

# **ANNUAL REPORT**

**JAN-DEC 2022**

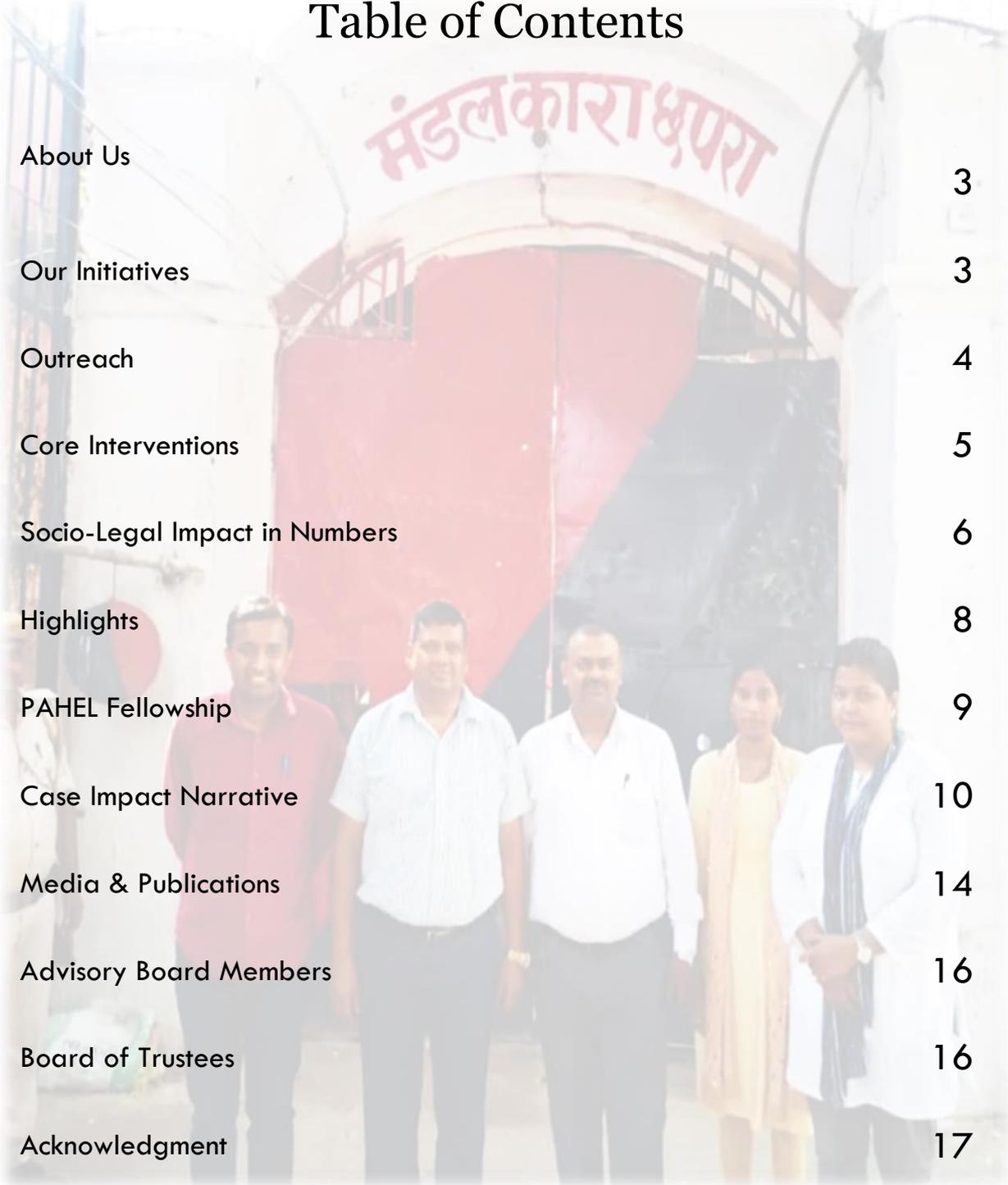


# **LAW Foundation**

**A Pathway to Justice**

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## *About Us*

LAW Foundation is a non-governmental organization that facilitates access to the socio-legal aid services to the custodial population primarily belonging to the marginalized and vulnerable sections of the society in the State of Bihar, India. The work had been initiated by the Founder Mr. Praveen Kumar in 2016 through the Criminal Justice Fellowship Program under the mentorship of Prof. Vijay Raghavan, Tata Institute of Social Sciences, Mumbai.

