



UNDP-SUPPORTED

# *Legal Aid Services*

**For People living with HIV  
in Tamil Nadu and Andhra Pradesh**





# **UNDP-SUPPORTED LEGAL AID SERVICES**

**For People living with HIV in Tamil Nadu and  
Andhra Pradesh**

**A Documentation and Assessment Report**

August 2009

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## Abbreviations

AIDS	Acquired Immuno-deficiency Syndrome
ANC	Antenatal Clinic
APAC	AIDS Prevention and Control
ART	Anti-Retroviral Treatment
CHES+	Cheytha HIV Infected People Empowerment Society
DDS+	Dindigul District HIV Positive Society
DIC	Drop-in Centre
DLSA	District Legal Service Authority
GH	General Hospital
GIPA	Greater Involvement of People Living with or Affected by HIV/AIDS
HIV	Human Immunodeficiency Virus
ICRW	International Center for Research on Women
ICTC	Integrated Counselling and Testing Centre
IEC	Information, Education and Communication
INP+	Indian Network for People Living with HIV/AIDS.
LAC	Legal Aid Clinic
NACO	National AIDS Control Organisation
NCAER	National Council for Applied Economic Research
NGO	Non-Governmental Organisation
ORW	Outreach Worker
PD	Project Director
PWN	Positive Women's Network
PWST+	Positive People Welfare Society in Tirunelveli District
SACS	State AIDS Control Society
SHIP	Society for Welfare of HIV Infected People
TANSACS	Tamil Nadu State AIDS Control Society
TNP+	State Telugu Network Positive People
TNSLSA	Tamil Nadu State Legal Service Authority
UNDP	United Nations Development Programme
VAO	Village Administrative Officer

## CHAPTER 1:

# Introduction, Rationale and Background

In 2007, seven Legal Aid Clinics (LACs) for people living with HIV were set up in seven high prevalence districts of Tamil Nadu and Andhra Pradesh.

The goal of this pilot intervention under the UNDP-NACO partnership was to strengthen human rights by giving free legal aid to HIV positive people.

An overwhelming majority of people in need of legal services were women, many of whom were young AIDS widows fighting destitution and poverty. Positive people's major issues were around property rights, maintenance, custody of children, fighting stigma and discrimination.

## Rationale: Why the LAC

Worldwide, there is growing evidence of the links between HIV and the denial of property and inheritance rights to women and girls.

According to UNDP, 'Denying women equal rights to property and inheritance hampers their social and economic security and puts their human rights at risk. The promotion and protection of their rights is essential for reducing their vulnerability to HIV and strengthening their capacity to cope with the impact of the epidemic on themselves, their families and communities.'<sup>1</sup>

A study done by UNDP India shows that AIDS widows face stigma on three counts – as women, as people living with HIV, and as

<sup>1</sup> From Asia to Africa: HIV and women's inheritance and property rights (Special session organised by UNDP, ICAAP 2009)



widows. 90% were forced to leave marital home; 79% denied share in husband's property; 43% live alone and are economically worse off than other HIV affected households. The study recommends improving legal status of widows living with HIV and ensuring better rights to assets.<sup>2</sup>

A research done by ICRW in South Asia shows that 'the experience of denial of property rights for women spanned a broad continuum ranging from eviction from marital home to promise of inheritance rights for children, but not for the woman. There is also concern among families to safeguard their property which leads to a reluctance to transfer it to the daughter-in-law. The fear being that it will get passed on to her natal family and thus, be lost to them.' The study reports widespread misconception among families and sometimes among women themselves that HIV is fatal. Thus, property is denied to positive women on the premise that they don't have a use for it – since 'they are going to die in any case.' Gender biases play out as families sell assets for treatment related expenses of their sons, but deprive the daughters-in-law or refuse them shelter once husbands die. The cost of the son's treatment is also equated to his share of property, thus, his widow loses any claim to the matrimonial property.<sup>3</sup>

Studies such as those done by ICRW show that women hesitate to demand what is rightfully theirs because they feel the system does not support them and are inhibited by structures. Clearly, women need help in accessing judicial structures.

## Hence, the LAC

A partnership between UNDP and NACO helped provide funds to start the project in five districts in Tamil Nadu and two districts in Andhra Pradesh.

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<sup>2</sup> Gender Impact of HIV and AIDS in India (UNDP India, 2006; Study conducted by NCAER)

<sup>3</sup> Women's Property Rights as an AIDS Response – Emerging Efforts in South Asia (Hema Swaminathan, Nandita Bhatla and Swati Chakraborty, ICRW)

The first LAC opened in Namakkal, Tamil Nadu, in January 2008. Four more followed in the State in April 2008: Tirunelveli, Dindigul, Madurai and Cuddalore. In Andhra Pradesh, LACs in Krishna and Guntur districts have been functioning since June 2008.

## Documenting the Intervention

A documentation of this intervention was done in August 2009 to assess the success of the intervention; gaps, learning lessons, and potential to scale up.

Some of the areas covered include:

- The programme design and structure, and implementation
- Partnerships forged
- Services offered
- What were the key legal issues for positive people, specially women
- What was the uptake of service like: Kinds of cases brought up
- Outreach and communication materials developed
- Relevance, impact and effectiveness of the service provided
- Gaps, lessons learnt, future direction.

## Process

Field research was done in two districts in each State: Tirunelveli and Dindigul in Tamil Nadu; and Krishna and Guntur in Andhra Pradesh. Interviews were done with LAC staff members; key partners such as the DLSA lawyers and judges; and members of the positive network. In-depth interviews were done with project beneficiaries to assess impact.<sup>4</sup>

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<sup>4</sup> Although documenting Namakkal was not included in the initial stage, given its very critical role in shaping the overall project, a random field visit was made to the LAC site. Interviews were done with staff, beneficiaries, and positive network.



