



LEGAL AID AND CHALLENGES DURING COVID PANDEMIC

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Covid-19 pandemic has sent countries around the world into crisis mode, with many now having to cope with severe social isolation and physical-distancing measures. This has forced citizens, organizations and governments to adapt as best they can in order to carry on despite the enormous economic and social disruption.¹ As India is grappling with immediate ramifications of this outbreak as well, leaving individuals with experiences that probably they would have never experienced before - social distancing, lockdown living, panic buying and restricted services- In this situation various challenges are being faced by Legal Services Authorities.

Legal Aid in India

Legal Aid implies giving free legal aid to the poverty stricken people who are socially and economically backward. It is an essential element for securing justice. Towards equal justice is the watch word and free legal service to the weak is the watch dog in developing democratic societies. In the modern world, the touch stone of a civilized society is towards the commitment to legal aid. So much so, that India's claim to be modern and civilized society depends upon some measures, on its national policy on equal protection of laws whereby the rich have the monopoly of law and the poor cannot be deprived of justice.²

The European Court of Human Rights, under Sections 6(1) and 6(3), discusses the concept of legal aid without mentioning the term itself. They aim to protect the interest of every litigant and create an equal platform for each person who is in dire

¹ Covid-19 Strategy Updtae, World Health Organisation, Retrieved from: <https://www.who.int/docs/default-source/coronaviruse/covid-strategy-update-14april2020.pdf>, visited on May 25, 2021.

² Bhagwati Committee Report on National Juridicare: Equal Justice- Social Justice, August 31st, 1977 p.85.

need of justice by assisting them. The United Nation's International Convention on Civil and Political Rights provides for legal assistance in criminal matters.³

National Legal Services Authority

The Constitution of India promotes and upholds the importance of equality in society. Various articles of the Constitution promote welfare of the poor and of those who are in need of justice and care. Article 39A of the Constitution provides for free legal aid to the poor and weaker sections of the society, and it ensures justice for all. The article mandates that economic, or any other, disability should not hinder the opportunity of anyone to access justice and legal remedies.⁴

The National Legal Service Authority (NALSA) was created under Section 3 of the Legal Services Authorities Act, 1987 (Act). The objective of NALSA is to supervise and monitor the provision of legal aid as described under Section 2(1)(c) of the Act. Section 12 of the Act specifies the category of people who are eligible for availing these legal services. NALSA also disburses funds and grants to NGOs for implementing legal aid schemes and programs.⁵

Impact of Lockdown due to Covid-19 and Necessary Legal Assistance

The pandemic and the resultant lockdown have affected the physical presence of officials at various places is not possible. As transportation is also effected it is not possible for people to reach offices to get legal advice. So during the period responsibility of Legal Services Authorities to take necessary steps to reach out those who are in need of legal aid and basic necessities has increased. Pandemic has also caused the greatest deal of misery to the poor, migrants and underprivileged sections of society. From food to basic survival necessities, they took the worst hit out of all.⁶

³ Dicey, A.V.. An Introduction to the Study of the Law of the Constitution. United Kingdom, Palgrave Macmillan UK, 1985.

⁴ Krishna Iyer, V. R.. Legally Speaking. India, Universal Law Publishing Company Pvt. Limited, 2003.

⁵ Sarkar, S. K.. Law Relating to Lok Adalats and Legal Aid: Being Commentary on the Legal Services Authorities Act, 1987 with Central & State Rules. India, Orient Publishing Company, 2006.

⁶ Agrawal Aviral, Mishra Priyansh, [Legal Aid in India Amid the COVID-19 Lockdown](https://www.jurist.org/commentary/2020/05/agrawal-mishra-india-legalaid/), Jurist, Retrieved from: <https://www.jurist.org/commentary/2020/05/agrawal-mishra-india-legalaid/> , visisted on September 17, 2021.

