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NON-EFFECTIVENESS OF THE LOK ADALAT SYSTEM OF INDIA IN THE CONTEMPORARY WORLD

Authored By - Bhavesh Vashisht

Chapter 1: - Introduction of Lok Adalat system in India

It is well known that the Indian courts are overworked and that the process for normal courts to decide matters involves a drawn-out, expensive, and tiresome process. The advent of Lok Adalat offers a ray of hope for those in need of justice in such a circumstance. The LAs institution has many benefits, and people trust it to be a tool for bringing about social change. It carries the social justice seal. The only institutionalised method of resolving disputes where neither party is required to pay any cost is Lok Adalat. No court fees are required in Lok Adalat. If the issue is resolved at the Lok Adalat after the case has already been filed in the normal court, the sum paid is returned back in the manner specified by the Court Fees Act¹. Refunds of this nature serve as incentives for parties to engage in settlement proceedings. Lok Adalat is a blessing for the public who wishes to file lawsuits because it allows them to do so quickly and without expense. Depriving low-income defendants or convicts awaiting trial of free legal representation would violate the implied norm of "reasonable, just, and fair" procedure provided by Article 21 of the Constitution which provides the right to life and personal liberty².

The Bhagwati Committee on Legal Aid and Legal Advice came in 1949 with the conclusion that providing free legal aid was a "state responsibility" and required the government to do so under Article 14 of the Indian Constitution. The Bhagwati Report of 1976 was one of the most notable instances in which a group of people envisioned a legal aid system (formally titled The Report on National Judicialre)³. In response to the Bhagwati Committee's findings, the Indian government requested research on legal services. This report was the first to explicitly discuss the inclusion of conciliation and informal conflict resolution as parts of a nationwide legal aid programme. The study even mentioned measures to facilitate dispute settlement and promote mediation. Since

¹ Tameem Zainulbhai, 'Justice for All: Improving the Lok Adalat System in India' (2011) 35 Fordham Int'l LJ 248.

² Ibid.

³ Ibid.

commissioning the Bhagwati Report in 1976, which was authored by a group of legal professionals including former Supreme Court Judge Prafullachandra Natwarlal Bhagwati, Gujarat was the first significant state to acknowledge and utilise legal help.⁴ The Bhagwati Report asserts a connection between legal aid and access to justice and poverty. The Report suggested that one way to use the law to improve socio-economic conditions is through public-interest lawsuits that supported particular rights. Eminent Indian legal researcher and academic Upendra Baxi was one of the advocates of LAs.

He documented a guru's private informal dispute settlement attempt in the village of Rangpur in northern India. In reaction to the impact of the Bhagwati Report and Upendra Baxi's inquiry into the ashram in Rangpur, both of which were released in the same year and concerned the same Indian state, Gujarat began organising LAs in conjunction with legal assistance conferences.⁵ Other states began to adopt Gujarat LAs as word of their efficacy spread. Between 1986 and 1988, politicians, government workers, and the judiciary significantly promoted LAs. LAs were created more frequently, and millions of cases were settled.

In the case of Lok Adalat, the legal aid is available in all cases regardless of the parties income, with its objective to provide justice at a lower cost to all parties to litigation, actual and potential. The Lok Adalat can and appears to have the broadest possible jurisdiction ,it can deal with any subject, regardless of its legal nature or where it may be pending in a court or tribunal, including the high court, if only the parties desire to use its legal services. It is true that criminal disputes are also covered, but it makes sense if they are only such that could be resolved by Lok Adalat by way of compromise or compounding.⁶ Thus, serious offences would be kept outside of its purview, which is appropriate. It is possible to rely on the courts to interpret the law in this way, and the government should set laws that have the same effect to prevent legal challenges to its authority based on important public policy considerations regarding crime and punishment.⁷

Statement of problem

In the past ten years, the downfall of the Lok adalat system has become evident in so many states of India. In the beginning, people were more likely to go to Lok adalat for access of justice due to

⁴ Ibid

⁵ Ibid.

⁶ K. Gupteswar ,THE STATUTORY LOK ADALAT: ITS STRUCTURE AND ROLE, Journal of the Indian Law Institute, April-June 1988, Vol. 30, No. 2 (April- June 1988), pp. 174-183.

⁷ Ibid.

informal nature of this system. However, In this Modern era, the legitimisation of Lok adalat system became one of the main reasons of the downfall of this system in India. This research aims to better understand the nature of Lok adalat system, the reasons behind the downfall of the system, and the ways through which can fix the shortcomings of the Lok adalat system for attaining its goal.

Research questions

1. How legitimisation of Lok adalat system affect its efficiency?
2. What are the reasons for the downfall of Lok adalat system in India?
3. Does, Lok adalat system has potential to reduce the pendency of cases which is burdening the formal Court system of India?
4. How Lok adalat system could be effective ADR mechanism in the course of time?

Research Methodology

I have applied descriptive approach in my research work to have deep knowledge regarding the ADR mechanism named Lok adalat system. This is research project which deals with various sources like the historical background of Lok adalat system, its nature and characteristics, comparison between the ADR mechanism of India and other common law countries, the downfall of the Lok adalat system and some guidelines given by different legal scholars to fix the shortcomings of this system.

