



**Indian Council of Social Science Research Project
(Sponsored)
2017-2019**

**An Empirical Study to Examine the Impact of the Legal
Aid Services Provided by the Legal Aid Counsels on the
Quality of the Legal Aid System in India**

SUBMITTED TO

Indian Council of Social Science Research,
JNU Institutional Area,
Aruna Ali Asaf Marg,
New Delhi

SUBMITTED BY

Prof. (Dr.) Jeet Singh Mann
Professor of Law and Director
Centre for Transparency and Accountability in Governance,
National Law University
New Delhi

May, 2019



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Preface

Legal Aid Services are offered by governments across the globe is considered to be the basic right of every citizen. The governments in order to provide these services has instilled institutions through various instruments and apparatus of legal aid services. Apart from government institutions, judiciaries in particular, have been proactive, protective and vocal in promoting free legal aid services for poor and needy people. One of the principal objectives of legal aid institutions is that they are entrusted to provide economically and timely access to justice to the lower strata of society. However, the conduct of providing free legal aid services and the governance aspect of the legal aid services has always been an issue. Further, the services offered by legal aid counsels have too been an area of contention among the beneficiaries who avail these free legal aid services.

This empirical research/study primarily focuses on the level of commitment and competency of Legal Aid Counsels (LACs) in India and emphasizes upon the impediments encounter by beneficiaries while availing free legal aid services in India. The universe of research for this empirical study was scattered across six zones in India, covering 36 Districts in 18 States. This empirical study delves into the responses collected, collated and analysed from all the five stakeholders, which included beneficiaries of legal aid, legal aid counsels, judicial officers and regulators, involved in governing and delivering the legal aid to a beneficiary at District level. These responses were based on structured and unstructured questions asked from all the five stakeholders during the course of the research. The questionnaires are broadly based on parameters of commitments and competency of LACs and factors liable for diminishing trust of a potential beneficiary over the free legal services. In addition, the questionnaires distributed to the stakeholders also delves upon to evaluate and mark the level of proficiency skills of LACs for delivering legal aid services in their respective Districts.

Based on the feedbacks received from all the stakeholders, this research shows that the legal aid system in India is suffering from institutional setbacks. The study exhibits that a majority of legal aid beneficiaries avail the services of free legal aid because they don't have sufficient resources to engage a private legal practitioner. It is revealed in this study that the beneficiaries opt for LACs out of compulsion not by choice. This lack of trust among the beneficiaries, as per the empirical research, can be attributed to low interaction between beneficiaries and their respective LACs. Besides, beneficiaries also face difficulties in availing services at the front office of DLSAs owing to lack of infrastructure. This empirical research has also revealed that the attitude of beneficiaries and LACs becomes the root cause of distrust in legal aid system.

Additionally, in terms of level competency LACs stand way behind private legal practitioners as a majority of LAC's argumentative skills, presentation and articulation, drafting skills and overall professional skills were found to be at a moderately average level. Furthermore, this empirical research demonstrates that a majority of LACs in 36 Districts are not committed enough towards the mandate of free legal aid enshrined in Legal Service Authority Act 1987. This empirical research shows that women who are eligible for free legal aid did not opt for it, as they are of the opinion that LACs are not committed towards the free legal services. Apart from this, the nature of informal complaints by beneficiaries either to regulators or judicial officers reflects that LACs are not committed towards the legal aid services. These grievances from beneficiaries of legal aid ranged from lack of communication or interaction between a beneficiary and LAC, and non-attendance of LACs for their legal aided case on the scheduled time.

To provide the other side of the narrative, data was collected from LACs themselves wherein they described the challenges faced. LACs voiced that honorarium is usually delayed by at least six months. However, these problems shouldn't deter them in providing quality legal aid services to their respective beneficiaries. In the course of this research it was revealed that LACs

are often pre-occupied with their own private cases as they devote comparatively more time on their private cases than a legal aided one.

This empirical study further discloses some irregularities on the accountability aspect of the legal aid system in India at District level. LACs are not held accountable for not being committed towards the mandate of legal aid. The current legal aid system lacks mechanism to deal with non-performing LACs. The regulators, in the legal aid system at the District level, have no authority to exercise any disciplinary action against any defaulter LACs. Moreover, there are no parameters to induct competent LACs into the empanelled group of lawyers. As the present system of empanelment solely rests upon experience at the Bar only. Equally important, the legal aid system, at District level, lacks a systematic record mechanism on complaints against the LACs. As this research shows that mostly the complaints are verbal in nature with no written records against LACs. The empirical study demonstrates that the Monitoring committees are not being utilized to their full potential prescribed in either old NALSA Regulation, 2010 or in the amended NALSA Regulation 2010 in 2018.

To sum up, this empirical study acknowledges the gaps present in the governance of legal aid system in India at the grassroots level. The study suggests and recommends approaches and ways to address these roadblocks to deliver free, swift and economical access to justice to poor and needy legal aid beneficiaries in India.

