



# E-NEWSLETTER

(Bi-Annual)



**LEGAL AID SOCIETY, CAMPUS LAW CENTRE**

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## TABLE OF CONTENTS

LIST OF ABBREVIATIONS.....	3
FROM THE PATRON'S DESK.....	4
INTERVIEW WITH PROF. (DR.) USHA TANDON.....	6
FROM THE DESK OF CONVENER, LEGAL AID SOCIETY .....	10
ABOUT LEGAL AID SOCIETY .....	12
➤ EXECUTIVE BODY OF LEGAL AID SOCIETY.....	14
➤ TOTAL REGISTERED MEMBERS .....	14
ABOUT LEGAL SERVICES CLINIC.....	16
PARA-LEGAL VOLUNTEER TRAINING 2019.....	18
LEGAL AWARENESS PROGRAMMES/DRIVES .....	26
➤ LEGAL AWARENESS DRIVE.....	27
➤ MARCH CUM LEGAL AWARENESS DRIVE.....	28
➤ CLEAN AND GREEN MARCH .....	29
➤ LEGAL AID AWARENESS DRIVE.....	30
➤ LEGAL AWARENESS PROGRAMME .....	31
➤ DRUG DE-ADDICTION DRIVE.....	32
RECENT JUDICIAL DEVELOPMENTS IN CONSTITUTIONAL LAW AND LEGAL AID .....	34
A MESSAGE FROM THE STUDENT CONVENER, LEGAL AID SOCIETY .....	45
EDITORIAL BOARD OF AWAAZ .....	46

## LIST OF ABBREVIATIONS

S.NO	ABBREVIATIONS	MEANING
1.	AIR	All India Reporter
2.	(C)	Civil
3.	CAW	Crime Against Women
4.	CDLSA	Central District Legal Services Authority
5.	CGST	Central Goods & Services Tax
6.	CLC	Campus Law Centre, University of Delhi
7.	CRL	Criminal Appeal
8.	CrPC	Code of Criminal Procedure, 1973
9.	DLSA	District Legal Service Authority
10.	DSLISA	Delhi State Legal Services Authority
11.	FIR	First Information Report
12.	GST	Goods & Services Tax
13.	IPC	Indian Penal Code, 1860
14.	LAS	Legal Aid Society, Campus Law Centre
15.	LSA Act	Legal Services Authority Act, 1987
16.	LSC	Legal Services Clinic, Campus Law Centre
17.	NALSA	National Legal Services Authority
18.	NGO	Non- Governmental Organization
19.	PIC	Professor-in-Charge, Campus Law Centre
20.	PIL	Public Interest Litigation
21.	PLV	Para- Legal Volunteer
22.	POCSO	Protection of Children from Sexual Offences Act , 2012
23.	RTI	Right to Information
24.	SC	Supreme Court of India
25.	SCC	Supreme Court Cases
26.	U.N.	United Nations
27.	v.	Versus

## FROM THE PATRON'S DESK



**Where inequality makes its sound**

**Or prejudice cuts a wound**

**Where freedom is drowned**

**Or injustice is found**

**We're here to hear your sound.**

**With a promise we are bound**

**Passion and compassion abound**

**Our faith is profound**

**You'll find us around**

**We're here to hear your sound.**

The Legal Aid Society (LAS) of Campus Law Centre (CLC) has pursued its noble motto and aim of "Access to Justice for All", tirelessly and unwaveringly, for the past several years. The LAS has been

a laboratory where students get an opportunity to put into practice the ideals and principles that are taught within the four walls of a law classroom. The activities of the Society encompass a wide range. These include legal aid awareness drives in vulnerable areas, institutional visits to prisons and juvenile homes for student sensitisation, a lawyer-assisted and student-run free Legal Services Clinic (LSC) for the indigent, together with seminars and training sessions for PLVs. The Society is run by students under the guidance of the Teacher Convener Dr. Kshitij Kumar Singh & other Teacher-Members.

I am delighted that the LAS has decided to publish a newsletter to further its activities and increase awareness about legal aid. Legal Aid is an important pillar in any judicial system; it is all the more relevant in our socio-political system which is characterised by a very large section of our populace which exists below the visibility line of law in action and has conveniently been dumped as *irrelevant* to our justice delivery system but for the welcome intrusion by free legal aid movement. The constitutional guarantee of 'equality before the law' and 'equal protection of the laws' can never truly materialize without legal aid to the indigent litigant or accused. In consonance of the cardinal principle of natural justice, any judicial procedure cannot be just and fair unless each side has access to legal counsel. In the background of this, the role and need of free legal aid becomes extremely critical. I am glad that our LAS in collaboration with the Delhi State Legal Services Authority (DSLISA) is performing this vital function efficiently and effectively. It is my pleasure to place before the readers the maiden issue of the LAS Newsletter (Sept-Dec 2019).

I am also pleased to learn that LAS of CLC has recently introduced a blog 'Awaaz' as its new venture in pursuance of its noble motto and aim. The venture is meant to serve as a platform for sharing of ideas, spreading awareness, and for discussions on issues of legal concern converging on the theme of legal aid. The blog is open for contributions from students across varsities, for academicians across disciplines and legal practitioners across jurisdictions. I am confident that this blog will be run with as much zeal as the other activities of the LAS.

My best wishes to the Society & the Editorial Board.

Prof. (Dr.) Raman Mittal

Professor-in-Charge, Campus Law Centre



## INTERVIEW WITH PROF. (DR.) USHA TANDON



**1. As someone who graduated from CLC and then went on to become the PIC of the Centre, what are your most memorable moments of college?**

As a law student, I spent most of my time in the library and class rooms of the CLC. I was born and brought up in a very conservative and paternalistic family, receiving specific instructions for not going here and there in college-days. In CLC corridors, I have had many erudite discussions with my teachers like Prof Baxi, Prof MP Singh, Prof Khanna and others. I also used to enjoy the election season of CLC with my class mates and seniors and those are the friendships I cherish till date.

As a teacher in this college, I had many sincere and inquisitive students. I have been teaching for the past 30 years and was fortunate to teach some of the finest minds of CLC. Needless to say that students are our treasures and I feel elated to see that many of them have become shining stars in the galaxy of legal luminaries, like Justice Penjore, Judge, Supreme Court of Bhutan; Justice Hari Shankar, Judge High Court of Delhi; Professor Raj Kumar, Vice-Chancellor of O.P. Jindal Global University. A few of my students are still connected to me and it is very heartening to interact with them.

As the Professor-in-Charge (PIC) of CLC, I do have to admit that administering the entire Centre was a bit toilsome task. Managing so many students with a very little office staff was challenging for

me. Also, lack of infrastructural facilities added to the misery as students find it troublesome to cope in a tech-driven world. However, now I see a ray of hope as the University of Delhi is trying to improve amenities for the well-being of students. Over the past two years, many permanent faculty members have been appointed at CLC to inject stability into the system.

**2. As a legal scholar who has written on feminist literature, what gap do you see between the theoretical framework of gender justice and its actual practicality?**

There is definitely a gap between the two. The two factors which I identify as essential to be addressed in order for the gap to be filled and problems to be solved are:

Firstly, when we talk about protection or empowerment of women, there are various pro-women legislations and amendments, within which the legislation creates certain institutional mechanisms without which these laws would be rendered redundant. For instance, the Protection of Women from Domestic Violence Act 2005 and the Prohibition of Child Marriage Act 2006 talk about “Service Providers”, “Protection Officers”, and “Prohibition Officers”. Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013 deals constitution of “Complaints committees”. There is a lack of institutional implementation of these mechanisms. According to the various studies conducted by the government as well as by private organisations, the implementation of institutional frameworks has been found to be unsatisfactory. Hence, the objective of the various pro-women laws remains unfulfilled.

The second factor is that while efforts are being made to make women acquainted with their rights in terms of familial rights and community rights, no efforts are being made towards sensitizing men. It was only after the enactment of the Hindu Succession (Amendment) Act 2005, daughters were conferred upon the status of a coparcener in the same manner as the sons. However, it is very disheartening to learn that according to many studies, sisters still do not get their respective shares in an undivided property from their brothers and the state of affairs is abysmal. Everyday women have to fight to get their rights, and for a married woman, it is an arduous battle. Hence, educating men to respect women and acknowledge their rights becomes imperative.

**3. Do you think there is a need to reconstruct legal aid to make it more gender inclusive and sensitive towards gender equality?**

Yes, there is definitely a scope for improvement everywhere. The members of the LAS can contribute significantly. It must be noted that Gender Studies as a concept has evolved over time.

Initially, it was limited to women studies but now it has an expansive meaning, as it now includes all genders. In this regard, not much work has been done. The students should be aware of this issue and should spread awareness about the same. There was a time when *Nukkad Nataks* were the most effective tool to make the masses aware about their rights as compared to seminars or conferences but now things have changed. In my opinion, such creative techniques can be adopted by the LAS to make our fellow citizens sensitive towards gender equality.