Chapter-2 The Statutory Lok Adalat and its Criticism

According to Article 39-A of the constitution, the state is required to make sure that the legal system functions to promote justice based on equal opportunity and, in particular, must offer free legal aid through appropriate legislation or schemes or in any other way to ensure that no citizen is denied the opportunity to secure justice due to a financial or other disability.⁸ Furthermore, this Article of the Indian Constitution is insufficient to meet the needs of the people, particularly in terms of Lok Adalats' ability to resolve disputes.

In India, Lok Adalat is a type of alternative dispute resolution mechanism, was first made available in 1987 as a result of the Legal Services Authorities Act, 1987. The principles of conciliation and cooperation are the foundation of the Lok Adalat system, which seeks to resolve disputes through negotiation and mediation outside the formal court system.

The National Legal Services Authority Act passed by the government in 1987. After the Lok Adalat system revival, this act aimed to give litigants the resources they required to quickly and cheaply resolve their disputes. The number of cases that Lok Adalat panels were expected to preside over on any given day is likely to be significant, and these matters are frequently heard in open court in front of other parties and attorneys.

Lok Adalat will continue to play an important part in the resolution of disputes since it has been successful in resolving a considerable number of disputes and is seen as a practical and economical alternative to trial. It is provided in Section 4(f) of the Legal Services Authority Act, 1987 that the Central Authority, which consists of the Chief Justice of India and one other sitting or retired judge, should encourage the use of ADR methods to settle disputes.⁹ The Legal Services Authorities Act, 1987 allows for the establishment of "Lok Adalat" (People's Courts) as one means of doing the above-stated function. Lok Adalat primarily conducts ADR proceedings in the following three instances: firstly, provided both parties concur. Second, if one of the parties' requests that the court submit the dispute to a Lok Adalat for settlement and the judge is first persuaded that there is a chance of a resolution, the case will be referred to a Lok Adalat. LAs are impacted by the Act in three important ways.¹⁰ First, it gave LAs legality. It gave the government the freedom to create LAs however they saw fit. Additionally, it gave LAs the power to decide and reach an agreement between disputing parties in any existing case or (ii) any matter that falls under the purview of but is not brought before any court for which the Lok Adalat is constituted. Second, it enabled one or both parties to transfer cases that were already pending in formal courts

⁸ The Constitution of India, art (39) (a).

⁹ Legal Services Act 1987, s 4(f).

¹⁰ Ibid.

to LAs. If the conciliation failed, the case can be brought back before the first official court.

Lok Adalat has its roots in the traditional practises of resolving disputes through regional bodies like Nyaya Panchayats or Village Councils. The Legal Services Authorities Act, 1987 has provided this system official legal recognition. The National Legal Services Authority and each State Legal Services Authority requisites by this Act to establish Lok Adalats to resolve disputes. The Lok Adalat has the power to deliver decisions that are final and can deal with legal disputes involving civil, criminal, and tax matters.

It has proven to be a very efficient way to settle conflicts over time since it is quick, economical, and encourages parties to reach a mutually agreeable settlement and also given the underprivileged groups in society a way to access justice and lessened the pressure on the formal judicial system. The section 89 of Civil Procedure Code, 1908 addresses the resolution of disputes outside the court. This clause provides parties to a dispute to investigate by alternate dispute resolution procedures, such as arbitration, mediation, conciliation, judicial settlement and Lok adalat.

According to the clause, a court may advise the parties to consider using one of these alternative dispute resolution procedures when it is prepared to hear a matter. The court may delay the proceedings for a specific amount of time if the parties agree to pursue an alternate way of dispute resolution so that they can try to resolve their dispute through that technique referred by Court.

In general, Section 89 of the Civil Procedure Code, 1908 seeks to encourage a more peaceful and effective resolution of conflicts outside of the official court process and offers a legal framework for parties to investigate alternate dispute resolution procedures.

The Legal Services Authorities Act was amended in 2002 and introduced Chapter VI-A and Section 22D, which allowed for the establishment of permanent lok adalats for certain kind of disputes, such as those involving public utility services.¹¹ Judges were given the power to order conciliation as well as issue judgements based on the merits under the permanent lok adalats. Previously, if the parties were unable to reach an agreement, they had the option of returning to the official justice system. This rule was added to address lawyers' dishonest use of lok adalats as a delay strategy and the ensuing issue of delays in the administration of justice.

The type of disputes which can be resolved by the Lok Adalat system are Partition claims, Motor accident claims, Matrimonial and family disputes, Industrial disputes, Land acquisition cases, Bonded labor disputes Bank cases, compounded common income and criminal cases, Arrears of retirement benefits and petty offences.¹²

¹¹ Legal Services Act 1987, s (22) (D).

¹² Yug Bhatia & Dharvi Talwar, 'Access to Justice: "Through Lok Adalat Issues and Challenges"' (2020) 3 Int'l JL Mgmt & Human 1487.

Criticism

The criticisms given by Justice Krishna Iyer after the enforcement of Legal Services Authority Act, 1987 are as follows: -

A simple District Authority established in accordance with this Act may even transfer a case from the Supreme Court to the Lok Adalat.

(a) The Lok Adalat's decision cannot be appealed.

(c) Compared to the tribunals that were suggested during the Emergency, these new courts are much more terrifying.

(d) It is wrong to involve a sitting judge at any level in efforts to resolve a dispute outside the court. However, the Act goes against this rule.

