

CHAPTER VIII

Working of the Legal Aid System in the State of Goa

8. INTRODUCTION

“The man of moderate means, who is faced with large expenditure in protection of his legal rights, is just as deserving of help as the man who is penniless and is faced with smaller Expenditure”¹

The empirical study of this research work, as we made a mention in the first chapter, is confined to the State of Goa. The reason for such a selection was that absolutely no research on legal aid had been conducted to assess, evaluate and analytically examine the working of the scheme in this State. The researcher being faculty in Law College and a member of State Legal Service Authority in State of Goa was another potent and a persuading factor for picking up State of Goa as the area of research. Again, for the purpose of expediency and keeping in view various constraints, two District Legal Services Authorities and State Legal Service Authority in State of Goa were selected for the study.

Further an attempt was made to test the hypothesis of the study with the collected data. The data was collected by using both primary and secondary sources.

This chapter is the yolk of the thesis where the substance and content of the provisions dealing with administration of the legal services is clearly, intently and critically looked into. This chapter contains 10 sub topics. It begins with

¹ Simon James & Chantal Stebbins, *A Dictionary of Legal Quotations* (Universal Law Publishing, New Delhi, 5th Indian reprint, 2004) 109

profile of Goa (8.1) which contains territory of Goa and post liberation laws in Goa; second part deals with Goa State Legal Services Authorities Rules (8.2); third part deals with Goa State Legal Services Authorities Regulations (8.3); fourth part deals with Goa State Legal Services Authorities (8.4), fifth part deals with Schemes of legal aid in Goa (8.5), sixth part deals with beneficiaries of legal aid in the State of Goa (8.6), seventh part deals with legal aid awareness activities (8.7), eighth part deals with expenditure of legal services authorities in the State of Goa (8.8), ninth part deals with role of law colleges in State of Goa with regard to legal aid activities (8.9), next part is the most important part i.e. opinion survey of Advocates, Judicial officers and legal luminaries in State of Goa by questionnaire method and by interview method. (8.10)

8.1 GOA: THE TERRITORY FOR EMPIRICAL RESEARCH

8.1.1 Profile of Goa

Goa is a very small state on the Southwest coast of India in the Konkan region bathed by two great rivers, the Mandovi and Zuari. It is located between Western Ghats and Arabian Sea. It is bound by Maharashtra in the North, Karnataka in the south and east. The beautiful coastline and lush greenery all across Goa, gives it a very special place in the tourism map of India and the people here are very pleasant and hospitable. The territory of Goa is situated

between the parallels of 15- 47'-59" North and 14-53'-54" East and 74-20'-11" West.²

It was under the sway of Kadambas, the dynasty is said to have flourished around 500B.C. and lasted until the thirteenth century. Later the territory came under Yadavas of Devagari and then under the dynasty of Adil Shah of Bijapur. The Portuguese conquered Goa in February 1510 lost it and reconquered it in November of the same year. Goa continued under the Portuguese until it was liberated in December 1961³. It was part of Union Territory of Goa, Daman & Diu till 30th May, 1987, when it was carved out to form a separate state.⁴

The word Goa was a misnomer at least in the first two centuries. The areas known as Old Conquests comprised the talukas of Ilhas, Salcette, Bardez and Marmagao. The first Portuguese administration was confined to the above strip of 220 square miles. The Portuguese later extended the rule to the New Conquests and from around the third quarter of eighteenth century, the term Goa was applied to the territories as enclosed to the present boundaries.

The territory of Goa has a length of 105 kms from north to south and it measures 60 Kms in its width west to east, its total area is 3,702 sq.kms. It is made up of 11 talukas, namely, Tiswadi, Bardez, Pernem, Bicholim, Sattari, Ponda, Sangurem, Cancona, Quepem, Salcette and Mormugao. For administrative purposes, it has been constituted into two districts i.e. North Goa (Six talukas-total area of 1736 sq.km) and South Goa (five talukas – total area

² Government of Goa, Daman and Diu, *Agricultural Census* (Economic Tables)

³ Carmo D'Souza, *Legal System in Goa, Laws and Legal Trends* (Published by Agnelo D'Souza, Goa, vol.1, 1994) 2

⁴ 25th State in Independent India, Inserted by the Goa, Daman and Diu Reorganization Act, 1987(18 of 1987) Sec.5 (w.e.f.30-5-1987)

of 1966 sq.km).⁵For the purpose of implementation of development programmes, the State is divided into 12 community development blocks⁶. As per 2001 census, the population of the State is 13, 42,998. In all there are 383 villages of which 233 are in North Goa district and 150 in South Goa district. As per the 2001 census there are 44 towns of which 14 are Municipalities and remaining are census towns.

Boundaries of Goa State are defined in the North Terekhol River which separates it from Maharashtra, in the East and South by Karnataka State and West by Arabian Sea. Goa lies in Western Coast of India and is 594 kms (by road) away from Mumbai city.

A very striking feature of Goa is harmonious relationship among various religious communities, who have lived together peacefully for generations. Though a late entrant to the planning process, Goa has emerged as one of the most developed states in India and even achieved the ranking of one of the best states in India with regards to investment environment and infrastructure.

8.2 LEGAL AID IN GOA UNDER THE PORTUGAL REGIME

Under the Portugal regime in Goa there was a legal aid – in seed form – to the deserving poor in certain judicial problems. It was not as explicitly provided as we have it now in the post-liberated Goa. The following revealing note⁷ excerpted from a Portugal gazette is proof enough to substantiate the above

⁵ Silvia m.de Mendonca C Noronha, *Exploited Children*, (Koteshwara Rao (ed.), Kanishka Publishers, New Delhi, 1st ed., 2000) 175

⁶ Available at <http://www.goagovt.nic.in>.

⁷ A facsimile of the original Portuguese Gazette in which it was published is attached as annexure number. VII and VIII.

statement. The following note is only a gist of the original Portuguese relevant material.

“Legal Aid then known as Judicial Assistance existed in some form or other during the Portuguese period at least as early as 1907. For instance the King of Portugal on hearing the Consultative Board of Overseas and the Council of Ministers decreed the extension of Carta de Lei to the State of India (Goa, Daman and Diu) which created Judicial Assistance in Civil matters. The Carta de Lei was decreed on 25th April 1907.⁸

The latest law on the field of Judicial Assistance prior to the liberation of Goa was contained in decree no.33.548⁹ of 1944. Article 35 of this decree repealed expressly the provisions of decree law No.15.344 dated 12/4/1928 and particularly Articles 814 to 855 of decree law no.15,344 Dt. 12/4/1928 . Hence this decree of 1944 applied to Goa on the eve of liberation and continued to do so until it was repealed by other laws promulgated subsequently in the post liberation period.

It is decided here to give a brief outline of the decree of 1944 which was in force on the date of liberation¹⁰. Art. 1 of the said decree (33,548) stated that the Judicial Assistance contemplated two types of benefits:

- a) Assistance of Advocate without payment of fees and
- b) Dispensation of payment of costs.

⁸ Gazette of Estado da India no 42, dated 28/5/1907. Also see D.G.No.94,de 29-4-907

⁹ Decree no .33.548 dated 23.2.1944 and enforced in territory of Goa by ministerial order no.11.504 dated 20/10/1946.

¹⁰ 19th Dec.1961.

The Sole Para to the article explains that in criminal matters also there is Judicial Assistance to the benefit of accused person and also in favour of aggrieved person who are permitted to prosecute the case on a complaint.

Art. 2 gave the benefit not only to pauper litigants but extended it to collective bodies of public utility. However no assistance was to be given unless proper application was made by the concerned person. Paragraph one to the above article explained who were to be considered as pauper. Paragraph three explained that it was permissible to grant partial assistance considering ones assets.

Art. 3 gave details of personal circumstances of the pauper who could be refused Judicial Assistance. For instance Aliens residing in Portuguese territories but citizens of those countries which were not conferring such benefits on Portuguese were not entitled for this benefit unless those countries were signatories to the Hague convention of 17th July 1905.

Art.4 indicated that the said assistance could be given before filing the proceedings or even during the pendency of proceedings.

Art.5 stated that it was possible to request for Judicial Assistance before the end of the trial.

Art.6 provided that in the criminal matters whenever an application was made by the accused, the proceedings were stayed until disposal of the application for Judicial Assistance.

Chapter II contained the provisions for the Constitution of the Commission as well as procedure for providing Judicial Assistance. During the Portuguese time there was a one representative of the Government, a Judicial Officer with the same qualification as a Judge known as “Ministerial Publico” and he was always to be heard on the application for Judicial Assistance. In case the application was rejected an appeal was provided under the same chapter. Whereas Chapter III dealt with the effects of the grant of Judicial Assistance, chapter IV indicated when the assistance came to an end.”

8.3 POST LIBERATION LAWS

The State of Goa was liberated on 19th December 1961 and an administrator was appointed to normalise the situation. Persons born prior to 20th December 1961 were given Indian citizenship. The Twelfth Amendment of the Indian Constitution¹¹ was enacted to include the territories of Goa, Daman and Diu into the First Schedule as a Union Territory and to apply to the territories the provision of Article 240, which enabled the President to make regulations for the peace, progress and good government of the territory. Therefore, the President made Regulations at the earlier stage. The Constitutional Fourteenth Amendment permitted the creation of a legislature for the Union territory of Goa, Daman, and Diu.¹²

¹¹ Constitution (Twelfth Amendment) Act, 1962. By this amendment territory of Goa, Daman and Diu, formerly a Portuguese colony was integrated into India as a Union Territory.

¹² Constitution (Fourteenth Amendment) Act, 1962 added a new Article 239-A which provided for the creation of the Legislatures and Council of Ministers in some of the Union territories.

Some important laws were passed during the early period such as ---

- a) The Goa, Daman and Diu (Administration) Ordinance, 1962¹³
- b) The Goa, Daman and Diu (Administration) Act, 1962¹⁴
- c) The Goa, Daman and Diu (Administration) Removal of Difficulties Order, 1962¹⁵
- d) The Goa, Daman and Diu (Laws) Regulation, 1962¹⁶
- e) The Goa, Daman and Diu (Laws) No.2 Regulation, 1962¹⁷

The Union Territory of Goa, Daman and Diu at the time of Liberation had a well-developed system of laws based on Portuguese jurisprudence. On Liberation, it was not feasible to maintain this legal system in the isolated pockets and it became imperative to bring in laws and legal trends prevailing elsewhere in India. This process of change was achieved to a great extent during the first five years after Liberation.

Many acts and laws prevalent elsewhere in India were extended to the Union Territory. The (Laws) Regulations of 1962, 1963 and Taxation Laws Regulations (1963) were mainly responsible for extending several Acts in force in States of India to the Union Territory. These Acts were enforced within a

¹³ Official Gazette no.10, 10th March 1962 at 31-32. This ordinance was promulgated by the President to provide for the administration of the Union Territory of Goa, Daman and Diu. The content of the Ordinance was incorporated into the Goa, Daman and Diu (Administration) Act, 1962.

¹⁴ All India Reporter 1962, Vol 49, Acts of Indian Parliament at.1-2. This Act was enacted by Parliament in order to provide for the administration of the Union Territory. The Act was deemed to have come into effect from 5th March 1962.

¹⁵ Official Gazette no 12, 22nd March 1962 at 37. This Order was deemed to have come into force from 20th December 1961.

¹⁶ Official Gazette No 41, 6th December 1962 at 279-285. This Regulation was promulgated by President under Article 240 of the Constitution. Acts and Ordinances specified in the schedule were extended to Goa, Daman and Diu.

¹⁷ This Act was enacted by Parliament to provide for Legislative Assemblies and Council of Ministers for the following Union Territories: (a) Himachal Pradesh, (b) Manipur, (c) Tripura, (d) Goa, Daman and Diu and (e) Pondicherry.

couple of years to the Union Territory, bringing the laws here on par with laws elsewhere in the country. For instance, the taxation laws were extended in the new financial year, on 1st April 1963 with the enforcement of Income Tax Act and other Acts. The Panel legislation in the form of Indian Penal Code and the Code of Criminal Procedure were extended on 1st October 1963. The Civil Procedure was extended in mid June 1966.¹⁸

The Legal Service Authorities Act 1987 applicable to State of Goa from 31st March 1997.¹⁹ This Act is applicable to the entire state which would cover all courts including High Court, District and Sessions Courts in North and South Goa, all subordinate Courts, and NDPS Court. In the State of Goa, High Court Legal Service Authority, District Court Legal Service Authorities and Taluka Level Legal Service Committee are working. Researcher is one of the nominated members of State Legal Service Authority since 2008.

8.3.1. Goa State Legal Services Authority Rules 1996

The Government of Goa in exercise of the powers conferred by Sec.28 of Legal Services Authorities Act 1987, in consultation with the High Court made the Goa State Legal Services Authority Rules, 1996.

Goa, as in many other fields, has taken the lead in the case of legal aid also. Goa government passed, Goa State Legal Services Authority Rules, 1996. The then Government of Goa was convinced that, in the administration of justice in both criminal and civil courts the members of the scheduled castes and

¹⁸ *Supra* note.3 at 254

¹⁹ S.O 149 (E) dated 31st March 1997

scheduled tribes and other persons who are poor are, in most of their cases, not in a position to engage counsel to appear and plead for them, and the absence of counsel for the conduct of their cases often cause great hardship on account of their cases being not properly presented before the courts of justice. It is with the noble intention of mitigating this unhappy aspect of administration of justice, Government of Goa made the rules to provide legal aid to the poor namely Goa State Legal Services Authority Rules,1996²⁰.

8.3.1.1 Goa State Legal Services Authority Rules: Basic features

These rules prescribe the number, experience and qualification of other members of state authority, powers and duties of member secretary of state authority, terms of office and other conditions relating to members and member secretary of the state authority. Similarly members of District authority, Taluk Legal Services Committees and their qualifications, services and the salaries, allowances are also prescribed.

a) Powers and Duties: The powers and duties of the member-secretary of the state authority inter alia shall be

- i) To give free legal services to the eligible and weaker sections.
- ii) To work out modalities of the Legal Services Schemes and Programmes approved by the State Authority and ensure their effective monitoring etc²¹.

²⁰Notification No.6/28/92/LD(Misc.1) 18th November,1996 (Published in the Official Gazette, Government of Goa dated 26th November 1996

²¹ Rule 4

b) Eligibility for Legal Aid: Any citizen of India whose annual income from all sources does not exceed Rs.50,000²² or such higher amount as may be notified by the State Government from time to time, shall be entitled to legal services, under cl.(h) of Sec.12 of the Act.

c) Experience and Qualifications of persons of Lok Adalats: A person is not qualified to be included in the Bench of Lok Adalat unless he is—

- i) an eminent social worker who is engaged in the upliftment of the weaker sections of the people, including Scheduled Castes, Scheduled Tribes, women, children , rural and urban labour or
- ii) a lawyer of standing or
- iii) a person of repute who is specially interested in the implementation of the Legal Services Schemes and Programmes.²³

8.3.2 Goa State Legal Service Authority Regulations 1998

The State Legal Services Authority in exercise of the powers conferred under the provisions of Section 29A of the Legal Services Authorities Act, 1987 in consultation with the Hon'ble Chief Justice of Bombay High Court, made the Goa State Legal Services Authority Regulation 1998.

8.3.2.1 Basic features of Regulations

Regulations deal with vesting of executive authority, functions of the State Authority and constitution, duties and functions of Legal Service Committees.

²² Vide Notification GoA/GSLSA/2/2005 dt.13th July 2005

²³ Rule 17

*a. Vesting of the Executive Authority*²⁴

The Executive Authority of the State is vested in the Executive Chairman and may be exercised by him through the Member Secretary who is to act under the control of the Executive Chairman. The Executive Authority of the High Court Legal Services Committee vests in its Chairman and may be exercised by through the Member Secretary who can act under the control of the Executive Chairman. The Executive Authority of the District Authority is vested in its Chairman and may be exercised by him through its secretary who can act under the control of the Chairman. The Executive Authority of the Taluka Committee vests in its Chairman and may be exercised either by himself or through such other officer who is chosen for the purpose.

*b. Functions of the State Authority under the Act*²⁵

- i. To conduct legal literacy camps in different parts of the State with a view to transmitting knowledge about the legal aid schemes conducted in the State and with a view to spreading consciousness about the legal rights and duties of citizens with special reference to the tribal and rural populations, women, children, disabled, handicapped and the weaker sections of the Society.
- ii. To finance public interest litigations before appropriate courts in the State Authority is prima facie satisfied that such litigations are for the general benefit of a large body or class of persons who cannot by

²⁴ Regulation 3

²⁵ Regulation 4

themselves take recourse of law due to penury, illiteracy or other similar reasons.

- iii. To conduct legal aid clinics in different parts of the State in collaboration with Law Colleges Universities and other social service organisations.
- iv. The State Authority may establish or direct the District Authority to establish, standing conciliation Committees for resolving legal disputes between the parties.

c. Duties and Functions of the High Court Legal Services Committee²⁶

Regulation 5 of Goa State Legal Services Authority Regulations consists of duties and functions of High Court Legal Services Committee²⁷ for providing free legal services to the eligible persons and conducting of the Lok Adalats.

d. District Authority

The term of office of the members of the District Authority has to be two years²⁸. The State Government may on the recommendation of the Patron-in-Chief and in consultation with Executive Chairman of State Authority remove any nominated member.²⁹

e. Additional functions of District Authority

Conduct legal literacy camps, and legal aid clinics³⁰; supervise, direct and guide the working of the Taluka Committee in the District; receive applications for legal services and ensure that every applications is promptly processed and

²⁶ Regulation 5

²⁷ Regulation 6 deals with constitution of High Court Legal Services Committee

²⁸ Regulation 8

²⁹ Regulation 9

³⁰ Regulation 10

disposed of; consider the cases brought before it for the Legal Service, including pre-litigation and encourage and promote conciliation and settlement in all legal proceedings, including pre-litigation.

*f. Conduct of Business*³¹ – The Member-Secretary of the State Authority, has to call meeting of the Authority at least once in a month as and when the business may warrant. The Minutes of the proceedings of every meeting has to be prepared by the Member-Secretary.

g. Legal Aid

i) Filing of application for legal services³²

A person seeking legal services by the High Court Legal Services Committee, District Authority or the Taluka Committee, as the case may be, has to send an application under affidavit containing the brief facts of the case, and where the applicant is a person as in Section 12(h) of the Act, not being one under any other classes of that Section, the Affidavit has also to state the details of the properties possessed by him and his annual income from all the sources.

ii) Scrutiny of Applications³³

The applications have to be scrutinised and disposed of by the Secretary of the High Court Committee, by the Secretary of District Authority and by the Chairman of the Taluka Committee, as the case may be.

³¹ Regulation 13-14

³² Regulation 16

³³ Regulation 17

- iii) Duty of Legal practitioner to take further action, after the decision of a case by the Court³⁴

The legal practitioner as soon as the case is decided has to apply for a copy of the judgment and decree if any and immediately on receipt of the copies shall submit them to the body appointing him together with his detailed comments. The Taluka Committee, the District Authority or the High Court Committee, as the case may be, shall take steps to recover the expenses of the services rendered from and out of the costs, if any awarded by the Court to the person concerned and received by him. Such bodies may also consider where necessary the feasibility of filing any appeal, revision or writ petition as they deem fit.

h. The Fees payable to the Legal Practitioners

The fees payable to the Legal Practitioners, representing the parties, in the matters to be filed and conducted is assigned by the High Court Legal Services Committee, District Legal Services Authority and Taluka Legal Services Committees, which shall be as per Schedule I, II, III appended to these Regulations respectively. However, for reasons to be recorded in writing the presiding judge may award a higher fee.³⁵

Schedules

This regulation has three schedules appended to it. The first schedule is with reference to regulation 19 on fees payable to legal practitioner's appearing in

³⁴ Regulation 18

³⁵ Regulation 19-21

the high court. The second schedule is with respect to regulation 20 on fees payable to legal practitioners appearing in district court matters. The third schedule is with respect to regulation no 21 with respect to fees payable to legal practitioner appearing in taluka civil and criminal courts.

