



# F.A.Q. on NALSA (Protection and Enforcement of Tribal Right) Scheme, 2015



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**on**  
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**(Protection and Enforcement**  
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## **FREQUENTLY ASKED QUESTIONS (FAQ)**

### **NALSA (Protection and Enforcement of Tribal Right) Scheme, 2015**

#### **1. Who are Tribal People ?**

Ans. Schedule Tribe means and includes a Tribal Community which is enlisted under Article 342 of the Indian Constitution.

#### **2. What are their challenges?**

Ans. In a nutshell the issues related to the tribal people across the country are as under:

- **EDUCATIONAL ISSUES**

1. Poverty and poor livelihood.
2. Low enrollment.
3. Inadequate quality school and non availability of quality teachers in maths, science and language.
4. Language and cultural barriers.
5. Unwillingness of teachers to be posted in tribal areas.
6. High rate of dropouts of girls.
7. Low involvement of parents and community in education of tribal.
8. Low awareness about admission and enrolments.

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- **LIVELIHOOD ISSUES**
    - (i) Lack of Skills and vocational Training opportunities
    - (ii) Low income from Traditional Occupations
    - (iii) Unemployment in Tribal Youth
    - (iv) Difficult Terrain (mostly living in deeper areas of forests etc.)
    - (v) Inadequate transportation & Communication means
    - (vi) Inadequate electrification
    - (vii) Lack of backward & forward linkages of the agricultural activities
    - (viii) Adherence to traditional practices
  - **HEALTH ISSUES**
    - (i) Low immunization
    - (ii) Malnutrition among tribal people
    - (iii) Non availability of ANM/ Doctors
    - (iv) Non availability of safe drinking water
    - (v) Inadequate coverage of pregnant mothers
    - (vi) Inadequate health sub centre's in Tribal area
    - (vii) Unwillingness of doctors/ medical staff in visiting the tribal regions for being located in remote areas and difficult terrain

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- **CULTURE ISSUES**

Tribal people have their own rich culture, method of education, language, preservation of soil, organic farming, cattle management. They have rich repository of folk tales and traditional skills. They have strong adherence to such culture.

- (i) Tribal culture, traditions & Folk Knowledge are slowly eroding in the process of development.
- (ii) Not documentation of cultural norms & practices
- (iii) Culture of minor tribes is mostly neglected.
- (iv) Tribal culture are non listed in the official list of government museums or tourist maps.
- (v) No training of adequate sports to tribal children
- (vi) No Sport centers in Tribal areas.

- **LEGAL ISSUES**

- (i) Land alienation
- (ii) Displacement- impact of displacement
- (iii) Inadequate or no compensation
- (iv) Absence of Resettlement
- (v) Land Right in tribals-community right instead of individual rights.

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### **3. What is particularly vulnerable Tribal Groups?**

Ans. Particularly Vulnerable Tribal Groups (PVTGS)

Certain tribes have been characterized as Particularly Vulnerable Tribal Groups (PVTGs) (earlier known as Primitive Tribal Groups) on the basis of their great 'vulnerability' even among the tribal groups (although the precise contours of their vulnerability has not been clearly defined). PVTGs, currently including 75 tribal groups, have been identified as such on the basis of the following criteria: 1) forest- dependent livelihoods, 2) pre-agricultural level of existence, 3) stagnant or declining population, 4) low literacy rates and 5) a subsistence-based economy. As per the 2001 census, these 75 PVTGs had a total population of 27,68,322. The majority of the PVTG population lives in the six States of Maharashtra, Madhya Pradesh, Chhattisgarh, Jharkhand, Odisha, Andhra Pradesh and Tamil Nadu. Odisha has 13 PVTGs, the largest number for any State. Even within the groups labeled PVTGs by the State, there is considerable differentiation, most obviously with respect to size there are 19 groups with a population of less than 1000 persons and 8 groups with a population of more than one lakh.

