

## **An Empirical Evaluation of the Professional Skills of Legal Aid Counsels at District Courts**

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### **Abstract**

*The professional competency of Legal Aid Counsels serves as the foundation of legal aid services within District courts, High courts, and the Supreme Court legal aid framework. The lack of proficient professional skills has led to significant distrust among beneficiaries in legal aid services. Based on primary data collected during three field studies on legal aid counsels conducted in 2017, 2019, and 2023, this research article provides a critical analysis of the essential professional skills of LACs, including argumentation, articulation, presentation, and drafting. Furthermore, this research article assesses the repercussions of LACs' insufficient professional skills on the overall legal aid system.*

**Key Words:** Legal Aid Counsels, expertise, professional skills, proficiency in drafting, private legal practitioners, lack of trust in legal aid services, skills in articulation and argument

### **I. Introduction:**

There is an abundance of statutory instruments that acknowledge legal aid services as both Fundamental and Statutory rights. Legal aid services offered at the district, regional, and national levels are provided at no cost, and recipients are not obligated to pay any fees. Nevertheless, a significant number of beneficiaries of legal services are hesitant to utilise these complementary services. This reluctance among beneficiaries primarily stems from LACs' insufficient professional competence to deliver satisfactory legal aid services. As a result, there exists a trust deficit in legal aid services, attributed to the subpar quality of services rendered by empanelled legal aid counsels (hereinafter referred to as LACs).

In April 2022, Uday U Lalit, the former Chief Justice of India, recognised this during his delivery of the Justice V.R. Krishna Iyer Memorial Lecture on

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“Constitutionalism, rule of law and access to justice “in April 2022. He reiterated that the substandard quality of legal aid services consistently results in diminished trust in them in India. He stated, "Legal aid to the poor does not mean poor legal aid. There must be higher standards, improved quality, and enhanced levels of legal aid.

Field studies conducted in 2017<sup>2</sup>, 2019<sup>3</sup> and 2023<sup>4</sup> that reveal that a majority of beneficiaries did not opt for Free Legal Aid Services (FLAS) voluntarily;

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<sup>2</sup> *This research involved feedback from 702 Beneficiaries, 173 Judicial officers/Judges dealing with legal aid cases; 11 Regulators of the District Legal Services Authorities (DLSAs) and Delhi High Court Legal Services Committee; 174 LACs; and 1039 Women at Special (Fast Track Courts- dealing with women issues )and family courts, who were aware of FLAS but did not opt for the LAS for their disputes, from 11 Districts Courts- Tis Hazari, Saket, Rohini, New Delhi, Karkarduma, and Dwarka, Court Complexes in Delhi and Delhi High Court in Delhi. This research has also recorded valuable inputs from 56 Senior Judicial officers (Asstt. or Additional Session Judges) dealing with serious offences such as Sexual Offences, Murder, narcotics, and other heinous crimes for evaluating professional competency and commitment of LACs and rationale for the reluctance of these senior judges for involving LACs in the trail of serious offences.*

<sup>3</sup> *The research selected 18 States-36 Districts (02 Districts in each State- North Zone: Uttar Pradesh, Himachal Pradesh, Punjab and Haryana; East Zone: Orissa and West Bengal; West Zone: Gujarat, Rajasthan and Maharashtra ; South Zone: Karnataka, Tamil Nadu, Andhra Pradesh and Kerala; Central Zone: Madhya Pradesh and Chhattisgarh ; North-East Zone: Assam and Meghalaya) clustered in six geographical zones of India. The study recorded primary data from 7798 respondents consisting of 3029 legal aid beneficiaries, 609 Judicial officers/Judges, 1007 LACs, 33 Regulators/Secretaries, and 3120 Women respondents at Fast Track Courts dealing with women's issues and Family Courts, who were aware of legal aid system but opted for paid Private Legal Practitioners (hereinafter PLPs) due to lack of commitments and competency of LACs.<sup>3</sup> In addition to the abovementioned primary data, the research collected additional primary data from 8539 Female respondents unaware of FLAS:*

<sup>4</sup> *The empirical research collected the primary data based on self-administered questionnaires composed of open and closed-ended structured and unstructured questions from the major stakeholders regulating UTPs (after this, Under Trials Prisoners) in selective states and district courts in India. This research managed to record primary data from 159 Judicial Officers/Judges, 29 Jail Superintendents/Jailors, Law/ Welfare Officers, 269 LACs, 98 Jail Visiting Advocates, 47 Prison Paralegal Volunteers (PLVS), UTPs (Male- 816; Female- 142; Total -958) and 13 Regulators/Secretary DLSAs. from 14 District Courts of 7 States- State of UP, Rajasthan, Bihar, WB, Maharashtra, Haryana and Punjab.*

rather, they were compelled to utilise FLAS due to insufficient resources. This research paper offers a critical examination of the professional competency deficiencies among Legal Aid Counsellors (LACs), including Jails Visiting Advocates (JVAs) and Remand Advocates (RAs), who are engaged in FLAS at District Courts. This analysis is grounded in valuable empirical data gathered from Judicial Officers who handle legal aid cases and Session Judges who adjudicate serious crimes involving legal aid beneficiaries at district courts.

