

Lok Adalts and Victim Justice in India

By Dr.Beulah Shekhar

INTRODUCTION:

"....The institutions under which we live are being changed continually by Parliament, because we are never satisfied with them. Sometimes they are scarped for new ones, some times they are altered, and sometimes they are simply done away with as nuisances. The new ones have to be stretched in the law. Courts to make them fit, or to prevent them fitting too well if the judges happen to dislike them....."Says Bernad Shah in his intelligent Women's Guide to Socialism.

Today's conflicts In India are the product of a world social order which cannot be dealt with the available legal mechanism of the customary courts. There is growing victim frustration with the legal service which are laced with

Undue delays ,escalating expenses, inadequate infrastructure, hierarchy of appeals and revision, increasing incoherence on principles and precedents, a widely prevalent feeling by victims that they are not meaningful participants in the adjudicative process and numerous other reasons for their loosing faith in the traditional courts and tribunals system of dispute resolution. There is a felt need for an alternate Dispute resolution or ADR approach, which is fundamentally, enables identification and construction of legal principles, appropriate to the up-and-coming disputes. Therefore, in India, Alternative Dispute Resolution is emerging as a structural alternative but as a refined prototype of dispute resolution with a legal basis in the amended provision of the Code of Civil Procedure, the Arbitration and the Conciliation Act, the Legal Services Authority Act. ADR strategies also have the advantage of greater flexibility, are sophisticated, victim-friendly, cost- effective and less cumbersome. While the regular Courts and Tribunals are constrained to identify solutions within the framework of legislation or established principles received through precedents, the solutions that emerge from ADR are also stable over time and better accepted by the victims. The various types of the ADR in India are as follows:

1. **ARBITRATION:** Arbitration is process in which a neutral third party or parties render a decision based on the merits of the case. The Victims and the offenders to the arbitration have some control over the design of the arbitration process. Among the advantages of thee arbitration process are considerable saving in time and money compared to a trial; the limited possibility for challenging the award which again contribute the lower costs and finality of outcome; and greater participation by the Victims than is the case in the courts / tribunal system.

2. **NEGOTIATION:** Negotiation in principle is any form of communication between the victim and the offender to arrive at a mutually agreeable solution. In negotiation the victim and the offender have a choice of representing themselves or through negotiating agents. In this form of ADR the disputants or their negotiators use one of the following strategies as the case requires and bring about an amicable settlement, with the active participation of the victims.
 - a. In the competitive bargaining method the negotiators are essentially concerned with substantive results and advocate extreme positions, create extravagant issues, mislead the other negotiator's bottom line.
 - b. In cooperative bargaining both negotiators focus on building up a relationship of trust and cooperation. In this strategy the negotiators are prepared to make concessions even on substantive issues as the attempt is to preserve the relationship.
 - c. In principled negotiations the negotiator focus on the interests of each of the disputants, with the goal of creating satisfactory and elegant options for resolutions, which may be assessed by objective criteria.
3. **MEDIATION:** The process of mediation aims to facilitate the development of a consensual solution by the victim and the offender. The mediation process is overseen by a Mediator. The authority of the mediator vests on the consent of the victim and the offender that they should facilitate their negotiations. The mediator has no independent decision-making power, jurisdiction or legitimacy beyond what is voluntarily offered by the victims and the offenders themselves. Mediation, also employees several strategies, sub-strategies and techniques to encourage the victims and the offenders to reach an agreement. In some cases the mediator assists the victims and the offender with specific provisions of a settlement arrangement. In any even the essence and effectiveness of mediation is in the ability to create condition under which the victims and the offender will conclude a successful negotiation.
4. **CONCILIATION:** This is a process by which resolution of disputes is achieved by compromise or voluntary agreement. A victim can approach the legal aid office and the duty counsel shall examine his case, send notice to the other party and if he is also willing to appear before the free legal aid committee, the duty counsel shall hear both sides and apprise them of the legal position in the dispute and help them reach an amicable settlement, and if no settlement could be reached, victims and the offender could seek the remedy through a court of law, for which also the committee will extend free legal aid. The victims and the offender are free to accept or reject the recommendations of the conciliator. The conciliator is, in the

- Indian context, often a government official whose report contains recommendations. The conciliation process is sometimes considered synonymous to mediation as both the conciliator and the mediator are involved in the process of dispute resolution with justice, objectivity, neutrality, independence, and considerable expertise, to facilitate a resolution of the conflict.
5. LOK ADALAT 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 system. 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 Lok Adalat is mainly concerned with two-fold functions.
 - a. Firstly, it provides people a quick, easy, accessible, non technical sympathetic and victim friendly forum for resolution of their disputes
 - b. secondly, it helps overcome the hazard of the docket 'explosion'

Thus it is evident that the advantages of ADR are

- the informality of the process,
- the speed in dispute resolution,
- relatively low cost,
- the ability of the process to focus on the victim's interests and concern rather than exclusively on their legal rights;
- encouragement to the victims, to approach their own solutions;
- much greater involvement of the victims in the process;
- the essential confidentiality of the process and
- the high success rate.