Access to justice was limited due to the closure of courts and also the targeting of lawyers. Lawyers looking to respond to cases of human rights violations were limited not only due to the closure of judicial complexes but also road blockades. Lawyers were not allowed to open their chambers in many of the Indian states for more than two months. Being unable to open their chambers has severe consequences for the ongoing struggle for human rights. Families of arrested persons will remain deprived of legal aid as not only can they not visit the lawyers chamber's, they are also prevented from visiting the police station to file complaints or secure release of their family members. This has given a free hand to the state police which has continued to arbitrarily arrest and book people without following the relevant legal proceedings. Due to the police brutality and torture, a migrant labour hanged himself in district Lakhimpur. Due to the lockdown the family was unable to access the courts as the court complex and chambers were shut.⁷

One in three women worldwide experience physical or sexual violence mostly by an intimate partner. Since the outbreak of COVID-19, emerging data and reports from those on the front lines, have shown that all types of violence against women and girls, particularly domestic violence, has intensified. This becomes the Shadow Pandemic growing amidst the COVID-19 crisis. Sexual harassment and other forms of violence against women continue to occur on streets, in public spaces and online⁸

Legal Assistance during Lockdown

In the abovesaid backdrop National Legal Services Authority passed an order directing the State Legal Services Authority to take initiative to provide assistance to the needy and support to women, children and the needy amid COVID-19 lockdown. The legal aid counsels will co-ordinate with One Stop Centre and officials handling women helpline number to provide requisite legal aid to needy women through telephone or

⁷ COVID-19 Series: The impact of the crisis on lawyers in India, retrieved from, <https://lawyersforlawyers.org/en/covid-19-series-the-impact-of-the-crisis-on-lawyers-in-india-2/>, visited on September 17, 2021

⁸ The Shadow Pandemic: Violence against women during COVID-19 Retrieved from: <https://www.unwomen.org/en/news/in-focus/in-focus-gender-equality-in-covid-19-response/violence-against-women-during-covid-19>, visited on May 25, 2021

online. In case applications or petitions are required to be filed before the duty magistrate or court, it will be done keeping in view the Supreme Court directions.⁹

Initiatives taken up by NALSA to provide assistance to the people during COVID-19 pandemic¹⁰: -

With the advent of the Covid-19 pandemic, 2020 proved to be a challenging year for the world. Carrying out its duties during this unprecedented time, NALSA continued to help the marginalized section of society and these activities became a considerably important highlight of NALSA's work across the country. Embracing the need of the hour, Legal services institutions introduced services online, focusing their resources on the development of online portals, apps and increasing social media presence.

Introduction of e-camps for legal awareness, E-LokAdalats, mediation sessions through video conferencing and interactions with panel lawyers electronically became a common practice. In addition to their legal aid and assistance duties, Legal Services Institutions (LSIs) across the countries, in coordination with District Administrations and various stakeholders conducted non-legal relief activities during the Covid pandemic and the resulting lockdown. Ration packets, masks, medicines, etc. were provided to the needy and stranded labourers were helped to get home. Instrumental to the functioning of LSIs, the Para Legal Volunteers (PLVs) and Panel Lawyers played a pivotal role in making these efforts a success.

Vulnerable sections of the society such as women, children, senior citizens, laborers, daily wage earners, etc. faced unprecedented issues, which required a timely and effective resolution. The lockdown also created a unique vulnerable class i.e., stranded persons, who were stuck away from their native places. A cumulative effect of all the issues were also seen on lakhs of migrant workers, who required help in various forms including legal and financial

⁹ DLSA appoints two advocates to provide legal aid to women, children in Chandigarh retrieved from, <https://www.hindustantimes.com/chandigarh/dlsa-appoints-two-advocates-to-provide-legal-aid-to-women-children-in-chandigarh/story-4XDUMfdSBoqIoGMmz8dgiO.html> visited on May 29, 2021

¹⁰ Information collected through National Legal Services Authority.

assistance. During this period, the LSIs were at the forefront, providing legal, non-legal and financial aid.

