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AN ANALYSIS ON FUNCTIONING OF LOK ADALAT IN THE INDIAN LEGAL PROCESS

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An Analysis on Functioning Of Lok Adalat in the Indian Legal Process

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Abstract – This paper examines the functioning of Lok Adalat in making inexpensive, efficacious and speedy justice accessible to the public. The Constitution of India guarantees 'Right to Constitutional Remedies' as a fundamental right. The government provides free legal aid to the needy. However, in a country of continental dimensions and with population more than a billion, it becomes very difficult to provide free legal aid to everyone. The National Legal Services Authority (NALSA) is trying to spread 'legal literacy' which is a step more than 'literacy'. People care about their rights much more when they are aware and are 'legal literate'. Efforts are also being done at provincial level. The paper particularly examines the role of NALSA and other State Legal Services Authority which are the key institutions in the gap between public and judicial system. The author has personal experiences regarding the same.

All these efforts seem to be a small drop in the ocean, but small drops make mighty oceans. How can these be replicated in other parts of India and similar models developed and adopted in Asia-Pacific countries is a good research area. Such models shall curb conflicts and bring more peace in society - not only in domestic sense but also internationally.

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INTRODUCTION

India, the most populous and diverse democracy in the world, has a legal system to match. This system, a composition of ancient Hindi panchayats (village assemblies), Islamic law, and a formal British judiciary, has long been under immense strain, stifling economic competitiveness and the pursuit of justice alike. As Lord Delvin famously quipped "If our business methods were as antiquated as our legal methods we should be a bankrupt country."

There are currently nearly 25 million cases pending in Indian courts, some of which have been appealed and argued for more than 20 years. Meanwhile, India spends only . percent of its GNP on the judiciary. India, though, is not alone in dealing with a hugely cumbersome and overburdened legal system. Backlog and delay plague a wide array of legal systems. Nowhere, though, has this backlog and delay become more accentuated than in modern-day India. This has rated broad political and economic implications for Indian society that have only increased ith the economic boom of the past decade.

In response to the stresses on the Indian legal system, the Indian Supreme Court has spearheaded legal reform that has among its principal aims the reduction of judicial backlog and delay. One of the primary mechanisms through which the Indian Parliament and courts have ought to deal with this problem is through the creation of Lok Adalats ("LAS") (people's courts) designed to promote the rapid conciliation and binding

resolution of disputes. These efforts have been somewhat successful in decreasing backlog.⁸ LASs, though, are not without their critics, including advocates, judges, and certain classes of consumers, each of which have competing vested interests at play in LASs. Now, with the creation of dedicated Permanent Lok dalats ("PLAs") which are specialized to certain classes of cases, such as electricity disputes, power asymmetries have become more prevalent. This begs the question of whether justice is being compromised in the name of judicial efficiency.

Parliament enacted the Legal Services Authorities Act in 1987 and one of the aims of this Act was to organize Lok Adalat to secure that the operation of legal system promotes justice on the basis of Adalats. The concept has been gathered from system of Panchayats which has roots in the history and culture of our nation. The provisions of the Act based on indigenous concept are meant to supplement the court system. The Act is an attempt to decongest the Courts from heavy burden of cases.

Speedy justice is citizens' right. Cases in various courts are increasing day by day at an alarming rate. Huge backlogs are getting accumulated. Therefore, it is taking long time for parties to get justice. Sometimes the maxim "Justice delayed is justice denied" is found true. Then the litigants lose faith in the efficacy of law and effectiveness of the courts.

Therefore, to save the litigant from such frustration, the Government has established Lok Adalat System

under the Legal Services Authorities Act, which is a speedy alternative dispute resolution forum in all States. It is expected to ensure speedy disposal of the cases in an inexpensive manner. Hence the heavy pressure on judicial time would be reduced and effective remedy could be given to the litigants. The institution of Lok Adalat in India, as the very name suggests, means People's Court. 'Lok' means 'people' and 'Adalat' means 'court'. Prior to coming into force of 'The Legal Services Authorities Act, 1987', Lok Adalats were being constituted at various places in the country for the disposal, in a summary way and through the process of arbitration and settlement between the parties of a large number of cases expeditiously and with lesser costs. The institution of Lok Adalats had been functioning as a voluntary and conciliatory agency without any statutory backing for its decisions and has become very popular in providing for a speedier system of administration of justice.

In view of the growing popularity of Lok Adalats, there had been a demand for providing a statutory backing to this institution and the Awards given by Lok Adalats. The Central Authority or, as the case may be, every State Authority shall, by notification, establish Permanent Lok Adalats at such places and for exercising such jurisdiction in respect of one or more public utility services and for such areas as may be specified in the notification (Sec. 22B of LSAA).

