

NALSAR University of Law, Hyderabad

CENTRE FOR CRIMINAL JUSTICE REFORMS AND RESEARCH

(Centre Director: Prof. Srikrishna Deva Rao, Co-Director: Prof. Murali Karnam)

Access to Justice Program and Prison Legal Aid Clinic

In February 2024, Prof. Murali Karnam has been appointed as the director of Access to Justice Program. He runs a field action program. He guides and supervises a multidisciplinary team lawyers, social workers and researchers and law students to provide prison legal aid to prisoners in Hyderabad. His substantial amount of time is devoted to this program in addition to his regular academic teaching of mandatory courses in the University. A detailed report is attached here.

Workshops organized

- Organized a 7 days training for advocates and social workers from April 28 to May 5, 2024 at NALSAR University of Law
- Organized A Team building workshop for the staff of Access to Justice Program on 4 and 5 of June, 2024.
- Organized a Two-Day Refresher Training Workshop for the Access to Justice Program Staff on 7 and 8th of December 2024.

ACCESS TO JUSTICE PROGRAM

In pursuit of a fulfilment of justice for all guaranteed under the Article 39A of the Constitution of India, the NALSAR University of Law, Hyderabad started the Access to Justice Program in April 2024. This is the systematic extension of the Prison Legal Aid Clinic Program run by the university since 2018. Under the program, the University attempted to provide qualitative free legal aid to the under-trial prisoners in Hyderabad. It supported prisoners from vulnerable backgrounds like those who are poor, illiterate and are socially and economically disadvantaged.

The program recruited four advocates and four social workers and research associate in April 2024. The social workers were also recruited with the background of working on prisons and criminal justice system in order to enhance the effect of the program. While the field staff functioned from the city, it was coordinated and supervised by the program director Prof. Murali Karnam from both University space and the city. The team addressed all the legitimate social and legal needs of the prisoners by undertaking visits to prisons and their homes. It aligned with the legal aid system, prisons and courts to identify the reasons for longer than necessary pretrial detentions and intervened to provide timely and qualitative legal aid. The team is supported by dedicated 13 law students from Prison Legal Aid Clinic.

The program team along with students visited prisons once in two to three weeks and to prisoners homes. It collected all the legal and familial details of the prisoners and connected them with their families, friends and advocates and courts. It made socio legal aid needs assessment of prisoners and their families. It litigated in the courts for their bails, and supported to them for their release. The law students of



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university supported the team and become potential criminal advocates to provide qualitative legal aid to prisoners.



Visit to Cherlapally Central Prison: The Program Team and Students from NALSAR

Results

In an effort to provide socio-legal support to prisoners, the program team of advocates and social workers reached out to a total of 480 prisoners in 3 prisons and juvenile homes. A significant 270 prisoners requested detailed socio-legal intervention, highlighting the need for comprehensive support beyond just legal representation. Of the prisoners reached out to, 100 requested legal representation in 152 cases for bails and their modifications. 96 bail applications were specifically filed for undertrial prisoners. 56 bail applications were filed for juvenile prisoners, highlighting the vulnerability of this group and the need for specialized support. The tireless efforts of the team led to the release of 58 prisoners, including juveniles, who were able to reunite with their families and reintegrate into society. 13 of the prisoners to whom we got the bails pleaded guilty and got convicted. A total of 71 prisoners were released. 10 prisoners switched to private advocates as they had more cases in other courts. Unfortunately, 19 prisoners, including juveniles, were not released, indicating that more work needs to be done to address the systemic barriers and challenges faced by this population. They thought that instead of meeting the bails conditions, it is better to plead guilty in Jail Adalat and get early release. In 6 cases bails were rejected. The team had to file multiple bail applications for granting of bails.

WOMEN PRISONERS

The program has reached out to 56 women prisoners who requested for various kinds of sociolegal assistance. The it supported them to navigate their cases with the courts and families. In cases of 7 women prisoners, we could not do anything as they have their own advocates. Another 19 cases are pending with the program waiting for various kinds of solutions.

Only 15% of the cases are taken from the Special Jail for Women; 50% of the



cases from the Central Prison, Chenchalguda and rest from the Cherlapally Central Prison. Last year only the permission to visit Chenchalguda was granted and at present we are granted to visit all the three prisons in Hyderabad.



Team

building workshop organized for the Access to justice Program staff by Altaf Shareef from Mumbai on 7 and 8 of December 2024 at NALSAR University of Law

PENDING CASES

As of March 15, 2025 we have 140 requests for direct intervention and 49 cases for one time intervention. Though we get lots of cases for direct intervention including for legal representation, most of the prisoners will have private advocates or LADCs on paper but not functioning and communicating about the progress of the cases to them. During prison visits we also take the advocate revocation applications and complaints against the advocates who are not cooperating with the prisoners but it involves much larger systemic problem than that we could engage with. We would like to keep on collecting this data and see what can be done with it and how to engage with those who have larger stakes with the system.





The Batch of Prison Clinic January to April 2024 along with Prof. Murali Karnam

NATURE OF THE CASES

Of the 480 prisoners, who approached the program team, 20% of the cases are related to theft, 5% are related to POSCO Act and 7.5% of the case are related to NDPS Act. In 40% of the cases, the prisoners are not aware of the nature of offences they were alleged. Only 10% of them say that they have a legal aid lawyer appointed. While 20% of the prisoners say that no bails applications were filed by their advocates, 71% of are not aware of their case statuses. What is interesting is that there is sizeable section of prisoners who were granted default bails but not communicated to the prisoners by their advocates. While 51% of prisoners have non-bailable cases, it is interesting to note that there 7.5% of prisoners with bailable offences facing.

