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NATIONAL JUDICIAL ACADEMY



Colloquium for Legal Aid Functionaries in Judicial System [P-961]

14th – 16th December, 2015

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Introduction

The Colloquium for Legal Aid Functionaries in Judicial System was held at National Judicial Academy, Bhopal on 14th to 16th December, 2015. The participants focused in the colloquium were the member secretaries of State Legal Services Authority. The sessions were framed in such a way to broadly cover all the issues relating to Legal Aid and services. It includes Schemes & objectives of State Legal Services Authorities in different States (SLSA), Problems faced by SLSA in achieving goals & objectives set out in various schemes, Compensation to the Victim: The of role of SLSA, Selection and training of Para-Legal volunteers, Legal literacy camps and the coordination of law colleges, The Role of the NGOs, Engagement of fulltime trained advocates by the SLSA, Lok Adalats and its Organisational issues, Budget Management and Organisational Skills.

Objective

The colloquium will provide an opportunity to critically examine the role played by legal service authorities, to come out with constructive suggestions to improve performance by legal aid functionaries. Various schemes of national and state legal service authorities will be discussed and the achievements and failures under these schemes would be analysed and evaluated. The role of PDJs in achieving successful implementation of the schemes on ground level will be debated upon so as to bring consensus at all India level.

Resource Persons

1. Hon'ble Mr. Justice R. C. Chavan (Former Judge, Bombay High Court)
2. Hon'ble Mr. Justice Ravi R. Tripathi (Former Judge, Gujarat High Court)
3. Mr. U. Sarathchandran (Member (J), Central Administrative Tribunal, Ernakulam Bench)
4. Mr. Alok Agarwal (Member Secretary Incharge, NALASA)
5. Prof. Jane E. Schukoske (CEO – S.M. Sehgal Foundation)
6. Prof. (Dr.) M. R. K. Prasad (Principal, V.M. Salgaocar College of Law Goa)
7. Mr. Yashwant Kumar (Economic Advisor, Finance Department, Government of M.P.)
8. Dr. Parul Rishi (Associate Professor, Indian Institute of Forest Management, Bhopal)

DAY 1: 09:00 AM – 10:25 AM

SESSION 1

Schemes & objectives of SLSA in different States

Resource Person: Mr. Alok Agarwal

Starting with the first session Mr. Alok Agarwal asked representatives to give a brief of schemes and objectives adopted by them in their states.

Karnataka – They have focused broadly on these three issues: prevention of suicide, same water project, and legal literacy.

Delhi - They have created 10 jails and child care homes, lawyers visit 2-7 every adopted jail and home, prison management software is used, witness protection scheme is also adopted by govt. of Delhi, working with Delhi police to protect common persons in public transport, project of handing over street children to their parents, gaining confidence of children to understand their whereabouts, basic education is provided to them.

West Bengal – They have implemented the NALSA scheme, children related issues are given importance, legal literacy to female students is also being provided.

Tripura - Providing aid to senior citizens and legal aid to tribal population.

Maharashtra - They have also implemented the NALSA schemes, looking on the issues relating to exploitation of children, prevention of suicide of farmers etc.

Rajasthan - Poverty alleviation schemes are formulated for poor persons in the state, Para legal volunteers are also working.

Manipur - They are promoting legal literacy and awareness through festival programs.

Arunachal Pradesh – They are also promoting legal literacy and awareness amongst tribal councils and village councils who are empowered to decided petty disputes, victim compensation schemes is also being implemented in the state.

Nagaland - Training on awareness of legal aid which is totally new in Nagaland. Free distribution of pamphlets to people in all districts, common action on plan of NALSA is followed.

Himachal Pradesh - Besides NALSA schemes, HPLSA is involved in teaching lessons of law in both Hindi and English to students of class 9th and 10th. Books are published, 12000 teachers trained so that they can teach the students, there are some awareness programs on radio like *Kanoon ki baat*.

Chandigarh – It was highlighted that 18 villages surrounding Chandigarh are turned into slums, they have identified certain villages for implementing NALSA schemes, identification of school dropouts to give them care and protection with the help of NGOs , area prone to juvenile crimes are also identified and children of these areas were tried to involve into cultural activities, mothers provided vocational training, the legal service authority has collaborated with NGOs for protecting social justice, they have also identified children engaged in drug use and their rehabilitation is going on, teachers of 64 schools and colleges are trained for creating awareness around drug abuse.

Punjab- apart from NALSA schemes, for the benefit of workers of unorganized sectors a PIL is filed in P&H High Court, pursuant to this PIL labor department is also notified and 30 crore compensation is given to the victims, *nukkad natak* is held in every week in different villages to prevent drug use, special lok adalats are organised on family partition.

Assam- trafficking witch hunting are identified as two issues on which LSA is currently working, missing/trafficked children is another area where LSA is working on, legal aid is given to the needy and lok adalat is conducted, mediation training given in law schools/*Guwahati* University, panel lawyers are trained.