The Particularly Vulnerable Tribal Groups (PVTGs) among the tribes need special attention due to their vulnerability in the present situation. Their customary right to land, forest and sources of livelihood must be respected and protected. The issue of nomenclature must be addressed by commissioning a special study. MoTA (Ministry of Tribal Affairs) should ensure that all states having PVTGs should take steps to have micro-projects for individual PVTGs to utilize the grants received under SCA (Special Central Assistance). The Project Offices for PVTGs should be made to report to the MoTA about the development activities undertaken for the PVTGs under their jurisdiction, rather than submitting allocation and expenditure statements.

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**4. What are the broad regional groupings on which tribes can be distinguished ?**

Ans. The tribes can be distinguished into five broad regional groupings based on ecological, social, economic, administrative, and ethnic factors (although there are many overlaps):

1. Himalayan Region: It has three sub-regions: (a) North-eastern Himalayan region, (b) Central Himalayan region, and (c) North-Western Himalayan region.
2. Middle Region: It is constituted by the States of Bihar, Jharkhand, West Bengal, Odisha and Madhya Pradesh (including Chhattisgarh), where more than 55 per cent tribal people of India live.
3. Western Region: It includes the States of Rajasthan, Gujarat, Maharashtra, Goa, Dadra and Nagar Haveli.
4. Southern Region: It is comprised of the states of Andhra Pradesh, Tamil Nadu, Karnataka and Kerala.
5. Island Region: The Islands of Andaman and Nicobar in the Bay of Bengal and Lakshadweep in the Arabian Sea.

**5. What are the Vulnerability related issues faced by Tribes across the Country?**

Ans. Vulnerability Issues

1. The lack of literacy amongst the tribal people is a crucial issue. As a consequence, the tribes remain unaware of their fundamental, legal and statutory rights. They also lack knowledge about the welfare schemes run by the government for their well-being, thereby resulting in lack of participation from their side.

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2. Non implementation of the schemes introduced by the government to resolve the problems is another major concern. However, non-implementation of programmes for tribal welfare is also due to lack of skilled work force in the tribal areas.
  3. Numerous armed conflicts affect large parts of tribal areas in contemporary India spanning the central region to the North East, leading to severe problems in accessing legal and administrative mechanisms and in the implementation of beneficial schemes.
  4. In the recent years the state police and the paramilitary forces have been accused of grave human rights violations in the tribal areas including of alleged fake encounters and sexual assaults.
  5. A number of tribal people are put in jails allegedly as Maoists. There have been cases of people staying in Jail for days, without their name in the charge-sheet. Bails are not granted as cases are serious such as waging war against India, sedition and so on.
  6. The unfamiliar judicial processes make the tribal people dread the court, even if they are the ones who are suffering from lawlessness. They feel that the laws like Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act, 1989 do not exist for the protection of tribal people.
  7. Migrating tribes face difficulties in accessing the welfare schemes run by the government. Some are totally devoid of any access.
  8. There are preconceived notions or assumptions regarding the 'primitivism' and 'backwardness' of the PVTGs. It is essential for government bodies to shed assumptions of

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tribal backwardness and savagery and devaluation of the culture and traditions of these communities.

9. Many PVTGs and Scheduled Tribes (STs) are forest dwellers and depend heavily on land and forest resources for their subsistence. Over time, their habitat has been declared as Reserved Forest, Protected Forest, leaving them vulnerable to displacement and eviction without compensation.
10. All tribes in the list of PVTGs have not been granted ST status, thereby increasing the vulnerability of these tribes, who lack the protections and rights offered by the Fifth Schedule and the Provisions of Panchayat (Extension to Scheduled Areas) Act, 1996.
11. For PVTGs, the implementation of FRA,2006 has been poorest since their habitat rights are not clearly defined or understood by the Forest Department. No disaggregated information and data at the national level on status of the implementation of the provision for rights of PVTGs particularly of habitat rights under the FRA are available.
12. The North Eastern States share a large area of international boundary with the neighbouring countries of Bhutan, China, Myanmar and Bangladesh which makes it a very fertile ground for cross border terrorism, human trafficking drug smuggling, arms smuggling, infiltration, etc.
13. Another issue which is of serious concern is human trafficking. Tribal people from central India and Assam appear particularly prone to trafficking.
14. Another issue is that till recently there has been no division of executive and judiciary. The institutions set up under the Sixth Schedule apply customary laws which have their own issues as they are not codified.