In Tamil Nadu, TANSACS Project Director Dr Vijayakumar and Ms Rathna Thara, Advocate and Legal Consultant, TANSACS, were interviewed. Mr V Palani, Consultant, TANSACS, and nodal person for the project accompanied on all site visits.

In Andhra Pradesh, APSACS officials Mr B V Subba Reddy (Joint Director, IEC), and Mr P Prabhakar (Deputy Director, Mainstreaming) were met. Mr B Rajendra, Co-ordinator GIPA, and nodal person for the project accompanied to the site in Vijayawada.

In addition, stakeholders Ms Supriya Sahu (former Project Director, TANSACS), and Mr Akbar Ali (Judge, Madras High Court) who played a critical role in conceptualising and shaping the intervention in its early years were interviewed in Delhi and Madurai respectively.

Ms Ambika Savitry and Mr M Vasu acted as translators in Tamil Nadu and Andhra Pradesh respectively.

### **Background: LAC – A Felt Need**

According to P Kousalya, Positive Women's Network, a study done by PWN in Namakkal as early as 2004 showed the extent of high numbers of AIDS widows. In 2006, when the intervention was being conceptualised, planners found there were more than 700 HIV positive women in Namakkal, three in four of whom were young widows. Discrimination, denial of property rights and destitution was high.

In Tamil Nadu, the intervention was designed with TANSACS taking the lead. TNSLSA would provide the lawyers. The District Administration would provide space in the General Hospital. The Positive Network would help bring affected people to the LAC.

The first Legal Aid Clinic began functioning in Namakkal in January 2008. Namakkal was chosen for the first LAC because of its high HIV prevalence – both among general population and high risk groups (sex workers, migrant labour, trucker drivers). In terms of absolute numbers, the district has the highest number of infected people. Bordering districts like Karur and Madurai have also high prevalence adding to the AIDS burden. Some of the other selected were coastal and tsunami-affected where people had lost property and there was the vulnerability of poverty.

In Andhra Pradesh, the two high prevalence districts of Krishna and Guntur were selected.<sup>5</sup> District Level Networks – CHES+<sup>6</sup> in Krishna and SHIP<sup>7</sup> in Guntur – were the primary implementing partners. These LACs would run out of the network run Drop-in Centre (DIC). The State Legal Services Authorities would nominate the lawyers.

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<sup>5</sup> Andhra Pradesh's 2 LACs – Vijayawada (Krishna district) and Guntur are barely an hour's drive from each other. Since network is the primary implementing partner, and not SACS as it is in Tamil Nadu, network seems to determine the location. In Krishna, district headquarters – Machilipatnam – where the courts are, is 2 hours away from Vijayawada town where the LAC and network is.

<sup>6</sup> CHES+ – Cheyutha HIV Infected People Empowerment Society

<sup>7</sup> SHIP – Society for Welfare of HIV Infected People

## Fact File

Both the States and all seven districts have high HIV prevalence.

Estimated adult prevalence in 2006 (in %; source: NACO 2007):

- Andhra Pradesh 1.05
- Tamil Nadu 0.39
- National average 0.36

Defining characteristics of LAC districts:

- Tirunelveli: South Tamil Nadu, high migration to Mumbai
- Dindigul: Agro-based town; about 70% of the total population earns their livelihood directly or indirectly through agriculture
- Namakkal: Prevalence among ANC attendees: 3%. High number of truck drivers; centre for trucking business and automobile industry
- Vijayawada town (Krishna district): Business centre for agriculture; political nerve; also a pilgrim centre; high in-migration
- Guntur: Industries include cold storage; tobacco industry; chilli yard. High in and out-migration.

## CHAPTER 2:

# Organisation Structure

## Partnerships Forged

**In Tamil Nadu**, TANSACS takes the lead. The State Legal Services Authority at the district and taluka level nominates lawyers and bears costs of court fees, lawyers' honorariums etc. Partnership with district administration has helped secure space within the GH and faster access to schemes and entitlements.

The network plays a critical role in outreach and follow-up. Most districts have more than one network. TANSACS has decided to choose the network that runs the DIC as its implementing partner. Dindigul has five networks. The president of the partner network<sup>8</sup> is also the president of the State network. Tirunelveli has just one network.<sup>9</sup>

**In Andhra Pradesh**, the key partners are the District Level networks: CHES in Vijayawada and SHIP in Guntur. In Andhra Pradesh, all 23 districts have one district level network affiliated to the State Telugu network of Positive People (TNP+), in turn affiliated with INP+. CHES has 3,800 members, half of whom (1900) are women. Of these, 900 are widows. SHIP, the oldest DLN in the State has 9,000 members, 60 percent of who (5,400) are women. Its staff of 200 includes 180 HIV positive people who are ORWs and counsellors.

Unlike Tamil Nadu, where the District Legal Services Authority (DLSA) bears the costs of legal aid, in Andhra Pradesh, the network pays for legal aid through

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<sup>8</sup> A Paul Raj, President, Dindigul District HIV Positive Society (DDS+)

<sup>9</sup> G Kumar, President, Positive People Welfare Society in Tirunelveli District (PWST+)

project funds. DLSA nominates the lawyers but they are not available for free advice and consultation at the LAC during fixed days/times of the week as in Tamil Nadu.

## **District Administration, Municipality and Welfare Departments**

In both the States, LAC built partnerships with the police, local district authorities and government departments such as revenue or the Village Administrative Officer (VAO). In Dindigul, the social worker has approached the Social Welfare Department to secure tailoring machines for HIV positive women seeking livelihood opportunities. He has also got the administration to waive off crematorium charges in case of AIDS deaths.

### **Staff**

Each LAC would have a staff of one social worker, two outreach workers and a legal expert nominated from a panel of lawyers set up by the DLSA.