***A. A critical analysis of Legal Aid Services and the role of LACs in empowering FLAS.***

The framework for legal aid services has been created to support socio-economically disadvantaged litigants in gaining access to expensive legal procedures at the Supreme Court, High Courts, and District Courts. The Legal Services Authorities Act of 1987<sup>5</sup>, Order XXXIII of the Code of Civil Procedure 1908<sup>6</sup>, Section 304 of the Criminal Procedure Code of 1973<sup>7</sup> (With effect from 1<sup>st</sup> July 2024 Section 431 of Bhartiya Nagarik Suraksha

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<sup>5</sup> The Legal Services Authorities Act of 1987 (Act No 39 of 1987), modified by the 1994 amendment and enacted on November 9, 1995, seeks to establish a widespread system to deliver free and inclusive legal services to the less privileged. It mandates that the State ensures equality before the law and establishes a legal framework that fosters justice with equal opportunities for all

<sup>6</sup> Code of Civil Procedure 1908 (Act No 5 of 1908), o- XXXIII allows an impoverished individual to initiate lawsuits in a civil court without being obligated to pay the associated court fees. Additionally, if the person faces challenges in arranging legal representation for various reasons, the civil court has the authority to appoint a legal practitioner to assist the indigent person at its discretion.

<sup>7</sup> The Code of Criminal Procedure, 1973 (Act No 2 of 1974) s 304, “Legal aid to accused at state expense in certain cases: (1) where, in a trial before the court of session, the accused is not represented by a pleader, and where it appears to the court that the accused has not sufficient means to engage a pleader, the court shall assign a pleader for his defence at the expense of the state. (2) the high court may, with the previous approval of the state government make rule providing for- (a) the mode of selecting pleaders for defence under sub-section (2); (b) the facilities to be allowed to such pleaders by the courts; (c) the fee payable to such pleaders by the government, and generally, for carrying out the purposes of sub-section (1). (3) the state government may, by notification, direct that, as from such date as may be specified in the notification, the provisions of sub-sections (1) and (2) shall apply in relation to any class of trials before other courts in the state as they apply in relation to trials before the courts of session.”

Sanhita 2023), the National Legal Services Authority (hereinafter referred to as NALSA) (Free and Competent Legal Services) Regulations of 2010, and the NALSA (Legal Aid Clinics) Regulations of 2011, the NALSA Legal Aid Defence Counsel System 2022 and other rules, guidelines and regulations have been regulating Free Legal Aid Services hereinafter FLAS) at sub-divisions, districts, regional and national levels.

LACs are the major stakeholders in FLAS, without whom FLAS cannot progress or provide quality services to beneficiaries. The professional competency of LACs is essential to ensuring high-quality services and fostering goodwill towards public service institutions. The deficiency in professional competency among LACs has negatively affected the quality of services and beneficiaries' trust in legal aid services. It is crucial that free legal aid services, FLAS, are accessible to beneficiaries; however, those entitled to FLAS often hesitate to seek and utilise these free services, with many opting for the paid services of PLPs instead of those offered by LACs. Therefore, numerous beneficiaries of legal aid services are reluctantly resorting to FLAS as a last resort to navigate the complex, prolonged, and costly litigation processes in court.

The professional skills of LACs are vital for the provision of effective legal aid services to socially and economically disadvantaged segments of society. The series of Supreme Court judgments has also scrutinised the proficiency of LAC. In the case of *Ramanand v. State of Uttar Pradesh* 2022, a three-judge bench of the Supreme Court, led by Hon'ble Justice J B Pardiwala, criticised the legal expertise of the legal aid counsel, where the cross-examination of each witness was subpar and directed the district judges and Legal aid authorities to comply with the following directions for protecting the interest of legal aid beneficiaries<sup>8</sup>:

“It is desirable that in such cases, a senior advocate practising in the trial court shall be requested to conduct the case himself or herself on behalf of the undefended accused or at least provide good guidance to the advocate who is appointed as amicus curiae or an advocate from the legal aid panel to defend the

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<sup>8</sup> Criminal appeal Nos. 6465 of 2022

case of the accused persons. Then only the effective and meaningful legal aid would be said to have been provided to the accused,”

***B. Identified parameters for assessment of professional Competency of LACs:***

The LACs referenced in this research paper encompass Jails Visiting Advocates (JVAs) and RAs who are involved in delivering legal aid services in both civil and criminal cases to specified beneficiaries, as per the recommendations of District Legal Services Authorities at Districts and Taluka Legal Services Committees at Talukas-Sub-Division Courts and District Prisons, including both Central and State Prisons. The three research studies conducted in 2017, 2019, and 2023 employed defined professional parameters, such as argument skills, presentation and articulation skills, and drafting skills, to evaluate the professional skills of LACs by adjudicating authorities, such as judges and judicial officers. Furthermore, LACs have also been evaluated based on overall professional skills by the adjudicating authorities at taluka and district Courts in civil and criminal matters involving LACs.

***C. Appraisal of Professional Skills of LACs***

A legal practitioner's advocacy skills are crucial for providing high-quality legal aid to clients during litigation in the courts. The commendable professional skills of legal practitioners are acknowledged and valued by all stakeholders at every phase of litigation in both higher and lower courts. Beneficiaries are most likely to experience hardship and are unlikely to receive adequate relief from the Courts, even after investing significant resources in complex, prolonged, and costly litigation processes at courts without the support of professionally skilled legal practitioners, anywhere.

Within the legal aid framework, LACs serve as key facilitators of FLAS delivery to beneficiaries. Competent and dedicated LACs are the prerequisite for the legal aid system to thrive, prosper, and cater to the needs of the legal aid system. The provision of legal aid services cannot thrive or advance without competent and committed LACs. If an LAC is not well versed in the law and practice in relevant matters, then the entire legal aid system is destined to falter. Any deficiency in essential professional skills that are prerequisites for quality LACs will consequently sabotage the objective of

the legal aid system.

