope of policy decisions to 'control' or 'slow' the pandemic which has triggered an economic crisis worldwide. The unprecedented nation-wide lockdown in India resulted in closure of businesses and workplaces, impacting both urban and rural conglomerates. This has led to severe unemployment, loss of incomes and wiping out of savings, resulting in food and housing insecurity across the country. At the time of this report being written, some states continue to report an upward spike in cases. It is feared that the deep-seated effects of the economic downturn will continue to be felt by all even beyond the pandemic. Everyday reports are released which in addition to sickness and death also confirm the widespread loss of income, jobs, food, housing security, and mobility. Many continue to be confined to smaller spaces, while many are left to the vestiges of the effect of the virus.

The images of migrants desperately seeking to return home following the imposition of lockdown, of police excesses while enforcing lockdowns, will neither be erased from our minds nor will they stop haunting our conscience. These incidents have probably left everlasting scars on humanity and highlight the dire need to strengthen governance as well as the justice machinery in this 'new' construct.

As the global community continues to take strides in reducing the spread of the virus, it is important that the protection of human rights continues to be at the centre of every action and response to the crisis. Policies to manage an unfolding disaster must be in line with constitutional and national legal frameworks as well as international human rights obligations. The crisis, though fuelled by the spread of a virus, presents specific justice needs and calls upon institutions to fortify efforts of strengthen rule of law and initiate reforms.

The COVID-19 crisis has exposed and exacerbated inequalities and injustices around the globe. It has given rise to justice challenges faced by different marginalized populations. Issues range from how to access crucially needed health and social benefits to obtaining redress for rights violations caused by government measures to stop the spread of virus. Towards this goal, the role of legal service providers is vital to ensure that all persons affected by the virus have equal opportunities to access justice.

This report attempted to document the multitude of engagements undertaken by LSIs during the initial months of pandemic, i.e. April to June 2020. Though little information was made available on the extent or quality of the assistance provided, data itself reveals that LSIs pushed boundaries to respond to the circumstances. With over 71 lakh beneficiaries within these months itself, LSIs have certainly been keeping busy.

However, it is difficult to set any benchmarks to assess which SLSAs under or over-performed. Given that the virus spread faster in some regions than others, leading to stricter or lenient lockdown measures and varied containment policies, it would be unfair to assess SLSAs on any one particular criteria. However, data does indicate that SLSAs responded differently. Some focused more on legal awareness activities, some on legal representation, while those in states with high migrant populations such as Maharashtra responded to the crisis at hand through extensive assistance to migrant and stranded persons. The kind of assistance provided too varied, with some LSIs thinking innovatively to provide assistance in cases, and paralegals and panel lawyers going beyond their call of duty to ensure all support services were provided.

For instance, in domestic violence and abuse cases, Uttarakhand SLSA provided assistance in 593 cases with 85 cases resolved through mediation/counselling. Maharashtra assisted 3690620 migrants and stranded persons, the highest across the country, in terms of transit, food etc. The highest number of senior citizens assisted was in Madhya Pradesh (38855), whereas Haryana conducted 1970 legal awareness programmes of which 1944 were through social media. A large number of persons in custody were provided assistance at remand, bail and trial hearings, highest being in Bihar (8005). The highest number of calls received via the state and district helpline numbers was in Jharkhand (576831).

A cause of worry, however, is the issue of budgets. Budget allocations have reduced, even though beneficiary numbers have increased and expanse of service delivery and range of activities too have increased among LSIs. A reduction from 150 core to Rs 100 crore, a substantive part of which may have been spent in the first few months of the pandemic, might make it difficult for LSIs to continue providing legal assistance with same fervour. They might find themselves restrained in innovating and responding to emerging situations.

Priority Areas for Future Interventions by LSIs

The pandemic continues to wreak havoc in people's lives leading to a twin crisis of public health and rule of law. This requires the justice system and its actors to adopt a holistic and inclusive approach. There is a need to take steps towards ensuring equal access to a fair, timely and effective justice system while also ensure effective oversight and accountability. A proactive approach is necessary for securing and protecting rights of people. Continued dissemination of information on rights and remedies, advocacy and information campaigns to dispel concerns related to the spread of COVID-19 is vital. All changes in accessing remedies via legal procedures must also be communicated promptly, clearly and accurately. Legal aid delivery too must be strengthened by effective monitoring over services delivered and by building capacities of legal aid providers.