The social worker would be the office administrator. His role would be to listen to the client's complaint, help write it down and consult the lawyer as needed. Outreach workers would collect more information on cases filed, verify information from the neighbourhood, accompany beneficiaries to the courts/ police station etc. They would raise awareness about services available at LAC among positive people by conducting meetings at the block level with support from positive networks. Outreach workers would be people living with HIV wherever possible.

A lawyer would come twice or thrice a week at a specified time to give legal advice and counselling. Legal petitions would be forwarded to the DLSA from where it would be sent to the relevant taluka. This would ensure people did not have to travel for subsequent visits.

Non-legal petitions for benefits and schemes would be forwarded to the Collectorate by the lawyer. The LAC staff would do necessary follow-up. This would ensure efficient action.

## **Process of Filing a Petition**

There are minor variations across districts but the general process is as follows:

A positive person comes to the LAC to seek legal aid.

The social worker helps him write down the complaint.

If it is a non-legal issue (access to benefits and schemes), they are advised on documents etc. required to file the petition. In some cases, people are helped to collect required documentation such as death certificate of husband in case of widow pension.

The lawyer forwards the petition to the Collectorate through the DLSA.

For legal issues (property, stigma and discrimination, custody of children, maintenance etc.), the social worker helps write down the complaint. The lawyer is consulted.

Outreach workers help verify information by doing a field visit.

The lawyer forwards the petition to the DLSA. Since the DLSA is there at the taluka level, petitions are sent to the taluka under whose jurisdiction the case falls. A lawyer is nominated to follow-up on the case. This helps in taking quick action and saves the petitioner travel time and costs for subsequent visits. The



DLSA sends a notice to the other party to come for a discussion at the court or LAC at a fixed date and time.

Every effort is made to arrive at an amicable settlement.

Since the DLSA notice is not like a court summon, the other party may choose not to come. In which case, a notice is sent the second and third time. In most cases, the opposite party comes since the DLSA wields power as an authority. In case the opposite party refuses to come, the DLSA nominates a lawyer who files a case in the court.

If the other party comes for mediation, they are counselled about legal rights and the rightful due of the affected person; what he/she will get if they go to court. They are told he/she has access to free legal aid and lawyer's services.

In most cases, the other party agrees to a settlement. Most lawyers say, it may not be the full rightful due, but it is something. The agreement is finalised and sent to the Lok Adalat so that it can be converted into a decree, which has full legal sanctity.

If it is a property case, the registration is done.

Social workers say the time frame is normally two weeks to file a petition, and 2-6 months for a settlement. Every effort is being made to complete the process within a timeline of two months. This would ensure one lawyer handles the case completely in LACs where lawyers come for one or two months.

## **Communication Materials and Outreach**

TANSACS produced a booklet on rights of HIV positive people in Tamil. The booklet covers rights such as the right to equality; right against discrimination;

right to get married and have children; right to confidentiality of status; right for consent for testing; right to property; maintenance; and protection from domestic violence. It also briefly discusses the role of the legal aid cell, its objectives; staff; and role of lawyer, social worker and outreach workers. The booklet has been translated into Telugu and is being used by LACs in the State. The Tamil version is due for a re-print.

Across districts, the network played a critical role in outreach. In Dindigul, awareness programmes were done by the LAC with the support of network in all the 27 or ICTCs in the district to raise awareness about legal issues and rights and services available at the LAC. Many of the beneficiaries said the ART or ICTC counsellor referred them here.

## **Present Status of the Project**

In Tamil Nadu, project funding completed in June 2009. Under the new staffing pattern, the social worker is the only staff member, and the position of 2 ORWs has been cut. TANSACS is scaling up the programme and expanding the LAC to 11 more districts. Of these, six are to be funded by NACO (Tuticorn, Vellore, Salem, Krishnagiri, Theni, Chennai), and five by APAC (Kanyakumari, Villupuram, Trichy, Tirupur, Karur). TANSACS is experimenting with a change in model with the new LACs being housed out of DICs instead of the GH. “It is more cost effective; DIC outreach workers will be expected to contribute. However, if we find it does not work, we will adopt the original model,” says Dr Vijayakumar. The five old LACs will continue to function out of the GH.

In Andhra Pradesh, funding was over in September. APSACS says it will use learnings from this pilot project to expand the programme. It might consider recruiting para-legal worker at the DIC but a stand-alone LAC does not seem to be on the cards.

## CHAPTER 3:

# Services Offered

A large percentage of HIV positive people seeking legal aid services are women, many of whom are widows. Most of the disputes are related to property rights, maintenance, custody of children, divorce and separation. Access to widow pension was by far the most sought after service across districts.

The LACs offer primarily three kinds of services:

- 1. Resolving disputes through non-legal intervention:** Counselling, mediation, addressing stigma and discrimination
- 2. Resolving disputes through legal intervention:** Using the Lok Adalat under the DLSA to settle disputes; in case that does not work, filing a court case.
- 3. Facilitating access to government schemes** (e.g. widow pension, distress relief)

## Non-Legal Intervention

Divorce and separation disputes were high, especially among discordant couples. Most of these were settled through counselling.

## Case Studies

**Addressing stigma:** In Tirunelveli, a discordant couple where wife is positive complained of harassment from a neighbour. She is a daily wage labourer and he works as an office peon; this is her second marriage and his first. The neighbour would abuse her and not allow her to collect water from the common source causing much distress. “He would not let me eat or sleep in peace, he told everyone about my status. He made my life miserable,” she complained.

The network counsellor came to know of the issue and asked her to seek LAC help. She filed a complaint. The social worker met the neighbour but there was



no effect. Three summons were sent through the DLSA. The man came only the third time but remained unmoved. Finally, a police complaint was lodged. He was summoned to the police station. This helped resolve the matter. The harassment has now ended.

In another case of addressing stigma, when a male client needing surgery complained of discrimination at the GH, LAC staff, with support from network, was able to intervene successfully.

