

ALL INDIA LEGAL AID CELL ON CHILD RIGHTS

(Established by Delhi Legal Services Authority and Bachpan Bachao Andolan under the Aegis of National Legal Services Authority)

VISION:

On 14th November 2008, Hon'ble Sh. K.G Balakrishnan, Chief Justice of India and Patron-in-Chief , National Legal Services Authority (NALSA), Hon'ble Dr Arijit Pasayat, Judge, Supreme Court of India and Hon'ble Executive Chairman, NALSA and other Hon'ble judges of Supreme Court of India had interaction with the rescued and rehabilitated children of BBA at the lawns of the Supreme Court of India. The Hon'ble Chief Justice and other Hon'ble Judges ensured that prompt and appropriate legal aid will be given to them. The Hon'ble Chief Justice of India and Hon'ble Executive Chairman, NALSA have subsequently directed the NALSA to direct the Delhi Legal Services Authority (DLSA) to take necessary action for opening a Legal Aid Cell at the Bachpan Bachao Andolan Central Office, New Delhi and also at Mukti Ashram, Ibrahimpur, Delhi.

BACHPAN BACHAO ANDOLAN

Bachpan Bachao Andolan (BBA) has been working tirelessly since 1981 to rescue, and rehabilitate child labourers and ensure prosecution and punishment of employers and traffickers. Since inception, BBA has rescued more than 76,500 bonded/ child labourers and has emerged as the largest civil society grassroots movement on child rights supported by more that 70,000 individuals and 750 civil society organisations. The organization has also been working very closely with National Legal Service Authority (NALSA) in favour of child rights on several fronts.

OBJECTIVE:

National Legal Services Authority, Delhi Legal Services Authority and Bachpan Bachao Andolan have joined hands to realise the cherished Constitutional ideal of equality and justice to child *sine qua non* of creation of a Child Friendly Society where every child has access to physical, social, psychological, moral & spiritual development. Permanent Legal Aid Cell would be a PAN – INDIA activity to achieve the following objectives:

- To establish a Permanent Legal Aid Cell at the at Bachpan Bachao Andolan Central Office, New Delhi and also at Mukti Ashram, Ibrahimpur, Delhi;
- To provide legal representation to the children in need of care and protection across the country;

- To take, deal, pursue and/ or coordinate and ensure prosecution against the persons indulging in child labour, traffic in human beings, *begar*, forced labour, child abuse, or in any form of child exploitation;
- To build a network of various SLSAs for rescue and rehabilitation of children in need of care and protection.
- To instruct the concerned State Legal Services Authority to take, deal, pursue and coordinate to ensure appropriate legal action against the offenders.
- To provide access to legal aid & advice to all Govt. Departments and/or bodies including State Legal Services Authorities functioning across the country;
- To provide legal aid and advice to all civil societies, voluntary organisations and social spirited individuals working across the country espousing the cause of child rights;
- To coordinate with all Govt. Bodies, Institutions, Authorities and Organisations concerning or entrusted with the responsibilities relating to child rights,
- To reach out the benefits flowing from various social welfare schemes to the child/children.
- To create awareness of child rights and schemes framed by Central and/ or State Governments for the welfare and rights of children;
- To undertake sensitization programs, for skill enhancement of lawyers and / or paralegals;
- To undertake research or survey based programs to study the impact assessment and maximize benefits of child welfare legislations and schemes;

PROJECT OFFICE:

The Permanent Legal Aid Cell shall function from Bachpan Bachao Andolan's Central Office at L – 6, Kalkaji, New Delhi and Mukti Ashram, Ibrahimpur Village, Delhi.

ROLE PERCEPTION:

National Legal Services Authority

1. National Legal Services Authority (NALSA) hereby appoints the Delhi Legal Services Authority (DLSA) as its Nodal Agency, authorized to network with other State Legal Services Authorities across the country.
2. NALSA may also ask the State Legal Services Authorities to update schemes framed by their State Governments with regard to rescue/ rehabilitation or any other beneficial scheme for children.
3. NALSA may also convey that the standard set by the DLSA for drawing up a panel of lawyers, paralegal workers, etc., for the Legal Aid Cell is to be followed by other State Legal Services Authorities in their respective states for empanelment of lawyers, paralegal workers, etc.
4. National Legal Services Authority (NALSA) to communicate to all relevant bodies across the country regarding opening of the Cell to provide Legal Aid & Advice as well as to coordinate with Central and State Government to render

all possible assistance in the smooth functioning and realisation of the underlying objectives of the Cell.