LAW Foundation was officially registered as a Trust on December 26, 2019, and has been continuously working with the custodial population since then. The organization works towards empowering marginalized communities through public advocacy, capacity building, relationship building, forming networks, and leadership development in collaboration with many governmental institutions & non-governmental organizations.

## **Our Initiatives**

CLAP (Children Legal Aid & Protection)

Gender Justice

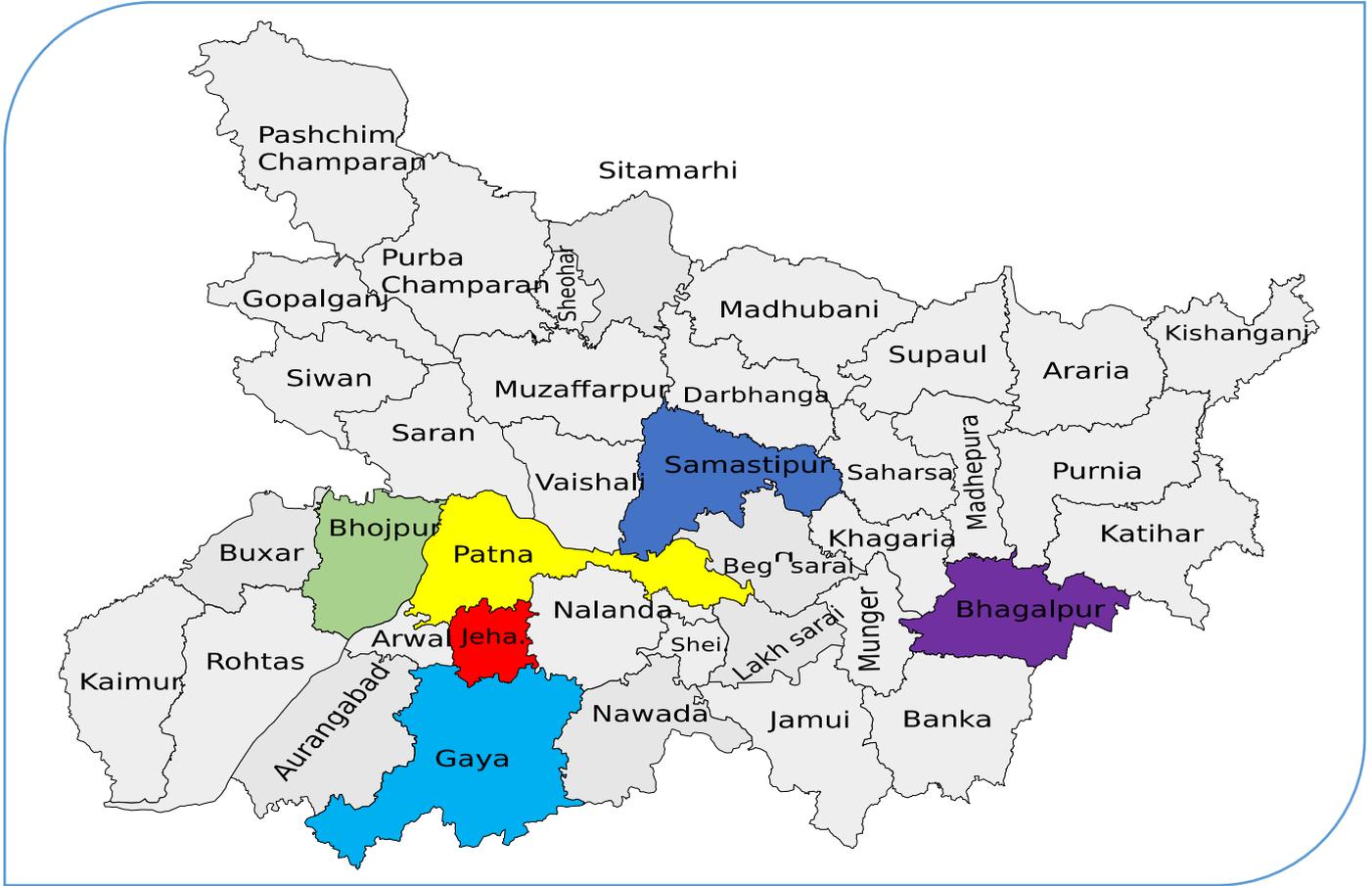
Nomadic & De-notified Community

Socio-Legal Aid Services

Dalit & Minority Rights

Social Reintegration & Livelihood

# Our Outreach



- PATNA: Adarsh Central Jail Beur, District Jail Phulwari Sharif, Danapur Sub Jail, Masaurhi Sub Jail
- GAYA: Central Jail Gaya
- JEHANABAD: District Jail Jehanabad
- BHOJPUR: District Jail Ara
- BHAGALPUR: Central Jail Bhagalpur
- SAMASTIPUR: District Jail



