KNOWLEDGE DOCUMENT

**LEGAL CLINIC**

*(Centre for Social Justice’s initiative in delivering quality Legal-Services)*



**IDEAL – Centre for Social Justice**



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1. **Introduction**

Established in 1993, the Institute for Development Education and Learning - Centre for Social Justice (hereafter known as “CSJ”) is a human rights organization fighting for the rights of the marginalized and the vulnerable, principally in the sphere of access to justice. Inspired by Freirean thought, CSJ has been active in the states of Gujarat, Madhya Pradesh, Chhattisgarh and Jharkhand creating human rights interventions using law as a key strategy through an intimate engagement with grassroot realities. Over the last 25 years, CSJ’s experience has led to the conceptualisation and development of a unique approach towards addressing the vulnerability found in its field areas, and consequent effort in driving the rights and entitlements, home.

CSJ’s work in the access to justice field has been its principal focus over the years, being the ideological and conceptual bedrock on which its other interventions are designed, built and operationalized. Driven by the organization mandate of developing systemic change to empower vulnerable communities, CSJ has worked extensively in expanding the reach of justice delivery mechanisms across the states of Gujarat, Chhattisgarh, Madhya Pradesh and Jharkhand.  Simultaneously, CSJ has focused on developing innovative, community-centric platforms that bridge the gulf between communities and legal processes, in turn making justice delivery more responsive to the needs of communities.

1. **The ‘Law Centre’ Model**

The organisation works with the institutional *‘Law Centre’* model for furthering access to justice for the vulnerable communities. These are physical offices; each operating in a paralegal-lawyer-researcher framework, which is the hallmark of the organisation. The *Law Centres* not only provide litigative support and outreach to communities but become nodes for the propagation of a more holistic conception of human rights, i.e., carrying out systemic socio-legal interventions in different areas where they are located. In keeping with CSJ’s institutional principle of building community leadership, every *Law Centre* is built around one or more passionate individuals from the community who have worked with CSJ and expressed quality leadership potential, that is, ‘leader-lawyers’. The Centre is built in consultation with and around the needs and aspirations of the leader-lawyer.

These *Law Centres* resolutely work on service delivery and litigation, through a combination of awareness building, consultations with stakeholders (governmental and otherwise), capacity building of lawyers and of community based paralegals which facilitate individuals and communities to file their claims for socio-legal entitlements, legal aid and other litigation work.

***2.1 Three Tiered Response Mechanism***

When each Law Centre responds to a host of multiple issues while simultaneously thriving to enhance capacities and competencies of each human-resource associated with it, there is a necessity to put a flexible and smooth strategy for entry and exit of its Lawyers It operates in a way where young lawyers enter the organisation, receive required nurturing, mentoring and hand-holding support throughout the process to develop their litigating and other skills; and once they reach a certain level of experience and maturity in knowledge, they are encouraged to move beyond the organisational framework to commence their separate practice in the field of human rights lawyering. A cadre of Lawyers is aimed to be created through extensive and engaging process of Capacity-Building, over distinct stages, resulting in their high potentiality – both in terms of leadership skills and litigating skills. Moreover, in a scenario where we there is only highly skilled and experienced personnel, it becomes unrealistic to expect them to continue with CSJ, once their market potential grows beyond what the organisation is capable of remunerating.

Therefore, instead of looking at it as a bottleneck and a situation of loss of trained human-resource, the policy paves the way for a designed-exit of senior lawyers and enters into an arrangement where they continue to associate with CSJ through other non-organisational methods like - resource persons for trainings, providing thematic and knowledge-support in certain cases, etc.

Operationalization of this strategy in real-terms has facilitated the existence of a three-tiered structure comprising differently competent lawyers, at any given point of time within the Law Centre model. At the bottom of this structure is a fresh trainee lawyer with minimal or no experience, then a middle-level lawyer with moderate experience and finally, a senior-level lawyer with vast experience for over ten years. Hence, at every stage there are human-resources with mixed competencies that help the Organisation to smoothly move ahead.

1. **Legal Clinic within CSJ**

***3.1 Context***

Since its inception, the organisation places providing professional and quality legal services at the heart of its interventions in the domain of increasing access to justice therefore, justifying a considerable amount of its time, energy and efforts being spent on uplifting the standard of the services delivered by the associated Lawyers and Paralegals. These internally developed mechanisms include periodical trainings – residential and non-residential on specific issues, organising interactive sessions with subject-experts on topics that are suggested by members or otherwise, conducting hands-on trainings on specific issues of law to develop drafting skills, quarterly reviews to assess where attention needs to be diverted at, etc. It is in this context that CSJ has conceived the idea of a *Legal Clinic*, which exclusively focuses on addressing the quality of different cases being handled by its Team.

***3.2 Concept of a legal clinic***

It can be understood as a systematic and guided method to check the quality - on various parameters, of the cases being handled by team. It not only ensures that the legal services are provided to the needy at all the levels – from pre-litigation in different forums to obtaining an order in different Courts, but also more importantly, the standard of legal representation sets an unparalleled and unmatched benchmark. . At the end of the day, the aim has been to ensure that the cases being represented by CSJ’s L&P are quality-checked on bunch of different parameters like - drafting, strategic orientation, usage of recent case laws and recent position in law, comparison and consistency with legal provisions, filing of documents. In its true sense, it implies a set of techniques, strategies and methodologies whereby the primary aim of ensuring a quality-assured legal service is sought to be fulfilled. Since the adoption of this model into CSJ’s core principles of functioning, its conceptual understanding has remained static and solid, providing a backbone to the operationalization of the mode, while its forms and manifestations have seen various changes.

**3.3 *Incorporating the three-tiered structure within Legal Clinic***

With the availability of human resource on all three levels, starting from the bottom to the highest standard, lowest to highest standard, Legal Clinic incubates the young lawyers through their apprenticeships with mid-level and senior lawyer’s, in the capacity of a Trainee Lawyer. They undergo hands-on training and, are provided extensive hand-holding support - from learning the nitty-gritties of fine drafting, to being coached on appearing in and arguing inside the courtroom. A senior-level lawyer who has spent considerable time in the organisation gaining experience and providing legal assistance, is taken as a thought leader, acting as a mentor to nurture and supervise the functioning of these trainee lawyers.