WHAT IS LOK ADALAT ?

Lok Adalat is literally ' People's Court'. The term 'Lok Adalat' comprises two words, namely, 'Lok' and 'Adalat' the former expressing the concept of public opinion while the latter denoting the accurate and thorough deliberation aspect of decision making. Both, these aspects have been blended judiciously in the institution of Lok Adalats as envisaged by Sections 19 (1) and 20 (4) of the Legal Services Authorities Act. It has now become an integral part of the criminal justice system in India in rendering Victim Justice. **Access to justice** , especially for the economically backward, has become a reality of the people of India after the establishment of these Victim friendly courts, and will remain incomplete without a reference to the institution of Lok Adalat. On-phone and

online legal services and a toll free phone number and an e-mail address for the benefit of Victims are also available in the state of Tamil Nadu.

OBJECTIVES OF LOK ADALATS IN INDIA

The Lok Adalat is an innovative system invented for dispensation of justice in a manner compatible with the social, cultural and administrative inheritance of India. It is a necessity considering the Indian conditions and needs of the Victims. This concept is an integral part of the Indian Constitutional scheme. The preamble mandates not only of justice in its legal sense, but social, economic and political justice and quality of status and opportunity. The 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. Thus in the Directive Principles of the State Policy, it is now enshrined that the Central and State Governments should ensure that the operation of the legal system promote justice on the basis of equal opportunity and shall in particular provide free legal aid for the poor and ensure that justice is not denied to them for economic reasons or other disabilities.

Article 39 – A of the Constitution of India mandates that the State shall secure that the operation of the legal system promotes justice on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.

It was being realized for long that the poor and illiterate victims of India who are often intimidated and confused by the greasy, semantics and substantive and procedural laws and require an approachable system to resolve their disputes while securing justice. The Lok Adalat system is not a substitute the present legal system. It merely supplement it, to reduce the increasing number of cases in the corridors of Justice. The well known and an oft repeated statement *Justice delayed is Justice denied* is reiterated in the objective of the Lok Adalats in rendering speedy and affordable justice to victims irrespective of their economic status.

ORIGIN OF LOK ADALATS IN INDIA

The credit of originating this system for speedy justice to common man goes to Mr. Justice P.N. Bhagwati the a former Chief Justice of the Supreme Court of India who started Lok Adalats in the State of Gujarat during early seventies. Presently, the States of Maharashtra, Kerala, Andhra Pradesh, Madhya Pradesh and Union Territory of Delhi have introduced Lok Adalats for urban and rural areas. The First Lok Adalat was held in Chennai in 1986

Legal Services Authorities Act 1987, Act 39 of 1987, in 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 the basis of equal opportunity. In the Statement of Objects and Reasons, Article 39A of the Constitution had been referred to apart from the Committee for implementing Legal Aid Schemes under the Chairmanship of Justice P.N. Bhagawati. It further specifies about Lok Adalats as follows:

LEGAL BASIS OF THE LOK ADALATS

Lok Adalats now have a statutory foundation in **The Legal Services Authorities Act, 1987**. The supreme court has reiterated time and again that speedy justice specially in criminal matters, is the essential component of the fundamental right to life and liberty enshrined in **Art. 21 of the Constitution of India**.

The parliament enacted a comprehensive law called the Legal Services Authorities Act, 1987 (Act No. 39 of 1987) to constitute legal services authorities to provide free and competent legal services to the weaker sections of the society in order to ensure that opportunities for securing justice are not denied to any citizen for reason of economic or other disabilities. The Act further requires that Lok Adalats should be organized to ensure that the operation of the legal system promotes justice on the basis of equal opportunity. The main objectives of the Act are:

- to secure free and competent legal services to weaker section;
- to organize Lok Adalats for speedy disposal of case;
- to ensure that operation of legal system promotes justice on the basis of equal opportunity.