## Core Interventions

Jail Visits	Home Visits	Legal Aid
<p>Our socio-legal intervention starts from jail as our beneficiaries are incarcerated. We visit jails to identify marginalized, poor, and abandoned prisoners who are in need of our socio-legal assistance.</p>	<p>Once a person is incarcerated in prison, family ties break out, and mulakati does not happen. In such circumstances, the Organization conducts Home Visits to guide and counsel the family in relation to various socio-legal issues that exist and their remedies.</p>	<p>We provide legal aid services to poor, abandoned, marginalized, and undertrial prisoners, in form of bail, trial, appeal, writs, and PIL.</p>
Counselling	Legal Awareness	Community Engagement
<p>Long-term incarceration badly affects the mental health of prisoners in jail. By providing regular counselling, we help them to overcome their mental health issues which they deal with alone every day.</p>	<p>Disseminating information about legal rights, government policies, and other entitlements through awareness programs, seminars, etc.</p>	<p>Brutality in any form exists in a community due to a lack of literacy. Thus, we identified underprivileged children in the community and worked with them to impart legal literacy and enhance their leadership quality.</p>

## Socio-Legal Impact in Numbers

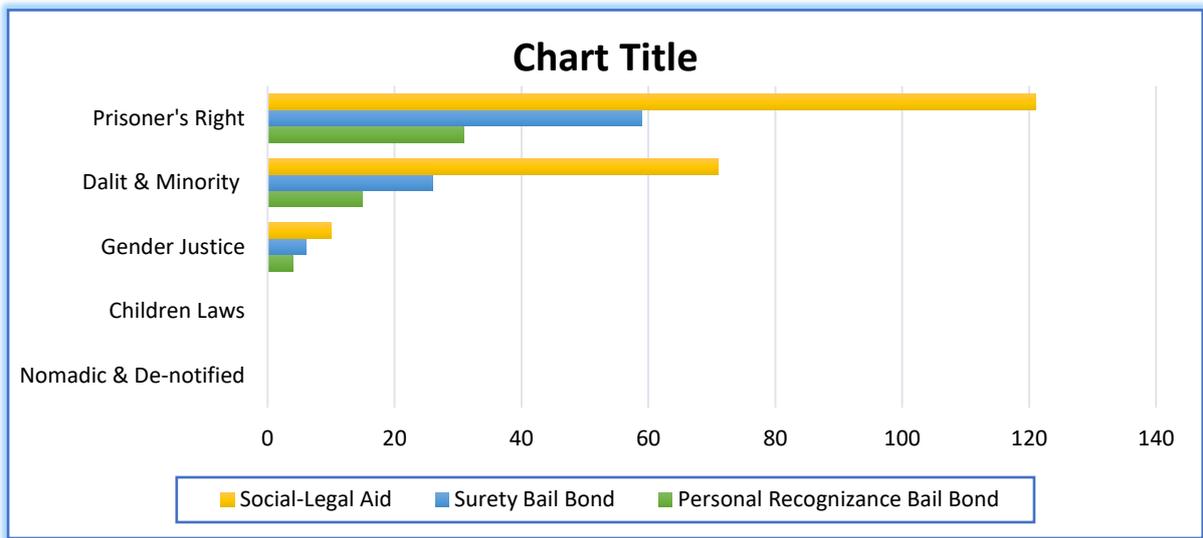
Socio-legal-aid is an intervention model that claims to restore the principles of Justice, Equality, and Equity in the Criminal Justice System in India. In this Annual report, January to December 2022. LAW Foundation provided socio-legal aid in a total of 212 cases. The graphical representation of the data is given below.

In the charts below, the data represents the socio-legal aid Services provided to the beneficiaries. The greatest number of beneficiaries was from the Dalit community, followed by Backward Class, Minority, Extremely Backward Class, and General caste community.

