



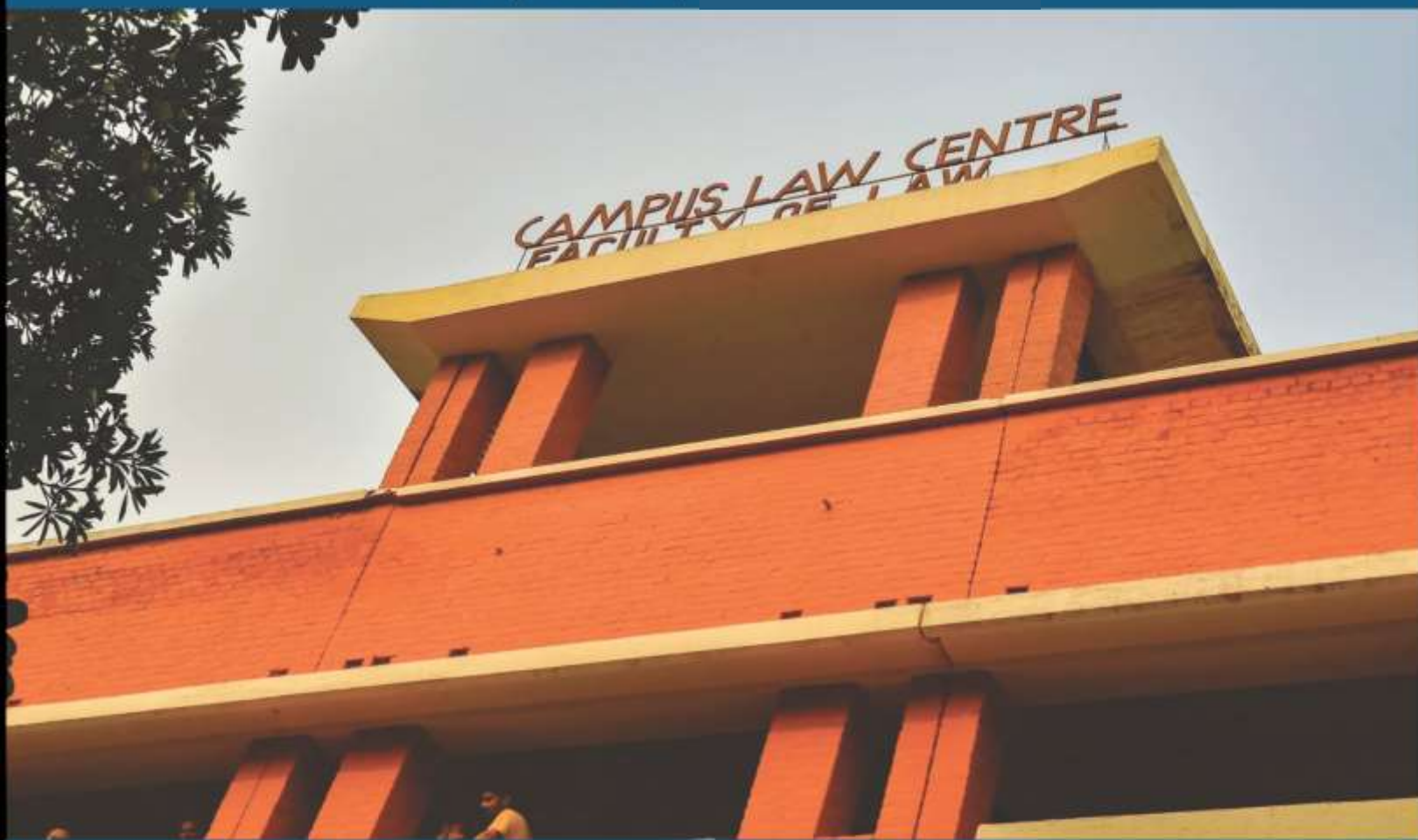
# E-NEWSLETTER

(Bi-Annual)



**LEGAL AID SOCIETY, CAMPUS LAW CENTRE**

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Legal Aid Society

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## LIST OF ABBREVIATIONS

S.NO.	ABBREVIATIONS	FULL-FORM / MEANING
1.	ASCJ	Additional Sessions Court Judge
2.	CAT	Convention Against Torture
3.	CCL	Child in Conflict with Law
4.	CDLSA	Central District Legal Services Authority
5.	CEDAW	Convention on the Elimination of All forms of Discrimination Against Women
6.	CHR	Commission of Human Rights
7.	CLC	Campus Law Centre, University of Delhi
8.	CRL	Criminal Appeal
9.	CrPC	Code of Criminal Procedure, 1973
10.	DG	Disadvantaged Group
11.	DIR	Domestic Incident Report
12.	DLSA	District Legal Services Authority
13.	DLSA	Delhi State Legal Services Authority
14.	EWS	Economically Weaker Sections
15.	FIR	First Information Report
16.	HC	High Court
17.	Hon'ble	Honourable
18.	IHBAS	Institute of Human Behaviour and Allied Sciences
19.	IPC	Indian Penal Code, 1860
20.	JJ Act	Juvenile Justice (Care and Protection) Act, 2015
21.	JJB	Juvenile Justice Board
22.	JSCC	Judges Small Causes Court
23.	LAS	Legal Aid Society, Campus Law Centre
24.	LSA Act	Legal Services Authority Act, 1987
25.	LSC	Legal Services Clinic, Campus Law Centre

26.	MTP	Medical Termination of Pregnancy
27.	NALSA	National Legal Services Authority
28.	NGO	Non-governmental Organization
29.	PC	Permanent Commissions
30.	PS	Police Station
31.	PIC	Professor-in-Charge, Campus Law Centre
32.	PIL	Public Interest Litigation
33.	PLV	Para Legal Volunteer
34.	POCSO	Protection of Children from Sexual offences Act, 2012
35.	RAW	Research and Analysis Wing
36.	RTE Act	Right to Education Act, 2009
37.	SC	Supreme Court of India
38.	SCC	Supreme Court Cases
39.	UPR	Universal Periodic Review
40.	UN	United Nations
41.	UNHRC	United Nations Human Rights Council
42.	VAT	Value Added Tax
43.	v.	Versus
44.	W-DLSA	West District Legal Services Authority

## FROM THE PATRON'S DESK



The usual practice of law concludes with the sentence of punishment or award of compensation; however, with the legal aid movement, the reach of law increases to victim rehabilitation and it becomes instrumental in achieving the overall objective of law. Usually the practice of law is passive in nature in the sense that only when a dispute has been brought before the courts, they take action. In civil cases, law expects the plaintiff to serve himself/herself by knocking at the doors of the court.

However, it is through the mechanism of legal aid that law acquires a proactive character, and modern practices like public interest litigation have provided a much needed 'active' character to the practice of law.

Participation by students in legal aid activities not only increases the reach of law amongst masses, but it also leads to the development of students as they gather a holistic understanding of law and contemporary social issues. The chasm between text book and real life scenario is sought to be bridged by participation in legal aid activities. Therefore, legal aid activities supplement the practice of law and at the same time complement the legal studies of students.

The legal aid societies functioning within the law colleges have an advantage of ready organisational infrastructure to take initiatives to help those affected by sudden crises. In this context it is very heartening to note that the Legal Aid Society, Campus Law Centre, in view on the ongoing COVID-19 pandemic and nationwide lockdown, immediately took an initiative to assist those in need of ration by helping them avail the E-coupons under the scheme instituted by the Government of Delhi.

In order to highlight the activities of the Legal Aid Society, the maiden issue of the LAS E-Newsletter was published in April 2020 (covering the Society's activities between September and December 2020). Continuing with complete devotion to the cause of legal aid, the Society has come up with another issue of the newsletter. It gives me immense pleasure to place before the readers the second issue of the E-Newsletter (2<sup>nd</sup> issue of Volume I) covering the Society's activities between January and April 2020.

The LAS has also recently started its official blog 'Awaaz' with a dedicated Editorial Board and has been receiving a very enthusiastic response from contributors from various backgrounds. The blog has published fresh and original content on topics of legal significance ranging from the changing dimensions of consumer law in India to the legality of same-sex marriages giving a welcome research complement to the legal aid activities. I am confident that 'Awaaz' will soon emerge as a popular and trusted platform for quality legal commentary on contemporary issues and will fulfill its mandate of serving as a platform for sharing of ideas and spreading legal awareness. The blog is open for contributions from students across varsities, for academicians across disciplines and legal practitioners across jurisdictions.

As always, my best wishes to the Society and the Editorial Board, and I want to end with the following message:

**Be sensitive to the human cry  
And let your imagination fly  
To every problem there is a solution  
If legal aid becomes a revolution**

Prof. (Dr.) Raman Mittal  
Professor-in-Charge  
Campus Law Centre, Faculty of Law



## INTERVIEW WITH SH. VINOD KUMAR MEENA

Secretary, West-District Legal Services Authority



1. **As someone who completed his legal education from Faculty of Law, University of Delhi, what are your most memorable moments of college life?**

I have very fond memories of my law college life. My experience in college was holistic and it has moulded me into what I have become today. My engagement with my peers contributed significantly to my understanding of the society. I was blessed with academically brilliant and kind-hearted teachers and still carry with me their words of inspiration and encouragement. I participated in various legal aid activities, which was a rewarding experience. I am a product of Law Centre-1, which allowed me the time and space to interact with subjects beyond law and participate in extracurricular activities while simultaneously interacting with the best and brightest emerging minds in the legal field. In my free time, I used to play cricket with my friends.

**2. What are the challenges that you faced as a Secretary of the West-District Legal Services Authority (W-DLSA), and what is the most rewarding aspect of the role that you have undertaken?**

Instead of responding in negatives and positives, I would rather illustrate by saying that my new role was a wholly different experience as it is a step further from being a judge. Judicial officers cannot do anything for the well-being of the victims other than conviction in cases where the perpetrator is identified. As a Secretary at West-DLSA, I am able to contribute significantly to the rehabilitation of victims.

Besides disseminating legal awareness and providing free legal aid to the concerned categories, my work also includes implementation of various government schemes. The most satisfying aspect of my work at DLSA is implementing the Victim Compensation Scheme introduced by the NALSA and it makes me feel that I am doing the right job. For example, hit and run cases falling under Section 304A of the Indian Penal Code, 1860, wherein the victim dies, the general practice prescribed by the law is that the Police files an 'untraced' report. If the family has no objections, the case would be closed. Before the introduction of the scheme, there was no concept of paying compensation to the victim's dependents. Now, if any untraced report is filed in a court, the court will send the Legal Services Authority a recommendation to compensate the dependents of the deceased an amount ranging from 3 to 10 lakhs.

In cases of Protection of Children from Sexual Offences (POCSO) Act, 2012, we receive recommendation for compensation, whether interim or final, by the court. Once the victims are before us for the enquiry, before providing them with compensation, I have made it a point to interact with them and go beyond monetary compensation in case other assistance can also be provided. For example, in one case that was brought before me, the victim was a 12-year-old girl who became pregnant and delivered a baby. On enquiring from her about the status of her studies, I got to know that the Principal of her school had removed her name from the rolls, this being a direct violation of the POCSO Act. The girl wanted to continue in the same school. I immediately pronounced an order and directed the Investigating Officer to meet with the Principal and show him the order. She got readmitted to the school in the next standard. We also provided her with a lawyer in addition to the Public Prosecutor to assist with the case. The case was concluded in 6



months and the girl was awarded an additional compensation of 11 lakhs which was disbursed into her account immediately. We are in regular touch with her and are overseeing her counselling and her education. This was truly an edifying experience for me.

At DLSA, we try to be proactive, listen to the concerns of the people and reach as many people as possible, as the mechanism of legal services authorities is for the benefit of the public. We continuously strive to fulfil this aim.

**3. The COVID-19 lockdown has made the judiciary more inaccessible to vulnerable sections of society. Reports show that there has been a substantial increase in child sexual abuse and domestic abuse in households, how do you think can this challenge be tackled effectively by the Legal Services Authorities?**

As facilitators of the vision of the Legal Services Authorities, our mandate is not confined to merely following the written schemes, but also taking the initiative to help those affected by sudden crises or unexpected events. The COVID-19 pandemic and ensuing lockdown was one such exigency which we had to respond immediately to. Our DLSAs and DSLSA initiated a 24/7 toll free number (1516) as well as a dedicated helpline to deal with the issues of domestic violence and child abuse during lockdown. The strategy we developed was that when a panic call is received at the toll free number, a Legal Aid Counsel is immediately deputed, who counsels and guides the victim as well as drafts her case and seeks relief in court.

In addition, we created pamphlets, both in Hindi and English, which convey in simple language that although it is essential to stay at home during the lockdown, one should not bear domestic violence or abuse of any kind. As of now, we have roped in student volunteers and PLVs to hand out these pamphlets to customers at shops etc. We have advertised the helpline numbers on television. Our Secretaries and Member Secretaries have appeared on news channels in order to raise awareness among the masses on these issues. We must understand that it is not sufficient to merely set up the institutions to address these social evils. People must also be made aware of such provisions and to this end, the joint efforts of students, print and electronic media have been sought. It is our constant endeavour to keep improving at dealing with such situations.

- 4. In February 2020, North East Delhi witnessed large scale violence which led to a requirement for massive legal relief. This was an emergency situation that required instant and large-scale efforts from the legal fraternity, what role do you think the Legal Services Authorities play in such exigencies and what is the role of the empanelled lawyers in such situations?**

Access to justice is an objective we strive for at the District Legal Services Authority (DLSA), not merely an empty slogan. Under the Legal Services Authorities Act, 1987, victims of mass disaster or ethnic violence are entitled to free legal services, such as assistance in filing cases for compensation etc. The violence in Delhi in February occurred in Shahdara region where we have 3 DLSAs. As soon as news of the incident broke, we started coordinating and developing strategies to respond. As it was not possible to go to the affected areas as the situation remained volatile for a long time, we worked in collaboration with the Delhi State Legal Services Authority (DSLISA) to establish help desks at hospitals and police stations so we could identify the victims, inform them of the legal remedies available to them and collect their data in order to proceed with the compensation process.

The help desks were also aimed at helping the affected people draft their compensation applications, filing complaints and missing persons reports with the police, and providing ease of access to victims who are unable to go to police stations. The police and the Legal Aid Counsels, as well as Para Legal Volunteers (PLVs), through the West-DLSA, provided great assistance in these efforts. We also advertised in newspapers so that the people in need could reach us through our toll-free helpline (1516) and the contact number of Shahdara DLSA. Our progress hit a few obstacles due to the Covid-19 lockdown, but we left no stone unturned to continue our efforts for the relief of the victims of the violence.

- 5. What role do you think law students play in aiding the District Legal Services Authorities? How do you think the current model of legal aid clinics can be improved to ensure a wider reach?**

The Legal Aid Services Authorities were established 25 years ago in India and we are still far from achieving our goal of legal literacy in society. Over the years, there has been a significant and welcome change in the attitude of students towards legal aid as more and more are participating in

legal aid activities. The active involvement of student Para Legal Volunteers (PLVs) and Legal Aid Clinic volunteers is indispensable to our work. Our student volunteers are essential in spreading awareness in society about free legal aid through door to door campaigns, various drives, nukkad natak etc. They are the ones who interact with people on a personal level and help them with the issues they may be struggling with, be it civil or criminal, by directing them to the appropriate fora for legal aid. The Legal Aid Clinics have been doing commendable work due to sustained efforts of PLVs and legal counsels. There is always scope for betterment and I am confident that with the inputs and active involvement of student volunteers, the DLSA would be strengthened as an organization.