The Act is undoubtedly a progressive step towards the fulfillment of the directive principle relating to legal aid to poor as contemplated by **Art. 39-A of the Constitution**.

Further the amendment to this The Legal Services Authorities Act, 1987 (as amended vide Act No. 37 of 2002) provides for setting up of a "Permanent Lok Adalat" which can be approached by any party to a dispute involving "public utility services" which have been defined in the Act (as amended) to include transport services for the carriage of passengers or goods by air, road or water; postal, telegraph or telephone services; insurance service, as also services in hospital or dispensary, supply of power, light or water to the public, besides systems of public conservancy or sanitation. Any civil dispute with a public utility service and where the value of the property in dispute does not exceed Rupees ten lakhs; or any criminal dispute which does not involve an offence not compoundable under any law, can be taken up in the "Permanent Lok Adalat". An important feature of this amendment is that after an application is made to the Permanent Lok Adalat, no party to that application can invoke jurisdiction of any court in the same dispute.

The Civil Procedure Code provides for compromise of suit – where it is provide to the satisfaction of the court that a suit has been adjusted wholly or in part by any lawful agreement or compromise, written and signed by the parties, the country after satisfying

itself about the settlement, can convert the settlement into judgment decree. The moment one of the parties to the dispute expresses unwillingness to arrive at a compromise or settlement., the Lok Adalat would stand stripped of its jurisdiction to deal with the dispute in any manner. **The amendments made to the Code of Civil Procedure by Amendment Act 46 of 1999 and Amendment Act 22 of 2002** seeks to institutionalize the ADR techniques in the Indian judicial system. By the said amendments, a new section 89 has been introduced in the Code of Civil Procedure, which provides that, in any dispute before, it if the court finds that there exist elements of a settlement which may be acceptable to the parties, then the court should formulate the terms of settlement and give them to the parties for their observation and after receiving the observation of the parties, the court may re – formulate the terms of a possible settlement and refer the same for either arbitration, conciliation, judicial settlement including settlement through Lok Adalat or mediation. Where a dispute has been referred to Lok Adalat, in accordance with the provisions of sub –section (1) of section 20 of the Legal Services Authorities Act 1987 (39 of 1987) all other provisions of that Act shall apply in respect of the dispute so referred to the Lok Adalat. (Sec. 89 (2) (b) (C.P.C). The Lok Adalat will pass the award with the consent of the parties. Therefore, there is no need either to reconsider or review the matter again and gain, as the award passed by the Lok Adalat shall be final.

Even as under Section 96 (3) CPC no appeal shall lie from a decree passed by the Court with the consent of parties. The award of the Lok Adalat is an order by the Lok Adalat with the consent of the parties, and it shall be deemed to be a decree of the civil court, therefore an appeal shall not lie from the award of the Lok Adalat as under Section 96(3) CPC.

In the event of a matter determined by compromise or settlement by a Lok Adalat in a case referred to it by a court, the Court – fee is to be refunded in the manner laid down in **the Court Fee Act, 1870.**

TYPE OF CASES THE LOK ADALAT HANDLES A Lok Adalat has the jurisdiction to settle, by way of effecting compromise and rendering Justice to Victims

- any matter which may be pending before any court,
- as well as matters at pre-litigative stage i.e.
- disputes which have not yet been formally instituted in any Court of Law.
- Such matters may be civil in nature
- or criminal in nature,
- Lok adalats can take cognizance of matters involving not only those persons who are entitled to avail free legal services but of all other persons also, be they women, men, or children and even institutions.

Though the Lak Adalat lends itself to easy settlement of money claims there is scope for settlement of other disputes as well. Partition suits, damages and matrimonial

cases can be easily settled before Lok Adalat as the scope for compromise through an approach of give and take is high in these cases. The nationalized banks and other financial institutions are the biggest victims in all the civil courts throughout the country.

These Adalats decide criminal, civil and revenue cases pending before the law courts by mutual consent of the victims and the offender, without going into the procedural details of courts by mutual consent of the victims and the offender or without going into the procedural details of the working of Lok Adalat, suffice it to say that it has made substantial contribution in taking justice to doors of common man and providing him speedy justice.