**Defending positive people:** In Guntur, the LAC rushed to the rescue of an HIV positive couple who were arrested after the man's sister filed a complaint of harassment against them. A property dispute is ongoing. The LAC intervention got the couple released on bail.

**Claiming insurance:** In Guntur, the LAC helped a woman get her husband's life insurance policy which had been refused earlier on humanitarian grounds.

**Reclaiming wealth given at the time of marriage:** In Dindigul, an HIV positive couple sought help so the woman could reclaim wealth given to her at the time of marriage from her first in-laws. The lawyer suggested she file a police complaint. The social worker helped her file the complaint and negotiate the terms with in-laws through the police. A settlement was arrived at – half of what she had asked for. The lawyer advised her to take what she gets, telling her that since she had remarried, the case would take far too long if it went to court.

**Protection of finances from natal family:** In Dindigul, a woman who is separated from her husband and living with her mother and brother complained the natal family had spent wealth she got from her in-laws during marriage. The lawyer called both sides. The family did not deny having taken the money. With the lawyer's help, an agreement was made where the house was leased to her until the money was returned. The lawyer convinced her brother she needs the

income and the security. She has rented out a part of the house and gets Rs 1,000 as monthly rent.

**Construction worker claiming wages:** In Namakkal, a construction worker complained that the contractor was not paying him his due wages since he had come to know of his HIV status. The lawyer intervened, police help was sought, and the man was returned his dues. The man said the female lawyer was proactive and extremely supportive. She was able to get instant police help. From filing the complaint at the LAC to getting his dues, it took just 17 days.

**Property rights and reconciliation with in-laws:** In Guntur, an AIDS widow sought help for property rights. The in-laws were sent a summon through the DLSA. At first the mother-in-law refused to give any of the property or even the chance to meet her grandsons. After some rounds of discussion, she agreed to give the two children Rs 50,000 each through a bank deposit. The property will also go to the grandsons. The case has been settled within a month. The woman's husband was the only child. She is now visiting her in-laws. They have agreed to take the entire family as the aged in-laws are living alone.

## Legal Intervention

In some cases, LAC defended positive men when wives filed for compensation or maintenance. For instance, in Tirunelveli, LAC successfully defended a critically ill HIV positive man when his wife, negative, separated and filed for compensation. The lawyer showed evidence the family was not in a position to pay but would look after the woman.

## Case Studies

**Right to residence:** In Tirunelveli, an AIDS widow said after her husband's death, her mother-in-law and four brothers-in-law started to harass her so she would leave. There was violence and verbal abuse; they accused her for her

husband's infection. The DLSA sent a notice to the family. Several meetings and negotiations happened with the lawyer. The family was told if she goes to court, this is what they would have to pay. The family agreed not to harass her. She now lives in her husband's house. She works as an outreach worker with the network.

**Property rights:** In Guntur, an AIDS widow who had remarried sought help to claim property rights from first in-laws. The parents-in-law had died, the only other heir was a sister-in-law who was divorced and living in the house with her child. The woman filed for her share of the property. She has an 8-year-old child from her first marriage. The DLSA mediated a settlement where both women got half the share each.

### Facilitating Access to Schemes

Across all districts, approximately half of all petitions received were applications for widow pension. In CHES, 400 of the 900 widows receive widow pension. In Tirunelveli, over the year (April 2008-March 2009), 198 petitions were received of which 101 were widow pension alone. In Dindigul, access to widow pension and distress relief was the most sought after service. For many widows, just getting a death certificate – the document that forms the basis for all benefits and entitlements – was an uphill struggle. In Tirunelveli, LAC helped a handicapped autorickshaw driver petition for handicapped pension and loan.



## **Case Studies**

### **Vijayalakshmi, 25, AIDS widow, getting widow pension, Tirunelveli**

Married at 22, she was widowed three years later. She has a 2-year-old daughter. She lives with her mother. Studied till Class 10, she does beedi rolling for a living. One day's work gets her Rs 30 but she is not able to work everyday. Living with HIV causes constant ill-health. "My husband was from a nearby village. Once my in-laws came to know that I am also HIV positive, they got rid of me." The LAC has helped her get the widow pension of Rs 400 per month.

### **Shekammal, 26, widow since she was 18, Dindigul**

She was referred by the ART counsellor for help in claiming widow pension. Her husband died six years ago and she needed help in getting a death certificate. The process has taken over six months and she is now due to collect the certificate soon. She does not have children and lives with her parents who own a chicken stall. She does not work. Her parents helped her in accessing LAC services. "First my father would come with me, then my nephew. Now I can come on my own."



CHAPTER 4:

## **Relevance, Impact and Effectiveness of the Service Provided**

### **What works: Essentials for the LAC to be effective**

#### **Mature Epidemic: High AIDS Burden**

All the districts selected for the pilot were high prevalence districts in high prevalence States. Seeking legal aid services requires that people come out with their positive status. Therefore, it implies the stage of the epidemic is such that there have been several interventions before making disclosure possible for people. This would also be given in order to have strong networks.

#### **Demand for Service: Strong Networks**

All the LACs visited had strong positive networks. Dr Vijayakumar, PD, TANSACS, says strong networks are critical to the success of the programme. “TANSACS has been supporting the formation of networks since 1998. Both INP+ and PWN started here.” He adds that “it is important that there is a demand for the service – either the positive people are so empowered that they ask for it, or the demand is created.”

In Tamil Nadu, most districts have more than one network. TANSACS has decided to choose the network that runs the DIC as the implementing partner. Dindigul has five networks: The president of implementing partner DDS+ is also the president of the State network. Tirunelveli has just one network.

In Andhra Pradesh, SHIP, Guntur is the oldest network in the State with over 9,000 members. Each district in the State has only one network.



## Access

Systemically, every effort is made to make access easy by locating the LAC close to the ART centre in the General Hospital or in the DIC. Once the petition is filed, the petitioner does not need to come to the LAC. The DLSA sends it to the taluka/state Legislative Authority and nominates a lawyer there to follow it up.