### Socio-Legal Intervention (2021-2022)

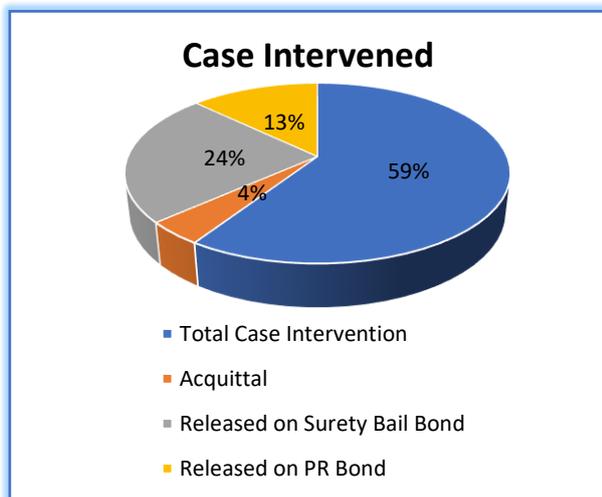
Initiatives	Socio-LegalAid	Released	
		Surety	P.R Bond
Prisoner's Rights	121	59	31
Gender Justice	10	-	-
Children and Law	-	-	-
Dalit & Minority Rights	71	26	15
Nomadic & De-notified Tribes	-	-	-
Constitutional Values	PIL - 1      Criminal Writs – 2		
Home Visit	20		
Prison Visit	72		
Police Station Visit	6		

In this Annual, we have provided one hundred twenty-one Socio-Legal Aid to prisoners, ten to Women as Gender Justice, and seventy-one to Dalits and Minorities. We also have conducted twenty home Visit, seventy-two prison visit, and six Police Station Visit which is given in the table.



Quarterly Impact	Cases Intervened
Total Case Intervention	212
Acquittal	15
Released on Surety Bail Bond	85
Released on PR Bail Bond	46

Our Social legal Aid intervention reached 212 undertrial Prisoners cases, of which 131 bail applications come out with positive results, not only this we also celebrated this Annual with 15 Acquittals, which has been presented in the chart.



# Highlights



#AGAMIPIRIZE2022

## RECOGNITION

IDEA PRIZE  
#FINALISTS2022

Agami Idea Prize is a biennial national prize awarded to innovations and entrepreneurial initiatives that can exponentially increase quality, effectiveness, access, and inclusion in and around law and justice. Agami inspires and enables ideas that solve the biggest challenges in law and justice.

LAW Foundation has been a finalist for this award. LAW Foundation was awarded Rs. 3 lacs for the idea of Activating convicts to act as Para Legal volunteers for other prisoners.

## SOCIAL WELL-BEING PROGRAM INSIDE PRISON

“Baaton Hi Baaton Me” is a mental health initiative taken up inside the female ward of Model Central Prison, Beur. Life inside prison invokes a lot of anxiety and stress, hence the idea of the initiative was that of a listening circle aimed at creating a space where the members felt a sense of relief even if it lasts for a couple of hours. The circle was also aimed to provide a safe space for the members to talk about their feelings and the issues they faced on a personal and community level while engaging in reflective activities along with art therapy.

## EMERGENCY SUPPORT

While being incarcerated, a person loses ties with the outer world having no whereabouts of his family. In such circumstances, all they need is support on which they can rely. LAW Foundation thus bridges this gap and provides basic humanitarian emergency support to our social beneficiaries and their families.

## PAHEL Fellowship

Providing Access to Holistic Experience in Litigation (PAHEL) Fellowship is an attempt to encourage first-gen law graduates from marginalized sections of society to pursue a career in litigation. Through our experience in the field of law, have observed that there is a lack of support either culturally, socially, economically or intersectionality of all the aforementioned categories. Thus, we felt that there is a need to address this gap and bring more people from these communities into the field.



**MD. IRFAN ALAM**

He is a first-generation learner as well a Lawyer. He completed his B.A.LL.B. from Teerthanker Mahaveer University, in July 2022. Thereafter he was left clueless how about to proceed further with his career. As he was enthusiastic and determined to go ahead with litigation but lacked a pathway.

The PAHEL Fellowship scheme by the LAW Foundation came as a much-needed opportunity in his life. It opened the doors to enter into litigation along with a minimal stipend.



**AMAR ALAM**

He belongs to the Pashmanda Muslim Community who are depressed classes among their community and deprived of the fruits of power and privilege. In spite of this Amar completed his Graduation Degree in Law from the Central University of South Bihar in 2022. He too is a first-generation lawyer as well as a learner.