It is an internalised notion within CSJ, those finer things like quality of filing of documents within a court-file is given the same level of attention as the final arguments for a case. As a trainee lawyer is new to the profession, full of apprehensions and confusion, the assistance from the seniors help them focus on honing their skills in drafting of applications and petitions. They are also given autonomy to handle some cases on their own to help them build a sense of ownership and dedication, not ignoring the need to ensure quality representation; they are made to appear alongside the experienced Senior lawyer from within the organisation. Not keeping it restricted to just filing and preparing the paperwork, the nitty-gritties of the procedure including, how to argue, how to modulate the pitch according to the judge, how to conduct chief examination of witnesses , how to talk to the client-victim to bring out certain facts, etc., are the examples where the role of a middle-level and senior-level lawyer is pitched, leading to building of a microscopic understanding of functioning within the legal ecosystem to bridge the gap between grassroots’ realities and the letter of the law.  
  
The primary skills of issue-identification and then converting the same into language of rights, i.e. to say, how an issue is to identified as a violation of a particular right in the realm of law is also inculcated in the trainee lawyer. For example, in a case of assault where accused is a single person, there will be a different section under Indian Penal Code which will be attracted compared to a scenario where more than one person is involved in the act of assault, that would warrant application of other relevant sections of rioting additionally.

Similarly, where a girl below 18 years of age is kidnapped by an accused, the relevant section would be 363, IPC, but in the same case if the girl is above 18 years of age, the relevant section would be 366 of Abduction under IPC. Thus, issue identification is stressed upon as a necessary skill so as to enable the lawyer in further assessing the relevant sections of the law that will be attracted.

For example, on the principles of Evidence Law, a trainee lawyer is trained and assisted in developing an understanding of the terms used therein – Prove, Disprove, Relevancy, Admissibility, etc. As there is progression to a higher level, the capacities are built on application and usage of the legal concepts in various cases that they deal with.

At the trainee stage, a lawyer is trained so as to identify these issues and understanding the same within the substantive law. At the entry-level focus remains on reading and understanding the law to build a perspective on the same. With time and experience as this trainee lawyer moves to the middle-level, focus of the Senior shifts to application and procedure of the law in different ways, given that a foundational understanding of the same has been already set in place.

1. **PURPOSES**

*Legal Clinic* can be seen as a medium to serve the following purposes :

1. **A space for Learning and Sharing :** existence of a legal clinic within CSJ has been instrumental in creating a platform to for bringing out diverse experiences of the team under one roof, where a focused-discussion on the outcomes of these experiences leads to common sharing and learning within the group. At CSJ, it is believed and practiced that each person’s experiences while engaging with law will be unique and is instrumental in providing information on different intricacies related to working or absence of, and implementation of law. Therefore, an input-action-reflection framework is put into place where actions or experiences of each person are shared with the larger group to facilitate cross-learning as well as to formulate future strategies – individually and for the group.

The trainee lawyers get an opportunity to listen to and learn – concepts, application of provisions, tackling a difficult case in court, applying the art of arguing before the judge, employing creative drafting skills to prove an argument, strategies for cross-examination, etc. – from the experienced lawyers, while also being able to contribute to the same by sharing their present understanding of various aspects discussed above.

And as such, it becomes a shared space for facilitating learning from peers and sharing one’s experiences and ideas, being uninhibited that ultimately feeds into the larger system for maintaining the hallmark-quality of legal services.

1. **Helps in Identifying Capacity-Building needs :** CSJ engages extensively in capacity building efforts, for its Lawyers and Paralegals to develop their capacities to use law for ensuring that rights and entitlements are guaranteed to those who are entitled to the same, this – being in line with its institutional mandate to upscale the quality of each human resource associated with it. A research and capacity building unit, comprising of young lawyers from five-year integrated law courses and senior lawyers who have been part of the CSJ and its processes, anchor these initiatives along with a strong secretariat to provide monitoring support. Different events are then organized to build capacities of the team on each specific need.

Using the above-mentioned input-action-reflection frame, the capacity building efforts are closely combined with the operations of the Centre in general and the individual in particular, ensuring relevancy and efficacy.

This can be seen in force in a given scenario where a young lawyer who is handling a case under PWDVA, 2005 is not able to make any progress in the case even after obtaining a favorable order from the Court in last hearing. Here, there could be multiple reasons for him not being able to proceed ahead in the case – absence of recent judgments on latest position of law, lack of drafting skills for an application/petition under a different section or lack of a format thereof, absence of the skills of arguing in court, lack of knowledge of institutions to be approached for further remedy, etc., - thus, these reasons are identified through various mechanisms that are part of capacity-building efforts and are then looked at as the guiding notions, i.e these hindrances are taken as the ‘needs’ of a Lawyer which are sought to be addressed through consequent efforts.

Another route to understanding the process of how certain specific needs in different areas are identified is to look at a situation where one or more lawyers or paralegals is committing the same mistake in application of the same provision of an Act. In such a case when this comes to the foreground, a needs-assessment is undertaken to finely analyses as to the deficiency in a particular area – whether it’s a skill that is lacking, a perspective, or knowledge on the same. The results of the needs-assessment then prove useful in formulating further course of action. When dealing with the cases of Domestic violence under PWDV Act, 2005 many of CSJ’s lawyers in Gujarat made the same mistake related to non-production of certain document to strengthen the case of the litigant, it was addressed through multiple methods of supplying notes on legal position, organizing trainings on understanding of the law, for the lawyers in vernacular language, hands-on training experiences, etc.

In similar cases of a larger group treading on the same mistake in a singular or multiple issues of law, a method of creating an ‘instruction booklet’ is adopted, which then acts as a common guideline for everyone and minimizes the risk of occurrence of the same mistake.

CSJ created ‘*Vakalat ka vah´*, an instruction cum guideline manual in Gujarati language, on different aspects revolving around various laws and rules, state as well as national, that also doubles up as a reference material for its Lawyers and Paralegals.

From the organization’s point of view and its Capacity-building initiatives, a variety of skills and techniques are taught for its ‘*Rights-based Conciliation’* (See Section 6 (ix) ) - communication skills, different approaches of managing conflicts effectively, tracing needs and real interests, moving from positions to interests, how to deal with intense emotions, re-framing, open questions, and so on.

