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**AN ANALYSIS UPON VARIOUS DEVELOPMENTS IN
LOK ADALAT SYSTEM IN INDIA: PRESENT
SCENARIO**

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An Analysis upon Various Developments in Lok Adalat System in India: Present Scenario

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Abstract – Lok Adalat is a part of legal aid Schemes and the most convenient alternative which supplements the existing system. Lok Adalat means a 'People's Court'¹. However a Lok Adalat is not a Court in its existing connotation,, It is a forum where voluntary efforts aimed at bringing about settlement of disputes between the parties are made through Conciliation and persuasion. These are not formal Courts as they are organized by the legal aid Committees with the support of the local bar, prominent Citizens, social activists and retired of existing judicial officers. Cases are decided by consent and therefore* there is no scope for Challenge against the decision taken. Tension arising out of litigation is totally reduced and cordiality is restored.

There was initial resistance to Lok Adalats in some parts of India. The resistance is fast dying cut and now Lok Adalats are welcomed by most of the people. They can easily provide a supplementing method for reducing the number of penning cases.

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INTRODUCTION

We are moving towards a time when it will be impossible for the courts to cope up with the dockets. If something is not done, the result will be a production of line of justice that none of us would want to see. The seven hundred years old clarion call of the Magna Carta- To no one will we sell, to no one will we refuse or delay the right to justice very pertinently embodies the principle of legal aid. The institution of Lok Adalats have evolved as one of the most important modes of alternative dispute resolution. The first instance of a Lok Adalat system was in 1982, in the village of Una, in the district of Junagarh, Gujarat. Though this was in its rudiments, a fairly modern version of the Lok Adalat system that exists till date began in Chennai, in 1986.

The Lok Adalat originated from the failure of the Indian legal system to provide fast, effective, and affordable justice. The evolution of this movement was a part of the strategy to relieve the heavy burden on the Courts with cases pending disposal. The pendency of cases poses great difficulties to the judiciary, and to the people who queue up in the hope of getting justice. It is a well-known fact that Justice Delayed, in effect, is Justice Denied. This phrase is legitimate, what with over 2,000,000 cases flooding in various courts and tribunals in the country, the primary concern of jurists and legal luminaries today is to speed up the judicial process. The reason that backed the creation of such courts were only the pending cases and to give relief to the litigants who were in a queue to get justice. There are myriads of Justice Seekers, and with the

ever increasing numbers, courts face an unwarranted challenge to their man-power and infrastructure. There is serious problem of overcrowding of dockets. To ease the heavy burden on the courts, it would be in the fitness of things if the cases can be resolved by resorting to 'Alternative Dispute Resolution' Methods before they enter the portals of Court.

Lok Adalats are a blend of all three forms of traditional ADR: arbitration, mediation, and conciliation. They use conciliation, with elements of arbitration given that decisions are typically binding, and are an illustration of legal decentralization as conflicts are returned to communities from whence they originated for local settlement. The clogged courthouses have become an unpleasant compulsive forum instead of temples of speedy justice. Instead of waiting in queues for years and passing on litigation by inheritance, people are inclined either to avoid litigation or to start resorting to extra judicial remedies.² Therefore, alternative dispute resolution mechanism is sine quo non-for our Indian judicial system. Therefore, the researcher had undertaken this subject for contributing to the concept and explaining the difficulties in implementation and also to suggest appropriate solutions for effective implementation of Lok Adalat.

Lok Adalat is not a new concept in India. The evolution of the system can be traced back to the Vedic times. Since time immemorial, with minor variations, there have been instances of people's courts in several Indian villages, imparting justice to

myriads of people with little or no access to formal courts. References of the Lok Adalat system were found in the classics of Kautilya, Gautama, Brihaspati and Yagnavalkya. Known by names such as the *kula*, *sreni* and *gana*, the Lok Adalat concept was substantially the same, albeit with minor variations in the administrations. With the advent of the British, the adjudicative machinery personifying an adversary form of dispute resolution replaced the erstwhile system of Lok Adalats. Unmanageable dockets of cases, deprivation of justice and rigid procedures and rules soon became the order of the day. As the system remained after independence, with minor improvements and additions, a large number of cases began to pile up, cutting a sorry figure for the judiciary in the process.

The introduction of Lok Adalats added a new chapter to the justice dispensation system of this country and succeeded in providing a supplementary forum to the victims for satisfactory settlement of their disputes. This system is based on Gandhian principles. It is one of the components of ADR systems. It is an Indian contribution to the world jurisprudence of ADR. Lok Adalat (people's courts), established by the government settles dispute by the principles of justice, equity and fair

play, which are the guiding factors for decisions based on compromises to be arrived at before such Adalats.

The camps of Lok Adalats were initially started in the state of Gujarat in 1982. The first Lok Adalat was organized on 14th March 1982 at Junagarh. Maharashtra commenced the Lok Nyayalaya in 1984. The movement has now subsequently spread to the entire country. The reason to create such camps was only the pending cases and to give relief to the litigants who were in a queue to get justice.