Jharkhand- 7 schemes of NALSA are implemented, trafficking issues by coordinating with state government labor and social welfare department, tribal welfare schemes like promotion of girls education by training clinic in schools specially opened for Girl tribal students and Boy tribal students, child friendly schemes for children in observational home where they are given an opportunity to develop their skills like computer training etc. i.e. schemes related to training on skill development, nodal officers in each district for skill development.

Mizoram- As highlighted that mentally ill population is increasing in the state focus is shifted on mentally disabled persons but Mizoram does not have hospitals & LSA is working on this, only 10 % or less population getting benefit of schemes /reliefs because of poor fund availability.

Pondicherry- Awareness is being spread through pamphlets, newspaper, radio etc. amongst the vulnerable sector.

Chhattisgarh- It was highlighted that the witchcraft is major issue in the state, 310 cases came to light, districts with more incidents were identified and awareness campaign was launched, mentally ill was another sector which is identified and work for their betterment is going on.

Orissa- apart from NALSA schemes legal aid clinic opened in hospitals for mentally ill persons in Orissa. Para Legal Volunteers were posted in hospitals to act as a link between beneficiary and govt., for registration of workers in unorganized sectors a PIL is filed in Orissa High Court and 15 pilot districts identified for registering workers in unorganized sectors.

Uttar Pradesh - adopted 5 projects to fight against malnutrition, save girl child, maintaining child sex ratio, spread of communal harmony and prevent suicides in prisons/jails.

Haryana- student legal literacy mission in which clubs are opened in more than 3000 schools to sensitize them on their responsibilities and booklets also published. 25 legal service clinics opened in law colleges, internship programs are also started, and schemes are formulated for unorganized sector.

Punjab & Haryana a legal service committee is looking after entire legal aid work done in both the states, special scheme for middle income group is being devised. It was asked whether the scheme is self funded and answer was yes it is self funded without corpus.

Jammu and Kashmir- because of flood people were facing difficulties in getting their claims enforced therefore LSA tried to implement the High Court judgment.

Telangana- Prevention of ragging in institutions is looked after through pamphlets, initiatives on workers in unorganized sector is looked after, training to enhance the lawyering skills of panel advocates is conducted, ETV- program is aired on every Saturday named “nyay seva”, radio talk every Thursday, every 4th Saturday SLSA visits jail and resolves their disputes.

Gujarat- pro bono legal service by senior advocates in district courts is promoted to help poor to defend their case in court of law. Online divorce mediation is being thought to avoid appearance in courts.

Madhya Pradesh- The main focus is on implementation part. Advocate General is involved in implementation process. Mega legal awareness camp is organized to spread awareness about various schemes and to give benefit to the beneficiaries. Third genders are being marginalized, and after awareness they are able to come out of their groups. Refresher courses for Para Legal Volunteers are organized.

Bihar- They have associated panchayats for doing legal awareness work. Massive survey in all 58 districts of Bihar was conducted with the help of Delhi based human rights activities to check all prison wards to focus on every prisoner. Strengthening district legal service authorizes by holding regular meetings and trainings. Taking assistance of PLVs and UNICEF to deal with matters relating to domestic violence, juvenile justice etc.

DAY 1: 10:50 AM – 12:15 PM

SESSION 2

Problems faced by SLSA in achieving goals & objectives set out in various schemes

Resource Persons: Hon'ble Mr. Justice R. C. Chavan

Mr. U. Sarathchandran

Mr. Alok Agarwal

Mr. U. Sarathchandran started the session with pointing out that Legal service authorities in India are growing and developing day by day. Emphasis was laid down on Vision Statement. The aim of every LSA must be to work for social justice. Highlighting one of the problems in the system he stated: officers are sitting inside the cabin and are not willing to do any field work, when a person in need of LSA's services visits the office and usually may collapse or not able to speak. He suggested that to meet them outside the office like a common man to hear their grievances/issues/problems.

Para Legal Volunteers: The meaning was explained as “*Nyay Mangnewale aur Nyay denewale ke beech bridge ka kaam*” is called Paralegal.

It was submitted that by giving Legal Services we could change the lives of common man. The problems faced by transgender were highlighted that they have to face discrimination and violation of their basic human rights starting from home, school, colleges or any other institution.

Mr. Alok Agarwal suggested all the legal service authorities to concentrate on quality of legal services provided by them.

The focus must be given on these 4 heads:

1. Legal Awareness
2. Legal Aid
3. Lok Adalat
4. Preventive and Strategic

The motive must be profit and profit should be in terms of no. of people getting Legal Aid.

The lawyers must be entitled to a decent amount of fees. It was highlighted that different states has different fee structure and therefore it was suggested that a minimum fee structure must be provided by the NALSA.

It was also suggested that once in a month; Judges should also meet the panel advocates and give them training.

Precautions must be taken while appointing panel advocates. Highly professional and skilled persons/lawyers must be appointed which will solve the issues and change the perceptions of common people.