Table 1

SCHEDULE I

(Vide Regulation No.19)

High Court Legal Services Committee	Minimum (per case) Rs.	Maximum (per case) Rs.
Writ Petition in the High Court	500.00	700.00
Writ Appeal in the High Court	600.00	800.00
Letters Patent Appeal	600.00	800.00
Second Appeal in the High Court	1000.00	1500.00
First Appeal in the High Court	1200.00	1600.00
Appeal from Order	400.00	600.00
Civil Miscellaneous Application	200.00	200.00
Civil Revision Petition	400.00	600.00
Criminal Appeal	500.00	1000.00
Criminal Revision	400.00	600.00
Criminal Miscellaneous Application	200.00	200.00

It may be observed that fees to legal aid counsels in High court vary on the basis of Writ, Appeal, Miscellaneous Applications, and Revision. It shows that the fees for Advocates in First Appeal and Second Appeal cases are more than in other matters.

³⁶ The figures in the table have been updated 31st March 2010

Table 2
SCHEDULE II
(Vide Regulation 20)

District Court Legal Services Committee	Minimum (per case) Rs.	Maximum (per case) Rs.
Session Case	800.00	1200.00
Criminal Appeal	400.00	600.00
Criminal Revision	200.00	300.00
Regular Civil Appeal	600.00	800.00
Miscellaneous Civil Appeal	400.00	600.00
Motor Accident Claim Petition	600.00	1000.00
Miscellaneous Civil Application	100.00	200.00
Miscellaneous Criminal Application	100.00	200.00

Table 2 explains fees of Legal Aid counsels in District and Sessions Court. It shows that comparatively fees to Sessions case are more than in any other matter in the District Court. But in fact the researcher observed that³⁸ there was much dissatisfaction among the advocates with regard to payment of fees. Because for entire case Rs.800 is so meagre whereas for Government Advocate payment is according to hearings i.e. per hearing they are paid Rs.300 or more.

³⁷ The figures in the table have been updated 31st March 2010.

³⁸ For further information see "Opinion of Advocates" in page no.303 of this research thesis

Table 3

SCHEDULE III

(Vide Regulation No.21)

Taluka Legal Services Committee	Minimum (per case) Rs.	Maximum (per case) Rs.
Special Civil Suit in the Court of Civil Judge Sr.Division	800.00	1200.00
Regular Civil Suits in the Court of Civil Judge, Sr. Division/Civil Judge, Jr. Division	600.00	800.00
Regular Criminal Case	400.00	600.00
Criminal Cases to be tried summarily	200.00	300.00
Miscellaneous Civil Application	100.00	200.00
Miscellaneous Criminal Application	100.00	200.00

Table 3 shows that the fee of the legal aid counsel depends on subject matter of the suit/criminal case. However the amount is very meagre for a case. It was observed that the main reason for adverse response of the advocates is mainly due to the fee structure. Unless Advocates fees to meet their minimum expenses, they cannot come forward as expected by the Authorities⁴⁰.

³⁹ The figures in the table have been updated 31st March 2010.

⁴⁰ The Goa State Legal Services Authority proposed, in plan of action for 2010-2011, to increase Honorarium for the lawyer so as to bring more competent, renowned and Senior lawyers in the field for rendering legal services and legal aid

8.3.3 Legal Service Authorities in State of Goa

In the exercise of the powers conferred under Legal Services Authorities Act⁴¹, Government of Goa constituted the State Legal Services Authority. Similarly High Court Legal Services Committee⁴², District Legal Services Authorities⁴³ and Taluka Legal Services Committees⁴⁴ were constituted.

8.3.3.1 Goa State Legal Services Authority

This Authority consists of an Executive Chairman, Member Secretary, Ex-officio members and non-official members. In exercise of the powers conferred by of Section 6 (2) (c) of Legal Services Authorities Act read with sub rule (3) of the Goa State Legal Services Authorities Rules, 1996 the Government of Goa in consultation with the Hon'ble Chief Justice of High Court of Bombay nominates non- official members from different fields.

8.3.3.2 North Goa District Legal Services Authority and Taluka legal Services Committee

In exercise of powers conferred in Sec.9 and Sec.11A of the Act, Government of Goa constituted the following authorities for district and taluka level in North Goa District.

⁴¹ Sec.6, Legal Services Authorities Act

⁴² Sec.8A, Legal Services Authorities Act

⁴³ Sec.9, Legal Services Authorities Act

⁴⁴ Sec.11A, Legal Services Authorities Act

Table 4

Sl. No	Name of Authority/Committee	Venue
1	North Goa District Legal Services Authority, Panaji.	District & Sessions Court, Panaji.
2	Tiswadi Taluka Legal Services Committee, Panaji.	District & Sessions Court, Panaji.
3.	Bardez Taluka Legal Services Committee, Mapusa.	N.D.P.S Court, Mapusa, Goa.
4.	Ponda Taluka Legal Services Committee. Ponda.	Civil and Criminal Court building, Ponda – Goa.
5.	Bicholim Taluka Legal Services Committee, Bicholim.	Civil and Criminal Court building, Bicholim – Goa.
6.	Pernem Taluka Legal Services Committee, Pernem.	Civil and Criminal Court building, Pernem – Goa.
7.	Sattari Taluka Legal Service Committee, Sattari.	Civil and Criminal Court building, Valpoi – Goa.

Source: North Goa District Legal service Authorities, Panjim, Goa

Table 4 shows that in North Goa District there is one District Legal Services Authority and six taluka Legal Services Committees one for each taluka.

8.3.3.3 South Goa District Legal Services Authority and Taluka Legal Services Committee

In exercise of the powers conferred in Sec.9 and Sec.11A of the Act, Government of Goa constituted the following authorities for district and taluka levels in the South Goa District.

Table 5

Sr.No	Name of Authority/Committee	Venue
1	South Goa District Legal Services Authority, Margao	Principal District & Sessions Court, Margao
2	Salcete Taluka Legal Services Committee, Margao	C.J.M Court and Civil Judge Senior Division,
3.	Mormugoa Taluka Legal Services Committee, Vasco	Civil Judge Senior Division and JMFC
4.	Cancona Taluka Legal Services Committee, Cancona	Civil Judge Junior division and JMFC
5.	Quepem Taluka Legal Services Committee, Quepem	Civil Judge Senior Division and JMFC
6.	Sanguem Taluka Legal Services Committee, Sanguem	Civil Judge, Junior division and JMFC

Source: South Goa District Legal service Authorities, Margao, Goa

Table 5 shows that in South Goa District there is one District Legal Services Authority and five taluka Legal Services Committees, one for each taluka.

8.4. PANEL OF ADVOCATES – GOA STATE LEGAL SERVICES AUTHORITY⁴⁵

Goa State Legal service Authority appoints a panel of advocates for representing the indigent persons. Similarly, District Legal Service Authority and Taluka Legal Service Authority appoints a panel of advocates. However, at District and Taluka levels, different advocates are appointed to represent the case at different stages such as remand and trial. In addition to District and Taluka level, a panel of advocates is also appointed to represent indigent persons in Lok Adalats.

8.4.1. Scheme for Legal Aid Counsel in the Courts of Magistrates in the State of Goa⁴⁶

The Authority has implemented legal aid counsel scheme in the Courts of Magistrates. Remand advocates have been appointed to take up and defend the cases of arrested persons. Similarly, legal representation is available at different levels such as trial stage and also for preparing appeal.

a) Scope and the purpose of the Scheme

Emphasis of the scheme shall be to provide Legal Assistance to persons in custody at the following three stages namely:

- i. Opposing applications to Magistrate for remand to police custody and getting released the persons in custody, on bail.**

⁴⁵ List approved by Hon'ble Executive Chairman of GSLSA on 26th November 2008

⁴⁶ In exercise of the powers conferred by section 29-A r/w clause (g) of section (2) and Clause (G) of section 12 of the Legal Services Authorities Act 1987 (Act No.39 of 1987) as amended and in pursuance of the direction of the National Legal Services Authority dated 10th June 1998 vide their letter No.F.No 6(2)/98-NALSA -1269 the Goa State Legal Services Authority made the scheme.

- ii. Legal Assistance to persons in custody during trial for his defence.
- iii. Legal Assistance for preferring appeal or revision in the case of adverse orders against the person in custody.

b) *Entitlement to legal aid and assistance*

Any person in custody as provided in section 12(g) and produced before a magistrate during investigation, enquiry or trial, who is not represented by an Advocate shall be entitled to the services of a Legal Aid Counsel⁴⁷

c) *Panel of legal aid counsel*⁴⁸:

Prior to passing of the Legal Services Authorities Act, Presiding Officers of the Courts by exercising their powers used to appoint amicus curie. But now there is a panel of legal aid counsel in all courts. The following are some of the important rules for panel advocates.

- a. The District Legal Services Authority shall in the first instance identify all the Courts of the Magistrates in their respective Districts for attaching Legal Aid Counsels.
- b. In case the work load in a particular court or courts is too little, one Legal Aid Counsel may be attached to two courts.
- c. The District Legal Services Authority to which the implementation of the scheme is entrusted may prepare a panel of Legal Aid Counsel preferably with a standing of minimum 5 years on criminal side.

⁴⁷ Clause 4 , Scheme for Legal Aid Counsel

⁴⁸ Clause 5, Scheme for Legal Aid Counsel

- d. The panel so prepared by the District Legal Services Authority shall be sent to the State Authority for the approval of the Honourable Executive Chairman.
- e. The term of the panel of the Legal Aid Counsel shall be three years from the date of its approval.
- f. The District Legal Services Authority shall, before the expiry of the term of the panel shall initiate the process for the preparation of a fresh panel.
- g. The District Authority may, in preparing a fresh panel consider suitability including the past performances, of Legal Aid Counsel whose term is to expire, for re-employment.

d) *Displaying the name and address of the legal aid counsel:*⁴⁹

Merely appointing/nominating advocates for legal aid is not fulfilling the basic concept. Public in general and indigent persons in particular has to know the names of the advocates and the available facility. Hence publication of the scheme as well as the names of the panel advocates plays vital role in serving the purpose.

- i. The names and addresses of the Legal Aid Counsels so empanelled shall be displayed on the notice board of the District Legal Services Authority as well as that of the Courts concerned to which a particular member on the panel is attached as a Legal Aid Counsel with a requisite information as to who are eligible persons to have Legal Aid under this Scheme. It shall also be clearly mentioned in such display that no payment is

⁴⁹ Clause 6, Scheme for Legal Aid Counsel

required to be made by the party or on his behalf, in cash or in kind to the Legal Aid Counsel.

- ii. The Scheme of Legal Aid Counsel shall be given wide publicity in the area falling within the jurisdiction of the District Authorities and the Taluka Committees by displaying hoardings at places like police station, jails, lock ups etc.

e) *Appointment of legal aid counsel and termination of the facility*⁵⁰

The Magistrate appoints the advocate on the basis of need of the party and stage of the case. Similarly once the purpose is achieved or party misused the facility, the legal aid facility can be terminated.

- i. The empanelled Legal Aid Counsel attached to a particular Court or Courts shall be appointed by the Magistrate presiding over that Court, to represent the person in custody, if he is not otherwise represented, to oppose an application for remand to police custody, to apply and contest application for bail to get such person released or to defend him at the trial of any summons or warrant case or any case tried by summary procedure.
- ii. The appointment of Legal Aid Counsel for the person in custody shall be made by an order in writing to be passed by the magistrate presiding over that court and copy of the order of appointment in the prescribed proforma (Form "A") shall be given to the counsels so appointed and one copy shall be sent to the District Authority for record.

⁵⁰ Clause 7, Scheme for Legal Aid Counsel

- iii. The facility of Legal Aid Counsel given to the person in custody shall stand terminated—
 - a. On and from the day such person is set free from custody on bail or otherwise or
 - b. The person in custody engages any other advocate of his own or is found by the Magistrate to be misusing the facility of Legal Aid Counsel or
 - c. On attainment of the purpose for which Legal Aid Counsel was appointed.
- iv. If there are several different proceedings against the person in custody there shall be separate order of appointment of Legal Aid Counsel for each such proceeding.

f) *Duties and Functions of Legal Aid Counsel*⁵¹

Legal Aid Counsel shall be obliged to be prompt and punctual by remaining present before the court assigned to him during remand hours and also at the time and place fixed by the Magistrate.

It shall also be obligatory for the Legal Aid Counsel to be sincere and diligent in rendering all the necessary services as per law to the person in custody with the aim of protecting interest of such person.

g) *Appeal, Revision etc Before the Sessions Court or the High Court*⁵²

If the person in custody against whom orders are passed prefers an appeal or revision before the Sessions Court or High Court⁵³ can avail the service or assistance of Legal Aid Counsel.

⁵¹ Clause 8, Scheme for Legal Aid Counsel

⁵² Clause 9, Scheme for Legal Aid Counsel

h) *Removal of the Name From the Panel of Legal Aid Counsels*⁵⁴

Role of the judiciary will not come to an end by appointing a council for the party who is unable to afford, but continues till the case is completed. This means judiciary has to observe the proceedings and steps taken by the legal aid counsel. If the presiding officer finds that legal aid the legal aid counsel is not functioning properly for the interest of the client, he has to inform the Chairman of the District Legal Services Authority, who in turn has to hold a fact finding inquiry in the matter of allegation. On completion of inquiry he has to submit the report along with recommendations to State Legal Services Authority. According to the directions of State Legal Services Authority, the District Legal Services Authority can remove the name of the advocate from the panel.

i) *Remuneration or fee payable to legal aid counsel*⁵⁵

Remuneration or fee to the Legal Aid Counsel shall be dependent on the nature of proceeding. A consolidated remuneration for opposing remand, making application for bail, shall be according to Schedule I. Similarly fee differs from stage to stage and that of a summons case and a warrant case, depends upon the Schedules.

In addition to the amount mentioned above, the amount actually spent on account of payment of Court fee, typing charges and other incidental

⁵³ Subject to approval of the Member Secretary

⁵⁴ Clause 10, Scheme for Legal Aid Counsel

⁵⁵ Clause 11.

expenditure shall also be payable to legal aid counsel if borne by him and subject to production of proof of such expenditure.⁵⁶

The claim for remuneration or fee shall be supported by a copy or copies of the order of appointment and a certificate of attendance under the signature of the Presiding Judge of the Court concerned, and in case of High Court under the signature of the Court Superintendents.

It is submitted that the cumbersome procedure is one of the cause for adverse response from Bar towards legal aid panel.

The expenditure to be incurred towards payment of fee/remuneration or Incidental charges shall be defrayed from State Legal Aid Fund or Grant in Aid allotted to the authorities.

Schedules

This Scheme has three schedules appended to it. The first schedule is with reference to clause 11 on fees payable to legal practitioners appearing before the Judicial Magistrate. It has four categories, remand, summons case, warrant case and case tried by summary procedure. The second schedule is with respect to clause 11 on fees payable to legal practitioners appearing in Session's Court matters. The third schedule is with respect to clause 11 with respect to fees payable to legal practitioner appearing in High Courts.

⁵⁶ Sub clause 1(V) of Clause 11.

Table 6

Schedule I (See Clause 11 of the Scheme)

Sl. No	Nature of Proceedings before Magistrate	Minimum	Maximum	But not exceeding in the whole
1.	Remand/Bail etc.	Consolidated fee of Rs.500/-p.m	Consolidated fee of Rs.500/- p.m	Consolidated fee of Rs.500/-p.m
2.	Summons Case	Rs.75/-(per effective date of hearing)	Rs.100/-(per effective date of hearing)	Rs.750/-(per effective date of hearing)
3.	Warrant Case	Rs.100/-(per effective date of hearing)	Rs.200/-(per effective date of hearing)	Rs.1000/-(per effective date of hearing)
4.	Any case tried by Summary Procedure	Rs.50/-(per effective date of hearing)	Rs.75/-(per effective date of hearing)	Rs.500/-(per effective date of hearing)

Table 6 shows that for Remand and Bail petitions there is a consolidated fee. Of course it is a welcome provision being most of the cases for remand and bail being to preliminary stage of the case. It is to be noted that when a person from outside the state or district is arrested he may neither be in a position to appoint an advocate nor would it be possible for his relatives to approach a Court within reasonable time. With regard to other matters as shown in the table, amount is so meagre even though it is on the basis of hearing.

⁵⁷ This scheme approved on 26th Nov. 2008. The figures in the table have been updated 31st March 2010

Table 7
Schedule II
Sessions Court

Sl. No	Nature of Proceedings	Minimum Consolidation fee P.M.	Maximum Consolidation fee P.M.	not exceeding the whole P.M.
1.	Application for bail	Rs.500/-	Rs.500/-	Rs.500/-
2.	Revision	Rs.750/-	Rs.750/-	Rs.750/-
3.	Appeal	Rs.1000/-	Rs.1000/-	Rs.1000/-

From the above table it is quite evident that though the scheme is titled as scheme for advocates in Magistrates Courts but tables annexed to the scheme give the particulars of fees of Sessions Court and High Court too. This table provides for fees for bail, revision and Appeal as a consolidated amount.

Table 8
High Court

Sl.No	Nature of Proceedings	Minimum not exceeding P.M.	Maximum exceeding P.M.	not exceeding the whole P.M.
1.	Application for bail	Rs.750/-.	Rs.750/-.	Rs.750/-.
2.	Revision	Rs.1000/-	Rs.1000/-	Rs.1000/-
3.	Appeal	Rs.1500/-	Rs.1500/-	Rs.1500/-

⁵⁸ *Id.*

⁵⁹ *Id.*

As it can be seen from the above table, with regard to High Court matters, evidently the fees is better than in the remaining courts. It was observed by the researcher that getting Legal Aid advocates at higher courts is more difficult than in lower courts. Only senior advocates practise in higher courts. Hence for senior advocates the amount mentioned in the table is so meagre too be attractive. However, if senior advocates sincerely feel that it is a social obligation, and such culture develops among the members of the Goa Bar, they will come forward to assist the poor and needy.

8.5 BENEFICIARIES OF LEGAL AID

One of the main objects of the research is to find out the number of beneficiaries in the State of Goa with respect to Legal Service Authorities at all levels i.e. the High Court Legal Services Authorities and the District Legal Services Authorities.

8.5.1. Beneficiaries of legal aid in High Court, Bombay Bench at Goa from the year 2002-2009

In order to statistically analyse the number and type of beneficiaries the following data was collected from the State Legal Services Authorities for the period 2002-2009.

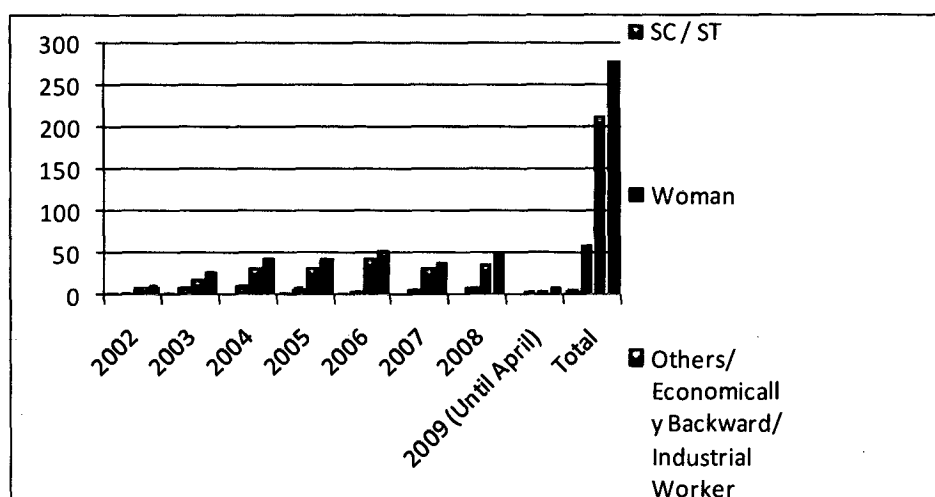
Table No. 9

Year	SC &ST	Woman	Others/Economically Backward /industrial worker	Total
2002	1(SC)	1	9	11
2003	1(ST)	10	18	29
2004	Nil	12	33	45
2005	2(ST and SC)	9	34	45
2006	2	5	45	52
2007	Nil	7	32	39
2008	Nil	10	38	48
2009 (till April)	Nil	4	5	9
Total	6	58	214	278

Source: State Legal service Authorities, Goa

From Table 9, it is evident that majority of the beneficiaries are from economically backward class and industrial workers. The beneficiaries under the category of SC and ST are low as the population in those categories is small in the State of Goa. With the rising consciousness and the accelerated working of the scheme in the state, we notice that there is an increase in legal aid beneficiaries. The details of the table are shown in the form of bar chart (Fig.No.1).

