

**Prayas
APPI Fellowship Programme**

**First Refresher Training Programme for Prayas Fellows
23rd to 24th April, 2019**

Venue: Board Room, Academic Bldg. No. 1, New Campus, TISS, Mumbai

The training started with an introduction to the Fellowship Programme and the need for refresher training by Vikas Kadam to the resource person Shri Yatin Game, DLSA Secretary, Mumbai.

Day I – 23/04/2019

Session on “District Legal Services Authority: Structure and Services”

Resource person - Mr. Yatin Game, Member Secretary, Mumbai DLSA

- Free legal aid is a right of under trial prisoners and as per the National Legal Services Authorities Act, 1987, free legal aid is not a service, but a right. It is not as a part of mercy to the prisoner. In the process of our work, we noticed that it is not the responsibility of the DLSA only but also NGOs, other organizations working in the field as per directions of the Supreme Court. The government is not a controlling authority in this, but it is a voluntary service.
- History of the Act goes back to 150 years when the British ruled over the Indians during which time rights were suppressed. After independence, the challenge before the State was how the basic rights of the citizens can be protected, so thus the Indian Constitution was formulated which is a very ideal document to help a person live a very safe and secure life. This brought about a lot of awareness among the people and thus they started demanding in the court for protection of their rights.
- In 1973, a Judicature Committee was formed and the Chairpersons were Justice P.N. Bhagwati and Justice Krishna Iyer to see how the rights of the suppressed classes can be protected as they are unable to fight for it on their own by approaching the concerned authority. They proposed for the formulation of an Act whereby all can get free legal aid. Until this time there was no such mention of this in the Constitution. Art. 39A was instituted into the Indian Constitution in 1976 of providing free legal aid to the needy citizens which is the responsibility of the State whereby the life of all citizens is comfortable.
- But as per Art. 39A, the citizens could not go to the court as they were Directive Principles and it came up before the apex court. Art.14 and 21 of the Constitution were discussed in combination with Art.39A and thus the need was felt to form an Act and in 1987 the Legal Services Authorities Act (LSA Act) was formulated whereby poor, disabled persons will be provided free legal aid. It is a central Act which is applicable to all the States and thus State rules were also drafted. In 1995 a national network was formed and thus the DLSA came into effect. 9th November is celebrated as Legal Services Day.
- NALSA is the national authority for free legal aid and it directs the state, district and taluka level authorities in this regard – preparing various schemes, for example the Manodhairya scheme, upliftment of the marginalized sections through filing of PILs in the apex courts, to organize Lok Adalats, to provide free legal aid, and to create awareness about the rights of the citizens.

