

# **IMPACT OF COMPETENCY AND COMMITMENT OF THE LEGAL AID COUNSELS ON THE LEGAL AID SYSTEM IN THE CITY OF DELHI <sup>1</sup>**

## **Abstract**

This research paper is based on the empirical research on the impact of competency and commitment of legal aid counsels on legal aid system in Delhi. The said Empirical Research was conducted under auspices of the UGC Research Award in Law 2014 Research Project. The Research paper is a reflection of the evaluation of competency and commitment of legal aid counsels by various stakeholders of legal aid services such as beneficiaries, judicial officers dealt with legal aid cases, and regulators of legal aid services in 11 Districts Courts in Delhi and Delhi High Court.

## **I INTRODUCTION**

There is no shortage of statutory instruments in the form of the Constitution of India and the Legal Services Authorities Act, 1987 and other subordinate legislation for empowering people to have access to courts through the instruments of Legal Aid Services System (LASS) across the nation. The LASS provides for informal process and free access to free legal aid services in various forms to the specified beneficiaries. The Central Government and State Governments have been allocating hundreds of crore of rupees to the legal aid services in India.

It is revealed that people do not trust the services of Legal Aid Counsels (LACs) provided under the programme due to various contributing factors, which have also been acknowledged by the apex judiciary of India in a catena of cases.

The said research focused on two broad parameters of commitments and competency of the LACs. One is the low quality of services of the LACs, and the other is lack of trust over the services by the beneficiaries of legal aid services. The said empirical research has evaluated the professional skills such as arguments, articulation, and drafting skills of the LACs for delivering legal aid services.

The assessment of the competency and commitments of LACs, have been done on the basis of feedback from the interested stakeholders such as judicial officers dealing with legal aid cases, the beneficiaries of the legal aid services, the regulators of the legal aid services, and women respondents, who were entitled to free legal aid services but opted for the paid services of private lawyers.

The study has not only examined the existing legal framework for legal aid programme but also the practical relevance of the law. The research was designed to inquire into

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1 Conducted Empirical Research under the UGC Research Award in Law 2014

the effectiveness of the primary stakeholder of legal aid services, the legal aid counsels and its impact on the quality of leg aid services in 11 District Courts in Delhi and Delhi High Court.

## **II ANALYSIS OF THE LAW RECOGNIZING AND FACILITATING LEGAL AID SERVICES IN INDIA**

Legal aid has been recognized as a fundamental right under Articles 21 and 39-A of the Constitution of India. In consonance with the constitutional goals the Legal Services Authorities Act, 1987 (LSA, 1987) has been implemented to provide legal aids to disadvantaged group of society in certain contingencies. All these legislations are social welfare legislation. The researcher has examined, both, the primary and secondary sources of information on the subject, which include the relevant provisions of the Constitutional Law, the Legal Services Authorities Act, 1987, the Order 33 of the Code of Civil Procedure, 1908, Section 304 of the Criminal Procedure Code, 1973, the National Legal Services Authority (Free and Competent Legal Services) Regulations, 2010, and National Legal Services Authority (Legal Aid Clinics) Regulations, 2011, for in-depth scrutiny of the existing literature on regulating legal aid services.

The empaneled legal practitioners provide free legal services to the beneficiaries in the forms of drafting and pleadings in the case of complaints, written statements, consultation services to under trials and convicted persons in civil as well as criminal matters before various judicial and quasi-judicial authorities.

It is reiterated that there is no shortage of statutory enactments on the right to free legal aid in India. Legal aid system is not functioning efficiently and not catering to the requirements of the beneficiaries. Legal aid services provided by the empaneled legal practitioners are free of any charges, but people in majority are reluctant to approach free legal aid authorities for availing such services.

The programme, even after spending tremendous resources, has not been able to achieve the objectives, for which the system of legal aid has been created in India.

It is pertinent to mention that the empaneled legal practitioners (LACs), which are the main driving force of the scheme, have lost the recognition and faith of beneficiaries due to their recklessness and incompetence. The general public is under the impression that such legal practitioners are not committed and sincere to the objectives of the legal aid programmes but have considered these services as the platform for cheap popularity only.