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15. Due to insurgency and law & order problems in the North East, there is absence of faith in the system. There has been a tendency of the public to take law into their hands, in what amounts to “mob justice” by dismantling/destroying houses of the suspected/accused persons and ostracising the family which leads to serious social problems. Even doctors and hospitals have not been spared for their alleged negligence in treatment of patients.
  16. In the remote areas and villages large numbers of tribal people still believe in “Witch hunting”.
  17. Tribal people are not treated with dignity and so feel alienated.
- 6. What are the Land related issues faced by Tribals across the country?**

Ans. Land Related Problems

1. Forest and hills are the main source of tribal identity. It is in this context that the devastation of lives of tribal people caused by loss of access to forest and involuntary displacement from their land has to be understood. Dispossession takes place both directly by depriving tribal communities of their land, habitat, livelihood, political system, culture, values and identity and indirectly through denials of benefits of development and of their rights.
2. Under the Resettlement and Rehabilitation (R&R) programme, land is not replaced and there is meagre reconstitution of livelihoods. Almost all the R&R colonies lack proper public health facilities, protected drinking water, marketing, schools and transportation.

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3. Dependence on forests for food in the form of shifting cultivation, fruits and flowers, small game, tubers for medicines, fodder, material for house building, raw material for traditional art and crafts income by selling firewood, leaf-plates, fruits etc. is substantial. This loss, due to displacement is not compensated and also affects food security.
  4. A major portion of land falls under forest areas. Most of the tribal people of the interior areas are staying on forest lands without having any right, title, interest on those lands and there are no such legal provisions for those homeless tribal people for protection and enforcement of their rights under “The Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006”. (In short FRA,2006)
  5. Another major problem with tribal people is a result of development projects viz. construction of dams, Forest sanctuaries, mining operations, etc. These developments lead to an influx of non-tribal people, seeking employment in these areas forcing the tribal people to migrate. Hence, the tribal people have not been able to reap the benefits of development projects.
  6. Growing indebtedness contributes as one of the most important reasons for land alienation and displacement of tribal people. Tribal indebtedness (they are often tricked into accepting loans with exorbitant interests) often leads to situations of bonded labour.
  7. Further, there have been violations of PESA which endow Gram Sabha “the power to prevent land alienation of land in the Scheduled Areas and to take appropriate action to restore any unlawful alienated land of a Scheduled Tribe.”

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In case of acquisition of forest lands, it is mandatory to consult with Gram Sabha of the affected area and obtain their free consent. However, often Gram Sabhas are neither sent notices for consultation, nor are their consent signatures taken.

8. The compensation given to the tribal people under The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 is meagre and the living conditions that are provided on resettlement are very poor.
9. Another problem with tribal people is that instead of individual rights in the land, they believe in community rights and thus written proof of ownership are mostly not available in cases of litigation relating to land. The claims of tribal people in this respect are mostly based on oral evidences with consequential difficulties in establishing individual rights.

**7. What are the other Legal issues related to the Tribal people across the country?**

Ans. The legal issues faced by the tribal people are as follows:

1. The recognition of rights of tribal people before their displacement from Protected Areas (PAs) is not being completed. Tribal people are evicted before verification and settlement of claims under the FRA. This has caused a decline in the economic status, as well as erosion in their customary forest practices.
2. Incorrect assumption by the Forest departments with regard to the FRA has led to violation of their legal rights. For instance, at some of the Forest Departments, it was believed, contrary to the provisions of section 4 (2) of

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the FRA that rights under FRA could not be claimed in Protected Areas (PAs) and that FRA is not applicable in Tiger Reserves.

3. Some problems that arise for tribal communities in claiming habitat rights include:
  - ⊗ lack of clarity over definition and interpretation of what is entailed in habitat rights;
  - ⊗ multiple interpretations of habitat, especially if the user rights of other, non- PVTG groups sharing the same territory are involved;
  - ⊗ if the traditional habitat boundaries of PVTGs overlap with wildlife habitats; and
  - ⊗ a lack of awareness among such communities about the terms in which to articulate such claims.
4. There has been little perceptible effort to create awareness among women regarding the process of claim making, verification and the rules relating to it provided under the FRA.
5. Claims filed by tribal people under the FRA are being rejected without assigning reasons, or based on wrong interpretation of the Other Traditional Forest Dwellers (OTFD) definition and the 'dependence' clause, or simply for lack of evidence or 'absence of GPS survey' (a lacuna which only requires the claim to be referred back to the lower-level body), or because the land is wrongly considered as 'not forest land', or because only forest offence receipts are considered as adequate evidence.