- The Patron-in-Chief of NALSA is the Chief Justice of India. The Executive Chairman is senior most judge next to the Chief Justice in the SC. The Member Secretary is also a judicial officer and one non-official member is there on this 17 member Committee.
- The Patron-in-Chief of the State Authority is the Chief Justice of the High Court, and the Executive Chairman is the senior most judge next to the CJ. The Member Secretary is the senior most District Judge in the state.
- On the 10 member DLSA Committee, the Chairperson is the Principal District Judge and Member Secretary is the senior most Sessions Judge. This Committee has to implement the directions given by NALSA.
- Secretary of the Taluka Legal Services Committee (TLSC) is the Block Development Officer and Chairperson is the senior most judge of the taluka.
- Free legal aid is not only for those people who approach courts for legal aid but also to those who do not approach the courts.
- Supreme Court Legal Services Committee is responsible to provide advocates to the needy persons who have filed cases in the Supreme Court.
- The High Court Legal Services Committee has to provide free advocates to the needy people who have filed cases in the High Court.
- As per Sec. 12 of the LSA Act, those who are financially unable to afford lawyers are given lawyers. There are some classes of people in society who are treated different by the society – like women, lower caste people, children, mentally and physically challenged, natural disaster victims, riot victims, rape victims, SC/ST caste people, under trial prisoners, people whose annual income is less than 2 lakhs, etc.
- The application received should be attended to within 7 days of filing by the concerned authorities.
- The stakeholders involved in all this process are advocates, para-legal volunteers, NGOs, the concerned authorities.
- Lawyers who have a standing practice of 3 years can apply to be on the legal aid panel. Then he is interviewed by the DLSA panel. After that they are given the appointment order. Rules of LSA Act have been formed in 2010. The list of the panel members has to be approved by the Chairperson of the State Authority.
- Retainer Lawyer – when a person in need or victim approaches for free legal aid, then the retainer lawyer or para-legal volunteers handle them through counseling, guidance. They sit in the DLSA office (front office) turn by turn. There can be not more than 10 Retainer Lawyers and they are selected by the Committee. It is decided that each panel member should get this opportunity so it is on rotation basis. They are paid Rs.15,000/- p.m. as Retainer Lawyer at the district level and Rs.25,000/- at the High Court level. It mainly depends on the number of days they are attended the office. Most cases coming to the DLSAs are domestic violence cases.
- There is a Monitoring and Mentoring Committee headed by the District Judge. Based on the reports of the DLSA put before NALSA, it was felt the need for another committee to mediate with these lawyers. The objective of this Committee is to scrutinize the monthly data of the legal aid provided to how many, and in which courts, etc. They can randomly select cases and enquire about them with the respective lawyers. And this Committee should meet once in 15 days and they have to put their monthly report before the Chairperson. And once in 6 months the report has to be sent to the State Authority and further to the National Authority. They need to monitor as well as mentor the concerned lawyers in their cases or by conducting for them trainings, lectures, workshops, etc.
- If there are any complaints against the panel lawyers – either the lawyers is removed from the panel or the case is transferred to another lawyer.

- Legal Aid Clinic – concept arose as a need to establish it inside the prison premises where the para-legal volunteers and prison panel lawyers will be there. The prison panel lawyers will be visiting on specific days while the volunteers are there the whole day. For e.g., in the Mumbai Central Prison, the para-legal volunteers interact with the new under trials when they are kept in a separate barrack before being transferred to other barracks.
- Only by giving legal representation is not enough as many under trials are unable to get out on bail granted to them by the court. There is a need for a separate wing to negotiate with the court for relaxation of the bail conditions.
- Justice Lahoti wrote a letter about languishing under trial prisoners. The letter took the form of a PIL, and later led to the formation of the Jail Review Committee. Standard Operating Principles (SOPs) have been formulated for functioning of the Jail Review Committee such as under trials coming under Sec. 437A, under trials of default bail, under trials eligible for probation, women prisoners, minor offenders, trial of a prisoner started but not completed within 6 months.
- The prison department raised the issue that they are not getting all the information from the court about charge sheet, advocate, bail etc. So through a new format, the prison is now receiving data from the magisterial and Sessions courts.
- Several lawyers demand fees, sometimes they do not talk properly, do not pursue the case properly, do not want to take up DLSA cases as they are busy with private matters. The Committee has the authority to transfer the case from one advocate to the other, or to remove the empanelled advocate. This power should be exercised in rarest of rare cases, and must not be abused.
- Right to speedy trial was conceived in response to the realization that the prisoners have spent the duration of maximum sentence in prison even before trial.
- Many prisoners granted cash bail, surety bail, but cannot furnish any. Under Sec. 167(2) of Cr.P.C., the stipulated period for filing charge sheet is stated. If punishment is for 10 years, charge sheet should be filed within 60 days.
- What can be done for women prisoners' rights? Female prisoners should be segregated from the male barracks, they should be guarded by female attendants and female jailors, and there should be female Medical Officer to take care of their health. There should be special diet for pregnant women prisoners, women prisoners should be provided vocational courses for rehabilitation. Women prisoners often have young children whom they can keep with them in prison till age of 6 years. Prison authorities are responsible for taking care of such children.
- What is the role of the Prayas Fellows? You are the wings of the DLSA. We need your helping hand, so that under trial prisoners languishing in prison can get effective legal assistance. Relations of the Fellows with the DLSA lawyers, para-legal volunteers, prison staff, retainer lawyers is essential to help the under trial prisoners.
- For petty offences, considering release on probation is a good alternative. If trial has started, but not completed before 6 months, then the under trial prisoner should be released on bail.
- Remuneration is between employer and employee, contractual employee. A DLSA lawyer gives voluntary service, therefore they get honorarium.
- Remand lawyer is appointed before trial, during remand stage. He shall represent the unrepresented accused for purpose of bail. His salary is Rs.600/- per day.
- Panel lawyer who visits jail should spend the entire day talking with the under trial prisoners. Panel lawyer is paid Rs.1000/- per day, and the amount is given after final disposal of the case. DLSA is the custodian of the brief, so advocate must report to the DLSA.