**6. Our Legal Aid Society runs a blog called Awaaz with the aim of advancing legal literacy amongst law students. How do you think we can bridge the gap between theoretical and practical aspects of law?**

I think initiatives like Awaaz are of the utmost importance in encouraging students to develop a comprehensive legal understanding of contemporary issues. The research involved in writing an article prepares students in applying textbook knowledge of laws to specific topics. It also leads students to discover and shape their own voices. The blog provides a platform for diverse opinions to interact and enables students to expand their understanding on a wide range of issues. It is indeed a laudable effort by the Legal Aid Society.

*\*Interviewed by Ms. Misbah Reshi and Ms. Vasudha Singh.*

## FROM THE DESK OF CONVENER, LEGAL AID SOCIETY



I feel overwhelmed at the release of the second consecutive biannual issue of E-Newsletter of the Legal Aid Society (LAS), Campus Law Centre, University of Delhi. Reinstating the famous statement ‘when the going gets tough, the tough get going’, the members of the LAS team have shown a great character through their diverse activities and engagements with the vulnerable groups of society, registering huge number of drives along with seminars, webinars and public outreach programmes in the tough phase of COVID-19 Pandemic.

It is heartening to learn that even during the Lockdown Period, the paralegal volunteers; registered members, convener, co-conveners and executive members of Awaaz-The Blog of the LAS have solidified their efforts to reach out to public in a meaningful way. Few of the activities of LAS dealing with extreme situations are noteworthy, namely Rescue Drive, Legal Aid Camps for the Riot affected areas in North-East Delhi, Welfare Programmes for Covid-19 Pandemic hit areas and setting up of Legal Aid Help-Desks in different areas of the city to help people avail E-coupons under the Free Ration Scheme.

To bring diversity to its activities, LAS in association with the CDLSA organised a Seminar on a very relevant topic ‘Gandhi on Duties’, which was well received by the participants. Awaaz-the Blog of LAS took a great initiative by organising a Seminar on ‘United Nations Human Rights Council and Human Rights Lawyering in India’. The Blog is gaining enormous popularity among students, lawyers and legal academics, which is well reflected by an overwhelming submissions received within a short period of time. To disseminate awareness about the Pandemic-specific issues, the LAS in association with the CDLSA organised a webinar on ‘Analysing the Practicality of Domestic

Violence Laws during Exigencies'. The current edition of the LAS-Newsletter has significantly rich content, well-crafted by the Editorial Team.

I am extremely grateful to our Patron, Prof. (Dr.) Raman Mittal for his wonderful support and guidance in running the LAS in a constructive and innovative manner. I express my sincere gratitude to my colleagues and Members of the LAS for their invaluable contribution and support. I most sincerely appreciate the CDLSA for their wonderful cooperation and support. I congratulate all the hardworking members of the LAS for their accomplishments and wish them all the success in their future endeavours. I appreciate from the bottom of my heart the endeavours of the Student Convener, Co-conveners, PLVs and the members of LAS of LL.B. Third Year in shaping the LAS with significant additions and wish them all the success in every walk of life. Last but not the least, I express my deep appreciation to the Editorial Team of Awaaz-the Blog for bringing a beautiful and well-articulated Newsletter-II.

Best Wishes!

Dr. Kshitij Kumar Singh

Convener

Legal Aid Society, Campus Law Centre, University of Delhi

## LEGAL SERVICES CLINIC



Prof. N. R. Madhav Menon, Former PIC of CLC, focusing on the objective of establishing legal aid clinics in law schools, stated:

*Clinical legal education provides essential knowledge on the operation of the legal system and its functional relationships with social, economic and political processes. It gives him a sensitivity to malfunctioning and injustice involved in the legal machinery and helps him develop perspectives on law-social change relationships.*

Furthering the said objective, the Legal Services Clinic of CLC was inaugurated on 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 and bridge the gap between what law promises to offer and the harsh realities of the legal machinery. The LSC provides inexpensive local machinery for rendering legal services.

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 the PLVs to assist the seekers of legal aid. The LSC 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 lawyer(s).

In January and February, the LSC addressed legal grievances pertaining to property related disputes, admissions in school in EWS Category, monetary frauds, etc. whilst providing legal assistance in **14 cases**. (Refer to Table 1)

AREA OF LAW	NUMBER OF CASES
Property Disputes	3
EWS Admissions in School	4
Sexual Harassment	1
Money Related Disputes/Theft	2
Procedural Queries (Status of pending cases, ration card)	4
<b>TOTAL</b>	<b>14</b>

Table 1

The Legal Services Clinic, Campus Law Centre has been successful in providing free legal assistance to the residents of Delhi because of active participation of the PLVs and empanelled lawyers.



*\*The LSC remained closed in March- May due Covid 19 pandemic. (Vide Press Release dated 16 March 2020: <http://13.235.220.186/2020/03/16/covid-19-press-release/>)*

## ABOUT AWAAZ-THE BLOG



Literature has the power to mould thought, influence people, and affect change. Recognising the importance of the written word, Legal Aid Society of Campus Law Centre in 2019 launched a blog called “Awaaz” to aid the society achieves its goals of making the law accessible to all persons. 'Awaaz' aims at providing the students with an opportunity to explore the legal arena and shape discussions relating to paramount and critical issues pertaining to legal aid. Awaaz intends to fulfil two purposes; it aims to provide a space to young writers to present novel insights to emerging fields of law and legal aid and simultaneously aims to create a learning platform for all the law students.

Law students are limited in their knowledge and experiences given the range of issues that concern those accessing legal aid. Awaaz seeks to be the platform that bridges the gap between the theoretical imagination of a legal issue and its practical implications on ground.

Awaaz exists as the knowledge centre of the Legal Aid Society where students can learn about various relevant and vital legal issues. As a result of this, the platform limits its selection process to accept only topics related to legal aid and other socio-political and legal concerns. The blog is dedicated to presenting itself as a primary source of information for all students, para-legal volunteers, and lawyers interested in learning about emerging and pertinent questions in the field of legal aid.

Awaaz was inaugurated by the Professor-in-Charge of Campus Law Centre, Dr. (Prof) Usha Tandon on 7<sup>th</sup> November 2019, which was the final day of Para-legal Volunteer training organised for selected students of Campus Law Centre by Delhi State Legal Services Authority.

The blog invited submissions in the beginning of the year and since then it has received more than 40 submissions from various law colleges around the country. The topics on which submissions were received ranged from diverse themes including gender, politics, economics, sports, cyber laws, labour laws, criminal law, corporate law and various socio-legal issues like same-sex marriage, marital rape as a form of crime, adultery, mental health care in India, and the interaction of COVID-19 lockdown with the courts, and politico-legal issues like abrogation of Article 370 of the Indian Constitution, communalisation of COVID-19.

Month	No. of Submissions	Thematic Distribution of
28 Jan onwards-	3	Political and Economic affairs
February	11	Gender, Health and Criminal Law
March	3	Administration of Justice and Procedural laws
April	13	Legal Aid functioning, Internet, COVID-19 Pandemic and its Impact on India and Cyber laws
May	14	Gender, Sports and Labour
<b>Total no. of submissions received till 1 June 2020: 44</b>		

The members of legal aid society participate in various door-to-door campaigns and drives wherein they have to engage with people who are directly affected by the range of topics on which we have received submissions. The blog will equip students and PLVs to contribute holistically when interacting with the community members. Providing insights on such topics would help further the goals and objectives of the Legal Aid Society of Campus Law Centre.

## SEMINAR ON GANDHI ON DUTIES

The Legal Aid Society, Campus Law Centre, University of Delhi in collaboration with the Central-District Legal Services Authority organized a **National Seminar on Gandhi on Duties on National Martyrs' Day, 2020.**



*Begin with a charter of the duties of man, and I promise the rights will follow as spring follows winter.* With this Gandhian view as its template, a National Seminar ‘Gandhi on Duties’ was organized by the Legal Aid Society of Campus Law Centre in collaboration with Central District Legal Services Authority (CDLSA) at Campus Law Centre on Martyrs Day- the death anniversary of Mahatma Gandhi, i.e. 30 January 2020.

The inaugural session of the seminar was graced by the presence of Prof. Sanjay Paswan (Ex MoS, Ministry of HRD), Ms. Neeti Suri Mishra (Secretary, Central DLSA), Prof. (Dr.) Raman Mittal (Prof.-in-Charge, Campus Law Centre); Dr. Kshitij Kumar Singh (Convener, Legal Aid Society, Campus Law Centre) and other faculty members, research scholars and students. The session began by the felicitation of guests by members of the faculty and a welcome address by Prof. (Dr.) Raman Mittal, Professor-in-Charge, Campus Law Centre. Introducing the theme of the event, Prof. Mittal

said that the present age is full of struggle and conflicts, one in which man can achieve redemption only if he assigns equal importance to both rights and duties. He narrated the mythological tale of King Parikshit from the Mahabharata to illustrate his argument.

Ms. Neeti Suri Mishra, Secretary, CDLSA, addressed the audience thereafter. She began by paying her tributes to Mahatma Gandhi and other martyrs who fought for the country. She highlighted the importance assigned to individual liberty by Gandhi and remarked that he gave equal weightage to both rights and duties. She drew a comparison between Gandhi's concept of Satyagraha with Salmond's conception of rights. She said that citizens were aware of their rights but not their duties and hence there should be greater focus on Article 51A of the Indian Constitution.

Thereafter, Prof. Sanjay Paswan was invited to share his thoughts. He began his address by highlighting that the day of the seminar also coincided with the Hindu festival of learning -Vasant Panchami. He pointed out that we must understand ourselves, our society, and realize our duties in relation to them. Talking about the culture of India he said that traditions and customs which are being followed should be respected. He made a distinction between rights and duties by saying that rights are 'demanding' but duties are 'commanding' and both should be balanced. He opined that a rights-only society is problematic, and a duty-centric society is a better alternative. Emphasizing the need to move from Western thought to Indian thought, he said we should look to Gandhi, Lohia, Ambedkar and Deendayal to solve our problems. He stated that Gandhi stood for assertion and not aggression and that G-A-N-D-H-I stands for Great, Assertion, Nuance, Distribution, Harmony and Inspiration. He reiterated that the world must follow Gandhian ideals.

### **THE FIRST PANEL DISCUSSION: DUTY AS PRECURSOR OF RIGHTS**

**Panelist-1:** Dr. Anjay K. Sharma, Assistant Professor at Law Centre-II, Faculty of Law, University of Delhi, was the first panelist of the session. He said that though collectively people are sovereign, individually we all should follow our duties. He presented a correlation between fundamental duties and fundamental rights. He argued that Article 51A of the Indian Constitution is a codification of *Dharma*.

**Panelist-2:** Dr. Harleen Kaur, Assistant Professor at Campus Law Centre, Faculty of Law, University of Delhi, presented her paper titled 'Adoption of Gandhian correctional & reformatory

approach in the criminal justice system of India'. She quoted Gandhiji's famous dictum '*Hate the sin, not the sinner*'. Talking about the reformatory theory of criminal justice, she pointed out various provisions of Code of Criminal Procedure (CrPC) that are reformatory and not punitive. She also discussed the concept of 'open prisons' and argued that we need a balance between the reformatory as well as deterrent approach.

**Panelist-3:** Ms. Sneha Yadav, Assistant Professor at Campus Law Centre, Faculty of Law, University of Delhi, talked about the relevance of duties in the present age and said that with great power comes great responsibility. She stated that duty is an ancient concept and traced its relevance in Indian philosophy through mythological tales and quotations from the Gita and the Mahabharata. She opined that if one is performing their duty, rights are bound to follow.

**Panelist-4:** Mr. Mritunjay Kumar spoke about the idealism Gandhian philosophy. He recounted examples from Gandhi's real life to showcase his exemplary personality. He talked about deontology in various aspects of legal and social systems and drew a comparison between Gandhi and Immanuel Kant (the German philosopher).

**Panelist-5:** Dr. Anju Sinha, Assistant Professor at Law Centre-II, Faculty of Law, University of Delhi, discussed various social and moral duties of citizens. Speaking on the reformatory approach she too discussed the concept of open prisons and said that we should 'hate the crime, not the criminal'. She said that the right of citizens to have a crime-free society must be balanced with State's duty to reform a criminal.

### **THE SECOND PANEL DISCUSSION: RELEVANCE OF GANDHIAN DUTIES IN INDIAN JURISPRUDENCE**

**Panelist-1:** Dr. Neelam Tyagi, Assistant Professor at Campus Law Centre, Faculty of Law, University of Delhi, was the first panelist in this session. She discussed the Fundamental Duties as enumerated under Article 51A of the Indian Constitution. She spoke about each fundamental duty and analyzed legal provisions related to them.

**Panelist-2:** Dr. Pankaj Chaudhary, Assistant Professor at Campus Law Centre, Faculty of Law, University of Delhi, spoke about Gandhian ideology in the context of international law. He discussed the principles of co-operation and interdependence amongst nations, and their relation to Gandhian values.



**Panelist-3:** Dr. Cholaraja Mudimannan, Assistant Professor at Campus Law Centre, Faculty of Law, University of Delhi, spoke about Gandhian ideology, in the context of untouchability and social discrimination. He argued that social evils like untouchability can be eradicated by following Gandhian principle of non-violence.



**Panelist-4:** Dr. Narender Bishnoi, Assistant Professor at Campus Law Centre, Faculty of Law, University of Delhi, discussed the relationship between various Fundamentals Rights, Directive Principles of State Policy and Fundamental Duties as enshrined in the Indian Constitution. He also highlighted the co-relation of duties with the existing laws of the country. He discussed Gandhi's emphasis on education along with the 86<sup>th</sup> Constitutional Amendment Act which introduced the right to education as a fundamental right. Dr. Bishnoi also stated that Gandhi's views on the preservation of the environment were close to his heart as he came from a community which had a tradition of making extreme sacrifices for the preservation of the environment.

**Panelist-5:** Mr. Deepak, an advocate practicing in the Hon'ble Supreme Court, discussed the views of Gandhi on rights and duties and argued that duties are more natural than rights. He opined that if everyone started performing their duties then no one would need to assert their rights. He said that while an external force is needed to enforce rights, duties come from within.

**Panelist-6:** Dr. Seema Singh, Assistant Professor at Campus Law Centre, Faculty of Law, University of Delhi, discussed some ‘experiments’ that Gandhi did with duties.. She highlighted ten important duties stated by Gandhi in his moral philosophy. She remarked that Gandhi did not only preach these duties but also practiced them sincerely. She contended that having more written laws is indicative of a society that is not ‘fully’ civilized.

**Panelist-7:** Dr. Vijoy Panicker, Assistant Professor at Campus Law Centre, Faculty of Law, University of Delhi, made a co-relation between Gandhian duties and the ‘duty of care’ as enunciated in the landmark common law case of *Donoghue vs. Stevenson*. He stated that a legitimate claim for rights can only be made when we perform our duties diligently.

