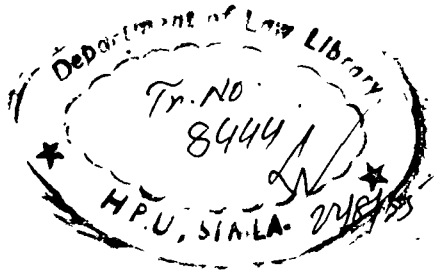
CONSTITUTIONAL PHILOSOPHY OF LOK ADALATS IN INDIA: A STUDY WITH SPECIAL REFERENCE TO HIMACHAL PRADESH



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CERTIFICATE

It gives me immense pleasure to certify that **Mr. SUNIL DESHTA** has carried out the research work on **"CONSTITUTIONAL PHILOSOPHY OF LOK ADALATS IN INDIA: A STUDY WITH SPECIAL REFERENCE TO HIMACHAL PRADESH"**, under my supervision and guidance. The work is original and has not been submitted in part or full, for any other degree of this or any other University and is worthy of the consideration for the award of degree of **DOCTOR OF PHILOSOPHY** in **Law**

(P.L.MEHTA)

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ABBREVIATIONS

A.D.	After Death
A.I.R.	All India Reports
C.M.A.	Civil Misc.Appeals
CILAS	Committee For Implementing Legal Aid Scheme
Cr.P.C.	Criminal Procedure Code
et.al.	et alii; and others
ed.	Edition
H.M.A	Hindu Marriage Act
H.P.	Himachal Pradesh
i.e.	id est; that is
Ibid	Ibidem
Id	Idem
I.P.C.	Indian Penal Code
J.	Justice
J.I.L.I.	Journal Of Indian Law Institute
L.S.USQ	Lok Sabha Unstared Questions
Ltd.	Limited
M.A.C.T.	Motor Accident Claims Tribunal
M.C.Act	Municipal Corporation Act
M.V.Act	Motor Vehicle Act
Misc.	Miscellaneous
No.	Number
op.cit.	Opere citato; in the work cited
p., pp.	Page, Pages
Para	Paragraph
Pvt.	Private
R.S.USQ	Rajya Sabha Unstared Questions
Rs.	Rupees
SC	Supreme Court
SCC	Supreme Court Cases
Sr.	Serial
U/S	Under Section
Viz.	Videlicet; namely
Vol.(s)	Volume (s)
Vs.	versus; against
W.C.Act	Workmen Compensation Act.

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CHAPTER-I

I N T R O D U C T I O N

I. What Lok Adalat Is ?:

The institution of Lok Adalat in India is gaining popularity quite steadily since its introduction in its present form in 1982[1]. It is a relatively new but entirely indigenous institution that has been developed by the people themselves for social justice. It is a new system of dispensation of justice which has come into existence to grapple with the problem of giving cheap and speedy justices to the people. This form of redressal is contrived for enabling the common people to ventilate their grievances against the State agencies or against other citizens and to seek an amicable settlement, if possible. It aims that a quick, informal and inexpensive justice must be provided to the people in friendly spirit[2].

Lok Adalat as the very name suggests means people's Court. 'Lok' stands for people and the vernacular meaning of the term 'Adalat' is Court. Generally speaking, it is not a 'Court' as understood by the common people though they may find attributes of a Court in it and may call it by that name[3]. It hardly has anything in common with the law Court except, that both are tools in the legal system to deliver justice. A difference is that a law Court sits at its premises where the litigants come with their lawyers and witnesses to seek justice, whereas Lok Adalat itself goes to the people to deliver justice at their door-steps. So it is a kind of a forum provided by the people themselves or by interested

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1. See N.R.Madhava Menon, "Lok Adalat": Prople's Programme For Speedy Justice", Indian Bar Review, Vol. 13(2), 1986, p.129.; Nomita Aggarwal, Handbook On Lok Adalat in *India, 1991, p.1,* Legal Aid Newsletter, *Vol.X, Parts 1 & 2, May-August,1990, p.15.*
2. M.G.Chitkara, Lok Adalat And The Poor, 1993, p.35.
3. N.R.Madhava Menon, op.cit., p.132.

parties including social activists, legal aiders and public spirited people belonging to every walk of life. In order to ensure that the settlement is fair and according to law, the forum may consist of legally trained people who are respected in the community where the Lok Adalats are constituted. Their function is not to act as a judge of law Court but enable the respective parties who voluntarily seek the Adalat's intervention to understand their respective rights and obligations with reference to the disputes brought before it and to help to keep the dialogue going in a fair manner. They do not judge the issues thrown up in the discussion. Their role is to clarify the law and by gentle persuation convince the parties how they stand to gain by an agreed settlement[4]. It is thus a forum where voluntary effort aimed at bringing about settlement of disputes between the parties is made through conciliatory and persuasive efforts[5].