On the criminal side, the offences compoundable under section 320 (1) and (2) of the Code of Criminal Procedure 1973 are disposed of by the Lok Adalat through a compromise between the victims and the offender

S.no	Offence	Section of the IPC applicable	Person by whom offence may be compounded
	2	3	4
1	Uttering words etc, with deliberate intent to wound the religious feelings of any person	298	The person whose religious feelings are intended to be wounded
2	Causing hurt	323,334	The person to whom the hurt is caused
3	Wrongfully res –training or confining any person	341,342	The person restrained or confined
4	Assault or use of criminal force	352,355,358	The person assaulted or to whom criminal force is used
5	Mischief, when the only loss or damage caused is loss or damage to a private person	426,427	The person to whom the loss or damage is caused
6	Criminal trespass	447	The person in possession of the property trespassed upon
7	House – trespass	448	-do -
8	Criminal breach of contract of	491	The person with

	service		whom the offender has contracted.
9	Adultery	497	The husband of the woman
10	Enticing or taking away or detaining with criminal intent of a married woman	498	-do -
11	Defamation, except such cases, as are specified against Section 500 of the IPC	500	The person defamed
12	Printing or engraving matter, knowing it to be defamatory	501	-do -
13	Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter	502	-do-
14	Insult intended to provoke a breach of the peace	504	The person insulted
15	Criminal intimidation except when the offence is punishable with imprisonment for seven years	506	The person intimidated
16	Act caused by making a person believe that h will be an object of divine displeasure	508	The person against whom the offence was committed.
1	Voluntarily causing hurt by dangerous weapons or means	324	The person to whom hurt is caused
2	Voluntarily causing grievous hurt	325	-do -
3	Voluntarily causing grievous hurt on grave and sudden provocation	335	-do –
4	Causing hurt by doing an act so rashly and negligently as to	337	-do -

	endanger human life or the personal safety of other		
5	Causing grievous hurt by doing an act so rashly and negligently as to endanger human life or the personal safety of others	338	-do-
6	Wrongfully confining a person for three days or more	343	The person confined
7	Wrongfully confining for ten or more days	344	The person confined
8	Wrongfully confining a person in secret	346	-do -
9	Assault or criminal force to woman with intent to outrage her modesty	354	The woman assaulted to whom the criminal force was used.
10	Theft, where the value of property stolen does not exceed two hundred and fifty rupees	379	The owner of the property stolen.
11	Theft by clerk or servant of property in possession of master, where the value of the property stolen does not exceed two hundred and fifty rupees	381	-do -
12	Dishonest misappropriation of property	403	The owner of the property misappropriated.
13	Criminal breach of trust, where the value of the property does not exceed two hundred and fifty rupees	406	The owner of the property in respect of which the breach of trust has been committed.
14	Criminal breach of trust by a carrier where the value of the property does not exceed two hundred and fifty rupees	407	- do -
15	Criminal breach of trust by a	408	-do -

	clerk or servant, where the value of the property does not exceed two hundred and fifty rupees		
16	Dishonesty receiving stolen, when the value of the stolen property does not exceed two hundred and fifty rupees.	411	The owner of the property stolen.
17	Assisting in the concealment or disposal of stolen property, knowing it to be stolen, where the value of the stolen property does not exceed two hundred and fifty rupees	414	-do-
18	Cheating	417	The person cheated
19	Cheating a person whose interest the offender was bound, either by law or by legal contract, to protect	418	-do -
20	Cheating by personating	419	-do -
21	Cheating and dishonestly inducing delivery of property or the making alteration or destruction of a valuable security	420	-do-
22	Fraudulent removal or concealment of property etc. to prevent distribution among creditors	421	The Creditors who are affected thereby.
23	Fraudulently preventing from being made a available for his creditors a debt or demand due to the offender	422	-do -
24	Fraudulent execution of deed of transfer containing false statement of consideration	423	The person affected thereby

25	Fraudulent removal or concealment of property	424	The person affected thereby
26	Mischief by killing or maiming animal of the value of ten rupees or upwards	428	The owner of the animal
27	Mischief by killing or maiming cattle, etc. of any value or any other animal of the value of fifty rupees or upwards	429	The owner of the cattle or animal
28	Mischief by injury to work of irrigation by wrongfully diverting water when the only loss or damage caused is loss or damage to a private person	430	The person to whom the loss or damage is caused
29	House trespass to commit an offence (other than theft) punishable with imprisonment	451	The person in possession of the house trespassed upon
30	Using a false trade or property mark	482	The person to whom loss or injury is caused by such use
31	Counterfeiting a trade or property mark used by another	483	The person whose trade or property mark is counterfeited
32	Knowingly selling, or exposing or possessing for sale or for manufacturing purpose, goods marked with a counterfeit property mark	486	- do-
33	Marrying again during the life time of a husband or wife	494	The husband or wife of the person so marrying
34	Defamation against the president or the Vice President or the Governor of a State or the	500	The person defamed

	Administrator of a Union Territory or a Minister in respect of his conduct in the discharge of his public functions when instituted upon a complaint made by the public		
35	Uttering words or sounds or making gestures or exhibiting any object intending to insult the modesty of a woman or intruding upon the privacy of a woman.	509	The woman whom it was intended to insult or whose privacy was intruded upon.