Lok Adalat

It is suggested to check the number of cases coming before Lok Adalat on the basis of which see how many benches are required. If cases are less a single bench will be sufficient. After this step let judicial officer sit in Lok Adalat and pay honorarium to him for his services.

In Jharkhand there are no funds for conducting a Lok Adalat. It was asked to issue a circular for utilization of National Legal Aid fund for conducting Lok Adalats as it is NALSA's activity.

The resource person also suggested that as Lok Adalats are held on holidays, honorarium must be given to the sitting judicial officer.

Some issues were discussed which were as follows:

- *Vrindavan Widow*

There are 700 widows in 5 homes [2 of them are running by Government and other 3 are running by NGO's].

It was highlighted that some of them live there for last 2 days, take money and then go away to live in their home. But it was also the fact that most of them are destitute. It is made clear that misuse of funds does not stop Central Government from doing/incorporating welfare schemes.

- *Kumbh Mela (Nasik)*

There are 60,000 old aged women and men who were left to the *kund* to survive of their own. Many of them did not even know the name of their village or address.

The resource person highlighted that the phone numbers given by Para Legal Volunteers or Panel Lawyer were not even picked up.

There are many problems in different states and hence there cannot be a straight jacket formula to deal with them.

He explained that a villager or a less educated person is usually ill treated even by a little educated person.

It was suggested that it is not possible to save everyone but if you even change or save one life, the purpose and aim is fulfilled.

The situation in Delhi was highlighted that approximately 5000 trafficked children and ladies were found.

It was suggested by the resource person that: requirement is to create a network in these states and Language barrier are sometimes there, which can be solved.

DAY 1: 01:00 PM – 02:00 PM

SESSION 3

Compensation to the Victim: The of role of SLSA

Resource Person: Hon'ble Mr. Justice Ravi R Tripathi

The participants were divided in 4 groups and four different exercises were given to them.

Group 1

Simulation Exercise I

A complaint has been filed u/s 200, Cr. P. C by a civil society organization to the trial court, stating that a three year old girl had been brutally raped by unknown persons and had sustained grievous injuries. The SHO of the police station was informed but neither FIR was registered nor was any facilities provided for the immediate medical treatment of the child. Immediately the child was taken to many hospitals but the officers/authorities declined to admit her. Thereafter they administered primary medical care at a private clinic and the attendants were advised to take her to the District hospital and there she was admitted. The allegation is that the attending doctors were demanding medical expenses but since the attendants were not in a position to pay, proper medical care was not administered and the child was eventually discharged.

Questions for Discussions

1. Whether the directions should be given by the trial court for ordering compensation under Section 357-A of the Code of Criminal Procedure, 1973?
2. Whether the trial court can give directions for the conduct of a proper and fair investigation. Whether the Superintendent of Police can be directed to monitor the investigation and to submit a status report before this Court within a period of two weeks?
3. Whether the trial court can give directions to the Chief Medical Officer to personally monitor the progress of the treatment and to place a status report?

4. What should be the role of District Legal Services Authority in this regard?

Response

- Emphasis was laid down on Section 357A of Code of Criminal Procedure which talks about victim compensation scheme. It was argued that order of compensation can only be determined by DLSA and not by District Court. But it is open for District Court to issue direction to LSA.
- Yes, Trial Court can give directions for a proper and fair investigation. Section 156(3) of Code of Criminal Procedure can be invoked.
- Trial Court under Section 357(c) can give direction to all medical institution for free and immediate care, but it cannot order direction to CMO to personally look into the matter.
- Where accused is absconder, victim can file complaint for compensation. Rule 7 (4) of the POCSO Rules, 2012 was stated as, the compensation is to be paid by State Government from the Victims Compensation Fund or other scheme or fund established by it under Code of Criminal Procedure, 1973 or any other law for the time being in force, and in the absence of such fund or scheme, by the State Government POCSO, Court can decide the quantum of compensation and take suo-moto action for providing compensation. It cannot be left to LSA. Under Section 357A interim compensation can be awarded by the trial court.

Group 2

Simulation Exercise II

One fine night the accused killed Mr. A, the victim by attacking him on his head by sharp weapon. There was no officer of the rank of SHO in the police station and constable refused to register the FIR and told wife of deceased to come in the next day morning. After giving a written complaint Police investigated the matter and Trial started. The Additional Sessions Judge upon appreciation of the evidence recorded the judgment of conviction under section 302 of the Indian Penal Code and sentenced the accused for life imprisonment. No fine or compensation was ordered by the trial court. The dependents of the victim include wife and two children.

Questions for Discussion

1. Whether there is a lapse on the part of trial court judge concerning the compensation to the dependents of victim?
2. Under which provision of law the compensation should have been granted by the trial court judge?
3. Whether accused can be asked to pay compensation to the dependents of victim? What should be the amount of compensation to the dependents of victim which should be ordered by the trial court?
4. Whether court can order an enquiry against the police functionaries who refused to register the FIR when the wife of the victim approached the police station? What should have been an ideal response of police towards the wife of victim when she approached the police station?
5. Do you think that little attention has been focused by courts on victims of crime as persons deserving protection of the administration and the society for rehabilitation in an honorable and dignified manner?