## **III SYNOPSIS OF THE RESEARCH DESIGN OF THE EMPIRICAL RESEARCH ON LEGAL AID COUNSELS**

This research is designed to explain the causal connection between the Independent and Dependent variables. The independent variables for this research include

Competency and Commitments of LACs. The competency of LACs will be evaluated on the basis of their quality of arguments, quality of articulations, quality of drafting, by the regulators, beneficiaries, and Judges, of legal aid services under the LSA, 1987.

The Commitment of the LACs would be determined on the basis of availability, interaction with the beneficiaries, time spent on legal aid services, a deputation of juniors, demanding money from the recipients, the commitment shown to protect the interests of the beneficiaries and other relevant parameters. The Dependent variables include the impact of the lack of competency and commitments of LACs on the quality of legal aid services and lack of trust of the beneficiaries over the legal aid system.

The research did follow the Stratified sampling method for the collection of primary data from key stakeholders of the legal aid services such as the LACs, beneficiaries, judicial officers' regulators and other interested parties, in 11 Districts Courts in Delhi and Delhi High Court.

During the course of the said study, as per the structured and unstructured questionnaires; primary data was collected from 702 beneficiaries of legal aid services; 173 judicial officers dealing with legal aid cases in civil and criminal subject matters; 11 Regulators (Member Secretaries) of the Delhi Legal Services Authorities (DLSA) in Delhi High Court Legal Services Committee; 174 LACs; and 1039 women at Special Courts and family courts, who were eligible but did not opt for the legal aid services for their disputes.

#### **IV FINDINGS OF THE EMPIRICAL RESEARCH**

The said research took into account the feedback received from the judicial officers, regulators, the LACs beneficiaries, and other interested parties for reaching to some logical conclusion or findings.

##### **Beneficiaries Approach the Free Legal Aid Services due to Lack of Resources to Engage Paid Private Legal Practitioners**

It has been observed by the research that the beneficiaries, because of the dearth of resources to engage paid private legal practitioners, opt for the free legal aid services of the LACs under compulsion. This research demonstrates that about 98 % (688 out of 702) of the beneficiaries opted for free legal services on the ground that they had no resources to engage paid private counsels for their litigation. If these litigants had resources to engage private legal practitioners, they would not have approached for the free legal aid services to the DSLA offices in Districts.

Further, the women respondents, who were entitled to free legal aid services from the LACs, opted for the paid services of private practitioners. It is evident from the data that more than 95 % of such women respondents were not keen on getting the benefits

of free legal aid services. Most of the respondents were in a sound financial position to engage private lawyers. If they had no resources, then there would have been some possibility to approach the DLSAs for the free legal aid services.

About 93.8%, 975 out of 1039 of the women respondents have expressed that high quality of commitments and competency of paid private legal practitioners are the two most significant factors for overlooking the free legal aid services provided by the LACs. Whereas 5.8% of such respondents appointed paid private lawyers on the grounds of accountability, trust, and approachability for interaction and discussion for the claims of the respondents.

Further, 95% of the beneficiaries of the legal aid services, other than women respondents of the particular category, who approached the legal aid services due to lack of resources to engage a private legal practitioner (PLP), have recognised the competence and commitments of the PLPs over the LACs. If these respondents had resources, they would have preferred to appoint a private legal practitioner rather than approaching the legal aid services for their claims/ grievances.

#### **The LACs associate themselves with the Legal Aid Services for getting Experience and Employment Opportunity**

The question on the motives of the LACs to join legal aid services is very pertinent to reflect upon the commitment of such professionals. Of course, other factors are also required to be taken into account for drawing any logical inference from the said recorded data.

It is observed that 54.5% of the regulators find that the LACs join legal aid services for promoting and supporting the causes of the beneficiaries of the legal aid services. About 9.1%, one out of 11 regulators felt that LACs join legal aid services for employment opportunities. Another 36.4% regulators were of the considered views that LACs joins legal aid services to gain experience in courts. The moment the LACs get some exposure and become confident at practice in courts, they depart from the legal aid institution. As per the views of these regulators respondents, LACs are allowed to practice and experiment at the cost of poor beneficiaries.