- There is a distinction between effective work and non-effective work. Receiving Rs.7500/- is not straightjacket, it is for effective hearing only. There is a cap of Rs.500/- per day for non-effective hearing. There is a stage-wise calculation of remuneration. If lawyer goes to court, victim does not appear, then non-effective day.
- Sometimes advocates look at a charge sheet and say the case is too complicated for them. NALSA started a training module for panel lawyers, regarding duties of panel lawyers, responsibilities, how to interact with under trial prisoners.
- The Fellows informed that there is delay in appointing lawyers for under trial prisoners and it sometimes takes a month and often, during that period, the under trial prisoner appoints a private lawyer. To this, Shri Game informed that he has told his staff that under trial prisoners' applications should be treated as most urgent and must be processed at the earliest. Meeting with PLVs, DLSA and prison staff should be conducted under supervision of concerned DLSA Member Secretary to improve coordination between all stakeholders.
- Lawyers do not even know that they have been appointed for a case. PLVs must be appointed to do this. Unless digital data becomes uniformly accepted and used, this problem will continue. The allotment letter is also often not accessed via e-mail by the lawyers. Shri Game suggested taking the help of PLVs for this.
- If legal aid lawyer has to choose between private matters/cases and DLSA matters/cases, then they will choose private matters/cases. The lawyer should then coordinate with another panel lawyer and get them to represent on their behalf on that date.
- Suggestions were put forth that the vakalatnama form of DLSA lawyers should be of a different colour, so that the case can be identified easily. Panel lawyers should wear a badge.
- Latur Fellows informed that the DLSA panel has not been revised since 2016 in Latur and the old panel is only continuing. After Prayas conducted training for the DLSA lawyers, a new panel has been formed, but the list has not been provided. The panel lawyers need to be sensitized and their mindset needs to be changed. Lawyers think that the DLSA work is charity work. Fellows must tell them about other lawyers who have received honorarium to motivate and encourage them.
- In some court, judges orally ask a lawyer to be assigned to an under trial prisoner. The advocate verbally accepts, but he does not know if the case has been assigned to him as a legal aid case or a private case. Form A has been sent to all courts to avail of legal assistance, signatures of all the under trial prisoners are taken on that form. The matter should not be restricted to verbal communication alone.
- Unless charge sheet is out, physical presence of accused in court is not necessary. At times, the accused are not produced even for signing on the charge sheet.

Session on "Importance of Home Visits in Work with Individuals in Prison"

Resource persons: Shri Chandrakant Shinde & Mrs. Pradnya Shinde, Prayas

- During this session, Fellows shared their experiences regarding the home visits done by them in the course of handling various cases. To this, the Fellows were questioned by the resource persons as to how helpful did they find these home visits, and will home visits be helpful in uniting the clients with their families.
- Home visits are important to see if the person can be released, is he fit to go back into the community and be with his family, and what sort of rehabilitative help should be extended to the released inmates. The work of the Fellows should not be detrimental to society.