The insufficient professional Competency of the LACs negatively impacted the quality of legal aid services, leading to a reluctance among individuals to utilise the Free Legal Aid Services FLAS. The issues of LAC incompetence are not limited to one court or district but have affected the quality of legal aid services nationwide. Generally, LACs, inadequacy and lack of dedication have failed to meet the expectations of the beneficiaries. Therefore, the LAS have become a low priority for most beneficiaries or individuals entitled to FLAS across the country.

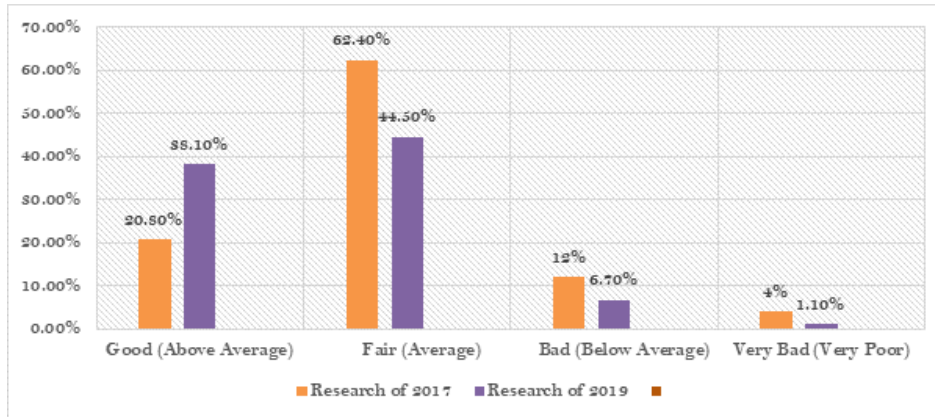
Three key parameters were identified to assess the professional competency of LACs: namely, quality of arguments, presentation and articulation, and drafting skills. The specific indicators, based on professional skills evaluations of LACs by the Judges and Judicial Officers involved in the adjudication of disputes/offences defended by LACs at Talukas (Subdivision) and District Courts for civil and criminal matters, are crucial for advancing legal aid services.

***D. Assessment of the Quality of Arguments:***

The quality of arguments that rely on a solid understanding of law and facts is essential for a competent legal practitioner in any litigation, whether civil or criminal. If a legal practitioner is unable to formulate relevant, logical arguments based on facts and law to claim appropriate relief, it is likely to jeopardise the client/litigant's interests. Consequently, a litigant is unlikely to get any relief from the court, which can also tarnish the reputation of the legal practitioners involved in the long run.

The quality of arguments of LACs providing legal aid services at taluka and district courts has been analysed in research conducted in 2017, 2019, and 2023, based on valuable inputs from adjudicating authorities, such as Judges and Judicial officers, dealing with disputes involving LACs at taluka and district courts in India.

Figure 1: Evaluation of Argument Skills of LACs



As per the simple descriptive analysis of the primary data gathered from Judges and judicial offices that handle legal aid cases involving LACs, derived from three field studies conducted in 2017<sup>9</sup>, 2019<sup>10</sup> and 2023<sup>11</sup> It has been found that the Fair (Average) category of argument skills of LACs has dominated in all three research studies (Figure 1). Furthermore, it can be logically concluded that more than 50% of the LACs are just average and below average in terms of argument skills.

It is also logically inferred that the ‘Average’ category has dominated over the Good category (Above Average) in all three field studies of 2017, 2019 and 2023. At the same time, the average of the Fair (Average) category across the three-field research is around 47%, compared to the average 28% of the Good (Above average) Category. If the average of the Bad (Below Average) and Very Bad (Very Poor) categories is included in the Fair (Average) Category, then the average of the three categories crosses 54%.

Undoubtedly, the level of argument skills in the average category has diminished over time; nevertheless, it remains at the top of the list for

<sup>9</sup> Research of 2017 p184: Good-20.8% (36/173), Fair-62.4% (108/173), Bad-12% (21/173), Very bad-4% (7/173),

<sup>10</sup> Research of 2019 p234: Good -38.10% (232/609), Fair-44.5% (271/609), Bad-6.7% (41/609), 1.10% (7/609).

<sup>11</sup> Research of 2023 p178: Good -26.4% (42/159), Fair-35.8% (57/159), Bad-17% (27/159), Very bad 1.9% (3/159).

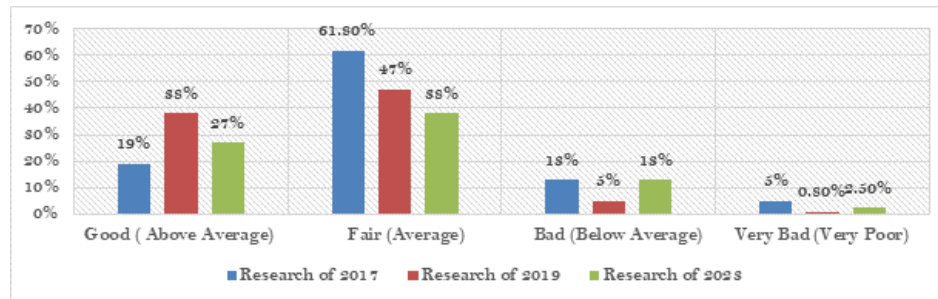
evaluating LACs' argument skills. Consequently, the quality of arguments presented by LACs tends to fall within the average and below-average categories.

