

## LEGAL AID

### More money in legal aid with increases in budgets

**ON EMBARGO UNTIL 12:00 PM, APRIL 04, 2023**

*The third India Justice Report continues to compare and track the improvements and shortfalls in each state's structural and financial capacity to deliver justice. Using the latest available government figures the first ever ranking was published in November 2019. Each state's ranking is assessed on quantitative measurements of budgets, human resources, infrastructure, workload and diversity within the police, judiciary, prisons and legal aid in 18 large and medium sized states with a population of over 1 crore and 7 small states with less. Data for 8 Union Territories (UTs) and 3 other unranked states is also provided. The IJR's not only provides pillar and theme wise comparisons between similarly situated states but also captures improvements and shortfalls in pillars and themes since IJR 2020 and over 5 years. These mark out clear discernible trends and directions.*

Almost 80% of India's over 1.25 billion population is eligible for free legal aid including women, children, persons in custody, persons with disability, Scheduled Castes and Scheduled Tribes, those with mental illness etc.

Both NALSA and states contribute finances towards providing free legal aid. Overall allocation for legal services has increased substantially. The per capita spend on free legal aid taking into account only the NALSA expenditure of 100 crore in 2020-21 was Rs. 0.73. However, a better picture can be discerned when this is calculated using state budgets as well - Rs 4.57.

As of 2020-21, all states showed an increased willingness to contribute more to legal aid budgets. A majority of states/UTs- with the exception of Assam, Andhra Pradesh, Telangana and Rajasthan - increased the allocation of legal aid budgets. With the exception of Nagaland and Chandigarh, all states/UTs contributed more than 60% to their legal aid budgets. In four states—Goa, Madhya Pradesh, Sikkim and Uttar Pradesh—the share of the state's contribution moved upwards of 90%.

Of allocated budgets, a majority of states and UTs utilised more than 50%,<sup>1</sup> although some like Chandigarh (38.5%), Meghalaya (49%) and Uttar Pradesh (35%) fell short. Ten states/UTs utilised more than 90% with Andhra Pradesh, Himachal Pradesh and Karnataka utilising their state legal aid budgets fully. NALSA's disbursement to states increased by 46% to 144.3 crore in 2021–22<sup>2</sup> from Rs 99 crore in

<sup>1</sup> Andhra Pradesh, Assam, Bihar, Chhattisgarh, Delhi, Goa, Gujarat.

<sup>2</sup> Grants to State Legal Services Authorities in 2021–22. Available at: <https://nalsa.gov.in/grants-and-accounts/grands/grants-2021-2022>

2020–21.<sup>3</sup> However, utilisation of the central funds fell in 2021–22 and of the Rs. 183 crore (1.83 billion) allotted to states, Rs 138 crore (1.38 billion) remained unutilised.<sup>4</sup>

### **Fewer Clinics Available in Villages - One legal aid clinic for 127 villages**

To ensure that legal assistance reaches the remotest parts, the NALSA 2011 Regulations<sup>5</sup> require a legal clinic be set up in all villages or at least one for a reasonable cluster of villages. All states and Union Territories recorded a decline in the number of legal service clinics across villages. In 2020, there were 14,159 clinics for India's nearly 600,000 villages, averaging to one for 42 villages. In March 2022, the number of legal aid clinics plummeted to 4,723 bringing the national average for villages per legal aid clinic up to 127. Chhattisgarh's sole legal service clinic covers all 19,567 villages in the state while Arunachal Pradesh has no legal aid clinics in the state. As of March 2022 only 3 states - Goa, Kerala and Tripura - and 4 Union Territories - Chandigarh, DNH & Daman and Diu, Ladakh and Puducherry - have made provisions for legal aid clinics to cover, on average, less than 10 villages.

Every jail too must have a legal services clinic.<sup>6</sup> As of March 2022, 16 states/UTs meet this criterion - a slight decrease from 17 states in March 2020. Six states/UTs - Arunachal Pradesh, Chhattisgarh, Delhi, Gujarat, Punjab and West Bengal - had more clinics than the number of prisons while in Assam, Chandigarh, DNH & Daman and Diu, Goa, Haryana, Jammu & Kashmir, Meghalaya, Nagaland, Puducherry and Sikkim each prison had a legal services clinic.