The prisoners who have multiple number of petty cases in different courts and who are migrant labourers, most poor and who are not supported by the families are reaching out to the program in general. Sizeable section of prisoners is those who are neglected by their own advocates and LADC. There are also substantial number of prisoners who have got bails but were not released as their advocates are not processing their sureties demanding more money as fee. This is an open debate in the courts. Such issues were taken the notice of State Legal Services Authority.





The team at Chenchalguda Special Jail for Women and Central Prison, Hyderabad

ACCESSING JUSTICE TO CHILDREN IN CONFLICT WITH LAW

While the Access to Justice Program was struggling to access the prisons in a broader sense, lack of our focus on the children in the juvenile homes has hit us hard. The pro-active initiative of the social workers of the program brought the permission to full access to all the homes in the state. This is seen as timely opportunity to work towards the release of most vulnerable group of the sections of the society and a systematic and energetic intervention was started in June 2024.

REPRESENTATION OF CHILDREN BEFORE JUVENILE BOARDS/COURTS IN THREE DISTRICTS

It can be observed from the data that 52 bail applications for 28 children were filed in 3 three districts. 7 applications in Hyderabad, 35 in Medchal-Malkajgiri and 10 applications at Ranaga Reddy were filed. After joining of Ms. Archana Rao, advocate and committed social worker on child rights, the momentum to work for children in conflict with picked. In 41 of the cases, bails were granted and 23 children were released. Still 1 child in juvenile home pending surety compliance due to inability to pay Rs. 5000. The case of one child is still pending at Hyderabad as she does not have fit family to take her custody and the judge has been reluctant to even consider the bail petition and this case has been followed. In the rest of the 12 cases, there were private advocates and in four cases, bails have already been granted. Therefore, the program advocates have not pressed the cases.

IMPACT: LEGAL AID SYSTEM ESTABLISHED FOR CHILDREN

The systematic, persistent and committed efforts of the advocates and social workers of the Access to Justice Program has been recognized by all the three district courts, district legal services authority from time to time. As the results of the effort were visible, these three districts have taken the effort to appoint full time Legal Aid Défense Councils to defend the cases of the children. What kind of qualitative legal aid they are going to provide is to be seen. Downside of these positive développement is that now the advocates of the program are not allowed to represent the cases of children. The pro-active efforts of the Juvenile homes and social

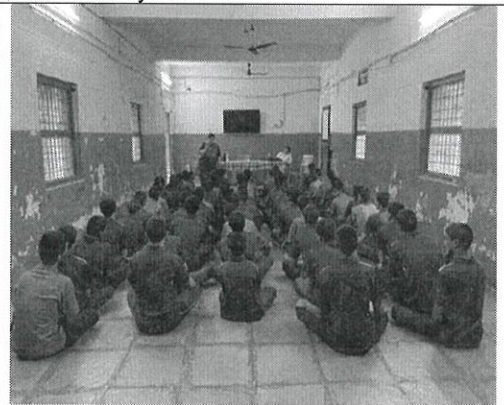


workers of the program has resulted in these mixed developments. Since the other districts away from Hyderabad have no legal aid Défense councils, the juvenile homes have been requesting us to undertake the cases but due to distances and lack of times and resources, we are not able to attend to these areas.

Pictures from Government Home for Boys & Girls



Advocate Farha Qureshi speaking in Awareness Program on POCSO Act at Observation Home for Girls, Nimboliadda



Advocate Archana Rao speaking at Observation Home for Boys, Saidabad

TRAININGS CONDUCTED

The Access to Justice Program conducted and involved 10 trainings on the criminal law practices. The staff were trained for 8 days from 28 April to May 5, 2024 in which experienced advocates, judges, public prosecutor and legal scholars were engaged to impart practical skills to engage with the criminal justice system. A team building exercise was undertaken with the help of an experienced trainer from Mumbai on 4 and 5 of June 2024. This revealed the challenges of building a team with diverse background. Similarly, a refresher training was conducted to the staff on 7 and 8 of December 2024. This was more productive than earlier trainings as the requirements of the program is understood far more clearly. The staff had also undergone one day training on the Management Information System on 22nd June 2024. The team was also sent to Pune as two batches between 9 to 14 June and on 20 and 21 December 2024 for an exposure visit to 39A Project area to understand the practical ways of providing legal aid to prisoners. Though the staff participated in all the trainings conducted by state legal services authority and DLSAs and in turn conducted few trainings, our efforts to organize the trainings to LADCs did not fructify so far. Since our relations with prisons and DLSAs have been improving we hope to have more meaningful collaboration with them. However, the department of Juvenile Welfare and Correctional Services have been very happy to involve the advocates and social workers of the program in trainings and awareness program of the boys and girls in these homes. They were involved in several trainings. The staff went extra-mile to accommodate the requests for time and energy. This built a good rapport with the department and facilitated our work. This is very meaningful and satisfactory intervention by the program.



INTEGRATION OF PRISON LEGAL AID CLINIC INTO ACCESS TO JUSTICE PROGRAM

NALSAR has been running the prison legal aid clinic since 2018. Around 10 students visit the prisons every semester. They provide the legal advice to the prisoners and their families for four months and they visit prisons two days in a month. Their learning on the levers of working of criminal law is far better than those who learn it in the classroom. They always stand out among the students and have been motivated to choose career in criminal law for higher studies and research. From January 2025 onwards, the Prison Clinic has been redesigned and offered to fourth semester students (2nd year students), who have completed criminal courses and are still in the process of making career choices. The response from the young and curious students on the clinic has been tremendous.