Fig No. 1



8.5.2 Legal aid beneficiaries in North Goa District from the year 2002-2009.⁶⁰

Table 10

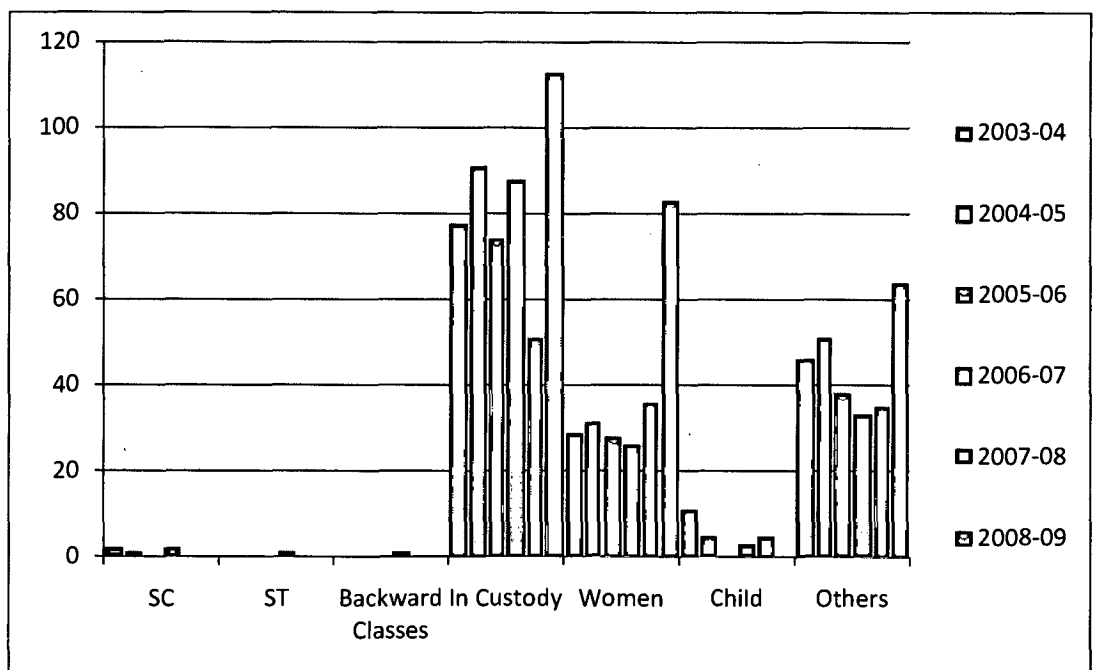
Year	SC	ST	OBC	In Custody	Women	Child	Ors.	Total
2002-2003	-	-	-	-	-	-	-	61
2003-2004	2	-	-	78	29	11	46	166
2004-2005	1	-	-	91	31	5	51	179
2005-2006	-	-	-	74	28	-	38	140
2006-2007	2	1	1	88	26	3	33	154
2007-2008	-	-	-	51	36	5	35	127
2008-2009	-	-	-	113	83	-	64	260
Total	5	1	1	495	233	24	267	1026

Source: North Goa District Legal Services Authority, Panjim

⁶⁰ Source—Information from the Chairman, North Goa District Legal Services Authority, Panaji, Goa, vide letter no. DLSA/NG/327-II/2008/3y, dated 15th January 2008.

Based on table 10 it is evident that the majority of the beneficiaries in North Goa district are persons in custody. It is also evident that the women beneficiaries are also gradually increasing. With the rising consciousness, the accelerated working of the scheme in the state, we notice an increase in legal aid beneficiaries. It may be noted from the table that the number of beneficiaries is gradually increasing. The details of the table are shown in the form of bar chart (Fig.No.2).

Fig No. 2



8.5.3 Legal aid beneficiaries in South Goa District from the year 2003-2008

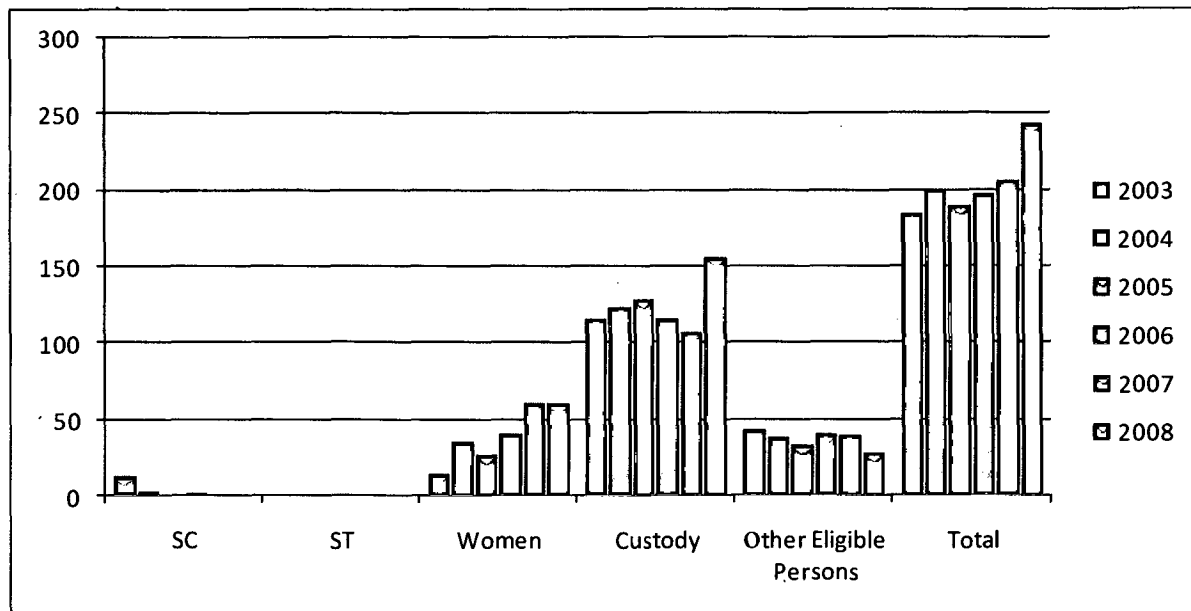
Table. 11

Year	SC	ST	Women	Custody	Other Eligible Persons	Total
2003	12	-	14	116	43	185
2004	3	-	36	123	37	199
2005	1	-	27	129	33	190
2006	2	-	40	115	40	197
2007	-	-	61	106	39	206
2008	-	-	60	156	28	244

Source: South Goa District Legal Services Authority, Panjim

Table 11 shows that beneficiaries in South Goa are higher compared to North Goa. One similarity in both Districts is that out of the beneficiaries, persons in custody are more in number. It reveals that the provisions of legal aid are being utilised by those arrested persons who are unable to appoint an advocate. In fact the researcher noticed, from information given by the Senior Advocates in interviews that mostly habitual offenders are benefiting from these provisions. The details of the table are shown in the form of bar chart (Fig.No.3).

Fig No. 3



8.6 LEGAL AID AWARENESS ACTIVITIES

The provisions of law will be purposeful and fruitful only when the beneficiaries come to know about the provisions and utilise the provisions for their purpose. This proper utilisation depends upon organization or conducting of various legal aid camps in the rural areas to reach the people. It is decided to outline first the news letter of Goa State Legal Services Authority and then follow it with tables and charts of the programmes conducted and expenditure incurred by the concerned authorities.

8.6.1 Goa Nyaya Deep

A news letter of Goa State Legal Services Authority titled '*Goa Nyaya Deep*' was launched in the year 2002. This newsletter seeks to promote legal literacy and awareness among the citizens in the state of Goa and to propagate the

activities of the various Legal Services Authorities in the State so that legal assistance is made available to common man, especially the poor, the weak and the marginalised, to enable him to access justice.

This journal contains the activities of legal service functionaries and provides information about the schemes and programmes initiated by the Authority from time to time, statistical data, articles on various legal aspects and welfare legislations. The journal will spread awareness about the legal aid facilities⁶¹.

⁶¹ Available at http://slsagoa.nic.in/newsletter/goanya_march2002.pdf visited on 18-4-10

8.6.2. Legal Awareness camps conducted in North Goa district from the year 2002-2009⁶²

Table 12

Sr.no	Year	Nos. of Legal Literacy Camps	Expenditure	Addl. Camps/ week etc.	Expenditure
1	2002-03	12	-	--	--
2	2003-04	12	-	---	---
3	2004-05	12	12,633	13	20,694
4	2005-06	11	9,072	23	22,513
5	2006-2007	12	22,337	25	30,069
6	2007-2008	11	10,541	34	35,031
7	2008-2009	10	8,351	22	23,775
Total	7years	80	62,934	117	1,32,082

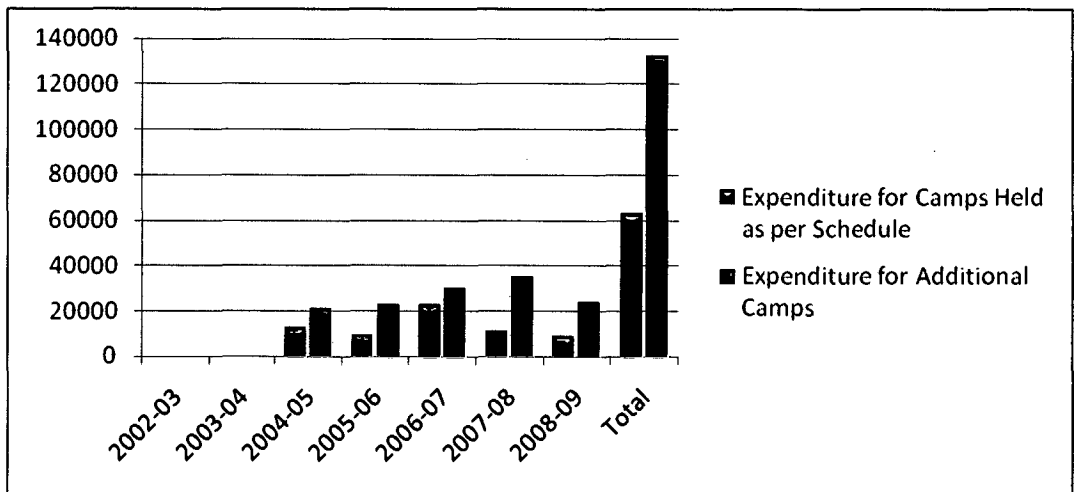
Source: North Goa District Legal Services Authority, Panjim.

It can be observed from the Table 12 that North Goa District Legal Services Authority conducted one camp per month till 2004. However, the authorities, in addition to the major activities, started conducting minor programmes since 2005. In fact these activities are inadequate to create awareness among the public about the legal aid.

⁶² Source—Information from the Chairman, North Goa District Legal Services Authority, Panaji Goa, vide letter no. DLSA/NG/327-II/2008/3y, dated 15th January 2008

The Researcher observed that from 2009-2010 onwards District Legal Services Authorities started to conduct their legal literacy activities in association with the Law College Legal Aid Cells. Each legal aid cell conducted at least one programme. Also every month four legal aid cells conducted the legal awareness camp in association with District Legal Services Authorities. Details of the programme are discussed in 6.10 of this chapter under the subtitle “Role of Law Colleges in promoting Legal Aid”. The above table is analysed with the help of a bar chart (Fig.No.4).

Fig No. 4



8.6.3 Legal Awareness camps conducted in South Goa district from the year 2004-2008

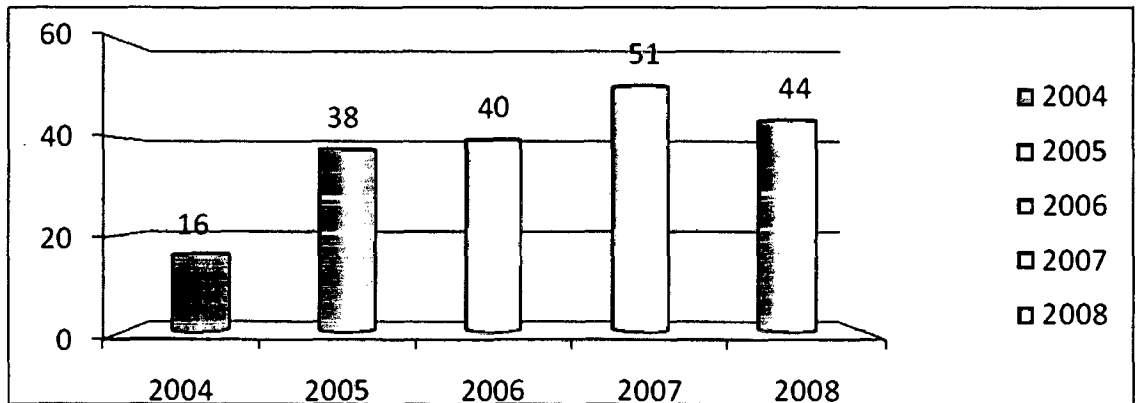
Table 13

Year	Programmes conducted
2004	16
2005	38
2006	40
2007	51
2008	44

Source: South Goa District Legal Services Authority, Panjim.

It can be observed from the Table 13 that South Goa District Legal Services Authority also conducted several legal literacy camps. During the camps, Authorities distributed literature on procedure for applying for legal aid which included information on how to apply, to whom to apply, who are eligible for legal aid, and about Lok Adalats etc. In addition Legal Services Authorities are conducting counselling and conciliation programmes on particular Saturdays in different Talukas. The details of table 13 are shown in the form of bar chart (Fig.No.5).

Fig No. 5



8.6.4 Micro legal literacy scheme

Goa State Legal Services Authority also approved the scheme of Micro Legal Literacy prepared by National Legal Services Authorities.

According to the above scheme, programmes have to be conducted on Saturday, Sunday, or any other holiday. These programmes have to be conducted in places like jails, hospitals, religious places, schools, Labour Colony etc. The topics/subjects/provisions of law which will be explained to them are based on the audience/target group. For instance, if the audience is women then the topic has to be relating to women laws.

District /Taluka Legal Services Committee have to form a team to conduct legal literacy camp. The team has to be well equipped with the various provisions of law to be addressed to the public. Material required for the team has to be supplied by Legal Service Authorities. Micro Legal Literacy Camp has to be conducted in a simple manner without any garlanding, putting shawl, lunch or dinner.

On the basis of above plan North Goa District Legal Services Authorities conducted micro legal literacy programmes in co-ordination with Salgaocar College of Law, Miramar, Panaji.⁶³

8.6.5 Legal Aid Clubs in Schools and Colleges

Under the guidelines of National Legal Services Authority⁶⁴ for setting up Student Legal Clubs, South Goa District Services Authority set up 17 clubs in the South Goa District.⁶⁵ They are:

(1) Government College of Arts, Science & Commerce, Quepem, Goa (2) Holly Cross Institute, Quepem, Goa (3) Guardian Angel Higher Secondary School, Curchorem, Goa, 4) St. Anthony School, Margao (5) Smt. Chandrabhaga Tukoba Naik Higher Secondary School, Curochorem, Goa (6) Shri. Mallikarjun Vidyalaya High School, Nagarcem, Canacona (7) St. Anne's Institute, Agonda, Canacona (8) St. Anthony's High School, Loliem, Canacona (9) Tudal High School, Tudal, Gaodongri (10) Shri Shradhanand Vidyalaya, Paingin, Canacona (11) Government High School, Agonda, Canacona (12) Government High School, Gaval Khola, Canacona (13) Government Higher Secondary School, Canacona (14) Shri. Mallikarjun College of Arts and Commerce, Delem, Canacona (15) Government High School, Valkini, Sanguem (16) Union High School, Sanguem (17) Utkarsha High School, Rivona.

⁶³ For details of the Micro Legal Aid Programmes Conducted by District Legal Services Authority see 6.10 Role of Law Colleges.

⁶⁴ See 5.16.3 in this thesis

⁶⁵ Vide letter no DLSA/MAR/L.L.Club/2010/320 dated 31st march 2010.

The clubs that were set up were briefed about the *modus operandi* of Legal Services, Pre-Litigation Settlement of disputes, Lok Adalats and ADR system generally. They are advised to encourage and identify persons in their neighbourhood who desire Legal Aid and who are in need of protecting their rights conferred on them by the laws.

8.7 SCHEME FOR LEGAL SERVICE TO DISASTER VICTIMS⁶⁶

A scheme was prepared by Goa State Legal Services Authority for Legal Services to disaster victims. According to the scheme a Core Group is required to be established under the control of the District Legal Services Authority to spring into action in the event of disaster whether man-made or natural. District Legal Services Authorities are entitled to intervene and co ordinate with the State Government authorities and the District Administration to ensure all these basic needs to the victims of such disasters.

8.8 ESTABLISHMENT OF MEDIATION CENTRE AND PERMANENT LOK ADALAT

Goa State Legal Services Authority established Mediation Centre and Permanent Lok Adalat on 21st March 2009 in the High Court Building.⁶⁷ Mediation Awareness Programme for Advocates and Training of Referral Judges was conducted by Goa State Legal Services Authority on 20th and 21st June 2009.

⁶⁶ Vide letter no GSLSA/Misc file/2009 dated 2nd Nov.2009.

⁶⁷ Researcher being the member of State Legal Services Authority personally witnessed the inaugural function.

8.9 STATE EXPENDITURE ON LEGAL AID

For successful organization of activities finance is one of the most important factors. In the State of Goa grants and utilization of funds also are important indicators of the legal aid programmes and activities organized by the Authorities.

8.9.1 Budget allotment and expenditure in State Legal Service Authority (High Court)

Table 14

Year	Budget allotted in Rs.	Expenditure in Rs.	Balance in Rs.
2007-2008	12,00,000	6,07,794	5,92,206
2008-2009	12,00,000	6,22,077	5,77,923

Source: State Legal Services Authority, Goa.

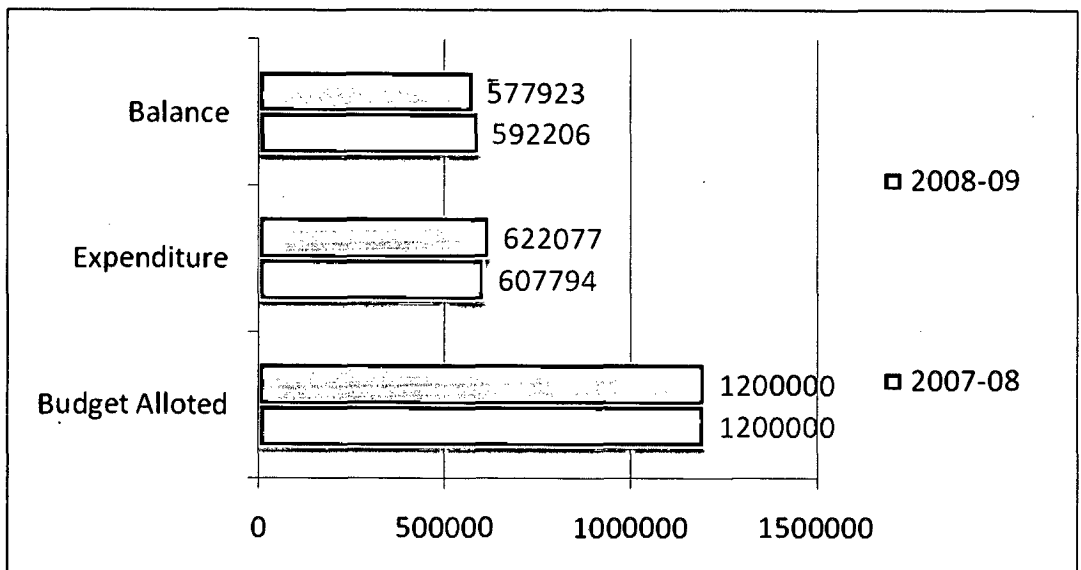
An analysis of Table 14 reveals that the fund utilised is around 50% of the allotted budget. It shows that State Legal Services Authority has to put more effort in organising effective programmes and spend more funds for proper purposes like conducting seminars, conferences and publishing and distributing awareness literature, which in turn will help the villagers to be aware of their rights.

It was observed that the Chairman of the Authority being a sitting Judge of High Court, is always busy with hearing of appeals etc, and is unable to allot sufficient time for functioning and monitoring of Legal Services Authority.

Hence, some of the Honourable Judges suggested that there is a need for independent secretary to exclusively deal with Legal Services Authority matters.