Response

- Yes lapse is there as it failed to decide jurisdiction and section 357(3) is to be referred. And all the past years victim were not given compensation.
- Under section 357(3) of Code of criminal Procedure, 1973.
- Accused can be asked to pay compensation under section 357(3), capacity of the accused to pay and loss suffered by victim is to be considered.
- Trial Court may order for enquiry against the police functionaries who refused to register the FIR when the wife of the victim approached the police station. FIR should have been registered.
- She should have been given compensation at the very initial stage.

Group 3

Simulation Exercise III

Mr. B was beaten to death by the accused and died on the spot. The matter was published in a newspaper and Magistrate conducted the enquiry by getting the dead body from the grave and found injuries on the dead body. The dead body was buried by the owner of the said Company without informing the parents of the victim. After investigation, three accused were sent up for trial, but the witnesses examined by the prosecution did not support the prosecution version and stated that they did not have any direct knowledge. Accordingly, the accused were acquitted. The trial court did not make any observation regarding the plight of old parents of victim who were dependent on their son.

Questions for Discussion

1. Whether the trial court has legal duty to award compensation to the parents of victim irrespective of conviction or acquittal of accused persons?
2. Whether the interim compensation to the parents of victim ought to be given at the earliest in this case?
3. What materials should be called by the court to assess the situation of parents of victim for determining the amount of compensation?
4. Do you think that at present the entire focus of the criminal justice system is on the offender i.e. to punish him or to seek his reformation and rehabilitation and ignores the rehabilitation of victim and/or his/her dependents?
5. Do you think majority of victims of crime having poor economic capacity can go to the civil courts to have an ordinary civil action to recover compensation in the form of monetary damages?

Response

- Under Section 357(A) Victim compensation schemes were made. Trial Court is duty bound to give compensation to victim.
- Yes, interim compensation must be given.
- Economic position of accused, victim and dependents must be checked and documents should have been called for providing compensation.

- Yes, presently the entire focus of the criminal justice system is on the offender i.e. to punish him or to seek his reformation and rehabilitation and ignores the rehabilitation of victim and/or his/her dependents
- Compensation granted in the scheme must be given. The Court can definitely award compensation from fine. But it must be seen that whether passing of compensation order is practicable or possible to be paid. It is suggested that let the wrongdoer pay first and if he is not capable to pay compensation, state will do the payment.

It was also suggested that as the case is of acquittal Section 357A is attracted. Court cannot do anything as it is only recommendatory body under this Section.

Group 4

Simulation Exercise IV

Deceased Mr. B had fought for peace in his locality by strongly resisting the gunda activities and drug trafficking by certain antisocial elements of the locality. He has been mercilessly exterminated by such antisocial elements, in the prime of his youth, leaving his young widow of 27; two small daughters aged 5 and 1, and his aged mother. The trial court found the accused persons guilty of the offences punishable under Sections 471, 143, 147, 148, 364, 302 and 201 IPC read with S. 149 IPC, and each of them was sentenced to undergo rigorous imprisonment for three years and to pay a fine of Rs. 5,000/-, in default, to undergo simple imprisonment for six months, u/s. 471 IPC, rigorous imprisonment for 6 months each u/s. 143 IPC, rigorous imprisonment for one year each u/s. 147 IPC, rigorous imprisonment for two years each u/s. 148 IPC, rigorous imprisonment for 10 years and to pay a fine of Rs. 15,000/-, in default to undergo simple imprisonment for two years each u/s. 364 IPC, imprisonment for life and to pay a fine of Rs. 25,000/-, in default, to undergo simple imprisonment for two years each u/s. 302 IPC, and rigorous imprisonment for 3 years and to pay a fine of 5,000/- each, in default, to undergo simple imprisonment for six months each u/s. 201 IPC.

Questions for Discussion

1. Whether the trial court should have recommended compensation under section 357 of Cr. P. C or under section 357A of Cr. P. C to the dependents of victim in this case?

2. What are the major obstacles before Indian trial courts in awarding interim compensation under section 357A of Cr. P. C to victim or his/her dependents?
3. Do you think that the sentence awarded by the trial court reflects retributive justice and there is no remedy based on the restitutive justice which required compensation by the wrongdoer to the victim or his family members?
4. Do you think that judicial attitude, as reflected in sentencing, also should appear to be responsive to the personal factors and characteristics of victims?

Response

- The Trial Court should have recommended compensation under 357A as under Section 357(3) a judge cannot award 3 orders i.e. fine, imprisonment and compensation.
- Under section 357A no interim compensation can be awarded by the Court. Victim compensation cannot be awarded by the court it can only recommend.
- Instead of awarding fine and imprisonment it is suggested to award more compensation.
- Yes, in absence of any scheme Court has power to order for award. As we are talking about change of mind setup and mind frame it is suggested that there must be a national legal scheme for victim compensation as there is difference in compensation in different states which creates discrimination. It is also suggested to keep in mind victim's situation in your mind while dispensing legal aid.