HISTORY OF LOK ADALAT IN INDIA

The ancient concept of settlement of dispute through mediation, negotiation or through arbitral process known as "Peoples' Court verdict" or decision of "Nyaya-Panch" is conceptualized and institutionalized in the philosophy of Lok Adalat. Some people equate Lok Adalat to conciliation or mediation, some treat it with negotiations and arbitration. Those who find it different from all these, call it "Peoples' Court". It involves people who are directly or indirectly affected by dispute resolution. The salient features of this form of dispute resolution are participation, accommodation, fairness, expectation, voluntariness, neighbourliness, transparency, efficiency and lack of animosity.

The concept of Lok Adalat was pushed back into oblivion in last few centuries before independence and particularly during the British regime. Now, this concept has, once again, been rejuvenated. It has, once again, become very popular and familiar amongst litigants. This is the system which has deep roots in Indian legal history and its close allegiance to the culture and perception of justice in Indian ethos. This concept is, now, again very popular and is historical momentum. Experience has shown that it is one of the very efficient and important ADRs and most suited to the Indian environment, culture and societal interests.

Lok Adalats have worked very well and satisfactorily in our country. Camps of Lok Adalat were started initially

in Gujarat in March 1982 and now it has been extended throughout the Country.

The evolution of this movement was a part of the strategy to relieve heavy burden on the Courts with pending cases. The reason to create such camps were only the pending cases and to give relief to the litigants who were in a queue to get justice. The first Lok Adalat was held on March 14, 1982 at Junagarh in Gujarat—the land of Mahatma Gandhi. Lok Adalats have been very successful in settlement of motor accident claim cases, matrimonial/family disputes, labor disputes, disputes relating to public services such as telephone, electricity, bank recovery cases and so on.

In traditional LAs, one or both parties give their consent for the matter to be heard by conciliators in an LA. The conciliators are comprised of a sitting or retired judicial officer and other "persons of repute" who may be prescribed by the state government in consultation with the chief justice of the High Court. Where no compromise is arrived at through conciliation, the matter is returned to the concerned court for disposal according to the law. Critically, this system gave the Indian people for the first time in centuries a choice of forum for the resolution of their disputes so that they may make well-informed, rational decisions.

There was initially great enthusiasm for LAs. To exemplify, in one early LA in north Gujarat, the judges asked an ordinary litigant, "What is your problem?" The man with fears in his eyes said, "For the first time in five years, somebody has asked me about my case."⁵² LAs were to take the place of the panchayats, which had long operated within the rigid caste system.

They were also meant to right the imbalances of the British-imposed judicial system which had introduced the concept of equality before the law, but had never meshed it with reality. The benefits of Lok Adalats include: no court fee;⁵³ direct consultation with a judge without procedural hurdles; an extremely abbreviated hearing schedule; and the final decision is binding.

Perhaps most importantly, disputants prefer LAs as they know that, unlike in traditional judicial proceedings where they may lose everything, in ADR a compromise position is often reached. The costs in sacrificing procedural protections, at first at least, seemed minor in comparison. After all, chronic judicial stagnation calls for simplifying procedures and increasing their flexibility.

ADVANTAGES OF LOK ADALAT

The advantages that litigants derive through the Lok Adalat are many. First, there is no court fee and even if the case is already filed in the regular court, the fee paid will be refunded if the dispute is settled at the Lok Adalat.

Secondly, there is no strict application of the procedural laws and the Evidence Act while assessing the merits of the claim by the Lok Adalat. The parties to the disputes though represented

by then advocate can interact with the Lok Adalat judge directly and explain then stand in the dispute and the reasons therefore, which is not possible in a regular court of law.

Thirdly, disputes can be brought before the Lok Adalat directly instead of going to a regular court first and then to the Lok Adalat.

Fourthly, the decision of the Lok Adalat is binding on the parties to the dispute and its order is capable of execution through legal process. No appeal lies against the order of the Lok Adalat whereas in the regular law courts there is always a scope to appeal to the higher forum on the decision of the trial court, which causes delay in the settlement of the dispute finally. The reason being that in a regular court, decision is that of the court but in Lok Adalat it is mutual settlement and hence no case for appeal will arise. In every respect the scheme of Lok Adalat is a boon to the litigant public, where they can get their disputes settled fast and free of cost.

The system has received laurels from the parties involved in particular and the public and the legal functionaries, in general. It also helps in emergence of jurisprudence of peace in the larger interest of justice and wider sections of society. Its process is voluntary and works on the principle that both parties to the disputes are willing to sort out their disputes by amicable solutions. Through this mechanism, disputes can be settled in a simpler, quicker and cost-effective way at all the three stages i.e. pre-litigation, pending-litigation and post-litigation.

INDIAN LEGAL SYSTEM

In a democracy like ours, the role of judiciary is crucial. Judiciary is a faithful keeper of the constitutional assurances. An independent and impartial judiciary can make the legal system vibrant. In the parliamentary democracy like ours, while there is participation of the legislature and the executive in formulation of laws, but once a law is passed it is for the judiciary to safeguard the interests of the citizens to operate within the adopted laws. It, therefore, acts as a check on the arbitrariness and unconstitutionality of the legislature and the executive. Judiciary is the final arbiter in interpreting constitutional arrangements. The nature of the democracy and development both depend greatly on how the legal system conducts itself to sustain the overall socio-economic and political environment.