#### **There is a Direct Connection between Nature of Empanelment and the Nature of Commitments of the LACs**

Lack of devotion is probably due to the nature of engagement of the LACs and the better quantum of honorarium involved in their private practice as compared to the legal aid services. It is also seen that the LACs are piece-rated employees, although not in the strict sense, because they are involved and paid on the basis of allotted cases, where honorarium in stages is paid, without any usual payment like a regular employee. In the real sense, they are not empaneled for the full-time operations of the legal aid

services. This can be deduced from the fact that 29.3% LAC respondents are accessible for the free legal aid litigation on a part-time basis only. Further 28.2% of the respondents have the ad-hoc commitment, where they interact with the system of legal aid services for the particular case only. In both the categories, more than 57.5% of the LACs do not have full-time availability, because of ad-hoc empanelment by the DLSA. The duration of the availability is also dependent upon the number of legal aid cases allotted to the LACs. These respondents are otherwise busy in their private practices in various courts in Delhi.

### **The LACs Demand Money From the Beneficiaries for Providing Legal Aid Services**

Legal aid services are delivered free of costs across the nation. The Legal Aid Scheme is funded out of public money and regulated by the NALSA and DSLSA in the State of Delhi. The LACs providing free legal services are paid prescribed honorarium in stages for defending the interests of the beneficiaries. It is also pertinent that beneficiaries are not required to pay for any services under the Legal Aid System. However, in practice, it is happening otherwise. Beneficiaries have been compelled to pay money before the commencement of trial or submission of suit or other applications by LACs across the Universe of the research. Demanding unlawful consideration from the poor beneficiaries for rendering legal aid services is a crime and contrary to the mandate of the Legal Aid System in India.

As per the feedback of 37% of the beneficiary respondents, the LACs demanded money for providing legal aid services to the beneficiaries. The said problem of demanding of money is not confined to one particular district in Delhi. Whereas 56.4 percent beneficiaries either did not pay money or were reluctant to disclose it to our team on the apprehension that their LACs would be withdrawn after such disclosure. Such respondents were under the impression that in the case of withdrawal of such LAC, they would be stranded without the LACs. The data coupled with other feedbacks from the judicial officers on demanding money is a real reflection of the extent of the lack of commitments of the LACs toward the legal aid system.

Further, about 90.9% (10 out of 11 Courts) of the regulators have acknowledged that complaints from the beneficiaries regarding LACs demanding money for defending the claims of the beneficiaries have regularly been received at the DLSAs.

About 2.3% of the LACs have accepted that they demanded money from the beneficiaries for the services rendered. As per these respondents, a LAC is required to make initial payment for the relevant documents & charges, and the DLSAs make no advance payment at the time of allocation of cases to the LACs. After that, bills and forms are submitted to the DLSAs for claiming honorarium in stages.

### **The Majority of the LACs are of just Average Professional Capability**

Professional competency is one of the primary essential components of the quality services in any profession. It is a well-established fact that LACs are key stakeholders, the pilots, of the legal aid services. The system of legal aid services cannot flourish or fly without the competent and committed LACs. If a LAC is not well versed in the law and practice in the relevant subject matters, then the whole system of legal aid is bound to fail.

In order to evaluate and assess the competency of LACs at the hands of stakeholders, three main parameters namely, quality of arguments, quality of articulation and quality of drafting of the LACs were taken into account.

Further, the research took into account the independent assessments of the services of LACs by judicial officers and regulators for drawing some logic inferences. Around 08 out of 11 Regulators, 72.8%, who are responsible for the empanelment of the LACs, have assessed that most of the LACs are above average and none below average in their argument skills.

#### *Argument skills*

About 55.9% of the judicial officers (Judges) were of the considerate view that the quality of argument skill of the LACs is below average. 21.7% of the respondents in the same category felt that the LACs are just average in their skills. Further, the 62.4% of the judicial officers in 12 courts find that the argument skill of the LACs is just average. The same category of the respondents' judicial officers also feels that 16.1% of the LACs are below average in their argument skills.

#### *The quality of articulation: Just Fair:*

The quality of presentation of the facts and law is crucial in the litigation process. If a legal practitioner is unable to articulate the relevant facts and law for claiming some relief, then it is likely to jeopardize the interest of the client/litigants. A claimant is unlikely to get any relief from the court, which will also affect the reputation of the said legal practitioners in future.

As per the assessment of the 61.8% judicial officers in civil and criminal matters, LACs were of just average in the event of articulation skill. Whereas around 18.5% of the judges have found it to be below average.

#### *Drafting Skills: Hovering around Average*

Writing Skill is one of the most valuable expertise of legal practitioners. Quality drafting of complaints, applications, counter-affidavits and affidavits and other relevant documents desirable at trial and appellate courts are part and parcel of the adjudication processes in courts. Litigants are likely to be affected severely by the poor quality of drafting of

legal documents. The quality of written submission is the third important category for the evaluation of competency of LACs.