ROLE OF LAWYERS IN LOK ADALAT PROCEEDINGS: 'I had learnt the true practice of law. I had to find out the better side of human nature and to enter men's hearts I realized that the true function of a lawyer was to unite parties given as under. The lesson was so indelibly burnt into me that large part of my time during the twenty years of my practice as a lawyer was occupied in bringing about private compromises of hundreds of cases" said Mahatma Gandhiji.

Lawyers are entitled to appear before a Lok Adalat. They may help the Lok Adalat in persuading the victim and offender . There is legal obligation on the part of lawyers to participate in the Lok Adalat proceedings. It is also a moral obligation. Lawyers are expected by the society to demonstrate enough commitment to offer their expertise for the achievement and advancement of the noble mission of Lok Adalat. No one can be a good lawyer who only knows law. As Buckland well said, ' A man will be a better lawyer, as he will be a better architect or physician, if his mind is open to the movements of thought on the profounder issues of life, beyond his immediate professional concerns. And, if his mind is so open he can hardly fail to have some sort of philosophy of his own.'

"....A priest without charity, a doctor without knowledge and a lawyer without a sense of justice are the three pests of community..." Says Robert Ingersoll in Liberty and other essays.

COMPOSITION OF TEAM: Retired Judicial officers and social workers play an integral part rendering justice in these Adalats. The team of conciliators is constituted from amongst retired judicial officers service oriented advocated, academicians and non political social workers infused with the spirit of service and adapt at bringing about a agreeable rapprochement between the victims and the offender by appropriate guidance and persuasion. The team usual includes some women lawyers and some woman social workers. The team of bears in mind, the main objective is dispute resolution by negotiation and

settlement and it is requested to make efforts at conciliation without being unduly concerned about disposal and that in no case the victims and the offender should feel that any coercion or pressure is brought to bear upon them for settlement. The conciliators are requested to explain to the victims and the offender that the settlement must be carried out voluntarily and that their intervention is purely in order to lead the victims and the offender to an amicable settlement through persuasion and perseverance.

PROCEDURE

The procedure of Lok Adalat inherently embodies the concept of speedy trial and it can be seen as one of the most efficacious legal instruments of upholding speedy justice. Widening the criminal jurisdiction of Lok Adalats would, therefore, be a significant step in the direction of fulfillment of the constitutional mandate. Section 20 (1) of the Legal Services Authorities Act, 1987 lays down that a Court of law where a case is pending may transfer the case to Lok Adalat for settlement when the victims and the offender to the case have made a joint application indicating their intention to compromise the matter. Thus the section requires victims and the offender to apply before District Authority and not Lok Adalat. The victims and the offender to such a case shall be under no obligation to attend the court concerned during the period intervening between the filing of the joint application and disposal of the case by the Lok Adalat.

The procedure followed by the setting before these Adalats is as follows;

The Board which desires to convene an Adalat will settle the date and venue of the Adalat.

- Permission of the High court would be sought for (a) holding a Lok Adalat (b) for permission to the functionaries of the legal aid system to peruse the records in the tribunals and to obtain copies of the documents for documentation. (c) For permission to the tribunals to sit at the venue of the Adalat on the day of the Adalat.
- Further the legal aid committee would with the assistance of the tribunals concerned, collect the details of the accident claims to be placed before the Adalat
- A list of cases in which both the victims and the offender have agreed to the matter being placed before the Adalat will be made
- The cases would be documented and a preliminary discussion with the victims and the offender will be held to narrow down the difference that the Adalats work will be facilitated.
- Finally on the day of the Adalat, the dispute is settled. The settlement is achieved by explaining to the victims and the offender concerned that settlement must be carried out voluntarily and that their intervention is purely to lead the victims and the offender to an amicable settlement through persuasion and perseverance.