(e) Judges could keep an eye on how well the various operations are running so that misuse can be avoided. Without interfering with actual situations or the specifics of the counsel given, they might even assist in establishing principles and rules.¹³

It is true that a simple DLA can transfer a case from the Supreme Court to the Lok Adalat, but it should be highlighted that this can only be done at a party's request. Additionally, it is fully at its discretion. Additionally, the issue must already be up for negotiation or resolution. It is certainly, practical to argue that section 20(2) also applies to a dispute or matter that is currently up for compromise or resolution before a court or tribunal. Before that situation, the Lok Adalat would have two options for how to handle such due problems.¹⁴

One is when the court or tribunal itself transfers it to a Lok Adalat on a joint application in accordance with section 20(1).¹⁵ The alternative is when one of the parties submits an application to DLA, which directs it to Lok Adalat, even without the consent of the other party, rather than a court or tribunal. It's possible that the latter clause will have significant effects. Imagine, for example, that the parties are merely discussing a compromise while the case is being appealed or otherwise before the Supreme Court or High Court. At that point, one of the parties' contacts DLA to request that Lok Adalat be consulted on the situation. The adalat gains legal authority to decide the matter and has the power to summon parties, question witnesses, order the production of documents, and make an award that is equivalent to a civil court's judgement. The concerned court instantly gives away control of the case.¹⁶ The High or Supreme Court appears to be vacant. The

¹³ K. Gupteswar, THE STATUTORY LOK ADALAT: ITS STRUCTURE AND ROLE, Journal of the Indian Law Institute, April-June 1988, Vol. 30, No. 2 (April- June 1988), pp. 174-183.

¹⁴ Ibid.

¹⁵ Legal Services Act 1987, s (20)(1).

¹⁶ Ibid.

most significant critique Justice Krishna Iyer has made that it is imperative to give this issue quick attention on both a policy and a principle level since it is, in essence. it must be determined if all of this is an unintended consequence of inappropriate drafting. In order to determine whether compulsive submission rather than voluntary consent is the policy underpinning the Lok Adalat institution.

If the latter is incorrect the section 20(2) clause should only apply to cases that have not yet been brought before a court or tribunal. Amendment of section 20 (2) is required and requires full consideration at the highest level.

It is true that, pursuant to section 4(1), NLA is subject to the Central Government's instructions in carrying out the Act's duties, such as, for example, formulating guidelines for the provision of legal services.¹⁷ Similar to this, SLA is required under 7(1) to instruct NLA and give effect to the policy. SLA and DLA have the authority to create Lok Adalats under section 19(1), in addition to offering other legal services. Another contention made by Justice Krishna Iyer is that the national, state, and district level authorities who are asked to participate in Lok Adalats are actually figures of the Central and State governments. This would have an impact on how autonomously these authorities' function, particularly since many times, the citizen's complaint is against the state itself, public corporations, or other public bodies. According to Krishna Iyer, the autonomy may be protected if the members of these authorities were chosen by organisations of women, scheduled castes, scheduled tribes, and relevant nonprofit groups, as opposed to being nominated. In order to prevent the common man from being denied justice due to excessive delays, complexity, and high costs associated with the legal and judicial systems of the nation, the institutions for legal aid services and Lok Adalats are as sacred a responsibility of the government as they are of the judiciary, if not more so. The public's adequate response will, to a greater extent, determine whether these services provided under the 1987 Act are successful.

The role of Lok Adalat in achieving justice is both preventative and therapeutic. To have any chance of becoming even a moderate success, the Lok Adalat system needs the support of the judges, the encouragement of the advocates, the trust of the parties, the support of the governments and other public institutions, and the blessing of the general people.¹⁸

¹⁷ Legal Services Act 1987, s 4(1).

¹⁸ Ibid.

Chapter 3: -Downfall of Lok adalat system

The Legal Services Act, of 1987 was vigorously opposed, in spite of the demand for the law of the Lok Adalat system. The people who opposed the Legal Services Act believed it undermined the grassroots, informal nature of LAs, which came forth as a result of the public's demand for mediation to resolve conflicts.

Changes made after the legitimisation of the Lok Adalat system made the process involuntary for people. With the addition of Section 89 to the Civil Procedure Code 1908, the Indian government further legalised LAs. The Legal Services Authority Act introduced few modifications in 2002 that has a direct impact on this system. This amendment created permanent LAs for particular categories of disputes. For instance, LAs were established to settle disagreements over the provision of public utility services. This is a significant change from the past when disputes between parties would typically be resolved through formal legal means. This is a significant change from the past when disputes between parties would typically be resolved through formal legal means. Many attorneys utilised this as a means of delaying the administration of justice. However, in cases involving permanent LAs, judges have the power to order conciliation as well as render rulings based on the merits. Today, there are so many similarities among LA processes, notwithstanding regional variations in India. Most LAs take place in a government setting on the weekends, typically a Saturday. Unfortunately, there are frequently long lineups, insufficient resources, and uneven lawyer availability. The panels are often presided over by a judge from jurisdiction of High Court or District Court. Judicial panels must consist of at least three individuals, according to the Legal Services Authority Act of 1987. But different people follow these laws differently. Lok Adalat system has evolved to contain components of both the informal and formal legal systems because of discontent among the public with both the time and cost of litigation in the formal court system.