DAY 1: 02:40 PM – 04:00 PM

SESSION 4

Selection and Training of Para-Legal volunteers

Resource Person: Prof. (Dr.) M.R.K Prasad

Prof. (Dr.) M.R.K Prasad started the session by asking some question “what is Legal Aid?” Should Legal Aid be provided only for litigation? Do you think people can represent themselves in simple matters?

He explained that there are two types of litigation

- Inside litigation services
- Outside litigation services (Advice)

The 7 elements of Legal Aid are:

1. Legal Representation
2. Legal Advice
3. Legal Awareness
4. Para Legal Services
5. PIL
6. Providing Alternative dispute resolution
7. Law Reform

He then asked who is a Paralegal and then explained Paralegals are not lawyers, they neither advice or represent clients. They help, guide, empower, refer, link between community and state, facilitation.

In 2009 Paralegal scheme is adopted by NALSA. To be a Paralegal these four things are required: Compassion, empathy, genuine concern and willingness must be there.

Training: while training them they must be given information about basic laws. They should have a bare minimum knowledge of primary health Aid. It is suggested that a training module must be prepared by NALSA.

Guidelines

- Based on localities
- Common needs in the community
- Basic foundation courses

Manual development

It must include the following heads: Content, substantive law, procedural law, state machinery and language.

PLV must have understanding of government documents (he must be able to differentiate between different documents).

He elaborated the methods used for Training as

1. Active learning
2. Learning by Doing
3. Experimental learning

Materials for awareness camps may be made with the collaboration of facilitators and PLV's

Mr. Prasad then asked how you will do it. He suggested that it can be done either by:

- Story telling
- Films
- Nukkad natak
- Problem method etc.

Role plays – It is suggested to give PLVs some factual problem and ask them for their reactions on it. The concepts like “*Bell Bajao*” are outcome of this technique. Ethics can also be taught.

How Para-legal volunteers are selected?

There is no set full proof method of selecting the Para legal volunteers for rendering legal aid with the resulting fact that only few among them are efficiently working and majority of them are not working efficiently enough. There are plethora of applications which makes the short

listing of candidates a herculean task. Therefore it was recommended that use of modern technology like video conferencing, telephonic or online interviews could be a viable solution.

DAY 2: 10:00 AM – 11:15 AM

SESSION 6

The Role of the NGOs

Resource Person: Prof. Jane E. Schukoske

Prof. Jane started the session by highlighting the fact that some NGOs have sufficient awareness of relevant legal rights which may also include the welfare schemes of the government, water, RTE, health and cultural services. They also have adequate resources like hotline services, community media, reference materials and research facilities at their disposal. They can be a party to PIL and thus play a significant role in enforcing the legal and constitutional rights of the vulnerable people.

For instance there are number of NGOs working to prevent child abuse and child trafficking which allows them to take custody of the children as soon as they become aware of such trafficking. Various examples can be cited in this regard. In Orissa, an NGO rescued many migrant laborers who were working as child laborers. In *Assam*, working was with *Bachpan Bachao Andolan* where children were rescued from other States and brought to Assam and were provided with proper shelter homes in an attempt to give them their childhood. Shelter homes provided to these children by NGOs are good enough to provide them with an adequate environment of spending their childhood.

Further in *Jharkhand* there were juvenile homes and shelter homes which were run by the NGOs. However, these homes were not given recognition by the Government so LSA initiated the efforts to grant them recognition and subsequently they succeeded in granting recognition to these juvenile and shelter homes. It is emphasized here that without the effective contribution of NGOs implementation of legal aid becomes very difficult.

In *Chandigarh*, there were children who were not sent to school by their parents because they supported their family income by being involved in rag-picking. With the efforts of NGOs currently there are two batches comprising of 25 children each who have now started going to

school. There were 2 of them who were found to be drug addicts and therefore they were sent to rehabilitation center.

In *Delhi* fifteen NGOs were collaborated and some 65 paralegals were given training. Further, in Manipur a writ petition was filed to establish shelter homes in Manipur which subsequently resulted in the establishment of shelter homes in Manipur. In Bihar, HRLN is rendering assistance to LSA for spreading awareness and to control HIV Aids.

Some of these NGOs receive funding from Kargil, Coco-Cola, Sehgal Foundation, NABARD. The objective is to strengthen community led development initiatives to achieve positive goals.

Questions Raised

- 1. As your NGO is working in the area of communal divide which has led to the curtailment of women's freedom as they are meant to be inside the houses only. What is your NGOs take on this issue?**

The NGOs are usually collaborated with DLSA whenever required. If Magistrate comes to attend a rural program, he/she is accompanied by the Sarpanch which presumes the participation of individuals and therefore can be a success in securing the participation of women as well.