Competency of LACs on written skills has been determined on the basis of the assessment of judicial officers and Regulators. It is again surprising to observe the evaluation of the drafting skills of the LACs, where 54.5% of the regulators are of the opinion that LACs are good at the drafting of the relevant documents needed for providing legal aid services to the beneficiaries. Another 45.5% have felt that the drafting skills of the LACs are just fair or average.

About 50.3% of the judicial officers recognise the writing skills of the LACs of ordinary calibre. Further, 28.9% of the respondent judicial officers in the same category enunciate that the LACs are below average for the drafting skills.

*Overall competency professional skills:*

Just average Assessment of the professional skills such as language skills, articulation, and drafting skills have been the broad parameters of the competency of legal aid counsels. Around 49.7% of the judicial officers and 54.5% regulators indicate that majority of the LACs are of average professional skills. Around, 26.1% judicial officers were of the considered appraisal that overall professional skills of the LACs are below satisfaction level.

Assessments of the find that LACs were not competent to handle serious crimes involving a matter of life and death. As per the considerate views of 89.30% of the Judicial officers (Senior Judicial officers in Session Courts and other Special Courts, dealing with serious crimes), the LACs are never engaged in serious crimes such as rape, murder, culpable homicide not amounting to murder, narcotics and other major offences. Such Senior Judicial Officers always consider the appointment of amicus curiae, generally experienced legal practitioners of competency known to the judicial officers, are engaged to protect the interests of poor people, who are not in a position to hire a counsel at own.

**There exists a wide gap between the Professional Skills of the Private Legal Practitioners and the LACs**

A comparative examination of the capabilities between the LACs and the Private Legal practitioners (PLPs) was also necessary to appraise the professional efficiency of the LACs. As per the opinion of 61.8% judicial officers, the LACs are just average in case of argument (language) skill. Whereas 54.9% of the judicial officers find the quality of argument skills of the PLPs of above average degree. It is also inferred from the analysis that majority of the LACs are covered under the average category, whereas the majority of the PLPs represent the above average category.

In the case of the drafting skills, as per the considered views of 56.6%, of the judicial officers, that the PLPs are good at drafting abilities, whereas 50.3% of the judicial officers find the LACs of average ability.

On assessing the overall capabilities of private legal practitioners and LACs, it is revealed that the PLPs are better skilled than the LACs. There is a wide gap between the professional skills of the PLPs and LACs for providing quality legal services. This is the primary justification for the people to prefer the PLPs to the free legal services of that of LACs.

### **The LACs are not Committed to the Mandate of Legal Aid Services**

The beneficiaries and other stakeholders of the legal aid services are reluctant to engage the LACs for defending their interests in civil and criminal courts in Delhi. It is also observed that most of the LACs want to conclude cases as early as possible to get the honorarium in stages from the DLSAs. Outcome and duration of the trial of the case are not so relevant in making payment to the LACs.

As per the assessment of the judicial officers, most of the LACs are partially devoted or not at all, to the mandate of the legal aid services. The primary data of 75.1%, (130/173) judicial officers, is a reflection of the fact that the LACs are partly committed to the causes of legal aid services. These Judicial officers found that majority of the LACs are occupied with a private practice, and hardly interested in the protection of the interests of the beneficiaries.

As per the observations of most of the judicial officers, the LACs use legal aid system as transit and platform to gain experience and develop contacts, as a means of experimentation and survival benefits at the cost of the beneficiaries of legal aid services. This corrosion in the dedication of the LACs leads to the erosion of trust of people over the legal aid services.

Further, the regulators of legal aid service have also expressed the same concerned that LACs are pre-occupied with a private practice. About 37.3% beneficiary expressed that LACS are not devoted the services of legal aid system.' Again around 13.7% of the beneficiaries opined that LACs were very hostile to the interests of beneficiaries. Another 18.5% beneficiaries considered that LACs were not at all committed. A combination of partial devotion, non-commitment, and hostility towards the clients of legal aid services, which represents about 69.5% of the respondents, infers that LACs are not entirely committed and devoted to the causes of beneficiaries. The problem of lack of commitment is not confined to one particular district but also have affected the operations of the legal aid services across the City.