The expression 'Lok Adalat' refers to a summary procedure for disposal of cases pending in various courts through the process of arbitration and settlement between the parties at the instance of the institution called Lok Adalat. Thus the expression Lok Adalat can be used in the following two senses:

1. The process by which the cases pending in various courts are settled with the consent of the parties in a summary way.
2. The institution which take initiative for arriving at a settlement of the case.

By virtue of Sec.19 of the Legal Services Authorities Act, 1987, every state authority, district authority, Supreme Court Legal Services Committee or High Court Legal Services Committee or the Taluk Legal Service Committee may organise Lok Adalats for settlement of cases pending in courts.

The Lok Adalat is presided over by a sitting or retired judicial officer as a chairman, with two other members,

usually a lawyer and a social worker. There is no Court Fee. 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. The procedural laws, and the Evidence Act are not strictly followed while assessing the merits of the claim by the Lok Adalat.

Main condition of the Lok Adalat is that both parties in dispute should agree for settlement. The decision of Lok Adalat is binding on the parties to the disputes and its order is capable of execution through legal process. No appeal lies against the order of the Lok Adalat.

The Constitution of India is the fundamental law of the land. Part IV of the Constitution deals with Directive Principles of State Policy. By virtue of Art.39-A the State is under a positive duty to secure that the operation of the legal system promotes justice on the basis of equal opportunity. The State shall also provide free legal aid to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.

By virtue of Article: 21, "no person shall be deprived of his life or personal liberty except according to procedure established by law".

In *HUSSAINARA KHATOON v. HOME SECRETARY, STATE OF BIHAR*, (AIR 1979 SC 1360), the Supreme Court held that "right to speedy trial" is a fundamental right guaranteed under Art: 21 of the Constitution. Justice delayed is justice denied. Speedy trial was held to be the essence of criminal justice.

In *SUK DAS v. UNION TERRITORY OF ARUNACHAL PRADESH* (1986 5 SCC 401), the Supreme Court held that failure to provide free legal aid to an accused at the cost of the State unless refused by the accused would vitiate the trial. He need not apply for the same. Free legal aid is at the State cost is a fundamental right of an accused person under Art.21 of the Constitution.

A combined reading of Art.21 as interpreted by the Supreme Court of India and Art.39-A of the Constitution establish beyond doubt that speedy trial, free legal aid and equal opportunities for securing justice are fundamental rights of citizen of India and a Constitutional mandate which state has to follow in governance of this country. In order to ensure these rights more effectively, the Parliament enacted the Legal Services Authorities Act, 1987 to organise Lok Adalat to secure that the operation of the legal system promotes justice on a basis of equal opportunity.

CURRENT STATUS

In recent time the concept of Lok Adalat has gained popularity. Prison Lok Adalat, Provident Fund Lok Adalat, Labour Law Adalat, etc., are organised to settle disputes, and naturally many may be curious to know that what is Lok Adalat. Lok Adalat means Peoples' court, in contrast to the regular law courts

established by the government. Despite the fact that the judicial system in India is well organised with high level of integrity, the law courts are confronted with four main problems:

1. The number of courts and judges in all grades are alarmingly inadequate;
2. Increase in flow of cases in recent years due to multifarious Acts enacted by the Central and State government;
3. The high cost involved in prosecuting or defending a case in a court of law, due to heavy court fee, lawyer's fee and incidental charges and
4. Delay in disposal of cases resulting in huge pendency in all courts.

Some statistics may give us a feeling of tremendous satisfaction and encouragement. Up to the middle of the year 2004, more than 200,000 Lok Adalats have been held and therein more than 16 million cases have been settled, half of which were motor accident claim cases. More than One Billion US dollars were distributed by way of compensation to those who had suffered accidents. 6.7 million Persons have benefited through legal aid and advice.

About 90% of the cases filed in the developed countries are settled mutually by conciliation, mediation etc. and as such, only 10% of the cases are decided by the Courts there. In our country, which is developing, has unlike the developed countries, number of Judges disproportionate to the cases filed and, hence, to alleviate the accumulation of cases, the Lok Adalat is the need of the day.

STATUTORY PROVISIONS

Eminent judges of the Supreme Court and High Courts have many a time emphasized the need for free legal aid to the poor. Legal Aid is a kind of human right in the context of conflicts and contradictory interests. The Central Government, taking note of the need for legal aid for the poor and the needy, had introduced Article 39 (A) in the Constitution in February 1977.

Article 39 A of the Constitution of India provides for equal justice and free legal aid. It is, therefore clear that the State has been ordained to secure a legal system, which promotes justice on the basis of equal opportunity. The language of Article 39A is understood in mandatory terms. This is made more than clear by the use of the word "shall" in Art 39A.