The legal system derives its authority from the Constitution and is deeply embedded in the political

system. Judiciary is the third pillar of Indian democracy, alongside the legislature and the executive branches. It is an independent body and its power is separated from those of the Executive and Legislative bodies of the Indian Government. Credibility of judicial process ultimately depends on the manner of doing administration of justice.

The judicial system of India is stratified into various levels. At the top is the Supreme Court, which is followed by High Courts at the state level, District Courts at the district level and Lok Adalats at the Village and Panchayat Level. The judicial structure takes care of maintenance of law and order by considering cases related to both civil and criminal offences.

EFFECT OF LOK ADALATS ON INDIA'S POWER STRUCTURE

NDP and other power companies in Delhi are using the PVB Permanent Lok Adalat and other similar bodies across the capital to quickly settle thousands of outstanding claims. The rapid pace of dispute resolution works to lower the cost to companies of fixing the fundamental problems with energy generation and distribution that lead to brown outs and poor service.

Given the high success ratio of consumers paying awards, as opposed to receiving nothing as a result of decade long litigation, operating costs are decreasing. Thus, it may be argued that the proliferation of electricity PLAs actually works as a disincentive to energy development in the capital. Firms are now more confident than ever in settling claims, through coercion if necessary, reducing the instances of stealing power, and as a result are finding it easier to go without making the difficult reforms required to reinvigorate the power industry. Consequently, in addition to PLAs that are in line with the LSSA model serving the needs of consumers, they will also better serve the cause of responsible power development that will in turn benefit all of Delhi's residents, and ultimately the utilities themselves.

India's power sector currently has 115,000 MW installed.¹⁵⁹ Despite rapid progress though, average per capita Indian consumption of electricity at 500 K2H annually flags behind the world average of 2,500 kWh.¹⁶⁰ Much of what has mired the Indian power sector can be traced to three factors: inefficiency, a bloated bureaucracy, and theft.

Ultimately, the role of the state has not diminished significantly as a result of these three reforms, but rather power has shifted from SEBs (especially in setting tariff rates) to the central government. This also means that the private sector is still limited in

India's electricity system. No amount of theft reduction will overcome the fundamental need to raise tariffs up to a level that they intersect with the actual costs of power generation. Thus, PLAs that serve to lower the short-term costs of India's SEBs, namely by helping utilities recoup some portion of the 340 billion rupees owed, actually do it a disservice, putting off the hard choices that have to be made if India is to prepare its infrastructure to compete in the global marketplace of the twenty-first century.

CONCLUSION

The promise of Lok Adalats was to overcome both the traditional limitations of panchayats as well as the failings of the formal Indian judicial system with a people-centric approach to jurisprudence with roots in ancient India. The goal was to put humanity back in the system, to put person over procedure. As Girish Patle states, "Lawyers and judges cannot be mere black-letter men looking upon law as only an exercise in logic and not in life." Unfortunately, as has been shown, this transformation of the Indian justice system has not yet fully taken place. But that does not mean that the dream is dead.

Lok Adalats have to reinvent after almost six months to meet the challenges faced by the judiciary. The new branches of law will require newer tools to have decisions acceptable to the litigants. As new branches emerge aspirations are very high. Only time will tell how far Lok Adalat movement shall go in India and elsewhere in curbing conflicts and disputes and in spreading harmony.

REFERENCES

- Babu v. Raghunathji AIR 1976 SC 1734; Madabhushi Sridhar, Miscarriage of Fast Track Justice, LEGAL SERVICES OF INDIA.
- Barbara Yngvesson, Making Law at the Doorway: The Clerk, the Court, and the Construction of Community in a New England Town, 22(3) LAW & SOCIETY REV. 409-448 (1988).
- Bhatt, Jitendra N. (Judge, High Court of Gujarat, and Executive Chairperson, Gujarat State Legal Services Authority, Ahmedabad), A Round Table Justice through Lok Adalat (People's Court): A Vibrant ADR in India, 1 Supreme Court Cases (Journal) 11(2002).
- Gene Kassebaum, ADR in India: The Lok Adalat as an Alternative to Court Litigation of Personal Injury and Criminal Cases in South India, WORKING PAPER SERIES, PROGRAM ON CONFLICT RESOLUTION (1989).
- Girish Patel, Crippling Lok Adalats, INDIA TOGETHER, Dec. 2007.

- Jitendra N. Bhatt, A round table Justice through Lok-Adalat, 1 SCC (JOUR) 11 (2002).
- Nirimesh Kumar, Lok Adalat rejects MLA's plea, THE HINDU, July 25, 2006.
- Robert Moog, and Anuvinda Varkey, Public Access to Justice, ADMINISTRATION OF JUSTICE FINAL REPORT TA 4153-IND, May 26, 2004.
- S. Arunajatesan, Consumer commission holds first Lok Adalat, THE HINDU, Jan. 29, 2006.