*No devotion and preference to private practice over legal aid services.*

Further, 55.2%, (387 out of 702) beneficiary respondents in 12 Courts, when responding to a question on difficulties faced by them while interacting with the LACs, have



discovered that the LACs were not so keen to interact with them and preoccupied with their private practices. The beneficiaries also observed that most of the LACs give priority to the private practice over their legal aid services.

Nature of the grievances or complaints filed by the beneficiaries to regulators and judicial officers and judicial officers to the regulators is also a reflection of the low quality of commitment of the LACs. Feedback from the majority of the judicial officers, regulators, and beneficiaries depicts that most of the LACs don't prepare for arguments and always come late. The issues of non-availability for arguments and not prepared for arguments is not limited to one district or one judge in civil or criminal courts but also have affected the governance of legal aid services across the State.

### **The Dearth of Commitment and Competency of the LACs have negatively Impacted the Quality of Legal Aid Services**

Lack of devotion by the LACs has adversely affected the quality of services as well as the faith of the beneficiaries over the legal aid services. It is pertinent that free legal aid services are provided to the beneficiaries, but people are not interested in these free services and prefer paid services of private legal practitioners to the LACs.

Due to the lack of seriousness on the part of the LACs, the judicial officers and the beneficiaries also have not taken the system of legal aid services seriously, Beneficiaries of the legal aid services opt for free legal aid services of the LACs under compulsion because of the shortage of resources to engage paid private legal practitioners. This research demonstrates that about 98 % (688 out of 702) of the beneficiaries opted for free legal services on the ground that they had no resources to engage paid private counsels for their litigation. If these litigants had resources to engage private legal practitioners, they would not have approached for the free legal aid services to the DSLA offices in Districts.

It is evident from the primary data that 95 % of women respondents at Family Courts and Special Courts, because of low commitment and competency of the LACs, preferred paid service of private legal practitioners over free legal aid services of Legal aid Counsels in Delhi.

### **Lack of Accountability of the LACs under the Existing System of Legal Aid Services has diluted the Quality of Legal Services**

As per the NALSA Regulation 2010, each legal aid authority and committee is supposed to constitute a committee to monitor the conduct and progress of the cases allotted to the LACs. However, in practice, during my research, such committees/authorities were hardly created by any legal services authorities in 11 Courts in Delhi.

It is observed that the existing monitoring system of the legal aid service system for ensuring accountability of the LACs, is not very efficient. Lack of accountability and lack of effective monitoring over the LACs has led to the encouragement of the LACs

to be casual in their approaches while dealing with the legal aid beneficiaries. About 20.2% judicial officers were also of the opinion that lack of accountability of the LACs is one of the main reasons for the dilapidated state of affairs of the commitments of the LACs.

The DSLSA or the Bar Council of Delhi or Bar Council of India has hardly punished any LAC proportionately for demanding money from the beneficiaries, which is grave misconduct on the part of any legal practitioner. Further, the LACs may resign or refuse to entertain the allotted case or withdraw at any point in time from the list of empanelment. In such instances, the regulators and the beneficiaries of the legal aid services are helpless. The beneficiaries felt dejected and stranded for seeking legal aid services in such contingencies.

It is pertinent to note that as per the mandate of the Para 10 of the NALSA (Free and Competent Legal Services) Regulations 2010, every legal services Institution, for monitoring the activities of the legal aid services including the functions of the LACs, shall constitute a monitoring Committee. Not all 12 Courts, except Delhi High Court, created any such committee at the district courts level. Some of the regulators were also not aware of such requirements. The non-existence of any monitoring system to a look after day-to-day activities of the LACs has led to uncertainty in the operations.

#### **Impact of Lack of Empowerment/Commitment of Regulators on the Legal Aid Services**

The Regulators of the legal aid services in 10 District Courts and Delhi High Court have insufficient powers under the LSA, Regulations, and Rules framed for regulating legal aid services in Delhi. The Regulators can take no disciplinary action against an empaneled LAC, except warning, replacement, and removal of name from the Panel of the LACs. It is pertinent to cite that Para 10 of the Delhi Legal Services Authority Regulations 2002 and Para 8(14) and (15) of the NALSA (Free and Competent Legal Services) Regulations 2010, provide that a LAC shall be disqualified and punished for the demanding money from the beneficiaries.