**4. Do you think there should be an obligation on lawyers, both big and small, to take up pro-bono cases?**

The Legal Services Authority Act, 1987 enumerate various categories of people who could access pro-bono legal services and has its own mechanism to provide free legal aid to enumerated people. Whether it should be made obligatory for lawyers to take up pro-bono cases is a discussion we should have. For a better understanding, we can look at the Advocates Act 1961 with Rules, which talks about duties of lawyers, and that lays down a provision for constituting Legal Aid Committees. I remember participating in a seminar related to social responsibilities of advocates where this topic was discussed at length. I do believe that lawyers must be encouraged to take up pro-bono cases. If senior advocates take up such cases, then juniors would also follow their footsteps. If I talk about the practice, I personally know that some senior advocates like Mr. Mohan Parasaran, Mr. A.S. Chandhiok, Mr. Sidharth Luthra, among others do take up pro-bono matters.

**5. What role do you think law students can play in making the legal system more accessible to the disadvantaged members of the society?**

I think students, as PLVs can play a vital role in making the legal system accessible. As per the Bar Council of India Education Rules 2008, each law college must establish a LSC. I believe that our students are the bridges who will enable indigent litigants access the legal system with ease and comfort. In India, the legislations are well constructed and progressive but the implementation is substandard. In my opinion, the LSA Act is an exception to this norm. The Act has been able to achieve its objective very efficaciously. It is a comprehensive Act and the work done by the NALSA is commendable which makes it praiseworthy. The National and State Services Authorities organise various activities which have the potential of making a difference. One of the recent events organised by DSLSA with North Delhi Municipal Corporation was a street carnival, a night out for



women from 6 p.m. to 11 p.m. The goal was to make streets safer for women at night. When I read about this event, to make it meaningful, I recommended the organisers to change the timings to 11p.m. to 6 a.m. and requested them to involve CLC students in that carnival.

**6.Many women who come to the LSC of CLC are victims of domestic abuse and/or need aid with regard to divorce proceedings. One common thread that binds all these women is that they are worried about the social stigmas that surround them. What role do you think Awaaz, a blog aimed at promoting legal literature, has in contributing to its betterment?**

One of the ways in which Awaaz-The Blog can contribute is by identifying the success stories and publishing them on the blog in a simplified manner. This way woman will be able to relate and get encouraged. In this way, the blog will surely act as a source of motivation. Flavia Agnes's book very delicately notes down stories of women who have faced such problems and I think it would be right to follow such a pattern as it can be a very powerful way of encouraging women.

**7.You have always encouraged the LAS and Awaaz, what expectations do you have from the society and the blog?**

I have very high hopes from Awaaz-The blog of the LAS. I take pride to share with everyone that the LSC of CLC was adjudged as the Best Legal Aid Clinic in the competition conducted by Universal Institute of Legal Studies, Chandigarh, Punjab in April, 2019. Our Students have also been awarded Best PLV by DSLSA and hence my expectations are very high. Earlier, the society did not have any proper space to get work done efficiently, but now it has got one. I have always supported the society in my official and personal capacity, and wanted its members to have an exclusive space.

In my opinion, it is important that all the members of the team are sincere and perform all the tasks conscientiously. I expect the students to work with sincerity, hard work and maintain continuity. Team work is necessary for institution building and I hope the same will be inculcated by the society and the blog.

*\*Interviewed by Ms. Loveleen Kaur and Ms. Somaya Gupta and compiled by Mr. Daksh Aggarwal and Ms. Misbah Reshi*

## FROM THE DESK OF CONVENER, LEGAL AID SOCIETY



Justice as a concept predates the concept of law having its roots in diverse societies world over. The old channels of justice delivery have been replaced by well-defined legal systems with regular courts and enforcement agencies. However, access to justice has remained one of the biggest challenges in many countries including India. This is due to numerous reasons; the most prominent among those is the disconnect between the legal system and socially and economically weaker sections of society. This disconnect becomes so intense among those groups, who even could not realise their rights and if they do so, they could not understand the complex legal pathway. Clinical legal education has introduced certain mechanisms in educational institutions by establishing legal aid societies and legal services clinics to bring awareness among the people, particularly the vulnerable groups of society and connect them with the legal system. By being a part of access to justice, student volunteers are exposed to learn the practical realities of society and identify the legal gaps. A regular interaction with society enables them to develop a pragmatic approach towards law, well in tune with the access to justice, and prompt them to learn methods to translate lawman language into layman language for better communication with the people.

LAS at CLC has always been on an evolving track to find out new pathways and develop new mechanisms to make access to justice a living reality. It adopts an inclusive and participatory approach to legal awareness and access to justice through a diversity of programs including awareness drives, institutional visits, helpdesks, and collaborative programs with legal services authorities, academic institutions, law firms, NGOs and inter-governmental organisations. It also organises academic seminars on contemporary issues to encourage academics to play a key role in bringing the required change and influencing the law making and enforcement. To accommodate the diverse views of students, lawyers, legal academics and social activists on access to justice, the LAS at CLC took a great initiative by introducing the blog “Awaaz”, run by an excellent editorial board comprised of a dedicated team of students. I have a great belief that it will be instrumental in identifying potential issues, bridging the gap between law and society and forging new strategies for access to justice. In addition to this, it would inculcate critical thinking in students, hone their skills of articulation and develop a socio-legal understanding.

Being the Convener of the LAS, I sincerely appreciate the contribution of successive student conveners, co-conveners and registered members of the Society and very cohesive and cooperative Teacher Members. Most importantly, I express my deepest gratitude to our Patron-In-Chief for being a wonderful support to the LAS. The current team of student convener, co-conveners, PLVs backed by the registered members form a very promising workforce to catch up the persisting challenges with all the passion, energy and commitment. As a very dynamic unit of CLC, the LAS will keep on working with utmost dedication and commitment to make access to justice a living reality. Our synergy with NALSA, DSLSA and CDLSA has been remarkable and we sincerely appreciate their enormous support. Let’s join hands in solidifying our efforts to achieve the primary goal of our legal system, access to justice by being a strong voice for the vulnerable groups of society.

Best wishes!

Dr. Kshitij Kumar Singh

Convener, Legal Aid Society, Campus Law Centre

## ABOUT LEGAL AID SOCIETY



*"To walk safely through the maze of human life, one needs the light of wisdom and the guidance of virtue."*

*--Gautam Buddha*

Accessing the courts is not an easy task for people belonging to marginalised communities. In their courageous quest to get access to justice, they face various barriers and difficulties depicted as 'maze' in this logo. These difficulties include financial constraints, lack of knowledge, societal pressure etc. Recognising these challenges, legal aid services were introduced in India through the LSA Act. We, members of the LAS aim to follow the principles laid down by the Act and pledge to become a tower of strength for our fellow citizens. The blue colour (used for the society) symbolises 'Trust', i.e., the relationship that the society shares with those who seek its assistance and the journey that 'we' embark upon together.

An education system is incomplete if it only renders itself as just a means to acquire a well-paid job. It is essential that it also works towards making individuals responsible citizens who in turn contribute to the society at large. And this is what the LAS of CLC is striving hard to achieve. The society intends to provide a plethora of civil legal services, as well as criminal defence work to all the persons who are entitled to receive legal aid services as per section 12 of the LSA Act. The society's core service is to provide free legal assistance to the residents of Delhi who live below the poverty level and cannot afford to hire a lawyer, when confronted with a legal issue.

Towards fulfilling the promise of ACCESS TO JUSTICE FOR ALL, the society organises various legal literacy and awareness programmes, and undertakes social justice litigations under the aegis of the DSLSA. Upholding the sanctity and the constitutional validity of the Article 39 A of the Constitution of India, which aims to provide free legal aid to the poor and weaker sections of the society and The LSA Act, the society is committed to its vision of addressing the legal issues faced by the poor litigants and ensures justice for all.

The LAS organized an Orientation Programme for the first-year students on 9 September 2019, witnessing a turnout of approximately 120 students. The purpose of the programme was to enlighten the first-year students about various activities of the society and the opportunities it endeavours to provide to the students. The Society also conducted PLV Selection Examination on 23 October 2019. More than 450 students appeared for the examination, out of which only 130 students were inducted as PLVs. The syllabus for the examination included relevant provisions of the LSA Act, Juvenile Justice Act 2012, Prohibition of Child Marriage Act 2006 etc. Subsequently, the LAS in association with the DSLSA organised training session for PLV on 6 and 7 November 2019 wherein Sh. Kanwal Jeet Arora, Ld. Additional Districts and Sessions Judge and Member Secretary of the DSLSA, introduced PLVs to the Legal Services Authority, its activities, composition, structure and work domain.