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6. The rejections are not being communicated to the claimants, and their right to appeal is not being explained to them nor its exercise facilitated. There is a need for awareness amongst tribal people, so that they can protect their legal rights against such practices.
  7. Section 3 (1) (m) of the FRA, regarding the rights of persons illegally displaced or evicted by development projects without proper compensation, has not been implemented at all.
  8. Lack of effective consultations with Gram Sabha and recognition of their rights of ownership in farm produce.

## **II. Other legal issues**

1. Criminal charges are filed, maliciously, against the tribal people, and in some cases on-tribal people, who protest against the acquisition of land and thereby against the establishment of developmental projects. It has been found that between 2005 and 2012, over 95 percent of the cases were found to be baseless and ended in acquittal.
2. Discrimination, violence and police brutality is experienced at regular intervals by the people belonging to the De-Notified Tribes because of the Habitual Offenders Act, 2000.
3. In Andaman and Nicobar, the 'Jarawa' tribe face incidents of sexual exploitation. Also, the people of the tribe were asked to give their blood samples for DNA testing without their informed consent.

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4. A study for the Planning Commission revealed that 43.6 percent of the rehabilitated bonded labourers belong to Scheduled Tribes. This suggests that many tribal families are trapped in bondage. The main reason for bondage that is cited is indebtedness and food.

## **8. What are the issues related to the education?**

Ans. Issues related to education

The scenario of education in India regarding the tribal people has improved, but there are some problems which still persist. The issues relating to education are as follows:

1. There are a large number of schools which do not have minimum facilities.
2. Even where there is reasonable infrastructure and student enrolment, regular school attendance is a problem in the tribal areas, due to distances and poverty and lack of proper guardianship/parenting.
3. Teacher absenteeism is high.
4. There is poor level of student learning and high drop-out rate at class X. A possible explanation for this is the failure of tribal students to cope up.
5. There is a marked gender gap. There is a need for greater gender focus and social mobilization to encourage education of girls.
6. Once the tribal students manage to take admission, they are humiliated in various ways that they are demoralized. This leads to a high school dropout rate. Derogatory names

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being given to tribal students from the North East are well-known.

7. There are residential schools for tribal girls who are often in the news for malpractices, bad maintenance of facilities and sexual exploitation.
8. As nomadic tribes are always on the move, their children miss out on education provided by the government for free.
9. Most of the tribal communities in India have their own mother tongue. But in most of the States, official/regional languages are used for classroom teaching and these are not understood by the tribal children particularly at primary level of schooling.
10. There is a need of familiarity for teachers teaching tribal children with tribal culture and language so that learning is hassle-free. For instance, most of the district officials, being from outside do not understand the languages of the people like Gondi and Halbi. Even the teachers in schools do not understand these languages.
11. Tribal children are not at ease in structured class rooms due to their affinity to nature causing them to lose interest in formal education as is presently provided.
12. The main reason of illiteracy amongst tribal people is low involvement of parents and community in education of tribal children and inadequate quality schools in Tribal areas. The Tribal Community is mostly unaware about the benefits of education.
13. Constant monitoring required by the DLSA (District Legal Services Authority) with the help of team members

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comprising Legal Services pannelled lawyer and PLVs to bring into knowledge of concerned Authorities for proper action and media can also play a vital role. Recently two cases of medical Aid have been highlighted on media and they have been put to RINPAS at the instance of media news.