5. NALSA may direct all State Legal Services Authorities (SLSAs) to act upon or to give effect to legal aid & advice rendered, and to coordinate with the Legal Aid Cell and provide all necessary assistance and support in the implementation of legal advice rendered or legal aid required.
6. All State Legal Services Authorities shall communicate the opening of the Legal Aid Cell to all concerned Governmental and Non Governmental Organisations functioning in their State along with the relevant contact numbers and addresses of the Cell under intimation to NALSA, with complete details of the bodies intimated, within 15 days of the receipt of information of the opening of the Cell in Delhi.
7. All State Legal Services Authorities shall display the contact numbers and information of the Cell in all its offices at State, District and *Taluka* Legal Services Committees' levels.
8. DLSA and all SLSAs shall display the functions, role and concept paper of the Cell on their respective websites with a link at the Home Page.
9. NALSA may direct appropriate Govt. agencies like the Ministry of Information and Broadcasting to make suitable programs on child rights with specific reference to the objectives and functions of the Cell.
10. NALSA may coordinate with MTNL or any other telecom dept. for providing a toll free helpline number in Legal Aid Cell so as to make it accessible to everyone at no cost.
11. NALSA may issue directions to all SLSAs to organise sensitization programs on child rights in coordination with the Legal Aid Cell.
12. NALSA may write to the various National Law Colleges, Universities and Schools of Social Work to nominate students for Internships, Research, etc., in the field of child rights under the supervision of the Cell.
13. NALSA will be at liberty to modify the Scheme and to have overall control and supervision of this project assigned to the DLSA.

Delhi Legal Services Authority:

Delhi Legal Services Authority is authorized by NALSA to perform the following functions:

1. Delhi Legal Services Authority shall be a nodal agency of NALSA for networking with other State Legal Services Authorities.
2. DLSA shall coordinate with the other State Legal Services Authorities and Government/ Non Government Agencies regarding the functioning of the Cell.
3. DLSA shall draw a panel of lawyers, social scientists, academicians and jurists having expertise on the laws and issues relating to child rights and can use them as resource persons, consultants, counsellors, etc.
4. After selection and empanelment of lawyers, training and orientation programs will be conducted by DLSA.
5. DLSA will also provide counseling to the children or witness/ victim support.

6. DLSA shall coordinate with all State Legal Services Authorities (SLSAs) under intimation to NALSA to act upon or to give effect to legal aid & advice rendered, and to coordinate with the Legal Aid Cell and provide all necessary assistance and support in the implementation of legal advice rendered or legal aid required.
7. DLSA will coordinate with the Govt. agencies like the Ministry of Information and Broadcasting to make suitable programs on child rights with specific reference to the objectives and functions of the Cell.
8. DLSA shall also organize and run sensitization programs as well as trainings on child rights for all Govt. as well as Non Govt. agencies including Non Govt. and civil society organisations, Bar Associations, etc., in coordination with the Legal Aid Cell so that the legal concepts are further clarified.
9. DLSA in coordination with BBA shall spread awareness on Child Rights.
10. DLSA may coordinate all the efforts of research and training, etc., in the field of child rights undertaken under the supervision of the Cell.

Bachpan Bachao Andolan (BBA):

1. BBA shall provide the necessary space, required for the smooth functioning of the Legal Aid Cell.
2. BBA shall bear the expenses of electricity, internet/ telephone calls, website, furniture, electrical appliances including air conditioning, etc., to make the Cell functional.
3. BBA shall maintain and upkeep a separate website for the Legal Aid Cell consisting of information of all SLSAs, District Courts and above, S.P.s , D.M.s, Labour Dept., amongst others.
4. BBA shall be responsible for all records, confidentiality, database management, discipline and overall administration, coordination and smooth management of the Legal Aid Cell.

FUNCTIONS AND ACTIVITIES:

The Legal Aid Cell will perform the following Functions and Activities:

a. Legal Representation

Children in need of immediate assistance shall be provided with such care and protection as required by law. Any such action shall be in accordance with the procedures established by law and may be through complaints/ representation before various authorities of law enforcement and/ or other social justice and welfare mechanisms and courts of law. For e.g., the Cell may receive a complaint of a trafficked child being abused and acting upon the case, the Cell may send a person with the legal opinion on the course of action to be taken by the Police/ Magistrate/ other relevant authority for appropriate action for rescue of child, prosecution of trafficker and rehabilitation of child.