### THE FINAL PANEL DISCUSSION: A DIALOGUE WITH GANDHIJI ON DUTIES

In this panel discussion students and research scholars presented their papers on the theme of the seminar.

**Presenter-1:** Mr. Rajesh Parthasarathi, an alumnus of CLC was the first speaker of this session. He began his presentation by interacting with the audience about Gandhi’s life. He remarked that: “a man who weighed just 46 kg continues to have great intellectual weight and influence even seven decades after his death.” His presentation focused on Ram Rajya and Gandhian principles of Truth, Non-Violence, and Duty. He stated that Gandhi always preferred a charter of duties over charter of rights. He also spoke about Gandhi’s religious beliefs and how they had a significant influence on his conception of duties.

**Presenter-2:** Abhishek Tripathi, a 1<sup>st</sup> year LL.B. student of Campus Law Centre, traced the conception of duties within the Indian culture. He used instances from the Ramayana amongst various ancient Indian texts to substantiate his arguments.

**Presenter-3:** Ms. Rupali Parashar, a 1<sup>st</sup> year LL.B. student of Campus Law Centre, spoke on the virtues of a Satyagrahi. She explained how despite being under the colonial rule, Gandhi followed all just colonial laws and disobeyed only unjust laws. She cited Gandhi’s service during the Boer War as an example of this practice. She also discussed Gandhiji’s ‘theory of Trusteeship’.

**Presenter-4:** Mr. Sagar Soni, a 1<sup>st</sup> year LL.B. student of Campus Law Centre, elaborated upon the Fundamental Duties within the Indian Constitution and argued that people have failed to perform

these duties in various aspects of their daily lives. He illustrated his argument by emphasizing on the communal discords and caste and class-based discriminations which continue to exist in the Indian society.

**Presenter-5:** Mr. Shubam Kumar Jain, a 3<sup>rd</sup> year LL.B. student of Campus Law Centre presented his views in a unique format designed as a conversation between a common citizen and Gandhi. . Each question posed to Gandhi was related to a duty which was implicitly correlated to a contemporary socio-political issue. This was followed by a reply that the presenter thought Gandhi would have given.

### VOTE OF THANKS

The vote of thanks was delivered by Dr. Kshitij Kumar Singh who expressed his concern at the growing clamour for rights at the cost of duties. He stressed that Gandhian methods and ideals are more relevant today when the society is witnessing conflicts. He placed on record his gratitude for the Professor-in-Charge and CDLSA for their encouragement and assistance in conducting the seminar. He also thanked all the panelists and the presenters for their participation and for making the seminar a success. He expressed his hope towards further discussions and dialogues on Gandhian ideals. He concluded by saying that if we, as Indians, forget Gandhi then we will lose our identity as Indians.

The concluding remarks were followed by a distribution of certificates to the participants by Dr. Kshitij Kumar Singh.

*\*Drafted by Mr. Shashi Shekhar Misra.*

## SEMINAR ON UNITED NATIONS HUMAN RIGHTS COUNCIL AND HUMAN RIGHTS LAWYERING IN INDIA

Awaaz- The Blog, Legal Aid Society, Campus Law Centre organized a **seminar on United Nations Human Rights Council and Human Rights Lawyering In India on 31 January 2020.**



*Awaaz- the Blog*, a venture of the Legal Aid Society, Campus Law Centre, held its inaugural event- a panel discussion on **UN Human Rights Council and Human Rights Lawyering in India** on January 31, 2020 at Campus Law Centre. The guests present included eminent panellists, Professor Lawrence Moss (Distinguished Lecturer and Rita E. Hauser Director of the Human Rights Program at the Roosevelt House Public Policy Institute at Hunter College, New York), Ms. Sneha Mukherjee (Advocate, Supreme Court of India and Human Rights Activist), Ms. Sunny Tayeng (Advocate, and Human Rights Activist), Mr. Siddharth Seem (Advocate, Supreme Court of India and Human Rights Activist) accompanied by Dr. Kshitij Kumar Singh (Convener, Legal Aid Society, Campus Law Centre), Ms. Sneh Yadav (Teacher Member, Legal Aid Society, Campus Law Centre), and other faculty members, research scholars and students.

The session began with the felicitation of the speakers by members of the faculty. Dr. Kshitij Kumar Singh delivered the welcome address and illustrated how human rights law and legal aid are

inexplicably intertwined. He further highlighted the need for the students and especially legal aid volunteers to be aware of the international human rights regime as well as its domestication in India.



#### **FIRST PANELLIST: PROFESSOR LAWRENCE MOSS**

The first speaker was the eminent Professor Lawrence Moss. In an illuminating discussion, he shared his experiences of struggles with the audience and spelt out his concerns regarding international law. He traced the gradual evolution of international human rights law, from the creation of the *Commission on Human Rights (CHR)* in 1946- a body plagued with accusations of having countries that were human rights offenders as its members, to the establishment of the UN Human Rights Council (UNHRC) in 2006 after a prolonged effort. The UNHRC is far more representative in character than bodies such as the UN Security Council, in terms of representation from African and Asian countries. However, in international law, political realities cannot be ignored, and it is true that it is a systemic flaw that countries with economic and political clout, like China, are able to influence others' decisions to vote in their or their allies' favour.

Illustrating the difference between traditional courtroom lawyering and human rights lawyering, he underlined the important role that soft power advocacy and international politics play at the stage of the UN. Pointing to the absence of a binding tribunal at the international level for violation of conventions, he then talked about how the crisis pervading international law of States not holding each other accountable for their acts could be remedied by civil society and public-spirited individuals and NGOs pressuring their countries' governments to be more accountable for their



actions at home as well as while voting in the UNHRC. He chalked out a few ways of doing so. The United Nations Human Rights Treaty Bodies are committees of independent experts which monitor governments' implementation of ten core human rights treaties, including Convention against Torture (CAT) and Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Since the experts also get information from sources besides the government, 'shadow reports' play a crucial role in redressing situations where a government has hidden an issue or misled the committee on it. NGOs are able to bring such issues to the limelight through these reports.

Another regulatory mechanism in which shadow reports are valuable is the Universal Periodic Review (UPR) conducted by the Human Rights Council. The review includes three documents: a State prepared report; a compilation of the State's recent treaty body reviews; and a compilation of information from NGOs, and other "relevant stakeholders". Each country must submit a report, and an organization doesn't have to be accredited to present information. Thus, it provides a forum for even local NGOs to voice their concerns on the government's performance in upholding human rights to the council. We might bear in mind that the UPR is a less intense scrutiny than treaty reviews, which are comparatively more professional and legal. However, it has a broader scope of review than treaty monitoring bodies. He concluded by exhorting the students to explore the nuances of international human rights advocacy.

### **SECOND PANELLIST: MS. SUNNY TAYENG**

Next to speak was Ms. Sunny Tayeng. She recounted her personal battles with racism, and the cumulative trauma caused by supposedly innocuous instances of casual racism passed off as jokes made by people around her, including her friends. She spoke against the normalization of racist slurs, stereotypes, and various micro aggressions not recognized by the society at large that leave a deep psychological impact on the affected person. People from the north-east are discriminated against in matters of rent, they are denied housing, and are forced to produce identification documents as they are perceived as a foreigner.

Women have to face both racist and sexist stereotypes. Ms. Tayeng shared how she was compelled to take up the cause of racial discrimination and atrocities against north-eastern Indians when she heard about Nido Taniam, a student from Arunachal Pradesh, who was beaten to death in a racist incident in Delhi in 2014. She discussed the case of *Karma Dorjee v. Union of India* (2016). In



this case, the Hon'ble Supreme Court directed that in order to enhance a sense of security and inclusion, the Ministry of Home Affairs should take proactive steps to monitor the redressal of issues pertaining to racial discrimination faced by citizens of the nation drawn from the north-east. For that purpose, a regular exercise of monitoring and redressal should be carried out by a Committee formed by the Ministry, which would report on crime and violence faced by people from the north-east.



However, progress was slow following this, in 2018, in *Alana Golmei vs Union of India*, the Hon'ble Supreme Court regretfully remarked the first meeting of the committee had been convened more than a year after the decision, and instead of meeting preferably every month it had only met thrice since 2016. She concluded by stressing that the struggle against racism is a daily one for some. It is a concern that can be dealt with not only through legal recourses, but also through introspection and sensitization.

### **THIRD PANELLIST: MS. SNEHA MUKHERJEE**

The subsequent panellist was Ms. Sneha Mukherjee. She has been the project coordinator for the Rape Crisis Cell in New Delhi. For the last four years, her work has been focused on reproductive and sexual health rights, and she has been at the forefront of the Right to Abortion Campaign in India. She began by redefining the term violence against women to include denial of essential rights

as a form of violence. Introducing the topic of abortion, she questioned the constitutionality of the law regulating abortion as it restricts the right of a woman to exercise her choice in matters of her body, which falls in the domain of Article 21 (Right to Life). She argued that abortion as well as access to contraceptive services should be covered under right to reproductive and sexual health.

She outlined the struggle behind the Amendment proposed by the Cabinet to the Medical Termination of Pregnancy (MTP) Act extending the time limit of abortion from 20 to 24 weeks. Her team filed around 200 cases over a period of 3 years, with 30 cases being filed in the Hon'ble Supreme Court, 80 cases in the Hon'ble Bombay High Court, and a large number in Hon'ble High Courts of Rajasthan, Bihar, and Gujarat followed by other states. Extraordinarily, not one judge ruled on the constitutional validity of the provisions of the Act. The courts referred the cases to medical boards, which had discretion over decisions about a vast array of issues such as pregnancies caused by rape, questions about the viability of the foetus, and the danger to the life of the woman posed by childbirth. It was seen that there was no uniformity of opinion across medical boards on similar cases or even identical cases.

Human nature dictates that the moral or religious biases of a person tend to inform their decisions. The decision-making power rests in the hands of the courts and the doctors, not the woman who loses her bodily autonomy. In fact, the debate should not be framed as a policy issue merely discussing the time limit, but should necessarily be about an individual's right to choose. Rather than putting the decision in the hands of society, which offers no support to a woman after she bears the child or suffers the trauma of a miscarriage or stillbirth, the decision should rest with the child-bearer. She also discussed why blood transfusion should be a fundamental right. She talked about a recent PIL filed by her team highlighting the huge number of deaths of women every year due to postpartum blood loss, as blood is not readily available for transfusion. After the criminalization of direct blood transfusions, the only recourse for patients is to purchase blood bags available at blood banks. In addition to these being expensive (between Rs. 1,100 and Rs.1500 per bag in AIIMS, Delhi), India has the world's largest shortage of blood, especially in remote areas where it is not easily available.

**FOURTH PANELLIST: MR. SIDDHARTH SEEM**

Mr. Siddharth Seem, the last speaker, explained the distinction between human rights litigation and conventional litigation. He stated that the human rights litigation involves fighting cases in which clients may not have legal rights under an existing statute, thereby, creating new norms and acts as a judicial recourse against a legislative vacuum. He explained that the various ways of doing this including, approaching courts with individual cases on a particular issue, challenging State arbitrariness, and pressuring the government to enact legislative provisions to remedy a situation.

He remarked that one of the principles of his work was that if one witness's injustice, they become party to it unless they oppose it. He explained that a career in human rights law is sustainable, especially with the emergence of class action litigation. Taking the example of farmers' rights conflicting with corporate interests on Genetically Modified crops, he demonstrated the intersectionality of human rights law with intellectual property rights law. He concluded by saying that the goal of human rights litigation is to empower the groups and communities that are in need of justice, to a point where they no longer require such legal assistance.

**QUESTION-ANSWER SESSION**

Doubts were raised about sex selective abortions which are a result of family pressure. Ms. Mukherjee replied that a sonography to determine the sex can be done even at 8 weeks, hence it does not factor into liberalizing abortion laws. Another question centred upon the right to life of the foetus and if it has an independent identity. Ms. Mukherjee and Mr. Seem answered by drawing attention to the technical meaning of the term "life" and looking at international law, which states that "all people are born equal"- thus implying that to have equal rights one must be born.

In conclusion, Ms. Sneh Yadav delivered the vote of thanks and expressed her appreciation to all the speakers for enlightening the audience with their vast and varied experience in their respective fields and making the seminar a success. She expressed her hope that this seminar would lead to further discussions and dialogue on international and domestic human rights law.

*\*Drafted by Ms. Vasudha Singh.*

## LEGAL AWARENESS PROGRAMMES/ DRIVES



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

S. No.	Name of the Drive	Date
1.	Legal Awareness Drive on Fundamental Duties	January 09, 2020
2.	Road Safety Awareness Programme	January 15, 2020
3.	Legal Aid Awareness Drive on Fundamental Duties	January 24, 2020
4.	Legal Aid Awareness Drive on EWS/ DG Category Admissions	January 24, 2020
5.	Online Admission Drive For EWS-DG Category Children	January 25 – February 24, 2020
6.	Rescue Drive	February 5, 2020
7.	Visit to Tihar Jail Complex	February 13, 2020
8.	Visit to Institute of Human Behaviour and Allied Sciences (IHBAS)	February 20, 2020
9.	Visit to Juvenile Justice Board	February 25, 2020
10.	Legal Aid Camp for the Riot Affected Areas in North East Delhi	March 7- 14, 2020
11.	Legal Aid Help Desk for Assistance for E-Coupon for Ration Scheme	April 19, 2020
12.	Assistance for E-Coupon for Ration Scheme	April 2020 onwards

## I. LEGAL AWARENESS DRIVE ON FUNDAMENTAL DUTIES

<b>Date:</b>	January 09, 2020
<b>Site / Geographical Area Covered:</b>	Majnu Ka Tila
<b>Police Station:</b>	Civil Lines
<b>Team Leaders:</b>	Ms. Loveleen Kaur and Mr. Sumit Singh
<b>Number of Volunteers:</b>	20 (PLVs + Non-PLVs)
<b>Target Audience:</b>	45+ Households

The Legal Aid Society, Campus Law Centre in association with Central-District Legal Services Authority organized a Legal Awareness Drive on January 09, 2020 at Majnu Ka Tila, Civil Lines, Delhi.

**Objective:** The objective of the drive was to generate awareness among people about the Fundamental Duties enshrined in Article 51A of the Constitution of India. These duties are considered as moral obligations of every citizen of India whose duty is to promote harmony and spirit of brotherhood.



**Procedure and Observation:** For the drive, 20 members of the society surveyed the area with a questionnaire related to Fundamental Duties laid down by the Constitution of India. The questionnaire was prepared by the Central-DLSA. The volunteers interacted with around 80 residents of the area. After surveying more than 45 households, the volunteers found that while most of the residents were aware of their moral obligations, they were completely oblivious of the



Constitution, which prescribes these duties. In addition to the survey, the volunteers identified issues pertaining to rent disputes, senior citizens' pension, instances of domestic violence, etc. The residents were informed about various free legal aid services and schemes under NALSA and DSLSA, and about the Legal Services Clinic situated at Campus Law Centre, University of Delhi.