Visit to Chenchalguda Prison by the team and students

60 students from BALLB and LLM students have applied for 13 seats in the clinic. On every Wednesday, they were thoroughly trained on POCSSO, NDPS Acts, on how to fill the facts sheets, bail jurisprudence, theories of criminal law, filling the MIS, downloading the FIRs and on how to contact the families of the prisoners. This systematic work has generated good amount of information and connected the students with the advocates, prisons, courts and social workers. The students visit to the prisons are hundred percent and their learning increased many folds. The synergy between the clinic and the Access to Justice Program has increased the quality of the performance by the students as well as the staff of the Program.

COLLABORATION WITH LEGAL SERVICES AUTHORITY: DLSA AND SLSA

The Program started closely working with the State Legal Services Authority and the District Legal Services Authorities in Ranga Reddy, Hyderabad, Medchal-Malkajgiri districts. When the permission from the prison department was delayed, the staff started interacting with these authorities for appointment of our social workers as the Para-Legal Volunteers and the advocates as the panel advocates.

First, the SLSA has involved the staff of our program into training of LADCs at the judicial academy, Hyderabad. The Director of the program delivered two lectures to 103 LADCs on the rights of undertrial prisoners and custodial justice



in June 2024. The advocates of the Program were allowed to participate in the two days training.

The DLSAs of these districts have organized a number of trainings to the advocates and para-legal volunteers on various themes such as POCSO and other such laws and requested the advocates and Social Workers act as resource persons.

The staff from their own experiences of visiting prisons and juvenile home have acted as far better resources persons than others. Though the themes of these meetings were very different from our mandate, we have involved ourselves in order to continue the collaboration. The DLSAs are keen to involve the staff on routine training programs but we have used our discretion in participations.

The staff also met the Sessions Judge of Medchal-Malkajgiri district and DLSAs of Ranga Reddy and Nampally various times to extend the services of the Program to expedite the Financial Assistance Scheme to Poor Prisoners and allow us to assist the LADCs in providing the legal aid to prisoners. The responses of the DLSAs in this regard is not very encouraging, though we have been submitting the requests of the poor prisoners to the Empowered Committees of these districts for granting of money for sureties.



**15. OTHER CONFERENCES / SEMINARS / WORKSHOPS/ TRAINING
PROGRAMMES / ENDOWMENT LECTURES / LEGAL AID PROGRAMMES**

LEGAL AID AND LEGAL AWARENESS CLINIC ACTIVITIES

Agricultural Credit and State of Crop Loans in the Villages:

As part of the Agri Legal Aid Clinic, students have visited Shamirpet, Aliabad, Pudur and Medchal. Students have visited Farmer's Cooperative Societies, Banks, Court and Public offices like panchayat offices, etc. Students met with various stakeholders, interviewed them, sensitised them about their rights, and shared the perspectives of the other stakeholders, believing that sharing different perspectives would lead to improved social cohesion and resolve various issues amicably. Students recommended that, apart from the loan waiver scheme, multiple steps need to be taken which will provide the foundation for agricultural growth in Telangana.

Primary Health Care:

This study explores the intersection of primary health care and legal aid in Rural India. It primarily focussed on key areas like intimate partner violence (IPV), mental health, integration of national healing programmes (Like Ayushman Bharat) and queer health care access. Students interviewed the public and District Medical and Health Office staff, visited primary health care centres in Shamirpet, Aliabad, Tummukunta, and Pudur villages, and went to the Collectorate to collect relevant data and interview relevant people. The findings and suggestions include initiating adequate staff training, providing better resources, safeguarding privacy, and organising more cultural sensitisation programs, which will address the issues of stigma concerning issues like intimate partner violence and queer-related issues.

MGNREGA:

Students have interviewed 16 workers, 1 DRD officer, one technical engineer consultant, one panchayat secretary and 1 MPD officer in Shamirpet. Students have identified key issues and made a few interesting recommendations. They include strict implementation of a 100-day work guarantee, worker skill development programs, transportation reimbursement, timely wages, help with technology problems, strengthening redressal mechanisms and health and safety standards.

Community Dispute Resolution:

Students visited various institutions, observed their functioning, and conducted interviews. The public institutions visited by the students include Anganwadi Centres in Shamirpet, Aliabad, Pudur and Medchal, Panchayat offices, health centres, Lok Adalat court, collector office and police stations. Students' recommendations include awareness programmes on Community Dispute Resolution methods in rural villages and regular and continuous community engagement to address the disputes arising in the communities.



NALSAR UNIVERSITY OF LAW, HYDERABAD

ALUMNI

A) LAW PROGRAMME

The Alumni Cell for law students at NALSAR for the academic year comprised a dedicated team of students who worked consistently to strengthen the university's alumni network and foster meaningful connections between alumni and the current student body. The cell supervised by Assistant Prof. Mr. Sunishth Goyal, included the following students from B.A. LL.B (Hons.) Bhavya Adhana, Sanjana Reddy, Shivam Sharma, Surbhi Pareek, Tisha Roy, Areej Abdul Samad, Pragna Maddepally, Keerthi Sathvika, P. Suhruth Srivatsav, Shashank Thakur, and Suchit Negi. Throughout the year, the members collaborated to organise outreach initiatives, coordinate alumni engagement activities, and facilitate events that celebrated the accomplishments of NALSAR's alumni while ensuring active and continued interaction with the student community.

i) Sessions on Higher Education and Career Guidance

Over the course of the academic year, the Alumni Cell organised a series of insightful sessions focused on postgraduate education and professional development. On **August 10, 2024**, the Cell hosted Mr. Harsh Mahaseth, Assistant Professor and Assistant Dean at Jindal Global Law School and Co-Founder of Collegelt, for an interactive session titled '*Preparing for the 2025 LLM/Masters Application Cycle*'. Mr. Mahaseth, an alumnus of NALSAR and the National University of Singapore, shared his personal journey and provided strategic guidance on international LLM applications, including how to build a compelling profile and navigate the nuances of the admissions process.