- Home visits in regard to the cases of women are different than that of the male clients. The children need the mother so desperately that even if she has done a serious crime, release is important.
- Even though project is geared towards bail, the eventual goal is rehabilitation.
- Through home visits, Fellows must seek to repair relations between the family and the client.
- A few issues to be observed during the home visits are the behaviour/personality of the client, socio-economic background of the family, views of the family members regarding the client, etc.
- The clients lie that their husband or brother lives outside. But home visits reveal that instead the contacts given by the clients are instead their accomplices, paramours, gang members, etc.
- Upcountry clients usually plead guilty because they do not have any documents and their family also cannot come to help them.
- The Fellows could pick such cases from the prison which could be referred for release on probation as per the Probation of Offenders Act, 1958.

Session on “Effective Interventions by Social Worker in the System: Bridge between System and Client”

Resource person: Prof. Vijay Raghavan, Project Director, Prayas, and Faculty, TISS

- The resource person initially gave a brief update about the meeting held with Justice Oak of the Bombay High Court. Whenever there is a problem related to identity documents of the clients, one must make a home visit. Then on the Prayas letter head, the home visit report can be submitted to the concerned court through the DLSA advocate or the client’s private lawyer. On that basis, request for release on PR Bond or cash bail could be requested for. If the magistrate refuses, then an appeal can be filed in the High court. If the High Court passes a release order, it will be applicable for the whole state of Maharashtra. So Fellows could find such cases and make assessments. The SLSA can provide advocates for such appeal cases.
- There are two kinds of work for a Fellow: One is regular work, writing applications, forwarding. The other is challenging work. If you are convinced in a certain case and think there has been injustice, push for appeal. Maybe the higher courts may come up with an order rejecting the lower courts. Pick out ideal cases, push for probation, push for appeal in the higher court.
- As per Section 6 of Probation of Offenders Act, 1958 if accused is below 21 years of age and has pleaded guilty, then calling for the report of the Probation Officer is mandatory.
- Transfer of personal documents from police custody to judicial custody is important.
- Resource person asked the Fellows as to what kind of applications they have written for prisoners on their behalf? The Fellows informed that applications were written related to production in court, reduction of bail, modification of bail, bail application, etc. The resource person informed that these applications can be written on plain paper, read out to inmates, get their signature or thumb impression and signature of the concerned jail authorities. Then either the application could be sent directly to the court through the prison, or the Fellows could submit it to the magistrate, or the inmate could carry it with him during his next court date. You do not need a lawyer for everything.

- Fellows shared details of a case where wife was in Kalyan District Prison, and husband was in Talaja Central Prison, and they wanted to have mulakat with each other. The process is to write application requesting for the mulakat to DIG Prisons. A GR has been issued allowing for mulakat through video conferencing when two members of a family are in different prisons. This GR could be shown to the Superintendent of the prison. But if face-to-face mulakat is requested by the inmate, then an application has to be written and the provisions of the Transfer of Prisoners Act, 1950 need to be followed.
- A Fellow shared about a case whereby an inmate was released from Kalyan District Prison on PR Bond after which he has been absconding. The Fellow expressed that the court may become wary of the Fellows' work. Lawyers and judges may become reluctant to work with Prayas in the future.
- To this, the resource person advised to take all precautions, make home visits, confirm that their case is genuine. He reiterated that Fellows' role is to present facts of the case, not make recommendations. The order is passed at the magistrate's discretion. The Fellow only facilitates the process by arranging legal aid, documents, etc. Ultimately, it is the judge who takes the call. If Social Work Fellow is writing application for PR Bond, and the Fellow's report accompanies the bail application, then it is the Fellow's responsibility. If Fellows are apprehensive about the chances of absconding, one can push for speedy trial instead of release on bail or PR Bond.
- Fellows should decide what cases they want to personally recommend and what they should not.