### ***E. Scrutiny of Professional Presentation and Articulation Skills:***

A lawyer's capacity to systematically present and articulate facts and laws, coupled with effective communication skills, constitutes the most critical aspect of the litigation process. The Judiciary has consistently recognised effective communication, supported by strong presentation and articulation skills, in the judgment-delivery process. If the LACs cannot effectively communicate and convince the Judicial officers of the facts and law involved, the client or beneficiaries may be adversely affected by the LACs' inability to do so. In that case, the client/litigant is unlikely to get any relief from a court.

Judicial officers who assess the articulation skills of LACs are better positioned to conduct fair and accurate evaluations of these skills. In this context, we examine the articulation skills of the LACs on the basis of valuable feedback recorded from judges/judicial officers for the purpose of research in 2017, 2019, and 2023<sup>12</sup>.

Figure 2 Assessment of the Articulation Skills of the LACs



<sup>12</sup> *Id* p179: Good 27% (43/159), Fair 38% (61/159), Bad 13% (21/159), Very bad 2.5% (4/159).

The histogram of Figure 2 clearly indicates that judges have assessed the majority of the LACs as either average, below average, or in very poor categories across all three studies. In 2017, approximately 61.8% were rated as Average compared to 19% rated as Above Average; in 2019, 47% were Average versus 38% Above Average; and in 2023, 38% were Average in contrast to 27% Above Average, illustrating the quality of articulation and presentation skills of LACs at District Courts. There is a noticeable disparity between the averages of the two parameters (Average & Below Average - 61% and Above Average - 29%) across the three field studies. According to judges' evaluations, the pillars of the average category are leading the other skill categories.

#### **a. Quality of Professional Drafting Skills**

The quality of the written submission is the third most significant criterion for assessing LACs' competency. The drafting skills of a legal practitioner are crucial for obtaining suitable relief and remedies at trial, in appellate courts, or before tribunals. The drafting skills of a legal practitioner are essential for obtaining appropriate relief and remedies in trial, appellate, or tribunals. LACs are expected to demonstrate high-quality drafting in affidavits, complaints/applications, counter affidavits and other documents presented before both original and appellate judicial authorities. Insufficient drafting skills among legal practitioners can have long-lasting effects on the safeguarding of clients' interests, and beneficiaries are most likely to suffer injustice and are unlikely to obtain proper relief from the courts, even after investing considerable time and resources. Now, we examine the drafting skills of the LACs based on valuable feedback recorded from judges/judicial officers for the purpose of research in 2017<sup>13</sup>, 2019<sup>14</sup>, and 2023<sup>15</sup>.

Furthermore, as indicated by data from three field studies involving judges, LACs' drafting abilities are at an average level and surpass those of other drafting skills. Figure 3 shows that the drafting skills of LACs across the

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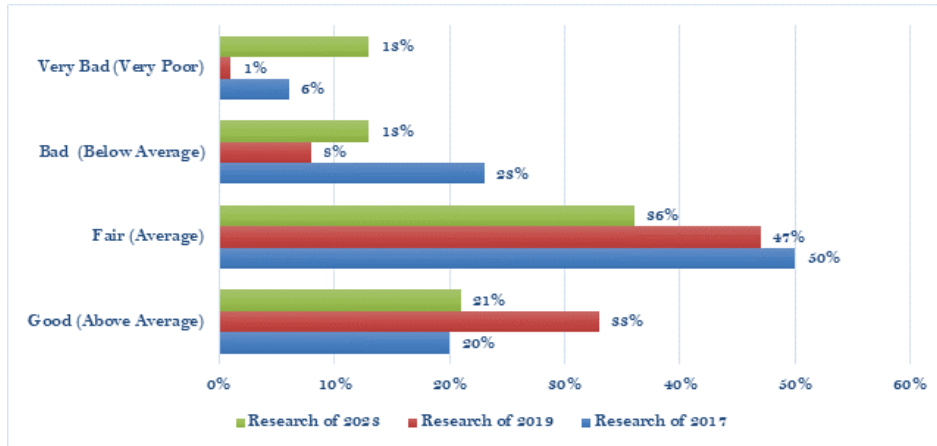
<sup>13</sup> Research of 2017 pp 141&146: LACs: Good 20% (35/173), Fair 50% (87/173), Bad 23%(40/173), very bad 6% (10/173)

<sup>14</sup> Research of 2019 pp237&244: LACs: Good 33% (203/609), Fair 47% (284/609), Bad 8% (51/609), Ver Bad 1% (7/609)

<sup>15</sup> *Id* p179: Good 21% (39/159), Fair 36%(57/159), Bad 13% (20/159), Very bad 13% (20/159)

three-field studies hover around the fair (the average) 44% (50+47+36=133/3=44) category, with 25% above average and 14% below average. When the weight assigned to the below-average and very bad categories is included in the weightage of the fair/average category, the average across the three field research studies increases to 65%. Consequently, it can be logically inferred that the majority of the LACs are covered under the average and below-average categories for providing FLAS.