PAHEL Fellowship was an opportunity for pursuing his dream to be an Advocate.

# Case Impact Narrative

## Aman Kumar\* Versus State of Bihar

**Case Background:** On 21.10.2018 a young man aged 22 years was apprehended by the Railway Police on accusations of theft and was put behind the bars. He was booked under Section 379/411 of the Indian Penal Code 1860 i.e., Theft, which prescribes punishment of up to three years or a fine or both. His bail application was rejected by the lower court after which he knocked on the doors of Sessions Judge, Patna where he was granted bail on 25.05.2019. But due to his inability to furnish bail bond, he was not released on bail and languished in jail thereafter.

In January 2022 while a usual visit to Jahanabad Sub-Jail for identifying prisoners in need of legal aid we came across this alleged prisoner who was still imprisoned. He has served the total punishment prescribed for theft being an under-trial prisoner whose trial was not concluded yet.

**Legal Recourse:** Panel Advocates of LAW Foundation filed an evidence close petition in the Railway Judicial Magistrate, Patna Jn. for him after knowing his tyrannical journey with the justice system. This application was rejected without considering the struggle and conditions faced by him all these years. While giving him legal assistance, we did not give up hope. The pathway to justice is always difficult, it's just the hope that keeps up boosted to fight the injustice prevailing in the system. In February 2022 a new magistrate was appointed in the Railway Court. Without wasting any time, we approached the newly joined magistrate for getting relief. He very well understood our concerns and agreed to entertain this petition in light of justice. Thereafter, he closed all evidence in this case and acquitted him, on the lack of evidence.

**Gaps Analysis and Conclusion:** This particular case shows us the several loopholes and gaps that our criminal justice system is filled up with. Despite getting bail the person is languishing in jail and the judicial officer has no checks and balances in this regard. The chargesheet was filed, the cognizance was taken and the charge was also framed in-spite of all this the case is never put on trial. A person can only be punished for the prescribed term of punishment. Once he serves the prescribed time, he cannot be apprehended but, in this case, the accused is serving in prison more than the prescribed tenure while he is an undertrial.

Justice was never served to him. He is a big example of the negligence bar and the bench towards prisoners languishing in jail. He was acquitted after 3 years and 6 months, which is not justice but his right to be freed.

\*(Name changed to maintain the privacy of Beneficiary)

## Md. Amir\* Versus State of Bihar

**Case Background:** Md. Amir, a boy who left his hometown Araria, to hunt for jobs in a big city, never knew would land up in jail because of the powerful people who misuse their position. Can someone's face describe his intentions ever, if yes then the jails would have more people there. But, here in this case the police merely on the basis of their suspicion that the boy would commit a cognizable offence under Sections of I.P.C. arrested him and sent him to judicial custody. While our visit to Samastipur jail for the identification of inmates who require legal aid, this boy came up to us and was crying profusely. He stated that he used to earn in Jaipur but due to the lockdown he was forced to return back to his hometown. Once this COVID situation cooled down he decided to return back to work, and for this, he came to Patna to meet a friend while he was searching for him police arrested him under Section 109 of Cr.P.C. He was incarcerated under a bailable section that requires the bond and not custody. He was there in that prison for near about six months in a single piece of clothing. He also shared his mother's and sister's contact numbers.

His family was contacted and they turned up soon and narrated the agony they had gone through. How they were fooled by people in the name of help, and the trust issues they had while we contacted them. The family had suffered a lot because of the loopholes the justice system has.

**Legal Recourse:** Panel Advocates of LAW Foundation tracked the case very well and carried out all the necessity that was ignored by others. They then filed a bail petition for the beneficiary, called the family to be the bailor, spent one whole day making the case a priority, and succeeded in getting bail for him on 24.02.22.

**Gap Analysis and Conclusion:** This case shows the pathetic structure of our justice system, and how innocent lives are merely ruined based on assumptions. Assumptions can't be a basis for arresting a person because police do not have the capacity to read a person's mind. When the police take someone in their custody the first step, they need to take is to inform the family or close ones of that person which was totally neglected. Where the friend or relative of the person arrested lives outside the district, the time and place of arrest and venue of custody must be notified by police within 8 to 12 hours after arrest. This should be done by telegram through the District Legal Aid Authority and the concerned police station. When his family reached searching him no information was surpassed to them properly all they received were in bits and pieces. No heed was paid towards his fundamental right of liberty and was kept imprisoned until and unless we intervened.