Thus, capacity building initiatives are nothing but a series of recipient-oriented actions which place the enhancement of participant’s skills, perspectives, knowledge and competency at the highest level.

1. **Helps in identifying systemic issues that needs intervention:** with the mechanism of *Legal Clinic* in place, it also assists in bringing to light, those areas of law that warrant for a systemic intervention in a targeted manner. CSJ’s efforts at strengthening the quality of lawyering and advocacy at the grassroots are its first step towards influencing the policy at a national level, and bringing about the systemic changes in law to benefit those at the bottom-most level. Rooting on the accepted and experienced notion of Law as a tool for social change, it concentrates bulk of its effort in identifying the area within the contours of law that are silent on the issues of its target population or work against its interests or lack the sensitivity towards the reality of issue. Thus, it is to fall in line with this principle that, when common meetings are organized to put forth and share the experiences of using law and rules at the grassroots, it is seriously undertaken so as to identify those areas of possible procedural gaps.

The Law on Domestic Violence came into effect in 2005 and CSJ’s lawyers and paralegals started their journey with using the same for the litigant women even when there were not many judgments from Supreme Court to elucidate the position of this law. But, as, many cases kept getting registered under the same from Gujarat, and the remedies from the Court, in almost all the cases, came after passing of the threshold limit of 60 days, it was shared, discussed and a strategy was formulated to address the same systemically as the problem was within the working and implementation of the said legal provision. A Public Interest Litigation was filed before the High Court of Gujarat in to seek a direction from the Court to appoint Protection Officers across States. Furthermore, a judicial protocol was also obtained from the High Court Registrar to address the common mistakes made by Judges while adjudicating and handling such matters. so that the process under the Act can be expedited. A judicial protocol was also obtained from the High Court registrar to address the common mistakes made by judges in applying the law.

In a similar scenario, CSJ’s team in the district of Dang in Gujarat are engaged in implementing and working around the provisions of Forest Rights Act, 2006 through facilitation in filing of claims for land-titles. While engaging in the said task, it was revealed that most of the claims filed under the Act were getting rejected on grounds that did not seem valid and legal – the pattern of rejection of those claims was analyzed for identifying where the efforts need to be put into. After intensive research, deliberation and input sessions from various experts, it was revealed that the grounds of rejection in most cases were frivolous and yet enjoyed immunity from being struck down. Thus, a broader strategy of collectivizing these individual claims into a common question of law that warranted systemic intervention under FRA was formulated and applied.

1. **Formats :**

***5.1 Internal***

As the conceptual understanding of *Legal Clinic* has stayed consistent throughout preceding years, it has seen various formats that have been internalised to play out in different scenarios, mentioned under as follows:

1. **Peer Review Format**: this is a widely used and popularised format for assessing the cases on different parameters and identifying distress-areas for concentrating the capacity building initiatives. As suggested by the title, it aims to bring together the entire cadre of Lawyers and Paralegals from different Law Centres under one roof to facilitate cross-sharing and enable each Lawyer and Paralegal to build a concrete understanding of their cases as well as of their peers from other centres.

Here, those paralegals and lawyers that appear in different forums – Court and Tribunals and others – bring along their files with complete up to-date documentation. These files are exchanged and reviewed and a feedback is given on the pointers, that are to be shared before the process takes place, i.e., the points around each type of case and what to look for in the files are already shared with the participants prior to commencing the process of cross-analysis and feedback.

This sharing of pointers for review are a pre-requisite to the success of the format, as it requires a common understanding or rather some level or primary understanding to be present with all the participants. Further, it requires a basic input to have already been given to/ supplied to them before beginning the process of analysis.

For example, if all the lawyers have with their files on present cases of PWDVA, then it is a pre-requisite for each one of them to have a basic or a common understanding of the law and its application. A plenary session is organised where the feedbacks are gathered and discussed to formulate a common understanding of - mistakes, strategies and solutions.

This format has its own advantages, as it smoothly brings out in open, the common and individual mistakes, thereby allowing each one to learn from the other. But since, the peers are all on a common level of understanding and with almost similar expertise, this format works out best in situations where all the three pre-requisites are taken care to fulfilled – availability of prior basic input with the participants, prior practice sessions and a list of pointers/factors on the basis of which review process has to be undertaken for each file.

In the absence of these, the peer-review format makes itself vulnerable to not delivering the desired results, given each participant is on a similar level in terms of competency, knowledge and skills, with the other participant and there is negligible scope for critical feedback.

In the words of Birendra Ram Mishra, from Gumla Law Centre in Jharkhand, “with the cross-unit review system, I felt more free to explain my strategies used and logic applied in each case related to Women’s rights, especially Domestic Violence, and it gave me a new perspective while hearing from the team from Raipur Unit regarding their strategies, which I was not aware of.”

1. **Expert Scrutiny and Mentoring** : Under this format, an addition of Human resource is made – that of an Expert lawyer, sourced from outside the organisation or utilising the services of those senior-lawyers who have moved out of the organisational framework under the entry-exit strategy. Thus, an Expert lawyer has vast experience of dealing with a variety of cases and whose knowledge in finer matters of legal importance is higher than those participants from different Law Centres. Each Unit is asked to bring their updated case files to be given to these expert lawyers for the purpose of analytical assessment and scrutiny by them for a period of one day. These experts go through each case-file minutely, looking at the following pointers :

**-** Factual matrix of the case

**-** Facts attested

- Relevant laws whether used or not,

- Whether drafting is of superior and uncompromised quality,

- Documentary and other evidence attached

- Copies of previous orders from courts and further action taken, etc.,

Each file is analysed with respect to these pointers to form an opinion on the case and its handling by the concerned Lawyer or Paralegal. The Expert Lawyer uses the platform of plenary session to share their opinions, put across common mistakes and ways to correct them, , areas that need improvement with respect to each case, while also advising on whether a change in strategy is required while moving ahead.