## Strong Partnerships

DLSA ownership is strong in Tamil Nadu. Dr Vijayakumar, TANSACS says, “Building partnerships is essential to the success of the programme. “We could have hired a lawyer but that is not the same as partnering with the judiciary. This creates a systemic response where both parties have an equal stake in bringing justice to positive people in a timely and effective manner. This is a team effort.”

## Enabling Environment

Positive people say cases of stigma and discrimination have reduced since LAC intervention. The network president in Namakkal says the LAC has helped positive people get quick justice. “People are now careful about harassing HIV positive people – they are scared of being dragged to court or police station.”

A former ORW with the LAC in Namakkal said: “One person gets justice, 10 others benefit. People are scared of stigma and discrimination; they know they can be dragged to court.”

Dr Vijayakumar says that people are now more confident. When one person’s property is restored, confidence level of others increases and they are encouraged to fight for their rights.



Partnerships with district administration have ensured quick access to schemes and benefits. Positive people across said that access to schemes and entitlements had become much easier.

Clearly, multi-level, multi-stakeholder partnerships have helped create an enabling environment. Lawyers who had until now never met HIV infected people are now fighting their cases. Says M S Duraimuthuraj, Lawyer at Tirunelveli: “It took me 2-3 weeks to understand fully that I was not at risk in any way – HIV does not spread through air and water, hand shake or sitting on the same chair. I had many doubts about HIV and how it spreads which I clarified with the social worker.”

## **What doesn't**

### **Lack of Staff Training/High Turnover**

At most LACs in both States, staff who have been there since the inception said they had received an orientation before the project began, but nothing has happened since then. Staff turnover has been high, those who joined later said they had not received any training. In Tamil Nadu, where staff position is now one social worker, one of the two social workers met had been there since the beginning.<sup>10</sup> In Andhra Pradesh, of the staff of six met at both LACs, only one ORW had been there since the beginning. In Guntur, all three staff members joined in April 2009. Social workers and outreach workers said they badly needed training in order to perform effectively.

According to Judge Akbar Ali: “It is very important that the staff at LAC are trained to handle the cases. That is what will help people have faith in the system. The staff must be proactive, creative, and innovative in seeking solutions. It must respond to community needs.”

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<sup>10</sup>Richard John Dious, Tirunelveli

### **Weak Visibility**

Across both States, there were no posters or flyers, giving information on LAC services. In Dindigul, the LAC created a flex poster on its own, describing the rights of positive people. In other LACs, the walls were sparse, little indication of what the space is, what to expect, other than the board outside saying legal aid clinic for people living with AIDS. In Vijayawada, boards had posters like ‘save the dolphin’.

### **Weak Partnership with Judicial System**

In Vijayawada, the network must pay for every lawyer consultation. This limits the legal services they seek. The arrangement seems more with the individual than the structure of DLSA. The network is in Vijayawada while the court is in district headquarter Machalipatnam – a good two hours away. Clearly, this makes legal interventions weak and people have little faith in the system.





## CHAPTER 5:

# Gaps

### Low Uptake of Service

In Tirunelveli, in most months, an average of 14-16 petitions were received with barely 4 legal petitions. The LAC has about 6-7 visitors per day. Uptake has not picked up over the months. In March 2009, one year after the service began, 19 petitions were received of which 11 were widow/old age pension. In June 2009, there were 14 petitions of which 10 were non-legal (access to schemes etc).

In Dindigul, very few legal cases were received. Over the years (from April 2008-March 2009), 542 petitions were received of which only 24 were legal. In April 2009, 39 non-legal and 0 legal petitions were received. In May 2009, 37 non-legal and 3 legal petitions were received.

In Guntur, in a year (June 2008-July 2009), the LAC received 119 petitions. Of these, 61 were resolved and the rest are pending. Of the 61 petitions received, 35 were settled by Lok Adalat. In all, only 6-7 petitions came from men.

In Vijayawada, in a year (June 2008-July 2009), the LAC received 94 petitions. Of these, 55 have been resolved. Most of them have been non-legal issues addressed through family counselling etc.

### Ineffective response makes people lose faith

In Vijayawada, those at the forefront – LAC staff – had very little knowledge of legal issues and rights. Interventions have been largely restricted to counselling.

When a widow living with in-laws complained of harassment, LAC intervention was limited to counselling. No formal complaint was lodged; there has been no legal redressal to the issue.

Beneficiaries said the system is inefficient and the LAC staff does not wield authority. “When we come to office they talk to us, in the field they listen to us. When they do home visits for counselling, families don’t want to talk to them. All the cases are pending and nothing has happened. Each and every case should be time bound.”

Lawyer Ch Jayaram has been with the LAC for more than a year but has only completed one case of a man who filed for divorce. (The wife didn’t come for the hearings so the judge granted the divorce): Many other cases are left pending.

### **Case Study: Discrimination – Male Petitioner seeking Custody of Children from Wife**

In Vijayawada, a man said his wife left him along with their 2 children three years ago when she came to know of his status. She is negative and lives with her parents. He wants his children back. His wife and her family are not allowing him to meet the children or send the children to him. Her brothers threaten him saying, ‘You have HIV, if you come to our village it will create a problem for us’.

He came to the LAC a year ago but says he has not got any substantive help so far: “I never met the lawyer. I don’t know what is happening.” The ORW said the LAC met his wife and parents, now they are ready to allow the children to talk to him, but not ready to send them to him. When asked why he has not met the lawyer as yet, the ORW had no answer. She says this case was handled by another ORW who quit, it has come to her recently.



## **Ineffective structure leads people to lose faith in the system**

In Dindigul, the legal intervention was weak. The inputs of social worker and outreach worker, though much appreciated, were limited to the level of advice, counselling, escorting people for filing complaints etc.