\*(Name changed to maintain the privacy of Beneficiary)

## Pratibha Devi\* and others versus State of Bihar

The prison visit to Beur Central Jail exposed us to the injustice present in our judicial system. Pratibha Devi a lady who is standing on the doors of her old age is locked behind the bars in her 50s. She was booked under Section 498A, 324, 326, 307, 304 (B) of the Indian Penal Code, 1860. These offences are serious in nature and prescribe a punishment of up to 10 years or life imprisonment.

It was alleged that Pratibha along with her elder sister in the month of November 2009 sprinkled Kerosene on her sister-in-law and put up her on fire. Thereafter in January 2010, she got arrested for this offence, while her sister fled away. Pratibha was imprisoned since then.

In 2021, during the regular prison visit, the case of Pratibha Ji came to our notice. After this Adv. Santosh the Senior Counsel of the organization went to Danapur Court and pursued the records and found that in all these years nobody from her family hired an advocate to secure bail for her, neither she was given any advocate from DLSA. In 2017, in this case, a Non-Bailable Warrant was issued against the informant and other witnesses of the case but none turned up. Thrice NBW was issued against the informant and witnesses but neither of them appeared to the court on any prescribed date. Then Adv. Santosh Kumar along with Adv. Shalini scrutinized the case details and interacted with Pratibha Devi through jail officials and procured her signature on Vakalatnama. Then, an application was filed to close evidence in this case. The court ordered police officials at Shahpur to file aa service report at earliest in this case. As per the report prepared by the police investigating the case, neither the informant nor the witnesses ever resided at that place according to the locals thereby.

Prabha Devi was like a soul waiting for the day to be freed. She had lost her mental capacity for understanding. But the judicial system never functions on the emotion of prisoners rather it sticks to the judicial policy. Yet, the team comprising Adv. Santosh Kumar, Adv. Shivshankar and Adv. Shalini never lost hope of a new beginning in Pratibha Ji's life.

On the day of International Women's Day, the court acquitted Pratibha Devi from all charges in the present case on the ground of lack of evidence. She was then released on 9th March 2022. Her brother came to receive her and it was an emotional re-bonding of the siblings. Though she lost a major part of her life in the twelve years of imprisonment, she did not forget her family her husband, her father, and especially her siblings. She has paid a heavy amount in all these years. Her mental health has been adversely affected because of this. She does not remember her children. She is not aware that she has lost her husband in all these years nor she has the understanding to accept this fact. Justice came to her no doubt, but at a heavy cost of 12 years of her life. Maybe she will return to society but will she be accepted into society, will her kids accept her, or will she ever get to normalcy with her mental condition?

\*(Name changed to maintain the privacy of Beneficiary)

## Md. Rehan\* v. State of Bihar

The case began at Hanuman Mandir situated at Patna Junction in Patna. Md. Rehan a 19-year-old boy was arrested by Kotwali Police in October 2021 for the offence of committing theft of a mobile phone. He was sent to judicial custody thereafter. In February 2022, when the team of LAW Foundation visited Samastipur Jail, they met him. After returning back to Patna they pursued his case records and found that no bail has been filed in the last 4 months on his behalf. A bail application was filed by the advocates of LAW Foundation which was heard by the magistrate and allowed, but there was no bailor on his behalf. After regular meetings and counseling Adv. Shalini gained his trust and he shared the proper address of his family and also his father's mobile number. Without wasting any time, she then contacted his father, but his parents hardly cared about his existence. His father said I do not have money; I cannot spend my everything on him since I have to take care of my wife and other children too. After constant effort, we came to know that his mother died years ago, and his father and his stepmother and children disliked him, because of this he left home and started working in a restaurant near Patna Junction and landed up behind bars.

**Court Procedures:** Although the team secured bail but failed to get him out of the jail, thus they moved ahead with the trial of the case. In the court, they facilitated in the framing of the charge after which the witnesses were summoned. But the witness did not turn up after two summonses. The SHO was ordered to serve a service report but failed to do so. Thereafter, the court issued a bailable warrant, and later in June 2022, an NBW was issued against the witness to appear on the next date.

On 29th June all four witnesses were asked to appear again After which they appeared. None of them identified the accused and had various discrepancies in their statements. There was no eye witness to the case, the case was not investigated by the I.O. properly. Then, on 1st August 2022, the magistrate pronounced the judgment in favor of the accused and acquitted him of all the charges.