Session on "Work with Individuals in Prison Settings"

Resource person: Dr. Sharon Menezes, Faculty, TISS

- Working with individuals is a social work intervention method. It is also sometimes referred to as case work.
- The individuals Fellows work with are referred to as inmates, clients, prisoners, accused. What do they want? Freedom, justice, legal aid, meeting, children/family.
- The resource person asked the Fellows how many prisoners they think must have committed the crime. They said 75%.
- Are the people we work for happy with our work? Some said they are happy, some are partially satisfied.
- There exists a right to freedom regardless of whether they have committed the crime. Fellows were asked, have you ever felt manipulated by a client, felt like you should not work with them?
- Some clients have trouble respecting boundaries. One client keeps calling a Fellow even after release, 10-20 times a day and threatens suicide if the Fellow does not respond. Client calling 45 times after bail, saying gas connection is over, etc. Resource person explained that the Fellows are the only people inmates consider as being on their side, which is why they develop such dependence.
- Various stakeholders: jail staff, judiciary, police, NGOs, shelter homes, family, inmates, etc.
- Most important stakeholders are colleagues.
- Task of Prayas is to work with problem groups. They call us 25 times a day because they know they can call us.

Day II – 24/04/2019

Session on “Bail, PR Bond, Sec. 436 and 436A Cr.P.C.: Problems and Challenges”

Resource person: Adv. Monica Sakhrani

- There is no parity among judges on amount stipulated for cash bail. Smaller courts set cash bail at Rs.2000-2500/-, but bigger courts ask for Rs.15,000/- minimum, irrespective of whether there has been recovery of stolen property.
- In the case of Bangladeshi inmates, even for offences that are not serious, advocates do not want to go forward with bail application, since they do not have any documents and they are not Indian nationals.
- In the case of Motiram & Others Vs. the State of MP, the court said that poor indigent prisoners, both under trial prisoners and convicts should be released on their own personal recognizant bond. This judgement comes very handy for NLU Fellows who have secured several bails on the basis of this judgement. Sec. 436 of Cr.P.C. also states that bail is to be granted in cases which are bailable.
- If half the term is already spent in custody, except in cases of death penalty, an under trial prisoner is to be released on Personal Bond with/without surety. Case of Hussainara Khatoon also stressed this fact.
- The court should use following facts to satisfy itself that accused has roots in the community, and therefore will not abscond after being released on PR Bond.
 - Length of residence in community.
 - Employment status and financial condition
 - Family ties and relationship
 - Reputation
 - Prior criminal record
 - Identify responsible persons in the community who would vouch for his reliability
 - Nature of offence and nature of evidence
 - If community ties are strong, then PR bond should apply.
- Nature of bail is inherently anti-poor, since it reduces accountability to financial capability. Surety, ID documents are available only to those who own property. Therefore PR Bond should be encouraged for poor needy people.
- Arnesh Kumar vs. State of Bihar: if charge is punishable by less than 7 years, then police should not automatically arrest, but must satisfy themselves about the necessity of arrest and give reasons to Magistrate. The judgement was against the non-implementation of Sec.41 (b) of Cr.P.C. which said that in cases punishable with maximum imprisonment of 7 years or less, police officer should not arrest the accused unless he is satisfied that the arrest is necessary to prevent further crime. This judgement is useful to bail out young offenders, or women with no criminal background.
- Bhim Singh vs. Union of India: Court stated that under trials who have served half of the maximum sentence of their charges must be released.
- As part of the PIL regarding inhuman conditions in 1382 Prisons (AIR 2016 SC 993), an Under trial Review Committee (UTRC) was set up to receive recommendations for prison reforms.
- In Hussainara Khatoon & Anr vs. Union of India, the court upheld the prisoners’ right to speedy trial.
- In A.R. Antulay vs R.S. Nayak & Anr it was held that if accused is responsible for delay of trial, then they cannot demand speedy trial.

Issues and challenges

- Lack of proper prison record management.

- Delays in court production due to lack of adequate police escorts and VC facility.
- Lack of effective legal aid.
- Strengthening of UTRC is required.
- Legal aid premised in Article 21 and 39 A, of Right to fair trial. Bangladeshi cases very tricky, because even after bail there are many problems as the prisoners do not have ID documents, different family members are in different prisons.
- Bail system causes discrimination against the poor since the poor would not be able to furnish bail on account of their poverty while the wealthier similarly situated would be able to secure their freedom because they can afford to furnish bail.