Such disputes involving public utility services shall be attempted to be settled by the Permanent Lok Adalat by way of conciliation and failing that, on merit, and in doing so the

Permanent Lok Adalat shall be guided by the principles of natural justice, objectivity, fair play, equity and other principles of justice without being bound by the Code of Civil Procedure and the Indian Evidence Act.

To enable the Courts to refer more contentious matters to Lok Adalats which can give repeated sittings to the victims and the offender, and to enable general public to take their disputes at pre-litigation stage to Lok Adalats for exploring possibility of amicable settlement, Permanent and Continuous Lok Adalats of amicable settlement, a Permanent and Continuous Lok Adalat is functioning in the Punjab and Haryana High Court at Chandigarh which is headed by a retired Judge of the High Court. Permanent and Continuous Lok Adalat are also functioning in districts and are headed by retired judicial officers. In others, serving judicial officers are presiding over on rotational basis.

STATISTICS

In Madhya Pradesh, the first Lok Adalat was held at Bilaspur on April 13, 1986 and out of total 797 cases disposed of by this Adalat as many as 226 were criminal cases. Criminal case. In all about ninety-seven Lok Adalats have been organized in the State up to January 2001 each disposing of nearly 250 criminal cases on an average. It is thus evident that the institution of Lok Adalat is expected to play a crucial role in the administration of criminal justice in time to come. For the first time in the history of Madras High Court, it has planned a 'Maha Lok Adalat (MLA),' a mega event aimed at providing instantaneous solutions to long-pending litigations. The Lok Adalats, set up on the directions of Jammu and Kashmir High Court Chief Justice B.A. Khan, have disposed of a record 3,000 cases pertaining to the earthquake. Over 540 families have received compensation on the directions of the court.

STATEMENT SHOWING THE NUMBER OF LOK ADALATS HELD, CASES SETTLED AND AMOUNT AWARDED INCLUDING, SPECIALISED LOK ADALATS, FOR THE PERIOD FROM 1986 TO 29.02.2008 ABSTRACT

YEAR	ADALATS HELD	CASES SETTLED	AMOUNT AWARDED RS. P. P.
1986 to 31.10.1997 (Legal Aid Board)	2,690	62,552	207,44,45,683-22
01.11.97 to 31.12.1997	78	1,787	9,47,49,412-00
1998	687	14,897	85,97,63,386-54
1999	476	13,259	74,80,29,244-00

2000	940	9,664	62,37,52,965-00
2001	1,153	10,547	89,21,15,108-00
2002	4,231	12,992	105,77,08,923-98
2003	5,781	45,194	188,00,96,412.62
2004	6,851	49,231	183,65,46,210-29
2005	4,483	41,933	141,93,63,988-83
2006	3,510	52,166	120,56,17,790-07
2007	3,290	28,148	134,87,10,202-85
01.01.2008 to 29.02.08	755	7,841	34,00,71263-00
TOTAL	34,925	3,50,211	1438,09,70,590-40

**DISPOSED OF IN THE CENTRAL PRISON IN TAMIL NADU AS
ON 29.02.2008**

Place	Date of Inauguration	of Adalats Held	Cases Referred	Cases Disposed
Chennai	15.08.2000	275	25,802	5,143
Madurai	21.12.2000	296	3,837	2,069
Trichy	18.02.2001	268	2,329	2,000
Vellore Men Women	31.03.2001	257 222	398 90	217 11
Cuddalore	30.08.2002	134	484	344
Salem	27.09.2003	347	721	709
Tirunelveli	12.02.2005	39	143	88
Coimbatore	02.04.2005	148	669	358

Alandur	-	66	562	562
		2,052	35,035	11,501

**LOK ADALAT ORGANISED BY THE STATE AUTHORITY,
HIGH COURT LEGAL SERVICES COMMITTEE,
DISTRICT AUTHORITIES AND TALUK COMMITTEES**

	Particulars	Figures relating to Legal Services Authority for the period from 01.11.97 to 29.02.2008
	Number of Lok Adalats	32,235
1	Motor Accident	63,700
	Award Secured	Rs.478,35,55,798-04
	OTHER CASES:	
2	Civil	11,176
3	Matrimonial	5,319
4	Criminal/Compoundable IPC	22,795
5	Land acquisition	12,007
	Award Secured	Rs.86,13,21,008-00
6	Labour Court	812
	Award Secured	Rs.1,57,69,879-75
7	Family Court	428
8	Family Court Appeals	3

ADVANTAGES OF THE LOK ADALATS:

Lok Adalats are boon to the Victim and an advantage as there is free and speedy disposal of the case. The Lok Adalat give a chance for three elements: healing, victim offender mediation, and apology (shaming) and reintegration.