**Figure 3: The quality of drafting Skills**

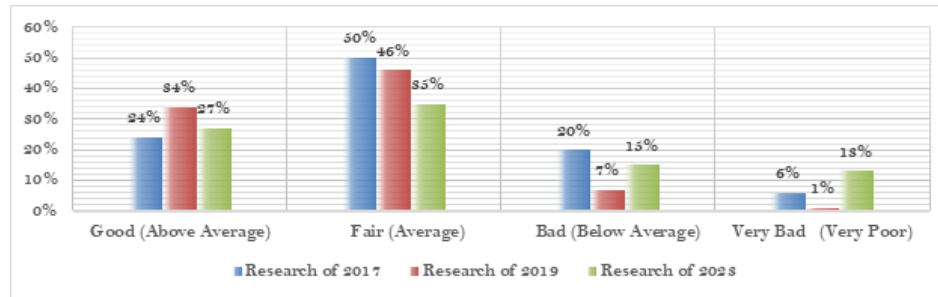


***F. Overall Professional Quality of LACs:***

This concluding category of evaluation assesses the comprehensive professional abilities of LACs from the perspective of Judges and judicial officers, focusing on argument, drafting, and articulation and presentation skills in civil and criminal courts, and rates LACs as a group on a scale of ten. Additionally, we examined the overall professional competencies of the

LACs based on the insightful feedback gathered from judges and judicial officers for research purposes in the years in 2017<sup>16</sup>, 2019<sup>17</sup>, and 2023<sup>18</sup>.

**Figure 4**



According to the evaluation conducted by the Judges, the overall professional competencies of the majority of the LACs fall within the Average Category. It has also been observed that an average of three field studies for this category of LACs indicates that the above Average Category represents 28% of LACs, (figure 4) average Category 43% of LACs, and the Below Average and very Bad Categories cover around 21% of LACs. Therefore, the overall professional skills scrutiny by the Judges finds that LACs possess average professional skills, based on the overall skills parameters at district courts.

Senior judicial officers at Session Courts and other specialised courts dealing with serious crimes in the Research of 2017 found that LACs are not competent to handle serious crimes involving matters of life and death. A significant 89% (50 out of 56) of the judicial officers expressed a preference against the involvement of LACs in grave offences such as rape, murder, culpable homicide not amounting to murder, narcotics, and other major crimes. They consistently advocate for the appointment of amicus curiae, generally experienced legal practitioners known to the judicial officers, to protect the interests of poor people who are unable to engage a legal

<sup>16</sup> Research of 2017 pp142&148: LACs: Good 24% (41/173), Fair 50% (87/173), Bad 20% (34/173), Ver bad 6% (11/173).

<sup>17</sup> Research of 2019 pp239&245: LACs: Good 34% (207/609), Fair 46% (278/609), Bad 7% (44/609), Very bad 1% (6/609)

<sup>18</sup> *Ibid*, p180: Good 27% (43/159), Fair 35% (56/159), bad 15% (23/159), very bad 13% (20/159)

practitioner on their own.

Furthermore, it is noteworthy that the LACs are routinely assigned civil or criminal cases by the Member Secretary of FLAS institutions. Nevertheless, under these special arrangements, the judges nominate selected LACs who are well experienced and devoted to serious offences to the Member Secretaries, who then allot specific criminal cases to these LACs. Only 06 Senior Judges (06/56-11%)<sup>19</sup> had engaged/nominated well-known, committed and devoted LACs to deal with such serious offences involving serious implications on the life and liberty of beneficiaries.

***G. There exists a wide gap between the professional skills of the PLPs and the LACs:***

The primary characteristic of a quality professional is proficiency. It is widely recognised that dedicated and competent professionals excel anywhere in the world. Moreover, there is no market demand for the subpar skills in the legal profession. Consequently, it is essential to undertake a comparative analysis of the professional skills of LACs and PLPs to assess LACs' professional effectiveness and understand the reasons behind PLPs' preference for beneficiaries over LACs.

To explore the reasons why beneficiaries of FLAS favour PLPs instead of LACs, as well as to assess the comparative professional skills of LACs and PLPs, data was collected in 2017 and 2019 regarding skills such as arguments, presentation and Articulation, and drafting of LACs and PLPs from Judges/Judicial officers at Taluka-division, and District courts in civil and criminal matters.

The empirical research conducted in 2023 on the rights of under-trial prisoners did not address a comparative analysis of PLPs' professional skills relative to those of LACs. In this context, we assess comparative perspectives on professional skills based on insights gathered from judges and judicial officers who are adjudicating disputes involving LACs in the district.

The empirical research conducted in 2023 on the rights of under-trial

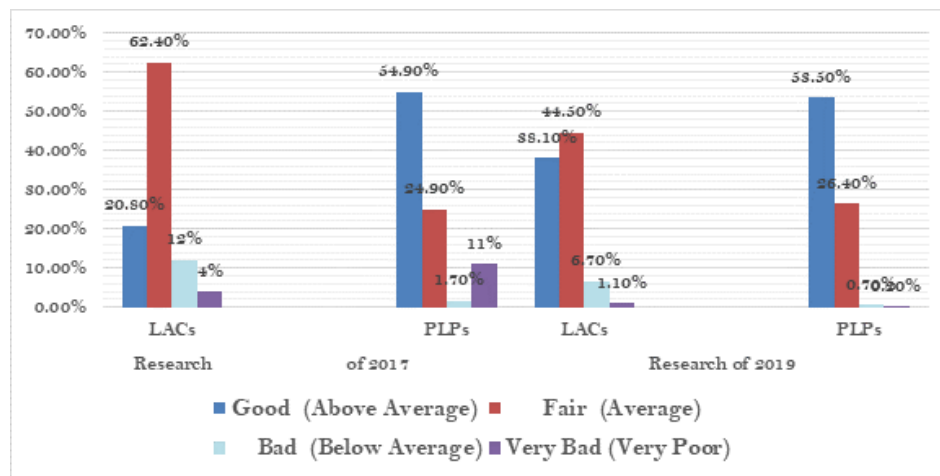
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<sup>19</sup> *Ibid*