The Cell will also coordinate with SLSAs to provide suitable legal aid to pursue cases. SLSAs shall provide suitable legal support in their respective cases.

b. Legal Counselling

Complainants in need of legal aid/ assistance/ advice in cases of violations of child rights may seek all aid/ assistance from the Legal Aid Cell, even for pursuing cases filed for the prosecution of child traffickers, etc., by counseling the child/ witnesses who are the victims, so that they are able to testify in court without fear. Psychological support in such cases can also be extended.

c. Legal Advice

The Cell shall render such aid/ assistance/ advice to the complainant as well as send its legal opinion in such cases to the concerned govt. authorities for suitable action. Governmental and Non Govt. Organisations, Civil Societies, Self Help Groups, Voluntary Organisations, Parents, Relatives, Concerned Friends and Members of the public may, on behalf of the Children in need of care & protection, approach the Cell and receive legal advice regarding the legal rights of children and the means for accessing those rights. The Cell will provide requisite information and advice to the concerned regarding the legal options available for protecting the interest of the children. The Cell will also assist the concerned in making a decision regarding various options available to pursue the case and if required help in formulation of complaints, petitions, etc. ;

d. Legal Awareness

Steps will be taken for sensitization of Judicial officers, Govt. officers, Police officers, etc. and conduct skill enhancement programs for panel lawyers.

e. Coordination with all SLSAs and Govt. Departments

The Cell will operate a Network Referral System, whereby victims can be referred to the State Legal Services Authorities for legal services in resolving legal issues. If a information is received by the Cell about an offence committed or likely to be committed in another State, the concerned SLSA would be informed and requested to render all assistance in the case and to further submit an action take report, for effective coordination. Also a person in need of help, who is located in another State, can be directed by the Cell towards the nearest point of assistance in that State. The Cell will actively build this network and stimulate the free flow of information and constructive thinking concerning child rights in India.

f. Undertake Research based survey and make suitable suggestions

The Cell shall take up Research based surveys and make suitable suggestions to the Central or State Governments for effective implementation of laws on child rights especially dealing with prohibition of Child Labour and ensuring social re-integration and rehabilitation.

g. Publication of informative legal material for general awareness like handbills, pamphlets, etc., for general awareness.

h. Academic activities including development of Standard Operating Procedures, legal rules and guidelines on specific cases, publication of periodical newsletter, etc.

i. Periodical reporting of follow up actions about rescued/ assisted children shall be undertaken by the Legal Aid Cell. State Legal Services Authorities and/ or other govt. authorities will apprise and assist the Cell in cases of follow up.

j. Information Collection and Data Management: The Legal Aid Cell will collect complaints and other information regarding cases of the violation of child rights from various sources and all data concerning cases will be recorded in a database system of BBA, for the sake of the correct and mutually comparable recording of relevant data.

NETWORKING AND INTEGRATION WITH GOVERNMENT MECHANISMS OR SCHEMES

The Cell will adopt a cross-cutting approach in assistance by ensuring that the Cell works in close partnership with all other child rights actions and Government Mechanisms and Schemes.

In seeking information regarding government schemes and orders for the purposes of ensuring access to information and justice during its operation the Cell will collaborate with various government departments, including the Ministry of Labour and Employment, the Ministry of Home Affairs, the Ministry of Women and Child Development, the Ministry of Social Justice and Empowerment, and the Ministry of Human Resource Development as well as other Committees and Commissions established under various statutory provisions. The Cell will work towards ensuring access to information and justice to children during the course of its operation. To this end, every governmental agency associated on child rights will designate a nodal officer who shall provide such information to the Cell to ensure that accurate and updated information is provided in cases.

NALSA may also request the Central Government or State Governments to appoint one representative of the Legal Aid Cell as member of core groups formulated for implementation and monitoring of various schemes at Central and/ or State level for child rehabilitation and reintegration into the society.

The opinions of the expert body of the Legal Aid Cell shall be considered in the drafting/ preparation of any new law/ policy for betterment of child rights.

REVIEW, ASSESSMENT, REPORTING, AUDIT AND EVALUATION:

A Review Committee comprising of Executive Chairman, NALSA, Executive Chairman, DLSA, Member Secretary, NALSA, Member Secretary, DLSA, President/ Chairperson

BBA shall be formed to review the work done by the Cell. Review meeting shall be held once a year at Mukti Ashram.

BBA shall make a Core Committee consisting of Member Sec. NALSA, Member Sec. DLSA, President, BBA which shall be responsible for all matters pertaining to the administration, empanelment of an advocate for the Legal Aid Cell or any matter relating to the smooth and efficient functioning of the legal aid Cell, budget, auditing, maintenance of infrastructure, records, etc. Core Committee for regular matters shall meet at least quarterly and minutes of the meeting shall be forwarded for the perusal of Exec. Chairpersons, NALSA and DLSA.

BBA would be responsible for maintaining all records, ledgers and case files of the Cell. Periodic reports will be submitted on the work of the Cell, to both the NALSA and the DLSA.

CONSEQUENCES OF FAILING TO ACT ON THE ADVICE OF THE LEGAL AID CELL:

In cases where the advice of the Legal Aid Cell is not adhered to, besides taking recourse to appropriate legal action including filing writ petition or any other proceeding in accordance with law in cases of rescue, rehabilitation of children and prosecution of the employers/ traffickers/ violators by the SLSAs or any govt. authority, NALSA shall take up the matter with the concerned Authorities or Central/ State Govt. as the case maybe.