The Society is governed by a team of 13 diligent students who work under the supervision of the teacher convener and teacher members.

The composition of the society is as follows:

Composition	Number of Persons
Patron-In-Chief	1 (PIC of CLC)
Teacher Convener	1
Teacher Members	3
Student Convener	1
Student Co-conveners	12



**EXECUTIVE BODY OF LEGAL AID SOCIETY****Faculty Convener:**

Dr. Kshitij Kumar Singh

**Faculty Members:**

Ms. Sneh Yadav

Mr. Vijoy Panicker

Ms. Atma Yadav

**Student Convener:**

Manisha Aswal

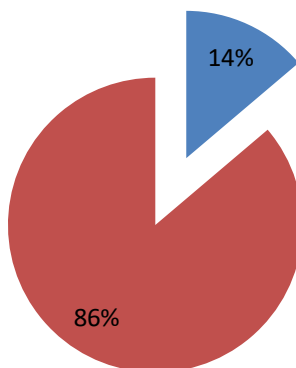
**Student Co-Conveners:**

Akash Sachan, Aniket Rajput, Daksh Aggarwal, Loveleen Kaur,  
Manish Kumawat, Mihir Gujjewar, Misbah Reshi, Monika Rani, Niharika Diwan,  
Subham Kr. Jain, Sumit Gahlawat, Tanishka Khatana

**TOTAL REGISTERED MEMBERS: 1255 (2019-20)**

**First Year (Class of 2022)**

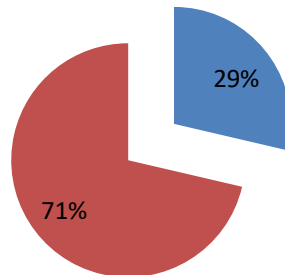
■ Para Legal Volunteers    ■ Non- Para Legal Volunteers



<b>Registered Members</b>	652
<b>Para Legal Volunteers</b>	90
<b>Non- Para Legal Volunteers</b>	562

### Second Year (Class of 2021)

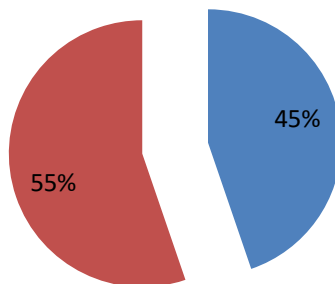
■ Para Legal Volunteers ■ Non- Para Legal Volunteers



<b>Registered Members</b>	384
<b>Para Legal Volunteers</b>	110
<b>Non- Para Legal Volunteers</b>	274

### Third Year (Class of 2020)

■ Para Legal Volunteers ■ Non- Para Legal Volunteers



<b>Registered Members</b>	219
<b>Para Legal Volunteers</b>	98
<b>Non- Para Legal Volunteers</b>	121

## ABOUT LEGAL SERVICES CLINIC



The Legal Services Clinic of CLC was inaugurated on the 27 September 2014 by Hon'ble Mr. Justice A.K. Sikri (Former judge of the Supreme Court of India). The primary objective of the LSC is to facilitate accessibility of legal relief to backward sections of the society in consonance with the provisions of the Legal Services Authorities Act 1987 (LSA Act) and bridge the gap between what law promises to offer and the harsh realities of the legal machinery.

**The LSC works in a close collaboration with the DSLSA and is opened regularly on every Saturday from 10 a.m. to 1 p.m.** A Legal aid counsel, appointed by the Central DLSA, visits the clinic manned by trained PLVs to assist the seekers of legal aid services. The LSC of CLC also maintains a register to record the details of the seekers of legal services, nature of services rendered, remarks of the lawyer and signatures of seekers of legal aid and the lawyers.

This academic session 2019-20, LSC addressed a wide variety of legal grievances like domestic violence, property related disputes, assault, monetary frauds etc. while providing legal assistance in more than **28 cases**. (Refer to Table 1)

The clinic has been successful in providing free legal assistance because of the active participation of the PLVs in collaboration with the lawyers. By exposing students to the practicalities of the legal profession, the LSC has proved to be a dynamic tool of learning to more than **50 PLVs**.

AREA OF LAW	NUMBER OF CASES
Criminal Disputes	3
Property Disputes	4
Family Disputes	2
Money Related Disputes	5
Procedural Queries	14
<b>TOTAL</b>	<b>28</b>

Table 1



## PARA-LEGAL VOLUNTEER TRAINING 2019



The LAS in association with the DSLSA organized a two-day PLV Training on the 6th and 7th of November 2019 at the Seminar Hall of the CLC.

The programme began with the felicitation of speakers - Shri Kanwal Jeet Arora, Member Secretary, DSLSA and (the then) Shri Sandeep Gupta, Secretary Central DLSA by Professor (Dr.) Usha Tandon, (the then) PIC, CLC and Dr. Kshitij Kr.Singh, Convener LAS respectively.

Following the felicitation, the welcome address was delivered by Professor (Dr.) Usha Tandon wherein she warmly welcomed various faculty members and the to-be PLVs. She informed the students that it was the first visit of Shri Kanwal Jeet Arora, an alumna of CLC, as the Member Secretary of DSLSA and also reminisced about the time when the LSC was in its nascent stage. She shared with the audience her experience of the time when she used to visit villages, spending full day in the legal aid camps. Thereafter, she threw light on the LSA Act and how its implementation stood in stark contrast with that of the other Acts. She detailed the various beneficial policies being enacted and implemented by DSLSA and instilled, by her fiery words, among the students, the passion to contribute towards the betterment of the society by contributing actively. She also requested the DSLSA to provide a larger number of students the opportunity of becoming a PLV.



**DAY-1: November 06, 2019****SESSION 1: Introduction to LSA Act; Legal Aid Programmes and Activities of Delhi State Legal Services Authority; Roles and Responsibilities of a PLV: Shri Kanwal Jeet Arora, Additional District and Sessions Judge/ Member Secretary, DSLSA.**

In the introductory session, Shri Kanwal Jeet Arora discussed about the various ongoing schemes of the DSLSA, as well as the proposed schemes, such as the stationing of PLVs in each Police Station at all times. He further introduced the LSA Act, 1987 and the various provisions regarding legal aid contained therein. He also informed the enthusiastic volunteers about the on-ground reality regarding legal aid in Delhi. He motivated the students to contribute towards legal aid by hitting the ground rather than by just working behind closed doors. He informed that the role of PLVs becomes necessary to cement the trust for the system within a person who has witnessed a crime because if the witness turns hostile, then the justice delivery system fails. He further added that a victim is more hurt from the broken system than by the crime itself. He emphasized that the PLVs act as the bridge between the justice system and the victims as well as the witnesses. He informed the students about the importance of social service and that not all acts should be quantified in terms of money. He concluded the session by invoking the Preamble of the constitution to emphasize upon the importance of social, economic and political justice for all members of the society.

**SESSION 2: Overview of the Criminal Justice System and Schemes of DSLSA in regard to Criminal Justice System: Shri Sandeep Gupta, (the then) Secretary, Central DLSA.**

In this session, Shri Sandeep Gupta adopted an interactive approach by asking frequent questions to the audience. The lecture provided knowledge about the criminal justice system to the PLVs, arming them with the law to help the common man. The Criminal Procedure Code (CrPC) was discussed at length with special focus on the rights important to the common man. The concepts of FIR, Bail, Police Custody, Chargesheet etc. were discussed at length. He went on to explain the various provisions enacted by the DSLSA such as the Witness Protection Scheme, The Victim Compensation Scheme, etc. Upon being asked the reason as to why public money is spent on providing legal aid to the accused, the learned speaker answered that as the State puts the victims on a higher pedestal by representing them in criminal cases the need for providing aid at all costs to the

accused also increases and therefore it becomes the sacred duty of the citizens of the State to help not only the victims but also the accused, as the underlining principle assumes innocence until proven guilty. The speaker instilled in the PLVs a passion towards the job and illumined the fact that as law students and legally aware citizens of the state, they hold a superior responsibility towards the citizens at large.