Session on “Sharing of the NLU Fellows’ Work in Yerawada and Nagpur Prisons”

Resource persons: Shri Rahul Surwade, Social work Fellow, Nagpur Central Prison and Shri Pramod Patil, Legal Fellow, Yerawada Central Prison

Two NLU Fellows – one Legal Fellow placed in Yerawada Central Prison and a Social Work Fellow placed in Nagpur Central Prison shared their experience of work in the respective prisons. If someone is arrested once, past crimes committed under similar sections are also added to his charge sheet.

- The NLU Fellows were placed for internship in the same prisons where they were to initiate their work. During their internship, they understood the roles of staff, prison hierarchies, code of conduct to be followed in the prison. Following this, strategising with the Coordinator happened and a detailed plan was set in place. They have 3 Female social workers and 2 male social workers. In the *Badi gol* barrack of the Nagpur Central Prison, there are too many restrictions and lot of overcrowding. The prison staff treats these inmates as unworthy of care and attention, whereas the Fellows have been trained to look at them as vulnerable individuals in need of legal assistance, social rehabilitation, family integration.
- First Fellows go to prison, ask prisoners to assemble if they need legal aid. Prisoners share details of their case. The details are taken by the social worker and forwarded to lawyer. Then DLSA is approached. VP is signed by DLSA lawyer and legal Fellow. Time between legal aid application and legal aid lawyer allocation is 10-15 days. Each day delayed is contributing to justice being denied.
- Some of the prison authorities do not look at prisoners with empathy and as deserving of legal as well as social justice. They are reluctant to help social workers also for this reason. The system has been operating for so long that the presence of social workers is perceived as challenging the established system, as outsiders questioning the staff about their work.
- Prison authorities do not give warrant for bus or train ticket to under trials go home after release. This facility is only available for convicts. So some of the under trials face a lot of problems to go back to their homes.
- Some families do not want to come for mulakat or get inmate released because they think it would hurt their reputation. Through home visits, the families are counseled that estrangement from family will only further push them into crime. The family’s support can rehabilitate inmates and deter them from crime.
- Fellows made a suggestion to hold a seminar of released inmates 1-2 months after release where they can share their thoughts, feelings, and make appropriate rehabilitation plan.
- In NLU, the vakalatnama is signed by both the legal Fellow and the DLSA lawyer, and in an emergency, the Fellow can represent in court, unlike Prayas, where Fellows cannot represent the clients in court.

- The Legal Fellow informed that two applications are written - one application is for NLU and the other is for the DLSA. The legal Fellows search cases online, see if he has other cases against him also, find out status of lawyer, when they last appeared, whether they are empanelled or private, etc.
- Fellows cover even taluka level courts and thus they have been able to cover the whole of Pune district. During inspection, Fellows must be careful to observe if there is a charge sheet. Judges also do not know if it is trial by Sessions court or JMFC court. Such problems occur especially in NDPS cases. Judges look for case laws during the case. No solvency surety, no cash, only PR Bond. When we depend on the legal aid panel, there are problems. Legal aid panel lawyers do not have a copy of the charge sheet. Even though we must strengthen the legal aid system, we must be wary of falling into the habit of their bad practices.
- Find out inmates' case file and read inmates' case file carefully and tell them what you have gathered from it. This helps in building rapport and trust, helps inmates choose legal aid over private advocate.
- Initially, only Sessions court cases (such as Sec. 302, MCOCA, POCSO, Sec. 307) were coming to the Fellows, where it is impossible to get bail. Now they are getting cases of petty offences and easier cases.
- Inmates are lured to plead guilty by jail court magistrates that they will be released in 10 days if they plead guilty.