**Impact:** Majnu Ka Tila is a home to a large refugee population living under deplorable conditions. Spreading awareness about their Fundamental Duties and the existence of free legal services under the Legal Services Authority Act, 1987, the volunteers extended a hand of empathy and made 'access to justice' look like a less tedious task.

## II. ROAD SAFETY AWARENESS PROGRAMME

<b>Date:</b>	January 15, 2020
<b>Site / Geographical Area Covered:</b>	Malkaganj Chowk to Ghanta Ghar, Shakti Nagar
<b>Police Station:</b>	Subzi Mandi, Old Roop Nagar
<b>Team Leaders:</b>	Ms. Monika Rani and Mr. Sumit Singh
<b>Number of Volunteers:</b>	15 (PLVs + Non-PLVs)
<b>Target Audience:</b>	100+ People

The Legal Aid Society, Campus Law Centre marked the occasion of 31st National Road Safety Week, observed from January 11 -17, 2020, by organizing a Road Safety Awareness Programme in association with Central-District Legal Services Authority.

**Objective:** In keeping with the theme of the week, which was 'Sadak Suraksha-Jeevan Raksha', the volunteers endeavored to emphasize the importance of road safety rules for both the pedestrian and motor vehicle drivers.

**Observation and Procedure:** The students spread awareness about traffic rules and etiquettes such as the importance of always wearing seat belts and helmets, following road signs, adhering to speed limits, giving way to emergency vehicles, etc. The passers-by were also cautioned against driving under the influence of drugs or alcohol and jumping red lights. The volunteers were guided in their efforts by two traffic policemen from the Delhi Traffic Police.





**Impact:** The awareness programme was a huge success because of the enthusiastic participation of the student volunteers and warm response from the citizens, who were eager to listen and learn about the nitty-gritties of road safety.

### III. LEGAL AWARENESS DRIVE ON FUNDAMENTAL DUTIES

<b>Date:</b>	January 24, 2020
<b>Site / Geographical Area Covered:</b>	Chandrawal Village near Malkaganj Area
<b>Police Station:</b>	Roop Nagar
<b>Team Leaders:</b>	Mr. Akash Sachan and Mr. Mihir Gujjewar
<b>Number of Volunteers:</b>	30 (PLVs + Non-PLVs)
<b>Target Audience:</b>	100+ Households

The Legal Aid Society, Campus Law Centre in association with Central-DLSA, organized a Legal Awareness Drive wherein volunteers spiritedly interacted with the public with a twofold purpose.

**Objective:** The aim of the drive was to impart awareness about Fundamental Duties as well as promoting legal literacy by making people cognizant of their right to free legal services under the Legal Services Authority Act, 1987.

**Procedure and Observation:** The volunteers distributed a brief questionnaire to the residents on the topic of Fundamental Duties enshrined in the Constitution of India, intended to evaluate the level of awareness among the general populace regarding the subject. The results demonstrated that most citizens were satisfactorily aware of their duties. The volunteers had engaging conversations

with the residents of the area about the importance of Fundamental Duties such as the duty to abide by the Constitution, to promote brotherhood and harmony, to protect the environment, to develop scientific temper, etc. They explained how Gandhi ji believed that rights originate from duties and citizens should keep their duties at the forefront.



The students also enlightened people about free legal services provided by the NALSA, DSLSA, DLSAs, and the persons who could avail benefits under the Legal Services Authority Act, and informed them about the Legal Services Clinic situated at Campus Law Centre, University of Delhi.

**Impact:** It was an insightful experience for the volunteers to witness the ground reality and the programme was successful in increasing the outreach of legal aid services to people deprived of their legal rights.

#### IV. LEGAL AID AWARENESS DRIVE ON EWS/ DG CATEGORY ADMISSIONS

<b>Date:</b>	January 24, 2020
<b>Site / Geographical Area Covered:</b>	Peer Bagichi and Andha Mughal
<b>Police Station:</b>	Gulabi Bagh
<b>Team Leaders:</b>	Mr. Aniket Rajput and Mr. Manish Kumawat
<b>Number of Volunteers:</b>	30 (PLVs + Non-PLVs)
<b>Target Audience:</b>	70+ Households

The Legal Aid Society, Campus Law Centre in association with the Central-DLSA organized a Legal Awareness Drive to promote greater implementation of the Right to Education Act, 2009 and, to do justice to its underlying principle- 'No child left behind'.

**Objective:** The purpose of the drive was to spread awareness regarding the provision of 25% reservation in admissions for the Economically Weaker Section (EWS) Category and Disadvantaged Group (DG) Category in private unaided recognized schools in their area (i.e., up to 6 km) at entry-level classes in the upcoming school year.



**Procedure and Observation:** The volunteers told the residents in the vicinity about the scheme, eligibility criteria, and the necessary documents required for application process. The response was positive, with most people being aware of the said reservations and lottery system for admissions. However, they complained that they were unable to avail these benefits as their name was never picked. It is also pertinent to note that there were only 4 or 5 private schools in the area, leading to a shortage of seats. Another often encountered problem was the absence of documents, especially for families that had migrated to Delhi from other states. The zealous efforts of the volunteers and the keen response of the guardians helped fulfil the purpose of the drive.

**Impact:** The drive was successful in making people aware about their rights and helping them exercise them in times when distributive justice has become a far-fetched dream. The volunteers also learnt about how access to education to the indigent communities can go a long way in ensuring their overall well-being.



## V. ONLINE ADMISSION DRIVES FOR EWS-DG CATEGORY CHILDREN

<b>Date:</b>	January 25- February 24, 2020
<b>Site / Geographical Area Covered:</b>	Peer Bagichi and Andha Mughal
<b>Police Station:</b>	Gulabi Bagh
<b>Team Leaders:</b>	Mr. Akash Sachan, Ms. Misbah Reshi, Ms. Monika Rani, Ms. Niharika Diwan, Mr. Sumit Singh and Ms. Tanishka Khatana
<b>Number of Volunteers:</b>	30 (PLVs + Non-PLVs)
<b>Target Audience:</b>	80+ households

The Legal Aid Society of Campus Law Centre, under the aegis of Central DLSA, organized a number of Online Admission Drives to facilitate admissions of Economic Weaker Section (EWS) Disadvantaged Group (DG) Category in Private Unaided Recognized Schools under the RTE Act, 2009 and Delhi School Education Act & Rules, 1973. The drives were conducted for entry level classes (Pre-School/Nursery, Pre-Primary/KG and Class-I) for academic session 2020-21 through Computerized Online Admission System.



**Objective:** The purpose of the drives was to make the online admission process inclusive for children belonging to the underprivileged section of society to further the goal of right to education for all as envisioned by the Indian Constitution.

**Procedure and Observation:** In furtherance of the above-mentioned directive, a help desk was set up at the Legal Services Clinic, Campus Law Centre, on every Saturday from January 25, 2020 to

February 24, 2020. Four Door-to-Door Legal Awareness Drives were conducted by the society members from February 1, 2020 to February 18, 2020 in the areas of Shakti Nagar, Timarpur, Gulabi Bagh and Kabir Basti in New Delhi. Each drive was headed by two Co-Conveners of the Legal Aid Society and comprised of 10 PLVs and 10 non-PLVs, who were divided into multiple groups and sent to various colonies near these areas.

The members, on reaching the respective localities, divided themselves into two groups; one was responsible for imparting door-to-door awareness of the online admission drive and, the other had the task of filling the online admission forms using their laptops. To expedite the process, some of the volunteers even filled the online forms using their mobile phones.

**Impact:** The drives saw an overwhelming response, around 70 admission forms were filled in total, and about 50 parents were asked to collect requisite documents and visit the Legal Services Clinic of Campus Law Centre to complete the process. We are pleased to inform everyone that 13 children belonging to the abovementioned categories have secured admission.

Date	Area	Number of Forms Filled	No. of Children who Secured Admission
1 February 2020	Shakti Nagar	9	1
7 February 2020	Timarpur	28	2
14 February 2020	Gulabi Bagh	17	2
18 February 2020	Kabir Basti	13	8
<b>Total</b>		<b>67</b>	<b>13</b>

## VI. RESCUE DRIVE

<b>Date:</b>	February 05, 2020
<b>Site / Geographical Area Covered:</b>	Darya Ganj, Connaught Place and New Delhi Railway Station
<b>Police Station:</b>	Darya Ganj
<b>PLVs Involved:</b>	Mr. Daksh Aggarwal and Ms. Vandana Yadav

On 5 February 2020, under the directions and guidance of Ms. Neeti Suri, Secretary of the Central-District Legal Services Authority, a team of 8 dedicated members- headed by Ms. Rachna Khanna,

conducted a Recue drive at New Delhi Railway station (NDRS) to search a 32- year-old Mauritian girl who came to India on 15 January 2020.

After 6 long hours of continuous and arduous search, around 4 pm, she was finally located near Super Market, Connaught Place from where she was successfully rescued and brought to Connaught Place Police Station in the presence of a lady Police Officer. Adv. Deepak Kumar played a critical role in dealing with all the legal procedures and proceedings. With the strenuous efforts of CDLSA team, the success of the Rescue drive significantly added to the mission of providing aid and justice to all.

**Note:** The identity of the person cannot be disclosed as per the directions of the court. Also, the Legal Aid Society, Campus Law Centre is not allowed to share more details of the drive to protect the larger interests of the victim.

## VII. VISIT TO TIHAR JAIL COMPLEX

<b>Date:</b>	February 13, 2020
<b>Site / Geographical Area Covered:</b>	Tihar Jail
<b>Team Leaders:</b>	Mr. Aniket Rajput, Ms. Misbah Reshi, Ms. Niharika Diwan and Mr. Sumit Singh
<b>Number of Volunteers:</b>	80 (PLVs + Non-PLVs)

The Legal Aid Society of Campus Law Centre organized a visit to Central Jail of Tihar on February 13, 2020. In this visit, 80 registered members of the Legal Aid Society visited the premises of Jail no. 3 and was a part of the introductory session revolving around the jail and inmates.

**Objective:** To be acquainted with the living conditions of the inmates and to spread awareness on free legal services available to the inmates.

**Procedure and observations:** Tihar Prison is one of the largest prison complexes in South Asia, housing around 260 convicted and 2100 + under trial prison inmates. It is styled as a correctional institution, and its primary objective is to rehabilitate its inmates by providing them with useful skills. The volunteers were made acquainted with the inmates' daily routine and stringent provisions



made by the jail authorities for the same. Many inmates were found to be enrolled in educational courses such as 10th, 12th, B.A. Programme, etc. In 2019, around 200 prisoners successfully completed the computer course and got certified through Vedanta Foundation. The jail complex has a functional library with a large book collection. Additionally, the inmates are also taught the art of sewing, stitching, and even painting. The prisoners in the facility have been categorized as non-skilled, semi-skilled, and skilled and are paid accordingly. The jail also has a functional Outpatient Department Treatment (OPD) facility to cater to routine checkups or any other primary health emergency. Free legal aid facility from 3 PM - 7 PM is provided to the inmates who cannot afford private legal services of lawyers.

Also, rosters are maintained in advance to facilitate proper follow-ups. However, it has been observed that the advocates to prisoners' ratio is quite low, underlying the growing importance of legal aid in contemporary times.



**Impact:** The volunteers gained a profound understanding of life within a jail. In the process, they also realized how legal aid can fill the systemic and structural gaps that exist in the system.

### VIII. VISIT TO INSTITUTE OF HUMAN BEHAVIOUR AND ALLIED SCIENCES

<b>Date:</b>	February 20, 2020
<b>Site / Geographical Area Covered:</b>	Institute of Human Behaviour and Allied Sciences (IHBAS)
<b>Team Leaders:</b>	Ms. Monika Rani, Ms. Niharika Diwan and Mr. Sumit Singh
<b>Number of Volunteers:</b>	50 (PLVs + Non-PLVs)
<b>Target Audience:</b>	100+ People

A visit to the Institute of Human Behaviour and Allied Sciences, (IHBAS) Delhi was organized by the Legal Aid Society, Campus Law Centre on February 20, 2020. IHBAS, formerly known as Hospital for Mental Diseases, Shahdara, is a mental health and neurosciences research institute. It was established in compliance with the directives of the Hon'ble Supreme Court in response to a Public Interest Litigation in 1993.

**Objective:** The objective of the visit was to gain insight into the functioning of a mental healthcare institution, and the living conditions of inmates. The visit focused on understanding the need for legal services vis-à-vis the Mental Health Care Act, 2017.

**Procedure and Observation:** The hospital is spread over 4,51,898 sq. m.; it caters to around 1,900 patients visiting the hospital per day. IHBAS has launched several programs and services such as Mobile Mental Care, which provides pre and post mental care through a mobile van to reach patients who are homeless or are below the poverty line. Another such initiative is the Community Outreach Services, which includes clinical services, training programs, and providing treatment on streets. IHBAS also has a bio-medical waste management system, solar panels, and waste water treatment, thus dispensing a functional, utilitarian, and environmentally friendly atmosphere to its patients.



The volunteers were briefed about the historical background of various laws relating to mental healthcare and how the prevailing attitude towards mental patients changed with time. The Mental Healthcare Act, 2017, was discussed at great length, and the volunteers were enlightened about the rights of people with mental illnesses under this Act. The persons have a right to give advanced directive, a right to get mental health treatment, and a right to seek legal advice or assistance, for which a legal aid office is situated within the institute.

The volunteers were acquainted with the applicability of Section 74 of the Act, which provides for the constitution of a Mental Health Review Board, consisting of a district judge, a psychiatrist, a medical practitioner, and two other members, either people with mental illness or care givers. Subsequently, the volunteers were given a tour of the hospital premises.

Thenceforth, the students interacted with the Director of IHBAS; he answered various questions posed by the volunteers about mental illness and the institute. He cited that the reasons of stress are mainly biological, psychological, and social factors. The volunteers were also informed about the One Stop Centre for domestic violence victims, with the facility of temporary residence.

**Impact:** The visit gave the volunteers an opportunity to know about the rights of people with mental illnesses and gain practical knowledge and experience about the working of the Mental Healthcare Act, 2017.

### IX. VISIT TO JUVENILE JUSTICE BOARD

<b>Date:</b>	February 25, 2020
<b>Site / Geographical Area Covered:</b>	Sewa Kutir complex, Kingsway Camp
<b>Team Leaders:</b>	Mr. Akash Sachan and Mr. Daksh Aggarwal
<b>Number of Volunteers:</b>	50 (PLVs + Non-PLVs)
<b>Target Audience:</b>	100+ People

The Legal Aid society of Campus Law Centre, in collaboration with Central-DLSA, organized a visit to Juvenile Justice Board- I (JJB) in Sewa Kutir complex, near the Kingsway Camp on February 25, 2020. It gave an opportunity to students to get an insight into the functioning of observation homes for juveniles who are either in need of care and protection or are in conflict with the law.

**Objective:** To make the volunteers aware of the execution of the recent child friendly amendments to the Juvenile Justice (Care and Protection) Act 2015 (JJ Act) and to analyze the lacunae between the enactment and implementation on the ground of the same by observing a Juvenile Justice Home.