Table 14 is represented in the form of bar chart (Fig.No.6)

Fig No. 6



8.9.2 Grant-in-aid received, expenditure incurred in North Goa and balance surrendered to Government at the end of the year from 2003-2009

Table 15

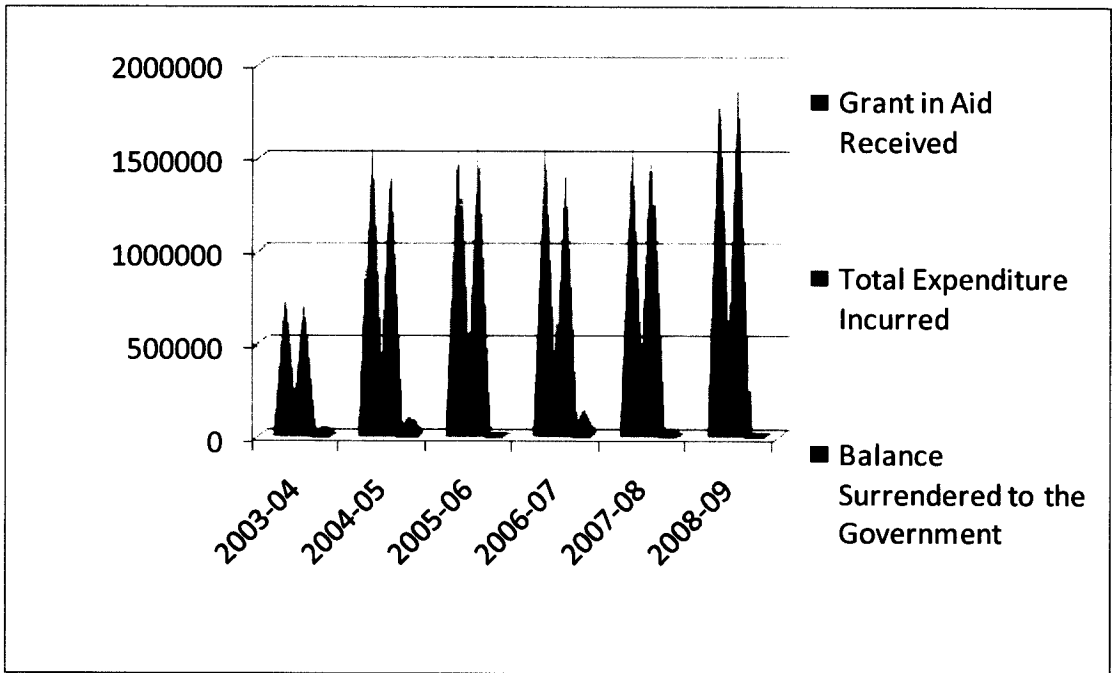
Year	Grant in aid received in Rs.	Total expenditure⁶⁸ incurred in Rs.	Balance surrendered to government in Rs.
2003-04	784000	732559	51441
2004-05	1600000	1490849	109151
2005-06	1600000	1586397	13603
2006-2007	1600000	1453199	146801
2007-2008	1600000	1568304	31696
2008-09	1925000	1924451	549

Source: North Goa District Legal Services Authority, Panjim

Table 15 shows that the North Goa District Legal Services Authority utilised almost the total of the allotted fund in the budget. Especially from 2007 it is evident that maximum amount used for the legal aid activities in under the heads of salaries, fees of Panel Advocates ,expenditure for conducting of various legal literacy programmes, inauguration of mediation centre and conducting national seminar on new enactments such as Senior Citizens Act 2007. The details of Table 15 are shown in the form of bar chart (Fig.No.7).

⁶⁸ The expenditure includes salaries, Honorarium, Bonus, Travelling Expenses, Legal Literacy Camps, Office expenses, Refreshments for Lok Adalats, Remuneration at remand stage, Remuneration at trial stage etc.

Fig No. 7



8.9.3. Budget allotment and expenses in South Goa district legal services authorities

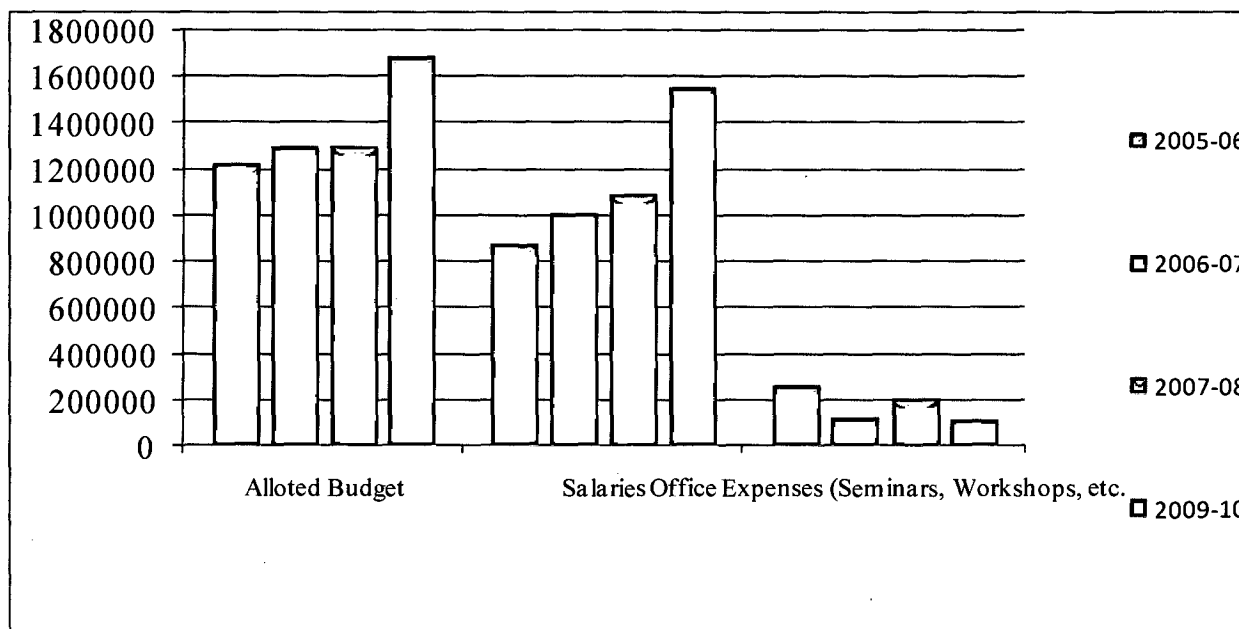
Table 16

Year	Allotted Budget in Rs.	Salaries in Rs.	Office expenses in Rs.
2005-2006	12,26,000	8,78,985	2,67,711
2006-2007	13,00,000	10,08,660	1,25,542
2007-2008	13,00,000	10,96,257	2,02,270
2009-2010	16,90,000	15,59,952	1,20,421

Source: South Goa District Legal Services Authority, Panjim.

As it can be seen from Table 16, the South Goa District Legal Services Authority utilized approximately 75% of allotted budget every year. It is evident that most of the amount was utilised for Salaries. The details of the table are shown in the form of bar chart (Fig.No.8).

Fig No. 8



8.10 ROLE OF LAW COLLEGES IN PROMOTING LEGAL AID – ITS CO-ORDINATION WITH LEGAL SERVICE AUTHORITIES

In the State of Goa there are two Law Colleges i.e Vasudevrao Mahadevrao Salgaocar College of Law, Miramar, Panaji and Ramnath Kare Law College, Margao.

V. M. Salgaocar College of Law in collaboration with District Legal Services Authorities conducted several legal literacy camps in all the talukas of North Goa. Each Legal Aid Cell conducted at least one legal literacy camp in their

area and in total around 40 legal literacy camps were conducted in collaboration with District Legal Service Authorities. Ramanth Kare Law College, too has conducted literacy camps.

V.M. Salgaocar College of Law started Legal Aid Cells in various villages of Goa, wherein batches of students have to sit in the respective cell every Saturday or Sunday to assist and advise the villagers in legal matters. V. M. Salgaocar College of Law has altogether forty Legal Aid Cells besides the Cyber Legal Aid Cell in the State of Goa. Most of the Legal Aid Cells are situated in village panchayats, and in schools. List of Legal Aid Cells of V. M. Salgaocar College of Law are appended as Annexure No.VII

a) Constitution of Legal Aid Cells

In each legal Aid cell 15 to 20 students, who belong to that village or nearby villages, will run the cell. Preferably, one senior student will be in charge of the cell. For each cell, one Professor of the Law College will be in –charge to monitor the activities of the cell. Every Monday the students in charge of the Legal Aid Cells have to show the report and attendance of the Cell to the concerned Professor in Charge.

Among the Professors every year, one or two professors are appointed as the Overall in charge of the Legal Aid Cells. In addition to this, each Professor will be in charge of four legal aid cells. These Professors have to monitor the Legal Aid Cells' activities. They attend the major activities of the cell i.e., where the students - cell members invite the villagers and local Advocates or government officers or police officers to educate the villagers with regard to

laws. As part of the activity, the members also organise an open forum by inviting the public to ask questions to the concerned guests.

Functions of Legal Aid Cells

Legal services Authorities with the co-ordination of these legal aid cells conducted several activities in the villages.

Conducting seminars on a particular topic is one among the activities.⁶⁹ The topics for the seminars include Right to Information Act, Consumer Protection Act, and National Rural Employment Guarantee Scheme etc. The following are some of the other activities conducted by the legal aid cells:

- i. Street plays to create general awareness about laws among the public
- ii. Conducting workshops for villagers on different issues relevant to them
- iii. Advise people in legal matters⁷⁰
- iv. Filling the forms for the senior citizenship cards and ration cards
- v. Drafting of Affidavit for application for birth certificate
- vi. Lectures in schools about basic laws like Consumer Protection laws or Fundamental Rights etc
- vii. Distribution of literature in vernacular language on legal aspects to create awareness in the villages

⁶⁹ The Principal and Professors, at the Faculty Meeting, decide one topic as a theme for the legal aid cells' activities for that particular year.

⁷⁰ Students themselves give the solutions or after consulting the Professors or concerned government officials, they advise the people.

b) Law Students Alliance on RTI

Students of V. M. Salgaocar College of Law started Law Students Alliance.

The alliance internalised an aspiration towards an ultimate goal of facilitating a just society. The alliance was launched on 15th January, 2007.

Their endeavour in launching this alliance was to carry the message of Right to Information to the grass root level of the society.

The programs included seminars at educational institutions, street plays in vernacular languages. They have conducted over 100 programmes on Right to Information in a short span of time.

c) Visits to Judicial Lock up and Jails

District Legal Service Authorities in association with the students and the faculty of the Law Colleges conducted jail visits to assist the inmates of jail and judicial lock up. Accordingly 12 students of V.M. Salgaocar College of Law with three faculty members visited various jails in the State of Goa.

The purpose behind these visits was to provide necessary legal assistance to the inmates. The team visited Panjim and Mapusa judicial lock-up and central jail at Fort Aguada. The team conducted a detailed survey regarding the number of convicts and term of imprisonment and the facilities provided to the inmates. The first visit at Fort Aguada focused on remission of sentence to the inmates undergoing life imprisonment. The team members interviewed all the life convicts on the nature of offence committed, duration of their detention, and any grievances they have. The information collected from the inmates and

particulars of the inmates was verified with the personal files of the inmates kept in the office of the Aguada Jail.

Accordingly the team found six suitable cases eligible to avail the benefit under Sec.433A of Cr. P. C and a report was submitted to the District and Session Judge. Further the team members also made enquiries about the right to counsel the inmates.

During the visit to Panaji and Mapusa judicial lockup the team found that in Panaji Judicial lock up, out of 36 under trial prisoners, nine required legal representation and legal assistance at state expense. The team also found that there are several discrepancies regarding the maintenance of the records of the inmates. Therefore, to make a concrete effort to provide legal assistance, it recommended holding a permanent legal aid cell in the Aguada jail and Panaji, on every second and fourth Saturday from 2p.m to 4p.m.

Some of the flaws in Lock up were,

- h. In Panaji Judicial lock up, the inmates are more in number than its actual capacity. Actual capacity is 24 but inmates are 36.
- i. In the records of judicial lock up, the date of birth column is not shown. Because of this defect it is not possible to find out whether accused are entitled to the benefit of Juvenile Justice Board.
- j. Date of arrest is not available in lock up records, which means the file which the police sent with the accused does not show date of arrest.

k. No proper ventilation for staff room

l. No library for staff

On the whole, the experience the students underwent in the jail visit was an eye opener. They got the firsthand experience of administration of criminal justice. As the legal aid authorities find paucity of funds, law students and the faculty provides an option for providing meaningful legal aid to the inmates. The collaboration not only eases the financial problems but also creates a mutual benefit to the inmates and the students. Students get experience in criminal trials, at the same time several problems of the inmates could be solved with the minimum effort from the legal service authorities.

d) Micro Legal Literacy

District Legal Service Authority, North Goa in association with Legal Aid Cells of V. M. Salgaocar College of Law conducted Micro Legal Literacy programmes in all the Legal Aid Cells during 2009-2010. The following table shows the details of the programme.

Table 17

Sr. No	Legal Aid Cell	Date	Place	Topic
1	Assnora	25 th July	Rashtroli Temple Sirsim, Tivim	Women's Rights
2.	Volpoi	25 th July	Government High School Honda Panchayat	Protection of Rights of Women Domestic Voilence
3.	Duler	26 th July	Guirim Panchayat	Property Rights -RTI
4.	Succorro	15 th Aug	Succorro Panchayat	Women's Property Rights
5.	Marcela	8 th Aug	Ganapati Temple, Khandola	Women's Property Rights
6.	Mala	5 th Sep.	Mahalaxmi Temple Panaji	Rigt to Information
7.	Bastora	6 th Sep.	Bastora Panchayat	Women's Property Rights
8.	Goa Velha	12 th Sep.	Goa Velha Hall	Child Rights
9.	Sangolda	19 th Sep.	Panchayat	Women's Property Rights
10	Moira	20 th Sep.	Panchayat Hall	Property Rights
11	Taleigao Durgawadi	21 st Nov.	Shetrapal Temple	RTI
12	Guirim	22 nd Nov.	Freedom Foundation	M.V. Act and Government Welfare Schemes
13	Santacruz	28 th Nov.	Holy Cross Church Hall	Government welfare Schemes
14	Priol	29 th Nov.	Madkairi Panchayat Hall	Mundkar And Agricultural Tenancy Act, Government Schemes.

15	Porvorim Lions	5 th Dec.	Village Library Hall Penha De Frunca Panchayat, Alto Porvor.	RTI
16.	Bandora	13 th Dec.	Panchayat	Women's rights and Government Welfare Schemes
17.	Merces	20 th Dec.	Our Lady of Merces	Mundkar Act and Agricultural Tenancy Act
18.	Old Goa	16 th Jan.	Panchayat	RTI
19	Pernem	17 th Jan.	Mopa Panchayat	Mundkar Rights
20	Chorao	23 rd Jan.	Mayem Panchayat	RTI
21	Siolim	30 th Jan.	Sodem Panchayat	RTI
22	Mandrem	31 st Jan.	Arambal Panchayat	Mundkar and Tenancy Rights
23.	Verem	6 th Feb	Unity hall Verem	Consumer rights
24	Shiroda	21 st Feb	Panchayat	Women's Rights and NREGA
25	Sanquelim	20 th Feb.	Shanta Durga Temple	RTI, Domestic Voilence and NREGA
26.	Bicholim	7 th Feb.	Piligao Village Panchayat	Government Welfare Schemes
27.	Britona	14 th Feb.	Dadeshwar Devasthan Hall	Women's Rights and NREGA

Source: Legal Aid Society, V. M. Salgaocar College of Law, Miramar, Panjim.

The concept of legal literacy in legal aid schemes plays a vital role to achieve the object of Legal Services Authorities Act. In this respect since 1996 Legal Services Authorities and V. M. Salgaocar College of Law independently

established legal aid cells and also are functioning independently. The researcher being nominated as a member of State Legal Services Authorities, a proposal was made to start the functioning of Legal Aid Cells in association with Legal Services Authorities. This idea was materialised with the immediate willingness of the Chairman, District Legal Services Authorities as well as the Principal of Law College. In every programme two advocates from Legal Services Authorities, one faculty member from College who is in charge of the cell and members of legal aid cell (college students) attended the programme. The students (organisers) being residents of the same locality, public response was also good and eventually majority of the public were benefited by these camps.

The present researcher observed that the judiciary and the Bar held a positive attitude to continue these activities in a similar way in future also.

8.11 EMPIRICAL INVESTIGATION INTO THE STATUS OF LEGAL AID IN THE STATE OF GOA

The Legal aid to the poor is well recognized in many countries as an important constitutional right to ensure a fair trial. The concept of social justice guides the administration of justice in every State. The prevalence of various laws, statutory rules and regulations, makes legal assistance mandatory. As the poor and, poverty-stricken do not have access to affordable legal assistance the constitutional goal of social justice requires the State to fill the void. Further

denial of such assistance may violate principles of natural justice or human rights.

Therefore this part of the thesis discusses on how such assistance was given in the State of Goa. For the purpose of an in-depth research, data was collected from North Goa District and Sessions Court, subordinate courts including Judicial Magistrate Courts/Civil Judge Junior Division at Panaji, Mapusa, Ponda and also South Goa District and Sessions Court, its subordinate courts. Further, the researcher interviewed Judicial officers and Advocates who are directly involved in providing legal assistance. A questionnaire was prepared to conduct the interview. Eighty eight advocates were selected at random from North and South Goa.

Out of the sample studied, 19% comprises Senior and Junior Judicial officers, 74% of Advocates involved in legal aid, 4% of the sample covers the beneficiaries of the legal aid and the remainder 3% of the sample comprises law teachers who are involved in legal aid activities. All of them gave positive response about the concept of Legal Aid in the State of Goa. However 30% out of the above were of the unanimous opinion that functioning of the Legal Services Authorities could considerably improve if there is an independent system for monitoring the Legal Services Authorities.

8.11.1 Opinion Survey of Advocates by Questionnaire method in State of Goa⁷¹

Table 18

Total No	Public Prosecutors	Legal Aid Panel Advocates	Advocates having experience up to 10years	Advocates with 10 -20 Years Experience	Advocates having experience above 20 years
88	3	15	53	9	8

The researcher has collected information from Advocates of Panjim, Margao, Ponda, Mapusa and Vasco. Public Prosecutors, Assistant Public Prosecutors, Legal Aid Panel Advocates and other Advocates are among the sample group. These advocates have wide range of experience. This sample therefore, represents opinion of all the advocates in the State of Goa. The information collected through the questionnaire was tabulated and summarized. For the benefit of clarity and brevity each type of question was shown separately with the help of tables and charts.

1. Only Senior Advocates are appointing in Legal Aid Panel

⁷¹ See questionnaire in Annexure II

Table 19

Persons	Number	Percentage
Interviewed	88	100 %
'YES''	28	32%
'NO''	43	49%
Not Answered *	17	19%

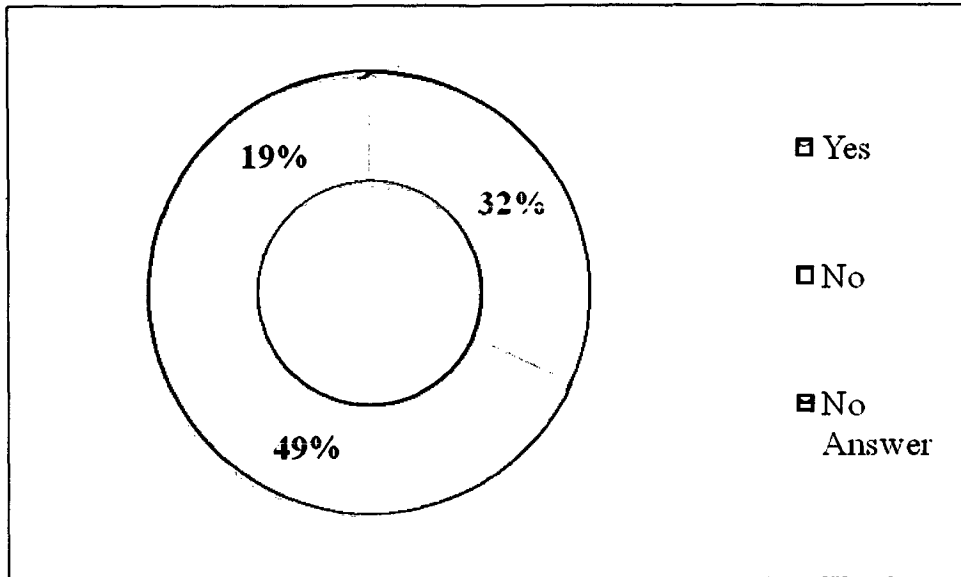
Some advocates' perception was gathered as to whether judges are nominating only Senior Advocates as members of Legal Aid panel or are they giving importance to budding advocates as well.