**9. What are the issues of tribal Population relating to Health?**

Ans. The tribal population faces several health issues:

1. The national health model is primarily designed for the non-tribal areas. It does not take into account the different belief system, different disease burden and healthcare needs as well as the difficulties in delivering health care in a geographically scattered, culturally different population surrounded by forests and other natural forces.
2. There is a lack of health care human resource that is willing, trained and equipped to work in tribal areas. Though buildings are built and health care institutions created in the form of health sub-centres, PHCs and CHCs, they often remain dysfunctional. This is further compounded by inadequate monitoring, poor quality of reporting, and accountability.
3. Factors such as unfriendly behavior of the staff, language barrier, large distances, poor transport, low literacy and low health care seeking, lead to lower utilization of the existing health care institutions in tribal areas.
4. The absence of participation of ST people or their representatives in shaping policies, making plans or implementing services in the health sector often ends up targeting wrong priorities.

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5. The tribal population is seriously affected by high consumption of alcohol and smoking, often resulting in addiction. Immediate and serious corrective policy measures to curb the same are necessary.
  6. Child marriage among the different tribal communities is still prevalent as illiterate tribal people follow their old customs without understanding the laws of the land which results in poor health.
  7. Tribal people seek treatment modes based upon their customary beliefs without resorting to any modern medicines even when they contract modern day illnesses leading to high mortality even in curable situations.
  8. The Jarawas remain vulnerable to outside diseases to which they have little or no immunity. When the tourists enter their areas, they contract new diseases because of them. Their women and girls are also being sexually abused which result in many diseases for which the tribal people have no cure.
  9. The immunisation programme of the governments has not reached the tribal areas.
  10. Tribal populations are highly malnourished. PVTGs inhabit areas that are inaccessible by road, and therefore they cannot travel easily to Anganwadi centres, where food is prepared. Moreover, their hamlets are considered too small to open an Anganwadi centre. The result is that their children do not get the nourishment provided under the government schemes.
  11. Rules have been framed to prohibit the killing of forest animals without giving an alternative to tribal people who

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traditionally hunt them for food, leading to loss of nutrient food to these communities.

12. The tribal areas face acute water problems including water pollution and tribal health suffers as a consequence.
13. A very pernicious effect of violence and killing, is the rise in mental disorder cases.
14. In areas of high literacy, as in the North East, lack of employment amongst skilled youth has resulted in mental depression and high suicidal tendencies.
15. Health issues arising out of drug use such as HIV AIDS and mental disorder is high in the North Eastern states located in close proximity to the "Golden Triangle". Drugs such as Ketamine, pseudoephedrine, etc. are being smuggled into these regions with catastrophic effect on the families of drug users.

**10. What are the initiatives the State Legal Services Authority required to take urgently for providing Legal Services to the Tribal People?**

Ans. The SLSAs should take the following initiatives:

**A. Litigation related**

1. They should constitute an exclusive panel of lawyers drawn from the tribal communities who should be paid adequate fees.
2. Exclusive Training be given to the Legal Services pannelled Lawyers for Tribal People by our TOTs who have been trained by NALSA

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3. The Tribal people should be given suitable legal aid in litigation and in appropriate cases, senior lawyers should be engaged on their behalf even if on payment of special fee, so that the rights and interests of tribal people are protected.
  4. The Judiciary operates in Hindi and English, leaving poor tribal people at the mercy of lawyers and judges from outside their community. They are the ones who need access to justice and should be fully supported by SLSAs.
  5. Panel lawyers must sincerely represent the tribal people in the courts, explaining to them the process and the law so that distrust of the system is eliminated and there would be greater understanding of the processes of the court.
  6. Panel lawyers must assist the tribal people in clarifying areas of confusion or overlapping of jurisdiction of the normal courts and the traditional village courts at the village level and help people in the smooth functioning of the justice delivery system within the framework of Constitution and Statutes.
  7. Panel lawyers must visit jails and set up legal services clinics in jails to tackle long term imprisonment without bail or non implementation of bail order of release for want of sufficient bail bonds and also follow up cases where there are no charges made out so that there is early release from prison disposal of cases.
  8. Panel lawyers should, with the help of Para legal volunteers, facilitate the tribal people for getting

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compensation of their acquired land and assist them for rehabilitation.