**Procedure and Observation:** One of the legal counsels of the JJB provided the volunteers with an overview of the proceedings and common practical shortcomings while implementing the law. The volunteers were briefed about the organizational set up involved in child protection and rehabilitation, and introduced to the two functional bodies within the JJB complex, namely: Drug De-Addiction Center and Observation Home.





The de-addiction Centre is a separate complex within this institution, which is managed by NGO SPYM. It presently has a strength of 60 children (in the age bracket of 10 to 16 years), having a history of drug addiction. The Officer-in-Charge briefed the volunteers about its working and led them to observe its set-up and schedules. The volunteers were made aware of the '3R agenda'- Reformation, Rehabilitation, and Restoration and how a '90-day strategy' is adopted to deal with addiction issues amongst the adolescents to avoid relapses.

The observation home, another pivotal part of the JJB complex, houses 136 children in conflict with the law (CCL). Here, in accordance with the provisions of the JJ Act, all feasible services are provided for their rehabilitation. It also houses a playing area, a meeting hall, and an activity hall where computer lessons, cooking classes, art & craft and, drama classes are conducted, which intend to aid the holistic development of the inmates. Additionally, a mental health clinic is also functional in the premises where CCL are provided with regular psychological counseling in order to cater to their mental health needs. However, the highlight of the visit was the sprout café that not only served a variety of different cuisines but was run by children who were once in the de-addiction Centre and were now successfully rehabilitated.

**Impact:** The volunteers, having gained knowledge of the ground realities, could empathize with the juveniles and the visit helped develop in them a better understanding of the process of passing a legislation, and its execution. The volunteers could understand how drug abuse can have devastating effects on both the mental and social development of children.

## X. LEGAL AID CAMP FOR THE RIOT AFFECTED AREAS IN NORTH EAST DELHI

<b>Date:</b>	March 7-14, 2020
<b>Site / Geographical Area Covered:</b>	North East Delhi
<b>Team Leaders</b>	Ms. Misbah Reshi
<b>Number of Volunteers:</b>	10
<b>Target Audience:</b>	70-80 Families

Towards the end of February, North East Delhi witnessed large scale violence rendering many dead, injured, and homeless. The government of Delhi responded with several compensation schemes, but the process of seeking the same was inaccessible to the victims. This was accompanied by the lack of knowledge on filing FIRs and other procedural formalities for rehabilitation and relief. In order to assist the efforts of lawyers and officials working for the victims, the Legal Aid Society, Campus Law Centre organized two Legal Aid Camps from March 7-14, 2020.

**Objective:** To bridge the gap between the victims and the systems set up for their benefit so that legal aid and relief could reach the affected.

**Procedure:** The members of the Legal Aid Society collaborated with two independent camps set up to provide legal relief to the victims of violence in North East Delhi. The first was a string of camps set up by a collaborative effort by various law chambers of Delhi (Legal Aid Camp-1), and the second was with the Chief Minister's Office (Legal Aid Camp-2).





**Legal Aid Camp-1:** Legal Aid Camp Team 1 underwent rigorous training at the Indian Social Institute, post which they were asked to go to the camps set up in various localities of North East Delhi. The members of the Legal Aid Society visited the camps regularly to file FIRs and compensation documents to ensure that the victims could avail the remedies available.

**Legal Aid Camp-2:** Legal Aid Camp Team 2 worked under the Chief Minister's fellows and were briefed by them at the beginning of each day. They worked alongside various NGOs in collaboration with the Sub-Divisional Magistrate's Office in Nand Nagri, North East Delhi. The volunteers were directly involved in talking to the victims of violence. They were responsible for filling compensation forms, writing FIR complaints for those who could not, and providing any other legal advice that was required. The students also went door to door in areas such as Shiv Vihar, Ambika Vihar, and Johripuri to ensure that all affected persons were aware of the benefits they could avail.

**Impact:** Assessing the need to provide immediate relief, the volunteers played a key role on the ground in ensuring access to justice to those rendered powerless and helpless overnight.

#### **XI. LEGAL AID HELP DESK FOR ASSISTANCE FOR E-COUPON FOR RATION SCHEME**

<b>Date:</b>	April 19, 2020 and May 02, 2020
<b>Site / Geographical Area Covered:</b>	Nutan Maratha School, Jhandewalan, Paharganj, New Delhi-110055, Maurice Nagar PS and Roop Nagar PS
<b>PLVs Involved:</b>	Mr. Sharvan and Mr. Shubham Pandey
<b>Target Audience:</b>	50+ people

With corona virus becoming a global pandemic affecting 6 million lives and causing death of over 3,00,000 people, the developing countries who are harbouring the marginalized communities have found it exceptionally difficult to mitigate the crisis and provide health services to the affected. In its attempt to provide food to the needy, the Legal Aid society of Campus Law Centre, with Central-District Legal Services Authority had set up a help desk for registration of e-coupons for ration on April 19, 2020 and May 02, 2020.

**Objective:** The Delhi government had launched a scheme to provide free ration for the needy amid the national lockdown because of Covid-19 pandemic. In furtherance of the same, the volunteers from the society pitched in by registering for the e-coupons for the persons in need, thereby aiding the distribution process.



**Procedure and Observations:** Sharvan had set up help desks in a slum area near Ram Bagh on April 19, 2020 and Roop Nagar on May 02, 2020 wherein, he helped people in registering and filling of e-coupons for the distribution of ration. He also distributed sanitary napkins and safety kits to women who were not able to access basic utilities because of lack of resources and due to the closure of their basic source of livelihoods. Similarly, Shubham had also set up help desk in Maurice Nagar to assist needy people in availing the e-coupons.

**Impact:** The people got speedy access to ration by way of registration and understood the relevance of social distancing so as to avert the possible life threat that Covid-19 can pose.

## XII. ASSISTANCE FOR E-COUPON FOR RATION SCHEME

<b>Date:</b>	April 19, 2020 onwards
<b>Site / Geographical Area Covered:</b>	New Delhi
<b>Team Leaders:</b>	Mr. Subham Kumar Jain, Mr. Akash Sachan and Mr. Daksh Aggarwal
<b>Number of Volunteers:</b>	20
<b>No. of People Impacted:</b>	250+ Families

The Legal Aid Society, Campus Law Centre, in view of the ongoing COVID-19 pandemic and the economic hardship caused to the downtrodden sections of society by the nationwide lockdown, took the initiative in the month of April to assist those in need of ration by helping them avail the E-coupons under the scheme instituted by the Government of Delhi for their benefit and subsequently connected them to the nearest food distribution centres.

**Objective:** The Society aimed to be the link between the Delhi Government and the needy, in addition to aiding ongoing relief efforts, by helping people avail the government provided ration for free during the COVID-19 pandemic.

**Procedure:** A team of dedicated Para Legal Volunteers was formed and their phone numbers were circulated among those in distress through various channels on the ground. The team members received calls from migrant laborers, daily wage workers, etc. living in Delhi and after ascertaining their details, filled their online forms for E-coupons (which would act as a temporary ration card) and enable them to collect free ration from the designated food distribution centres. The volunteers also gave the callers the information regarding requirements for the scheme and fielded any other queries they had. Consequently, they followed up with the beneficiaries once their E-coupons were processed and informed them about the process of collecting the ration. In cases of an emergency requirement of ration, the volunteers connected them with the Hunger Helplines run by the Delhi Government for the needy and coordinated with the concerned authorities to take care of food requirements of the underprivileged.

**Impact:** The initiative bridged the gap between the government action and those who were most in need of food by directly connecting with people and addressing their concerns. We were able to reach out to 1900+ families (as on 4th June 2020). The volunteers gained first hand awareness about the situation on the ground and learned how one could be of assistance during such testing times.

**Litigation:** E-Coupon applications of around 310 families for whom our volunteers had assisted were not approved ever after 30 days from the date of filing. So, representations and reminders were sent to the Chief Minister, Deputy Chief Minister, Minister for Food Supplies, Lt. Governor, Commissioner (Food Supplies) among others. Grievances were also registered on the portals of the govt. designated for the purpose. However, the grievances were not addressed.

Hence, Legal Aid Society approached Tushar Sannu (Advocate, Delhi High Court) for legal assistance. Through one of the applicants, namely, Mrs. Aysha whose e-coupon had been pending since 23rd April, a Writ Petition was filed in the Delhi High Court. (Read the Petition: [https://drive.google.com/file/d/1-c9YbAB8ef9-UIClia7LPOjszE3T\\_NV4/view](https://drive.google.com/file/d/1-c9YbAB8ef9-UIClia7LPOjszE3T_NV4/view)) The society assisted the Petitioner throughout from the filing of e-coupon till approaching the Hon'ble High Court.

A day before the petition was taken up in the court, Govt. not only approved the E-Coupon of the Petitioner but also supplied ration at the doorstep. On the date of hearing of the matter, titled 'Aysha vs. Govt. of NCT & Ors.' (W.P. (C) 3360 /2020), on 05.06.2020, it was submitted by the counsel for the Petitioner that there are 310 more families who need assistance in a similar manner. The Hon'ble High Court was pleased to issue a Notice and to direct the respondents to file a status report within one week on the said cases.

It was reported at: <https://www.livelaw.in/news-updates/delhi-hc-issues-notice-in-plea-seeking-issuance-of-e-coupons-for-ration-to-the-destitute-families-of-delhis-northeast-district-158003>.

*\* Compiled by Ms. Aakanksha Modi, Mr. Daksh Aggarwal and Ms. Vasudha Singh.*

## **WEBINAR ON ANALYSING THE PRACTICALITY OF DOMESTIC VIOLENCE LAWS DURING EXIGENCIES**

The Legal Aid Society, Campus Law Centre, University of Delhi in collaboration with Central District Legal Services Authority organized a **webinar on Analysing the Practicality of Domestic Violence Laws During Exigencies on 28 May 2020.**



Ms. Susheel Bala Dagar

### **DISCUSSION:**

The Legal Aid Society of Campus Law Centre in association with Central District Legal Services Authority, Delhi organized a Webinar on the topic, "Analysing the Practicality of Domestic Violence laws during Exigencies" on 28 May 2020.

Our distinguished speakers for the day were Ms. Susheel Bala Dagar and Ms. Neeti Suri Mishra. Ms. Susheel Bala Dagar is an alumna of Campus Law Centre, Faculty of Law, University of Delhi. She Joined Delhi Judicial Services in July 2009. She held Mahila Court in North-West District, Rohini from June 2014 to August 2017 and is presently posted as JSCC cum ASCJ cum GJ (North-West) in Rohini Court.

Ms. Neeti Suri Mishra, the Secretary of District Legal Services Authority (Central District) joined Delhi Judicial Service in the year 2013. Prior to this, she worked with Luthra and Luthra Law Offices, Barakhamba Road as an Associate for approximately two and a half years. She has worked as Metropolitan Magistrate, (NI Act) and as Civil Judge in Dwarka District Court, before being posted as Metropolitan Magistrate-02 in Tis Hazari Court.

The session was moderated by Dr. Kshitij Kumar Singh, Assistant Professor and Convener Legal Aid Society, Campus Law Centre and the introductory remarks were delivered by Prof. (Dr.) Raman Mittal, Professor-In-Charge, Campus Law Centre.

The webinar started with Dr. Kshitij highlighting that the lockdown resulted in a sudden rise of domestic violence cases as reported by the National Commission of Women. He went on to explain the various factors contributing to the rise and its effect on women confined in their homes. Prof. (Dr.) Raman Mittal drew a comparison between confinement due to movement control and rise in abuse. His introductory remark revolved around the need to safeguard the victim in a lockdown, the redressal methods in place and need of new methods of outreach.

The first panelist, Ms. Susheel Bala Dagar began by explaining the various intricacies involved in solving the victim's plight in domestic violence cases. She highlighted the importance of voicing grievances and that victims must speak up to escape the plight. She emphasized on the need to spread awareness about the existing remedies available to the victims of domestic violence. She explained the existing laws on domestic violence in depth, which included, the kinds of victims they safeguard, forms of abuses they recognize and the various facilities that are provided to the victims in times of distress. She also mentioned various laws that deal with curbing the menace of domestic violence. With respect to senior citizens she explained the different forms of abuses and remedies available by citing the case of *Sunny Paul vs. NCT of Delhi* as an example. She also discussed situations where domestic violence could lead to psychological, physical, or sexual child abuse. She also talked about cases adjudicated by her as a family court judge and the need for awareness of "emergency relief" in case of exigencies. She concluded by pointing out that one of the biggest hurdles to resolving the menace of domestic violence is the stigma attached with victims raising their voice due to societal norms.





Ms. Neeti Suri Mishra

The second panelist, Ms. Neeti Suri Mishra began the discussion by telling the audience how to deal with domestic violence during lockdown. She explained the effective steps taken by Delhi State Legal Services Authority in combating the extra-ordinary circumstances created due to lockdown such as the helpline number (1516) which can be reached with a missed call or even a text message would suffice. She then went on to explain the working of the on-call legal counseling that is available for assisting the victims. She also explained how cases that are reported are handled and accordingly resolved, in cases where matters escalate, protection orders are immediately issued by the courts. Moreover, e-filing of cases before district courts is being initiated to further expedite all procedural formalities to ensure that the relief is provided as soon as possible.

The discussion was concluded by Dr. Kshitij Kumar Singh, who delivered the vote of thanks.