It can be observed from the above table that almost 50% gave response to Judges, and while appointing legal aid councils, are not giving preference to senior advocates alone. They have been giving importance to those advocates who are interested in handling legal aid cases. When seniors are not interested to take up legal aid cases for pecuniary reason as lower rate of payments and paucity of time owing to their own busy schedule etc. These Judges appointed junior advocates too. When 32% of advocates responded, judges preferred only senior advocates.

*19% Advocates did not tick yes/ no but instead made their own comments.

The details of the table are shown in the form of pie chart (Fig.No.9).

Fig No. 9



2. Charging of additional fees from the accused by legal aid advocates.

Table 20

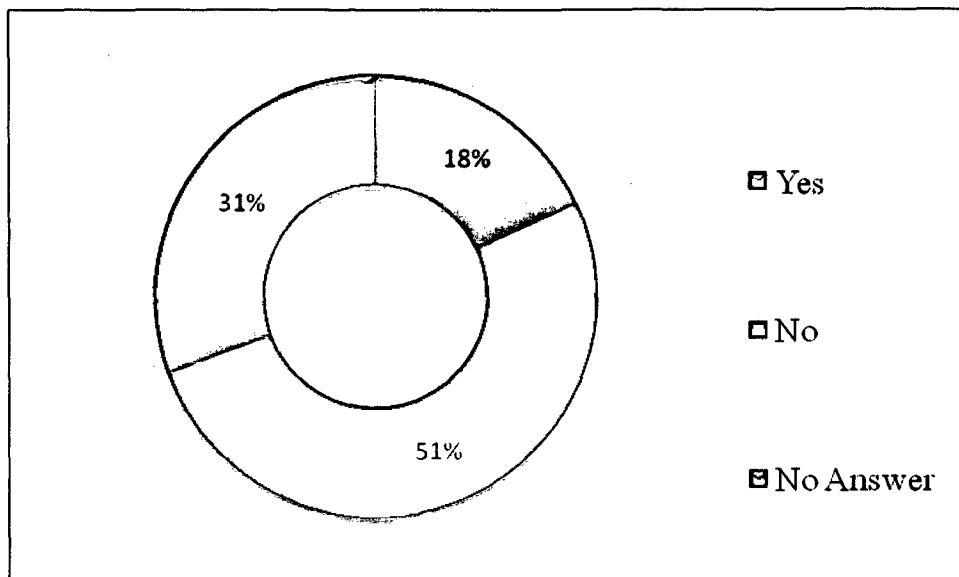
Persons	Number	Percentage
Interviewed	88	100 %
'YES''	16	18%
'NO''	45	51%
Not Answered	27	31%

The information received from 18% of the counsels shows that Legal Aid counsels are receiving additional fees from the accused. Though 51% replied in the negative, it has to be observed that 31% of the advocates are not interested to comment. When the researcher enquired the reason for receiving the additional fees, some of the advocates replied that it might be because of less fee while the purpose of collection of additional fees is only for stationery charges.

But in fact it was observed that Advocates could claim stationery charges from the authorities. Of course intially advocates have to bear the expenses till the expenditure is reimbursed.

The details of the table are shown in the form of pie chart (Fig.No.10).

Fig No. 10



3. Procedural delay is one of the reasons for long period of detention.

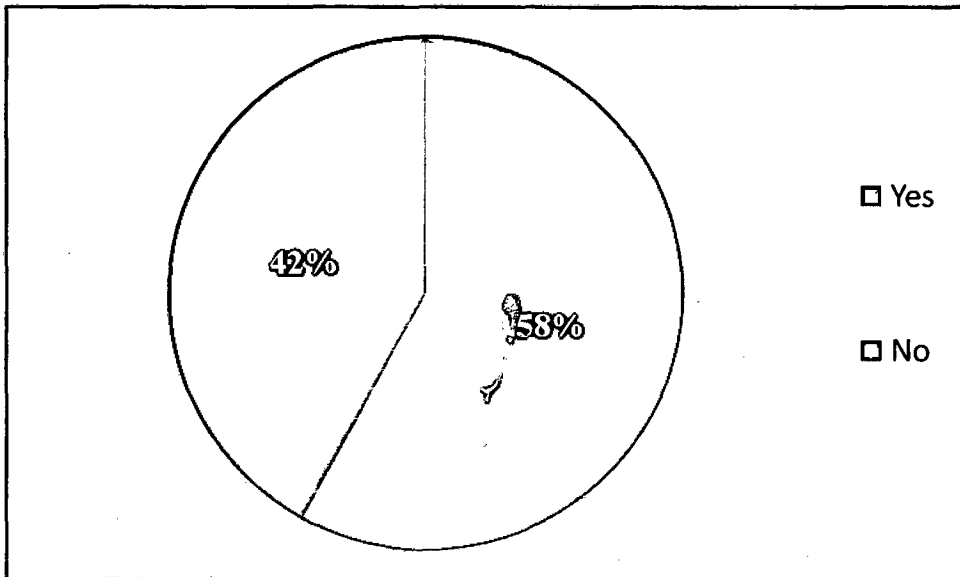
Table 21

Persons	Number	Percentage
Interviewed	88	100 %
'YES'	51	58%
'NO'	37	42%

The above table reveals that 58% of those interviewed are of the opinion that procedure for appointing an advocate is also one of the reasons for long period of detention.

But 42% of the advocates opined that procedure is simple. In every trial court one advocate was appointed for accused for hearing on remand. Hence the question of detention for long period due to procedural delay does not arise. The details of the table are shown in the form of pie chart (Fig.No.11).

Fig No. 11



4. Judges appointing advocates even from outside legal aid panel

Table 22

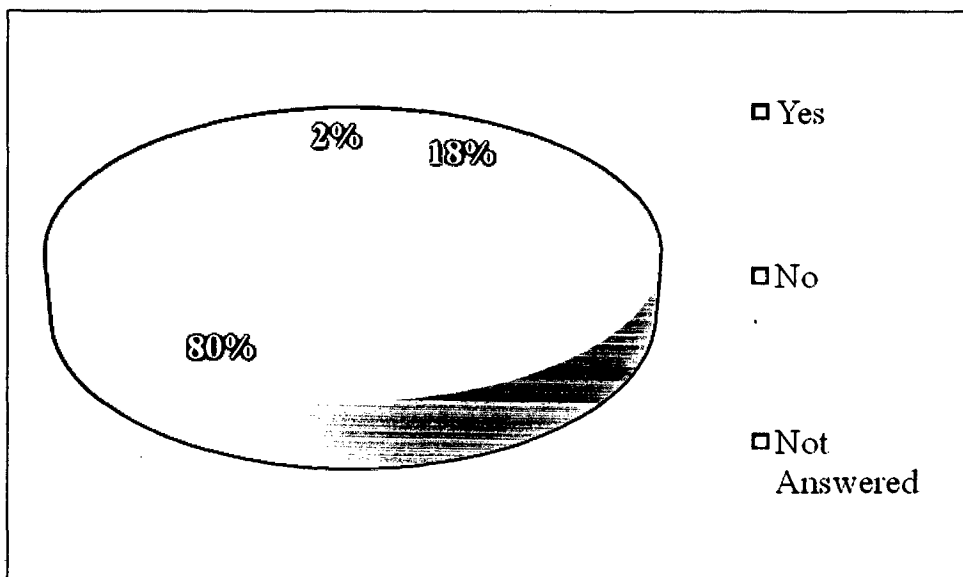
Persons	Number	Percentage
Interviewed	88	100 %
'YES"	16	18%
'NO"	70	80%
Not Answered	2	2%

As it can be seen from table 22 only 18% gave positive response. When 80% of advocates responded, judges appointed only from the panel. It is observed that when Legal Aid panel system was introduced, the question of appointing advocates from outside the panel did not arise unless it was a serious case and when a senior advocate was required; in that event the judge may request any senior advocate though not from the panel to take up the case. However by observing the above table, one can infer that such instances are very few and far between.

The researcher observed from the interview of a judicial officer that only in the High Courts, Judges appoint *Amicus Curie* as they have constitutional protection, they being constitutional bodies.

The details of the table are shown in the form of pie chart (Fig.No.12).

Fig No. 12



5. The persons who plays a crucial role in appointing the advocates from the panel are

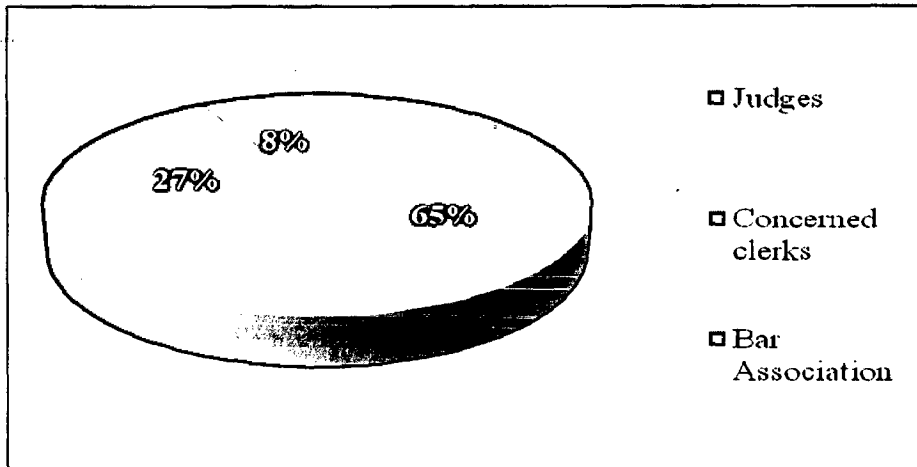
Table 23

Persons	Number	Percentage
Interviewed	88	100 %
JUDGES	57	65 %
CONCERNED CLERKS	24	27 %
BAR ASSOCIATION	7	8 %

From Table 23 it can be seen that 65% response, says that judges alone select the advocate. This reflects the pro active role of judiciary towards legal aid system. But by observing the table above, it can also be seen that 27% found that the concerned clerks, are responsible for selecting the advocates. It cannot, therefore be ruled out that concerned clerks of legal services authority play a vital role in allotting the case to a panel advocate. It is interesting to see that 8% responded that Bar Association also plays some role in the allotment of a case to legal aid counsel.

The details of the table are shown in the form of pie chart (Fig.No.13).

Fig No. 13



6. Legal Aid advocates instead of appearing by themselves entrusting the case to their juniors

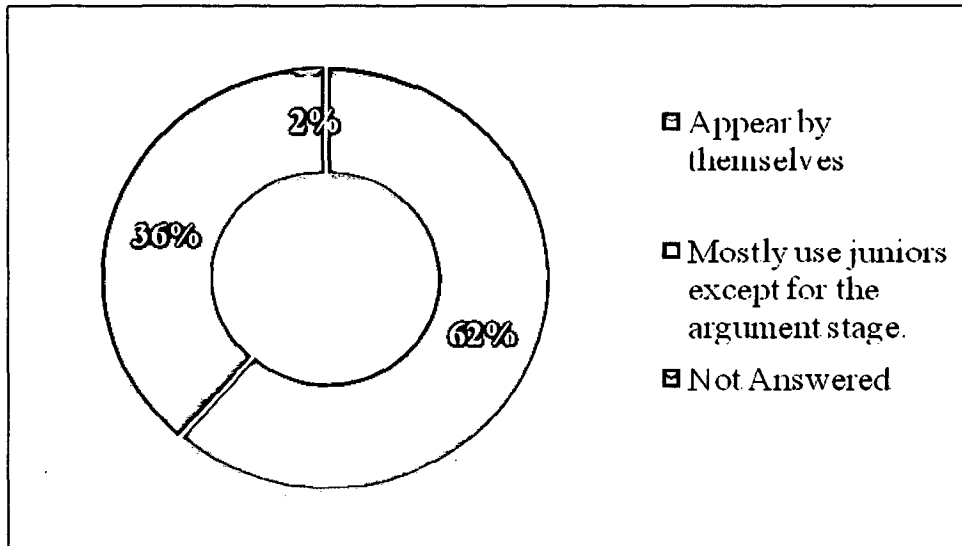
Table 24

Persons	Number	Percentage
Interviewed	88	100 %
Who said "Appear themselves"	54	62 %
Who said "Mostly use juniors except for argument stage"	32	36 %
Not answered	2	2 %

Based on Table 24, the following inference may be drawn. According to the above table it can be seen that 62% of the lawyers consider that Legal Aid advocates themselves appear for cases. But not a small ratio i.e 36% of

advocates replied that Legal Aid advocates delegating the work of legal aid cases to their juniors only. The details of the table are shown in the form of pie chart (Fig.No.14).

Fig No. 14



7. Conviction rate is more in Legal Aid cases

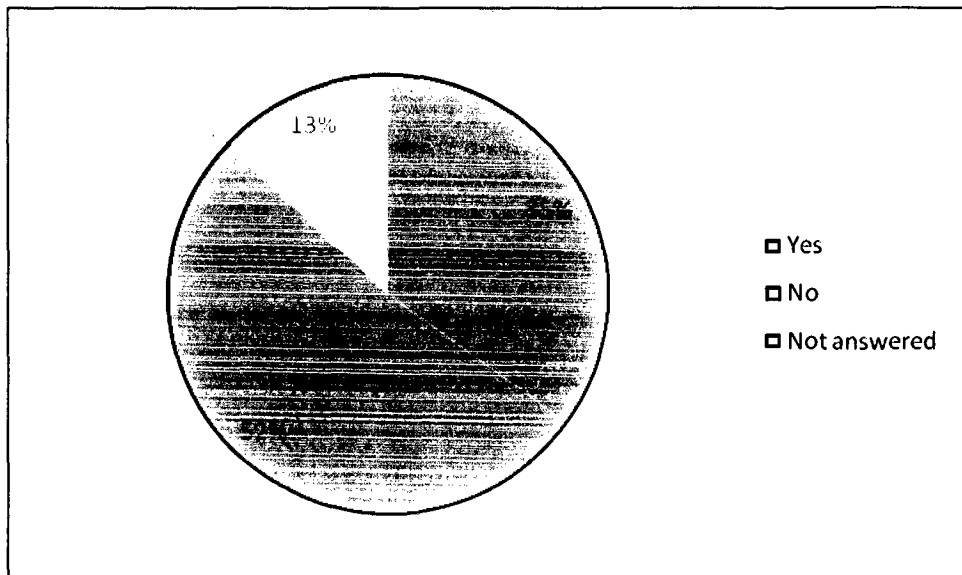
Table 25

Persons	Number	Percentage
Interviewed	88	100 %
“YES”	31	35 %
“NO”	46	52 %
Not answered	12	13 %

Table 25 reveals that 52% of the advocates responded that, once an advocate accepts the legal aid case, he treats the case on par with his private case.

But from the response of the 35%, it cannot be not ruled out that conviction rate is more in legal aid cases. This researcher observed from personal interviews with Senior Advocates and Judicial officers that fees being meagre, advocates often absent themselves at the time of hearing, also they do not well prepare for the cases and show no sincerity in dealing with the case. There have been several instances where the clients request the court to change the advocate, which is evidence enough that this 35% cannot be ignored. The details of the table are shown in the form of column chart (Fig.No.15).

Fig No. 15



8. Poor interest shown by advocate is the reason for more conviction in legal aid cases.

Table 26

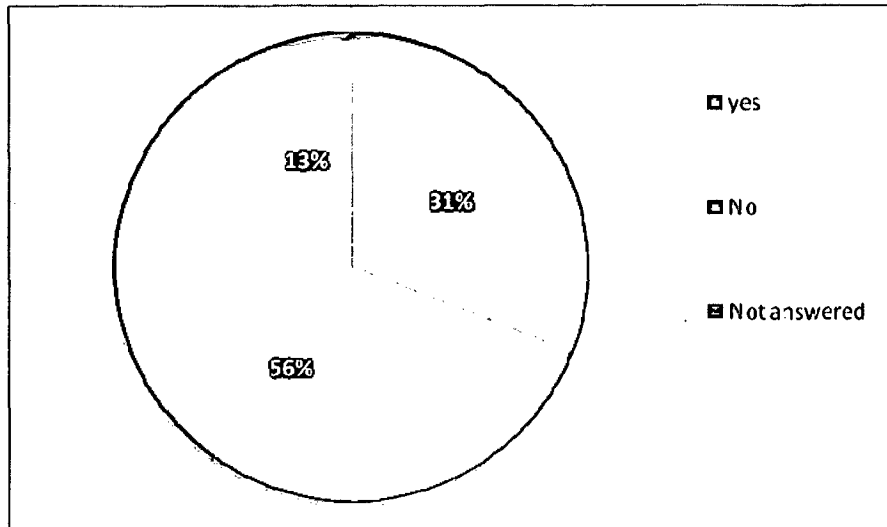
Persons	Number	Percentage
Interviewed	88	100 %
“YES”	26	31 %
“NO”	47	56 %
Not answered	11	13 %

Table 26 shows that 56% of those interviewed opined that, conviction of the accused is not because of the poor interest shown by the advocates, but 31% advocates responded affirmatively saying that advocates are not paying interest in legal aid cases.

The researcher observed during his visits to jail/judicial lock-ups that most of the accused did not even know the names of their advocates and this shows that it is some corroborative evidence for the response of 31%.

The details of the table are shown in the form of a pie chart (Fig.No.16).

Fig No. 16



9. Services of the legal aid advocates are satisfactory to accused.

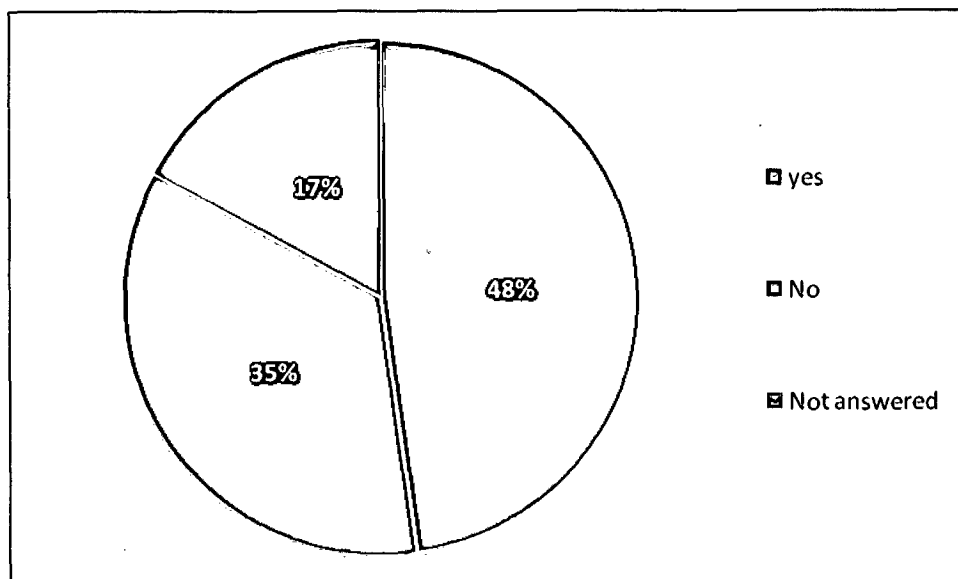
Table 27

Persons	Number	Percentage
Interviewed	88	100 %
“YES”	42	48 %
“NO”	31	35 %
Not answered	15	17 %

The analysis of Table 27 above reflects that the replies are both positive (48%) and negative (35%). And 17% did not show interest to answer. It shows that legal aid services are not satisfactory. It can be observed that legal aid representation is not adequate or on par with the adversary advocate.

The details of the table are shown in the form of pie chart (Fig.No.17).