- 2. There are highest numbers of NGOs in India and many of them are eating funds. What can be an effective solution in this regard?**

This is historic truth that 5 Pandavas won over 100 Kauravas hence our attempt should be to identify those 5 Pandavas. The NGOs who are utilizing the funding for their own ulterior motives one needs to identify them and turn the tables and prevent them from wasting the funds. However, this does not mean that every NGO should be looked from suspicious angle only. You have to look which one is fulfilling its mission and which one is a mission in disguise because *“Can we do better? It is what we have to look.”*

DAY 2: 11:35 AM – 01:00 PM

SESSION 5

Legal Literacy Camps and their coordination with Law Colleges

Resource Person: Prof. (Dr.) M. R. K. Prasad

Prof. Prasad highlighted the fact that legal aid is locality based. Further emphasizing on the importance of legal literacy he added that it has an important role in creating awareness for ensuring the rights of the individuals.

The topic selected must be of a nature that it effectively outlines the issue which holds relevance in the area in which such literacy camps are organized. The speakers must have a good hold on the local language. Identification of recipients of such camp is also very significant. The literature used must be kept simple and precise.

In Haryana law school volunteers who went to a school for creating awareness found a girl who was being sexually abused by fiancé of her elder sister.

Need of law schools when there are already Para legal volunteers can be made from the following:

1. Extension of legal aid to remote villages.
2. Practical skills involved
3. Reduction in cost in organizing such camps.
4. Preventive legal service programs.

However, it is to be mentioned here that no transfer of funds to the law schools from Legal Services Authority can take place. Although funding is necessary, children should not be paid for rendering such services but the basic necessities required for the purpose should be funded. DLSA has power to collaborate with NGOs and companies to give assistance to the law schools.

He said it is to be highlighted here that on one side law school students are not properly funded and on the other hand they are expected to work at par with the Para-legal volunteers. NLSA should not expect law students to work as Para-legal volunteers.

With the help of Law Schools and proper funding the other colleges can also be engaged in imparting legal services at the grassroot level. Further DLSA in close collaboration with Bar Council should draft policies and strategies for legal aid.

DAY 2: 01:45 PM – 03:05 PM

SESSION 7

Engagement of fulltime trained advocates by the SLSA

Resource Person: Hon'ble Mr. Justice R. C. Chavan

Justice Chavan started the session with explaining that Human Resource Management is given last priority in India. He argued that it is not necessary to look at whether we have reached to the goal or not, but what is important to look at is whether we have started our journey or not.

In the discussion it was recommended that to appoint a fulltime Secretary.

While highlighting the strength of youth the resource person suggested that the students who have recently joined the Bar, should be trained to work for LSA and given some internship allowance. A full time Advocate and Legal Researcher must also be appointed. It was suggested that DLSA should tie-up with Bar Council and Ministry of Law and Enforcement and get these lawyers. But it was pointed out that these young lawyers will not be able to work appropriately because they do not have experience and knowledge of procedural law.

One of the participant then asked why this work can't be given to bar instead of putting it on the shoulders of DLSA. The resource person answered that giving this work to bar will not serve the purpose because of Economic interests.

In the discussion between the participants one of them suggested that Amendment in the policy and Law will solve many of the problems or SLSA and DLSA have to work for solutions.

It was also suggested that the idea of engaging a fulltime advocate who is having 3-5 years of experience is a disaster, reason being engaging an advocate for fulltime, he will lose his connections and when he join bar again he will not get cases. Therefore it is suggested that nurturing new boys rather than persons who are already established will give a better result.

Question: A person who is a fresh graduate is appointed as a lawyer in the position of a person who is having 3-5 years of experience, how will it solve the purpose as he lacks knowledge, experience and will face difficulties?

Answer: A fresher will always wants to prove him, although experience is not there. Lawyer already practicing has no interest in legal aid and hence will not work.

The resource person then explained the advantages of a full time Advocate.

- Monitor LSA's cases
- Cheaper/less expensive – 30/40k
- Check on the quality of Legal Service

One of the participant highlighted that some relaxation is required to give a fulltime advocate for their personal cases. Justice Chavan then argued that when relaxation comes, advocates start to practice their own cases and forgets LSA's cases and if relaxation is not given then after 3-5 years of legal aid service when he leaves it and returns back to bar, he will find no place to go as he is already disconnected from Bar. He will be left with no other option then to indulge in activities like corruption and other bad activities.

The outcome of the discussion that to have a mixture of senior and junior advocates where seniors will always be there to guide junior. The purpose is not only to support them by giving them stipend but also to keep them busy because *an empty mind is devil's workshop*.