*\*Drafted and Compiled by Ms. Sugandha Yadav, a 1<sup>st</sup> year student of Campus Law Centre.*

## RECENT JUDICIAL DEVELOPMENTS IN LEGAL AID AND CONSTITUTION LAW

<b>KEY HIGHLIGHTS</b>			
S.No.	Case Name	Date	Key Findings
<b>SUPREME COURT OF INDIA- CONSTITUTIONAL LAW</b>			
1.	<b><i>Anuradha Bhasin v. Union of India</i></b> Writ Petition (Civil) No. 1031 of 2019	January 10, 2020	The SC enunciated that with the advent of technological developments and globalization, freedom of speech and expression and freedom of trade and commerce through the internet are integral parts of Article 19(1)(a) and Article 19(1)(g) of the Constitution of India respectively. Hence, any restriction placed must be in accordance with Article 19(2) and 19(6) of the Constitution of India, following the doctrine of proportionality. Moreover, it is a settled principle of natural justice that any order of the court affecting the fundamental rights of people should be made available in the public domain so that it is open to challenge in the suitable forum.
2.	<b><i>M.C. Mehta v. Union of India</i></b> IA Nos. 158128 and 158129 of 2019 in Writ Petition (Civil) No. 13029 of 1985	January 13, 2020	The Apex Court in this illuminating decision held that the severe level of air pollution in the Delhi-NCR region is a violation of Right to Life of the residents enshrined under Article 21 of the Constitution of India. Additionally, the liability of severe level of air pollution lies with the entire machinery of the Governments of Punjab, Haryana, Uttar Pradesh and NCT of Delhi as they have miserably failed to control pollution due to various factors like stubble burning and poor waste management by the concerned authorities. The Court issued a slew of directions regarding stubble burning, smog towers, anti-smog

			guns, construction and demolition as well as industrial, vehicular and water pollution in an effort to curb the menace of air pollution.
3.	<i>The Home Secretary (Prison) v. H. Nilofer Nisha</i> Criminal Appeal No. 144 of 2020 with Criminal Appeal Nos. 145, 146, 147 and 148 of 2020.	January 23, 2020	In the present matter, the Hon'ble Court laid down the boundaries pertaining to the applicability of the writ of Habeas Corpus. The Court held that the writ of Habeas Corpus is only applicable in case of detention undertaken without the authority of law. In the present case, the petitioners had been sentenced to imprisonment for life and hence the detention was not illegal. The writ Court could not interfere with the discretion of the executive in matters relating to parole or remission of sentence. A writ petition by a prisoner would be maintainable in case of violation of his Fundamental Rights while in detention. However, grant of parole because of a Government scheme is not a right but a privilege available to the prisoner on fulfilling certain conditions.
4.	<i>Mukesh Kumar v. Union of India</i> Writ Petition (Criminal) No. 40 of 2020, D No. 3334 of 2020	January 29, 2020	The present writ petition had been filed by one of the four death-row convicts in the Nirbhaya case, challenging the rejection of his mercy petition. The Court reiterated that judicial review of President's decision regarding mercy petitions under Article 72 of the Constitution of India is available only on the limited grounds enumerated in <b>Epuru Sudhakar and Another v. Govt. of A.P., (2006) 8 SCC 161</b> . Also, it was propounded that it is unnecessary to place every material relied upon by the petitioner in the petition before the President. Additionally, it was held that alleged sufferings of the accused in prison, and quick consideration and rejection of the mercy petition

			could not be grounds for judicial review of the orders passed under Article 72 or 161 of the Constitution of India.
5.	<b><i>Prathvi Raj Chauhan v. Union of India</i></b> Writ Petition (Civil) No.(s) 1015 and 1016 of 2018	February 10, 2020	The Court upheld the constitutional validity of the SC/ST (Prevention of Atrocities) Amendment Act, 2018 by stating that Section 18A of the Act was included to nullify the directions in <b>Dr Subhash Kashinath Mahajan v. State of Maharashtra, (2018) 6 SCC 454</b> , of conducting preliminary enquiry and requiring approval before arrest. The said decision had already been held to be against the concept of protective discrimination in favour of down-trodden classes under Article 15(4) of the Constitution of India in the review petitions filed by the Central Government in 2019. A preliminary inquiry is permissible only in the circumstances as per the law laid down in <b>Lalita Kumari v. Government of U.P., (2014) 2 SCC 1</b> . Section 438 of the Cr.PC, 1973 shall only be applicable when a <i>prima facie</i> case is not made out under the Act and the Court can use Section 482 of the Cr.PC, 1973 for quashing the case only under exceptional circumstances. Justice Bhat, in his separate but concurring opinion, pointed out that the “humiliation, which members of such scheduled caste communities are subjected to, far outweigh the petitioners’ concern that innocent individuals would be subjected to what are described as arbitrary processes of investigation and legal proceedings, without adequate safeguards.”
6.	<b><i>The Secretary, Ministry of Defence</i></b>	February 17, 2020	The Court held that Article 33 of the Constitution of India prescribing restrictions upon fundamental rights

	<p><b><i>v. Babita Puniya &amp; Others</i></b></p> <p>Civil Appeal Nos. 9367-9369 of 2011 with Civil Appeal Nos. 1127-1128 of 2013 and with Civil Appeal No. 1210 of 2020</p>		<p>in the Armed Forces is applicable only to the extent that it is “absolutely necessary for ensuring the proper discharge of duties and the maintenance of discipline.” In the light of the Union Government’s 2019 policy decision to allow Permanent Commission (PC) for women in certain streams, the submissions stating that women are physiologically weaker than men and unsuitable for dangerous roles are self-contradictory and betray a lack of understanding of the plain consequences of the decision. The submissions placed on the assumptions about women in the social context of marriage and family rest on deeply entrenched and constitutionally flawed gender stereotypes and do not constitute a constitutionally valid basis for denying equal opportunity to women officers. Imposing a blanket ban on women obtaining PCs in command roles violates their right to equality under Article 14 of the Constitution of India as the differentiation is not rational and the Army has not discharged its burden to justify such discrimination with reason. Therefore, the Court directed that the 2019 policy be applied across the board and not be limited to staff appointments.</p>
7.	<p><b><i>Punjab and Sind Bank &amp; Ors v. Mrs Durgesh Kuwar</i></b></p> <p>Civil Appeal No. 1809 of 2020</p>	February 25, 2020	<p>In the present case, the Hon’ble Court noted that “sexual harassment at the workplace is an affront to the fundamental rights of a woman to equality enshrined under Articles 14 and 15 of the Constitution of India and her right to live with dignity under Article 21 of the Constitution of India as well as her right to practice any profession or to carry on any occupation, trade or business.” Therefore, it came</p>

			down heavily on the irregular constitution of the Internal Complaints Committee having no independent member and reversed the bank's decision to transfer the aggrieved woman employee and provided her with compensation.
8.	<b><i>Union of India &amp; Ors. v. Lt. Cdr. Annie Nagaraja &amp; Ors</i></b> Civil Appeal Nos. 2182-87 of 2020 with Civil Appeal No. 2181 of 2020, Civil Appeal Nos. 10225-10230 of 2016, Civil Appeal No. 3359 of 2017.	March 17, 2020	The court relying on the decision rendered in <b>Babita Puniya Case</b> , the Court held that the contention alleging that certain sea-going duties are ill-suited to women officers is premised on sex stereotypes, and does not constitute a constitutionally valid basis for denying equal opportunity to women officers. Thus, performance at work and dedication to the cause of the nation should be the only criterion for providing PCs and to deny this opportunity to women is plainly discriminatory. The Court passed directions placing women on a par with men in respect of grant of PCs and passed retrospective as well as one-time directions to do justice to women officers in the Navy.
9.	<b><i>In Re: Contagion of COVID-19 Virus in Prisons</i></b> Sou Motu Writ Petition (Civil) No. 1 of 2020	March 23, 2020	In the present case, the Court took cognizance of the fact of overcrowding of prisons in India and the serious consequences it may have in light of the COVID-19 pandemic. The Court said that it was a matter of concern to control the spread of the disease in prisons in order to ensure the right of prisoners to a healthy life under Article 21 of the Constitution of India. Therefore, the Court strictly directed all the States and Union Territories to set up High Powered Committees to determine which classes of prisoners could be released on parole or interim bail.
10.	<b><i>In Re Guidelines for Court</i></b>	April 06, 2020	The court paying due attention to the unprecedented outbreak of COVID-19 and realizing that social



	<p><b><i>Functioning Through Video Conferencing During COVID 19 Pandemic</i></b></p> <p>Sou Moto Writ (Civil) No. 5 of 2020</p>		<p>distancing norms are necessary in order to reduce the transmission of the virus decided to address this challenge keeping in mind the constitutional commitment to provide access to justice, which is fundamental to maintaining rule of law in a democracy. Thus, the Supreme Court, in exercise of its power to pass any decree or order for doing complete justice under Article 142 of the Constitution of India, authorised itself and the High Courts to adopt technology driven measures for implementing social distancing in court premises and ensuring delivery of justice through technological means such as video conferencing.</p>
11.	<p><b><i>Shivraj Singh Chouhan v. Speaker, Madhya Pradesh Legislative Assembly and Others</i></b></p> <p>Writ Petition (Civil) No. 439 of 2020</p>	April 13, 2020	<p>Pursuant to the resignation of 22 Members of Legislative Assembly from the Madhya Pradesh Legislative Assembly and order of vote of no confidence (floor test) by the Governor, the Hon'ble Supreme Court examined the role of the Speaker and the Governor as mandated by the Constitution along with the law on floor tests. The SC made the following observations:</p> <p>1)The Constitutional authority of the Governor to require the State Government to prove its majority in the Assembly can be exercised not only immediately after elections, but at any time when the Governor has objective reasons to believe that the incumbent government does not command the confidence of the house. This decision is open to judicial review in a limited manner- the court can only scrutinize whether the Governor prima facie had relevant and germane</p>

			<p>material to order a floor test.</p> <p>2) In directing a trust vote, the Governor does not favour a particular political party. The specific timing of a trust vote may tilt the balance towards the party possessing a majority at that time, but this is an inevitability given the fluid allegiances of democratically elected representatives and the nature of parliamentary governance. When circumstances of violence and coercion exist that would undermine a free and fair vote in the assembly, the Governor and the court must ensure the sanctity of the trust vote. However, no such extraordinary conditions were present in this case.</p> <p>3) While neither the Governor nor the court can impinge upon the Speaker's authority with respect to resignation and disqualification of Members, holding a trust vote cannot be said to short-circuit this jurisdiction of the Speaker. As the continuous confidence of the house is essential to the legitimacy of the authority of the government, the matter cannot be delayed due to pending proceedings before the Speaker, more so when the Members resigned as an expression of lack of faith in the existing government.</p>
12.	<p><i>Chebrolu Leela Prasad Rao &amp; Others v. State of A.P. &amp; Others</i> Civil Appeal No. 7040 of 2002</p>	April 22, 2020	<p>The Constitution bench of the SC held that 100 percent reservation of teachers belonging to Scheduled Tribes category at schools in 'scheduled areas' is constitutionally invalid. Relying on <b>Indira Sawhney v. Union of India, (1996) 6 SCC 506</b>, the Court clearly held that it is a highly unfair and</p>

			unreasonable action as the Constitution of India does not permit 100% reservation in respect of any particular class or category to the total exclusion of others. Reservation set out under Article 16 should not exceed the limit of 50%. The Court also noted that providing 100 percent reservation to the Scheduled Tribes has deprived the Scheduled Castes and other backward classes also of their due representation. The concept of reservation is not proportionate but adequate, thus the action is unreasonable and arbitrary and violative of provisions of Articles 14, 15 and 16 of the Constitution of India.
13.	<b><i>Nisha Priya Bhatia v. Union of India &amp; Another</i></b> Civil Appeal No. 2365 Of 2020	April 24, 2020	In this significant ruling, the SC upheld the constitution validity of Rule 135 of the RAW (Recruitment, Cadre and Services) Rules, 1975, which gives power to the Central Government to voluntarily retire RAW officers whose identity is exposed or compromised. Herein, the petitioner alleged that the Respondents had acted in a <i>malafide</i> manner and the invocation of Rule 135 was an act of victimization due to her refusal to accede to the illegitimate demands of the respondent and should be struck off on the ground of vagueness. With respect to this, the Bench held that the Rule 135 is necessary to ensure safety of the organization as well as the employee whose has been exposed. Dispelling the argument that the Rule is vague, the court remarked that an employee working in the organization is certainly conscious of what constitutes ‘exposure of identity’ and hence there is no inherent vagueness in the impugned provision and it is not against the principles enshrined

			the Constitution.
14.	<i>Union of India &amp; Others v. Exide Industries Limited &amp; Another</i> Civil Appeal No. 3545/2009	April 24, 2020	The SC upheld the constitutional validity of clause (f) of Section 43B of the Income Tax, 1961. The said clause (f) prescribes a condition precedent for extending benefit of deduction under the Act i.e. actual payment of liability to the employees. The Court held that Section 43B, however, is enacted to provide for deductions to be availed by the assessee in lieu of liabilities accruing in the previous year without making actual payment to discharge the same. It is not a provision to place any embargo upon the autonomy of the assessee in adopting a particular method of accounting, nor deprives the assessee of any lawful deduction. Instead, it merely operates as an additional condition for the availment of deduction qua the specified head. The Bench propounded that the Section has not extinguished the autonomy of the assessee to follow the mercantile system and rather is a special provision regulating the stated deduction and hence, does not violate any Article of the Constitution of India.
15.	<i>Christian Medical College Vellore Association v. Union of India &amp; Others</i> Writ Petition (Civil) No. 443 Of 2016 Writ Petition (Civil) No. 750 Of 2016 Civil Appeal No.	April 29, 2020	In this judgment, the SC upholding the validity of National Eligibility of Entrance Examination for admission to medical courses reiterated the principles governing minority educational institutions under Article 30 of the Constitution of India. The Court placing reliance on various seminal judgments like <b>T.M.A Pai Foundation (2002) 8 SCC 481</b> and <b>Re The Kerala Education Bill AIR 1958 SC 956</b> held that the minority educational institutions do not have an 'absolute right' on the governance of the institution

	2383 Of 2020 (Special Leave Petition (Civil) No. 28223 Of 2016)		as the right is not free from regulations. Also, it was observed that the rights of the religious or linguistic minorities under Article 30 of the Constitution are not in conflict with other parts of the Constitution. Balancing the rights is a constitutional intendment in the national and more enormous public interest. Reasonable regulatory measures can be provided without violating such rights available under Article 30 of the Constitution to administer an institution.
HIGH COURTS- CONSTITUTIONAL LAW			
1.	<b><i>Masroor Ahmad and Another v. State of U.P. and Others</i></b> Writ Petition (C) No. 43167 of 2019 <i>Allahabad High Court</i>	January 09, 2020	The Court upheld the order denying permission for the use of amplifiers and loudspeakers for Azaan on the grounds of preventing noise pollution and maintaining peace and tranquillity. Furthermore, the Court said that the right to profess and propagate religion under Article 25(1) of the Constitution of India is not absolute, and the rights under Article 25 of the Constitution of India are subject to the wider Article 19(1)(a) of the Constitution of India. Hence, both have to be read together and constructed harmoniously.
2.	<b><i>Irfan Qureashi v. Chhattisgarh State Public Service Commission</i></b> Writ Petition (S) No. 198 of 2020 <i>Chhattisgarh High Court</i>	February 07, 2020	It is a settled position in law that laying of an ordinance before the legislature is necessary to assert legislative control over ordinance. The Court, however, cannot issue a writ of mandamus to give effect to an ordinance which has lapsed because of not being tabled before the legislative assembly as it would go against the principle of separation of powers.
3.	<b><i>Mian Abdul</i></b>	February	The Court clearly reiterated that the judicial court

	<p><b><i>Qayoom v. State of J&amp;K</i></b> Writ Petition (Criminal) No. 251 of 2019 &amp; CRLM Nos. 1123, 1063, 1060, 767 &amp; 728 of 2019 <i>Jammu and Kashmir High Court (Srinagar Bench)</i></p>	07, 2020	cannot go into the question of whether the detaining authority was justified to make the order of preventive detention or to continue it, as if sitting on appeal; that is for the Government and the Advisory Board to consider. The grounds of detention in the present case are definite, proximate and free from any ambiguity. The law of preventive detention is valid despite having no objective standard and being based on subjective satisfaction of the Executive. This is because it is not punitive but preventive and thus, based on suspicion or anticipation and not on proof. The Court cannot substitute its own satisfaction for that of the authority concerned.
4.	<p><b><i>Iftexhar Zakee Shaikh v. State of Maharashtra</i></b> Writ Petition (Criminal) No. 223 of 2020 <i>Bombay High Court (Aurangabad Bench)</i></p>	February 13, 2020	The Hon'ble Court highlighted that the India's constitutional history as well as freedom struggle is replete with examples of non-violent protests. In the present matter, the petitioners want to peacefully protest against the Citizenship Amendment Act, 2019 and cannot be called traitors or anti-nationals only because they want to oppose one law. If people with grievances against the law believe that it will hamper their fundamental rights under Articles 14 and 21 of the Constitution of India, they have the right to register their protest under Article 19 of the Constitution of India. The bureaucracy needs to be sensitized by giving them proper training on human rights which are incorporated as fundamental rights in the Constitution.
5.	<p><b><i>Dr. Neetu Kukar v. Union of India and</i></b></p>	February 28, 2020	In the present case, the Court held that by the virtue of Article 21A of the Constitution of India,