Fig No. 17



10. The fees prescribed for legal aid advocate are meagre/sufficient.

Table 28

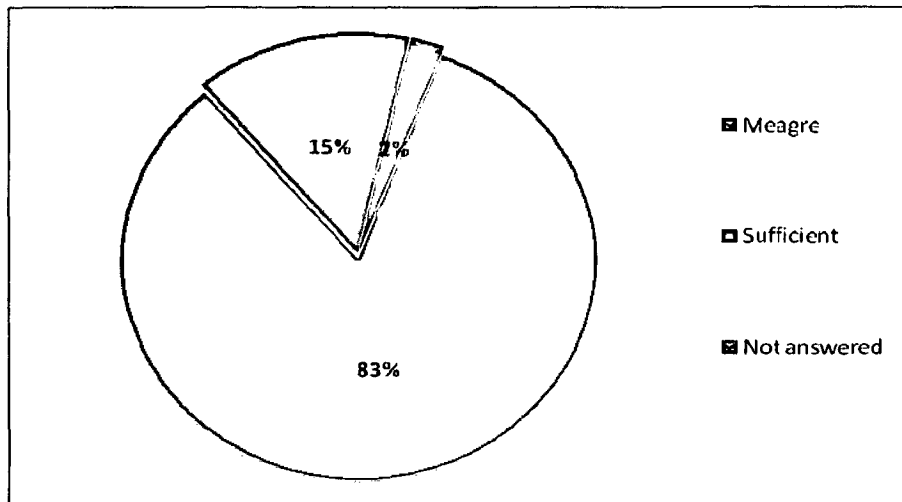
Persons	Number	Percentage
Interviewed	88	100 %
“Meagre”	73	83 %
“Sufficient”	13	15 %
Not answered	2	2 %

Based on table 28 the following observation may be made. 83% of the Advocates fraternity asserted that prescribed fee is meagre. So the implication would be that unless fee is enhanced senior advocates cannot come forward to be a panel member.

But from the response of 15% advocates, it can be observed that every advocate has a social responsibility also. In that respect question of sufficient fee does not arise.

The details of the table are shown in the form of a pie chart (Fig.No.18).

Fig No. 18



11. Final year LL.B students can be permitted to appear in legal aid cases.

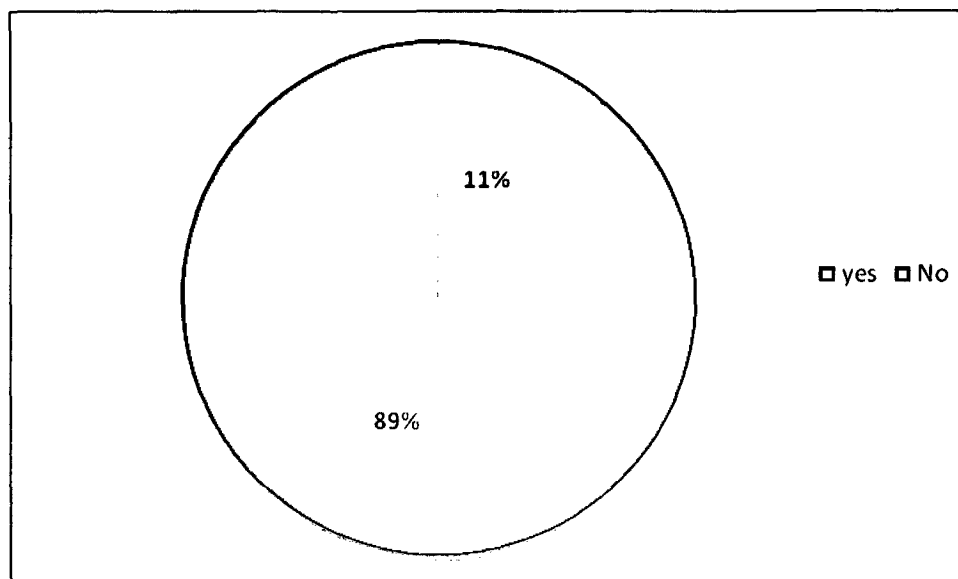
Table 29

Persons	Number	Percentage
Interviewed	88	100 %
Who said "YES"	10	11 %
Who said "NO"	78	89 %

It is evident from the Table 29 that the majority of advocates i.e. 89% are not in favour of permitting final year students of law to handle the legal aid cases. Only 11% are in favour of the proposal which shows that majority of advocates

are not in favour of the proposal. The details of the table are shown in the form of a pie chart (Fig.No.19).

Fig No. 19



8.11.2 Suggestions obtained from the Lawyer Community through Questionnaire-

The following are the suggestions made by the advocates for the improvement of Legal Aid Services.

a) About Legal Aid Counsel Fees

- i. State sponsored Free Legal Aid to the deserving persons is in fact a very good service provided by Government. But the fee offered to the Advocates for the legal services rendered is low. Therefore, some of the advocates are accepting such cases merely for the sake of getting experience with a case at hand.

- ii. It is desirable that the Advocates have to be appointed by paying sufficient salary.
- iii. In addition to better fees, travel assistance and jail visit expenses have also to be paid.
- iv. Presently the prescribed fee for Session's case is Rs.800/- for the entire trial, it should be enhanced to Rs.2000/-
- v. The payment for the Advocates on the panel should be on hearing-basis and not at fixed rate/amount.

b) About Senior Advocates as Legal Aid Counsel

- i) Under Legal Aid Scheme, an experienced lawyer should be provided to the accused.
- ii) Advocates should be appointed based on their experience
- iii) Experienced and senior Advocates should be appointed to handle cases that are important involving serious offences.
- iv) Juniors in the panel should be allowed to appear /enlisted only if they have some background in criminal law.
- v) Advocate appointed, should have completed at least 5 years of practice.
- vi) Advocates who have interest in criminal matters should be appointed.
- vii) Committee shall suggest the names of dynamic Advocates who are willing to take it as a challenge.

viii) Advocate need not be senior, but should be an interested person in taking the case of the poor class of the society.

ix) Only advocates with proven financial means and dedication should be entrusted with legal aid cases.

x) The system is to be revamped, including better involvement of senior lawyers.

c) Role of Judges/Legal Services Authorities

i) Every Judge on completion of a matter/case shall record his comments about the efforts and performance of the legal aid advocate in a separate circular, which will form part of the record of the main register of the Legal Service Authorities.

ii) The process for appointing legal aid counsels to litigants should be hastened.

iii) The accused, when arrested and brought before the Court, should be given a choice as to whether he would like to avail the services of free legal aid or not. If he opts for free legal aid, he should be provided with the services of an advocate from the legal aid panel on the same day who shall represent him in the matter.

iv) Mostly, Judges appoint Senior Advocates, who have many other cases and therefore they are not able to give due notice to the case. Hence junior Advocates should be appointed who can give proper attention and this will also facilitate gaining of good experience by such juniors.

v) Judiciary must play more significant role in appointing the legal aid lawyers.

vi) Performance of the Panel Advocates should be supervised. If a lawyer's service is not found satisfactory in the matter of three accused consecutively, the name of the lawyer should be deleted there from.

d) Role of Advocates

- i. The Advocates have to prepare the case to afford meaningful defence to the client, and the Client should not be put to any suffering, whatsoever.
- ii. It should be made compulsory for an Advocate to take at least one case of legal aid service in a year.
- iii. There should be substantial number of Advocates in the panel so that the Advocates are not burdened with too many cases.

e) About Legal Services Authorities in the State of Goa

- i) Legal aid under Legal Service Authorities in the State of Goa is working well.
- ii) Awareness is to be created at ground level.
- iii) Appropriate infrastructure should be provided to the legal aid lawyers by way of an appropriate full-fledged office with computers, stationery, counselling chamber etc.

8.11.3 Opinion Survey of Judicial Officers by Questionnaire Method in the State of Goa⁷²

To find out the opinion of the Judicial Officers in the State of Goa the researcher has used a questionnaire method. In this respect the researcher interviewed 23 judicial officers from the State of Goa. The List of Judicial Officers is put in the Annexure no III .The following is the categorization of the Advocates who answered the questionnaire.

Table 30

High Court Judge and Chairman of State Legal Service Authority	1
Judicial officers in Panaji	7
Judicial officers in Margao	4
Judicial officers in Ponda	3
Judicial officers in Mapusa	8

The result of the interview is summarized below

1. *Legal Aid advocates are competent enough to handle complex cases.*

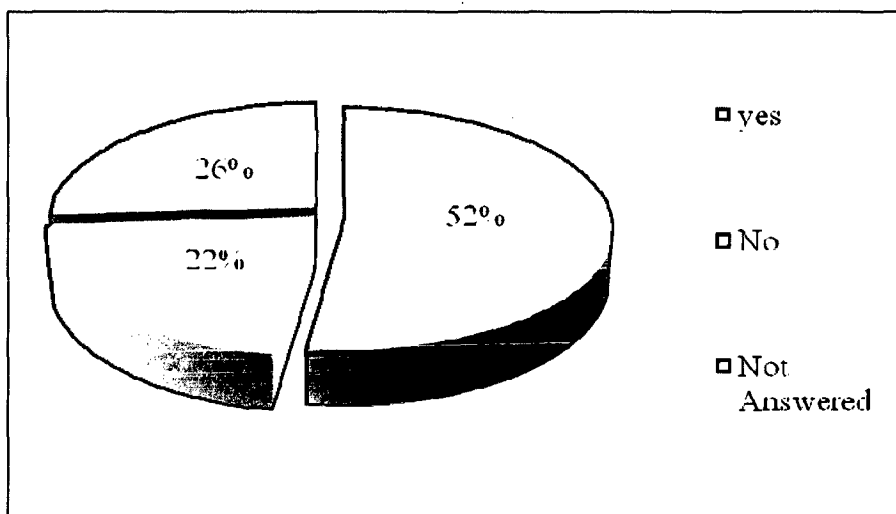
Table 31

Persons	Number	Percentage
Interviewed	23	100 %
“YES”	12	52%
“NO”	5	22 %
Not answered	6	26 %

⁷² See Annexure III for Questionnaire

From Table 31 it is evident that 52% admitted the competency of legal aid advocates in handling complex cases. But 22% of judicial members expressed their dissatisfaction towards the competency of the legal aid advocates. It is strange to see that 26% of Judicial Officers did not respond to this question. It can be observed that it may not be the competency rather the interest which advocates pay to the legal aid case that makes a difference. The details of the table are shown in the form of a pie chart (Fig.No.20).

Fig No. 20



2. *Senior Advocates are neglecting legal aid cases being they are occupied with their other cases.*

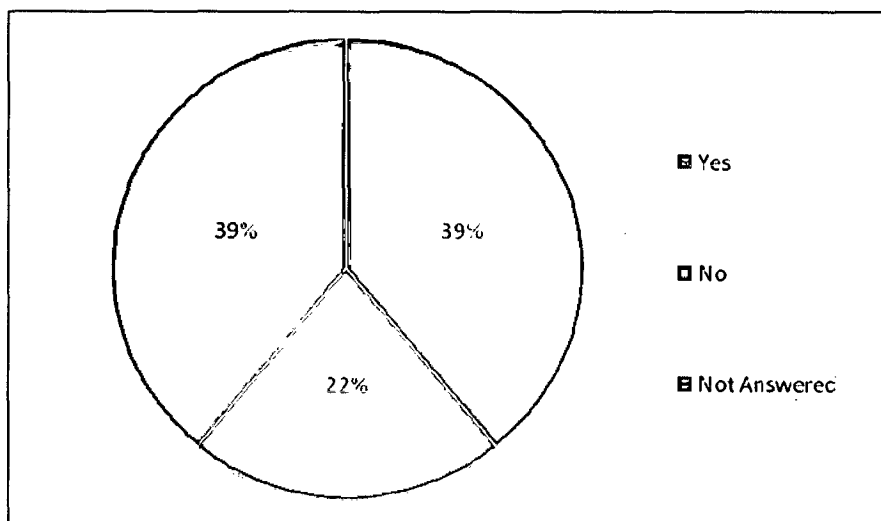
Table 32

Persons	Number	Percentage
Interviewed	23	100 %
“YES”	9	39 %
“NO”	5	22 %
Not answered	9	39 %

It can be observed from Table 32 that 39% of the judiciary accepted and admitted that Senior Advocates are neglecting or showing stepmother treatment to the legal aid cases. Similarly we have to observe 39% judicial officers did not answer the question, which shows that almost 78% of judiciary is not satisfied with the manner in which the Senior Advocates are dealing with legal aid cases. But by observing 22% response of the judicial officers one can assume that some of the seniors are dealing with legal aid cases sincerely.

The details in the table are shown in the form of pie chart (Fig.No.21).

Fig No. 21



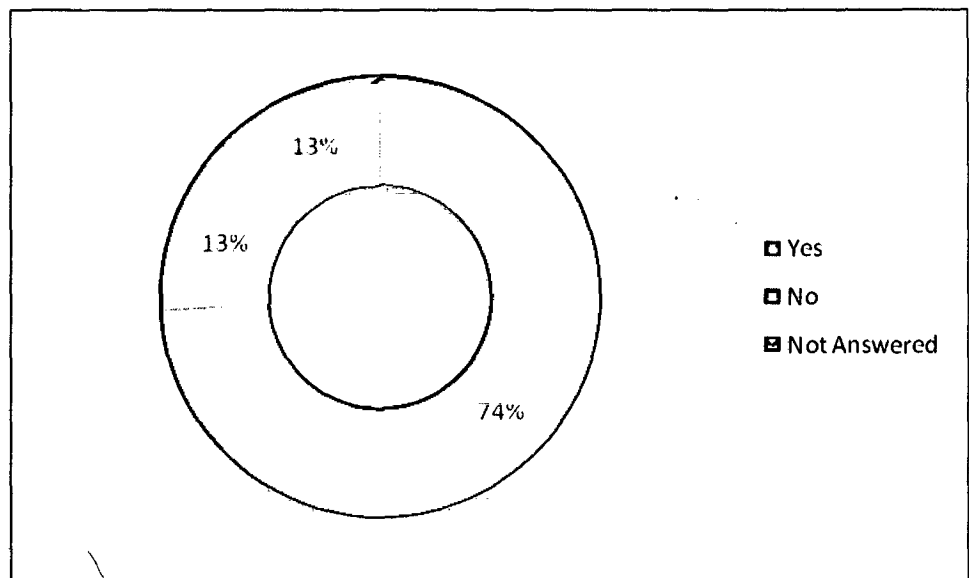
3. Remuneration prescribed for engaging lawyers on legal aid panel grossly insufficient.

Table 33

Persons	Number	Percentage
Interviewed	23	100 %
“YES”	17	74 %
“NO”	3	13 %
Not answered	3	13 %

As it can be seen from Table 33 that 74% of the judicial officers replied in a positive way by asserting that remuneration is meagre. Only 13% of judicial officers replied that remuneration is not grossly insufficient. The researcher observed that every advocate has a social responsibility to handle at least some cases during their profession. 13% of judicial officers did not respond for this answer. The details of the table are shown in the form of a pie chart (Fig.No.22).

Fig No. 22



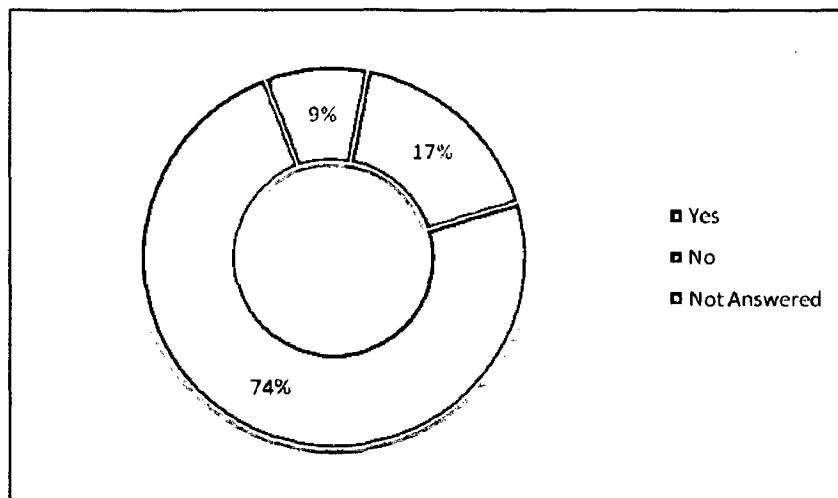
4. *The fee structure has to be changed.*

Table 34

Persons	Number	Percentage
Interviewed	23	100 %
“YES”	17	74 %
“NO”	2	9 %
Not answered	4	17 %

It can be seen from Table 34 that majority part of the judicial officers replied in the positive way this being a question in continuation of the previous question. So, the response of the judiciary i.e. 74% is similar to the answer to the prior question. The percentage of judicial officers who did not answer this question is 17%, which has increased considerably. Only 9% replied in the negative about change in fee structure. The details of the table are shown in the form of a pie chart (Fig.No.23).

Fig No. 23



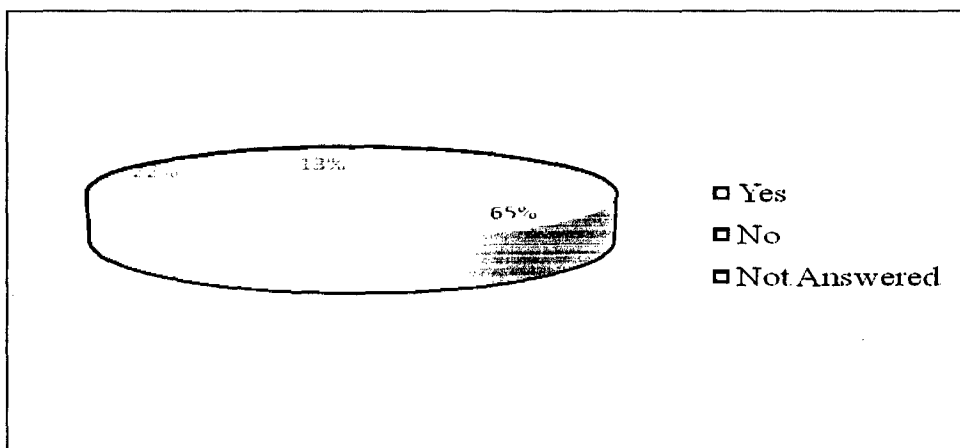
5. *Advocates who completed two years experience can also be appointed in the legal aid panel.*

Table 35

Persons	Number	Percentage
Interviewed	23	100 %
“YES”	15	65 %
“NO”	5	22 %
Not answered	3	13 %

It is clearly evident from Table 35 that 65% of the judicial officers accepted the inclusion of junior advocates in the legal aid panel, which shows that experience at the Bar is not the only criteria; rather sincerity, integrity and hard work are also equally important for the profession. 22% of the judicial officers replied in the negative. It might be having regard to serious cases which requires the expertise of more experienced lawyers. Definitely we have to accept these suggestions as far as sessions cases are concerned. The details of the table are shown in the form of pie chart (Fig.No.24).

Fig No. 24



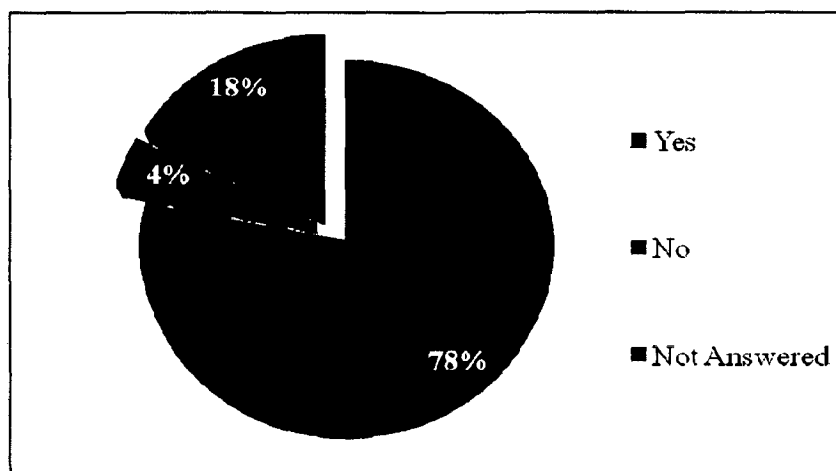
6. Free legal aid to the accused person really help the accused person

Table 36

Persons	Number	Percentage
Interviewed	23	100 %
Who said "YES"	18	78 %
Who said "NO"	1	4 %
Not answered	4	18 %

Table 36 above reflects that 78% of the judicial officer's (almost majority) seems to be satisfied about the impact of legal aid in helping the needy people. But it is interesting to see that 4% judicial officers are not satisfied with the effectiveness of the legal aid system in securing justice to the accused. The reasons for this can be inferred in the answers given by judicial officers and senior advocates in the interview personally undertaken by the researcher. 18% did not respond to this question. The details of the table are shown in the form of pie chart (Fig.No.25).