DAY 2: 03:25 PM – 04:25 PM

SESSION 8

Lok Adalats organisational issues

Resource Person: Hon'ble Mr. Justice Ravi R. Tripathi

Hon'ble Mr. Justice Ravi R. Tripathi started the session by asking the participants to highlight the Organisational Issues. It was answered by the participants as issues relating to:

1. Infrastructure
2. Publicity
3. Coordination
4. Willingness
5. Incentive
6. Referral of cases (Training and orientation)
7. Pre-sitting with the lawyers
8. Nomination of the Nodal Officers
9. Selection of Conciliators
10. Expert advice of Counselors (engineers, family, counselors)
11. Periodicals
12. Fixing the dates
13. Selection of Judges
14. Manipulation of Records

After highlighting the organizational issues, he then moved on to the types of Lok Adalat. He then asked the participants and they stated:

- Bal Samvad Lok Adalat (7 years children cases)
- Jail Lok Adalat
- Pension Lok Adalat
- Special Lok Adalat
- Mega Lok Adalat
- Lok Adalat for appeals in RTI etc.

Lok Adalats were started from Gujarat and was brainchild of Justice P.N. Bhagwati.

The resource person suggested that if parties has solved their disputes out of Lok Adalat, it must not be included in the stats of disposal of Lok Adalat. The statistics shows a much larger number of legal services done by SLSA whereas in reality it is not true. May be the problem is stepping in because of figures are not separated from Legal Services, Lok Adalats and other services given by a LSA.

Section 2(1)(c) of The Legal Services Authorities Act, 1987 was interpreted as it states that ‘legal service’ includes the rendering of any service in the conduct of any case or other legal proceeding before any court or other Authority or tribunal and the giving of advice on any legal matter.

He mentioned that the real difficulty is that everyone have obsession of figures in India. Then he elucidate that the disposal of cases are found to be very less when it is compared as, out of 100 cases 10 were disposed. But when you shortlist the cases where both the parties were present the figure will be 50 cases and 10 are disposed of i.e. a much better figure, shortlisted on the basis of cases where parties wanted to settle their dispute, it will be 15 and out of which 10 were disposed of and it is a very good figure. This is what happens!

Justice Tripathi stated that “*We must not forget that India has within itself not only the entire Europe but also Africa*” (in terms of Resource, Development and Education wise). For example people are untouched by evils of civilization even in a village like Thane near Mumbai.

DAY 3: 10:00 AM – 11:15 AM

SESSION 9

Budget Management

Resource Person: Mr. Yashwant Kumar

Mr. Yashwant Kumar while starting with the session stated the Constitutional provisions relating to financial relation and Budget management.

Question: Why the budget is allocated in the end of March when LSA did not get time to spend it?

Answer: It happens because of government's deficiency in estimation of budget.

The resource person suggested that the amount which has not been spent and cannot be kept in Fix Deposit account, and if LSA want to use it then they have to take permission from government, or else it would be lapsed.

Jharkhand and Bihar

The participant from Jharkhand and Bihar stated that LSA's are being told not to spend a single penny from the funds after March 31st. They suggested that as it is a Central Government Policy, it should be uniform in every state.

Punjab and Haryana

The participant from Punjab and Haryana stated that since State Government took up the matter, SLSA is using the 13th Finance Commission budget. As a circular was issued by Central Government mentioning that the remaining funds can be utilized even after the expiry of the period but only on the request of State Government.

The resource person made it clear that the Finance Commission is only a recommendatory body and until a budget has been passed by legislature or parliament even a single Rupee cannot be spent.

On the issues relating to Utilization Certificate it was highlighted that the P.W.D can even give a certificate of building which is not even in existence.

It was explained that Central Government has power to extend the date of expenditure but State Government has to request. But it was also highlighted that when Haryana asked for clarification from Finance Commission and Central Government, it was communicated by them that SLSA are not supposed to ask and the budget can be used by legal services even after the expiry date.

A schedule of expenditure is to be formulated with a great care as according to this schedule year wise budget is provided by the Legislature.

The resource person made it clear that SLSA is not required to take permission from Central Government for using a Public Account.

He also highlighted that the way of financing of our deficit is not by printing notes; Government has to borrow it from the R.B.I, market and other resources.

If the budget which is been allocated and it is kept in Fix Deposit which is illegal and cannot be done as ultimately interest is being created out of the fund provided by Central Government is credited back to the Central Government? Answer is no, and that is why it can't be done.

Banker of Central Government and State Government is R.B.I both of them has account in R.B.I. The money allotted to State Government cannot be transferred to the private account for any other bank account.

He suggested that the Legal Aid funds are not part of Consolidated Fund and are a part of Public Account and hence can be used after expiry of the year without any permission. Even interest can be generated as it is in private account. But the purpose cannot be altered, the mode can be different.

DAY 3: 11:35 AM – 01:00 PM

SESSION 10

Organisational Skills

Resource Person: Dr. Parul Rishi

Dr. Parul Rishi started the last session with a question that what is Organisational behavior. She then explained that an Organisation is nothing but the group of people and includes infrastructure. Organization is like a computer which consists of a hardware and software. Hardware is the infrastructure and people who are working in it are software. Without software a system cannot work and also *vice versa*.