*In between the sessions, a Trivia was conducted by Executive members of the LAS based upon the events and lectures of the day in which various questions were asked to the audience and the winners were awarded various prizes.*



**SESSION 3: Drug Abuse amongst Children: Shri Subimal Banerjee, Project Coordinator Society for Promotion of Youth and Masses (SPYM).**

Before the session began, the speaker was felicitated by Dr. Kshitij Kr. Singh, Convener LAS. The theme of addiction was tackled by the learned speaker. The speaker started with the definition of drugs and addiction and answered the fundamental questions as to why people get addicted to substances. The speaker having himself struggled with consequential addictions for the better part of his life was well equipped to answer the riveting questions of the students. To provide a view into the dark world of addiction, the speaker had brought with him a recovering addict, three months sober, to share his experience. He further explained the reasons as to why the people from marginalized sections of the society are more prone to such habits. He also discussed about the receptive nature of children and their basic trait of picking things from around them. Providing an

insight into the dark underbelly of the drug peddling world, he explained as to how innocent kids fall into the traps of drug peddlers. He also explained about the laws prevalent on this issue by referring to Juvenile Justice Act and the various policies of the Government. He concluded the session by explaining the need to develop a psyche to understand the mental and emotional state of the victims and the addicts. He explained “The Pain remains common in everyone’s life. Once you get addicted, you can’t quit unless you’d decide to and even then, you can’t quit on your own.”

**SESSION 4: Rights of Transgender Persons and laws relating to Senior Citizens: Shri Chander Jit Singh, Secretary, New Delhi DLSA.**

The session began with the felicitation of the speaker by Ms. Atma Yadav, Faculty Member LAS. The speaker began the session by expounding the importance of Statement of Objects present in various Statues. He explained the significant yet fine difference between the terms sex and gender and also provided information to the audience about the cross-dressers, trans-males and trans-females. He focused on the importance of each individual to be sensitive with regard to the rights of transgender as they are extremely vulnerable and persecuted in the society. He also discussed about the Bill on Rights of Transgender Persons which had been brought by the Government before the Parliament and is currently under deliberation awaiting inputs from various stakeholders. The speaker illuminated a simple proposition that, as citizens of the country, the transgender persons have various rights enshrined in the Constitution such as Article 14 and Article 21. He explained, “We have the duty and they have the right to be empowered.” The speaker shared with the audience his personal experience of working with the transgender persons during an awareness campaign and how they created a positive impression upon him.

The speaker also enlightened the audience about the rights of the Senior Citizens by explaining section 125 of the CrPC, 1973. He also talked about the judgments adjudicated by various High Courts and the Supreme Court on the rights of Senior Citizens. He also explained to the audience about the various problems faced by the Senior Citizens in regard to their maintenance, safety and living conditions. He taught the volunteers that a society is judged by how it treats its elderly.

*At the end of Day-1, a Trivia was again conducted by Executive members of the LAS based upon the events and lectures of the day in which various questions were asked to the audience and the winners were awarded various prizes.*

**DAY 2: November 07, 2019**

The second day of PLV Training Programme 2019 conducted on November 07, 2019 included sessions conducted by guests Ms. Ruchika Singla, Mr. Vinod Kumar Meena, Dr. K. B. Rai and Dr. Sanjeev Kumar.



The day began with the felicitation ceremony of the presiding guest speakers present—Ms. Ruchika Singla and Mr. Vinod Kumar Meena by (the then) Professor-in-Charge Prof. (Dr.) Usha Tandon and Teacher Convener of LAS Dr. Kshitij Kumar Singh respectively. Prof. Tandon discussed the proposal put forth by the student members of the society regarding a dedicated blog for the society. She appreciated the initiative taken up and suggested linking the blog to the existing official website of the CLC. The blog would function as a researched opinion of the LAS on prevailing issues pertaining to legal aid. Her address was followed by a short presentation in which “Awaaz—The Blog” was revealed to be the name of the upcoming blog.

**SESSION 1: Laws relating to Women including Matrimonial issues: Ms. Ruchika Singla, Secretary, North-West DLSA.**

Ms. Ruchika Singla started her presentation by highlighting the difference between family laws and other statutes, the former being religion-based while others being secular in nature. She pointed out differences in provisions of Hindu and Muslim personal laws and tried to gauge audience opinion on religion-based personal laws versus Uniform Civil Code. The reasons for the existence of personal laws in India were discussed. She further elaborated on the provisions of maintenance under

personal and secular laws, i.e., Hindu Marriage Act, 1956, Muslim Personal Laws, Criminal Procedure Code, 1973 and Protection of Women from Domestic Violence Act, 2005, and the differences therein. *Danial Latifi v. Union of India*, AIR 2001 SC 3958 case was brought up to point out the maintenance remedies available to Muslim women. Later, Ms. Singla talked about section 125 of Criminal Procedure Code, 1973 and it being a secular provision wherein women from any religion can claim remedy. Protection of Women from Domestic Violence Act, 2005 was discussed next, followed by kinds of “domestic relationships” covered under the act and the offences covered under “domestic violence”. The remedies available against such acts of domestic violence were discussed at length. While talking about the procedural aspects that PLVs would come across, she discussed the roles of Protection Officers and Service Providers. She also shared her experiences and anecdotes while officiating as a judge in Mahila Court. While focusing on the role of courts in granting reliefs, she pointed out that courts can go beyond prima facie documentary evidence to find out the substance of the case and grant maintenance as has been the case since the judgment delivered by the Hon’ble in the case of *Kusum Sharma v. Mahinder Kumar*, 2018 (246) DLT 1. Residence order, a remedy available only under Protection of Women from Domestic Violence Act, 2005 was enlarged upon. It was highlighted that ownership of residence is not the deciding factor in granting a residence order. Moreover, she mentioned about three other remedies available under the Protection of Women from Domestic Violence Act, 2005, i.e., Protection Order, Custody Order, and Compensation order. The procedural aspect of section 498A of IPC was discussed wherein it was mentioned that an FIR is registered only after the case is referred to Crime Against Women (CAW) cell and a mandatory mediation and settlement attempt has been made.

**SESSION 2: Right to Information Act, 2005: Dr. K. B. Rai, Former Advisor, Department of Administrative Reforms, Government of NCT of Delhi.**

Dr. K. B. Rai began his address by emphasizing how important a tool RTI had become by empowering citizens and civil society to ask direct questions and seek information from their representatives and the state machinery. RTI ushered in an era of transparency, openness, accountability, so much so that the political class is now trying to dilute its provisions. He discussed the inception of the concept of Right to Information which was first recognized as a fundamental right by the Supreme Court in the case of *Indira Gandhi v. Raj Narain*, 1975 AIR 865. Later, states of Rajasthan, Karnataka, Maharashtra, Kerala legislated their own RTI acts during the years of 1999-2001. Central Government drafted the Freedom of Information Act on similar lines, but it was



rejected by activists as being inadequate. The present form of RTI is a civil society researched and drafted legislation. Dr. Rai highlighted how RTI has helped unearth them and become an indirect tool of accountability by giving examples of some corruption cases. He discussed the important provisions of the act viz., section 4 which requires voluntary disclosure of information held by public authorities, section 2 (h) which describes who is a public authority and is covered under the act and section 2 (i) which provides for disclosure of any material information available with the public authority subject to section 8 which enlists exceptions wherein information can be withheld. The procedural aspect of filing applications, deadlines for getting information and first and second appeal process was also discussed. With the recognition of Right to Privacy as a fundamental right in the matter of *Justice K. S. Puttaswamy (Retd.), v. Union of India, (2017) 10 SCC 1*, the need to balance the privacy of individuals and the right of the public to seek information was stressed upon.

**SESSION 3: Protection of Children from Sexual Offences (POCSO) Act, 2012 and Juvenile Justice (Care and Protection of Children) Act, 2015: Mr. Vinod Kumar Meena, Secretary, West DLSA.**

Mr. Vinod Kumar Meena began by underscoring the need for having a separate provision for “children in conflict with law” as children are yet not fully mature to understand the consequences of their actions. Further, being a welfare state, it is the duty of the state to provide reformatory and rehabilitative justice to minor rather than punishing and treating them as hardened criminals. The perception and worldview of children develop from what they see and hear around them in their everyday lives and thus the company they keep and kind of print or audio-visual material they are exposed to affect their predisposition to any untoward act. He played a video to showcase how casual sexism and the absence of idea of consent permeate in our social psyche. Mr. Meena further talked about the salient features of Juvenile Justice (Care and Protection of Children) Act, 2015 wherein even words used in the criminal procedure have been replaced to prevent stigmatization and any negative psychological effect on the ‘children in conflict with law’. The act also defines and classifies offences as petty, serious and heinous, and defines differentiated processes for each category.

He informed that legal literacy programmes relating to prevention and detection of sexual offences against children are conducted in schools by the DLSAs with special focus on children studying in classes 9th to 12th. Students are made aware of the kind of offences, how to approach someone if they are aggrieved and mandatory reporting requirements as provisioned in POCSO Act. Other

features of POCSO Act such as special deposition room, preventing the release of the identity of the victim, victim not being called to a police station for registering their statement, were also discussed.