The trial, in this case, was completed in just a span of five months. Although, the accused had to remain in jail for nine months yet the best thing is that now he is a free bird and has a chance to start with new beginnings. The experience he had with the criminal justice system would make him realize the bitter truths of life.

\*(Name changed to maintain the privacy of Beneficiary)

Original Article

## Prisoners Are Too 'Victims' of the Criminal Justice System. Can They Have an Idea of 'Fair Access to Justice'?

Journal of Victimology and Victim Justice  
1-15  
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Praveen Kumar<sup>1</sup>, Anand Kumar Banshkar<sup>2</sup>,  
Shubhendu Shekhar<sup>2</sup> and KM Pushpa Rani<sup>3</sup>

### Abstract

Injustice to society is antithetical to social order. The strength of the criminal justice system comes from a cluster of police, prison and court. This article portrays the work of providing free access to socio-legal aid and socio-legal counselling services, to the marginalized undertrial prisoners who had been imprisoned for years despite the 'due process of law' and the lack of proper legal representation. Thus, they are too 'victims' of this poor criminal justice system. The prime objective of the paper is to create awareness about the free socio-legal aid services and to advocate how prisoners are too victims. The paper broadly scrutinizes the issues, problems and ill effects of the criminal justice system. Additionally, it also limns solutions that had been practically implemented and had successively brought out affirmative results and implications.

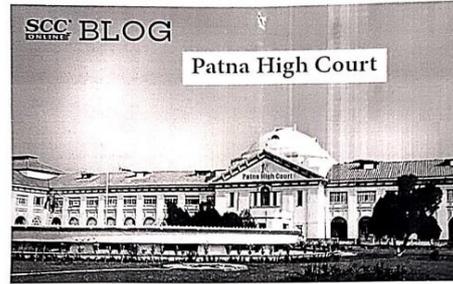
### Keywords

Prisoners, criminal justice system, social worker, legal service authority victim, free legal aid, rehabilitation

### Introduction

One of the prominent idiosyncrasies of the 'law' is to be equal to everybody. However, in reality, it had become a misnomer. The prevailing criminal justice system (CJS) in India is an assortment of police, court and prison. Duly authorized to dispense justice to the society at large, criminology had extensively analysed the

Patna High Court directs State to ensure guidelines adopted by the ...unity in jails must be implemented in letter and spirit | SCC Blog 08/10/22, 2:55 PM



**Patna High Court:** In a writ petition concerning the transgender community, the division bench of Sanjay Karol, CJ and S. Kumar, J. has observed that certain measures have been taken in watching and protecting the interest of the transgender community, who are in conflict with the law, and a separate cell in the jails is earmarked for lodging the inmates hailing from such a community. Further, directed certain instructions to the State.

The writ petition was filed for commanding the respondent authorities to create separate wards and cells for the transgender persons arrested under various offences and languishing in all the Central Prisons, District Prisons and Sub-Jails situated in the state of Bihar, and for commanding the authorities to create separate lockups for the transgender persons in all the Police Stations of Bihar. Also, for segregating transgender inmates separately from male inmates or from female inmates by either confining them in separate cells, isolation wards or hospitals and lock-ups in judicial as well as in police custody, to ensure that convicted and under-trial transgender prisoners can be protected from the inflict mental and sexual harassment.

The Court observed that certain measures have been taken which surely, have come a long way, in watching/protecting the interest of members of the transgender community, who are in conflict with the law. Further, a separate cell in the jails is earmarked for lodging the inmates hailing from such a community. Also, the instructions issued vide communication dated 10.01.2022, by the Ministry of Home Affairs, Government of Bihar have been followed to a large extent.

Thus, the Court viewed that the present petition can be closed with liberty to the petitioner to highlight the surviving grievances through a written communication to respondent. Further, the Additional Advocate General stated that, when any such communication is received, the opportunity of hearing would be afforded to the petitioner, whose locus and bona fides are not in doubt. Also, the feasible suggestions made by the petitioner would be considered and implemented. Further, it was directed that the respondent shall deal with the petitioner's contentions by way of written communications by assigning cogent reason and that the needful be done within a period of three months from the date of receipt of such request.

Moreover, the State shall ensure that the guidelines issued by the Government of India and adopted by the State of Bihar in relation to housing the members of the transgender community in jails shall be implemented in letter and spirit.