In a similar vein, on **September 9, 2024**, the Cell conducted another focused session titled '*Masters Application/ CV Drafting & Questionnaire*', led by Mr. Karan Gupta. A 2018 graduate of NALSAR, Mr. Gupta is a Senior Associate at Keystone Partners and has previously clerked for Hon'ble Chief Justice Dr. D.Y. Chandrachud. He also holds a BCL from the University of Oxford as an Oxford-Weidenfeld Hoffmann Scholar. Through this session, he guided students on effective CV building, strategic planning for master's applications, and offered insights into professional expectations in legal practice.

Both events drew significant student participation and were instrumental in addressing the growing interest in international education and legal careers among the NALSAR student body.

ii) Alumni Panel Discussion on Judicial Services Examinations

On **March 22, 2025**, the Alumni Cell hosted a virtual *Panel Talk on Judicial Examinations*, aimed at demystifying the preparation process for various state judicial services examinations. The session featured five accomplished NALSAR alumni who had recently cleared different judicial services: Mr. Shivam and Mr. Benjamin (DJS 2025), Mr. Aachman (HJSE 2024), Ms. Tharani (TJS 2023), and



Mr. Suyash (RJS 2020). Each panelist brought unique perspectives on balancing preparation with academic commitments at NALSAR, understanding the syllabus structure, and tailoring study strategies to specific exams.

The event concluded with an engaging Q&A session, where attendees could pose specific queries and receive practical advice from the panellists. The talk was widely appreciated by students, particularly those actively considering judicial services as a career path, and it furthered the Cell's goal of connecting current students with alumni who have traversed similar professional journeys.

iii) International Alumni Database Update Initiative

In a sustained effort spanning the academic year, the Alumni Cell undertook the task of updating and structuring NALSAR's international alumni database. This initiative aimed to build a comprehensive resource reflecting the global presence and professional journeys of NALSAR graduates. The updated database focuses on alumni currently based across several countries, including the **United Kingdom, United States, Canada, Australia, Germany, the Netherlands, and Singapore**, among others.

The database captures a range of broad data points, such as workplace affiliation, year of graduation, domain of work (industry or academia), and general location. Alumni featured in the database are affiliated with globally prominent institutions—ranging from top-tier international law firms such as Cooley LLP, Simpson Thacher & Bartlett, Herbert Smith Freehills, Quinn Emanuel, and White & Case, to policy and academic institutions like the University of Oxford and public policy programs across Europe. The professional sectors they represent include international arbitration, antitrust and competition, capital markets, corporate litigation, and public policy, with some alumni also pursuing postgraduate education or teaching roles in academia.

This project has laid the groundwork for more targeted alumni engagement, international outreach initiatives, and mentorship facilitation. The Cell ensured the collation of only publicly available and institutionally relevant data, without disclosing personal or sensitive information. As a long-term resource, this living database is expected to support strategic collaborations and serve as a testament to the global footprint of the NALSAR alumni community.

iv) Amplifying Alumni Achievements through Social Media Outreach

Throughout the academic year, the Alumni Cell consistently leveraged social media platforms—particularly Instagram, LinkedIn, and Facebook—to showcase the accomplishments of NALSAR's alumni and strengthen the sense of community among current students and graduates. These curated updates served as both celebratory milestones and inspirational narratives for the wider student body, reinforcing the institution's commitment to excellence and alumni engagement.

From high-ranking results in national examinations to significant professional appointments, the Cell ensured that the achievements of alumni were widely



celebrated. Among the many recognitions posted were the outstanding successes of NALSAR graduates in the **UPSC CSE Examination**: *Harseerat* (Rank 328), *Archit Deva* (Rank 357), and *Kshitij* (Rank 384). These posts were met with tremendous encouragement from the university community.

Further, the Cell celebrated landmark professional achievements such as the designation of *Mr. Parameshwar K.* (Batch of 2002–07) as a **Senior Advocate at the Supreme Court of India**, an honour that drew a congratulatory note from Vice-Chancellor Prof. P. Sri Krishna Deva Rao, reinforcing the values of excellence and service nurtured at NALSAR.

The Cell also highlighted major career milestones, such as *Ms. Navomi Koshy's* elevation to **partnership at Saraf & Partners**, and *Mr. Archit Bhatnagar's* ascension to **partner at Cyril Amarchand Mangaldas**. Prestigious public appointments were also featured, including *Mr. Raghavendra P. Shankar's* appointment as **Additional Solicitor General at the Supreme Court of India**. His journey—from NALSAR to Oxford as a Rhodes Scholar, and ultimately to representing the Government of India—stood as a remarkable testament to NALSAR's legacy. Other posts acknowledged accomplishments like *Mr. Balaji Naik Azmeera's* appointment as **Assistant Director (Corporate Law) at the Serious Fraud Investigation Office**, marking another proud moment for the university.

Through these digital efforts, the Cell not only documented alumni journeys but also fostered inspiration, engagement, and institutional pride across the extended NALSAR community.