**SESSION 4: Effective Communication and interpersonal skills: Dr. Sanjeev Kumar, Soft Skills Coach.**

Dr. Sanjeev Kumar began his session by stating that the ability to see things differently is a necessary prerequisite for developing effective communication. To be able to see things differently, we have to get out of our conditioned thinking and way of perceiving things. As a PLV, one needs to interact with people in distress. Their psychological state is different and to communicate effectively one needs to see things from their perspective too. Similarly, interacting with children requires special care and skill. They must be cautious when they frame their questions and carefully choose the words. Persuasive and effective communication requires letting go of preconceived notions and prejudices, and seeing beyond what is apparent. To effectively and objectively understand the grievances of people we are dealing with, we need to shed our cognitive biases. He engaged the PLV trainees in solving puzzles and recognizing patterns to highlight the importance of thinking outside the box to achieve results and decipher the things in front of us.

**VOTE OF THANKS: Dr. Kshitij Kumar Singh, Teacher Convener, LAS.**

Dr. Kshitij Kumar Singh delivered the vote of thanks and expressed his gratitude towards each guest speaker for imparting their gainful insights and knowledge during the course of the training. He thanked Prof. Usha Tandon for her guidance and patronage for conduction of the training programme and also for making the LAS grow into a vibrant endeavour of CLC. Dr. Kshitij briefly mentioned about the sessions conducted by the speakers and the importance of the same for a PLV. He further underlined the significance of discipline and professional behaviour as is expected from law students and from PLVs. He urged the PLVs to look at problems with different and new perspectives and develop an innovative thought process. PLVs were cautioned to desist from having any benefits or other motives in mind but a sense of selfless-service to make the legal process accessible to poorest of the poor and the marginalized strata of the society. He concluded by appreciating the inquisitiveness of the PLV trainees and their active participation in the session, and also thanked officials of the DSLSA for their cooperation.

## LEGAL AWARENESS PROGRAMMES/DRIVES



LAS in association with DSLSA, CDLSA and NGOs organized various outreach community programs/drives/ camps largely in socio-economically backward areas. The following activities were undertaken by the LAS-

S. No	Name of the Drive	Date
1.	Legal Awareness Drive	October 04, 2019
2.	March Cum Legal Awareness Drive	October 11, 2019
3.	Legal Aid Awareness Drive	October 18, 2019
4.	Clean And Green March	October 18, 2019
5.	Legal Awareness Programme	October 22, 2019
6.	Drug De-Addiction Drive	November 16, 2019

## I. LEGAL AWARENESS DRIVE

<b>Date:</b>	October 04, 2019
<b>Site/Geographical Area Covered:</b>	Sanjay Basti and Indira Basti
<b>Police Station:</b>	Timarpur
<b>Team Leaders:</b>	Ms. Niharika Diwan and Mr. Sumit Singh
<b>Number of Volunteers:</b>	40 (PLVs + Non-PLVs)
<b>Targeted Audience:</b>	100+ Households

LAS in association with the Central DLSA successfully organised a Legal Awareness Drive on October 4, 2019 at Sanjay Basti & Indira Basti, Timarpur to spread awareness among the people about free legal services provided by the NALSA, DSLSA and DLSA.

**Objective:** The main purpose of this drive was to make people of the locality aware of the benefits available to them under the legal aid. This drive was conducted to promote legal literacy and to increase legal awareness amongst the masses.



**Procedure and Observation:** A team, comprising of 40 members of the society (including PLVs) participated in the awareness programme, and enlightened the indigent and needy sections of the society about their legal rights and provisions of the free legal aid services available to them. Additionally, various schemes of the NALSA were brought to their knowledge along with information on existing legal issues. The same was recorded and those in need were advised to visit the LSC or Central DLSA.

The problems identified ranged from rent issues, fights with landlords, senior citizens being neglected, matrimonial disputes and marital problems to harassment by the police. A pertinent



observation was made through the drive was that while some people were forthcoming in their interactions, others were hesitant to interact and reluctant to share their issues. The interactions with the residents gave the volunteers a picture of the ground reality and the existing demand for legal services in the society. The enthusiasm of the first-year students of CLC towards this programme is highly appreciable as it was their first community outreach programme.

**Impact:** The volunteers engaged in the process understood the problems faced by the poor and marginalised, and the said drive also helped them to have a better understanding of how legal accessibility can go a long way in making justice not a far-fetched dream for so many underprivileged people.

## II. MARCH CUM LEGAL AWARENESS DRIVE

<b>Date:</b>	October 11, 2019
<b>Site/ Geographical Area Covered</b>	Sarvodaya Kanya Vidyalaya, Malka Ganj
<b>Police Station:</b>	Subzi Mandi Old
<b>Team Leaders:</b>	Mr. Daksh Aggarwal and Mr. Mihir Gujjewar
<b>Number of Volunteers:</b>	30 (PLVs + Non-PLVs)
<b>Targeted Audience:</b>	100+ People

LAS in collaboration with Kailash Satyarthi Children's Foundation and Central-DLSA organized a Girls March to School which was followed by a Legal Awareness Drive in the nearby areas of Sarvodaya Kanya Vidyalaya, Malka Ganj on 11.10.2019. Around 30 members of the society participated in this programme with immense enthusiasm.

**Objective:** The objective was to create awareness on the importance of education for girls and how free and compulsory education can reduce the school drop-out rates of girls between the age group of 14 to 18 years. Also, the program aimed to create awareness regarding the provisions of free legal services provided under the LSA Act as well as the Right to Education Act, 2009.

**Observation and Procedure:** The drive was led by student co- conveners along with the PLVs who actively engaged with families and talked about how an educated family can contribute so much to society economically, socially and politically, and for that it's imperative that girl child education is stressed upon. The rising dropout rate was a major loophole which was a common thread amidst most of the families, where in the volunteers realized that creating awareness about education,



proximity to State run education systems and gender sensitive spaces can go a long way in ensuring more girls are educated and carve a niche for themselves eventually.



**Impact:** The drive was a success as the volunteers could engage and have active conversations with almost 200 people, and make them aware about the importance of education and the far-reaching impact it can have.

### III. CLEAN AND GREEN MARCH

<b>Date:</b>	October 18, 2019
<b>Site/Geographical Area Covered:</b>	Nearby area of Happy Public School, Daryaganj
<b>Police Station:</b>	Daryaganj
<b>Team Leaders:</b>	Ms. Misbah Reshi and Ms. Loveleen Kaur
<b>Number of Volunteers:</b>	20 (PLVs + Non-PLVs)
<b>Targeted Audience:</b>	150+ People

LAS in association with the Central DLSA organized a Clean and Green March on 18<sup>th</sup> October 2019 from Darya Ganj Police Station to Happy Public School Darya Ganj, Delhi.

**Objective:** The objective of the march was to generate awareness among people about various environmental and health related factors which are a result of excessive use of firecrackers and to inform the residents about the launch of green crackers by the Central Government.

**Procedure and Observation:** For the drive, slogans were created by the Volunteers with the aim to spread awareness about green crackers and to celebrate the festival of 'Deepawali' without the use of crackers. The march witnessed a huge audience from the area, some of whom interacted with the

volunteers to know about the cause and its implications. The students of Happy Public School took active participation in the march, the volunteers interacted with the children and their parents, some of them took a pledge to never burst crackers again.



**Impact:** With drives like these, not only the masses are made aware, but it also instils a sense of civic sense and responsibility among the residents of the concerned area.

#### IV. LEGAL AID AWARENESS DRIVE

<b>Date:</b>	October 18, 2019
<b>Site/Geographical Area Covered:</b>	New Chandrawal Jhuggis (near Kamla Nagar)
<b>Police Station:</b>	Roop Nagar
<b>Team Leaders:</b>	Mr. Aniket Rajput and Ms. Tanishka Khatana
<b>Number of Volunteers:</b>	15 (PLVs + Non-PLVs)
<b>Targeted Audience:</b>	60+ Households

LAS organized a 'Legal Aid Awareness Drive' at Chandrawal Village, Kamla Nagar on 18.10.2019, which constituted 15 members of the society. Through this drive students were made to approach residents, localities, construction workers, shopkeepers, maids, etc. door to door to look into ground realities of various social problems of the people and their implementation issues.

**Objective:** The major objective of the drive was to spread legal literacy, provide effective solutions to the problems of the masses and take follow ups from the aggrieved persons thereafter. The students also aimed to acquaint the residents with the services offered on every Saturday from 10 AM- 1PM at the LSC of CLC for further queries in the future.

**Procedure and Observations:** The students were accompanied by the student co-conveners of LAS and a police constable from Roop Nagar Police Station, who played a very effective role in not only providing support and protection to the students but also actively participating in the awareness drive themselves. Students were divided into seven teams, consisting of a boy and a girl in each group. They were responsible for providing door to door services which included distribution of pamphlets on free legal services, listening to their problems and filling in the details in case they encounter any atrocity which was germane to the purpose of the said drive. Moreover, a toll free number (1516) was also provided to the residents in case they encounter a legal emergency and fail to reach the aforementioned LSC at CLC. After the completion of a successful Drive, the student members were asked to share their individual experiences and submit their respective Performa.