In the beginning, citizens supported this system because it facilitated speedy resolutions and a sense of collaboration, participants supported them. Due to a serious lack of resources, the administration of the Lok adalat system got hindered. This is one of the main reasons for the downfall of this system.¹⁹

¹⁹ Tameem Zainulbhai, Justice for All: Improving the Lok Adalat System in India, Fordham International Law Journal, Volume 35, Issue 1 2016.

Practical scenarios of Lok Adalat system in India

The behaviour of judges and attorneys has been criticised by disputants as a major cause of their discontent with LAs in numerous instances. Because of the possibility that their involvement in these forums could have a negative effect on settlement agreements, judges may also be reluctant to allow lawyers to participate.²⁰

In many cases, judges and attorneys do not cooperate to assist settlements in their clients' best interests, leading to unfavourable outcomes for parties involved in disputes. Due to one party's lawyer's lack of preparation or absence, can inhibits the parties from reaching a settlement, And thereby, the outcome of the conflict frequently remains unsatisfactory.²¹

Judges in Lok Adalat are under pressure to unlawfully compel reconciliation on the parties in order to achieve high settlement rates.

The adversarial nature of LAs is another problem. Rural people prefer informal mode of settlement. The majority of people think that reaching an informal, out-of-court agreement when there is no winner or loser is ethically and socially acceptable. As a result, because it is viewed as being too formal, the adversarial process is only used as a last resort. As a result, the adversarial process is only adopted as a last resort because it is regarded as being too formal.

The reason for the LA system has failed to deliver justice to the general public is because, of the LA mediations that did succeed, those successes were attributable to one or two judges who made a special effort to thoroughly comprehend the issue, the parties, and develop an appropriate resolution. Conciliation was frequently made possible by the judicial the obligation rather than the informal framework that it was previously based on. Conciliation is therefore unlikely in the absence of willing judges and lawyers.

Since courts and lawyers don't comprehend the relationship between disputants in so many cases, there are a lot of unsuccessful attempts at conciliation in rural LAs. The parties frequently have a lengthy history of caste or tribal rivalry.

The parties might have to hold off for up to ten years before their case is heard even if they opt out of mediation and go to court. Due to this, going to court becomes impossible, giving the LA system the appearance of being an involuntary process. The number of cases presented to and resolved satisfactorily by LAs has been reduced with the course of time due to aforementioned reasons.

It has been observed that, there was a steady continuous drop of cases resolved by Lok adalat system from 1996 to 2002. The decision of Lok adalat cannot be appealed in higher court. So, the

²⁰ Ibid.

²¹ Ibid.

party doesn't have any choice to appeal in higher court if they are not satisfied with the decision of court.

The results of a study based on Varanasi's lok adalats have further supported the reasons for this 'pressure to settle'. Even though the lok adalat procedures were purportedly voluntary, the findings show that compulsion was used in the process of choosing the cases to be transferred to the lok adalat.²²

As lok adalats have a history of putting tremendous pressure on women to reconcile rather than file for divorce, women's organisations from all over India have expressed great reservations about them serving as an appropriate forum for such matters.²³

The main argument against Permanent Lok Adalats has been that by giving them the authority to issue binding judgements and resolve disputes without the parties' consent without the procedural safeguards given in courts of law, the procedure would be similar to adjudication more than conciliation. The only guiding principles are the principles of natural justice, which are vague and ambiguous notions rather than a set of substantive rights securing the disputants for procedural fairness. The High Court's judicial review authority granted by Article 226 of the Indian Constitution serves as the only check on this power. Although this amendment and the forum's legitimacy was contested, the Supreme Court of India finally maintained their legality.²⁴

The sources and types of disputes that are brought before the LA as well as the numbers of those that are "settled" show the gap between the ideal and the actual success of Lok Adalat system. None of the numerous significant case sources for LAs in Varanasi district matched the ideal description. It indicates that selection procedures frequently involve coercion (subtle or otherwise). Since the munsifs are in charge of the majority of the minor matters, the district and sessions judge can ask them to transfer any criminal cases to LA that they anticipate will result in guilty pleas. A senior attorney from a nearby district also said that on occasion, defendants are coerced into entering pleas of guilty outside of court by the possibility of a smaller fine.²⁵

In the case of Punjab National Bank V. Lakshmi Chand Rai²⁶ question before the court of law is whether an appeal can be made under the ruling of Lok Adalat, which involved an appeal that was filed under section 91 of the C.P.C. The order of Lok Adalat is governed by the Legal Services Authority Act, and pursuant to section 21(2) of that act, no appeal can lie against the order of Lok

²² Robert S. Moog, 'Conflict And Compromise: The Politics Of Lok Adalats In Varanasi District' (1991) 25 Law & Society Review.

²³ Sarah Leah Whitson 'Neither Fish, Nor Flesh, Nor Good Red Herring Lok Adalats: An Experiment in Informal Dispute Resolution in India' (1991) *Hastings Int'l & Comp. L. Rev.* 15 p. 391.

²⁴ S.N. Pandey v. Union of India (Civil writ no. 543/2002).

²⁵ Robert S. Moog, 'Conflict And Compromise: The Politics Of Lok Adalats In Varanasi District' (1991) 25 Law & Society Review.