MODE OF SELECTION OF LAWYERS FOR LEGAL AID CELL:

DLSA shall draw a panel of experienced, enthusiastic and energetic advocates. Panel shall initially comprise of 10 advocates consisting of One or Two Designated Senior Advocates, 4 Advocates having practice experience of more than 3 yrs. and 5 junior advocates

Conviction, commitment and experience in the field of child rights shall be relevant considerations for empanelment.

Advocates will initially be empanelled for a period of one year which can be extended on the basis of performance.

The Legal Aid Counsels will be paid for their services by the DLSA as per approved schedule of fees.

All legal opinion shall be recorded in writing and in case of a difference of opinion amongst lawyers, the decision of majority shall be deemed as the opinion of the Legal Aid Cell. Lawyers working within the Cell will be required to maintain time sheets as well as strict confidentiality and anonymity of their clients' cases.

STAFF REQUIRED FROM DLSA TO OPERATE THE LEGAL AID CELL:

a. *Lawyers*

The legal aid Cell will employ 10 full time lawyers. The lawyers will be responsible for providing legal counseling and court representation on behalf of the Cell;

b. *Office Assistant*

An office assistant will be provided by DLSA for coordination with DLSA and management of the functioning of the Cell.

c. *Paralegals or interns*

5-8 paralegals will be employed, to support the work of the lawyers. While they are technically unable to provide direct legal advice due to their lack of accreditation as lawyers, they will conduct all research and support work on behalf of the lawyers. Law students or law graduates, who are not yet accredited as advocates may be used as paralegals or interns.

Outlines of the Scheme for Training and Sensitization Programs:

DLSA in coordination with NALSA and BBA shall organize the training and sensitization programs, skill enhancement and orientation programs from time to time for legal aid counsels of the Cell, Executive, Police, and other Agencies responsible for enforcement of laws relating to child rights.

Methodology:

Trainings will be conducted by experts on child rights in various fields drawn from Judiciary, Eminent Jurists, Social scientists, Academicians, Educationists, who have worked on child rights and made suitable contribution in the development and implementation of law focusing on child welfare.

Mode of Training would be theoretical as well as practical including paper presentations, power point presentations, field assignments, case assignments, etc.

Training and sensitization programs inter alia shall have the following subjects:

a. *The ongoing work on child rights*

In order to ensure that the aims and objectives of the Legal Cell are achieved, it is imperative to ensure that all the lawyers working for the Cell, particularly any newly recruited legal professionals, quickly become cognisant of the mandate, work, activities, past successes and challenges on the issue of child rights. This session will aim to update and fully inform all the Cell lawyers of these issues;

b. *Information Regarding Child Labour and Child Trafficking Issues*

The lawyers working in the Cell require an in-depth understanding of the scale and magnitude of the issues of child exploitation, child labour and child trafficking in order to be able to effectively assist their clients;

c. *International Law, Focusing on Child Rights*

The legal framework surrounding child rights needs to be examined in-depth. The international human rights regime, including the Convention on the Rights of the Child and the Convention against Torture, including the Bill of Rights, are amongst some of the topics that necessitate discussion and examination in this particular module. The international law mechanisms for assisting children, upholding rights and effecting change vis a vis governmental approaches will further be studied;

d. *National Legal Framework, including Legislation and Judicial Cases*

In order to be able to achieve legal success in the courts, the lawyers require an in-depth knowledge pertaining to the relevant national legislation and judicial precedents. This will ensure that the lawyers are aware of the tools at their disposal in achieving legal success;

e. *Interviewing Skills*

One of the most important skills required by any lawyer relates to the ability to effectively listen, elicit relevant information, ask pertinent questions and communicate with the client. This module will further cover skills relating to working and interviewing clients who may have suffered physical and emotional abuse, or who are distressed in recounting their circumstances during the interview with the lawyer. Special techniques for interviewing and working with children will be discussed;

f. *Network of Legal Aid and Assistance throughout India*

The lawyers working in the Cell need to be made aware of the network which will be established, whereby cases may be referred to branches of the Legal Services Authority, located in different states of India. The module will examine the functioning of the network, what information needs to be provided to the client in order to access the network, and how the lawyers themselves can work with LSA employees based in other states; and

g. *Administrative Matters, e.g. BBA File Management System, Database System etc.*

Every legal office adopts its own standards towards administrative matters and case file management. This module will explain the elements of the office administrative system, including the database management system, which will operate within the Cell to ensure that comprehensive and accountable legal files are maintained by the office.

Financial Implications:

DLSA shall bear the entire expenses in relation to all training and sensitization programs, skill enhancement and orientation programs, etc. However, BBA shall provide all assistance regarding the smooth management and organisation of all such trainings and programs.