She then asked, what makes an organization successful? She explained that people if provided with good infrastructure are the one who makes an organization successful. The factors involved in making an organization successful are: Personalities, motivations, leadership, communication, way of handling crisis, way of managing the conflicts etc.

An Exercise is given to participants. The answer of the exercise will further divide in 5 types: Type A, Type B, Type AB, Hardcore A and Hardcore B.

It was submitted that an organisation works as a process or a property.

Organisational Process

1. Non Coercive influence
2. Direct and Coordination

Organisational Property

1. Iceberg [Two aspects: Visible part (Behaviour) & Not Visible part (Perception, attitude, values and believes)]
2. Dynamic
3. Broader perspective
4. Clarity and focus
5. Social sensitivity

6. Long term orientation
7. Adoptability
8. Ability

She explained that the Open System includes three processes namely:

1. Input (what you insert)
2. Throughput (the process is what a worker must care about)
3. Output (what you'll receive)

Some practical questions were then asked by the resource person to know the responses of participants. What will a boss do if on the day of presentation subordinate did not turn up? She then explained that to deal with such situations these things must be kept in mind

- Role model (be a person which you wish to see in others)
- Appreciation of their work (do not criticize/humiliate them for not performing or for their poor performance)
- Characteristic approach (give reward for work, punishment for downfall)
- Monitor their work continuously

She then explained the following theories:

Theory X and Theory Y or McGregor's Theory

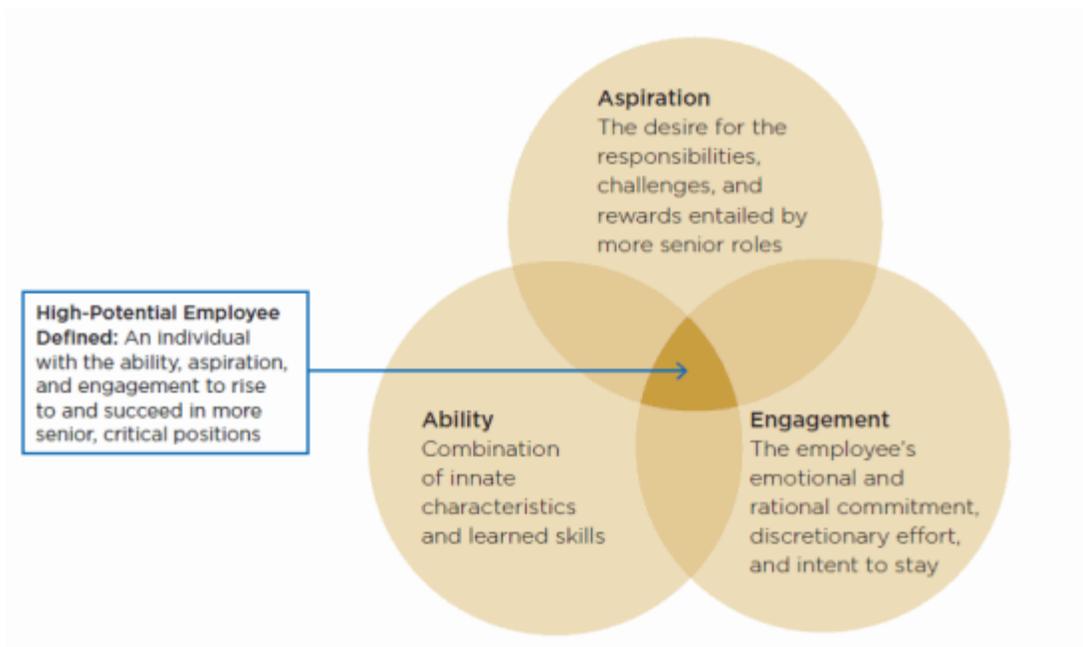
There are two theories: 'Theory X' and 'Theory Y' of human motivation and management.

It is explained as: 'Theory X', which stresses the importance of strict supervision and external rewards and penalties; and 'Theory Y', which highlights the motivating role of job satisfaction and allows scope for workers to approach tasks creatively.

HiPo Model

A HiPo employee is a proven high performer with three distinguishing attributes that allow them to rise to and succeed in more senior, critical positions:

1. ASPIRATION - To rise to senior roles
2. ABILITY - To be effective in more responsible and senior roles
3. ENGAGEMENT - To commit to the organization and remain in challenging roles



Picture: 1¹

There are 4 kinds of personalities:

1. Low Ability, Low Willingness – Telling (High Direction, Low Support)
2. Low Ability, High Willingness – Selling/Coaching (High Direction, High Support)
3. High Ability, Low Willingness – Participating/Supporting (Low Direction, High Support)
4. High Ability, High Willingness – Delegating (Low Direction, Low Support)

¹ Conrad Sean, What Are The Characteristics of High Potential Employees? (Available at: <http://www.halogensoftware.com/blog/what-are-the-characteristics-of-a-high-potential-employee>)