Since a case file is analysed holistically, equal attention is given to the quality of filing, where following points are taken as basis :

* whether the filing of documents has been done in the same way as presented before the Court, i.e., any document is missing or added additionally apart from what is already given in the Court
* date-wise index of the actions taken by the Lawyer
* any information that might have to be removed as the same might be detrimental to the success of the case. .

This format has proved to be more suitable for covering a broader area for assessment, without compromising on the quality and standard in a short span of time. The expertise of the Lawyer on the subject matter is exploited to the advantage of the participants as they learn, reflect and adapt.

In a case of Medical Negligence by a doctor from a private hospital in Gumla, Jharkhand where only a preliminary legal notice was sent by the associated lawyer, to the doctor was assessed by Imran in one of the Annual Meetings and provided suggestions related to usage of Consumer Protection Act and principles of Medical negligence as given under Indian Penal Code, applications to the Medical Association of district and the state. These suggestions proved useful for the associated lawyer in navigating the unknown territory of handling a case of medical negligence.

Given the utility of this format and the positive results it yields, CSJ understands that it is also important to be not completely dependent on this alone and be wary of the concerns it fails to address. The only advantage of this format remains its inability to deal with each case intensively and provide a tailored guidance to each case on its own merits and demerits, . Adequate time needs to be apportioned where the expert lawyer can study the file in depth for this to productively yield results.

1. **Individual Expert going to Each Centre :** The in-house expert, Senior Lawyer visits each Law Centre in its geographical area where its situated, and uses his proficiency in legal and other related matters to lend an expert hand to the on-going cases of each Unit. From accompanying the Centre’s lawyers to Courts and hearing them argue before the Court, to helping them draft skilled and exceptional applications and petitions – this is a complete package where an intense and engaging hand-holding support is provided to the team of Lawyers and Paralegals associated with the Centre. Individual feedback is given and shared in the local team meeting, along with suggesting the methods through which the suggestions can be implemented. As there is enough time to understand and look at different related things, the Expert Senior Lawyer gets to review things minutely. This format entails more serious and intense discussions around – usage, technicalities, application, and understanding of provisions of law with the Lawyers and Paralegals. Moreover, the stay of expert at the Centre also serves as a follow-up to analyse whether the suggestions given centrally in annual meetings are followed, whether there are problems in implementing them – what barriers and ways to overcome them, etc. further, it enables a direct ‘feedback and action’ system where the Expert can comment on the next step to be taken in a case and see for himself/herself whether and how, the associated lawyer is able to implement them. Also, decisions taken in larger meetings were written down and circulated. These were then compared to their actual implementation under different heads when the Expert lawyer visits the Centres. This mode helped in providing a personal assistance as well as feedback to the lawyers and paralegals at each Centre.

Imranbhai, an experienced Lawyer from CSJ, used to visit Bhopal Law Centre, where he found that an application for recovery under PWDVA was filed under a wrong section by the Advocate and the same was not objected even by the Court. During his stay at the Centre, the same was closely looked into each case and by providing hand-holding support; the same was corrected in future course of filing such applications. His close engagement with these cases helped the Advocate there to identify mistakes, review and correct the same while honing his skills – at all levels, simultaneously.

Manjhi bhai, from the Mandavi Law Centre, works in a tribal dominated area where the violations of rules related to land titles and ownership were a major issue – the land titles had not been uploaded with the names of the corresponding owners and pieces of land for generations. When CSJ identified the needs, it was revealed that he was not equipped and trained to handle cases of this nature on his own. Thus, a mechanism was worked out where an expert lawyer, Sandeep Puranivisited the centre once every 15 days for providing extensive hand-holding support to Manjhi.  This format saw a unique combination of technology and internet being used for providing the necessary support, as the documents from the villagers were scanned and sent to Sandeep when he was not able to be physically present in Mandavi, from there he would give his suggestions on each form and advise Manjhi to work on the same. This went on for three years till Manjhi developed his own skills to handles cases of such nature without external help, and yet maintain the highest standard of quality in delivering the legal services. As the recipient developed the required skills-set and knowledge, the format was altered to allow Sandeep to visits only twice in a year.

Further, what is also looked at is the strategy of the lawyer at pre-trial and during-trial stages. Imran while going to each centre looks at whether and what alternate strategies have been employed by the Lawyer to at pre-trial stage. For example, in a case at Gumla Law Centre in Jharkhand, where the Police refused to register the FIR even after repeated efforts of the Victim and the Lawyer, he suggested to adopt other measures like – application to NHRC, application to Court for ordering registration of FIR u/s 156 (3) CrPC,

1. **Thematic Review :** Under this format, unlike the formats mentioned above, CSJ does not restrict only till reviewing the court-cases and strategizing the same, rather the ambit is broadened to look at different cases from different geographical locations, under one category of Law or under a particular national legislation. There is convergence of multiple parties – not limited to Law Centres of CSJ, on a singular issue where each participant brings their unique experiences and stories of dealling with the same, to the table. As these groups come together under an umbrella, there is an overall strategy, in different stages that looks at capacity building of the Actors, court cases, Village visits and grassroot lawyering, etc.

To facilitate a thematic review under each theme, CSJ has developed a document – *Aayojan Dastavez* , divided in four categories to plan, review and assess the actions of each Centre. It is an elaborative yet, simple format that encompasses grassroot Lawyering, to collectivising individual claims from its field areas, engaging with – Government departments, NGOs, Media in all its forms, to planning legal aid camps and building internal as well as external capacities of actors in the entire process

1. **Components for Review under each Category of Cases**

At CSJ, each category of case is given due share of attention to be assessed for quality and achieving a set standard benchmark. Since there are a host of issues that are responded to by resorting to legal remedies, each case is dealt with in its own specialised manner. These are reviewed for identifying mistakes, marking the areas for improvement and capacity-building on parameters that differ from category to category.

Given below is an account of how CSJ responds to various types of cases, based on its essential check-list and parameters :

1. **Criminal Cases :** Each Unit, through its L&P responds to a variety of cases that involve dealing with the Criminal Procedure Code and consequently leading to criminal proceedings under various laws – offence of Rape under S. 375 IPC, Dowry-Death and Cruelty under S. 498 (a) and S. 304 (b) IPC, offence of outraging the modesty of a woman under section 354, IPC, offences under SC/ST (Prevention of Atrocities), Act 1989,offences related to child-rights under POCSO, among others.