Not many people came with legal issues, or perhaps success rate of those who came was so low, not many others were encouraged to come. All the beneficiaries met – and they were all women – seemed low on rights literacy and general self-confidence. When asked why that was the case, Paul Raj, President of the Dindigul network of Positive People said: “Yes, it is true that many of the women here are not empowered enough. Sometimes, we talk to people about rights and services. But when there is no response to their problem, we don’t know what to say.”

## **Constraints**

In some cases, the system is efficient but the women are not able to make use of it effectively.

In Tirunelveli, a couple, where both were positive, separated, and the husband remarried. The first wife came to the LAC for help in claiming maintenance in August 2008. The lawyer helped mediate between the two parties. In September, an agreement was reached that he would pay her Rs 1,500 a month. Her husband paid the amount for three months from October to December, then stopped. In April, the woman returned to the LAC to file a complaint. The DLSA filed a case; she was sent a letter advising her to meet the lawyer who has been appointed to fight her case. She says she had not been able to meet the lawyer even four months later, although she intends to.

Many cases were dropped. In Namakkal, a beneficiary spoke of a widow who dropped the case when her in-laws turned hostile. She had to leave the house and move to her parent’s place.

## **Informal agreements and negotiations**

In many cases, the LAC intervention is too informal and casual, restricted to counselling and mediating in family disputes. None of this is recorded. Literacy and legal literacy is extremely low. Many of the women do not have male family members for support when they come to the LAC for help. The beneficiary puts her complete trust in the social worker and agrees to sign on documents as advised.

Since there is no record whatsoever of how a case goes, there could be instances where LAC staff who do not have adequate knowledge about legal issues take the matter in their own hands without consulting the lawyer.

In Dindigul, in some evidently legal cases, the social worker used his own discretion and could not explain why he had not consulted the lawyer. In one case, a widow said she signed an agreement forfeiting her right to property in order to get custody of her children. The woman said she had not met the lawyer. The social worker said he had not consulted the lawyer. When asked, he could not explain why he had not arranged for the woman to consult the lawyer.

## **Uneven partnership with judiciary: Under-utilisation of lawyer's services**

In Tamil Nadu, the partnership with the State Legal Services Authority is strong at the district and taluka levels. Not so in Andhra Pradesh. In Vijayawada, the lawyer is not available for free advice and consultation at fixed times. A little bit of probing reveals that each visit costs the network Rs 500. Renuka, President, says, "We don't need lawyers all the time." A system meant to provide legal services is not able to help give the basic to those who need it: legal advice and counselling. This makes the LAC weak in its construct.

In Krishna district, very few legal cases were handled, and even in obvious legal issues such as custody of children, clients said they have not had

the chance to seek lawyer's advice. The district headquarters – and hence the court – is in Machilipatnam, two hours away by road from Vijayawada. According to the network, the DLSA has nominated six lawyers – two each for the three divisions. However, they have used the services of only two. In Guntur, legal intervention is stronger than Krishna because DLSA and network are at the same place. The social worker has easy access to the member secretary, who is personally committed to the cause. However, this raises issues of dependency on specific individuals rather than setting up a systemic structure.

Morale among lawyers was low. At some places, lawyers felt their services were under-utilised. At Tirunelveli, the lawyer said: “I am just a postman.<sup>11</sup> I just forward petitions to the DLSA (legal issues) or the Collectorate (benefits, schemes etc).” In Dindigul, the DLSA Member Secretary said there was complete under-utilisation of the lawyers' services. “All we get are petitions for widow pension. These record registers speak about their work. They sit there but no clients come. Their time is wasted.”

In places like Dindigul where the lawyer changes every month, the clients say they have to make a fresh start each time. Lawyers agree that this is an inefficient time frame; it should be two months, at least.

## **Weak Reporting Mechanism**

The reporting system was weak in all LACs.

In Tamil Nadu, reporting is purely quantitative – number of petitions received, settled, pending, referred to other departments. The very brief format gives name and address of petitioner, the issue, a line on action taken and remarks.

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<sup>11</sup> M S Duraimuthuraj

In Guntur, the process of documentation is extremely weak. The enrollment register has basic information like name, address, issue etc. When case is over, it is recorded as a case study. But there is no information on cases currently on; no record to give a status of cases. This makes it very person dependent.

Only in Namakkal were cases filed systematically: from the first complaint, to progress and present status. Where a case has been settled, the agreement has been recorded and the petitioner has given so in writing that the case has been done to his satisfaction and may be closed.

## Human Resource

The social workers and staff are forthcoming, work hard to reach out, but their own understanding of legal issues is low. They have received little or no training. Left to themselves, they help in whatever way they can. Staff turnover was high; most of the staff, with the exception of those few who had been there since the inception, said they had not received any sort of training and expressed a need for training.



The staff is inadequate and turnover is high. In Tamil Nadu, since the ORW positions ended this June, the LAC has a single staff member – the social worker. The outreach workers of the network and DIC are expected to fulfill this role. This has led to some stress.

Staff turnover is high. In Guntur, all three staff members – social worker and outreach workers – joined in April 2009. In Vijayawada, the social worker was 10 days old; one ORW had been there since the beginning. In Namakkal, the social worker was 10 days old. There have been

exceptions though. In Tirunelveli, the social worker has been here since inception; in Dindigul the social worker has completed one year of service and the ORW was the same through the year until the position ended.

Staff turnover impacts efficiency since many of the cases have a gestation period.

### **Dependency on people than on systems**

In Guntur, it is the member secretary of the DLSA who takes personal interest and initiative. He is due to be transferred soon.

In Vijayawada, Renuka, the president of the network has a very instrumental role in guiding the staff and shaping the intervention. As an AIDS widow herself, she knows the issues, has the experience to counsel and take decisive action. The staff is young, inexperienced and untrained. Their own knowledge of laws and rights is minimal; beneficiaries say the staff has no authority and are hence, ineffective in making actual change happen.