**Impact:** The participating students have resolved to take follow ups in case any resident mentioned to seek any legal aid. They also showed keen interest in participating in more such drives in the near future.

## V. LEGAL AWARENESS PROGRAMME

<b>Date:</b>	October 22, 2019
<b>Site/Geographical Area Covered:</b>	Hindu College, University of Delhi
<b>Team Leader:</b>	Mr. Daksh Aggarwal
<b>Number of Volunteers:</b>	10 (PLVs + Non-PLVs)
<b>Targeted Audience:</b>	100+ People



LAS in association with Central DLSA successfully organized a legal awareness programme on October 22, 2019 at Diwali Mela organized by National Service Scheme at Hindu college to spread awareness among the people about free legal services provided by the NALSA, DSLSLA and DLSA.

**Objective:** The main purpose of this drive was to make people of the locality aware of the benefits available to them under the Legal Aid. This awareness programme was conducted to promote legal literacy and to increase legal awareness amongst the masses.

**Procedure and Observation:** For the same, a team, comprising of 10 members of the society including PLVs participated in the awareness programme and enlightened the people about their legal rights and provisions of the free legal aid services available to them. Additionally, various schemes of NALSA were brought to their knowledge. The same was recorded & those in need were advised to visit the LSC or Central DLSA.



**Impact:** The volunteers were effectively able to communicate with almost 100 people and make them understand the nuances of legal aid and how it can help people of the lowest strata to have access to justice.

## VI. DRUG DE-ADDICTION DRIVE

<b>Date</b>	November 16, 2019
<b>Site/Geographical area covered</b>	Christian Colony, Patel Chest, New Delhi
<b>Police Station</b>	Maurice Nagar
<b>Team Leaders</b>	Mr. Daksh Aggarwal and Mr. Aniket Rajput
<b>Number of Volunteers</b>	30 (PLVs + Non-PLVs)
<b>Targeted Audience:</b>	100+ People

LAS in collaboration with the Campus Law Centre Alumni Association organized a legal aid drive in Christian Colony, Patel Chest on November 16, 2019. Through this drive, students were made to approach residents, localities, construction workers, shopkeepers, maids, etc. door to door to look into ground realities of various social problems that emanate from drug and its abuse and its repercussions.

**Objective:** The objective of the visit was to sensitize people against the harmful effects of drugs and how it can be a menace to the society in general and families in particular



**Procedure and Observations:** The students were accompanied by the student co-conveners of LAS and a Police Constable from Maurice Nagar Police Station, who played a very effective role in not only providing support and protection to the students but also actively participating in the awareness drive themselves. The problems identified in the drive ranged from low awareness amongst the addicts, easy accessibility of drugs, poverty and general lack of sensitivity towards the initial symptoms of the addiction by the family members

**Impact:** Students were able to engage in an active conversation with more than 100 people. Participants were also successful in making the families of the addicts aware of the symptoms of addiction and the medication available to overcome drug addiction.

*\*Compiled by Ms. Akanksha Modi and Ms. Vasudha Singh*



## RECENT JUDICIAL DEVELOPMENTS IN CONSTITUTIONAL LAW AND LEGAL AID

KEY HIGHLIGHTS			
S.No	Case Name	Date	Key Findings
SUPREME COURT OF INDIA- CONSTITUTIONAL LAW			
1.	<b><i>Dr. Ashwini Kumar v. Union of India, Ministry of Home Affairs</i></b> , Writ Petition (C) No. 738 of 2016	September 05, 2019	Law-making within certain limits is a legitimate element of a judge's role. However, such interpretation under Articles 141 and 142 of the Constitution of India is called 'judge made law', not legislation. The Court cannot, in its exercise of judicial review under Article 32 of the Constitution of India, direct the legislature to enact laws in conformity with the UN Convention against Torture.
2.	<b><i>R. Srinivas Kumar v. R. Shametha</i></b> , Civil Appeal No. 4696 of 2013	October 04, 2019	This Court can exercise its inherent powers under Article 142 of the Constitution of India for dissolution of a marriage where it finds that the marriage has broken down irretrievably, even if the facts of the case do not provide a ground in law on which the divorce could be granted. Only in cases where one of parties do not agree and give consent are the powers under Article 142 of the Constitution of India required to be invoked in order to do substantial justice.
3.	<b><i>The State of Uttarakhand v. S.K. Singh</i></b> , Civil Appeal No. 10194 of 2013	October 14, 2019	In service jurisprudence, classifications are a matter of necessity and the question of their reasonableness has been left to the administrative authorities. Higher educational qualifications are decidedly an aspect which can give exclusive promotion, earlier promotion or, as in this case, accelerated promotion. Therefore, the Uttaranchal Service of Engineers (Irrigation

			Department) (Group 'B') Rules 2003 are not violative of Right to Equality under Articles 14 and 16 of the Constitution of India.
4.	<b><i>M. Siddiq v. Mahant Suresh Das (Ram Janmabhumi Temple Case)</i></b> , Civil Appeal Nos. 10866-10867 of 2010 with Nos. 821, 2215, 2636, 2894, 4192, 4739-40, 4768-4771, 4905-908, 5498, 6965, 7226, and 8096 of 2011	November 09, 2019	The possessory claim of the Hindus to the composite whole of the disputed property stands on a better footing than the evidence adduced by the Muslims, thus it was held that Ram Mandir be built at the site. Ram Lalla was declared to be a juristic person and where legal personality is conferred on the purpose of a deity's continued worship, moving or destroying the idol does not affect its legal personality. At the same time, the destruction of the Babri Masjid was an egregious violation of the rule of law and for justice to prevail; the Court directed that a suitable plot of 5 acres be granted to Sunni Waqf Board in Ayodhya to set up a Mosque.
5.	<b><i>Roger Mathew v. South India Bank Ltd.</i></b> , Civil Appeal No. 8588 of 2019	November 13, 2019	The majority view in <i>K.S. Puttaswamy v. Union of India (Aadhaar-5 Judgement)</i> did not substantially discuss the effect of the word 'only' in Article 110(1) of the Constitution of India. Article 110(1) of the Constitution of India lays down the conditions to be satisfied in order to be classified as a Money Bill. It offers little guidance on the repercussions of a finding when some of the provisions of an enactment passed as a Money Bill do not conform to Article 110(1) subclauses (a) to (g). Thus, while examining the constitutionality of Part XIV of the Finance Act, 2017 and its classification as a Money Bill, it becomes necessary to determine the Aadhaar-5 judgement's correctness by placing it before a larger bench.

6.	<b><i>Central Public Information Officer v. Subhash Chandra Agarwal,</i></b> Civil Appeal Nos. 10044, 10045, 2683 of 2010	November 13, 2019	The Court held that the office of the Chief Justice of India comes under the purview of the Right to Information. Judicial independence is an important factor while applying the 'public interest' test (which balances public interest against an individual's Right to Privacy) to personal information under the RTI Act, but independence is also secured through accountability which is engendered through the instruments of transparency and scrutiny. The independence of the judiciary was not envisaged to mean its insulation from the checks and balances that are inherent in the exercise of constitutional power.
<b>HIGH COURTS- CONSTITUTIONAL LAW</b>			
1.	<b><i>Ravindra Jugran v. State Election Commission,</i></b> Writ Petition (PIL) No. 144 of 2019, <i>Uttarakhand High Court.</i>	September 12, 2019	The Court cannot, in the exercise of its powers under Article 226 of the Constitution of India, issue mandamus to the legislature to make a law regarding the preparation of electoral rolls. Where the law is silent, the Election Commission has plenary powers, under Article 324 of the Constitution of India, to give any direction in respect of the conduct of elections and these powers cannot be encroached upon by the Court.
2.	<b><i>Revenue Bar Assn. v. Union of India,</i></b> Writ Petition Nos. 21147, 21148 of 2018, <i>Madras High Court.</i>	September 20, 2019	Section 109 of the CGST Act, 2017, which prescribes two administrative members as against one judicial member in the GST Appellate Tribunal, is contrary to the mandate of Article 50 of the Constitution of India to separate the judiciary from the executive in the public services of the State. Tribunals that primarily decide disputes between the State and citizens cannot be run by a majority consisting of non-judicial members.

