



## EMPOWERING JUSTICE: THE LEGAL AID DEFENSE COUNSEL SYSTEM IN INDIA

Vishal Jagdishkumar Gadhavi<sup>1</sup>, Dr. Bharat Rojasara<sup>2</sup>

<sup>1</sup> Ph.D. Research Scholar, Gokul Global University, Siddhpur, Gujarat

<sup>2</sup> Associate professor, Gokul Global University, Siddhpur, Gujarat

*"Let it not be forgotten that law is not only to speak justice but also deliver justice".*

- Justice P.N. Bhagwati

### INTRODUCTION

The Constitution of India enshrines justice—social, economic and political as a core value in its Preamble. Towards the fulfilment of this, Article 39 A of the Constitution of India provides for free and competent legal aid to the weaker sections of the society to ensure that opportunity of securing justice is not to be denied to any citizen by reason of economic or other disability. In light of the Constitutional mandate, the Legal Services Authorities Act was enacted by the Parliament in 1987, which came into force on 9th November, 1995 to constitute legal services authorities to provide free and competent legal services to the weaker sections of the society to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities, and to organise *Lok Adalats* to secure that the operation of the legal system promotes justice on a basis of equal opportunity.

The National Legal Services Authority (NALSA) has been constituted under Section 4 of the Legal Services Authorities Act, 1987 to provide free and competent Legal Services to the weaker sections of the society. The Chief Justice of India is the Patron-in-Chief; and the Senior most Judge of the Supreme Court of India is the Executive Chairman of NALSA. The National Legal Services Authority (NALSA) coordinates and monitors the functioning of Legal Services Institutions (LSI) throughout the Country, as well as voluntary social service institutions and other legal services organisations and giving directions for the proper implementation of the Legal Services programmes in the country. It also monitors and evaluates the implementation of legal aid programmes at periodic intervals and provides for independent evaluation of programmes and schemes implemented in whole or in part of the country by funds provided under this Act.

The State Legal Services Authorities (SLSA), District Legal Services Authorities (DLSA) and Taluk Legal Services Committees (TLSC) have also been constituted under the said Act. The Act also provides for constitution of Supreme Court Legal Services Committee (SCLSC) for providing legal aid in matters coming before the Supreme Court and High Court Legal Services Committee (HCLSC) to provide legal aid to the eligible persons in legal matters coming before the High Courts. NALSA receives grant-in-aid from Central Government for

implementing legal aid schemes and programmes. The Grants are further disbursed by NALSA to the State Legal Services Authorities and Supreme Court Legal Services Committee.

Article 39A of Constitution of India - Equal Justice and Free Legal Aid.

*The State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislations or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen because of economic or other disabilities.*

The **Free Legal Aid** is the provision of free legal services in civil and criminal matters for those poor and marginalized people who cannot afford the services of a lawyer for the conduct of a case or a legal proceeding in any court, tribunal, or authority. These services are governed by the Legal Services Authorities Act, 1987, and headed by the National Legal Services Authority (NALSA). Provision of free legal aid may include Representation by an Advocate in legal proceedings, Payment of process fees, expenses of witnesses and all other charges payable or incurred in connection with any legal proceedings in appropriate cases; Preparation of pleadings, memo of appeal, paper book including printing and translation of documents in legal proceedings; Drafting of legal documents, special leave petition etc.; Supply of certified copies of judgments, orders, notes of evidence and other documents in legal proceedings. Legal Services are being provided at pre-arrest, remand, trial and appellate stages in criminal matters.<sup>1</sup>

Realising the need to ponder over the reforms required in the Legal Aid Movement of India a new model of Legal Services Delivery, the 'Legal Aid Defense Counsel System'(LADCS), in line with public defender system is introduced by NALSA. As envisaged, LADCS involve full time engagement of lawyers with support system, dealing exclusively with legal aid work in criminal matters at every stage starting from the pre-arrest, arrest & remand stage to the conclusion of trials and appeals etc. It will enhance the availability and accessibility of Legal Aid in a timely manner and help in creating a mechanism to provide qualitative and competent legal services in a professional manner to underprivileged and disadvantaged section of the society.