²⁶ Punjab National Bank V. Lakshmi Chand Rai, AIR 2000 MP 301.

Adalat. Accordingly, the court decided that no appeal will lie under section 91 of the C.P.C.

In the case of Board of Trustees of the port of Visakhapatnam V. Presiding officer, Lok Adalat-cum-secretary, District Legal Service Authority, Visakhapatnam and Anr²⁷, the Supreme Court ruled that the award made by the Court of Lok Adalat is valid and that its ruling is binding. Once the order is finalised by the court of Lok Adalat by mutual consent of the parties, there is no possibility of dispute and future litigation is concluded. The award is passed by the court of Lok Adalat via common agreement between the parties.

Fallacy in the belief of people towards the Lok Adalat system

Despite its beneficial structure, the Lok Adalats have only had a modest amount of success.

Parties frequently decline to come before the Lok Adalat because they believe that the court will serve as a time-delay mechanism and that the case will likely be decided after their time, parties who may not have the least chance of winning the case choose not to show up. Such a conviction is nothing more than a faith in delaying the inevitable.²⁸

Non-appearance of the parties before the Lok Adalat system

It should be noted that the Lok Adalats have only had limited success because of human illiteracy, particularly that of lawyers. It is said that the majority of lawyers are ignorant about Lok Adalat. Even though the parties themselves are confident of the benefits of a settlement, this has significantly hampered the process. In so many cases, where a party willing to appear before Lok Adalat but couldn't appear due to misguidance of lawyers.²⁹ Such a lack of legal knowledge reveals irrationality and a lack of interest in learning. It is very likely that the lawyers worry about losing money if a settlement is reached between the parties. This, however, should not be the case as lawyers are primarily representatives and skilled negotiators, and they are thus entitled to payment for getting their clients the best deal. A lawyer should be disbarred for wilfully ignoring the chance of a settlement for his client.³⁰

In contrast, clients are free to represent their own causes without legal counsel, and this is a right that should be used when their ultracreptarian lawyers advise them not to attend before the Lok Adalats.³¹

²⁷ Board of Trustees of the port of Visakhapatnam V. Presiding officer, Lok Adalat-cum-secretary, District Legal Services Authority, Visakhapatnam and Anr 2000 (5) ALT 577.

²⁸ Ashish A. Ahuja, 'Lok Adalats - A Practical Examination' (1994) 6 Student Advocate 21.

²⁹ Ibid.

³⁰ Ibid.

³¹ Ibid.

Chapter-4: -Role of Lok Adalat System in dispersing justice

Role of Lok adalat to curtail pendency of cases in Court

Alternate dispute mechanisms that shift some of the load of the judiciary to other institutions can be implemented in order to reduce this pendency and delays in the delivery of justice. Due to its early resolution of civil and family disputes, the alternative dispute resolution mechanism known as "arbitration" is one of the most popular instruments used to resolve the pending cases in Indian courts.³²

Up till 2015, 15.14 lakh Lok Adalat were held in accordance with the Legal Services Authorities Act, of 1987 requirements, facilitating the resolution of more than 8.25 crore cases.³³ The outcomes in recent years have also been commendable, with the National Lok Adalats concluding an average of 50 lakh cases annually.

Lok Adalats are renowned for their ability to settle conflicts quickly and effectively. Unlike the months or years, it may take for issues to be settled through the traditional court system, they can settle matters speedily, frequently in a matter of hours. As a result, parties are able to resolve their conflicts more rapidly, which may be advantageous for all parties.

All things considered, the Lok Adalat system has significantly contributed to lessening the workload on the Indian court system and to offering a quick and effective method of settling disputes. It has helped to lessen the backlog of cases in the courts by encouraging parties to settle their disputes outside the conventional court system by giving parties a quicker and more affordable way to do so.

In 2009, Lok Adalat held by power distribution companies for the purpose of resolving long-pending legal disputes outside the court, are proving to be very popular due to the discount of up to 60% and the flexible payment terms offered. Over 1,000 cases were resolved amicably at one such camp held on Sunday in Delhi High Court by the North Delhi Power Limited (NDPL) in collaboration with the Delhi High Court Legal Services Committee (DHCLSC).³⁴

The consumers in the firm's distribution network in North and North-West Delhi took advantage of the chance to bargain with NDPL representatives and resolve instances involving power theft, misuse charges, unpaid balances on severed electricity connections, and reconnecting

³² Priyanka Bajpai & Abhilekh Tiwari, Arbitration: A Tool to Curtail the Pendency of Court Cases, March 24, 2021.

³³ National Legal Services Authority (NALSA), December 2001.