9. The issues, requirements and legal needs as well as availability of shelter, educational and medical facilities in tribal areas must be identified with the assistance of PLVs and action for judicial redressal initiated in appropriate cases vis-a-vis Govt. Welfare schemes specially meant for Tribal People.
10. The full time Secretaries/judicial officers should interact with the persons of such area in order to identify their problems and needs and in order to assure them that they will be given suitable assistance and services for their genuine legal and other requirements and rights.
11. The SLSAs must open legal services clinics wherever feasible to be visited by tribal lawyers.
12. The SLSAs must make use of the Multi Utility Vehicles to reach out to sparsely populated tribal areas not only for spreading awareness but also to extend prompt legal assistance to the tribal people who may have criminal, civil , revenue or forest rights issues.
13. The SLSAs must co-ordinate with government departments such as the forest department to settle habitat claims and compensation claims through the mobile Lok Adalats.
14. Legal assistance must be promptly given to the tribal people to approach the High Court under its writ jurisdiction both for civil as well as criminal matters. The High Court Legal Services Committees must empanel committed lawyers who are tribal people

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themselves or have a good understanding of tribal issues and are able to personally communicate with tribal people.

15. Social Justice Litigation with the approval of Hon'ble Executive Chairman, SLSA may be initiated whenever required..

**11. What is the role of Para Legal volunteers in implementation of this Scheme?**

Ans. Para legal volunteers (PLVs) are crusaders of Legal Services Institutions (LSI) and they work as:-

1. Each District Legal Services Authority, with the help of statistical and other Government department should identify the areas of the districts where there are tribal population and reach out to them through their Para Legal Volunteers.
2. In order to gain trust of the tribal communities, to know the problems of each such community and also to communicate with them effectively during awareness programmes it is necessary that Para legal volunteers must be selected from amongst such tribal people. The SLSAs should prepare exclusive panel of Para legal volunteers (PLVs) from these communities under the direct mentorship and control of the Full Time Secretary of DLSAs.
3. Such PLVs should be properly trained in respect of their roles to reach out proactively to the tribal people and to become the 'go to person' for the tribal community he/she is assigned to serve.
4. The LSAs through the PLVs should help the illiterate tribal people requiring legal assistance in filling up forms and

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filing applications for getting benefits of various schemes made by Government to do so for their getting such benefits.

5. Legal Services Authority could play a vital role in providing medical help with assistance of Para Legal Volunteers from amongst the tribal community. The needy persons may be identified with the help of Para Legal Volunteers and with assistance of the local Legal Services Authority; such tribal people may be facilitated in getting suitable medical assistance and medicines as well as benefits of medical schemes.
6. The PLVs must be the voice of the tribal people to communicate to the concerned authorities when there are issues relating the schools, absence of teachers, and harassment of tribal children or right to work, right to food, right to health etc. as listed in Part 1 of this scheme.
7. The PLVs may be useful in the matters of human trafficking for identifying the victims of trafficking and taking suitable action for obtaining victim compensation and accessing various rehabilitation schemes.
8. The PLVs must assist the trafficked children when they are rescued and produced before the Child Welfare Committees (CWCs). They should help the CWCs in tracking out the families of the victims.
9. The PLVs must hand hold the victims when they have to testify in the Court.
10. The PLVs must be the bridge between the tribal people and the panel lawyers and must assist both the tribal person as well as the lawyer so that the case of the tribal is effectively understood and heard by the court.

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- 11.** The PLVs must also be the connect between the government departments and the tribal people to ensure that the food and rations meant for the tribal people reach them even when they live in remote and sparsely populated areas in the State.
  - 12.** Documentary proof of land is mostly not available with tribal people. The tribal people may, in such cases, need legal assistance for getting proper compensation and rehabilitation. PLVs should help the tribal people to collect all documents and other evidence so that displaced tribal people may be rehabilitated properly.
  - 13.** The PLVs must visit jails and interact with inmates to find out about their cases and report to the Full Time Secretary of the DLSA about them so that immediate follow up can be taken for their release on bail or expeditious hearing of their cases.





**NYAYA SADAN**

**Jharkhand State Legal Services Authority**

Near A.G. Office, Doranda, Ranchi

Phone : 0651-2481520, Fax : 0651-2482397

Email : [jhalsaranchi@gmail.com](mailto:jhalsaranchi@gmail.com)

Website : [www.jhalsa.org](http://www.jhalsa.org)