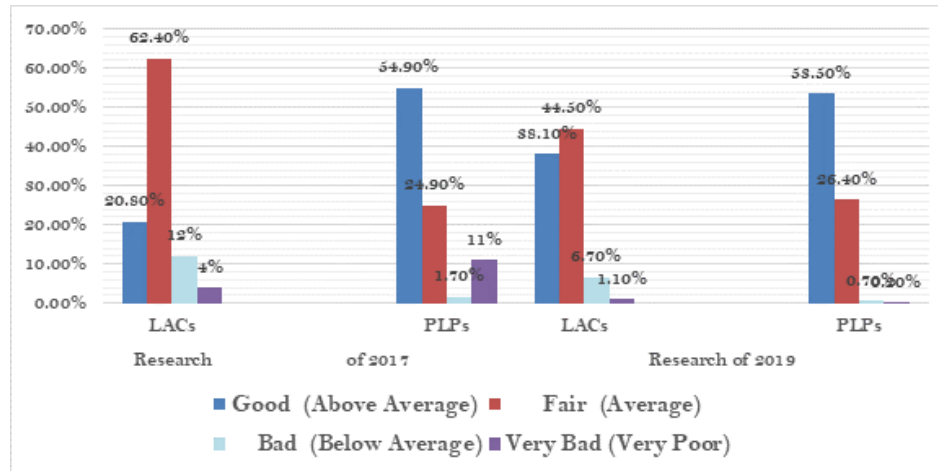
prisoners did not address a comparative analysis of PLPs' professional skills relative to those of LACs. In this context, we assess the comparative perspectives of professional skills based on valuable insights gathered from judges and judicial officers who are adjudicating disputes involving LACs in district courts across India

**a. Comparative Quality of Argument Skills**

**Figure 5: Comparative Quality of Argument Skills<sup>20</sup>**



<sup>20</sup> Research of 2017 pp 138&144, : LACs: Good 20.8% (36/173), Fair 62.4% (108/173), Bad 12% (21/173), 4% Very bad (7/173) and PLPs p: Good 54.9% (95/173), Fair 24.9% (43/173), Bad 1.7% (3/173, Very bad 11% (19/173); Research of 2019 pp234&240: LACs: Good 38.10% (232/609), Fair 44.5% (271/609), Bad 6.7% (41/609), Very bad 1.10% (7/609) PLPs: Good 53.5% (326/609), Fair 26.4% (161/609), bad .7% (4/609), very bad .2% (1/609).



According to the assessment conducted by Judges to evaluate the argument skills of the LACs and PLPs, 54.90% (95/173) Judges in 2017 and 53.50% (326/609) Judges in 2019, with an average of approximately 54%, expressed the opinion that PLPs are significantly superior and also covered under the Above Average Category and compared to 20.8% (36/173), LACs in 2017 and 38.10% (232/609) of LACs with an average of 29% in the Above average category. Furthermore, the histogram (Figure 5) shows that most LACs fall in the average category, while most PLPs are in the above-average category. This indicates a substantial disparity in argument skills between PLPs and LACs.

**b. Comparative professional Articulation and Presentation skills<sup>21</sup>**

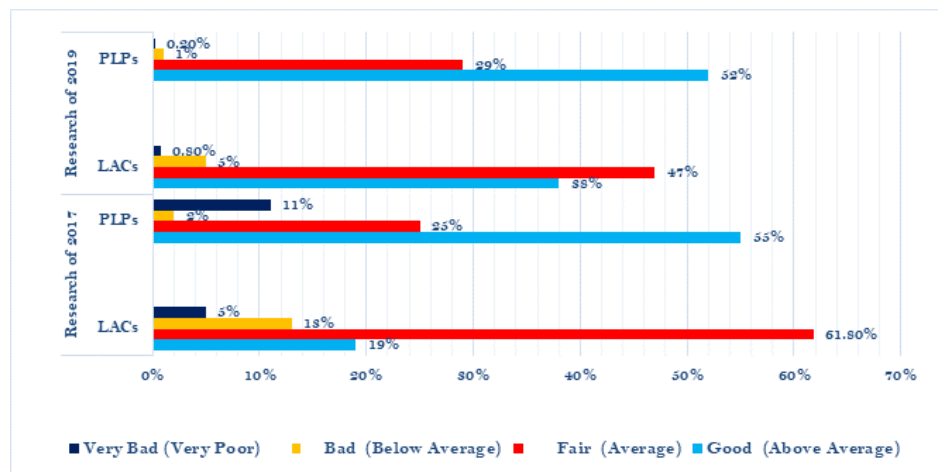
The Judges' evaluation of articulation and presentation skills reveals minimal differences between LACs and PLPs, similar to the findings regarding the argumentation abilities of both groups. It is evident that LACs were 19% (33/173) in 2017 and 38% (234/609) in 2019, resulting in an average of 29%, which places them in the above-average category. Whereas 55% (95/173) in

<sup>21</sup> Research of 2017 pp140&145: LACs: Good 19% (33/173), Fair 61.8% (107/173), bad 13% (23/173), very bad 5% (9/173) PLPs: Good 55% (95/173), Fair 25% (43/173), bad 2% (3/173), very bad 11% (19/173); Research of 2019 pp236&242: Good LACs: 38% (234/609), Fair 47% (283/609), Bad 5% (33/609), very bad .8% (5/609) PLPs: Good 52% (319/609), Fair 29% (178/609), bad 1% (6/609), very bad .2% (1/609).