Some guidance on future priorities for legal aid providers can be found in the 'Roadmap for Increasing Access to Justice Amidst the COVID-19 Pandemic' the outcome document adopted by around 800 legal aid providers, experts, civil society organisations and stakeholders from across 75 countries at the 4th International Conference on Access to Legal Aid in Criminal Justice Systems, Special Convening Amidst COVID-19 in September 2020.⁷⁵ The document calls upon legal aid providers to,

- Consider adopting a more holistic, comprehensive and multidisciplinary approach to representation that is inclusive of the provision of social assistance, and engage in multiple forms of advocacy, not just litigation, but also policy reform and partnership with stakeholders, as well as consider the role of local, informal and community-based systems to address injustice and meet people's needs.
- Engage in action to expand government funding and support for legal aid in order to mitigate impacts of COVID-19 which exacerbated existing legal challenges and legal needs of people.
- Collaborate with experts across the world in the development of technical guides that share practical experience, legal strategies and best practices.
- Evaluate the ways in which the gap in digital access may widen the access to justice gap during and after the COVID-19 pandemic, and seek alternative solutions and alternatives where necessary.
- Consistently track data and engage in research and analysis to determine the systemic challenges and injustices that need to be addressed, and to advocate for meaningful reform.
- Develop action plans to guide and track efforts to promote the racial, ethnic, gender and other

⁷⁵ http://sistemas.rj.def.br/publico/sarova.ashx/Portal/sarova/imagem-dpge/public/arquivos/Outcome_Document.pdf.

diversity, equity and inclusion that they seek to secure in their communities, and promote their advancement.

- Receive implicit bias training to better understand how biases affect the decisions and actions of justice stakeholders in the system - such as police, prosecutors and judges, as well as legal aid providers themselves - which can enable them to service their clients in the best possible manner.

While not displacing the responsibility of the state to appropriately fund legal aid services, legal aid providers may consider advocating governments explore public-private partnerships with civil society, and/or the private sector to spur innovation to increase access.

With these pointers in mind, some future priority areas for consideration by NALSA and LSIs are as follows:-

1. Ensure the provision of effective and timely legal services to all persons eligible for availing legal services as per the Legal Services Authorities Act;
2. Conduct district-level needs assessment exercises to enable formulation of localised strategy plans based on the demand, areas of assistance sought, beneficiaries, available resources to address emerging justice challenges due to the pandemic;
3. Effectively implement its various preventive and strategic legal aid programmes;
4. Encourage communication and exchange of stories of innovative practices and legal assistance provided by LSIs in public domain. This will facilitate cross-learning and replication of good practices;
5. Continue to promote alternative dispute resolution mechanisms, including Lok Adalats, mediation etc. for faster adjudication of claims and settlements arising due to the pandemic;
6. Conduct periodic capacity building programmes for legal services functionaries and providers to improve quality of services provided;
7. Build robust frameworks and systems invested to monitor and evaluate the working and implementation of regulations and schemes;
8. Strengthen documentation and reporting processes, to ensure accurate data tabulation of services provided;
9. Evaluate the efficacy of various temporary and innovative solutions adopted during the pandemic, and consider their continued implementation; and
10. Conduct cost-evaluation exercise for ongoing activities, engage in evidence-based decision making while deciding priority areas for future work and explore public private partnerships to bridge funding gaps on account of reduction in budget allocation.

CHRI Programmes

CHRI seeks to hold the Commonwealth and its member countries to high of 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. Its research, publications, workshops, analysis, mobilisation, dissemination and advocacy, 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 in India and South Asia aims at mobilising public support for police reforms and works to strengthen civil society engagement on the issues. In Tanzania and Ghana, CHRI examines police accountability and its connect to citizenry.

Prison Reforms: CHRI's work in prisons looks at increasing transparency of a traditionally closed system and exposing malpractices. Apart from highlighting systematic failures that result in overcrowding and unacceptably long pre-trial detention and prison overstay, it engages in interventions and advocacy for legal aid. Changes in these areas can spark improvements in the administration of prisons and conditions of justice.

2. Access to Information

*** Right to Information:** CHRI's expertise on the promotion of Access to Information is widely acknowledged. It encourages countries to pass and implement effective Right to Information (RTI) 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 Kenya. In Ghana, CHRI as the Secretariat for the RTI civil society coalition, mobilised the efforts to pass the law; success came in 2019 after a long struggle. CHRI regularly critiques new legislation and intervenes 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. It has experience of working in hostile environments as well as culturally varied jurisdictions, enabling CHRI bring valuable insights into countries seeking to evolve new RTI laws.

***Freedom of Expression and Opinion -- South Asia Media Defenders 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. 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 has developed approaches 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 RTI movements and activists.

3. International Advocacy and Programming

Through its flagship Report, *Easier Said Than Done*, CHRI monitors the compliance of Commonwealth member states with human rights obligations. It advocates around human rights challenges and strategically engages with regional and international bodies including the UNHRC, Commonwealth Secretariat, Commonwealth Ministerial Action Group and the African Commission for Human and People's Rights. Ongoing strategic initiatives include advocating for SDG 16 goals, SDG 8.7 (see below), monitoring and holding the Commonwealth members to account and the Universal Periodic Review. We advocate and mobilise for the protection of human rights defenders and civil society spaces.

4. SDG 8.7: Contemporary Forms of Slavery

Since 2016, CHRI has pressed the Commonwealth to commit itself towards achieving the United Nations Sustainable Development Goal (SDG) Target 8.7, to 'take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms.' In July 2019 CHRI launched the Commonwealth 8.7 Network, which facilitates partnerships between grassroots NGOs that share a common vision to eradicate contemporary forms of slavery in Commonwealth countries. With a membership of approximately 60 NGOs from all five regions, the network serves as a knowledge-sharing platform for country-specific and thematic issues and good practice, and to strengthen collective advocacy.



CHRI

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

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