### **Women accounted for 25% among empanelled lawyers**

Across the country, 50,316 lawyers were found to be empanelled across states and Union Territories to provide free legal aid. Nationally, the share of women increased from 18% in 2020 to 25% as of June 2022. A majority of states/UTs increased the share of women panel lawyers. Meghalaya had the highest share at 60.4% followed by Nagaland (51.4%), Goa (45.3%), Sikkim (44.7%) and Kerala (42.4%). Rajasthan (8.6%) followed by Uttar Pradesh (10.5%) had the lowest share of women among panel lawyers.

Among paralegal volunteers, women's share went up to 40% in June 2022 from 35% in 2020. Four states/UTs including Karnataka, Goa, Kerala, and Delhi among others recorded more than 50% women PLVs.

### **Uneven record of under trial review committee meetings and releases**

<sup>3</sup> Grants to State Legal Services Authorities in 2020–21. Available at: <https://nalsa.gov.in/grants-and-accounts/grands/grants-2020-2021>

<sup>4</sup> This report includes the pending balance from the previous year in the total allocation of NALSA funds to states/UTs. Data on allocation by NALSA to states/UTs is from NALSA's state profile document. Available at: <https://nalsa.gov.in/library/state-profiles-2021-22>

<sup>5</sup> National Legal Services Authority (Legal Services Clinics) Regulations, 2011. Available at: <https://nalsa.gov.in/acts-rules/regulations/national-legal-services-authority-legal-services-clinics-regulations-2011>

<sup>6</sup> NALSA (Legal Services Clinics) Regulations 2011, NALSA Standard Operating Procedures for Representation of Persons in Custody 2016

Concerned with the unabated growth of prison populations, in 2013, the Supreme Court 'In Re Inhuman Conditions in 1382 Prisons',<sup>7</sup> directed the National Legal Services Authority (NALSA), along with the Ministry of Home Affairs and State Legal Services Authorities (SLSAs), to constitute Undertrial Review Committees (UTRCs). The district-level committee was tasked with meeting every quarter.<sup>8</sup> - and at the outset of the pandemic in March 2020, to hasten decongestion - to meet once every week<sup>9</sup> to review and recommend the release of eligible prisoners.

Between January and December 2021, 665 DLSAs across the country convened 10,028 UTRC meetings. In 26 states/UTs<sup>10</sup> they met at least once in a quarter. Only Sikkim, with 13 meetings in a quarter, met once a week, closely followed by Himachal Pradesh (12 meetings). Dadra & Nagar Haveli and Daman & Diu, Lakshadweep and Mizoram, though, did not convene a single meeting throughout the year.

Nationally, 42,486 prisoners were recommended for release, but only 16,743 or 39% were actually released. Goa and Jammu & Kashmir released all those recommended for release. Thirteen states/UTs<sup>11</sup> released more than 50% while five<sup>12</sup> released less than 20%.

NALSA's nationwide campaign<sup>13</sup> to identify undertrial prisoners eligible for release by UTRCs between July and August 2022 saw 47,618 undertrial prisoners recommended for release nationally; of which 24,789 prisoners were released.<sup>14</sup> Overall, 5.8% of the total undertrial population was released during the campaign which resulted in the reduction of the overall occupancy rates by 5.7 percentage points<sup>15</sup> (from 130% to 124.3%) in the country. Uttar Pradesh (8,409) released the highest number of prisoners followed by West Bengal (2,107), Maharashtra (1,717) and Punjab (1,531).

### **Only 66% applications under victim compensation schemes disposed between 2016 and 2022**

Victim compensation schemes that provide financial support to victims or dependents who have suffered loss or injury as a result of a crime and who require rehabilitation have come to be one of the core priorities of the legal aid system. However, analysis of NALSA data shows that implementation of

<sup>7</sup> *In Re Inhuman Conditions in 1382 Prisons (W.P. (Civil) No. 406/2013)*.

<sup>8</sup> The Supreme Court vide order dated 5 February 2016 in *Re Inhuman Conditions in 1382 Prisons (W.P. (Civil) No. 406/2013)* directed UTRCs to meet at least once every quarter.

<sup>9</sup> On 23 March 2020, the Supreme Court in *In Re: Contagion of COVID 19 Virus in Prisons (Suo Motu Writ Petition (Civil) No. 1/2020)* all UTRCs were directed to meet weekly in tandem with the newly set up High Powered Committees and the local legal service institutions to enable decongestion.