- A large number of cases and pre-litigation disputes are settled amicably.
- Not merely disputes are scuttled but goodwill and a city is generated that ensures peace and prosperity in the land.
- The Adalat is an endeavor to put into practice the concept of taking justice to the doorsteps of the poor the needy.
- Victims and the offender are getting matters settled at these courts early by persuasive agencies of lawyers.

The benefits for the Victims receive through the Lok Adalat are many including

- a psychological reparation,
- financial benefits
- a chance for reconciliation.
- Their views are heard and they are allowed to express the impact of the victimisation.
- There is chance for an apology and restoration of relationship in the case of matrimonial disputes.
- 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.
- 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 basic features of Lok Adalat are the procedural flexibility and speedy trial of the disputes.
- The victims and the offender may be represented by their advocate or they can interact with the Lok Adalat judge directly and explain their stand in the dispute and the reasons thereof, which is not possible in a regular court of law.
- The disputes can be brought before the Lok Adalat directly instead of going to a regular court first and then to the Lok Adalat.
- The most vital benefit under the said Act is that
- the decision of the Lok Adalat is binding on the victims and the offender to the dispute and
- its order is capable of execution through legal process. The award by the Lok Adalat is binding on the parties and it has the status of a decree of a civil court and it is non-appealable, which does not cause the delay in the settlement of disputes finally.
- 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.

TYPES OF LOK ADALATS

- Prison Lok Adalat, are being arranged inside the prison institutions for providing under trial prisoners access to speedy justice. It is suggested that other prisoners should also be brought within the purview of Lok Adalat.
- Provident Fund Lok Adalat,
- Labour Law Adalat, etc
- Bijli Adalat
- Permanent and continuous Lok Adalats: To enable the Courts to refer more contentious matters to Lok Adalats which can give repeated sittings to the victims and the offender, and to enable general public to take their disputes at pre-litigative stage to Lok Adalats for exploring possibility of amicable settlement, Permanent and Continuous Lok Adalats of amicable settlement, a Permanent and Continuous Lok Adalat is functioning in the Punjab and Haryana High Court at Chandigarh which is headed by a retired Judge of the High Court. Permanent and Continuous Lok Adalat (redesigned as "Samjhauta Sadans" with effect from 19.7.2002) are also functioning in eight districts are headed by retired judicial officers. In the remaining districts and sub-divisional courts of Haryana, serving judicial officers are presiding over such "Samjhauta Sadans" on rotational basis.

NEED FOR LOK ADALATS IN INDIA

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

- the number of courts and judges in all grades are alarmingly inadequate;
- increase in flow of cases in recent years due to multifarious Acts enacted by the Central and State Governments;
- 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
- delay in disposal of cases resulting in huge pendency in all the courts.
- The poor find it difficult to prosecute or defend a case due to high costs involved. Eminent judges of the Supreme Court and High Courts have many a time emphasized the need for free legal aid to the poor.

CONCLUSION:

It is evident from success of the alternate dispute resolutions like Arbitration, Mediation, Lok Adalats, Conciliation, and Negotiation, that India has taken the giant step towards the path to restorative Justice. The process has the three common elements: healing, victim offender mediation, and apology and reintegration. Marshall (1997) offered a definition of restorative justice, which is: "A process whereby parties with a stake in the particular offence come together to resolve collectively how to deal with the aftermath of the offence and its implications for the future."

According to Mika & Zehr the following are the "signposts" developed to identify restorative justice processes

- Focusing on harms suffered rather than laws broken.
- Showing a balanced concern for the victim and offender and involving both in the criminal justice process.
- Working toward restoration of victims through empowerment and response to their.
- needs
- Supporting the offender and simultaneously encouraging him or her to understand, accept, and carry their commitments to repair the harm.
- Recognizing offenders' need to fulfill obligations which are achievable, not punitive.
- Providing opportunities for direct and indirect victim offender dialogue.
- Involving and empowering the community through the judicial process, particularly by increasing its capacity to recognize and respond to crime.
- Encouraging collaboration and reintegration rather than coercion and separation
- Paying attention to the unintended results of activities and programs.
- Showing respect for the dignity of everybody, particularly victims, offenders, and colleagues concerned with justice.