2017 and 52% (319/609) in 2019, PLPs lead the category with an average of 53.5%, a huge margin of 24.5%.

Regarding the Average Category, which is predominantly occupied by LACs, the statistics show that 62.4% (108/173) LACs in 2017 and 44.5% (271/609) LACs in 2019, with an average of 54% of two field studies, are covered, whereas a small portion of the 25% (43/173) in 2017 and 29% (178/609), of PLPs, with an average of 27% across the two studies are visible in this category. The LACs dominate the average category. In contrast, the Good (Above Average) Category reflects the above-average skills of PLPs. Therefore, PLPs are better equipped with professional skills than LACs.

**Figure 6: Comparative professional Articulation and Presentation skills**



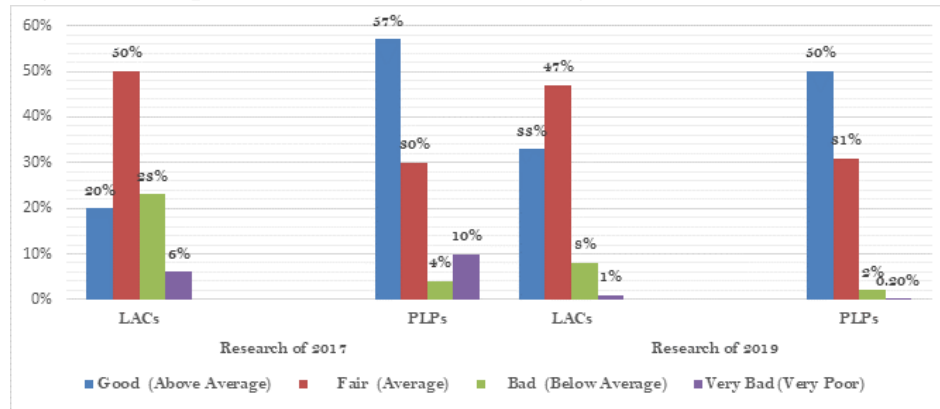
**c. Comparative Professional Drafting Skills<sup>22</sup>**

The comparison between LACs and PLPs regarding the parameters of drafting skills assessed by the Judges shows minimal differences, similar to the observations made concerning both professionals' articulation and

<sup>22</sup> Research of 2017 pp 141&146: LACs: Good 20% (35/173), Fair 50% (87/173), Bad 23%(40/173), very bad 6% (10/173) PLPs:Good 57% (98/173), Fair 30% (51/173), Bad 4% (6/173), very bad 10% (17/173) Research of 2019 pp237&244: LACs: Good 33% (203/609), Fair 47% (284/609), Bad 8% (51/609), Ver Bad 1% (7/609) PLPs: Good 50% (304/609), Fair 31% (187/609), Bad 2% (9/609), Very Bad .2% (1/609)

presentation skills. It is evident that LACs, 20% (35/173) in 2017 and 33% (203/609) in 2019, with an average of 27%, could find a place in the Above Average Category (Figure 6). In contrast, 57% (98/173) of PLPs in 2017 and 50% (304/609) in 2019, with an average of 53.5%, lead the category by a huge margin of 26.5%. This indicates that the majority of PLPs outperform LACs in terms of specific professional skills

**Figure 6 Comparative Professional Drafting Skills**



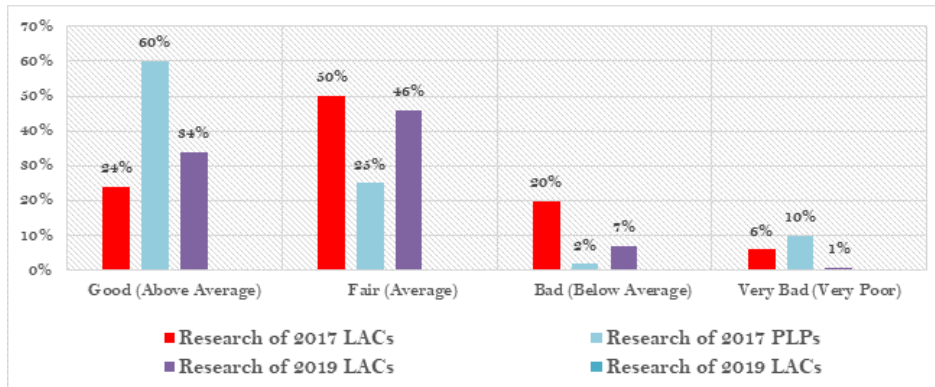
In the case of the Average Category, appears to be predominantly influenced by LACs, 50% (87/173) in 2017 and 47% (284/609) in 2019 of LACs, with an average of 49%, are covered, whereas 30% (51/173), in 2017 and 31% (187/609) of PLPs, with an average of 30.5% are visible in this category. Observations indicate that PLPs are more prevalent in the above-average category, while LACs are more prominent in the average category concerning drafting skills. It can be logically deduced that, according to the judges, the drafting skills of PLPs are superior to those of LACs.

**d. Comparative Overall Professional Skills<sup>23</sup>**

It has been observed that PLPs have taken the lead in the average category, and LACs have established a significant presence in the Average category of arguments, articulation, presentation and drafting skills. This article now examines the judges' evaluation of PLPLs and LACs based on overall professional skills.