The Department Related Parliamentary Standing Committee (DPRSC) on Personal, Public Grievances, Law and highlight-

ed concerns in its 116<sup>th</sup> report about Assigned Counsel System of dispensation of Legal Aid is being followed in India. Under the said system, cases are assigned to panel lawyers by Legal Services Institutions by observing that Such Panel lawyers to whom cases are assigned, also have private practices, and hence, they do not exclusively devote their time to the legal aid matters. Many times, their accessibility and availability remain an issue for timely client consultation and updating the legal aid seekers about the progress of their cases. There are few instances, wherein the lawyers were found harassing beneficiaries or demanding fee from them.

Therefore, to strengthening and making legal services more professional, NALSA introduced legal aid delivery-based model i.e. '*Legal aid Defense Counsel System*' for providing legal aid in criminal matters. This model will create institutional capacity to effectively provide legal aid to poor and needy in criminal justice system. Along with Increase in Availability and accessibility of Legal Aid Defense counsels, Effective and efficient representation by experienced lawyers, Timely and lively Client Consultations, Effective monitoring and mentoring of legal aided cases, Professional management of legal aid work in criminal matters, Enhanced responsiveness leading to updating of legal aid seekers about the progress of their cases and Ensuring accountability on the part of the legal aid providers.

The Objective of system is to provide qualitative and competent legal services in criminal matters to all eligible persons and to manage and implement legal aid system in professional manner in criminal matters.

The Government of India is implementing a Central Sector Scheme named Legal Aid Defense Counsel System (LADCS) since F.Y. 2023-24 through State Legal Services Authorities (SLSAs) and District Legal Services Authorities (DLSAs), under the aegis of National Legal Services Authority (NALSA). Under LADCS Scheme, legal aid is provided w.r.t. criminal cases only to the beneficiaries as per eligibility criteria stated under Section 12 of the Legal Services Authorities (LSA) Act, 1987.

As of December 31, 2024, LADCS offices are functional in 654 districts, engaging 5,251 staff members, including 3,448 defense counsels.<sup>2</sup> When we look at the statistics of the LADC office of Vadodara headquarter from the establishment till 30/07/2025 a total of 1794 cases were dealt by the counsels of the LADC out of which 1305 are disposed off, which reflects the success of the scheme.

Prior to the establishment of this scheme, advocates were assigned from the panel of advocates which was appointed by the DLSA, these advocates were not barred from carrying on their own practice which sometimes resulted in mishandling of the cases. Now the Legal Aid Defense Counsel Office deals exclusively with legal aided matters in criminal matters of the District or HQ, wherein it is established and the advocates appointed herein are vested with full time duties and are barred to carry on their private practice. The LADC advocates shall be providing legal services from the early stages of criminal

justice till appellate stage, and the same shall include visits to jails from catering to the legal needs of unrepresented inmates. Legal Aid Defense Counsel Office is provide Legal Advice and Assistance to all individuals visiting the office, Representation/ Conducting trials and appeals including all miscellaneous work in all criminal courts such as Sessions, Special and Magistrate Courts including executive courts, Handling Remand and Bail work, Providing legal assistance at pre-arrest stage as per need and also in accordance with NALSA's scheme for providing such assistance and Any other legal aid work related to District Courts or as assigned by the Secretary, DLSA.

## INFRASTRUCTURE AND HUMAN RESOURCES IN LEGAL AID DEFENSE COUNSEL OFFICES

Each project district must be equipped with a well-furnished Legal Aid Defense Counsel (LADC) office, featuring separate cabins for the Chief LADC and designated consultation areas. Adequate space should be allocated for ministerial staff, a reception desk, and a waiting area. The suggested office size varies by city classification: Class A cities require 800–1000 sq. ft., Class B cities 700–800 sq. ft., and Class C cities 500–600 sq. ft. Essential equipment includes computers, printers with scanners, internet, telephones, and appropriate furniture like tables, chairs, bookshelves, and almirahs.

In terms of human resources, the office should staff one Chief Legal Aid Defense Counsel, 1-3 Deputy Chief LADCs, and 2–10 Assistant LADCs depending on the case load. Support staff may include 1–3 clerks or office assistants, and optionally, a receptionist-cum-data entry operator and a peon (Munshi/Attendant) to assist with administrative tasks and client coordination.

## SELECTION PROCESS AND ROLE DESCRIPTIONS UNDER THE LEGAL AID DEFENSE COUNSEL SYSTEM

To ensure a fair and efficient recruitment of Legal Aid Defense Counsels, a **transparent and merit-based selection process** is followed. The **District Legal Services Authority (DLSA)**, under the guidance of the **State Legal Services Authority (SLSA)**, invites applications through public notices and conducts competitive assessments. Engagement is on a contractual basis for **two years**, with annual extensions subject to **bi-annual performance reviews** by SLSA in consultation with the respective DLSA.