3.	<b>Masood Ahmad Bhat v. State of Jammu and Kashmir and Ors.,</b> Writ Petition (CRL) No. 41 of 2019, <i>Jammu and Kashmir High Court (Srinagar)</i>	September 25, 2019	The only precious and valuable right guaranteed to a detenu is of making an effective representation against the order of detention. This is possible only when he is supplied with the relevant grounds of detention, including the materials considered by the detaining authority in passing the order. Since the material is not supplied to the detenu, the right of the detenu to file such representation is impinged upon and the detention order is resultantly vitiated.
4.	<b>Janeshwar Sharma v. State of Bihar,</b> Criminal Writ Jurisdiction Case No. 2638 of 2017, <i>Patna High Court</i>	September 30, 2019	High Court cannot, in the exercise of its powers under Articles 226 and 227 of the Constitution of India, quash a police report submitted by the investigating officer as that is the prerogative of the concerned Magistrate and no relief can be asked from this Court without availing the opportunity of hearing before the Magistrate.
5.	<b>Shabir Ahmad Mir v. State of J&amp;K,</b> Writ Petition (CRL) No. 39 of 2019, <i>Jammu and Kashmir High Court (Srinagar)</i>	November 05, 2019	Life and liberty of the citizens of the State are of paramount importance. The State could have exercised its right to knock at the doors of a higher forum and seek the reversal of the orders of bail by the competent Court(s) rather than passing an order of preventive detention on the detenu out on bail. This single infraction cuts at the very root of the State action and the State ought to have taken recourse to the ordinary law of the land.
6.	<b>Moba Changkai v. State of Nagaland,</b> Writ Petition (C) No. 179 of 2016, <i>Gauhati High Court (Kohima Bench)</i>	November 15, 2019	The Court held that health and medical care came within the sweep of Article 21 of the Constitution of India, and the State is obligated to ensure that the right is respected. Right to healthy life means the most attainable levels of health that every human being was entitled to.

7.	<b><i>G.M. Poovaiah v. The Managing Director</i></b> (KSRTC), Writ Petition No. 2463 of 2015, <i>Karnataka High Court</i>	November 28, 2019	Denial of overtime allowance to an employee amounts to acquiring property sans compensation, thereby violating Article 300-A of the Constitution of India. It was also held to be an infringement of Article 23 of the Constitution of India.
8.	<b><i>Dnyaneshwar v. State of Maharashtra</i></b> , Writ Petition (CRL) No. 25 of 2019, <i>Bombay High Court (Aurangabad Bench)</i>	November 29, 2019	Illegal search by police disregarding Sections 165 and 166 of the CrPC violates the fundamental right to privacy of an individual enshrined under Article 21 of the Constitution of India and the State is liable to pay compensation for the above-stated illegal action.
9.	<b><i>Vishwanath H.M. v. Govt. of Karnataka</i></b> , Writ Petition No. 53036 of 2017 (GM-RES), <i>Karnataka High Court</i>	December 20, 2019	The 2017 Amendment in Karnataka Transparency in Public Procurements Act, 1999 which resulted in certain reservations created in the process of tender for the benefit of the Scheduled Castes and Scheduled Tribes, does not violate of Article 14 of the Constitution of India as the constitutional scheme of equality comprises of social justice as well.
<b>SUPREME COURT OF INDIA- LEGAL AID</b>			
1.	<b><i>Manoharan v. State by Inspector of Police</i></b> , Review Petition (CRL.) Nos. 446-447 of 2019 in Criminal Appeal Nos. 1174-1175 of 2019	November 07, 2019	In <i>Strickland v. Washington</i> , the Supreme Court of the United States laid down that to demand re-trial or acquittal on grounds of inadequate legal representation, the accused must show both that the assistance of the counsel was deficient per an objective standard of reasonableness as developed by customary practice, as well as that such deficiency has with a reasonable probability affected the outcome of the case. Here, the petitioner's rights under Article 21 of the Constitution of India have not been infringed



			upon as, in addition to having adequate legal counsel, no prejudice has been caused to the petitioner for want of proper legal assistance.
HIGH COURTS- LEGAL AID			
1.	<b><i>Kuldeep Agarwal v. State of Uttarakhand And Ors.,</i></b> Writ Petition (PIL) No. 71 of 2019 in <i>Uttarakhand High Court</i>	September 03, 2019	The resolution passed by the Kotdwar Bar Association prohibiting Advocates from representing the accused in the murder case of an Advocate of the bar denied the accused fundamental right to be defended by a lawyer of his choice under Article 22(1) of the Constitution of India, as well as his right to free and adequate legal aid under Article 39A of the Constitution of India, and hence was declared null and void.
2.	<b><i>XXX v. The Member Secretary, Karnataka State Legal Services Authority,</i></b> Writ Petition No. 24462 of 2019 in <i>Karnataka High Court</i>	September 16, 2019	The Court held that as the petitioner, who claimed to be a rape victim, as well as her father were declared hostile during the rape trial, they violated clause 6(3) of the Karnataka Victim Compensation Scheme, 2007 and therefore, were not entitled to seek compensation.

*\*Compiled by Ms. Vasudha Singh*

## FROM THE EDITORIAL BOARD

### LAWYERS' CONTRIBUTION TO LEGAL AID: AN UNCONVINCING STORY

#### **Prefatory:**

The Constitution of India endeavors to safeguard the constitutional pledge of 'equal justice for all' by facilitating legal aid to the poor and weaker sections of society. To ensure that no citizen is denied the opportunity of securing justice by reason of socio-economic disability, Article 39A of the Constitution (hereinafter, "**Article 39A**") mandates the State to provide free legal aid by suitable legislation or schemes.<sup>1</sup> However, despite the enactment of Legal Services Authority Act, 1987<sup>2</sup> and diverse initiatives undertaken by the state, the philosophy underlying Article 39A is not being effectively translated into an action-oriented process.

To make the intendment underlying Article 39A effective, in 1988, the 131<sup>st</sup> Law Commission Report titled 'Role of Legal Profession in the Administration of Justice' (hereinafter, "**Commission**")<sup>3</sup> suggested an active participation of lawyers in the delivery of free legal assistance. The Commission clearly stated – 'The role of the legal profession in strengthening administration of justice must be in consonance with the intended merit underlying Article 39A. The legal profession should gear up to provide service to such seekers of justice by ensuring that anyone who does not have the economic resources to seek justice must not turn away from law courts on the only ground that he is unable to incur necessary expenditure for securing justice.' However, the suggestion to change the role of advocates in the realm of legal aid has not been accepted by the authorities in India.

In this article, the authors seek to discuss the need of introducing a mandatory duty on the advocates to play an integral role in imparting free legal services. Additionally, it also sheds some light on the framework adopted across various jurisdictions concerning the lawyer's professional duty in view of the legal aid services, and suggests a way forward in India.

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<sup>1</sup> The Constitution of India, art 39A.

<sup>2</sup> Legal Services Authorities Act, 1987 (Act 39 of 1987).

<sup>3</sup> Law Commission of India, "131<sup>st</sup> Report on Role of Legal Profession in the Administration of Justice, 1988" (August, 1988).

**Legal Position in India:**

In India, an advocate holds a crucial position in the administration of justice, in fact imposes an implied responsibility upon her/him to ensure that justice is made available and affordable to all the sections of the society. No statute or judicial pronouncement has, however, determined a compulsory responsibility on an advocate to undertake mandatory pro bono activities to ensure equal justice. In the case of *Indira Jaising v. Supreme Court of India*,<sup>4</sup> the Hon'ble Supreme Court of India (hereinafter, “SC”) clearly enunciated that the only incentivizing structure for the advocates in India to provide free legal aid services is, ‘legal aid work is a qualifying parameter for designation as Senior Advocate.’

In addition to that, Rule 46 of the Bar Council of India Rules, 1975<sup>5</sup> i.e. rules prescribing a standard professional conduct and etiquette of an advocate, merely envisages an ethical duty on the advocates of the unification of the legal aid system by facilitating free legal aid to the weaker sections of the society (hereinafter, “The Rule”). The Rule reads as follows: *Every Advocate shall in the practice of the profession of law bear in mind that any one genuinely in need of a lawyer is entitled to legal assistance even though he cannot pay for it fully or adequately and that within the limits of an Advocate's economic condition, free legal assistance to the indigent and oppressed is one of the highest obligations an Advocate owes to society.* Hence, India's framework on the professional standards of an advocate recognizes a lawyer's duty to impart free legal assistance to the weaker sections of the society, merely as a bedrock professional duty.

**Pro Bono Publico- An International Perspective:**

All the countries with a functioning legal aid system recognize the role and importance of lawyers for an effective legal aid regime. Thus, in order to fulfill the gap between the lack of a successful legal aid mechanism and absence of lawyer's participation in pro bono initiatives, countries like the United States of America (hereinafter, “USA”), South Africa have taken multifarious initiatives at different levels.

In the USA, all the states stipulate a mandatory duty on lawyers to open an Interest on Lawyer's Trust Accounts (hereinafter, “IOLTA”) for the purpose of providing accessible civil legal services to indigent persons. IOLTA invites large sums of money handled by lawyers in the form of settlement checks, court fees, advance payments made for their services, etc. to be mandatorily

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<sup>4</sup> (2017) 9 SCC 766.