Session on “Experiences and Challenges Faced by Fellows”

Resource persons: Shri Silvin Kale, Shri Shahnawaz Pathan, Ms. Sujata Jagtap, Shri Chandrakant Shinde, Shri Murlidhar Jagtap, Prof. Vijay Raghavan, and Dr. Sharon Menezes, Prayas

- It was informed to the Fellows that the prison department and DLSAs are satisfied with their work.
- The Kalyan Prison Fellow informed that the TLSC of the Kalyan Sessions Court has not conducted a meeting of their Committee despite having received many applications requested for free legal aid. Due to this, the Fellows are unable to clarify the doubts of the clients related to the issue. The TLSC had told the Fellows to nominate the free legal aid advocates themselves to which the Fellows refused, and instead requested the TLSC to make the appointments by conducting their regular monthly meetings. Many applications have also been submitted by the Legal Aid Clinic of the Kalyan District Prison but there has been no response from the TLSC.
- When Fellows approach the Kalyan TLSC clerk with an application, she delays the process and instead tells the Fellows to approach the private lawyers. She is unable to understand that the inmates have applied for free legal aid since they cannot afford private lawyers. She also informs the Fellows that many of the empanelled advocates do not want to take up cases of prisoners.
- The Thane Prison Fellow informed that in the Thane DLSA, it takes 2-3 days for appointment of free legal aid advocates in the applications submitted, while in some cases the advocates are appointed immediately. Another problem is the constant change of advocates in the cases. After the order copy is secured, charge sheet is submitted in the case, the free legal aid advocate says that he is not interested in representing the case.
- The mobile numbers of the free legal aid advocates are mostly inactive whereby the Fellows need to secure their new numbers either from the DLSA/TLSC or the Bar

Association. After getting in contact with the advocates, they inform that they are not interested in representing the cases allotted to them.

- Since the 2nd week of February'19 to the 3rd week of April'19, no free legal aid advocates have been appointed in the applications submitted through the Mumbai Central Prison. The Fellows informed that they need to constantly maintain a follow-up with the advocates as they do not show much interest in pursuing the cases in the courts.
- In the Latur DLSA, the list of 2016 panel of free legal aid advocates has not been renewed or updated due to which only 3 advocates are active at the moment.
- In cases where the inmates had private advocates earlier but now have been allocated DLSA advocates, the private advocates are reluctant to give the respective documents of the case such as the certified copy, charge sheet, etc. The Fellows have made a third party affidavit as well in such cases. The Cr.P.C. says that if the accused is under duress, then the Public Prosecutor and the DLSA advocate do not have to pay court fees or stationery charges to again secure the documents of the case. A suggestion was given that the DLSA Secretary can issue such a letter to all the concerned courts. Dr. Raghavan suggested if Shri Kulkarni, Secretary of the SLSA can be approached in this regard then he could issue a circular in that regard to all the courts as well as the DLSAs and TLSCs.
- In Vashi court, they give free legal aid only for Domestic Violence (DV) matters.
- Submitting paperwork regarding bills to the DLSA and getting them reimbursed is a very long process.
- In emergency cases, Prayas can pay for the order copy, charge sheet, typing costs, etc.
- If the Fellows were to suggest an advocate to the DLSA or TLSC for appointment in any case, then it could be misunderstood or misinterpreted as being done for some personal gain or for a commission from the advocate. And one of the DLSA Secretaries objected to such suggesting of advocates by the Fellows. But the Fellows also informed that there are complaints by the empanelled advocates that some of them are given cases while some are not.
- Fellows asked if they know a good DLSA advocate then can they suggest their name to the DLSA Secretary to which Dr. Raghavan replied that it should be done sparingly. Every Fellow knows 10-12 lawyers with whom they share a good rapport and who do good work.
- At the time of appointment of the free legal aid advocates, care should be taken by the DLSA and TLSC that an interested advocate is appointed though there can be a delay of 2-3 days rather than hastily appointing an advocate who later declines to represent the case and then again the process of appointing another advocate has to be taken up which is time consuming.
- In the TLSCs of Shahpur, Wada, Ulhasnagar, Chopra free legal aid advocates are appointed in one day only. And the advocates are also willing to apply for release on PR Bond for the inmate on the request of the Fellows.
- Payment of the honorarium to the free legal aid advocates takes 2-3 months as the court has to issue a certificate that the advocate has done his work. To this, the Fellows were informed that talks are going on in regard to improvement in the process of the payment structure, make payments at each stage of the cases, so that the advocates get money for each task done. If they do only bail, and no trial, then there is a separate structure for that.
- Due to the delay in the allotment of advocates in their cases, inmates are getting restless and frustrated. One inmate is threatening suicide, while another inmate throws