[LAW Foundation v. State of Bihar, 2022 SCC OnLine Pat 2371, decided on 14.09.2022]

<https://www.scconline.com/blog/posts/2022/10/04/patna-high-court-w...study-judicial-custody-sexual-harassment-mental-harassment-unter/> Page 2 of 4

## विडंबना : अपनों की बेरुखी से बारह साल जेल में रहने के बाद प्रभा हुई रिहा

पटना, वरीय संवाददाता। अपनों की बेरुखी के कारण राजधानी के बेऊर जेल से 12 सालों से बंद प्रभा देवी (45) आखिर बुधवार को जमानत पर रिहा हो गईं। दहेज के लिए भाभी को प्रताड़ित करने के जुर्म में गिरफ्तार कर जेल भेजी गईं प्रभा देवी की जमानत के लिए, किसी ने प्रयास ही नहीं किया, जिसके कारण वह वर्षों जेल में बंद रहीं। लॉ फाउंडेशन की पहल पर वह जमानत पर छूटीं।

पैरवी करने वाले एडवोकेट संतोष कुमार बताते हैं कि प्रभा देवी बारे में पता चला तो उन्होंने दानापुर कोर्ट जाकर केस का अध्ययन किया। पता चला कि अपनी भाभी को प्रताड़ित करने के आरोप में पकड़ी गईं प्रभा देवी 12 वर्षों से जेल में हैं। न तो ससुराल वालों ने और

**45 वर्ष की उम्र में अब मिली है जमानत**

- मायके और ससुराल वालों में से किसी ने नहीं कराई जमानत
- भाभी को प्रताड़ित करने का लगा था आरोप, आरोप झूठा होने की चर्चा

न ही मायके वालों ने इनकी जमानत के लिए कभी प्रयास किया। किसी वकील ने भी उनके केस को पैरवी नहीं की। हद तो यह है कि प्रभा देवी के साथ उनके मायके के अन्य लोगों को भी दहेज प्रताड़ना के आरोप में गिरफ्तार किया गया था, लेकिन सभी ने अपनी जमानत

करा ली और प्रभा देवी को छोड़ दिया। बताया जाता है कि जिस भाभी ने प्रभा देवी पर प्रताड़ित करने का आरोप लगाया था, उसका देहांत हो चुका है। महिला के पति का भी निधन हो चुका है।

बरी होने के बाद काफी समझाने-बुझाने के बाद प्रभा देवी को उनका एक भाई अपने घर ले गया। प्रभा के बरी होने से महिला बंदियों में खुशी थी। वहाँ, जेल प्रशासन ने भी एडवोकेट संतोष कुमार को प्रभा देवी का जमानत करवाने के लिए धन्यवाद दिया। बताया जाता है कि प्रभा देवी पर प्रताड़ना का गलत आरोप लगाया गया था। लॉ फाउंडेशन के अनुसार जिस वक्त प्रभा देवी पर भाभी पर प्रताड़ित करने के आरोप लगे थे उस वक्त वह अपने ससुराल में थीं।

## ट्रांसजेंडरों के लिए अलग हाजत व वार्ड को याचिका

**पहल**

पटना, वरीय संवाददाता। ट्रांसजेंडर समुदाय के कैदियों के लिए जेलों में अलग वार्ड और थानों में अलग से हाजत की व्यवस्था करने के लिए पटना हाईकोर्ट में जनहित याचिका दायर की गई है। याचिका लॉ फाउंडेशन की ओर से दायर की गई है। हाईकोर्ट ने याचिका स्वीकार कर ली है। राज्य सरकार से दो सप्ताह में जवाब देने को कहा है।

याचिका में कहा गया है कि दस राज्यों में पुरुष और महिला की तरह ट्रांसजेंडरों को जेल और थानों में अलग

**10 राज्यों में है अलग रखने की व्यवस्था**

- लॉ फाउंडेशन की याचिका 40 हजार हैं ट्रांसजेंडर

रखने की व्यवस्था है। कर्नाटक, आंध्र प्रदेश, तेलंगाना, गुजरात और महाराष्ट्र में पहले से यह व्यवस्था चल रही है। याचिका में यह भी कहा गया है कि बिहार में ट्रांसजेंडर के लिए अलग से व्यवस्था नहीं होने के कारण उनका मानसिक व शारीरिक शोषण होता है। उन्हें परेशानी उठानी पड़ रही है।



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We would like to extend a very warm  
**THANK YOU**  
to all our partners for supporting us in  
our fight for Access to Justice and  
Equality.