For each of the distinct category of criminal cases, there exist common points which have to be complied with at the stages of Pre-trial and During - trial.

***Pre-Trial Stage :***

* Adopting alternate strategies for registration of FIR, in cases of refusal of the same by Police authorities. This includes, whether the said incident in question has been reported to the office of Superintendent of Police, National Human Rights Commission, moving an application before the Court under Section 190 of the Code of Criminal Procedure, obtaining an order under section 156(3) CrPC to seek Court’s order for registration of an FIR.
* Assesing the Charge-sheet filed by the Prosecution for sections that might have been wrongly incorporated or where investigation has not complied with due process of law. In these cases, moving an application under section 102 and 113 of the Code of Criminal Procedure for further investigation in the case.
* Time-lapse between various stages of the criminal procedure from the date of incident, the date on which FIR was filed, arrest of accused after investigation, submitting of Charge-sheet, cognizance by the Court.

***During-Trial Stage :*** After the commencement of Trail, there are two modes of strategies that a Lawyer might adopt as per the circumstances. In the first instance, CSJ’s Lawyer chooses to assist the Public Prosecutor for obtaining a conviction in the case and in the second instance; there is performance of the duty from the side of the accused, as a Defence Lawyer striving for an acquittal.

* Copy of FIR for analysing the contents, name of the accused and how the incident has been reported by the Police.
* In case if it is wrongly or falsely put by Investigating authorities. Application under section 216, Code of Criminal Procedure for alteration of charge, at the stage of Framing of Charges by the Court.
* Opposing grant of Bail timely and if in cases where Bail is granted by the Court, then, filing for its cancellation.
* Identifying areas within the events for which witnesses have to be prepared and coached to be able to give impeachable and credible testimonies in Court.
* Examination of Post-Mortem Report, Medico-Legal Report and testimony of the doctor concerned.
* In cases, where wrong sections have been put that might be detrimental to the case and litigant in longer run, identifying those and taking steps to correct them accordingly.
* The FIR covers the events of the case through answering five Ws – what, where, when, who, and why ?
* Whether all relevant witnesses have been examined.

1. **Cases under Protection of Women from Domestic Violence Act (PWDVA), 2005**: While reviewing cases under this head, the focus is on two aspects - Quality of drafting by the Lawyer so as to explanation of facts, and application of legal principles to these facts, so as to make out a favourable case for the applicant woman. Following points are taken into account :

* Filing an application for an ‘interim order’ under the Act. This is stressed upon, so as to provide immediate and urgent relief to the applicant in distress.
* Number of days taken to get the notice served to the opposite party with respect to the provision of law mentioning it as to be served within three days. If there is delay by the court, whether the lawyer has opposed the same in oral/written arguments in court.
* Number of appearances and time spent between each appearance – this shows whether the lawyer has been actively pursuing court for regular hearing under the matter or is ignorant towards the same
* Whether the hearings are two-three in a month
* Report of Protection Officer is attached or not? If the same is not attached, whether the lawyer has pleaded for the same in the Court, asking it to direct the concerned PO to submit the report on time. Whether the delay has been opposed during oral submissions bringing the same in Court’s notice?
* How many dates have been given by Court, asked for by the Opposite Party’s lawyer to give a chance to mediation proceedings – if there are too many dates that have been given by Court, asking both the parties to go through mediation proceedings time and again, then the same is analysed in the light of its impact on trial proceedings. Many a times, this has been observed as an easy escape from the trial and waste the time in non-fruitful mediation proceedings. The idea is to let the trial proceedings run concurrent to mediation proceedings, so as to exclude the ill-effects of the latter on the former. What steps have been taken by the lawyer to expedite the proceedings by not seeking undesirable adjournments or postponement of trial proceedings, while simultaneously protesting the same if asked for by the Opposite party.
* Order once given, whether the same is being actively implemented by the Protection Officer with aide from the respective lawyer.
* Relief under section 19 for retrieving the ‘stridhan’ is filed or not, similarly, if the applicant desires to stay in the same household, then asking for relief to stay in the shared household.
* Parallel proceedings have to run concurrent to PWDVA proceedings – for mediation under Personal Law, for securing the right of guardianship of the child under Gaurdianship and Ward Act, criminal proceedings under section 498 (a) Indian Penal Code, 1870.

1. **Cases related to Maintenance** :

Every case filed for Maintenance under Sec 125, CrPC is reviewed on following parameters :

* Whether proof of husband’s income is attached – if not, what steps were taken or not to obtain the same by the Lawyer. In the absence of a documentary proof of evidence, there is a review of the strategies used to prove the same, for example : the employer of the Husband being called as a witness to testify the same, copy of pass-book attached to the account, filing an RTI to obtain relevant information about documents related to the property owned by husband of the applicant, examining any witness from the work-place of the husband to prove the salary of the husband. Any strategy related to proving the financial status of the husband.
* Requesting for the maximum monetary relief, which is possible in the light of the case. This is in line with the fact that there exists no upper limit or ceiling that bars the same, except that the same has to be in proportion with the financial status of the husband. For example, if it is proved that the monthly income Husband is Rs. 50,000 then the monetary relief sought, will be anywhere in the range of 20,000 – 30,000, again depending upon the circumstances of the case.
* Evidence supplied to qualify the victim as ‘unable to maintain herself in absence of any monetary relief.’ Examining any possible and available witness – relatives, neighbours, etc., to prove the same.
* Including the copy of Divorce petition filed by the husband and ‘a copy of the petition for ‘Restitution of Conjugal Rights’ filed by applicant, if any.
* Mentioning of all the known addresses of the Husband for the purpose of serving notice and other documents – permanent address, address of the place where he resides for the purpose of job, address where he is most likely to be found other than permanent address, etc.
* Steps taken for securing an interim relief by way of an order of ‘Interim Maintenance’ by the Court. The strategies adopted by the Lawyer – orally and through written submissions are analysed and suggested upon.