³⁴ Harish V Nair, Lok Adalats reduce power woes, Hindustan Times, Mar 30, 2009, <<https://www.hindustantimes.com/delhi/lok-adalats-reduce-power-woes/story-usMssjgc3YojZE7qvqHCrK.html>>, last accessed on 10th May 2023.

disconnected connections.³⁵

The concerns of both parties are taken into consideration when a woman's claims are further reduced through the lens of mediation or conciliation, which primes the woman to accept compromise as a suitable resolution.³⁶

Shortcomings in the Lok Adalat system

*Both parties can save time and money if the disputes are resolved by Lok Adalat and justice is served to both parties as per their satisfaction. Ramaswamy said this important phrase. In India, there are many fewer judges than cases submitted, which makes it difficult for the courts to settle disputes quickly and effectively. There has been an excessive accumulation of case files for a very long time, and there doesn't appear to be any sign of it stopping soon. The legal system is unable to handle the mounting number of cases, which is becoming increasingly untenable with each passing day.³⁷

*Apart from members of the bar, justice consumers (defendants), social dissidents, legal scholars, members of parliament, and judges themselves, the unmanageable accumulation of cases, mounting arrears, and extreme deferral in the removal of cases in courts at all levels—at least to the most elevated—have unquestionably drawn attention.³⁸

*The backlog of cases is so enormous that, barring their resolution on the basis of a war balance, the system may collapse in a few years. Evidently, the court system is on the verge of disintegrating, as is fashionable in this country. However, it is still common that anyone concerned about law reforms has seen the worrying position of the Indian legal executive.³⁹ The Law Commission of India has recommended that the indigenous legal system be rebuilt in order to provide another model or instrument for resolving problems regarding the standards of justice. This recommendation comes in response to the astonishing growth in the backlog of cases.⁴⁰

³⁵ Ibid.

³⁶ Sarah Leah Whitson 'Neither Fish, Nor Flesh, Nor Good Red Herring Lok Adalats: An Experiment in Informal Dispute Resolution in India' (1991) *Hastings Int'l & Comp. L. Rev.* 15 p. 391.

³⁷ Ipsa Raj, 'Lok Adalat's Contribution in Shaping the Indian Legal System' (2020) 3 *Int'l JL Mgmt & Human* 1337.

³⁸ Ibid.

³⁹ Ibid.

⁴⁰ Law Commission of India: One Hundred and Fourteenth Report on Gram Nayayalaya 1986, page 7.

Procedure of Lok Adalat system in practical world

In the current setup, the Lok Adalat can be characterised as a non-formal structure where the parties to a dispute meet in the presence of a designated mediator (which lends some formality) to resolve the conflict by coming to an agreement that is acceptable to all parties. The process for referring disputes to another party is still the same, whether the other party requests it or the court does. Thus, the Lok Adalat is an ad hoc body that only exists upon such a referral within the auspices of the State's legal aid system. The task of negotiations begins when the Lok Adalats, generally through student volunteers, approach the opposing parties, asking them to attend before the forum on a particular date and outlining the benefits of doing so. Further, the parties come to an agreement through negotiation at the mediation table in front of a trained mediator during the settlement stage, with the mediator advocating on grounds of equity and justice. The final agreement reached by the parties is signed and submitted to the court that handled the Lok Adalat referral. The agreement is viewed by the court as a compromise, and once it is satisfied that it was reasonably reached, it is given the status of decree. At the possibility of repetition, it should be noted that the aforementioned ratification procedure is required because the Lok Adalat is not "Adalat" in the traditional sense and its rulings lack the essential legislative status. It is important to note that cases that are not resolved by the Lok Adalat are referred back to the original court for decision.⁴¹

Lok Adalat in the Pandemic era and its pros and cons

When the pandemic hit India, it prevented the legal system and made it hard for it to deliver justice to people. However, the authorities responded immediately to make a few modifications and include technology to ensure that justice is still served.

The Rajasthan State Legal Services Authority (RSLSA), which is governed by the National Legal Services Authority, conducted the state's first online Lok Adalat and tackled pre-litigation issues. The Honourable Mr. Justice N.V. Ramana highlighted that in such circumstances, the function of legal assistance bodies has taken on even greater importance. NALSA consistently strives to ensure that justice is upheld in such exceptional situations.⁴² He added that Legal Services Authorities effectively provided legal advice and assisted with 6,26,369 cases with the help of the National Legal Aid Helpline and State Legal Aid Helpline.

⁴¹ Ashish A. Ahuja, 'Lok Adalats - A Practical Examination' (1994) 6 Student Advocate 21.

⁴² Ipsa Raj, 'Lok Adalat's Contribution in Shaping the Indian Legal System' (2020) 3 Int'l JL Mgmt & Human 1337.

The Legal Services Authority provides Lok Adalats online. His Lordship also stated that the Legal Services Authority has been attempting to stay up to date with the times by employing technology as its most trustworthy tool, it has been a big element in this development. He also mentioned that the Legal Services Authorities have created a number of online courses on a variety of legal topics in order to improve the general public's access to justice.⁴³

Drawbacks in the functioning of the Lok Adalat system

The purpose of Lok Adalat was to ignore rigid rules regarding process and evidence so that the impoverished litigants, who probably have no legal background, may communicate openly with the judge and defend their case. This would eliminate their need for legal representation and open the courts to more people. The poor plaintiffs are also freed from the cycle of an unending litigation in which their opponents take advantage of the legal system to avoid paying damages because there is no appeal from the lok adalats judgement.⁴⁴ However, under the current lok adalat system, this goal has not been fulfilled. Poor litigants frequently do not get the opportunity to speak before the issue is quickly "resolved" in a settlement that the lawyers propose. The stronger party can settle issues in their favour, saving them money that might otherwise have been charged to them.⁴⁵

There is a constant unwillingness to resolve factual disputes since quick settlement is the goal. Lok adalats frequently lack the ability or desire to appropriately address factual issues. Cases are thus "disposed off" rather than being resolved. The system now no longer strives for "justice for all" as it should. "Disposal" does not guarantee "justice." People who utilise lok adalats suffer because of the above-stated disposal problem of dispute.⁴⁶ Furthermore, the compromise agreements that Lok Adalat produces don't adhere to the rules of justice. The criminal generally receives minor punishment, while victims often get inadequate compensation.⁴⁷

*In the other case of Lok Adalat, the defendants arrived one by one and handed the judge their case file and a plea agreement that was attached. The document was signed by the court, and the case was immediately noted as having resolved. there were no lawyers present, no evidence was

⁴³ <https://www.indialegallive.com/top-news-of-the-day/top-story/first-e-lok-adalat-a-huge-success/> last visited on 23 09 2020.