Fig No. 25



8.11.4 Suggestions derived from the Questionnaire

The following are the suggestions made by the Judicial Officers with respect to improvements in the Legal Aid Services.

a) Performance of Senior Advocates in Legal Aid Case

i) Advocates who have completed 5 years of practice are appointed before the Court of Sessions and those who have completed 10 years, are appointed before the High Court. Experience does not show that the Senior Advocates so appointed neglect such cases, though the possibility cannot be ruled out.

ii) If Senior Advocates are appointed, they being busy with their own matters are bound to neglect the legal aid cases.

b) Changes required in the legal aid scheme

i) There are times when Advocates with even 2 -3 years experience are competent to handle small situations like bails etc in less serious offences. The inclusion of such persons in the panel can be considered.

ii) This provision for Legal Aid is many times misused. Such misuse has to be prevented. Each advocate enrolled with the Bar Council shall be allotted a legal aid case so that legal aid cases do not remain the responsibility and domain of a few advocates.

iii) The appointment of Advocates who possess sincerity, integrity and honesty, alone will ensure the fulfilment of the purpose and object of free legal aid.

- iv) Few senior as well as experienced Advocates may be inducted in the panel of advocates for free legal aid cases, who can guide and direct the junior Advocates.
- v) Free Legal Aid should be provided to all accused in custody at the time of bail and remand.
- vi) The lawyer appointed in the legal aid panel should have hearty and sincere inclination to serve the society
- vii) The Legal Aid Board should choose those lawyers who show concern for the poor, respect for human right and offers his/her services for a social cause.
- viii) There are very few advocates in the panel because of which it is very difficult to proceed with all such matters. Hence panel is required to be renewed and names of maximum capable advocates should be enrolled in the same.

c) *About Legal Aid Counsel fee*

- i) State should pay the Advocates adequately so that they can take pains to handle these matters.
- ii) It is observed that sometimes the Advocate under free legal aid does not put up his appearance regularly. If the fee is increased perhaps, they will be more punctual.
- iii) Also by increasing the incentive more lawyers may come forward to defend the accused.

iv) Considering the cost involved including stationary, travelling etc. the present fee is grossly insufficient.

d) Should junior Advocates be appointed?

i) A minimum of at least 3 years experience is required for an Advocate to be appointed in the Legal Aid Panel

ii) However the competency of the Advocates should be given more credit than merely years of practice, while making appointments to the Legal Aid Panel.

iii) For handling complex cases involving life and liberty of a person, lawyers having more experience should be appointed.

e) Does the system of Legal Aid really help the accused?

i) It helps largely

8.11.5 Opinion Survey through Interview of Legal Luminaries in the State of Goa

To get a more realistic idea of legal aid, the Researcher personally interviewed eminent Judges, Lawyers and Academicians who have insight into the concept of Legal Aid in the State of Goa. These eminent legal luminaries know about the Goan conditions at grass root level as well as the emerging jurisprudence on legal aid. They are also associated with the evolving movement of legal aid in Goa. The Researcher also has carefully selected the sample to include judges, lawyers cum academicians, as well as lawyers who are involved in implementation of legal aid scheme for several years. Hence the sample is very

representative of eminent judges, lawyers and academicians who are in touch with ground realities of legal aid in Goa.

For convenience the Researcher has raised twenty questions which are edited under nine issues. The idea of raising questions under each issue is to pinpoint the direction of the discussion while at the same time permitting leeway to the respondents. The respondents are all eminent scholars and legal experts from the Bar, Bench and Academics. Though the researcher interviewed the Respondents at length and sought clarifications, here merely a brief summary of the core of interview has been presented. For the sake of convenience the respondents have been labelled as Respondent No. 1, 2, upto ten with their designation and anonymity has been maintained.

The Interview Schedule with issues and questions appears as Appendix IV. Here it is decided to present each issue separately for convenience.

a) Issue-I: Accessibility of Legal Services Authorities to the needy people

The following are the responses on the issue of Accessibility of Legal Services Authority to the needy people, whether they were accessible and if any measures are required to improve accessibility.

Respondent No. 1⁷³ was positive that the Legal Services Authority was accessible to the needy people. However he expressed the need to have proper Secretaries for administration of Legal Services Authorities at all levels i.e. State, District and Taluka. Otherwise in the present set up, the judiciary and

⁷³ An Honourable Judge, High Court of Bombay, Bench at Panaji.

staff are busy with their regular judiciary work; hence they are unable to devote quality time on legal services activities. If separate infrastructure is set up and full time secretaries are appointed the system will be more fruitful.

Respondent No. 2⁷⁴ replied in the negative and opined that Legal Services Authorities are not reaching the needy persons properly. As per the respondent, Legal Services Authorities must be segregated as distinct and independent authority by making appointments of Judicial Officers and staff for the same on full time basis. That would help to achieve more functional integrity, coordination, monitoring and would be effective in the long run. Regular judiciary cannot devote more time on Legal Services Authorities. More public awareness campaign on a war footing is required to be held and awareness of these facilities need to be disseminated at the grass root level, to make it really effective and to fulfil its purpose. Mere distribution of literature even in vernacular language would not serve the purpose especially in case of illiterates.

Respondent No. 3⁷⁵ felt that the Services were accessible to the poor and the needy. Yet he felt that continuous awareness campaigns are necessary. Print media and Electronic media (mainly Doordarshan) has to play a vital role in campaigning about the facilities and functions of Legal Services Authorities. Such programmes have to be shown in T.V Channels at least once in a month. They could even scroll messages on legal aid continuously during peak time programmes, especially in the vernacular language. Also State Legal Services

⁷⁴ An Honourable District and Sessions Judge in State of Goa.

⁷⁵ Honourable District and Sessions Judge in State of Goa.

Authorities and District Legal Services Authorities can publish important laws like Domestic Violence Act, Right to Information Act, and Child Labour Prohibition Act etc. in vernacular language and distribute to the needy people. Recently one more concept has been adopted by NALSA where in members of the Legal Services Authorities have to attend the *Grama Sabha*. It is a welcome step by NALSA.

Respondent No. 4⁷⁶ felt that the legal services were not available to the needy people up to the expected level in Goa. He agreed that people from low income group, uneducated etc. do not know how to use the facility for free legal aid. He suggested that the Government has to conduct detailed awareness campaign by means of affixing notices on buses and trains, and also the information has to be printed on the ration cards and senior citizen cards etc. Pro-active method of creating awareness is important in this area. He felt that accessibility and awareness has to come together. One of the important suggestion which he made was to start a helpline wherein public can easily access legal aid. In the villages, boards are to be affixed containing help line number and rules of eligibility. Another interesting proposal made by him was that even in Vakalatnama Form, a clause had to be inserted, contained the following words "Have you informed the client about the provision for legal aid?" Similarly Television, Radio, and all public media had to be used as the means of creating awareness for legal aid. Even SMS could be employed nowadays to create awareness.

⁷⁶ Principal, Law College in State of Goa.

Respondent No. 5⁷⁷ expressed his opinion on the first issue and felt that the Legal Services Authorities in Goa are not sufficiently accessible to the needy people. He also emphasized on the failure by the Legal Services Authorities in creating awareness among the needy people. It was necessary on the part of the authority to hold programmes in the villages; more particularly in remote villages.

Respondent No. 6⁷⁸ felt that the issue of accessibility to these authorities to the needy people had different aspects. The primary issue was how to educate the needy people to go to Legal Services Authority. Though there are no procedural handicaps to approach the Legal Services Authorities and the present system is much better today than it was earlier, the basic problem arises is creating a confidence in the minds of the needy about the Legal Services Authority.

Respondent No. 7⁷⁹ expressed dissatisfaction towards the system of Legal Services Authorities. According to him it does not work in Goa. Public has no confidence in this system. Only because of the helpless situation of being in lock up, accused people were availing of this facility. Whereas in civil cases, no one practically approaches the Authorities.

Respondent No. 8⁸⁰ expressed his opinion in a positive manner but opined that mere holding of legal aid camps did not make impact. There was a need to assess the effectiveness of the camps thus organised.

⁷⁷ Senior Advocate practicing at Bombay High Court Bench at Panaji

⁷⁸ Senior Advocate practicing at Bombay High Court at Panaji.

⁷⁹ Senior Advocate cum Academician

⁸⁰ Senior Advocate cum Academician

Respondent No. 9⁸¹ also expressed dissatisfaction on the accessibility of authorities to the needy people. He also supported his opinion with lack of awareness among the needy people. He suggested that the local administrators bodies like ward panchas had to understand the concept and importance of free legal services. There is a need to sensitize the representatives of people at ward levels, self help groups in rural areas and *Mahila Mandals*, about the importance of Legal Services Authorities. Through these bodies accessibility could be made effective.

Respondent No. 10⁸² was of the view that the legal services were not sufficiently accessible. He referred to the statutory flavour given to Legal Services Authorities, but felt that much was required to be done. He spoke at length about old people, handicap persons, and the destitute who have lost the earning member in the family. He suggested that all these sections needed special care. In fact justice delivery system must go to their houses, rather than expecting them to come to the Courts.

Respondent No 11⁸³ was of the view that legal services authority are accesable to the needy people. On the point whether anything was required to improve the services he was of the opinion that member secretary for every authority must be an independent person separately appointed for that purpose alone like recent appointment of full time secretary in the District Court.⁸⁴

⁸¹ Senior Advocate in Goa

⁸² Senior Advocate in Goa

⁸³ Member Secretary, State Legal Services Authority and Registrar(Judicial) High Court of Bombay at Goa.

⁸⁴ In March 2011 first full time secretary appointed as member secretary for District Courts.

Respondent No. 12⁸⁵ felt that legal service authorities were not easily accessible to the needy people. He suggested that legal aid camps should be held in villages. As per him students/trainee lawyers should not merely advise but actually pursue and follow up the matters.

b) Issue II: Availability of Right to Counsel in State of Goa

The following are the responses on the issue of right to Counsel, whether it was effectively available and also outlining the factors that hinder this right from being effective:

Respondent No. 1 felt that those who were approaching the authorities were availing of the facility.

Respondent No.2 expressed his discontent with respect to effectiveness of the right to counsel. One of the factors was the meager remuneration to advocates. As a result Authorities were not getting sufficient counsels for their legal aid panel. He opined that it is unfortunate that some of the legal aid advocates are working without any commitment and initiative.

Respondent No. 3 stated that at the stage of remand in every court, one advocate appointed by Legal Services Authorities, takes up the matter on behalf of the accused. In the remaining matters/ proceedings, most of the advocates are not willing to come forward due to the meagre remuneration. Further, due to the inadequate remuneration, advocates do not pay interest in the case. He opined that the amount to be paid had to be equal to the

⁸⁵ Senior Advocate in Goa

remuneration paid to Government Advocates. Unfortunately nowadays the spirit of dedication to the profession looks to be lost. He however felt that it is a good sign that at least some advocates were willing to take up legal aid cases on the request by the judges, though they were not part of the legal aid panel.

Respondent No. 4 replied that "Right to counsel means and includes counsels who are interested to handle the case". To create this concern they must be paid a reasonable fee. In addition to that he opined that recognition of advocates by giving them preference in recruitment as government lawyers and appointing them as commissioners etc. are the means to motivate the advocates to take up the legal aid cases. Recognition lies in treating them as privileged advocates.

Respondent No. 5 opined that the right to counsel is not effectively available to the needy in Goa as the counsel is not adequately and quickly remunerated. Secondly the counsel fee being meagre, it did not attract good advocates. In his view the authorities had to tap social service oriented counsels, who are less busy so that they are easily and effectively available to the needy. Thus the right to counsel can be more effective.

Respondent No. 6 stated that under the auspices of Legal Services Authorities today counsel is made available with much greater ease than it was before. But he opined that the panel preparation needs to have a re-look. Advocates have to realize that that they have to accept the legal aid cases if they have a desire to learn. The cases brought by the needy people pose very tricky problems, and at times very complicated issues. When the advocate wins the case it is a benefit primarily to the advocate and merely incidental to the accused. He was

against the preparation of a panel of legal aid advocates. It should be an obligation for every advocate to render legal aid free. It must be made compulsory for advocates irrespective of seniority. The effective representation is not just giving a counsel, but a counsel who would do justice for the case.

Respondent No. 7 did not offer any comment to the issue.

Respondent No. 8 stated that once the case was entrusted to an advocate, they were dealing the case as if it was their own private case. However he opined that there were some instances of legal aid advocates receiving money from the clients.

Respondent No. 9 expressed dissatisfaction towards the implementation of right to counsel. It had to be voluntary service. But in present situation voluntary activity without abundant financial gain is not really understood. Most of the juniors are using legal aid as a stepping stone in their carrier. There was no real commitment to the cause and basic concept is itself misunderstood. There was a need for a panel of advocates, one in each Court, like the government advocates, on contract basis. They should be provided infrastructure like office and paid a monthly salary. He opined that Advocates are not supposed to misuse the office for their personal purpose and that Legal Service today was not a service but a means of trading.

Respondent No. 10 on the point of Right to Counsel stated that advocates were willing to do charitable service. The Legal Services Authority had to devolve a mechanism by which services of senior and experienced lawyers are availed of, by taking the matters in their chambers.

Respondent No. 11 felt that the right to counsel was not effectively available to the poor people in Goa. He felt that at taluka level very few advocates are interested to be part of legal aid panel. Even in the District & Sessions Court there are only six advocates in the panel. Hence it is very difficult to entrust the cases to advocates where there is such a limited number. Sometimes in one case six or seven people are involved as accused. In such situation the judge cannot entrust to one advocate as there may be conflict in the point of evidence. Also unfortunately many junior raw advocates accept such cases. Some case can be handled effectively only by senior advocates. This is required not only in the proceedings of the Judiciary (courts) but also in matters before executive magistrates (mamlatdar) and similar officials. Some senior advocates advise is required specially in drafting of applications, affidavits etc.

Respondent No. 12 opined that the right to counsel was not effectively available to all the needy people in Goa.

He mentions the following factors as hindrance to make right effective a) lack of awareness as to the legal aid facilities available b) quality of legal representation c) pittance offered to advocates on legal aid panel.

c) Issue III: Confidence of Indigent Litigant on Justice Delivery System

Following were the response on the issue whether indigent litigants have confidence in the Justice Delivery System.

Respondent No. 1 said that the litigants were just satisfied. He opined that incidental expenses like paper and other stationery etc. must and can be given to the litigant.

Respondent No.2 was of the opinion that clients were not generally happy with the service of legal aid advocates. Some clients convey the message that the representation is not adequate or in par with the advocate of the adverse party.

Respondent No.3 felt that advocates were doing their job sincerely. He stated that in his experience no accused person has requested him to change the advocate given by legal aid. He also expressed satisfaction with the Conciliation Centre and felt that it was functioning well under legal Services Authorities.

Respondent No. 4 opined that in order to build confidence of litigants, there was a need for fundamental reforms in compensation cases. Poor litigants were not to be treated like the rich persons. Generally, in land acquisition cases compensation to the owner of a small piece of land is equal to that awarded to a rich person. However, when that land was his sole earning property compensation has to be more than for those who own several other properties. Courts need to look at the broader aspect and go beyond the mandate of a particular case. Poor and needy people should be given preferential treatment in matters of justice.

Respondent No. 5 felt that the indigent litigants were not at all happy with the service obtained through legal aid. The adequacy of justice delivery system is also not at the desired level. According to him in the legal services, justice

delivery system has to be reoriented. He opined that Lok Adalats had to be empowered to determine a dispute so as to arrive at a compromise or a settlement. (Presently Lok Adalats work on yes - yes or no – no basis). Unless the authority had teeth, justice cannot be administered even by way of settlement or compromise. Therefore Lok Adalats have failed to achieve the intended purpose.

Respondent No. 6 felt that some of the Judges were not treating the clients properly. He was in favour of scrapping the system of Appointment of Advocates through panel procedure. According to him the criteria for providing legal aid had to be done away with. The moment a person requests for legal aid, it must be provided to him without any scrutiny. Generally those who are unable to afford advocate only approach the Court for legal aid.

Respondent No. 7 did not offer comments on the issue.

Respondent No. 8 opined that generally the clients had confidence in the advocates. There were some cases where parties requested the court to change their advocates. Sometimes it is the advocates who withdraw from the case for personal reasons.

Respondent No. 9 was of the view that sometimes clients were not satisfied with the services of legal aid. There were many instances of clients asking for a change of the legal aid advocate. Unfortunately sometimes advocates had asked the expenses (like stationery) from the party. In fact those expenses could be claimed from the Legal Service Authorities.

Respondent No. 10 felt that the indigent litigant does have faith in the judiciary. The only handicap was that it was not easily accessible as it was made out to be. There was a need for drastic fundamental reforms in justice delivery system, in the sense that there is need for a complete overhauling of the justice delivery system.

Respondent No.11 was of the opinion that probably the indigent litigants are not satisfied with the adequacy of justice delivery system. He felt that there was delay in deciding cases. For instance in NDPS courts where number of cases are filed ,there are only three advocates in the panel. In the District & Sessions Court there are only six advocates. Very often there are instance where the accused party seeks to change the advocate due to non-appearance of the Counsel. There is a difficulty in changing the advocate as so few of them are available on the panel. He suggested that practical amendment has to be made to Advocates Act, so that it will be compulsory for each and every advocate to accept at least one or two legal aid cases in a year.

Respondent No. 12 felt that indigent litigants are not satisfied with the adequacy of justice delivery system. He was infavour of fundamental reforms in justice delivery system to help the indigent litigant than mere legal aid.

d) Issue IV: Reasonability of Fees to Legal Aid counsel

The following are the responses on the issue of fees paid to legal aid counsel and whether such fees affect the quality of work:

Respondent No. 1 stated that three years back the fees of legal aid counsels were enhanced. Now again proposal for the enhancing of fees was in the process, which takes into consideration the present cost of living. Even if money was fixed per each hearing, there must be an outer limit prescribed. Generally quality of service of advocate will not be affected due to less remuneration.

Respondent No. 2 felt that the fees were indeed very low. That would defiantly affect the quality of work.

Respondent No. 3 was in favour of increase in fees something in par with the Government Advocates

Respondent No. 4 opined that the prescribed fee was much less than the required fee.

Respondent No. 5 felt that the prescribed fee for the counsel was not reasonable which affected the quality of service. As fees were low and involved laborious procedure for reimbursement, the counsels did not put in proper professional skills.

Respondent No. 6 stated that advocates have to realise that legal profession is a noble profession. When every advocate has to take a legal aid case, the question of meagre amount does not arise. Advocates have to accept legal aid cases due to several reasons. Juniors are bound to get exposure and experience. This is in fact the actual remuneration (fees) which cannot be calculated in terms of money. For senior advocates, in several cases they are getting fees even without making any effort when for instance the case is dismissed at

default of other party etc. So accepting one or two cases per year does not create any difficulty to their ongoing practice.

Respondent No. 7 felt that fees were not an issue at all. Even if the fees were increased that would not satisfy the advocates. He also did not agree with the fact that quality of work was affected due to fees. Basically advocates were accepting legal aid cases not for the sake of amount.

Respondent No. 8 felt that the fees were very low and the quality of work was definitely affected.

Respondent No. 9 philosophised that the fees were reasonable if the counsel understood the concept and spirit of legal aid as well as were interested in his advocacy skills. If the above is not kept in mind the quality of service was bound to be affected.

Respondent No. 10 stated that the fees for the legal aid advocate were reasonable as they were doing it as service. He opined that otherwise the concept of service was lost.

Respondent No.11 on the point of fees stated that though the word fee is mentioned in the Act it is in fact honorarium. Earlier i.e prior to act came into force, judicial officers requiring some advocates acting like court friends to advise some important matters and also to deal with some indigent cases without fees. But in some instances those advocates (*amicus curie*) used to ask some money from the clients. To avoid this, legal services authorities Act provided some nominal honorarium. Being social work one cannot measure whether fees is adequate or not.

Respondent No. 12 felt that the fee prescribed for legal aid counsel were not reasonable. He opined that quality of counsel work effected due to fees in a number of cases.

e) Issue V: Category of People Entitled to Legal Aid

On the issue whether the respondents were satisfied with the categories of people mentioned as entitled to legal aid and whether they had suggestions for amendment or inclusion of any other classes, following were the response.

Respondent No.1 stated that senior citizens and people affected by natural calamities had to be included making them entitled to legal aid.

Respondent No. 2 felt that all classes were covered for legal aid except senior citizens. Hence senior citizens had to be included in the list. Of course (like the principle of creamy layer) those who had the capacity to appoint advocates had to keep out of the legal aid.

Respondent No. 3 felt that almost all were well covered under legal aid. Only the implementation was not so effective. On this point he felt that awareness was required.