<sup>10</sup> Andhra Pradesh, Arunachal Pradesh, Assam, Bihar, Chhattisgarh, Chandigarh, Delhi, Goa, Gujarat, Haryana, Himachal Pradesh, Jharkhand, Karnataka, Ladakh, Madhya Pradesh, Maharashtra, Meghalaya, Nagaland, Odisha, Punjab, Rajasthan, Sikkim, Telangana, Tripura, Uttar Pradesh and West Bengal.

<sup>11</sup> Assam, Bihar, Goa, Jammu & Kashmir, Jharkhand, Karnataka, Nagaland, Odisha, Punjab, Tamil Nadu, Tripura, Uttar Pradesh and Uttarakhand.

<sup>12</sup> Chhattisgarh, Himachal Pradesh, Kerala, Madhya Pradesh and Maharashtra.

<sup>13</sup> NALSA's Release\_UTRC@75, a campaign for the release of prisoners by UTRCs to commemorate the 75th Independence Day of India. Available at: <https://nalsa.gov.in/library/report-2/a-campaign-for-the-release-of-prisoners-by-the-under-trial-review-committees-to-commemorate-the-75th-independence-day-of-india-release-utrc-75>

<sup>14</sup> NALSA's report records 14,162 undertrial prisoners were released during the period of the campaign (16 July–13 August 2022) and 24,789 undertrial prisoners were released between 16 July till the release of the report in September 2022.

<sup>15</sup> This figure is calculated based on prison occupancy rates recorded by Prison Statistics India as on 31 December 2021.

these schemes is rudimentary. Between 2016–17 and 2021–22, State Legal Aid Service Authorities altogether received 97,037 applications seeking compensation. Of these, they disposed of only 64,333 (66%) applications across all states. In its 2018 order, the Supreme Court had directed all states to adhere to NALSA’s guidelines on victim compensation<sup>16</sup> specifically for victims of sexual assault. Between 2017 and 2021, cases of sexual assault against women rose from 1,18,783 to 1,21,161. Compared to the number of cases registered, the number of applications received for compensation in 2017 was only 15,855 or 13%. In 2021, the number of applications received (12,815) for compensation accounted for only 10.5% of the 1,21,161 cases registered.

In 2021–22, Delhi (2,421), Chhattisgarh (2,195), Odisha (1,898), Rajasthan (1,517) and Gujarat (1,188) received the most number of applications. With Rs. 123 crore (1.23 billion) disbursed over a total of 8,363 applications that were decided, these states accounted for 55% of all awarded compensation. Nationally, all states and UTs awarded approximately Rs. 222 crore (2.22 billion) over 15,173 applications that were decided.

### **Bailed out but not released**

The Supreme Court also issued several directions to ensure undertrials who remain in custody despite being granted bail on account of their inability to fulfill conditions stipulated in the bail order, are released within seven days.<sup>17</sup>

NALSA’s report submitted to the Supreme Court states that as of 31st January, 2023 there are 5000 undertrials who were in custody despite being granted bail, out of which 2,357 persons were provided legal assistance and 1,417 have since been released.

The Court directed prison authorities to inform the respective Secretaries of District Legal Authorities, if such undertrials are not released within seven days from the grant of bail. The Court also directed the National Informatics Centre (NIC) to create necessary mechanisms through the e-Prisons portal so that such prisoners are recognised as a separate category called the ‘bailed-out-but-not-released’.

<sup>16</sup> Order dated 11 May 2018 in *Nipun Saxena v. Union of India* (W.P. (C) No. 565/2012). Available at: <https://indiankanoon.org/doc/134824430/>

<sup>17</sup> In *Re Police Strategy for Grant of Bail* [SMW {Crl.} No. 4 of 2021]

---

### **About India Justice Report 2022**

*The India Justice Report (IJR) 2022 remains the only comprehensive quantitative index using government's own statistics ranks the capacity of the formal justice system operating in various states. This IJR is a collaborative effort undertaken in partnership with DAKSH, Commonwealth Human Rights Initiative, Common Cause, Centre for Social Justice, Vidhi Centre for Legal Policy and TISS-Prayas.*

*First published in 2019, the third edition of the IJR adds an assessment of the capacity of State Human Rights Commissions. It continues to track improvements and persisting deficits in each state's structural and financial capacity to deliver justice based on quantitative measurements of budgets, human resources, infrastructure, workload, and diversity across police, judiciary, prisons and legal aid for all 36 states and UTs.*

Visit <https://indiajusticereport.org> for the main report, data explorer and more.

Contact Us:- Email Id: [indiajusticereport@gmail.com](mailto:indiajusticereport@gmail.com) Phone No.: 9717676026 / 7837144403

---