The Lok Adalats have all the above elements and are surprisingly not an entirely a new concept for India. The Nyaya panchayat originated in rural India, where the participants are the village head Victim & offender families, friends and other villagers. Here also there was an active involvement of the victim and the community. Though this model is not mentioned in any of the literature on the roots of restorative justice this system of the village head and the other participants sitting together and rendering justice has been in existence since time immemorial. It has gradually been replaced by the criminal justice system but this is still in existence in a few villages in India.

I would conclude saying that though India has taken measures to ensure Victim Justice as per the UN Declaration, in the words of Robert Frost '*we have miles to go before we sleep*' in a place where

- Victims rights are also recognized as Human rights and
- There is a balance between the rights of the accused and the rights of the victims and one is not sacrificed for the other and
- There as a realization that there is a great injustice to victims underlying the statement - '*a hundred accused can go free but one innocent man should not be punished*' which when rephrased is actually read as '*A hundred Victims can be denied Justice but one accused should not be denied Justice!*' - and

- if this is the principle underlying our Criminal Justice Systems world over, leading to our understanding of Justice, I would like invite you all to contemplate if ours is a Criminal **Justice** System or A **Criminal** Justice System !

I would also like to present before this august gathering a part of the Recommendations of the Malimath Committee on reforms of Criminal Justice System that deals with Justice to Victims, which when implemented would make Victim Justice in India a reality and not merely a rhetoric.

6. Justice to Victims of Crime *An important object of the criminal justice system is to ensure justice to the victims, yet he has not been given any substantial right, not even to participate in the criminal proceedings. Therefore the Committee feels that the system must focus on justice to victims. Therefore the Committee has made several recommendations which include the right of the victim to participate in cases involving serious crimes and to adequate compensation. Hence, the Committee has made the following recommendations:-*

(14)

a) *The victim, and if he is dead, his legal representative shall have the right to be impleaded as a party in every criminal proceeding where the offence is punishable with 7 years imprisonment or more.*

b) *In select cases notified by the appropriate government, with the permission of the court an approved voluntary organization shall also have the right to implead in court proceedings.*

c) *The victim has a right to be represented by an advocate of his choice; provided that an advocate shall be provided at the cost of the State if the victim is not in a position to afford a lawyer.*

d) The victim's right to participate in criminal trials shall, inter alia, include:

a) *to produce evidence, oral or documentary, with leave of the Court and/or to seek directions for production of such evidence*

b) *to ask questions to the witnesses or to suggest to the court questions which may be put to witnesses*

c) *to know the status of investigation and to move the court to issue directions for further to the investigation on certain matters or to a supervisory officer to ensure effective and proper investigation to assist in the search for truth.*

d) *to be heard in respect of the grant or cancellation of bail*

e) *to be heard whenever prosecution seeks to withdraw and to offer to continue the prosecution*

f) *to advance arguments after the prosecutor has submitted arguments*

g) *to participate in negotiations leading to settlement of compoundable offences.*

e) *The victim shall have a right to prefer an appeal against any adverse order passed by the court acquitting the accused, convicting for a lesser offence, imposing inadequate sentence, or granting inadequate compensation. Such appeal shall lie to the court to which an appeal ordinarily lies against the order of conviction of such a court.*

f) *Legal services to victims in select crimes may be extended to include psychiatric and medical help, interim compensation and protection against secondary victimization.*

g) *Victim compensation is a State obligation in all serious crimes, whether the offender is apprehended or not, convicted or acquitted. This is to be organized in a separate legislation by Parliament. The draft bill on the subject submitted to Government in 1995 by the Indian Society of Victimology provides a tentative framework for consideration.*

h) The Victim Compensation law will provide for the creation of a Victim Compensation Fund to be administered possibly by the Legal Services Authority. The law should provide for the scale of compensation in different offences for the guidance of the Court. It may specify offences in which compensation may not be granted and conditions under which it may be awarded or withdrawn. It is the considered view of the Committee that criminal justice administration will assume a new direction towards better and quicker justice once the rights of victims are recognized by law and restitution for loss of life, limb and property are provided for in the system. The cost for providing it is not exorbitant as sometimes made out to be. With increase in quantum of fine recovered, diversion of funds generated by the justice system and soliciting public contribution, the proposed victim compensation fund can be mobilized at least to meet the cost of compensating victims of violent crimes. Even if part of the assets confiscated and forfeited in organized crime and financial frauds is also made part of the fund and if it is managed efficiently, there will be no paucity of resources for this well conceived reform. In any case, dispensing justice to victims of crime cannot any longer be ignored on grounds of scarcity of resources.

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