his food angrily inside prison, even when there was a special meal on the occasion of Holi. Social workers and Fellows are finding it difficult to control the situation.

- Some inmates who have private lawyers appointed already do not inform about it and fill the DLSA form also, as they are desperate to get out of prison. So on their court date, both the private lawyer as well as the DLSA advocate appeared due to which there is a confusion and misunderstanding between the two.
- Some Fellows introduce themselves as Fellows who will help inmates with legal matters. But some Fellows introduce themselves as workers who will help them with legal and social matters. That introduction makes a difference.
- The Fellows are confused as to whether they just enquire about the bail or also discuss about the rehabilitation of the client when they make a home visit. Conducting home visits is very challenging, and must be done by the social work and the legal Fellows together. Some families are very forthcoming, as they come to the railway station to meet the Fellows and give them the respective documents as they are very grateful to the Fellows for having assisted them in securing free legal aid for free. Some inmates give fake addresses or incomplete addresses due to which it becomes very difficult to locate the house.
- In the case of an inmate whose mother was mentally disturbed the Fellows could not extend much help to her as she was unwilling to speak to the Fellows and only screamed and got angry at them.
- During a home visit, members of the community were accosting the Fellow because the inmate owed them money.
- Some families request the Fellows not to release the inmate as they abuse the family members, abuse their children/spouse. One inmate had blade marks and needle marks on his arm indicating addiction. It becomes difficult to trust such inmates and thus the Fellows are confused as to how to work with them.
- Some offenders are victims of socialisation. One inmate had all his documents on the Google drive and he gave the Fellow his mail ID password, but the system generates an OTP that goes to his phone, whose location is unknown. This OTP is necessary to retrieve the folder which is difficult without his handset.
- Every inmate has a legal side and a human side. So the Legal Fellows could handle the legal side, while the social work Fellow could handle the human side.
- We should emphasise on how many applications Fellows are writing themselves as this is an alternative being used by Fellows to break through the system. For e.g., using the local Corporator's letter as the address proof done by the Byculla prison Fellows in one of their cases. Such efforts need to be emphasised.
- The Thane Fellows were calling up the empanelled DLSA advocates to identify if they are interested in handling free legal aid cases. This displeased the Alibag DLSA Secretary as he thought this was disrespectful and insulting. So Prof. Raghavan suggested that we should meet him and explain to him that this was not the intention of the Fellows.
- Dr. Sharon Menezes also put forth some suggestions such as regular meetings be conducted where the Fellows could share experiences and also discuss issues. There needs to a clarity among the Fellows about the objective of this project. She also stated that the role of the legal Fellows is quite clear and relatively straightforward as compared to the role of the social work Fellows which needs to be re-evaluated. Fellows should talk to Prayas social workers to get some clarity.

Session on "Monthly Reports, Case and Process of Documentation"

Resource person: Mrs. Devayani Tumma, Prayas

- The finer aspects of report writing were discussed. The need to be concise and clear was emphasised as the reports reflect the work done by the workers in the field.
- To explain as to how the reports need to be written, reports of the last 4 months were discussed in detail.
- The reports should adequately highlight the interventions undertaken by the Fellows during the given period along with the respective outputs. Challenges faced in the field and future plans based on the work done should also be mentioned.
- The reports should be such that they are conducive for producing more research documents in the future.