⁴⁴ Scott J. Shackelford, In the Name of Efficiency : The Role of Permanent Lok Adalats in the Indian Justice System and Power Infrastructure (Apr. 27, 2009), <http://ssrn.com/abstract=1395957> [hereinafter Shackelford].

⁴⁵ Ibid.

⁴⁶ An observation made by Josh Stark, International Research Associate (Canada), Research Foundation for Governance: In India, Ahmedabad [hereinafter JoshStark].

⁴⁷ Ibid.

looked into or presented, and negotiations for a plea agreement took place before the so-called Lok adalat.

*In a case that was brought before a lok adalat, 26 villagers who had been hurt in a car accident were suing a state-owned bus operator for compensation. Although the chief district judge received an account of the incident and received x-rays, neither of these things directly affected how the case was resolved. The chief judge exerted pressure to reach an agreement that primarily benefited the suggestions of the bus company executives during negotiations between the claimants' lawyer and the officials from the bus business.⁴⁸

*Lok Adalats favours those who can afford the courts over those who cannot (by secluding the impoverished litigants into an alternative system of justice). The constitution aims to change society by doing away with practises that support social hierarchy and prejudice. As a result, the litigants and the judge determine the limit of the decision, leaving any attempt at society improvement to the personal opinions of those involved in the case. Lok adalats settle issues without reference to existing laws but via compromise.⁴⁹

*In several provinces, lok adalats were operating very fine without without regulation or statutory powers.⁵⁰ The idea of informal community dispute settlement, which was the strength of the pre-1987 lok adalats, was destroyed by placing them under the control of state legal aid boards. Modern lok adalats, on the other hand, are just a "disrobed ineffectual tribunal" that lacks the advantages of the original model; they are merely a copy of the official court system. In other words, the central government was able to exercise more control over the rural populace as a result of the institutionalisation of lok adalats.⁵¹

⁴⁸ Marc Galanter & Jayanth K. Krishnan, *supra* note 33, at 816.

⁴⁹ Vinita Choudhury, 'The Functioning of Lok Adalats in India - A Critical Analysis' (2011) 2 NLIU L Rev 72.

⁵⁰ KRISHNA IYER, *LEGAL SERVICES AUTHORITIES ACT: A CRITIQUE* 13 (1st ed.,1988).

⁵¹ *Ibid.*

Chapter-5: - Remedies for the drawback in the Lok adalat system

Lok Adalat (people's court) is one of the main ADR methods in the Indian context. They have resolved a sizeable number of issues, most of which were related to car accidents, land acquisition, family conflicts, bank loans, and workman's compensation, compoundable criminal offences. Despite this, Lok Adalat have not received much respect, particularly when dealing with significant civil matters or trials with high costs.⁵²

The Lok Adalat system is a different method of resolving disputes in India that aims to give ordinary people quick and effective justice. The Lok Adalat system has, however, become less effective over the past few years. Here are some solutions that could aid in the Lok Adalat system uprisal: -:

- 1. Lack of proper money is one of the primary factors in the collapse of the Lok Adalat system.** The Lok Adalat system should receive enough funding from the government to ensure that it operates efficiently.
- 2. Campaign to raise awareness:** The advantages of the Lok Adalat system are not widely known. Raising awareness: The Lok Adalat system and its advantages are not widely known. To inform people of the benefits of the Lok Adalat system, the government should launch awareness programmes.
- 3. Training programmes for judges and mediators:** The Lok Adalat system's judges and mediators should receive sufficient training to advance their abilities and expertise. They will be able to settle disagreements more quickly as a result.
- 4. Procedures should be simplified:** The Lok Adalat system's procedures should be clarified to make it more approachable and user-friendly for the general public.
- 5. Usage of technology:** Technology has the potential to make the Lok Adalat system far more effective. Technology-based alternatives, such online conflict settlement processes, should be considered by the government.
- 6. Understanding the dispute of people-** The judges should comprehend the matter in depth like the origin or cause of dispute and consult the head of village or some renowned member before giving the decision. In order to increase the settlement of Lok adalat, Judge shouldn't ignore the matter completely.

⁵² Debi S. Saini, ALTERNATIVE DISPUTE RESOLUTION—WHAT IT IS AND HOW IT WORKS by P.C. Rao and William Sheffield, Journal of the Indian Law Institute, April-June 1999, Vol. 41, No. 2 (April- June 1999), pp. 296-299.

7. Studying the successful ADR mechanism of other countries

The committee should be established for research and study of success ADR mechanisms of the other countries and bring change in the ADR mechanism as well as in the Legal Services Authority Act, 1987 to remove the shortcomings in the Lok adalat system in India. This system has potential to reduce the burden of cases of Indian court at high level.