JUDICIARY PANEL TALK 2025

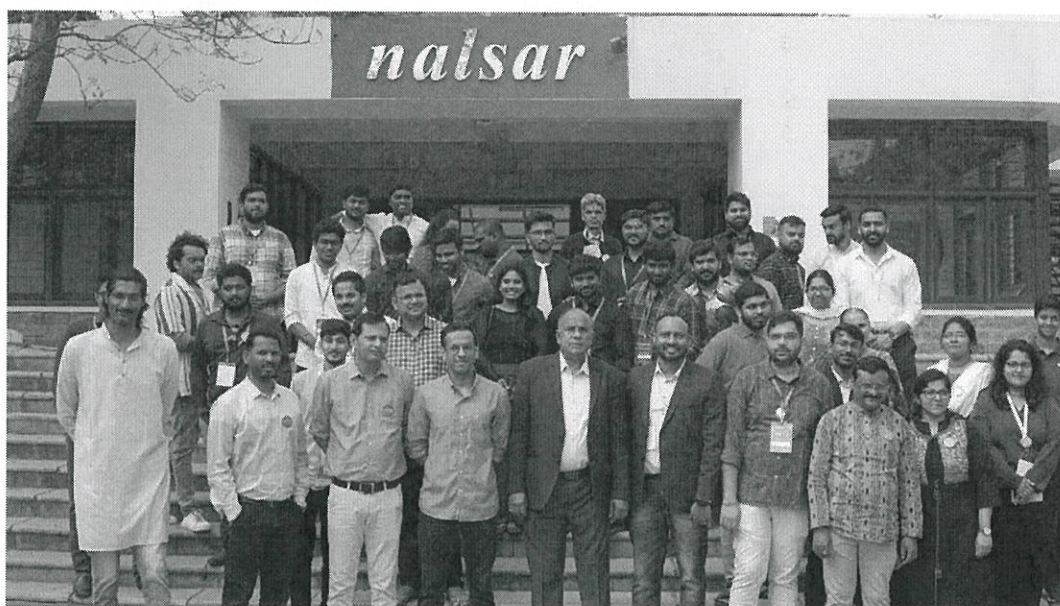




Talks Organised by Alumni Cell on Career Options

B) MANAGEMENT PROGRAMME

The Footprints24 Alumni Meet held on 27/01/24 at Nalsar University was an extraordinary success, with enthusiastic participation from our esteemed alumni. The event showcased a blend of nostalgia, knowledge-sharing, and a sense of belonging, making it a memorable day for all attendees. The event saw a participation of 47 Alumni spread across eight batches. The key highlights, activities, and outcomes of the day included – Welcome address, interaction with the alumni, their professional journeys, accomplishments, and advice with current students, Cultural Evening & Gala Dinner. The event strengthened the alumni network and encouraged the exchange of ideas and collaborations. Alumni expressed their desire to connect with alma mater to contribute as mentors, guest lecturers, or advisors.



Footprints24 Alumni Meet held on 27/01/24



RECOMMENDATIONS
TO THE
LAW COMMISSION OF INDIA
ON
'REGULATION OF LEGAL PROFESSION'
UNDER THE
ADVOCATES ACT, 1961

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forum for courtroom lawyering

NYAYA FORUM FOR COURTROOM LAWYERING



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NYAYA FORUM FOR COURTROOM LAWYERING

A Students' Initiative at

NALSAR University of Law, Hyderabad

(A University of Law established by Andhra Pradesh Act No. 34 of 1998)

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OTHER ACKNOWLEDGMENTS

We are thankful to all those supporting us at NALSAR, including students Megha Mehrotra, Shivam Agarwal and Shreenath Khemka who participated in discussions and deliberations held for the purpose of framing this document. Our indebtedness is also due to the faculty members and administration at the NALSAR University of Law for their steering and guidance.



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PREFACE

These recommendations and comments are submitted in response to the Law Commission of India's notice dated 29th August, 2016 inviting comments on all aspects of '*regulation of legal profession*' under the Advocates Act, 1961. This was further in response to the Hon'ble Supreme Court's epilogue in the verdict in the case of *Mahipal Singh Rana v. State of Uttar Pradesh* (Criminal Appeal No. 63 of 2006).

The Nyaya Forum for Courtroom Lawyering, as a students' initiative at NALSAR strives to make careers in the lower judiciary and litigation not only more attractive and interesting but also feasible and plausible for the young graduates churning out of law schools. Nyaya Forum's approach aims to accomplish its objectives through adopting a multi-dimensional approach through its initiatives such as *Anubhav*, *Vidya*, *Vyavsaya*, *Niti* and *Sahayata*.

The *Niti* initiative carries with it the onerous task and what we think is our responsibility, to make policy level inputs into all aspects relating to courtroom lawyering. At this juncture therefore, the *Niti* vertical of Nyaya Forum seeks to bring to the Law Commission's consideration some of the pressing issues being faced by the legal profession in India from the perspectives of law students who are also budding lawyers.

As law students, the prime recommendation that we wish to make revolves around making the bar a more comfortable a place for the young entrants who come up. The comments and recommendations made are more in the nature of deliberative analysis rather than suggesting textual amendments into the statutory text.

We wish that all efforts be taken so as to convert the recommendations into statutory amendments. Some suggestions may also go on to make up the policy framed as an outcome of statutory effect.



EXECUTIVE SUMMARY

In the case of *Mahipal Singh Rana v. State of Uttar Pradesh* (Criminal Appeal No. 63 of 2006), the Hon'ble Supreme Court stressed the need to take a relook at and rework the regulatory framework to ensure professionalism among lawyers, which in turn is tied up with the overall justice delivery system. In light of the same, the recommendations revolve around the composition of the BCI wherein the current system of purely electoral representation seeming inadequate for fulfilling the objective of effective '*self-regulation*', the possibility of introduction of proportionate representation and multi-tiered representation is suggested.

Similarly, in the context where the Bar Associations that are spread across the country have no legal recognition, and problem of non-allegiance to the decisions put forth by such informal association persists, the conferment of legal recognition is suggested thereto. Furthermore, in order to strengthen the bar with talented lawyers graduating in large numbers from nearly thousand law schools in the country today, the much-needed ideas for enabling such lawyers to join the bar and contribute in the process entailing justice administration are suggested.