Selection is overseen by a **committee chaired by the Principal District & Sessions Judge** (Chairman, DLSA), comprising at least three senior judicial officers experienced in criminal law. All appointments are based on **legal knowledge, experience, and ethical competence**, with final approval granted by the **Executive Chairman of SLSA**. No individual with a conflict of interest may participate in the selection process. Contracts are executed using the standard format provided by NALSA, with necessary modifications.

### Eligibility Criteria:

- **Chief Legal Aid Defense Counsel:** Minimum 10 years' experience in criminal law and at least 30 Sessions Court

trials (relaxable in deserving cases), with strong leadership, legal acumen, and computer literacy.

- **Deputy Chief Legal Aid Defense Counsel:** At least 7 years' practice and 20 trials in Sessions Court (relaxable), with proficiency in legal research and IT.
- **Assistant Legal Aid Defense Counsel:** 0–3 years' practice, strong research, drafting skills, and computer proficiency

**Chief Legal Aid Defense Counsel** oversees the entire functioning of the LADCS office, including conducting trials, appeals, and bail matters, allocating duties, ensuring effective defense strategies, maintaining case files, updating clients, and ensuring quality legal aid. They act as the administrative head and report to the Legal Services Authority.

**Deputy Chief Legal Aid Defense Counsel** assists in conducting trials, remand work, appeals, and prison visits. They guide junior counsels and interns, perform legal research, and manage client consultations and documentation.

**Assistant Legal Aid Defense Counsel** supports trial work in Magistrate Courts, bail matters, remand proceedings, and pre-arrest legal assistance. They engage in legal research, case preparation, prison visits and site inspections and maintain communication with legal aid seekers.

Legal Aid Defense Counsel have given full time for duties for the office of Legal Aid Defense Counsel and shall not engage in private practice of law during the term of employment. The pay structure is created in a way to ensure the fair and effective representation of the legal aid seekers by providing timely and handsome honorarium to the counsels. The honorarium attracts the competent legal professionals and also promotes accountability and dedication in handling cases. It helps maintain the quality of the legal services offered to the underprivileged and the marginalized sections.

A Legal Aid Defense Counsel may be terminated at any time without prior notice by the Chairman of the DLSA, based on the recommendation of the Secretary, DLSA, or written directions from the SLSA. Grounds for termination include breach of duties, accepting any form of pecuniary benefit from legal aid seekers or their associates, being charged or convicted by a court, engaging in political activities, inability to provide professional services of the required standard, unjustified absence from training programs, engaging in activities harmful to the office's functioning, misuse of position for personal gain, violation of the code of ethics, remaining absent without leave for over two weeks, or unsatisfactory performance as reflected in the six-monthly reviews conducted by SLSA or DLSA.

The State Legal Services Authority (SLSA) and District Legal Services Authority (DLSA) play a key role in ensuring the effective functioning of the Legal Aid Defense Counsel System Office. Their responsibilities include planning and providing suitable office space, preferably within or near the court complex, and equipping the office with necessary furniture, equipment, computers, internet, and legal research tools. They handle pro-

curement of office supplies, books, and software, and oversee renovation needs. Both authorities are responsible for recruiting required human resources, organizing regular training and refresher courses, and ensuring timely honorarium payments to legal aid counsels and staff. They also manage payments for expert witnesses and incidental expenses like travel. Additionally, SLSA and DLSA are tasked with monitoring, mentoring, and periodically evaluating the legal services provided, as well as conducting awareness campaigns to promote the Legal Aid Defense Counsel Office.

The **Legal Aid Defense Counsel System** marks a pivotal shift in India's commitment to delivering justice through institutionalized, professional, and accessible legal services. By focusing on full-time, skilled legal representation for the underserved, LADCS reinforces the constitutional vision of equal justice for all, making the legal system more inclusive, accountable, and humane.

## REFERENCES

1. <https://nalsa.gov.in/legal-aid/>
2. [https://sansad.in/getFile/annex/267/AS354\\_H40pAy.pdf?source=pqars](https://sansad.in/getFile/annex/267/AS354_H40pAy.pdf?source=pqars)