In effect, the LAC runs on one person's shoulder – the president of the network.



CHAPTER 6:

## **Recommendations and Conclusions**

### **Recommendations**

- Communication materials and legal literacy programmes are needed to create awareness on rights and the availability of the service.
- LACs must display services available. Information of relevance such as schemes available should also be displayed.
- Positive people should not pay for legal services; not even the network.
- Recording discussions and consultations at the LAC along with the petitions would help significantly in places like Dindigul where a lawyer is nominated for a period of only one month.
- An effective monitoring and reporting system is critical to the success of the programme.
- The outreach workers play a critical role in the intervention. Sharing DIC ORWs may not be as effective. Training social workers and outreach workers can ensure they fulfil a larger role.

### **SACS or Network – Who should be the primary implementing stakeholder**

Where State AIDS Control Society (SACS) – the nodal government agency responsible for HIV prevention in the State – has been the primary stakeholder, it has been able to build strong partnerships, making it a truly multi-sectoral response. Lawyers who had never met HIV infected people before said their awareness and empathy on AIDS issues had increased. In fact, this led to greater HIV awareness among their families and colleagues.

In Andhra Pradesh, where network plays the primary stakeholder, the partnerships it has built are weak. In Vijayawada, the network must pay for lawyer, services, which in effect means that they don't use the service often enough. Beneficiaries say the LAC is ineffective – the social workers and outreach workers have no authority over the people they seek to influence.

### **LAC: In the ART Centre or DIC?**

**Access:** The General Hospital is always centrally located, a landmark site in the district headquarters. Many of the positive people come to the ART centre and General Hospital.

In contrast, the DIC is in a residential area, in most cases a run-down building. People need to know full, correct address to reach, even if it is close to the General Hospital, in Tamil Nadu. This might be a deterrent for uptake of service.

Renuka, CHES: “When people come to the ART centre, it takes them an extra day to come to the LAC. Access is much easier at the GH. If we get space there, it will be better; we can send our staff there to run it.”

**Ownership:** Located in a public place, the LAC seems to represent government structure that rightfully belongs to all. The DIC, in contrast, is run by one network. In Tamil Nadu, where there is more than one network in a district, perhaps not all positive people will feel equal ownership.

At Tirunelveli and Dindigul, where the LAC was close to the ART centre, the ART counsellor almost always played a critical role in referring people here. In most cases, it was a woman who heard distress stories when people came to her. She was able to send them to the LAC, a stone's throw away.

***Cost-effective, better use of manpower:*** The argument in favour of DIC is that it would help bring down running costs substantively. Manpower can be used more effectively, and hence is more sustainable.

## **Communication Materials: Outreach**

There are no communication materials apart from the rights booklet, which though extremely useful, is text-heavy. Assuming that much of the clientele is illiterate and not given to reading, perhaps a more pictographic communication could be used. It may even be worthwhile to invest in audio-visual communication.

According to Member Secretary, DLSA, Dindigul, IEC materials are much needed: “The first thing is that people need to know their rights; next, they need to know where they can go to access their rights.” Legal literacy is critical. Perhaps a stronger outreach and legal literacy component will help ensure a wider uptake of services. Lawyers can be involved in this.

Since enabling environment is one of the primary goals of the project, it may be worthwhile to invest in advocacy materials on living with HIV for affected communities and families. Positive people reported high stigma and discrimination. Perhaps stronger messaging is needed on modes of transmission; reducing association of HIV with immorality; emphasising that HIV is a manageable infection; and infected people can live fruitful lives.

Another communication strategy may be to use people who have benefited from the service to become ambassadors to encourage others to seek LAC services. This is happening at an informal level in Dindigul and Tirunelveli. Perhaps it can be exploited more effectively.

## The Way Forward

**P Kousalya, PWN+:** “Legal aid services are important for HIV positive people. At present, the service is reaching out to very few people. Many women cannot go to the LAC. Outreach workers trained in legal issues must reach out to women.”

**Dr Vijayakumara, TANSACS PD:** “At present, only 50 percent of the cases are being disposed. The success rate has to be much more. The socio-economic dynamics of the epidemic are such that the poor are getting the most affected. In the course of a general epidemic, women are the worst sufferers. The problem needs recourse. A system like this creates a synergy.”

**Judge Akbar Ali:** “These are poor people. We have to help them. Let’s see how we can work together to make it happen. The funds are there, manpower is there, infrastructure is there, we just need to work together. We want to expedite cases related to HIV positive people. We have told courts to give priority to these cases.”

**Judge G V Krishnaiah, Member Secretary, DLSA, Guntur:** “Widows are marginalised. If they are positive, there is extreme marginalisation. They need all the support we can give them. They will not be able to come to the DLSA for help if it is not for the moral support the NGO/LAC gives. AIDS widows are so poor, they don’t even have money to eat a meal when they come here or bear travel costs. We must give them their due in the fastest manner possible.”

## LAC: What Positive People Say

Ask positive people if the LAC is needed and one hears a loud resounding ‘Yes’. Without doubt. Positive people say they value the infrastructure they can approach for help. Their knowledge of processes and procedures is low, and they don’t have the energy to fight it out on their own. Across, positive people said LAC staff was extremely helpful, and went out of their way to offer support. In Dindigul, a woman beneficiary who had filed for maintenance said the social worker helped

her collect all relevant documents. Asked if she knew about maintenance before coming here, she says, 'No'.

People said the LAC had helped them access benefits and schemes. The LAC would ensure the application is complete, help people collect documents, submit them to the Collector's office and did the necessary follow-up. This saved time, many levels were skipped, some said it spared them from dealing with VAOs who expected bribes. In Namakkal, a woman who had sought LAC help to fight stigma said, "it had been a great help to her. Some years ago, I was in a legal trouble. We don't know the rights and procedures. I had no idea how to defend myself. Now, I have somewhere to go to."