Moreover, one of the crucial discussions that concern the legal profession is the entry of foreign lawyers and law firms in India. In this regard, the definition of the term 'Advocates' under the Act is also touched upon, and amendments are suggested so as to include juristic entities. A retake on the solicitor-barrister distinction vis-à-vis the menace of bench hunting and forum shopping, is also discussed.

Towards the end, the changes that are to be brought in order to create a level playing field and the multifarious effects on the stakeholders have been discussed. Finally, we discuss the disciplinary front and much needed changes in the composition of disciplinary committee to ameliorate the declining professional standards in the profession, as noted again by the Apex Court.



RECOMMENDATIONS

ON THE COMPOSITION OF THE BCI

The regulation of legal profession in India through the institutions set in place by the Advocates Act, 1961 manifest the idea of self-regulation. While we have no reservations to the idea of self-regulation insofar its pros are concerned; the cons become apparent when take a look at the history of its functioning, or for that matter, non-functioning.

1. Membership through a nomination process

Currently, the membership in the BCI comes through an electoral process. However, a significant proportion of lawyers are disengaged from these elections and the election process is generally of a political nature. The process therefore does not befit the idea of self-regulating the legal profession.

To rectify this, we wish to propose that a proportion of the BCI members could be nominated. The nomination would be by an external authority, perhaps comprising the judges of the High Courts and the Supreme Court. This can be taken a call on later. The acceptance of the suggestion of nominating

part of the members, at an in-principle level also incorporates the shared responsibility of the bar and the bench to ensure a tranquil and progressive profession.

2. Multi-Tiered system of representation

A multi-tiered system of representation could be conceived to diversify the elected representatives of the BCI. This would ensure that no one bracket of lawyers gets disengaged from the electoral process and consequently, the functioning of the BCI.

3. Criteria of qualification for election

The present issue is that those who are being elected to the BCI are not fulfilling their mandate, and those who are under them do not respect them. Therefore, the legitimacy vacuum that persists hounds the profession. The Advocates Act states that no person shall be eligible for being elected as a member of the Bar Council of India unless he possesses the qualifications specified in the proviso to sub-section (2) of section 3. The proviso states that as nearly as possible one-half of such elected members shall be persons who



have for at least ten years been advocates on a State roll. We are of the opinion that with nomination in place, the purported purpose

behind this restriction would be served; and therefore this electoral qualifier is rendered redundant.



ON THE LEGAL RECOGNITION OF BAR ASSOCIATIONS

We are of the opinion that bar associations, as they exist today mushroomed in all parts of the country, can be better utilized as existing structural components in our legal system by conferring them some form of legal recognition. This may be carried out through registering them with the statutory authorities established by the Advocates Act, 1961, viz. either the Bar Council of India or the respective Bar Councils at the State/High Court level. The intentions behind suggesting this are as follows:

1. To improve the resources of Lawyer at District and Taluk Levels

The state of library resources and internet access for lawyer actually practicing at the Taluk/district levels are abysmal. Though there exists various Associations at this level, they are unable to acquire the resources needed to better their practices as well as the service provided to their clients. Due to the informal nature of the associations the members are unable to get easy access to the resources that they require from the government.

2. To curb the inflation of agitation amongst Lawyers

In the recent past there have been many instances of exponential agitation amongst the Lawyer community due to either dissonance with prospective amendments or other regional issues such as language of the court etc. have increased in exponential rate. Most of these incidents are often stretched out beyond reason. The organizational pillar of such agitations almost invariably is the Bar Associations of the respective state or district. Since at this point the Bar Associations are informal forums without any structure yet with considerable bargaining power and significant voice, it is hard to bring to order the aggravations that arise. Achieving legal recognition would ensure that an order of control within the association to ensure that any important discussion that happens within the forum gets the required recognition as well as action due to the legitimacy that it would derive from such recognition. Another advantage to giving the Bar Associations legal recognition would give the members powers to deal with areas that cause friction amongst themselves and sort it out before the issue



gets aggravated. This would be the most efficient manner to deal with such matters are the members of the Bar Association, who would have the needed first-hand knowledge on the contemptuous issue and would thus know the best manner to resolve the issue.

3. Regulation the profession at the entry-level

A large majority of the baseless strikes and boycotts in the legal profession are often the work of non-practicing lawyers, who take up the profession of advocacy for reasons best known to them. This marginalizes the role of

the experienced and dedicated lawyers in associations, which in turn leads the Association into chaotic turmoil that does nothing to help those lawyers who require the support of the fraternity. By providing proper legal recognition to the Bar Associations the Associations could then regulate the kind of lawyers who join the Associations and thus ensure that these kinds of people who do not have the profession's best interests in mind cannot join the association and then later on exercise any form of influence on the Bar Council.



ON THE YOUNG GRADUATES JOINING THE BAR

It would not be gainsaying that litigation today is not the most sought after and the charm associated with the same has somewhere lost. The purpose behind establishing universities exclusively imparting legal education has not fructified. While these 'islands of excellence' boast of meritorious and capable law students; the same cannot be said of the bar; which has continued to lie dormant in stagnant mediocrity. The Nyaya Forum of Courtroom Lawyering seeks to address this concern widespread amongst students, who would like to cater to the bar, but to whom the idea of joining the bar not only seems challenging, but also too dull. Therefore, to make the bar an attractive and ideal workplace, we wish to propose the following:

1. The creation of a recruitment cell in the Bar Councils

Currently, there is no uniform scheme of making a sustainable career in litigation. The fact that various bodies function at the university/college level to facilitate corporate recruitments is averse to the structural impediments that come in the way of any recent graduate wanting to make a career in

litigation. A body needs to be constituted within or under the aegis of the Bar Councils at the high court level to cater to the needs of recent graduates joining the bar. The body may be constituted of eminent senior advocates, former judges, and elected advocates. This body shall function as a guide to those advocates coming right out of law school, and maneuvering their ways into the courts.