It is emphasized that the legal system should be able to deliver justice expeditiously on the basis of equal opportunity and provide free legal aid to ensure that

opportunities for securing justice are not denied to any citizens by reasons of economic or other disabilities. It was in this context that the Legal Services Authorities Act, 1987 has been enacted by the Parliament. One of the aims of this Act is to organize Lok Adalats to secure that the operation of legal system promotes justice on the basis of equal opportunity. Chapter VI of the Act deals with Lok Adalats. The Act created National, State and District Legal Service Authorities with the power to organize Lok Adalats.

The poor and resourceless persons need justice, they require for that, an access to justice. Mere recognition of rights does not help them, without providing for necessary infrastructure to secure them justice whenever needed. Even if the infrastructure is created, if he does not get the 'legal aid' to reach it, the purpose of entire justice system suffers a defeat.

Today, unfortunately, in our country the poor are priced out of the judicial system with the result that they are losing faith in the capacity of our legal system to bring about changes in their life conditions and to deliver justice to them. The poor in their contact with the legal system have always been on the wrong side of the line. They have always come across "law for the poor" rather than "law of the poor". The law is regarded by them as something mysterious and for bidding always taking something away from them and not as a positive and constructive social device for changing the social economic order and improving their life conditions by conferring rights and benefits on them.

The result is that the legal system has lost its credibility for the weaker section of the community. It is, therefore, necessary that we should inject equal justice into legality and that can be done only by dynamic and activist scheme of legal services.

SCOPE AND OBJECT

The advent of Legal Services Authorities Act, 1987 gave a statutory status to Lok Adalats, pursuant to the constitutional mandate in Article 39-A of the Constitution of India, contains various provisions for settlement of disputes through Lok Adalat. It is an Act to constitute legal services authorities to provide free and competent legal services to the weaker sections of the society to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities, and to organize Lok Adalats to secure that the operation of the legal system promotes justice on a basis of equal opportunity. Even before the enforcement of the Act, the concept of Lok Adalat has been getting wide acceptance as People's Courts as the very name signifies. Settlement of disputes at the hands of Panchayat Heads or tribal heads was in vogue since ancient times. When statutory recognition had been

given to Lok Adalat, it was specifically provided that the award passed by the Lok Adalat formulating the terms of compromise will have the force of decree of a court which can be executed as a civil court decree. The evolution of movement called Lok Adalat was a part of the strategy to relieve heavy burden on the Courts with pending cases and to give relief to the litigants who were in a queue to get justice. It contains various provisions for settlement of disputes through Lok Adalat. It is an Act to constitute legal services authorities to provide free and competent legal services to the weaker sections of the society to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities, and to organize Lok Adalats to secure that the operation of the legal system promotes justice on a basis of equal opportunity.

ADVANTAGES OF LOK ADALAT

The benefits that litigants derive through Lok Adalat are many,

1. 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.
2. 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 their Advocate can interact with the Lok Adalat judge directly and explain their stands in the dispute and the reasons therefore, which is not possible in a regular court of law.
3. Disputes can be brought before the Lok Adalat directly instead of going to a regular court first and then to the Lok Adalat.
4. The decision of 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 regular courts of law there is always a scope to appeal to the higher forum on the decision of the trial court, which cause delay in the settlement of 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.
5. Last but not the least, faster and inexpensive remedy with legal status.

The scheme also helped the overburdened court to alleviate the burden of arrears of cases and as the award becomes final and binding upon both the

parties, no appeal is filed in the Appellate Court and, as such, the burden of the Appellate Court in hierarchy is also reduced. The scheme is not only helpful to the parties but also to the overburdened courts to achieve the constitutional goal of speedy disposal of the cases.

CONCLUSION

Lok Adalats, as it has been again and again iterated throughout the paper, serve very crucial functions in a country due to many factors like pending cases, illiteracy etc. The Lok Adalat was a historic necessity in a country like India where illiteracy dominated about all aspects of governance.

The most desired function of lok adalats may seem to be clearing the backlog, with the latest report showing 3 crore pending cases in Indian courts but the other functions cannot be ignored. The Lok Adalats play a very important role to advance and strengthen "equal access to justice", the heart of the Constitution of India, a reality. This Indian contribution to world ADR jurisprudence needs to be taken full advantage of. Maximum number of Lok Adalats need to be organized to achieve the Gandhian Principle of Gram Swaraj and "access to justice for all".

During the last few years Lok Adalat has been found to be a successful tool of alternate dispute resolution in India. It is most popular and effective because of its innovative nature and inexpensive style. The system received wide acceptance not only from the litigants, but from the public and legal functionaries in general.

Therefore, it may be concluded that the system of Lok Adalat and giving free legal aid to eligible persons is a very noble one which has helped judiciary not only in speedy disposal of cases but has given some relief to the litigant, particularly to them who are poor and cannot afford to claim their right through court of law.

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