

**Address by Hon'ble Minister of Law & Justice
at the Inaugural Session of 12th All India Meet of
State Legal Services Authorities
on 21st March, 2015 at Ranchi**

Hon'ble Chief Justice of India, Shri Justice Dattu, Patron-in-Chief, NALSA, Shri Justice Thakur, Executive Chairman, NALSA, Shri Justice Dave, Judge, Supreme Court of India and Chairman, Supreme Court Legal Services Committee, Shri Justice Virender Singh, Chief Justice and Judges of Jharkhand High Court and Executive Chairpersons of the State Legal Services Authorities Ladies and Gentlemen,

I feel it appropriate to begin by invoking the memory of Late Justice V.R. Krishna Iyer, who believed that “society is guilty if anyone suffers unjustly”. In our deliberations today, let us keep this in mind. During Justice Iyer's tenure as the Chairman of a Committee for Legal Aid in 1973, a report was released which can be considered the cornerstone of legal aid development in India. The report emphasized the key role played by the State towards ensuring that the legal system effectively secures the ends of social justice.

I must also mention the efforts of Justice P.N. Bhagwati, who, a few years later in 1980, chaired the Committee for Implementing Legal Aid Schemes, a national level committee tasked to oversee and supervise legal aid programmes in the country. This Committee spearheaded the monitoring of legal aid activities. The concept of Lok Adalats was later explored, providing the citizens an additional medium to settle their disputes. As the concept of legal aid expanded, it was decided

that statutory bodies must be constituted, hence marking the beginning of NALSA and the SLSAs.

This tradition continues, and I extend my greetings and good wishes to all members and officers of the State Legal Services Authorities present here today. You are all key players in our aim to provide legal aid and access to justice to all our citizens. The provision of free legal aid is a significant cornerstone of social justice, and has also been recognized by the Hon'ble Supreme Court as a fundamental right under Article 21 of the Constitution.

“Equal Justice and Free Legal Aid” is enshrined in Article 39A of the Constitution by the 42nd Amendment Act 1976. We must ensure that no citizen is denied legal aid because of economic or any other disability. The directive principles as per Article 39A emphasise that free legal service is an inalienable element of reasonable, fair and just procedure. This ideal was further reiterated in the case of *Hussainara Khatoon v. State of Bihar*, which held that the fundamental right of legal aid was implicit in the procedural requirement of Article 21 of the Constitution – that a procedure that failed to make legal services available to an impoverished accused person could not be regarded as reasonable fair, and just. The accused persons have the right to an advocate of choice for their defence. They must be informed of their right to legal aid.

The responsibilities of legal aid providers are multiple. These include responding to requests for legal aid quickly and appropriately; gather relevant information from the police, the accused, and others; determining any vulnerabilities or special needs of the accused; checking the legality of the actions taken by

the police and taking the appropriate action if needed; adequately representing the accused at court hearings particularly paying attention to custodial detention.

The challenge, however, is implementation. In whatever decisions are made to further this ongoing effort of providing legal services, particularly to those who need it the most, you have the continued support and commitment of the Central Government.

Access to justice is essential to the realisation of human rights to all citizens of India. To this effect, the National Legal Services Authority (NALSA) has played a significant role since it was constituted in 1987. Most recently, it is impressive that NALSA has launched 2,648 village legal service clinics at a national level. This kind of progress indicates the efforts being made to bring legal services to the doorsteps of those who would otherwise have great difficulty in accessing legal aid. NALSA will also be using para-legal volunteers and empanelled lawyers to educate villagers who remain unaware about the laws and their rights. Just last month, over 56,000 cases at the national level were disposed of by the 3rd National Lok Adalat, which also saw the disbursement of Rs. 265 crore as claims towards final settlement in bank recovery and cheque bounce cases. As you can imagine, so many pending cases clog the system and do nothing more than prevent the ordinary citizen from accessing justice. NALSA is instrumental in bringing many positive changes and I welcome more such efforts. I am grateful to Hon'ble Chief Justice of India Shri H.L. Dattu and Justice Shri T.S. Thakur for enabling this.

Legal aid comes in many forms – legal aid clinics, Lok Adalats, prison legal aid clinics, pension Lok Adalats, awareness programmes, and spreading of legal awareness through other

creative means. For instance, through the Information and Broadcasting Ministry, NALSA has appealed to community radio stations to use its jingles and awareness programmes in order to spread information regarding NALSA and its services to the public. At the State level there are many positive interventions that have been made. The Delhi State Legal Services Authority will soon be creating standard operating procedures for one-stop centres for survivors of crimes against women.

While these are all positive steps, we are also dealing with a crisis in terms of our swelling undertrial population. It is of great concern that according to the National Crime Records Bureau (NCRB), 68% of the prison population consists of under trial prisoners (UTP). That means out of 10 prisoners, only around 3 of them have actually been convicted of any crime. Despite the inclusion of Section 436A in the Code of Criminal Procedure (CrPC) which permits the release of prisoners who have undergone detention for at least up to half the maximum period of imprisonment identified for that offence, the population of under trial prisoners continues to remain exceedingly high, and there is an urgent need to facilitate the timely release of these prisoners.

This is an opportunity which must be seized by the Legal Services Authorities. An institutionalized system is needed to ensure that nobody serves a term more than as prescribed by law. To begin this, it is essential to collect data on a regular basis from jail authorities. This would aid the judiciary in taking the necessary action to release under trials. Assistance may also be taken by legal aid clinics set up in Law Schools. Not only would that provide opportunity to young budding lawyers to learn about social

justice and criminal procedure, it would serve a dual purpose of using the manpower to collect accurate and uniform data.

Though Section 436A does not spell out specific duties and responsibilities for stakeholders, we can come together and coordinate ourselves to do the needful. I invite the Legal Services Authorities to take charge in this process. It is our responsibility to ensure that the large numbers of socially and economically disadvantaged people are not subject to unnecessary under trial detention as compared to more affluent and educated citizens. There is no doubt of the urgent need for legal aid clinics working at the prison level to provide the necessary legal aid to these under trial prisoners. It should be a topmost priority.

I will end by thanking you for inviting me to share my thoughts, and I wish you all the best in today's deliberations.