2. The institution of basket funds and fellowships to support young talent

The immediate returns in monetary terms out of a career in litigation are few and scant; not enough to support the initial inputs to be made in order to sustain one's practice. A responsible profession must cater to the needs of those who seek to enter it. This forms a crucial pillar into the idea of building a self-sustaining profession. At times, litigation as a professional space can be very hostile and non-accommodating. In order to provide for the basic needs of such young graduates taking upon the cudgels of courtroom lawyering, the Bar Councils must offer fellowships, and basic stipend programs



inter alia other facilities to lawyers with less than for example, three years' of standing.

3. Introduction of a minimum pay-scale for juniors working in the chambers of senior counsels

We wish to propose that the Advocates Act should provide that Bar Council of India may in consultation with all stakeholders come up with a minimum pay-scale for all junior advocates working in the chambers of senior

practitioners. This will ensure an equitable and welfare-oriented *quid pro quo*; and would encourage juniors in the profession to work in the guidance and steering of seniors. As of now, many a times the young lawyers fail to gauge the right time to decide moving to independent practice; which lands them in a fiasco. In order to ensure that the juniors are satisfied and well-provided for; the intervention of regulatory bodies must play its role and part.



ON THE DEFINITION OF 'ADVOCATES'

With the growth of the profession from both inside and outside, we are of the opinion that the changes brought about in the last few decades must compel us to question the natural-legal person question in defining an 'advocate.'

Current Definitions

Section 2 (a) of the Advocates Act 1961: "advocate" means an advocate entered in any roll under the provisions of this Act. Under section 17, it is the responsibility of each State Bar Council to prepare and maintain a roll of advocates in that state. Law firms have not been defined yet,

Problems faced thereto

Currently, there is no entry restriction as such (apart from the LL.B. degree), which is unlike any other profession. This has led to proliferation of a lot of phony advocates who do not practice law. Some solutions over years have been implemented, such as the All-India Bar Examination (AIBE) before enrolment; the Bar Council of India Certificate and Place of Practice (Verification) Rules, 2015 which provides for certificate of practice to be given after verification (and periodic verification thereof) of place of

practice, conduct and antecedents of advocates. However, these piecemeal solutions have not really borne much result.

Proposed Solutions

The AIBE should be made a statutory precursor to enrolment. Currently, under section 17, a distinction is made between advocates and senior advocates in the rolls. It is our proposal that another category of law firm advocates be created, which would include all practicing advocates working under an umbrella of a law firm. An explanation should be added to the definition of Advocate, making them eligible for voting and contesting elections for bar council; or to practice before High Court or Supreme Court, subject to experience requirements.

The Bar Council of India Certificate and Place of Practice (Verification) Rules, 2015 must be implemented seriously and to this object, it may be included as one of the statutory duties of the State Bar Councils. In a recent draft amendment, BCI has suggested an inclusive definition of Law Firm as including partnerships, limited liability partnerships (LLPs), private or public limited companies



and any other partnerships which are not statutorily registered but are formed, nevertheless, for practicing law. The inclusion of companies in this definition is certainly interesting, but nevertheless welcome and the same should be incorporated into the Act.

We also suggest reworking the solicitor-barrister distinction that was in place prior to independence of India. The distinction served a useful purpose of classifying the different work profiles of those involved in the legal profession. The blurring of the same has fuelled the menace of bench-hunting and forum shopping.



ON THE ENTRY OF FOREIGN LAW FIRMS IN INDIA

Although the Indian market opened up for foreign investors and corporations, it is seen that a restrictive approach was adopted especially in legal sector restraining the entry of foreign law firms in the booming economy then. Several firms recurrently have attempted in getting permission to operate in India, however, the outcome so far do not seem to have been in their favor. The past strides made by the government, regulatory bodies have also ended with retaliation from the the local law practitioners—be it the protest of 2000 in front of parliament or the institution of suit in Bombay High Court against the approval of RBI. After the draft Rules prepared by Bar Council of India – 'Rules of Registration and Regulation of Foreign Lawyers in India, 2016' has been published, the discussion has again assumed critical importance. In our opinion, the following issues merit a consideration in the light of the entire debate that subsists:

1. **Maintaining the level playing field**

The entry of foreign lawyers and firms has been resisted by the local practitioners ever since the discussions incepted. The major cause for such resistance seems to be the

insecurity about the sustenance of local law firms when the big foreign firms enter the market. Many a times it has been highlighted that the deep pockets of the foreign firms would dump the services in the market at low prices forcing them out of business, and alluring their clients to subscribe to their services. However, such apprehensions can and should be addressed with the regulatory mechanisms looking after such unfair practices, as done in the cases of other professions and trade activities. The latest draft Rules itself have incorporated several mechanisms, and the same can be made applicable by adding provisions in consultation with stakeholders for curbing unfair practices jeopardizing legitimate concerns of local law firms.

Moreover, the draft rule restricts the practice of foreign lawyers in Indian jurisdiction to a large extent. The non-litigious matter pertaining to the clients that have offices in foreign jurisdiction, even that practice can be done after levying heavy registration and renewal charges, is justified and does not threaten the practices and the local client base of the local firms. While the major focus



is given on the reciprocity, it should be noted that most of the firms that are trying to establish their offices in India are from the countries where Indian firms have already established their offices and have continued their operation.