<sup>5</sup> The Bar Council of India Rules, available at <http://www.barcouncilofindia.org/wp-content/uploads/2010/05/BCIRulesPartVonwards.pdf> (last visited on April 23, 2020).

deposited in IOLTA.<sup>6</sup> Thereafter, the interest generated through IOLTA is used in supporting free legal assistance and pro bono programs across the USA making it an effective means of funding legal aid programs. However, the American Bar Association (hereinafter, “ABA”), which regulates the conduct of lawyers in America has not prescribed any mandatory duty for the lawyers to provide legal aid services. The ABA Model Rule 6.1 clearly states: *Every lawyer has a professional responsibility to provide legal services to those unable to pay. A lawyer should aspire to render at least fifty (50) hours of pro bono publico-legal services per year.* Yet, a few states in the USA like Florida have introduced a mandatory reporting mechanism of pro bono activities undertaken by a lawyer wherein every lawyer has to compulsorily report the number of hours invested in providing legal aid to the indigent.<sup>7</sup>

In South Africa, there is a concerted effort from all the functionaries to ensure that pro bono services are effectively provided to those who need it. The legal professionals are required to devote at least twenty-four (24) hours of pro bono services per year, and non-compliance of the mandate amounts to professional misconduct. Additionally, law firms in South Africa have developed a website to identify lawyers to be engaged in the cases that require pro bono services. Also, various law colleges in South Africa have also made a minimum sixty (60) hours of community service a compulsory graduation requirement for the law students.<sup>8</sup>

Thus, countries like South Africa and the USA have successfully recognized a lawyer as an integral part of the legal aid justice system by mandating the lawyers to contribute to bridge the gap between the extant system and those unable to access it.

### **Mandatory Pro Bono Obligation:**

Lawyers and law firms, both municipally and internationally, are responding to the shortfalls in access to justice by investing in pro bono work. However, lawyers consider pro bono work as their professional duty. Thus, over the past few years, leaders of the legal profession have stressed on the need for a mandatory duty on lawyers to contribute their time and efforts to the needs of the weaker sections of the society. The focal perspective to encourage mandatory legal assistance by lawyers

<sup>6</sup>Overview, IOLTA, American Bar Association, available at: [https://www.americanbar.org/groups/interest\\_lawyers\\_trust\\_accounts/overview/](https://www.americanbar.org/groups/interest_lawyers_trust_accounts/overview/) (last visited on April 23, 2020).

<sup>7</sup> Judge William A. Vannortwick, Jr., Kent R. Spuhler, Jr., And Paul C. Doyle, Jr, “Pro Bono Services In Florida” 73 *Florida Bar Journal* 4 (1999).

<sup>8</sup>Pro Bono practices and opportunities in South Africa, available at: <https://www.lw.com/admin/Upload/Documents/Global%20Pro%20Bono%20Survey/pro-bono-in-south-africa.pdf>. (last visited on April 23, 2020).

begins with the fact that disadvantaged sections of the society are dramatically underserved by the lawyers. The rationale for mandatory pro bono contribution rests on the premise that lawyers have exclusive access to the justice system, thereby; it becomes an implied duty on the lawyers to ensure that the disadvantaged sections of the society do not face any additional barriers in accessing the justice system.

**Recommendations:**

Firstly, India should adopt the concept of 'IOLTA' as operating in the USA so that lawyers can monetarily invest in the legal aid fund constituted by the central or state government. It must be acknowledged that the lack of funds for legal aid programs and insufficient stipend provided to legal aid lawyers in India are principal reasons why there continues to be an inequality in access to the justice system.<sup>9</sup> This monetary investment can exist in lieu of or in concomitance with mandatory pro bono services for lawyers. This provision would multiply the existing funds for legal aid programs and allow for providing better stipends to lawyers, and hence incentivizing the initiative in its entirety.

Secondly, the law schools must ensure that the students are contributing in making justice accessible to all by actively participating in the legal aid clinics. Following the South African model, law schools must implement compulsory legal aid participation as a graduation requirement which will help clinics improve their outreach and function better. Every law graduate must spend one year compulsorily in a legal services agency and should be provided a stipend for the same. Also, the students will benefit by gaining exposure and experience whereas the government will have affordable technical manpower which will help run its legal aid programs, and hence make it a mutually beneficial proposal.<sup>10</sup> Despite years of such recommendations, there is no mandate on students to be a part of the legal aid clinic. Thus, by mandating law graduates to providing legal aid to indigent persons would make a drastic difference in bridging the gap between indigent persons and the justice system.

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<sup>9</sup> Aarefa Johri, "How well India's free legal aid services work? Not nearly well enough", *available at: <https://scroll.in/article/877225/how-well-do-indias-free-legal-aid-services-work-not-nearly-well-enough>* (last visited on April 23, 2020).

<sup>10</sup> NR Madhava Menon, "Legal Aid and Development", 2 *Delhi Law Review* 229 (1972).



**Conclusion:**

As the ‘handmaidens of democracy’ and ‘guardians of the rule of law’ within the adversarial system, it is incumbent upon lawyers and the legal professionals to assist in addressing the access to justice problem.<sup>11</sup> Thereby, India should promulgate a model prescribing a mandatory pro bono obligation for a lawyer and law students to ensure equal access to justice. The SC handed down a significant observation in the case of *Kishore Chaud vs. State of H.P.* by highlighting the importance of advocates in a successful legal aid regime in India. The SC categorically held that ‘it’s high time that senior counsel practicing in the Court concerned, volunteer to defend such indigent accused as a part of their professional duty.’<sup>12</sup>

Furthermore, the *Basic Principles on the Role of Lawyers*<sup>13</sup> also postulates that ‘Any persons who do not have a lawyer shall be entitled to have a lawyer of experience and competence in order to provide effective legal assistance, without payment by them if they lack sufficient means to pay for such services.’ Keeping in mind the operative terms of the principle, that is, experience and competence, there should be rigorous efforts to ensure that lawyers fulfill their role in making justice accessible to all. Thus, mandatory pro bono obligation on the lawyers, either through a monetary investment or through services, should be recognized by our legal system in order to strengthen the legal aid regime, and build a justice delivery mechanism, which is within easy reach of those who cannot afford it today.

*\*Authored by Ms. Aastha Agarwalla and Ms. Misbah Reshi*

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<sup>11</sup> Raj Anand and Steven Nicoletta, “Fostering Pro Bono Service in the Legal Profession: Challenges Facing the Pro Bono Ethic,” available at: [http://www.lsuc.on.ca/media/ninth\\_colloquium\\_pro\\_bono\\_services.pdf](http://www.lsuc.on.ca/media/ninth_colloquium_pro_bono_services.pdf) (last visited on April 23, 2020).

<sup>12</sup> 1990 AIR 2140.

<sup>13</sup> Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba (August-September 1990).

## A MESSAGE FROM THE STUDENT CONVENER, LEGAL AID SOCIETY

*The poor and the illiterate should be able to approach the Courts and their ignorance and poverty should not be an impediment in the way of their obtaining justice from the Courts”*

- Justice Prafullachandra Natwarlal Bhagwati (Former Chief Justice of India)

Under Article 39A of the Constitution of India, free legal aid was envisaged by 42<sup>nd</sup> Constitutional Amendment Act as a principle to be followed in order to ensure that poorest section of the society has the access to the justice delivery system of our country. In lieu of the said Directive Principle, Parliament enacted the LSA Act which paved way for the constitution of NALSA and other legal service institutions at the State, district and taluka level.

The LAS has always tried to impart quality legal aid services to the underprivileged section of the society by conducting legal awareness drives, programmes, camps and workshops. The Executive Body of the society under the guidance of our Patron-in-chief, Teacher Convener and Teacher Members undertakes the responsibility of enabling these tasks. The society since its inception has tried its best to ensure that the marginalised and the poorest section are helped in the best possible manner to overcome legal challenges. All of this is possible with the help of the selfless efforts of the student volunteers. The society, without any doubt, owes its existence to these volunteers.

Awaaz-The Blog is another initiative taken by the LAS in its pursuit of creating awareness and promoting legal aid services across Delhi. With this blog, we aim to facilitate legal research in the field of contemporary challenges to access free legal aid. The blog focuses on advancing policy measures and legal developments meant to tackle various issues that are present before us in this field. It seeks to create a platform where there is a flow of ideas and thoughts regarding issues mutually relating to law and public policy governing legal aid in India. We are hopeful that this initiative under the supervision of our diligent Editorial Board will help foster and develop new ideas to further improve the legal aid services rendered in our country.

Ms. Manisha Aswal

Student Convener, Legal Aid Society, Campus Law Centre

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