The research did not find any single instance where the DSLAS or DLSA have ever approached the Bar Council of India for suspension or termination of LACs in the case of serious misconducts from the roll of the BCI. It is visible from the data that 90.9% of the regulators in case of complaints regarding demanding of money from the beneficiaries, have warned the LACs. Whereas only 9.1%, of the regulators, had replaced the LACs. It is also pertinent to note that the Regulators had no power to remove the name of the LACs without the prior approval from the DSLSA (head office).

The feebleness of the regulators is unable to ensure the accountability of lack of commitments and lack of competency of LACs. Due to lack of culpability of LACs,

most of the LACs are also not so serious about the litigation involving legal aid services, thereby compromising with the interests of the beneficiaries of legal aid service. It is a vicious circle, which is contributing to the inefficiency of legal aid services. Lack of empowerment to ensure accountability of LACs leads to low-quality services and commitments of the LAC. Low quality of services further leads to lack of trust over the legal aid services.

## **V RECOMMENDATIONS OF THE RESEARCH**

The Research relied upon the feedbacks from judicial officers, beneficiaries, regulators, LACs and women respondents who were entitled to free legal aid but did not opt for the legal aid services, and the personal observations recorded during the course of visit to 12 Court complexes in Delhi, for endorsing viable measures for the promotion of legal aid services delivered by the LACs. The research, after taking into account the findings of the study and the hindrances in the effective operations of the legal aid services provided by the LACs in 12 Courts, has advocated the following recommendations for the enhancement of the quality of the operations of the legal aid services.

### **Creation of Full Time Monitoring Committees**

It has already been pointed out that the DLSAs did not create any Monitoring Committee to regulate the operations of the legal aid services provided by the LACs. One of the fundamental functions of the Monitoring Committee is to ensure the accountability of the LACs for day-to-day operations and monitoring of cases and to support the LACs in the case of any difficulties.

The non-existence of the Monitoring Committees has led to ineffective governance and control over the operations of the LACs. Therefore, it is recommended that a full-time monitoring committee, to comply the dictation of Para 10, 11 and 12 of the NALSA Regulations 2010 and the LSA 1987, must be created at the DLSAs. The said Monitoring Committees might also be assigned some additional assignments such as to monitor the outcome of cases and duration of the cases involving the LACs, for taking corrective actions to protect the interests of the beneficiaries and restore the faith of the beneficiaries over the legal aid services.

### **Rigorous Empanelment Process and Incentivisation**

The existing system of empanelment, which was based only on an interview or reference method, is unable to acquire competent professionals with requisite professional skills in providing quality legal services for the legal aid system. The panel members should be empaneled based on one common written exam for civil and criminal panels for all Courts in Delhi area. All the stakeholders may deliberate upon keeping in mind the mandate of the legal aid services, the format of the written examination (90 Marks). Further, interview (10 Marks) of the qualified candidates must take place. Feedbacks

received from the judicial officers and the beneficiaries, and the monitoring committee should also be taken into consideration for the subsequent empanelment.

The DSLSA may conduct the complete process in Delhi for all the DLSAs. Competency and commitments of the candidates for providing legal aid services in specific fields such as civil or criminal must be taken into account for the empanelment of LACs on a full-time basis, one year initially, which may be extended for another two years, based on satisfactory services. No empaneled member, directly or indirectly, should be allowed to be involved in private practice. Other terms and conditions including a reasonable quantum of honorariums, for the empanelment, must be the part of the agreement between the LACs and the DSLSA.

As already recommended, that after strict scrutiny of the competency and commitments of the candidates, LACs must be empaneled. After such process, the LACs as per their areas of expertise should be pooled in civil and criminal law groups. The proper orientation program should be conducted at the time of induction into the legal aid services for sensitising the LACs on the mandate of the legal aid services and promotion of quality legal aid services. Further, regular refresher courses on specialised topics, during vacation or holidays may also be organised.

Besides imparting training, LACs should also be subject to the control and supervision of mentor system, where some senior legal aid practitioners, who are part of Mentoring Committee or otherwise engaged by the DLSAs, can monitor and support the endeavours of the LACs in the case of any difficulties on law and practices. The DLSAs should also provide a ready reckoner or reference book on relevant laws and procedures for civil and criminal law groups, to the LACs at the time of induction in legal aid system. Some incentives in the form of additional allowances such as clothing allowances, and practice allowance in addition to the fixed honorarium, may also be provided to the LACs.