In Vijayawada, positive people said the institutional support is important. Some say they would have been unable to afford legal fees; others say the moral support of LAC staff has mattered a lot. The network provides a supportive safe space where they can disclose status and discuss problems with the lawyer with ease. Discussing with a lawyer outside is forbidding – positive people are unsure how the lawyer will respond to status, if he will maintain confidentiality; he might even refuse to take up the case or charge more heavily.

## **The Last Word**

- Clearly, the LAC is a much-needed intervention.
- To ensure uptake of services, and for people to have faith in the system, quick delivery of justice is important.
- This requires a cohesive response from multiple stakeholders. The Government must play the central role, with Judiciary and network being the other two major partners. People at the forefront interfacing with beneficiaries must be trained to help them deliver effectively.

## What Works – Essentials for an Effective LAC

### High prevalence/AIDS burden

Both States and all seven Districts are high prevalence.

Estimated adult prevalence in 2006 (in %; source NACO 2007):

- Andhra Pradesh 1.05
- Tamil Nadu 0.39
- National average 0.36

Most districts have multiple vulnerabilities. In and out migration is high.

LAC Districts and defining characteristics:

- Tirunelveli: South Tamil Nadu, high migration to Mumbai
- Dindigul: Agro-based town; about 70% of the total population earns their livelihood directly or indirectly through agriculture.
- Namakkal: Prevalence among ANC attendees: 3%. High number of truck drivers; Centre for and trucking business and automobile industry
- Vijayawada town (Krishna district): Business center for agriculture; political nerve; also a pilgrim center; high in-migration

### Strong Network

The network plays a critical role in outreach and follow-up. In Tamil Nadu, most districts have more than one network. TANSACS has decided to choose the network that runs the DIC as its implementing partner. Dindigul has five networks. The president of the partner network<sup>12</sup> is also the president of the State network. Tirunelveli has just one network.<sup>13</sup> SHIP, Guntur, is the oldest network in the State.

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<sup>12</sup> A Paul Raj, President, Dindigul District HIV Positive Society (DDS+)

<sup>13</sup> G Kumar, President, Positive People Welfare Society in Tirunelveli District (PWST+)

## **Partnership with judiciary**

DLSA ownership is strong in Tamil Nadu. DLSA bears the costs of legal aid.

In Andhra Pradesh, the network pays for legal aid through project funds. DLSA nominates the lawyers but they are not available for free advice and consultation at the LAC during fixed days/times of the week as in Tamil Nadu.

## **Outreach and visibility**

Networks played a crucial role in outreach. Communication materials and legal literacy programmes are needed to create awareness on rights and the availability of the service.

## **Access**

All LACS were located to ensure easy access – whether it was at the DIC or ART Centre. Partnership with DLSA at the taluka level ensured clients did not have to make subsequent visits to the LAC once the petition had been filed.

## **Role of SACS**

Where SACS has taken the lead as in Tamil Nadu, it has led to stronger partnerships with DLSA and district administration.

	Tirunelveli	Dindigul	Krishna	Guntur	Remarks
Strong network	There is only one network; network plays a critical role in LAC	Strong network; one of five in the district. Network president is also the president of the State network	CHES leadership largely consists of women; not as strong as SHIP in terms of organisation	SHIP is the oldest network in the State; strong leadership	In AP, all 23 districts have one network. In TN, most districts have more than one network. TANSACS takes pride in its tradition of nurturing networks. INP+ and PWN were both started in TN.
Partnership with judiciary	The DLSA deposes lawyers for a 2 months duration. Lawyer visits twice a week on fixed days and times.	DLSA deposes lawyers for one month at a time; only women lawyers are sent	Network must pay for every lawyer consultation. This limits the legal services they seek. The arrangement seems more with the individual lawyer than the structure of DLSA. While the network is in Vijayawada, the court is in district headquarter Machilipatnam – two hours away by road. This makes legal interventions weak.	In Guntur, network pays lawyers through DLSA; strong personal commitment of member secretary ensures easy access and effective response.	DLSA ownership is strong in Tamil Nadu. DLSA bears costs of legal aid. In Andhra Pradesh, the network pays for legal aid through project funds. DLSA nominates the lawyers but they are not available for free advice and consultation at the LAC during fixed days/ times of the week as in Tamil Nadu.
Partnership with district administration	Very strong. Many clients come as referrals from ART/ICTC counsellors	Very strong. Partnerships with various agencies such as municipality, social welfare dept. have been made			Stronger in TN than in AP where LAC is in the GH, close to the ART center. Many clients come as referrals from ART/ ICTC counsellors

<p>Outreach, visibility</p>	<p>Located inside the new ART building gives it a prominent visibility. Network has played an effective role in outreach.  However, the space itself gives no indication of what it is meant to be.</p>	<p>Awareness programmes were done by the LAC with support of network in all the 27 VCTCs in the district to raise awareness about legal issues and rights and services available at the LAC.  Dindigul was the only LAC which displayed information of rights.</p>	<p>LAC soft boards displayed irrelevant materials.  2 media workshops were done but did not have much impact.</p>	<p>The LAC is located within the DIC. This has helped create awareness on services among positive people. Many of the beneficiaries were associated with the network in some way.</p>	<p>TANSACS created a booklet on rights and role of LAC. This has been translated into Telugu.  Many of the beneficiaries met were associated with network/ GH in some way.</p>
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## Recommendations

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- Positive people should not have to pay for legal services; not even the network.
- Recording discussions and consultations at the LAC along with the petitions would help significantly in places like Dindigul where a lawyer is nominated for a period of only one month.
- An effective monitoring and reporting system is critical to the success of the programme.
- The outreach workers play a critical role in the intervention. Sharing DIC ORWs may not be as effective. Training social worker and outreach workers can ensure they fulfil a larger role.