Furthermore, it is not so that foreign firms have not indirectly operated in India. Having a formal set of rules regulates the practice and restricts unlawful and unfair practices.

2. Impact on the stakeholders

The least impact among the stakeholder group would be *litigation lawyers*, as the rule expressly restricts foreign lawyers in doing courtroom lawyering.

The apprehension of *law firms* regarding loss of their business might be true in so far as the clients having offices in foreign jurisdiction is concerned. However, the local client base would be intact. Furthermore, with the increase in competition, the firms would be compelled to maintain global standards benefitting the legal service sector as a whole.

For *law students* in a country having one of the highest number of trained legal manpower, the entry of foreign law firms

would give more employment opportunities and also opportunities to learn from firms drawing experience from all over the world.

The multinational corporations which form the *clientele* are likely to see improvement in overall service provided by the law firms due to the increased standards to maintain on account of competition.

3. Legal impediments and hindrances

The Limited Liability Partnership Act was passed in 2008 following the global trend and necessity. However, due to the restriction imposed by Bar Council of India to not have a body corporate offering legal service, the law firms in India have not been able to expand their operations benefitting from the Act jeopardizing their objectives of growth. Hence, the rules should be changed accordingly, even more so when the foreign firms are being allowed entry to India. Further, presently the firms are not allowed to advertise, publish brochures, and engage in other marketing activities as compared to foreign firms that can advertise, raise money from investors and can get enlisted in the Securities Market strengthening their financial position. The restriction of not allowing a body corporate engage in



extending services in law should be done away with and be given liberty to strengthen the practices of the firm. The burgeoning size of legal industry and the increasing number of firms leads to cost advantage for the clients themselves because of this competition.

Therefore, the foreign lawyers and firms shall be allowed to operate in India subject to regulations for the enhancement of the overall legal service sector. It should be noted that the noble stride towards opening up Indian market to make it more progressive and inclusive should not be reserved on account of resistance by few local firms to maintain their dominance.



ON THE COMPOSITION OF DISCIPLINARY COMMITTEE

Presently the disciplinary committees seem to have been inefficient in addressing the matters relating to misconduct on the part of the advocates. We are of the view that the Disciplinary Committee should be constituted through a combined process of elections and nominations as against being wholly formed through elections.

At the outset, the problems that persist with the current system are as follows:

1. The disciplinary committee constituted inclusive of elected members of the Association seem to have been restrained from taking actions due to apparent conflict of interest., hence taking any radical step would jeopardize the future political interests Hence, strict actions that situations most often demand are compromised.
2. The members being out of the elected representatives, have no incentive or pressure to act against the lawyers as the ones against whom action has to be taken and the ones whom the committee is answerable to, are both lawyers and members of the BCI.
3. There being elections and hence political influence, there are political motives to take or not to take action against a particular

lawyer or group of lawyers making the whole process an exercise in arbitrary use of power.

4. There is concentration of power into the hands of a few, which leads to abuse of power. The ones who regulate and make rules should not be the ones who take actions to adjudicate the same.

Due to the reasons mentioned above it is very clear that the system of self regulation in the case of disciplinary committees will do more harm than good and hence there is a need for external checks. Therefore, we deem it fit to suggest the following changes to the *status quo*:

1. Members of the disciplinary committee should not be lawyers but eminent persons or former judges of the High Courts who are nominated by High court judges wherein each judge has one vote so that there is no arbitrariness in appointment.

The criticism that might be faced by the above suggestion is that it defeats the purpose of self regulation. But the nature of the disciplinary committee merely has to implement the already laid down standards and is more about fact finding, evidence collection and so there is no real need for lawyers to be a part of the committee. Having



external members as a part of this particular committee will not lead to inaction due to biases and close relationships, which is a major concern when lawyers themselves have to take action against their fellow colleagues.

This will also strengthen the relationship between the bar and the bench and will result in fewer clashes between the two. This is highly necessary for smooth functioning of the judiciary where there are no delays due to strikes and protests for fulfilling hidden political motives.

2. Members of the bar who are nominated by the senior advocates of the high courts, each senior advocate having one vote.

This will do away with the probable criticism of no autonomy and independence that was

one major aim of self regulation because of the involvement of the bench in the nomination process. Members of the disciplinary committee should be a mixture of lawyers as well as eminent persons, both of which are nominated by either judges of high courts or senior advocates of high courts; the body should be representative and inclusive in nature. This will strike the balance between the self regulation as demanded by the lawyers and the need for external checks which is an essential for the smooth and effective functioning of the disciplinary committee.

3. Members from the Bar Council of India elected amongst themselves

This shall operate as it does in the present framework and scheme of affairs.



CONCLUDING REMARKS

We wish that the Law Commission takes note of our suggestions and recommendations, in the spirit of working out aspects relating to the regulation of the profession, which as it exists today, fails to attract many law students from institutions such as NALSAR. The disappointment that persists is that despite the profession seeing a glimmer of hope with the coming up of universities exclusively imparting legal education, the same is lost in the mirage of developments that have taken place over the past thirty odd years. This is captured by the choice that young graduates make, many a times for reasons beyond their control, to not to join litigation and lower judiciary.

The profession somewhere has to reshape to accommodate the young talented pool that comes out of law schools every year. While it would be unjust and unfair to throw the ball in the other court; somewhere the Nyaya Forum also acknowledges the initiative that needs to come up from within the student community. It is a humble effort, where the cooperation in terms of efforts being taken by both students and professionals may work out wonders for the justice delivery system in India. The Nyaya Forum has taken upon itself the task to work out on making careers in courtrooms more accessible, and in furtherance of that will be working more on the legal education front as far as the few years to come are concerned.

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