Further, to stimulate the LACs to provide quality legal aid services, some Reward in the form of the Best LAC at the DSLA and Best LAC of the DSLSA should also be announced by the DSLSA. Modalities related to the terms and conditions of these proposed awards may include some parameters of sincerity, competence, and commitment to providing legal aid services.

#### **The Introduction of a System of Feedbacks to Assess the Commitment and competency of the LACs from the Judicial Officers and Beneficiaries**

The said system is also being practiced in Australia, Canada, Scotland, the European Union and other countries, for the evaluation of legal aid services provided to the beneficiaries. Due to lack of scrutiny over the services of the LACs, the DLSAs are not in a position to take remedial measures to improve the quality of services and commitments of the LACs. Such exercise of feedback should be followed annually.

Feedbacks will also ensure the accountability of low quality of services and commitments of the LACs. Based on the objective feedbacks and reports from the Monitoring Committees, DLSAs may take appropriate disciplinary actions for the nonperforming LACs. The said feedbacks from the judicial offices and beneficiaries should also be considered for subsequent empanelment of the LACs.

#### **Punishment for the Premature Withdrawal or Rejection for the Legal Aid Services**

An early withdrawal, resignation, or refusal to support the causes of the beneficiaries is adversely affecting the people's perception of the LACs and legal aid system. Under the existing system of legal aid services, the LACs may withdraw or resign or refuse to accept a case allotted to him or her by the DLSA at any point in time. Regulators of the DLSAs are also helpless in such contingencies. In such conditions, generally, a pending case is transferred to another LACs. But in the transfer of a case from one LAC, who resigns or refuses to be a part of the particular case, to another LACs, the beneficiary is the ultimate sufferer.

A lot of inconveniences, in addition to prolonging the duration of the litigation process, in the form of transfer of documents from one LAC to another, and payment of honorarium to one LAC and the transferee LAC, create complications for the governing authorities as well the beneficiaries. The DLSA must enter into a written agreement with the LACs at the time of empanelment, for strict compliance with the commitments of legal aid services. The terms and conditions of the empanelment must clearly be defined for the promotion of quality of legal aid services.

Therefore, it is suggested that the empaneled LAC at the time of empanelment must submit an undertaking indicating that he or she will not withdraw or refuse to support the mandate of the legal aid system at any point of time during the tenure of the empanelment. Further, the undertaking must also include that in the case of premature withdrawal or refusal to obey the mandate of the legal aid services and breach of the terms and conditions of the empanelment, such person will be liable to pay some damages to the DLSA.

#### **Quality Infrastructural Facilities for the DLSAs and the LACs for Providing Quality Legal Aid Services**

Good quality of infrastructures such as adequate staff, IT facilities, office space and other relevant infrastructural facilities for the DLSAs and the LACs are necessary for providing quick and quality legal aid services to the beneficiaries. Most of the DLSAs lack regular staff, IT facilities with an internet connection, and adequate office space for effective operations of legal aid services. Temporary arrangements for the offices of DLSAs have been made in court premises in some districts.

Due to the dearth of IT facilities, details of the listing of legal aid cases in civil as well as criminal courts at the district level, contact information of the LACs and maintenance

of online services for various activities concerning legal aid services are not being made available on the websites of the DLSAs. The Delhi High Court Legal Services Committee has to implement e-governance scheme, where all the details of empaneled LACs and beneficiaries and other details are available on its website, for providing legal aid services.

Therefore, legal aid service system must have regular staff, IT Facilities and proper space to provide good quality legal aid services. Further, the LACs do not get the good library, IT Facilities, sufficient space to interact with the beneficiaries, and a mentoring system to support them in the case of any difficulties faced by them during litigation involving legal aid services. All these facilities such as online IT sources for locating judgments, reports, bare acts and other documents about the legal profession, space for interaction amongst the LACs & other parties, and mentoring services, must be provided in a particular accommodation meant for the LACs on a full-time basis. Therefore, empowerment of the DLSAs and LACs with good infrastructural facilities will support the endeavours of the quality free legal aid services system in Delhi.

#### **Integrated Operations and Maintenance of Proper Public Records to Provide Quality Services and Accountability of the LACs**

Public documents related to legal aid services are not being appropriately maintained across the State. It is very tough to find out from the existing records as to whether a case is pending or concluded. The duration of the case decided and the relevant outcome of such disputes involving legal aid services. Different departments or offices in DLSAs are not functioning in an integrated manner. Action taken by one office is not known to the other office. The administrative office may not be in a position to know the details of quantum and time of payment made by Account office. Similarly, Account office will not be in a position to communicate the duration and outcome of the case and delay caused in making payment to the LACs.