8. **The Indian Court should put faith in the ADR mechanism and Lok adalat system** and refer the dispute of civil or trivial matters to these alternative dispute resolution mechanisms in order to reduce the burden of Court.

9. There needs to be an awareness campaign in every country since poor people are not aware of their legal rights, including the entitlement to free legal services.

10. Encouraging NGOs working for educating people about the Lok Adalat system

To alleviate the backlog of cases in the court system, the government must support select NGOs that can educate the underprivileged about their rights and encourage them to resolve their disputes through the Lok Adalat process.

11. All mass disputes involving both employees and employers must be permitted by the government through Lok Adalat, as well as any disputes in which the government is either directly or indirectly involved.

12. The cases which are compoundable in nature, in that case there must be a required clause that directs the matter to the Lok Adalat court in that situation. The case should not be brought before the court in trivial cases when the parties are unable to reach a resolution through compromise or agreement. Instead, the government need to provide these bodies the authority to settle the conflict out of court.⁵³

- **Encouraging people for appearance before Lok Adalat system**

In all disputes, the Lok Adalat must be established as a required pre-trial settlement process and as an optional settlement mechanism at any other stage of the trial.

The Lok Adalat does not now require a formal structure; rather, it needs to compel lawyers to appear before the Lok Adalat with their clients, when clients feel they should do so in order to reach a settlement (while maintaining the informal structure). We can't wait for the day when the uneducated are finally educated, thus these mandatory steps are necessary.

The enormous population of India, which places an untenable burden on the judicial system, is a concern for Lok Adalats. It is essential for people to generally cooperate with the authority, the

⁵³Shravan Kumar Mohanty, 'The Significance and Effectiveness of the Indian System of Lok Adalat' (2022) 2 Law Essentials J 118.

Judge, and the legal advisors in order to increase the capability of the Lok Adalats' course of action. The benefits that could come from the Lok Adalats should be made clear to everyone. The contribution of the dominant component is the primary evaluation factor for the judiciary's way of achievement. The Lok Adalats count has engaged in a neighbourly inquiry resolution in the current situation.⁵⁴ People should be encouraged to appear before Lok Adalat when they are confused to appear or not before Lok Adalat. It gives them fair chance to put forth their grievances before judge in Lok Adalat.

- Women should not be forced to settle matters in Lok Adalat by compromise when she is not satisfied and agreed to do it by her own will.
- Encourage voluntary involvement in the Lok Adalat system since it can produce better results. By raising awareness and offering incentives, the government should promote voluntarily joining the system. These improvements can help the Lok Adalat system function more effectively and deliver effective justice to the public at large.
- In this area, there is a lack of sufficient data and empirical study.⁵⁵ Additionally, there is a lack of interest on the part of officials to respond to queries that are not supported by empirical facts. The effectiveness of Lok Adalats can only be determined and its mechanism expanded to its full potential for the benefit of the litigants, judiciary, and the nation at large once these facts are recognised. It is very important to know the actual number of cases resolved by Lok Adalat in a course of time in order to know the success rate of this system and if the number of cases resolved by this machinery becomes lesser than expected, than some change will be introduced to fix the drawbacks which hampers the system.
- In general cases, there is no right to appeal against the ruling of Lok Adalat which is advantageous as it helps in reducing the burden on judiciary. However, this bring disadvantage also as people cannot appeal against the decision of Lok Adalat ,if they are not satisfied with the decision. In practical scenarios of case of Lok Adalat, the dispute is resolved by Lok Adalat recklessly as it is focused more on increasing settlement rather than satisfactorily resolve the dispute of people. So, in such cases people should have right of appeal against the decision of Lok Adalat.
- Judge should focus more on the grievances of poor as they generally come to Lok Adalat because they don't have fees for formal judicial system. So, justice should be dispersed to them.

⁵⁴ Ipsa Raj, 'Lok Adalat's Contribution in Shaping the Indian Legal System' (2020) 3 Int'l JL Mgmt & Human 1337.

⁵⁵ JOSh Stark, supra note 31.

- A governmental body should be made which can punish the lawyers for discouraging people to appear before Lok Adalat for the sake of his own fees and also corrupt officials who are taking bribe from poor people to lure them for resolution of dispute in Lok Adalat.

Conclusion

Lok Adalat system has potential to resolve number of cases in our country . It should not be access to justice mode for saying only,as it can deliver satisfied outcomes to the parties involved in dispute. The Judge of Lok Adalat should take time and listen the grievances of parties and then, give judgement. Legitimation of Lok Adalat made it same to an extent like formal judicial system. So, informal nature of Lok Adalat should be retained for the comfort of people so that, they can present their grievances in front of Judge of Lok Adalat without any hesitation. There should be right to appeal against the decision of Lok Adalat in general case also, so that people can appeal against its order if they are not satisfied by the outcome.The Lok Adalat system can curtail pendency of case to large extent, it only require some changes in its functioning in practical world for the settlement of disputes by following the principle of natural justice and not compelling people to settle dispute through compromise. Lok Adalat has overcome the problem of formal justice system but it has to overcome its own hurdles. This system has potential to attain its goal ,it only requires few changes in its functioning in practical world and positive attitude of people towards it which can be attained with the course of time.

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