Acknowledgements

This empirical research on the assessment of legal aid services provided by legal aid counsels would not have been possible without the generous support by the Indian Council of Social Science Research (ICSSR) who have sponsored this research project 2017-19. This empirical research has taken cognizance of the hindrances in the legal aid services provided by the legal aid counsels (LACs) and submitted a viable solution to promote quality legal aid services in India.

During the course of this empirical research, the research team, led by project director, examined 36 District Legal Services Authorities (DLSAs) from North, South, East, West, Centre and North-East Zone of India. In order to collect authentic and representative data, the stratified sampling method was employed. The research project formulated five questionnaires based on each stakeholder involved in legal aid services, namely,, the beneficiaries of legal aid services, the empanelled legal practitioners under the legal aid program, regulators of legal services authorities, judicial & non-judicial authorities at the District courts, and Women, who were entitled to free legal aid services but willingly opted for a paid services of private practitioners. In total, primary data from 3029 legal aid beneficiaries, 609 judicial officers, 1007 legal aid counsels, 33 regulators/secretaries, and 3120 women respondents, who were aware of free legal aid services and yet opted for private legal practitioner, was collected. The primary data from the specified respondents was collected from June 2017 to October 2018. The primary data is critically analysed with the support of SPSS software.

It becomes important to recognize the contributions made by skilled professionals during the course of this research assignment. This research would not have been possible without the support and reassurance of judicial officers, regulators, LACs and legal aided beneficiaries. The researcher is also grateful to the Honourable Chief Justice of India, Justice Ranjan Gogoi for permitting the research team to carry out such empirical research in India. Further, the research team is also thankful to Shri Alok Agarwal, Member Secretary of NALSA for supporting the accomplishments of research team in collecting primary data from beneficiaries, LACs and regulators.

Additionally, this research would not have been completed without the backing and blessings of DLSAs, Senior judges in Civil and Criminal Courts and District & Sessions Judges of all the 36 Districts of Gurugram, Rohtak, Jodhpur, Pali, Patiala, Sangrur, Bangalore Urban, Bangalore Rural, Ahmedabad, Gandhinagar, Tiruchirappalli, Thanjavur, Aurangabad, Jalna, Indore, Dhar, Shillong, Nongpoh, Jowai, Shimla, Solan, Bhubaneswar, Cuttack, Guwahati, Amingaon, Allahabad, Gautam Buddha Nagar, Kolkata, 24 North Pargana, Raipur, Durg, Ranchi Ramgarh, Visakhapatnam, Vizianagaram, Pathanamthitta and Alappuzha.

In addition, the researcher also acknowledges the support and efforts of team of research staff in terms of supervising field investigators in the Districts, collecting, collating and analysing the data, and writing this report. Finally, this research is also beholden to Prof Ranbir Singh, Vice Chancellor of NLU Delhi in supporting and relieving the researcher from all academic assignments during the course of the said research. The researcher also recognizes and is thankful to the efforts of various professionals who have directly or indirectly assisted and supported in completion of the final report for the research.

Prof. (Dr.) Jeet Singh Mann,
Project Director
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List of Abbreviations

%	per cent
ADJ	Additional/ Assistant District & Sessions Judge
AIR	All India Reporter
BLAS	Bombay Legal Aid Society
BPL	Below Poverty Line
CAW	Crimes Against Women
CHRI	Commonwealth Human Rights Initiative
CILAS	Committee for Implementing Legal Aid Schemes
CrPC	Code of Criminal Procedure, 1973
CSD	Council for Social Development
DLSA	District Legal Services Authority
Fig.	Figure
FLAS	Free Legal Aid Service
FTC	Fast Track Court
GoI	Government of India
H.P.	Himachal Pradesh
HC	High Court
Hon.	Honourable
Hon'ble	Honourable
IBM	International Business Machines
ICSSR	Indian Council of Social Science Research
LAC	Legal Aid Counsel
LAS	Legal Aid System
LASA	Legal Aid Services Authority
LASS	Legal Aid Services System
LSA	Legal Services Authority
LSAA	Legal Services Authorities Act, 1987
MACT	Motor Accidents Claims Tribunal
NALSA	National Legal Services Authority
NGOs	Non-Governmental Organisations
NLU	National Law University
Ors.	Others
PLP	Private Legal Practitioner
PLV	Para Legal Volunteer
Prof.	Professor
RTI	Right to Information
SC	Scheduled Caste
SC	Supreme Court
SCC	Supreme Court Cases
SCLSC	Supreme Court Legal Services Committee
SLSA	State Legal Services Authority
SPSS	Statistical Package for the Social Sciences
ST	Scheduled Tribe
The UK	The United Kingdom
The USA	The United States of America
U.P.	Uttar Pradesh
UDHR	Universal Declaration of Human Rights
v.	versus

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CHAPTER IX

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CHAPTER X

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