Further, it is also very difficult for a person to find out the details of the complaints filed by the beneficiaries and judicial officers against one LAC in a year or during the tenure of such empanelment. Because complaints and grievances related to one case are dumped in the respective case file only, and there is no reflection of such complaints on the conduct of a LAC. No separate records concerning disciplinary actions taken against each LAC in a year or tenure is maintained. Maintenance of proper and systemic records related to the conducts of the LACs such as complaints against the LAC, disciplinary actions, duration of cases, the outcome of cases, and the assignments performed in a year, will undoubtedly ensure personal accountability of each LAC.

It is recommended that an individual file in respect of the performance of all the LACs should be maintained for the whole tenure. The said data can also be used for the subsequent empanelment of LACs. Further, the integration of the operations of various offices in DLSA can also eliminate any manipulation or tamper with any records.

**A Code of Professional Conducts for the LACs**

A Code of Conduct, having legal sanction, incorporating the duties and responsibilities of the legal practitioners enshrined in the Advocates Act, 1961, Legal Services Authorities Act 1987 and Rules and Regulations framed for legal services by the BCI, NALSA and DSLSA, for ensuring accountability of the LACs for any default of the LACs, should be framed by NALSA.

The proposed Code should also empower the DSLAs to take appropriate action without the approval of the DSLSA. Appeal against the decision of the DSLAs in some serious matters may be preferred before the DSLSA. The contents and punishment in case of breach of the said Code of Conduct must also be explained to the LACs at the time induction. Contemporary encounters such as demanding money from the beneficiaries, absence from courts, not being ready for the argument, submission of false bills and issues concerning the conduct to ensure accountability of the LACs, must be a part of such professional code.

It is felt that such instrument if enforced meticulously, would enhance the quality of commitment and quality of legal aid services of the LACs, thereby may restore the trust of the beneficiaries over the free legal aid services.

**Recognition of the Services of the LACs for the Appointments and other Benefits**

It is a matter of the fact that majority of the legal practitioners do not prefer to join a system of legal aid services, because of low yields as compared to private practice. Further, the services rendered by the LACs are also not taken into account for any future benefits such as the appointment of Public Prosecutor or judicial officers and other benefits.

Therefore, to encourage the participation of experienced and competent legal aid practitioners in the legal aid services, it is strongly recommended that some weightage to the services rendered by the LACs, for the designation of Senior Advocates at High Courts and Supreme Court, appointment of Public Prosecutors & judicial officers in lower courts and other relevant benefits, should be conferred.

**Creation of Full-Time Empanelment on Tenure Basis of the LACs**

The existing system of legal aid services engages LACs on an ad-hoc basis. LACs are empaneled for a specific period and are paid a specified honorarium for civil and criminal cases on a staged basis. LACs are not full-time employees of the Legal Aid System. As the research shows, because of low consideration and nature of empanelment, the majority of the LACs accord priority to private practice to the legal aid services.

The majority of the stakeholders have recommended that for ensuring effective accountability of the LACs and to promote quality legal aid services in Delhi, the

LACs should be appointed on full-time tenure basis with some reasonable honorarium. LACs under the proposed scheme will not be allowed to go for private practice.

The proposed scheme must have some Monitoring Committee composed of the regulator and other senior legal practitioners or retired judicial officers, through teams of mentors for civil and criminal groups, for regulating and supervising the services of LACs. It is also pertinent to mention that the organizational structure and composition, powers, duties and responsibilities, process, training, mentoring, welfare, the quantum of honorarium, the tenure of such empanelment, removal, regulations of misconducts, and other vital parameters of the proposed scheme are a matter of further deliberation and research.

### **Final Thoughts**

Finally, it is strongly emphasized that there is a lot of scope for improvement in the existing system of governance of the legal aid services provided by the LACs. If the recommended measures are put in practice, then the quality of legal aid service would undoubtedly be enhanced thereby restoring the faith of the consumers of the legal aid and proper utilization of public resources to provide effective, speedy and economic justice to poor people.

*Jeet Singh Mann\**

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\* Professor of Law, Director, Centre for Transparency and Accountability in Governance, NLU Delhi