	<p><b>Others</b></p> <p>Writ Petition (Civil) No. 36086 of 2019 <i>Punjab and Haryana High Court</i></p>		<p>elementary education is a fundamental right. The court interpreting the scope of 'Education' cogently held that it comprises of all-round development and a child is entitled to an atmosphere conducive to the same. Any classification of children into sections on the basis of their marks creates a sense of inferiority in those scoring lower marks, and is thus violative of Article 21A as well as their right to equal opportunity under Article 14 of the Constitution of India.</p>
6.	<p><b>Chanda Deepak Kochhar v. ICICI Bank Ltd.</b></p> <p>Writ Petition (Lodg.) No. 3315 of 2019 <i>Bombay High Court</i></p>	March 05, 2020	<p>In the present matter, the Court examined whether ICICI Bank was an instrumentality of the State under Article 12 of the Constitution of India or a private body. The answer was held to be in the negative. The Court held that the ICICI Bank is a private body receiving no public funding and the service conditions of the petitioner are not governed by any statute. Thus, the requirement of prior approval of RBI for the appointment, reappointment and termination of Chairman, Managing Director etc. is merely to allow RBI to have regulatory control over commercial banking and does not affect the independent functioning of ICICI Bank.</p>
7.	<p><b>Kidar Bisme v. The Superintendent of Police</b></p> <p>Writ Petition (MD) No. 5004 of 2020 <i>Madras High Court (Madurai Bench)</i></p>	March 10, 2020	<p>The Court observed that India being a vibrant and functioning democracy should allow both sides to articulate their arguments on the Citizenship Amendment Act, 2019. Keeping in mind that Article 19 of the Constitution of India allows freedom of speech and expression and the right to gather peacefully and without arms, and that these rights are subject to reasonable restrictions only under Article 19(2) and (3) of the Constitution of India, the</p>

			petitioner is allowed permission to hold a public meeting condemning the amendments made to the citizenship law of India.
8.	<b><i>J and K High Court Bar Association v. Union of India &amp; Ors. (Home Dept.)</i></b> Writ Petition (PIL) No. 14 of 2016 <i>Jammu and Kashmir High Court (Srinagar Bench)</i>	March 11, 2020	The Court dismissed the petition seeking a prohibition on the use of pellet guns, reiterating that use of force is inevitable in the face of violence by unruly mobs. The Court while exercising its writ jurisdiction cannot decide whether the forced used is excessive. In addition to it, the Court in regard to compensation observed that this is not a case where compensation is sought for wrong-doing or violation of fundamental rights by security personnel, but for discharge of their public duty.
9.	<b><i>Kamil Siedczynski v. Union of India</i></b> Writ Petition No. 4432(W) of 2020 <i>Calcutta High Court</i>	March 18, 2020	The Court declared the “Leave India Notice” issued to a Polish citizen for participating in anti-government demonstrations to be null & void, as the decision was arbitrary. While Article 19 of the Constitution of India is applicable only to citizens, it “is not couched in restrictive or negative language. Hence, the right to life and personal liberty, along with all associated rights, including the right to have political views and participate in political activities, as guaranteed to all persons in Indian soil, cannot be curtailed or fettered, since Article 21 of the Constitution of India acts in harmony with Article 19 and the two Articles do not cancel out each other.”
10.	<b><i>ABC v. Union of India and Others</i></b> Writ Petition (Civil) TMP No. 9 of 2020 <i>Kerala High Court</i>	April 04, 2020	In the present case, a 14-year old survivor of statutory rape (referred to as “Y”) wanted to terminate a 24-week pregnancy. The Court adopting a forward looking approach was of the view that the ‘Y’'s right to make reproductive choices is a facet of her

			<p>personal liberty under Article 21 of the Constitution of India. The said choice would extend to deciding whether or not to carry her pregnancy to its full term. This right is subject to the provisions of Medical Termination of Pregnancy Act, 1971, which provides that if a pregnancy has exceeded the prescribed period of 20 weeks, it can only be terminated if the life of the person is in immediate danger. However, finally the Court ascertained that there was grave mental and physical danger to the life of “Y” in case of continuation of pregnancy and allowed termination.</p>
11.	<p><b><i>T Ganesh Kumar v. Union of India and Others</i></b> Writ Petition No.7457 of 2020 <i>Madras High Court</i></p>	April 09, 2020	<p>The Court dismissed a petition challenging the exemption of print media operations from lockdown imposed to curb the spread of COVID-19. It pointed out that there is little research to lend credence to the petitioner’s fears. The Court agreed that the press is the fourth pillar of democracy, and any attempt to restrict the publication of newspapers would amount to attacking the independence of media. Thus, any proclamation prohibiting newspaper publication on mere apprehension or least probability of danger would violate the fundamental right under Article 19(1)(a) of the Constitution of India by breaching the right to speech of the publishers and the right to information of readers.</p>
12.	<p><b><i>Reliance Industries Ltd. v. State Of Gujarat</i></b> C/SCA/14206/2018 <i>Gujarat High Court</i></p>	April 16, 2020	<p>The Gujarat High Court struck down Section 84A of the Gujarat Value Added Tax Act holding it as unconstitutional. By virtue of the VAT Amendment Act, 2018, Section 84A came to be added in the VAT Act to be operative retrospectively w.e.f 01.04.2006, inter alia, providing for the exclusion of</p>

			<p>the period spent between the date of the decision of the appellate tribunal and that of the High Court as well as the Supreme Court in computing the period of limitation, referred to in Section 75 of the VAT Act. However, the Court held that the said provision is ultra vires and beyond the legislative competence of the State Legislature. Therefore, the Court while allowing the writ applications, quashed the impugned notices in each of the writ applications issued under Section 75 of the Gujarat VAT Act and held that Section 84A of the Gujarat VAT Act is declared as ultra vires and beyond the legislative competence of the State Legislature under Entry 54 of List II of the Seventh Schedule to the Constitution of India and is also declared to be violative of Article 14 of the Constitution of India on the ground of being manifestly arbitrary, unreasonable and oppressive.</p>
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#### HIGH COURTS- LEGAL AID

1.	<p><b><i>Shadaan Ansari v. State of U.P. &amp; Others</i></b> CRR No. 1393 of 2019 Allahabad High Court</p>	January 16, 2020	<p>In this case, the revisionist prayed for an order under Section 311 of the CrPC, 1973 to recall prosecution witnesses and cross-examine them because the Amicus Curiae (for the accused) had not done so in the trial court. The High Court granted the order, and held that “real and effective” legal aid cannot be said to have been provided if an opportunity to cross-examine was not availed. It also stated that the right of an indigent accused to free legal aid will be illusory unless the court informs him of such right.</p>
2.	<p><b><i>B.T. Venkatesh &amp; Others v. State of</i></b></p>	February 20, 2020	<p>In the present case, the Hubli Bar Association passed a resolution refusing to defend three J&amp;K students</p>

	<b><i>Karnataka, Bar Association Hubli &amp; Others</i></b> Writ Petition No. 4095 of 2020 Karnataka High Court		booked for sedition for allegedly chanting pro-Pakistan slogans during a sporting match. In this writ petition filed by a group of advocates against the said resolution, the HC criticised the said resolution, termed it illegal and against traditions of the Bar and impinging on the constitutional right of the accused to be defended. The HC also granted police protection to the legal aid lawyers who were assigned to the case.
3.	<b><i>Rahul Roy v. Govt. of NCT Delhi &amp; Others</i></b> Writ Petition (Criminal) No. 566 of 2020 Delhi High Court (Pending)	February 26, 2020	In this writ filed after the Delhi communal violence of February 2020, Muralidhar, J explicitly directed all the District Legal Service Authorities of Delhi to:  Ensure that their helplines are active 24x7 and advertised;  Prepare a roster of advocates to promptly attend calls on the helpline and provide legal aid to the victims.
4.	<b><i>Achiya Bibi v. State of WB &amp; Others</i></b> Writ Petition No. 233 of 2020 Calcutta High Court	March 11, 2020	The West Bengal State Legal Services Authority (SLSA) directed the petitioner, a victim of human trafficking and a consequent recipient of compensation under section 357A of the CrPC, 1973 to mandatorily deposit the said compensation in a bank under any 'monthly income scheme'. However, the High Court held that the SLSA has no authority to impose such mandatory requirement on the compensation, and the victim is at absolute liberty to use the amount as she requires or desires.

Note:

1. The list is illustrative, and not exhaustive.
2. References/sources include Indian Kanoon, Live Law and SCC Online.

*\*Complied by Ms. Aastha Agarwalla, Mr. Shashi Shekhar Misra and Ms. Vasudha Singh.*

## FROM THE EDITORIAL BOARD

### Legal Aid and the Indian State: History and Paradoxes

The Indian Society has been inherently unequal as caste and patriarchy are its organising principles. The Constitution of India is an aspirational document, a vehicle for social change. The post-colonial state imbibed characteristics of a modern nation-state with the promise of Justice, Liberty, Equality, and Fraternity to all its citizens through the preamble to its Constitution. The Constitution, with its directives, declares India as a welfare state, casting a duty upon the state to fulfil the promise by affirmative actions. While the constitution attempted a discontinuity from India's past, the feudalism in the society continued. Hence, the juxtaposition of rule of law with the traditional Indian society resulted in reproducing the same inequalities, contrary to what was envisaged. The social hierarchical order obstructs the pre-requisite for social reform through law i.e. equal access to the Indian Legal System for all.

The legal services authorities in India have the mission to provide 'access to justice for all'. Over the decades, the repetition of two elements make them essential to the conceptualisation of legal aid: first, going beyond the economic basis as the sole criterion for providing legal aid, thereby recognising other markers of marginalisation and second, the affirmation and reaffirmation of the duty of the state to provide free legal aid to its citizens. This was worked through various committees' recommendations, Law Commission reports, judicial precedents and academic writings. However, a recurrent obstacle in the implementation of the legal aid mechanism had been the lack of finances which holds true even till date. The miserable state of legal aid in India has been reiterated in the India Justice Report 2019<sup>1</sup> which revealed that 'India's per capita expenditure on free legal aid – which 80% of the population is eligible for – was just 75 paise per annum in the year 2017-2018.' It is interesting to note that while on one hand legal aid has a long-drawn history of being conceptualised in the social justice framework, on the other hand, the Indian state has absolutely failed at performing its historically envisaged role. This article is divided into two parts; the first part traces the conceptualisation of legal aid in India historically, and the second part attempts to argue that there is an immanent paradox in the legal aid mechanism as its implementation is rooted in state actions and administrative apparatus which act as a deterrent to the

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<sup>1</sup> Tata Trusts, "India Justice Report: Ranking States on Police, Judiciary, Prisons and Legal Aid" (New Delhi, India, 2019).



realisation of social justice. This article does not intend to analyse policy loopholes, rather it raises questions about the relationship between the Indian state and legal aid.

Before 1949, the first institutionalised form of legal aid initiative came as a result of registration of the Bombay Legal Aid Society in 1924. This society endeavoured to push provincial governments in 1946 to expand legal aid facilities to criminal cases but unwillingness was shown on account of financial stringency. It is in 1949 that the Government of Bombay appointed a committee with Justice N. H. Bhagwati as its chair to consider the question of legal aid.<sup>2</sup> Even though the recommendations weren't implemented, this report was exhaustive and laid down the foundation for understanding the legal aid framework. Some of the key highlights were:- (a) the focus on responsibility of the state owing legal aid to its citizens like other social security scheme; (b) recognised state responsibility not only to provide legal aid to poor persons via the *means test* but also to backward classes (castes) and other Scheduled Tribes as they are *prima facie* entitled to legal aid; and (c) recommended a hierarchical system for legal aid with funds collected through charitable contributions, contributions by trade associations etc. and controlled by the by the State Legal Aid Committees. Subsequently, a committee was set up in West Bengal under the chairpersonship of Sir Arthur Trevor Harris for the same. The 1950s displayed a gap between the Central Government's expectation from the state governments to take responsibility of legal aid and the state governments' inability to do so citing financial difficulties repeatedly. For instance, in 1956, some state governments responded stating that they had made provisions ranging from 1,000-2,000 rupees. In 1958, the Law Commission came out with its 14th Report titled 'Reform on Judicial Administration' discussing legal aid at length in Chapter 27. It emphasised on the importance of legal aid to complement 'efficient and equal administration of justice'.<sup>3</sup> Amidst the problem of financial stringency, it proposed a priority based legal aid system which extended legal aid first to the members of Scheduled Castes and Scheduled Tribes, then to the really poor persons and next to ones with moderate means. Taking the recommendations of the Bombay and West Bengal Committees forward, it spelled out the Welfare State's obligation to provide the service of legal aid to its citizens, especially free legal aid to the poor and ones with limited means. It also highlighted the duty of legal professionals to contribute to the same.

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<sup>2</sup> Law Commission Report, "14th Reform on Judicial Administration" (1958). Please refer to Appendix 1 to Chapter 27 in Volume 1.

<sup>3</sup> *Id.* at 597-598.

1973 was another landmark year as the national expert committee on legal aid chaired by Justice Krishna Iyer released its report titled 'Processual Justice to the People'. It observed that the Central Government was reluctant to initiate legal aid due to its assumption of legal aid being co-extensive with 'administration of justice' thereby, falling under entry 3 of the State list.<sup>4</sup> Thus, despite the discussions at the National Legal Aid conference in 1970, only a few legal aid provisions were introduced in the Advocates Act<sup>5</sup>. This report took legal aid beyond the difficulty of legislative competence and viewed it as a 'basic, indispensable postulate of the legal system'. The report framed the historical goal of Legal Aid, i.e. 'humanist service of law to the community'<sup>6</sup> and found its jurisprudential goal and socio-legal character evidenced upon the people of India who were by and large backward and poor expected to be benefited by the new modern order. Thus, state support was held to be a constitutional obligation and 'not charity gift'<sup>7</sup>. It situated legal aid in the rights-based framework and urged the need to adopt a 'constitutional bias' towards the vulnerable sections of the society. The report proposed a national to local level system and discussed legal aid clinics in law schools. Furthermore, it identified special groups entitled to legal aid like the Scheduled Castes and Tribes, Women, Children and other Disabled Groups, Other Minorities, etc. The report identified them on the basis<sup>8</sup> of various oppressions like the four-fold caste system-based suppression, victimisation of women for centuries, vulnerability of children, and the need to provide legal protection from majority to cultural, linguistic and religious minorities. Upendra Baxi criticised the committee's approach for being 'ahistoric, aprioristic and aphoristic'.<sup>9</sup> He pointed out that decisions on expenditure can't be made only under an emotionally fraught banner of social justice but require 'cool-headed appraisal of conflicting priorities.' It is true that the report failed to give a solution to the longstanding problem of financial hurdles. However, it becomes important to understand the philosophy behind legal aid in India. The 1973 report was taken forward by the report on National Juridicare: Equal Justice – Social Justice in 1977<sup>10</sup> by Justice PN Bhagwati and Krishna Iyer. Apart from recommending an autonomous body headed by a Judge of the Supreme Court, 1970s saw a strong emergence of legal aid being conceptualised within the 'social justice'

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<sup>4</sup> Government of India, "Report of the Expert Committee on Legal Aid" (Ministry of Law, Justice and Company Affairs, 1973)

<sup>5</sup> The Advocates (Amendment) Bill, 1970.