Respondent No. 4 opined that the categorization seemed to be unfair. He felt that apart from women and children, the others must be purely on economic considerations only.

Respondent No. 5 felt that the income slab prescribed under section 12 of the Act should be considerably increased. Categories in Sec.12 (a) should be

deleted totally. There should not be any category except for the income restrictions.

Respondent No.6 felt that legal aid is to be provided to whoever approaches the court as indigent. Generally it was observed that those who are unable to pay the advocate fees alone approach for legal aid. Those who have capacity to appoint an advocate will never approach the court for legal aid. Hence there was no need to continue with the existing criteria or for creating new criteria.

Respondent No. 7 did not offer comments on this point.

Respondent No. 8 emphasised that all the categories mentioned were hardly availing of the facility properly. It was used mostly by hard core habitual offenders, who benefited from the services offered.

Respondent No. 9 was of the view that it was sufficient to have only one class i.e. based on economic grounds.

Respondent No. 10 was not satisfied with the categories mentioned. He suggested that handicap people, estranged children etc to be included.

Respondent No. 11 felt that women and children are also included in the legal aid category as beneficiaries. Thus the provision did not make the difference between rich and poor women. So, even rich women could get the benefit of legal aid which defeats the provisions of the Act.

He opined that senior citizens and freedom fighters could also be included in the list of eligible persons.

Respondent No. 12 was satisfied with the classes of people mentioned in the Act as entitled to legal aid. In his opinion there was no category of people from weaker class that were left out from the list.

f) Issue VI: Procedure for Legal Aid

The following were the response on the issue of procedure for legal aid, whether the respondents were satisfied or desired any changes in it.

Respondent No. 1 replied that the procedure was very simple.

Respondent No.2 desired more transparency and suggested that it could be achieved if there was a separate permanent set up with infrastructure like building, office, extra manpower for Legal Services Authorities.

Respondent No. 3 felt that the procedure was very simple. In case of remand there was no need to follow the procedure as one advocate is appointed in every court for the accused at remand stage.

Respondent No. 4 suggested that the Presiding Officer should inquire with the litigant, about whether he would want to avail of legal aid or not, and the same recorded as part of proceedings before framing of issues or charges.

Respondent No. 5 was not at all happy with the procedure prescribed for applying for legal aid. He opined that it was laborious. He suggested a single window system for all applications pertaining to High Court Legal Services Committee, District Legal Services Committee, and Taluka Legal Services Committee. He also suggested that application should be disposed of, within a particular time schedule, so that applicant knows whether he is entitled or not.

Respondent No. 6 opined that the system of Panel of Advocates should be removed. He felt that procedure for filling an application with income certificate is complicated. He suggested simplifying it like asking the party about their advocate. If the person had no advocate then immediately an advocate should be appointed from the court hall.

Respondent No. 7 felt that the procedure was very simple.

Respondent No. 8 was of the view that the procedure was simple as far as the party was concerned.

Respondent No. 9 affirmed that the procedure was simple.

Respondent No. 10 felt that the procedure was simple. Yet he opined that there was need for some changes. He also suggested that legal aid cells are to be opened everywhere including villages and that legal aid counsels be available at such places.

Respondent No.11 opined that procedure is very simple. There is no need of change. In every case judge asks the accused about counsel and if the client replies that he is unable to appoint advocate court will provide an application in simple format to be filled by him to appoint such advocate.

Respondent No. 12 – As regards to the procedure he suggested that the form seeks legal aid should be more user friendly. They could be available at Kiosks, such as Mahiti Gharn all over the state. He also suggested that involvement of law college students in understanding the problem, preparing legal brief and actually briefing the advocates on legal aid panel.

g) Issue VII: Role of the Bench

On the issue of the role of the Bench in legal aid and whether it played an active role the following were the response and suggestions.

Respondent No.1 felt that the majority of judges are playing pro-active role.

Respondent No. 2 suggested for an independent office for Legal Aid Service Authorities. Then one could expect pro active role on the part of the Bench.

Settlement of pre litigation matters had to be encouraged by the judiciary.

Awareness has to be created in the litigants about settlement of disputes through pre litigation system. In this process senior citizens (may be retired judges, or any other person who have much knowledge in particular fields) can play active role. Their presence is fruitful. Their experience can be properly used. Parties may be pleased to accept neutral person's settlements which can give qualitative justice.

Respondent No. 3 stated that the Judiciary was the back bone of legal aid movement. Thus it is a more meaningful 'consensus – justice' to the common man. Judiciary has to continue the procedure. Judges have to attend legal aid programme.

Respondent No. 4 stated that the Judiciary has been pro-active since inception of legal aid, but that was not sufficient and sometimes there were inconsistencies. There has to be a system of prescribing obligations on judicial wing to ensure that the legal aid provided to deserving litigant is adequate and of quality.

Respondent No. 5 opined that Judiciary should play a more pro-active role in providing legal aid. There were several instances, where judiciary imposed costs in cases to be forwarded to the Legal Aid fund, so as to augment the fund. However the judiciary, according to him, should also play a pro-active role in order to see that the augmented fund is utilized in specified areas and for needy considerations. The same should happen to the legal aid fund provided by the Government. Judiciary should accept the role of monitoring the legal aid activities, so that the weak links in the systems do not become weaker.

Respondent No. 6 opined that Judiciary must play a pro-active role. Whenever a judge comes to know that the party has not appointed advocate due to financial constraint or some other reason, he may appoint a legal aid advocate. Depending on the nature of the case the Judge has to appoint the advocate. If it is serious case senior advocate has to be appointed, and for a less serious case juniors can be appointed. When the Judge realises that legal aid advocate is not properly representing the case, then the Judge has to suo moto change the advocate.

Respondent No. 7 suggested that judges have to use senior advocates for legal aid. If the judge requests a senior advocate, no advocate will refuse even though they are not in the panel. In fact the panel system has to be scrapped. Some of the senior advocates want to help the parties in the name of legal aid but they are not interested to apply for being in the panel of advocates.

Respondent No. 8 felt that the judiciary was doing well on this issue.

Respondent No. 9 opined that judiciary played an active role. However that was at policy level. Gradually implementation is falling. This is also due to lack of coordination among various levels of Legal Services Authorities.

Respondent No. 10 opined that Judiciary played a very active role with respect to legal services. They were not only providing but also showed willingness in providing legal services under the Act.

Respondent No.11 felt that especially in State of Goa the bench plays a very active role. They have carried several bi-monthly, monthly programmes including lok adalts, legal camps and legal clinics and mediation. The system of mediation is slowly developing. Para legal services are involving in Goa. He opines that from 1996 when Justice A.S. Anand pattern in chief, he was the guiding force for evolution of legal aid movement.

Respondent No. 12 felt that the Bench should consider the gravity of the case and on such a basis appoint amicus curaie or request competent experienced lawyers to take up matters in legal aid.

The approach should not be to dole out some favour to a Junior member of Bar without ascertaining whether legal aid is offered to the litigant or not.

h) Issue VIII: Role of the Bar

The following were the response about the role of the bar; whether the Respondents were satisfied by it and their suggestions.

Respondent No. 1 stated that many advocates were doing well so far as legal aid services were concerned. However some advocates were reluctant as the fees were meager.

Respondent No.2 opined that the Bar was contributing its might towards the society. He stated that advocates needed job satisfaction which could be obtained by involving in legal aid.

Respondent No. 3 stated that advocates were very cooperative and doing well as far as their role with regard to legal aid is concerned. He opined that if their remuneration was increased, senior advocates too would enrol in the panel. He stated that it was unfortunate that some of the legal aid advocates were accepting fees from their clients.

Respondent No. 4 opined that advocates entrusted with the responsibility of legal aid service are burdened in the absence of the appropriate remuneration or recognition.

Respondent No. 5 said that he was satisfied with the role of the Bar in providing legal aid. He stated that advocacy was a noble profession and the advocates have a great social role to play in the society. He can serve the society in his own way. A true professional lawyer should have legal aid at the back of his mind and should provide it to the deserving clients.

Respondent No. 6 said that he was not happy at the way the advocates were dealing with legal aid cases.

Respondent No. 7 opined that lawyers representing legal aid cases had to do it as an honour and not merely because he is in the panel. The impression that,

only advocates who do not have sufficient work engage in legal aid, has to be removed from the public perception.

Respondent No. 8 stated that in the JMFC Courts, young entrants were willing to take the cases. Whereas in Court of Sessions, seniors were not coming forward to be members in the panel. However when judges request the advocates to take up cases, they never refuse. If the fees are increased this problem will not arise.

Respondent No. 9 felt that the role of the Bar as far as legal aid service is concerned was not satisfactory. Bar has to be sensitized to the cause. It is necessary to sensitize the students towards this cause when they are in third year of the five years course. Otherwise once they come to the profession they get habituated to earn money, forgetting their responsibility to the society.

Respondent No. 10 suggested that members of Bar had to encourage selected junior lawyers to form part of panel.

Respondent No. 11 was not satisfied with the role of the Bar. He suggests that there should be an amendment to the advocates Act which makes it compulsory that each and every advocated has to deal at least with one or two case. He added a proviso saying that civil cases have to be entrusted to those advocates who are practising only in Civil cases. Similarly in Criminal matters. He suggests that advocates have to be appointed on rotation basis. On the point of preparation of panel he was not in favour of giving choice to advocates to be a member of panel . He felt that Bar association has to decide on the names of

the advocates to figure on the panel. Advocates should be bound by the decision of the Bar.

Respondent No. 12 felt that Bar should give in its best as far as legal aid is concerned. Bar council of India can also make some provisions whereby every lawyer is obliged to clock some legal aid service hours.

i) Issue IX: Role of Law Colleges

On the issue of the role of the two Law Colleges in Goa, the following were the responses.

Respondent No. 1 opined that both the Law Colleges were having Legal Aid Cells and their work could be enhanced if they worked along with the Legal Services Authorities.

Respondent No.2 opined that the Law Colleges were faring well as far as legal aid was concerned.

Respondent No. 3 stated that the Law Colleges were having an important role to play. Law Colleges and Taluka Committees should coordinate in organising programmes of Legal Services.

Respondent No. 4 was not satisfied with the role played by the Law Colleges and opined that they could be of much more service if their role was recognised in the litigation system. He stated that law students should be entrusted with such cases, where they could help the lawyer to gather information including case law. Such service could also be remunerated wherever possible.

Respondent No. 5 felt that role of the two Law Colleges in Goa with respect to legal aid was not satisfactory. Law students, as future lawyers had to go to remote corners and hold meetings to spread the messages of legal aid. The students should be instrumental in understanding and spreading the concept of legal aid. They should spot and identify the needy in the areas of their work and inform them accordingly as to what is legal aid and even assist them in availing such aid. He suggested that law students should be made a part of legal aid schemes envisaged under Act of 1987 so that they acquire the required qualities by the time they are called to the Bar.

Respondent No. 6 felt that the Law Colleges without doubt were doing very good service.

Respondent No. 7 felt that Law Colleges did more for publicity than real serious work. He suggested that Legal Literacy Camps had to be conducted on the relevant subject to the concerned persons. Conducting Legal literacy Camps without concentrating on the audience served no purpose. Public did attend but returned home with great dissatisfaction. He suggested that Colleges had to plan systematically the topic for the targeted group. Mostly, topics like Panchayat Act, Rules of Grama Sabha, and misuse of NREGA etc. would serve the purpose.

Respondent No. 8 felt that V.M. Salgaocar College of Law was working sincerely towards legal aid and was doing well. Kare College of Law was working only with respect to legal problems, whereas Salgaocar College students were involved in social welfare schemes and legal literacy camps,

mostly in association with Taluka Legal Services Authorities, which was a welcome concept.

Respondent No. 9 stated that the Colleges were doing well in this respect and with every batch the work is being done more and more. He suggested that more incentives should be given to encourage students.

Respondent No. 10 suggested that if the students were given some tasks by Legal Services Authorities like internship, they would besides getting exposure be doing some service to humanity. That would also serve the purpose of Legal Services Authorities.

Respondent No. 11 opined that as far as Goa is concerned law colleges were doing excellent jobs. However there was a scope for improvements. As per him legal aid cells were working properly. However he was found that student can not give advise on the spot when the party approaches them rather they have to consult the faculty or the advocates. In small matters usually there is no need for an advocate. In such cases it was sufficient to consult the professors of the college or other persons who are well versed with the subject. As per him students have to be advised that they should not misguide the clients.

Respondent No. 12 felt that the student could be permitted to take up few cases, but they should follow them up to their logical conclusion. Besides students should be involved in taking instructions from litigants, preparing legal brief and actually briefing the advocates on legal aid panel. He opined that students should be advised to give their best for legal aid irrespective of success or failure or actual cost without consideration for marks allotted.

8.12 CONCLUSION ON HYPOTHESIS

Researcher started with five hypotheses which he contrasted with, namely, (a) available statistical data, (b) empirical data collected by way of questionnaire and (c) data from a brief opinion survey of selected eminent legal experts in Goa. This systematically compiled data was analysed in chapter 8 and is used by the researcher here for arriving at Conclusions on Hypothesis.

Even though Right to counsel is included as a fundamental right, majority of the people are unable to take advantage of this right due to their illiteracy, poverty and lack of awareness.

By observing Table 9 it can be seen that the beneficiaries in the High Court are very few, which means most of the people are unaware of the provisions for legal aid/ right to counsel.

It is apparent from Table 10 and 11 that persons in custody are more in number who enjoy the benefit of legal aid. Though the number is more at District and Sessions Court level as compared to the High Court, it cannot be evidence enough to believe that a good number of people are aware of the right.

From Tables 12 and 13, it is apparent that the legal services authorities are trying to foster legal awareness among the people by conducting various activities pertaining to its motto. It is clear from Sub- heading no 6.7.5 titled 'Legal Aid Clubs in Schools and Colleges', that Legal Services Authorities are making efforts to create awareness even in rural areas. Table 17 also shows that Legal Services Authorities in association with the Law Colleges are conducting micro legal literacy programmes.

It is evident from Table 20 that many people have no knowledge about the benefits that are promulgated under the legal aid scheme. This table further shows that some advocates are collecting additional fees from parties in the name of stationery etc. which they claim as part of legal aid. This occurs as and when the parties are unaware, that the legal aid benefit includes stationery expenses too. The response from the judiciary to the questionnaire submitted to them, Table 36 shows assuredly, that the legal aid provisions help the accused person to secure justice. This shows that there is some awareness among the needy people about the legal aid.

With regard to the first hypothesis that majority of the public do not know about right to counsel, is partly proved to be true, by contrasting the responses of Respondents 2, 4, 5, 9 and 10 in the opinion survey by interview method, with regard to the Issue No. I⁸⁶

With the circumstantial and direct evidence from above sources the researcher has proved the first hypothesis partly. Because of the activities of the Goa State Legal Services Authorities and their year plans it can be expected that in near future greater majority of public will come to be aware of the right to counsel.

The indigent litigant has no confidence in the effectiveness and adequacy of the justice delivery system due to procedural technicalities, poor service from the free legal aid lawyers, and establishment apathy.

The contents of the Tables 9, 10 and 11 point out that very few have been benefitted or approached the authorities for their needs. Thus, it is revealed that

⁸⁶ Issue No. 1 is regarding the accessibility of legal services to the needy people

litigants' confidence towards legal aid system is not firm. Circumstantial evidence from Table 24 reveals that one of the reasons for litigants not having confidence in the legal aid system is that senior advocates, instead of personally dealing with the legal aid case, are totally delegating it to their juniors. 31% of advocates as shown in Table 26, who answered the questionnaire, gave their opinion that conviction is more in legal aid cases due to poor interest shown by advocates. This in itself shows that litigants are losing confidence in the legal aid system. Of course 56% did not accept the above contention. Hence more than fifty percent of advocates corroborated that litigants have confidence in the system. In this respect Table 27 is very relevant wherein only 48% of advocates expressed that accused are satisfied with the service of the advocate. With regard to the response of judiciary on the question of competency of legal aid advocate as shown in Table 31, just above fifty percent i.e. 52% expressed satisfaction, whereas 22% were not satisfied and remaining 26% did not reply to this question. However to the question of the role of legal aid in securing justice, 78% of judiciary have expressed faith in this system which by contrast is evidence enough from Table 36.

The responses to issue III⁸⁷ of eminent legal experts are relevant to this hypothesis. Respondents 2, 5 and 9 expressed their doubts about the confidence of litigants in legal aid advocates. However most of the remaining respondents expressed their positive attitude to litigant's confidence in judicial system.

⁸⁷ Issue 3 was with respect to confidence of the indigent litigant in the justice delivery system

With the above empirical data it is proved that litigant's confidence in legal aid advocates is not high. So, Advocates have to show their sincerity, and commitment to the legal aid cases. It can also be understood from the above facts that some of the advocates, judiciary and legal experts felt that the litigants feel confident in the legal aid system. Hence hypothesis II is partly proved.

Low fees prescribed for the legal aid counsels attract very few talented lawyers and as a result Legal Service Authorities failed to execute the concept of "Poverty Jurisprudence."

One of the major hurdle in the legal aid system is that remuneration/fee of the legal aid advocate is meagre. By observing the Schedules in Legal Services Authorities Regulations and Legal Aid Counsels Scheme shown in the Tables 1, 2, 3, 6, 7 and 8 in chapter VI, one can understand that remuneration is fixed per case but not as per hearing and in no case the amount exceeds more than Rs. 1500. In most of the matters the fees are fixed from Rs.200 to Rs.800 only. This figure itself conveys that fee is relatively very low. We can understand that no case can be settled within a short time. Experience shows a minimum of 2 to 5 years will be required for a settlement of any case, whether it is through legal aid or otherwise.

With regard to the answers of advocates to the question of additional fees charged by a legal aid advocate from the accused, as shown in Table 20, it is evident that 18% gave positive response and 31% did not give response. This in

itself reveals that the fee which the authorities have fixed is low and not satisfactory. By observing the table 28 one may easily come to a conclusion that the fee is meagre. It is to be noted that 83% admitted this proposition to be true. Similarly from the responses of the judiciary to the questionnaire with regard to the competency of the advocates in legal aid cases, as shown in Table 31, 22% were not satisfied and 26% did not answer. This in itself shows almost 50% were dissatisfied with the advocates' efficiency. It means that it is not in fact the competency of the advocates which is doubted but the lack of interest shown towards legal aid cases. It is submitted that one of the major reasons for showing poor interest might be that the remuneration is meagre. With regard to the issue on fees, the response which the survey papers addressed to the judicial officers drew is that, nearly 75% admitted that fees fixed for panel advocates, in regulations and schemes, is grossly insufficient. The data shown in table 33 and 34 is followed by an analysis and graph as shown in Figures 22 and 23.

The respondent's opinion gathered by interview, on issue IV⁸⁸ are quite relevant for this hypothesis. Respondents 2, 3, 4, 5 and 8 replied that the prescribed fee is meagre and it affects the advocate's services. From the above statements and answers collected in the empirical study, one can conclude that Hypothesis III is proved to be correct.

⁸⁸ Issue IV deals with the aspect of fees paid to the Legal Aid Counsel and whether such fees affect the quality of work

The sympathy of Legal Service Authorities towards free legal aid is more perceptible when the claimants are members of schedule castes and schedule tribes.

Tables 9, 10 and 11 reveal that though the Legal Service Authorities are theoretically favourable to Schedule Caste and Schedule Tribes, in practice that does not seem to be the position in Goa. The beneficiaries from the category of scheduled caste and scheduled tribes as shown in the table are meagre. So the above data is not adequate enough to justify the hypothesis or to prove it otherwise. This could be due to the fact that the movement in favour of Schedule Caste and Schedule Tribes entered Goa much after Liberation. The pre-Independence movement in favour of backward classes that was witnessed across the rest of the country did not take place on parallel lines in Goa. In fact this hypothesis needs further socio-historical research on these categories in Goa to back the present legal opinion.

The sympathy of Legal Service Authorities towards free legal aid is more perceptible when the claimants are women.

It is evident from the Tables 9, 10 and 11 that women, who are having a special niche in the system of legal aid theoretically, are also increasingly being benefitted from it as compared to the position in earlier years. The traditional concept that women do not approach courts of law is no longer valid. Hence the sympathy shown towards women has brought about perceptible social change. Hence it justifies the hypothesis.

The Concluding chapter contains a brief summary of the whole thesis and finally ends with practical suggestions meant for Legal Aid Authorities as well as for the Law colleges.