1. **Cases related to Forest Rights under ‘The Scheduled Tribe and other Traditional Forest Dwellers(Recognition of Forest Rights Act) , 2006’ :**

* Securing the documentary proof of residence, as an evidence to support the acceptance of the claim, as mentioned under Section 2(o) of the Act.
* Correct and verified ’survey number’ of the land in question is attached along with proof of the number of residents on the land.
* Description of the land including its correct measurements is supplied at the time of filing the claim.
* The name of the Panchayat in which the land in question is situated, is mentioned after enquiry and verification, so as to ensure applicability of the correct jurisdiction.

1. **Cases related to Victim Compensation under various laws:**

* The time-gap between the date on which an application was received by the local team and the date on which the application was filed in the concerned department.
* Whether the contents of Application for Compensation are the same those mentioned in FIR by the litigant.
* Compensation sought is matched with relevant law and subsequent scheme of the government. The same is done to ensure that application has been filed under teight section and the Act.

1. **Cases related to Labour-rights** :

It remains a broader area of CSJ’s interventions where cases related to labour-rights’ violations are taken up under different relevant Labour legislations. We look at different sub-specifics within the same from the following points :

***Payment of Minimum Wages***

* Assessment of the ‘nature of the work’ of Applicant, so as to determine whether they qualify to fall under the ‘Applicant’ category as mentioned in the Act.
* Computation of ‘due wages’ by taking into account, the time spent working by the Applicant at the workplace. This assessment helps in ensuring that not a single day that has been spent working by the Labor, goes unaccounted and unpaid for.
* Correctly mentioning of the name and address of the Employer, to present a case with complete necessary details.
* Checking the application for ‘Limitation’ i.e. whether the application is time-barred and the period of limitation has already started. In the case of an affirmative answer, steps are taken to convince the Labour Court for justifying the delay because of extraordinary situation of the case.

***Workmen Compensation in cases of Death and accident of Labor***

* Date and Time of the filing of FIR – checked if there is unwarranted delay in the same and if it impacts the case adversely or not.
* Assessing the contents of the FIR for ensuring correct facts being put therein, establishing a case in favour of the Applicant.
* Complying with the essential requirement of injury being caused ‘at the place of employment’. This is done so as to justify a case for compensation as well as liability of the Employer. It is checked whether any evidence has been supplied to satisfactorily prove the same. In case of evidence being used to prove the same, the nature and admissibility of that evidence is looked into, leaving no room of doubt for the Court to disprove the same.

1. **Cases of Disaster-affected Victims :**

* Filing of individual FIR as a compulsory action to begin the process and checking if the same is available with the applicant.
* Checking whether the amount of compensation mentioned is in line with amount given by other states in the similar disaster and comparing to see the highest, so that can be mentioned.
* In cases where arbitrary and non-adequate amount of compensation has been ordered, checking if the same is challenged in the Court through another petition.

Further, CSJ’s experiences with the disaster-affected victims of earthquake in Kutch in, and those of flood-affected victims in Amreli district in the year 2015 has been worth emulating elsewhere, presenting a strategy that touched the areas that were left out from the official policies as well. In the year 2015 when massive rains hit the district of Amreli and devastated property, field, and lives of people, CSJ’S team from Amreli Law Centre, , that was actively engaged in providing legal relief to these victims, analysed the policy which only mentioned the owner of any field, as eligible for receiving the amount of compensation – leaving out sharecroppers and tenant farmers on the same field. This was brought to light by the volunteers and the inclusion of same was advocated for in the Courts.

1. **Cases related to Land Rights :**

Cases related to land and property rights being civil in nature, entail proceedings at two levels – Administrative and Revenue. Further, these points are looked at :

* Names and addresses of both the Plaintiff and Defendant are added with complete correct details, so as to avoid delays in serving of notices and further proceedings.
* The piece of land/property/house/open plot in question is described on the basis of its survey number, Block Number, its registration number under revenue records, area, surrounding properties in North, South, West and East directions, and measurements.
* Relevant facts describing the vested or otherwise right of Applicant, arising of cause of actions, important dates related to when the cause of action arose.
* Attachment of important documents like – 7/12, 8-A, Property Card, *Rafakpatrak, Aakarni Patrak, Vada Patrak.*
* Cases where the matter relates to transfer of property, then it is important to file for and attach a copy of ‘Register of Rights’ inclusive of Entry no. copy, notice under section 135-D, a copy of objections from any person with respect to the said transfer, filed by way of ‘written statements’.
* If Entry Number is wrongly marked/not marked at all then the same has to be appealed within 60 days of receipt of such information. The same is a statutory limitation and beyond it, a justifiable explanation for further delay has to be filed by way of an ‘Application for Condonation of Delay’.
* A copy of the ‘Panchnama’ from the office of Court Commissioner at district level is sought to be obtained and attached.
* The ‘relief’ that is asked in each case must be in line with the cause of action and its adequate remedy.

1. **Rights-based Conciliation :**

CSJ has been a pioneer in conceptualizing access to justice beyond the framework of extant systems, and empowering the methods for alternative dispute resolution, while attempting to bridge the traditional cultural systems of governance and dispute resolution within the contemporary context of criminal and civil law regime.

A Rights based Conciliation is premised on the idea that litigation in Courts does not always lead to a satisfactory result. It is further expensive in terms of time invested and money spent. Its adversarial nature also does not change the mind-set of the parties and ultimately ends up in igniting bitterness between them. Alternative dispute resolution systems at CSJ are thus, not only cost and time effective; they are designed in a way that preserves the relationship between the parties by encouraging communication and collaboration, while delivering effective resolution to the legal issue.

The conciliation proceedings undertaken at CSJ’s legal clinics stand out from the traditional method of conducting a conciliation, in following ways as mentioned below :

* It stands on strong foundational objective of ensuring less drudgery and delays to the litigant or ‘*Aseel’*
* Ensures that the terms and conditions of the conciliation are decided on the basis of latest position in law, and the same are made clear to each party so as to remove any confusion.
* It clearly leads to an improvement in power-dynamics of the aggrieved and the aggressor, after the proceedings culminate.
* It is victim oriented i.e., the special needs of the victim are taken into account by the representing Lawyer, or the Conciliator where there is no lawyer. It ensures that the victim is under no pressure by anyone from either side of the party. Thus, mindfully keeping the victim-aggrieved in the centre, while negotiating terms and conditions.
* The quality of documentation, and filing is of a standard expected and uncompromised, ensuring fairer chance being given to the victim to present their case.
* There is a post-proceeding follow-up with the parties, even after the proceedings end, to provide an all-round support to the victim.
* The conciliation facilitated by the expert lawyers from CSJ is reduced to writing on the Stamp Paper, giving them a legal validity in the eyes of law and increasing their credibility.