<sup>6</sup> *Supra* note 2 at 11.

<sup>7</sup> *Id.* at 13.

<sup>8</sup> *Id.* at 104-137.

<sup>9</sup> Upendra Baxi, "Legal Assistance to the Poor: A Critique of the Expert Committee Report", vol. 10, no. 27 *Economic and Political Weekly* 1005-1013 (1975).

<sup>10</sup> Government of India, "Equal Justice-Social Justice, Report on National Juridicare" (Ministry of Law, Justice and Company Affairs, 1977).

paradigm. Even though amendments in the procedure codes and Advocates Act had been made during these years, the most significant development remains the insertion of Article 39A<sup>11</sup> into the Indian Constitution. Article 39A expressly spells out the essence of the constitution by attributing inalienability and essentiality to 'equal opportunity', 'promotion of justice' and 'free legal aid' vis-a-vis the Indian legal system. Hence, access to law by all became state responsibility. 1970s and 1980s also remain years of the widely known judicial precedents<sup>12</sup> reiterating the absolute need for legal aid and assistance for a reasonable, fair, and just procedure.

Once again, in 1980, the centre constituted a committee called the 'Committee for Implementing Legal Aid Schemes (CILAS)' headed by Justice Bhagwati but the loopholes therein caused the enactment of the Legal Services Authorities Act in 1987. The Act, under Section 12, lays down the criteria for eligibility to be provided legal aid services. It not only recognises eligibility on the basis of caste, gender and economic status but also maps deprivation based on other forms of vulnerabilities making the legal system inaccessible to these persons. Thus, it carries forward the purpose identified by the 1973 Iyer Committee<sup>13</sup> of making legal services available in a 'variety of ways so that social justice may be within the grasp of the socially down-trodden'. Subsequent to the Act, NALSA<sup>14</sup> LSA Model Scheme for Legal Aid Counsel in all the Courts of Magistrates 1998, NALSA (Free and Competent Legal Services) Regulations 2010, The NALSA (Legal Services Clinics) Regulations, 2011 and NALSA Preventive & Strategic Legal Services Schemes of 2015 and 2016 came into being.

## II

Legal aid has been conceptualised by using the powerful vocabulary of 'social justice' throughout these years. Recently, Justice Muralidhar called legal aid lawyers 'human rights defenders' and urged the need to approach legal aid through a 'human rights' framework rather than an approach based on criminal code and procedure<sup>15</sup>. The vocabulary of social justice finds place in Ambedkar's writings, the preamble and pertains to removal of historical marginalisation whereas human rights framework, in this context, refers to providing defence in case of violation of universal inalienable

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<sup>11</sup> The Constitution of India (Forty-second Amendment) Act, 1976, s.8.

<sup>12</sup> *Madhav Hayavadan Rao Hoskot v. State of Maharashtra*, AIR 1978 SC 1548; *Hussainara Khatoon v. State of Bihar*, AIR 1979 SC 1369; *Khatri v. State of Bihar*, 1981 SCC (1) 627; *Sheela Barse v. State of Maharashtra*, 3 SCC 596, 1986; *Centre of legal research v. State of Kerala*, AIR 1986 SC 1322; *Suk Das v. UT of Arunachal Pradesh*, AIR 1986 SC 991.

<sup>13</sup> *Supra* note 2 at 104.

<sup>14</sup> National Legal Services Authorities.

<sup>15</sup> "Per capita spending on legal aid in India is Rs. 0.75" Asia Insurance Post, Sep 10, 2018, available at: <https://www.asiainsurancepost.com/economy/capita-spending-legal-aid-india-rs-075> (last visited on June 27, 2020).

rights, access to justice being one of them. It is interesting to note that the intersection of social justice and human rights framework has the potential to cure the apprehension of state tyranny as a consequence of its intervention to ensure social justice. This intersection reads social justice as a right and brings in the state to ensure access to the Right to Social Justice.

However, reports show that the legal aid mechanism in India today is plagued with under-utilisation of funds, poor quality of services delivery, absence of legal (aid) representation, low pay to legal aid lawyers, inefficient monitoring system in place, etc.<sup>16</sup> Several reports have pointed out the abysmal per capita budget on legal aid is not even one rupee, it is 75 paise. This brings to light the existing dichotomy between the object of legal aid formulated historically and its execution which depends entirely on the administrative actions and state's will. The author argues that there exists an inherent contradiction in the idea of legal aid being provided by the Indian state. This is not to say that legal aid must be the responsibility of private actors but to understand the dilemma that surrounds the fulfilment of legal aid objectives as a consequence of the peculiar nature of the Indian state.

The Indian Constitution aims to bring about substantive social changes in the Indian society through its justice and equality-oriented approach. The legal aid mechanism is a social justice policy which puts the responsibility on the modern welfare state to make justice accessible to all. However, the fault line appears if a close look at the relationship between the Indian society and state actions is taken. While the Indian Constitution marks a break from the past, capturing the spirit to transform the Indian society, Indian political institutions continue to be enmeshed in the oppressive social institution. The social institutions of caste-patriarchy secularised themselves to survive as the modern political institutions found a safe refuge in the existing social hierarchies. From political parties to electoral politics, from bureaucratic functioning to the demography of legislative and judicial institutions, all expose how the state becomes another agent, rather than an antidote, of what the Constitution aims to free the society of. Given the nature of political and legal institutions, and the context in which they exist, it is argued that it is not in the interest of the state to prioritise legal aid. In that scenario, can it equip the marginalised with quality legal aid?

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<sup>16</sup> “Hope Behind Bars? Status Report on Legal Aid for Persons in Custody” Commonwealth Human Rights Initiative, Sep 18, 2018, *available at*: <https://www.humanrightsinitiative.org/publication/hope-behind-bars-status-report-on-legal-aid-for-persons-in-custody> (last visited on June 27, 2020).

It is no surprise that the Prison Statistics 2018<sup>17</sup> reveals that a disproportionate majority of prisoners in India are Muslims, SCs, STs and OBCs. Crime and criminality in India are a product of its colonial administration and existing feudalism. It is argued by various scholars that the notion of group criminality emanating from a metropolitan bourgeoisie anxiety in Britain found a perfect asylum in the caste system during colonial India.<sup>18</sup> While the post-colonial Indian state continued to hold on to its coloniser's imagination of criminality based on the caste system and criminalisation of tribes, a relationship between crime and class emerged as a result of urbanisation. Hence this existing classist, casteist and patriarchal gaze is used not only to criminalise groups but also to identify criminals. There exists a stereotypical imagery of a criminal in the public imagination. The public imagination forms the collective conscience of the society which hence constantly guides the legal system and the administrative apparatus. The response of the criminal justice system for the same crime depends on the socio-economic position of the person in question. The legal aid system in India aims to provide legal aid largely to these very groups of marginalised persons. The dichotomy exists in providing quality legal aid as it would not only challenge notions of criminality and law and order but also subvert the exploitative hierarchical order of the society.

The Indian state through its functionality has created for itself a dual personality- one as a carceral state and the other as a minimalist state. First, the Indian state as a carceral state, the state that surveils, thrives on prison systems and security regime, a state of exceptions with extraordinary anti-terror legislations, state agencies and special armed forces. These extra-ordinary legislations seek to protect, not the people, but the idea of the state, from dissenting voices and critiquing organisations. The state constructs a popular understanding against an existential threat to the people, to itself. It postures itself as a saviour, as a counter to this danger that is posed from dissenting voices, critique of state action, etc. In a scenario where the prosecution is through the state, and also, for the state. Given such a situation, can the state provide legal aid to those it already deems enemy? Can the state sponsor mechanisms which challenge its own impunity? Can the state afford to delegitimise the basis of its own existence? Would providing sincere legal aid in such instances not be self-annihilating for the state? Second, the Indian state as a minimalist state. Contradictory to the role envisaged of a modern welfare state, it has retracted from its responsibilities and become a silent spectator. The reports about horrifying expenditure figures in

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<sup>17</sup> National Records Crime Bureau, "Prison Statistics 2018" (Ministry of Home Affairs, 2019).

<sup>18</sup> Mukul Kumar, "Relationship of Caste and Crime in Colonial India: A Discourse Analysis" 39, no. 10 *Economic and Political Weekly* 1078–1087 (2004).

legal aid highlight the withdrawal of Indian state from delivering justice. The Indian state emerges as a minimalist state not only in matters of economy but also in matters of justice. Private actors now perform state responsibility due to wilful abstinence of the state. It is argued that consequential privatisation of legal aid is not only antithetical to the foundations of the concept but also to the rights-based approach to justice as it depletes justice as a right guaranteed and protected by the state to justice as charity.

Injustice which legal aid aims to cure exists broadly at two levels: the inaccessibility to legal institutions caused by the experience of marginalisation and vulnerability and no scope of defence or initiating a proceeding to resist the ongoing injustices. 'Access to justice for all' is the first and the foremost step towards the constitutional promise of justice to all. However, the dual nature of the Indian state along with the symbiotic relationship between its political institutions and social hierarchies expose the inherent paradox that exists in the idea of state sponsored legal aid. Since, social justice is a right guaranteed by the Constitution of Indian to its citizens and the state has the responsibility to proactively enable its fulfilment, any failure to provide legal aid will indeed be an injustice done to its citizens by the state.

*\*Authored by Ms. Somaya Gupta.*



## MESSAGE FROM STUDENT CONVENER, LEGAL AID SOCIETY



*Alone we can do so little; together we can do so much.  
- Helen Keller*

The Legal Aid Society “LAS” has always strived towards reaching out to the masses through innovative means like providing remote assistance. This year we have successfully conducted more than twenty-five programmes/ assistance services so far. Further, the members of LAS participated in more than thirty-five such programmes. A lot of hard work and focus was put in each and every programme.

LAS has strenuously continued its work even during the COVID-19 pandemic. It initiated a number of assistance services, programmes and campaign like Assistance for E-coupon for ration, Assistance to stranded passengers, Care and Share Campaign are a few to name. It is significant that inspite of paucity of facilities, the student members have shown immense enthusiasm throughout the year. Every member of the society showed exemplary ethics by readily volunteering for each initiative. I firmly believe that the society owes its existence to the student volunteers.

A noteworthy development in the society was the creation of Awaaz- The Blog of LAS which embarked its journey in second half of the present academic session. The Blog has received a warm reception from the legal fraternity all-over India. The blog has successfully published a number of brilliant literatures pertaining to law. I express my thanks to the Editorial Board of Awaaz for coming up with the idea of the Blog and for their hard work and vigour in ensuring the high standards of the published articles.

In the three years that I have spent at Campus Law Centre, my time at LAS is of high significance. I was motivated by my seniors to become a part of LAS which lead me to this sphere of law. In my second year, I was handed the responsibility of the Student Co-Convener and I represented LAS at the National Legal Services Forum, UILS, Chandigarh where our Legal Services Clinic was awarded the Best Legal Services Clinic. In the present academic session, as the Student Convener, I tried to

stay committed to the goals of LAS and fulfil all the responsibilities that came my way. For being able to do so, I express my heartfelt gratitude to all the other members of our Executive team for their continued cooperation and never-ending support.

It goes without saying that in my journey I have had the privilege to be guided by some of the best faculty in India. Needless to say, that on behalf of the student members of LAS, I extend my sincere gratitude to our respected Patron-in-Chief, Convener and Faculty Members for their continued guidance.

On a parting note, I convey my best wishes to the society for the upcoming academic session and hope that the society will continue its efforts to impart legal aid to the disadvantaged with great zeal and enthusiasm. I am sure that in coming years the society will achieve greater heights and set unparalleled benchmark for Legal Aid Clinics around the country.

Manisha Aswal

Student Convener (2019-20)

Legal Aid Society, Campus Law Centre

## MESSAGE FROM LEGAL AID SOCIETY SENIOR MEMBERS

**SUBHAM KUMAR JAIN**  
**CO-CONVENER (2018-20)**



The three year journey in Legal Aid Society has been one filled with learning, emotions and practical experiences. In my opinion, the understanding of law is incomplete if not complemented with the knowledge of ‘ground-reality’ of society and this is where LAS provides the platform. It is only when we engage in outreach programmes, institutional visits, relief camps, etc., we understand how the laws function at ground level, its short-comings and its impact on the society. Among other fondful memories, I cherish leading the ‘E-Coupon for ration assistance scheme’ during lockdown, sitting as a PLV member in a committee appointed by National Green Tribunal on Noise Pollution and filing complaints on consumer portals. I am confident that my experience in LAS would not only help me in becoming a better lawyer but also act as a reminder of my duties to society both as a citizen and as a lawyer.

**MALLIKA AGARWAL**  
**CO-CONVENER (2018-19)**



I will always cherish the period for which I was involved with LAS. It taught me the importance of process from the inception of idea to its execution as I was good in former but not in latter. This process entails tenets of responsibility, consistency, accountability and most importantly teamwork. I remember taking sessions with my fellows on creating awareness about sexual violence in schools. In that process, I realised how important it is to work on communication of ideas to the target audience and the research it requires with similar experiences even during outreach. Well I cannot end without thanking Kshitij sir and my teammates without whom this journey would not have been beautiful.

**MANISH KUMAWAT**  
**CO-CONVENER (2018-20)**



Even before getting admission in CLC, I was determined to work with LAS. I belong to a small town in Rajasthan and always wanted to serve my community but never got the chance and Legal Aid Society gave me that platform. What can be more beneficial than practical application of your legal knowledge? That's where LAS plays important role in law school. At LAS you get the environment to interact, learn and enhance your teamwork and leadership skills, it provides students with ample opportunities. Among the various activities, community outreach programs and awareness drives taught me the ground realities of justice delivery system. I firmly believe law students should exploit such opportunities.

**HARSHITA SINGHAL**  
**CO-CONVENER (2018-19)**



LAS CLC is a platform that I could connect with at law school. It works to ensure access to justice to the vulnerable sections of the society in Delhi. This organization imbibes the aspect of pro-bono work culture in to-be lawyers. A trait which is much needed in a country where a large section of the society, is ignorant about their rights or don't have the means to enforce them.

The little contribution that I could make as a part this organization has been satisfying. The journey has been an experience to be cherished forever. I hope to continue being a part of the organization as an advocate in the future.

## EDITORIAL BOARD

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- Keshav Kant Sharma– Designer of cover page of E-Newsletter
- Aastha Agarwalla and Daksh Aggarwal – Creative heads of E-Newsletter

Despite the best efforts of the editorial board, some mistakes may have crept in inadvertently. In our capacity as editors, we take full responsibility for any such oversight.

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