Figure 7 shows that in the Average Category, which is predominantly led by LACs, 50% (87/173) were recorded in 2017 and 46% (278/609) in 2019 of LACs, with an average of 48% covered, whereas very small portion of the 25% (44/173), in 2017 and 28% (172/609), of PLPs, with an average of 27% are visible in this category. The LACs dominate the average category.

**Figure 7: Comparative Overall Professional Skills**



It is clear that 24% (41/173) LACs in 2017 and 34% (207/609) LACs in 2019, with an average of 29%, could find a place in the Above Average Category. In contrast, 60% (103/173) PLPs in 2017 and 52% (318/609) PLPs in 2019, with an average of 56%, dominate the category with a significant margin of

<sup>23</sup> Research of 2017 pp142&148: LACs: Good 24% (41/173), Fair 50% (87/173), Bad 20% (34/173), Ver bad 6% (11/173) PLPs: Good 60% (103/173), Fair 25% (44/173), bad 2% (3/173), Very bad 10% (17/173); Research of 2019 pp239&245: LACs: Good 34% (207/609), Fair 46% (278/609), Bad 7% (44/609), Very bad 1% (6/609) PLPs: Good 52% (318/609), Fair 28% (172/609), Bad 1% (8/609) Very bad .2%

27%. Consequently, the majority of PLPs possess more robust professional skills than LACs.

It is summarised and emphasised based on empirical data from judges and judicial officers handling FLAS cases, indicating that, due to the superior quality of their professional skills, FLAS beneficiaries prefer PLPs over LACs. The beneficiaries choose FLAS when they lack sufficient resources to hire paid PLPs.

#### ***H. Findings and recommendations***

This paper, grounded in empirical research, investigates the specific parameters of professional competency among Legal Aid Counsellors (LACs) in relation to Family Legal Aid Services (FLAS). Through a critical analysis of primary data and valuable insights gathered from Magistrates handling minor offences and Session Judges presiding over serious crimes involving LACs during the research conducted in 2017, 2019, and 2023, it has been noted that LACs generally exhibit average skills in argumentation, articulation, presentation, and drafting.

The subpar professional skills of LACs have compelled the beneficiaries seek the quality services offered by PLPs. Consequently, the inadequate professional skills of LACs exacerbated the trust deficit between beneficiaries and those entitled to FLAS, as well as the current legal aid system. Beneficiaries are often hesitant to approach FLAS, primarily because LACs lack the professional capabilities to deliver satisfactory legal aid services.

Further, we explored potential solutions and strategies to enhance LACs' professional skills and rebuild beneficiaries' trust in legal aid services, with a long-term perspective.

#### **Recommendations:**

- **Strict Empanelment Process:** In order to assess professional competencies such as arguments, presentation and articulation, and drafting skills, it is advisable that the Empanelment process incorporate a written examination to evaluate these skills of Legal Aid Counselors (LACs) along with an interview conducted by an independent agency. Consequently, it is crucial to implement necessary modifications in Para

8 of the National Legal Services Authority (NALSA) (Free and Competent Legal Services) Regulations 2010 to conduct written tests and interviews of LACs. This arrangement will also ensure the provision of qualified LACs to deliver Free Legal Aid Services (FLAS) and foster beneficiaries' confidence in FLAS.

- Pooling of LACs in Groups- It is widely acknowledged that placing the right individual in the appropriate position can yield remarkable results. This principle is equally applicable to LACs. It is suggested that LACs, based on their expertise and experience, should also be grouped into specific panels: Civil, Criminal-MMs, Magistrates-I and II & ADJs, Family Courts, and other tribunals. This arrangement will undoubtedly enable LACs to offer high-quality FLAS to beneficiaries. Moreover, to enhance the professional capabilities of LACs, Legal Services Agencies and Authorities should consistently conduct orientation programs during court recesses.
- The Empanelment of full-time, tenure-based LACs should also be expanded to encompass all civil courts, family courts, and other tribunals that provide FLAS. Furthermore, LACs must be prohibited from engaging in private practice while employed full-time on a tenure basis.
- The DLSAs, along with the Supreme Court and High Courts Legal Services Committees, should ensure that LACs have access to comprehensive online and offline library services for ongoing skill enhancement. Additionally, the Legal Aid services Regulators must also provide LACs with high-quality electronic infrastructure for printing, scanning, drafting and other stationery services.
- Regular monthly engagement with LACs: The legal aid services should facilitate monthly meetings to address the challenges and obstacles faced by LACs in their interactions with judges and beneficiaries.
- Acknowledgement of LACs for professional skills: It has been emphasised that motivation and incentivization play a crucial role in recognising the commitment quality of LACs at the District, High Courts, and Supreme Court levels. Services rendered by LACs for more than two tenures (maximum of 5 years) or more than 20 quality cases at High Courts or Supreme Court, or both, should be taken into account for various benefits related to appointments in judicial and other public

services, as well as for elevation to the positions of Judge or Advocate at the High Courts and Supreme Court. The NALSA Regulations, along with the rules of the High Court and Supreme Court, should be revised to incorporate such Pro Bono and FLAS Scheme incentive programs.

- Establishment of Legal Aid Research Divisions composed of legal aid experts at State Legal Services Authorities and NALSA to research legal aid matters and facilitate legal aid services through best practices worldwide. The suggested Research Division should also address feedback from judges, LACs, and beneficiaries to guarantee the quality of legal aid services.