CSJ’s Lawyers, while dealing with cases related to violence against women in Amreli and Bharuch districts of Gujarat, preferred and facilitated the rights-based conciliation to settle matrimonial disputes that did not warrant a lengthy and expensive court-case. Following the above-mentioned principles, they devised different strategies that included, but not limited to, striving to incorporate women-victim’s name in the registry of the land or property for her financial security, putting in a condition to create a Fixed Deposit account for the child, ensuring a suitable shelter for the victim to be arranged by the Responded, on her terms, etc.

1. **Applying the concept to other organisations**

While CSJ is uniquely placed in terms of having access to a cadre of lawyers of different competence, extending the concept of *Legal Clinic* to other organisations, especially those where Lawyers are not available, has been a challenge in its own way. Those organisations not embedded in the legal system or having no experience to deal with the legal regime, lack an understanding on functioning of the system and thereby posing a barrier of not understanding the possibilities and limitations of a dedicated ‘Legal Empowerment Programme.’

To add to this, every Bar of Lawyers at their respective geographical location, has its own domain of operation and Lawyers operate within that domain. Expecting a new person to be effective in a space where he is not a regular attendee, is difficult as familiarity with local system and institutions play an important role in lower courts. There also may be a situation where the person may have cases listed in two different courts that are placed geographically far-off from each other in a way, that ensuring appearance in both, at the same time or on the same day becomes difficult. As such, an intervention designed in this way, based on one Lawyer servicing several courts has limited possibility of success.

Moreover, court cases have a life of their own which extend far beyond a stipulated time-frame of a Project, and thus, dealing with cases that are once initiated and do not mature with the ending of project deadline, become a tough nut to chew. Also, it is an accepted notion among Lawyers, those who are a regular at these local institutions and have spent time understanding them, that the practice at Lower courts is concentrated more around procedural issues than substantive laws and therefore, expecting a person who is sound procedurally to also be aware socio-politically and be conceptually sound of the substantive understanding - is a possibility with very few people. These hurdles have been posed before CSJ from time and again and impressing this upon organisers has been a challenge. CSJ has thus adapted and modified its strategies to suit the situations with different organisations.

**i. Experience At Working Group of Women on Land and Other issues (WGWLO)**

CSJ has been closely involved in designing and implementing the legal empowerment programme for WGWLO since the beginning. WGWLO’s efforts revolved primarily around the issues of land ownership of individual women and claims under Forest Rights Act, 2006. CSJ conducted land-rights oriented training in phased manner for its Paralegals where an ‘input-reflection-fresh input’ model was used. Initially, in the setting-up stage, meetings were organised where doubts were sought to be clarified by an expert lawyer from CSJ and relevant information was passed on to the paralegals. Since the issues of land rights required a close inspection of documents, there was an inherent limitation of these meetings and there was only an extent to which these meetings were useful, and hence a shift was made to a centralised model where the Paralegals from WGWLO brought their case-files and CSJ’s expert lawyers clarified the doubts from within them or otherwise. This format yielded better results as the files could now be studied and suggestions given became more relevant.

With time, there was a further growth in the number of cases that the Paralegals from WGWLO started dealing with and seeing the trend, the need was felt to once again modify the arrangement of clustered Legal Clinics. As the work and paralegals got divided between different clusters or ‘*swabhoomi kendra’* the lawyers from CSJ started visiting these *swabhoomi kendras,* quarterly,to provide their expert assistance. Paralegals visited the *Kendra* on the same day and got their files reviewed along with concrete suggestion on case strategies, quality check of work-done, perfecting the unclear and sub-standard drafts of RTIs, etc. A detailed reviewing of the documents is done in these clinics. Since, many times the paralegals are ill equipped with complete details of case and documentation; the women themselves are also invited to be part of the clinic.

The learnings from this association can be listed as follows :

* + As a partner grows., in terms of geographical expanse, thematic focus or depth , a more intense support is required. In such a scenario, older people who have been already involved in earlier processes can play a critical role, beyond the single day of law clinic. Adequate spaces for incorporating the same, therefore, need to be part of the design.
  + Providing constant hand-holding support is an important part of the Capacity-building design. While the *Legal Clinic* can play a limited role, subsequent engagement to further strengthen the paralegal and ensuring that the advice and suggestions are complied with, needs to be an in-built feature of such designs. A total of four to six rounds of the same are planned to be conducted in a span of two years, attended by members of the WGWLO network and experts from CSJ. January of 2019 saw the first round of these legal clinics, taking place on issues of handling revenue related land-matters.
  + Many years of experience in handling of land cases has revealed that such cases are highly dependent on adequate documentation and availability of records. Mere verbal discussions with the Expert Lawyer, without physical records, can only show broad directions, but will not yield concrete conclusions on strategic handling of a case. As prior preparation is the key to a successful Legal Clinic, a check-list of details, comprising but not limited to documents that must be available beforehand, is the bare minimum requirement.
  + Some time we get stuck in a restricted project- frame and lose the big picture. The integrated framework adopted by CSJ looks at the issues of land rights and forest rights converging after a point of time with repeated overlaps. A Lawyer or a Paralegal working on issues around Forest-Rights would need to be familiar with revenue records and land procedures. Similarly, any one working on issues around Land-Rights in an area where Forest Rights Act applies needs to be familiar with these provisions.  Time-bound Project deliverables and difference in the accepted designs of the same, thus create an artificial distinction. CSJ was not successful in making the partners understand the significance of the same.
  + Timings of the clinic need to be set on the basis of availability of local transport.