Activities carried out during the Pandemic by Legal Services Authorities¹¹:

- 1. Assistance to victims of Domestic Violence:** The Legal Services Authorities observed an alarming rise in number of domestic violence cases during the initial phase of lockdown. Through its One Stop Centers, the Legal Services Authorities provided legal assistance to victims of domestic violence. Grievances were received mainly through the National Legal Aid Helpline No. 15100. During the said period, Legal aid & assistance was provided in **2,878** domestic violence cases.
- 2. Assistance to Migrant Workers:** The migrant workers were one of the worst hit groups by the pandemic and the subsequent lockdowns which ensued. The suffering of the migrant workers was noticed by Legal Services Authorities, who stepped in to provide any possible form of assistance including distribution of COVID prevention kits, food, shelter, payment of wages, travel arrangements, etc. Within three months, the LSAs assisted **around 60 lakh** migrants across the country.
- 3. Assistance to Stranded Persons:** During the lockdown, a large number of persons were stranded in different parts of the country. Sensing the magnitude of the problem, LSAs across the country provided assistance to the stranded persons to make sure those stranded people reached home safely. Adequate food arrangements were made for the duration of travel and financial assistance were also provided in appropriate cases. The LSAs located in different parts of the country ensured a smooth execution through their collaborative efforts. Total Number of stranded persons assisted during the lockdown – **36,435**.
- 4. Assistance to Senior Citizens:** In order to sensitize senior citizens about the deadly virus, LSAs undertook a various range of activities, in tune with the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. Incidents were also reported regarding domestic violence against senior citizens. In such cases, LSAs promptly intervened and provided counselling to the families of

¹¹ Ibid

senior citizens. All steps were taken to ensure food was provided to homeless elderly persons. Total number of senior citizens assisted during April – June 2020 – **1,04,084**.

5. **Assistance to Prisoners:** In compliance with the order dated 23.03.2020 passed by the Hon'ble Supreme Court, the LSAs identified the appropriate cases and during the lockdown, legal assistance was provided to around **22,559 undertrials** and convicted persons. Around **19,300** persons were provided legal assistance at the remand stage.
6. **E-LokAdalats:** LokAdalats have evolved into an effective ADR mechanism. In the period of turbulence caused by the pandemic, Legal Services Authorities creatively adapted to the new normal and moved LokAdalats to the virtual platform. E- Lok Adalat is a process to settle disputes, combining technology and alternative dispute resolution (“ADR”) mechanisms which offers a faster, transparent and accessible option. Since June, 2020 to February, 2021, more than **4.11 lacs** cases were settled out of which **1.23 lacs** were pre-litigative cases, and **2.88 lacs** were pending cases.

Conclusion and Suggestions:

The COVID-19 crisis poses huge challenges to human rights and the rule of law. India is party to the International Covenant on Civil and Political Rights, each of these countries provide the scheme of free legal aid to its citizens..Legal aid is essential to guaranteeing equal access to justice for all, as provided for by Article 6.3 of the European Convention on Human Rights regarding criminal law cases. Especially for citizens who do not have sufficient financial means, the provision of legal aid to clients by governments will increase the likelihood, within court proceedings, of being assisted by legal professionals for free (or at a lower cost) or of receiving financial aid. Although Covid 19 has created a very difficult situation for the world which has affected the supply of basic amenities includes food, water, clothing, and justice everywhere, the active role of legal service authorities has ensured a flow of assistance from the state to the people. Legal service authorities has took active charge and have responded to address all concerns. In addition to facilitating legal aid to the poor and the weaker sections of the society, NALSA has, through its competent workforce, ensured that essentials like food, masks, and sanitizer reach all people. Various helpline numbers and distress numbers are helping

people access aid, both essential and legal. To help the victims of domestic violence, NALSA ensured that victims have access to legal system with the help of Ministry of Women and Children. NALSA stood with the senior citizens and migrants in need and also took care for the prisoners. In a nutshell, NALSA, as the apex legal service authority in India, stood up to its task and has helped the government to ensure the safety and security of everyone across the geographical boundaries.