**RESPONSE FROM WGWLO :**

1. Legal clinics in a centralized place had not succeeded much is the common learning of both CSJ and WGWLO I believe- as the diversity of cases didn't allow it go into the depth of the cases .
2. It is too early to derive any learning from the legal clinics started in 2019, as it is *only one round* which has taken place. Hence, learning should not be derived at this point. It is too early, as this is the first time every one is conducting legal clinic.
3. We don't agree that WGWLO is in a project frame work. Else things would not have taken the shape overall it has, right now, as WGWLO. It is important to understand what WGWLO is doing collectively right now before saying this.
4. One needs to go deeper and reflect on a theoretical perspective versus a practical implication of the same and put in a  network's context (and not just see it from a  resource organizations' perspective like CSJ),

- where all members are on different levels and hence have a different pace of working;

- where legal clinics were started because private land was taking a back seat and we wanted to bring this back in the center (please refer to our proposal of the objective of legal clinics); as also

- FRA work started practically only after April 2019. My only suggestion to CSJ then was that we should not give the option of including FRA cases in the beginning for two reasons:

(a) given a choice, it is easy to slip on FRA issues (like what happened with CSJ , Dangs  in the first round of legal clinics) where as we wanted to focus on agriculture issues

(b) complicated cases on private land /other land issues were getting sidelined as the capacity of PWLs was limited in that.

This was the understanding in January- and I am glad that it has worked out in the right direction to separate the two aspects of private land and FRA because that has given us 16 variety of cases in other land issues, which had never come up earlier. And this was not my individual decision: this was a collective decision of the steering group meeting held in January.

**ii. Experiences at ‘Rehnuma’:**

‘Rehnuma’ was a multi-state programme, conceptualised around the rights of minorities, which ran in 11 states in its first-phase and 7 states in its Second-phase with multiple partners in each states. It was associated with Sadbhavna Trust in Uttar Pradesh, Shaheen Women’s Resource Centre in Andhra Pradesh, HIDF and Sahara in Karnatka, JMECT in Assam , Nari-O- Shishu Kalyan Kendra in West Bengal and Jharkhand, Azad India Foudnation in Bihar and Janavikas in Odisha – to establish ‘Rehnuma Entitlement Facilitation Centres’. These centres worked in order to ensure implementation of the Prime Minister’s New 15 – Point Programme for Welfare of Minorities and the Multi-Sectoral Development Plan.

The ‘Rehnuma’ model was unique in its conceptualisation of a holistic socio- economic rights intervention, bringing together three distinct approaches towards Legal Empowerment, under separate State policies and laws.

* Firstly, through the implementation of the PM’s New 15 – Point Programme – a policy aimed at individual SER fulfilment and by focusing on systemic policies – such as policies aimed at infrastructural improvement in minority-concentrated areas (like the MsDP, and the IDMI).
* Secondly, by engaging with socio-religious seats of power such as Jamaats and individual Mullahs, as well as other local Community-based mechanisms such as Anjuman, , to inculcate a rights-based lens and seeing them as central to any attempt at social transformation.
* Thirdly, by trying to raise the issues of illegal arrest, forced religious- conversions, etc. However, the same could not be effectuated in full force as the associated organisations were in nascent stages of initiating Rights-based work.

In symbiotically constructing these three disparate elements into a syncretic intervention, CSJ attempted to establish an ‘action-research strategy’, through ‘Rehnuma.’ It was extensively engaged in designing the legal empowerment programme for each of these partners and Capacity-building designs for their Paralegals. These *‘Facilitation Centres’* were designed to act as nodes of carrying forward this systematic intervention and followed a methodology of inputs being given centrally and reviews being held locally at the respective locations of the *Facilitation Centres*.

Each year, there were four centralised meetings of the ‘Rehnuma Steering Committee’ that was entrusted with the task of providing crucial expert inputs on the on-going cases at different locations, among other tasks. The Steering Committee met to check and assess the functioning of these centres along with monthly visits of the expert lawyer to the local legal clinic in each location. The latter served the purpose of reviewing the work and implementation of the inputs provided in the Central-level meeting.

The engagement with fellow CSOs under Rehnuma Programme, did present some challenges. The biggest challenge was that these CSOs did not have access to a local lawyer with desirable attributes. The Part-time lawyers succeeded in providing relevant support that was limited to organising and participation in awareness programme and individual cases, but did not adequately provide the back-end support to the Paralegals, post the monthly expert feed-back.

1. **Experiences while establishing ‘Setu’ :**

CSJ collaborated with an organisation, ‘Abhiyan’ to engage with the rights of disaster- affected victims in the year 200, post the devastating earthquake in the Kutch region. Pursuant to its association, it established *‘Setu’* centres which were cluster-level facilitation Centres for disaster-affected victims that worked in close contact with the district government officials for rehabilitation and development of affected people. They further acted as information kiosks. These *Setu* centres hosted a Legal Clinic within them, run and managed by enthusiastic law students from different regions of Gujarat. These law students performed the role of a Paralegal while actively facilitating claims of earthquake-affected people at these *Setu* centres and were even given identity-cards to be called so, by the District Legal Services Authority of Kutch. The success of the model can be gauged from the fact that the District Judge of Kutch took a personal interest in monitoring the activities of the Centres and especially, the Paralegals.

The Legal Clinic within *Setu* centres worked in a way where the law students brought complicated cases, demanding legal application of mind,  for advise on a monthly basis and District Judge advised and worked-out the solutions, with personal interest. Additionally, they were visited by expert Senior-level lawyers in their respective location.

The process unfolded in several aspects, covering different aspects, such as :

1. Assessing and examining the right of an unborn child to receive death compensation in such cases.
2. Where there are two wives of a man, adjudicating on who the rightful claimant will be.
3. The issue of people living on rent, who were not initially covered under any scheme for Compensation and Rehabilitation.
4. Issues related to measurements and extent of damage to be calculated.
5. **Strengthening Legal Empowerment Programme on Violence Against Women**

CSJ engaged with three different organisations -Kutch Mahila Vikas Sangathan**,** Anand Bavla Mahila Sangathan and Anandi - to design a uniquely tailored programme on upscaling the capacities of their Lawyers and Paralegals to take up a variety of cases falling under the broad category of violence against women. Each of the organisation was visited, quarterly, by an Expert Lawyer from CSJ to review the cases and opine on the same, based on the parameters discussed above in the document. As for Sanand Bavla Mahila Sanathan, a lawyer from CSJ was deputed on full-time basis for extensive hand-holding support for one year.