Frankly speaking, Lok Adalat is a para-judicial institution being developed by the people themselves, still in its infancy trying to find an appropriate structure and procedure in the struggle of the common people for the social justice[6]. The genesis of this novel institution can be said to lie in the Reports of three different expert Committees set-up by the Central Government and the Government of Gujarat to make recommensations for improving justice delivery system and provide expeditious and cheap legal services to the poor[7] In other words, Lok Adalat phenomenon is an expression of the

4. Id.
5. Legal Aid Newsletter, Vol.X, Parts 1 & 2, May-August 1990, p.15.
6. Supra note 3, p.133.
7. For detail see, The Report On Processual Justice To The People, 1973; The Report Of The Gujarat Legal Aid Committee, 1977; and The Juridicare: Equal Justice - Social Justice Report, 1977.

disgust and disenchantment of the poor and the middle class people in respect of the Court system as it functions today[8]. As a result of first step towards the implementation of the recommendations of these Committees. the Central Government constituted a Committee in 1980 popularly known as the Committee For Implementing Legal Aid Schemes (CILAS) to evolve appropriate structures and procedures with a view to achieve an easy access to justice and equal justice for all Thus, it was under the auspices of this Committee headed by P.N Bhagwati, CJ (as he then was) that the unique institution of Lok Adalat was first experimented[9] The admitable fact is that the institution of Lok Adalat has its origin not in any statutory law but is devised and developed by the people themselves as a "participatory instrument of democratic judicial making"[10] It may be termed as a child of necessity. The spirit behind the Lok Adalat has been to provide speedy and inexpensive justice to the masses in their various Civil. Criminal and revenue disputes. It aims at providing them with a superior alternative judiciary which could settle their dispute after a summary hearing, open discussions and by methods more intelligible to the illiterate rural people and serve their interests in a better manner thereby saving their valuable time, energy and scanty monetary resources[11].

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8. Supra note 3, p.133.
9. K.M.H.Rayappa, "Lok Adalat: Objectives, Pre-Requisities, Strategies And Organisation Indian Bar Review,Vol.14(4), 1987, p.712.
10. N.R.Madhava Menon, "Justice Sans Lawyer: Some Indian Experiments", Indian Bar Review, Vol.2, 1985, p.446.
11. *Awadh Prasad, Lok Adalat - A Probe Into Its Organisation And Working Process*, 1976, p.97 (Mimeo).

Lok Adalat is another alternative to judicial justice[12]. This is a recent strategy for delivering informal, cheap and expeditious justice to the common man by way of settling the disputes which are pending in the Courts and also those which have not yet reached the Courts by negotiation, conciliation and by adopting persuasive, commonsense and human approach to the problems of the disputants, with the assistance of specially trained and experienced members of a team of Conciliators[13]. The idea of Lok Adalat is based on the ancient panchayat system where elders used to settle the disputes in public. It is a forum, where the entire dilatory procedure of adverbial litigation is bypassed[14]. The amicable settlement by the Lok Adalat are not necessarily according to the legal principles. They have their eyes on social goals like ending feuds rather pending disputes, restoring peace in the family, community and the locality and ultimately providing for destitutes law or no law[15]. So, the Lok Adalats cannot be dubbed as a substitute for the present judicial system but must be visualized as supplementary to it so that the mounting arrears are reduced and fewer of the cases are instituted. It implies participatory justice in which people and judges participate and resolve their disputes by discussions and mutual consent[16] It is an additional and complimentary arm for existing judicial system[17]. The Lok Adalat is based on the principles of honesty, fairplay and

12. Supra note 5, p.15.
13. P.C.Juneja, Equal Access To Justice (1993), p.289.
14. Paras Diwan, "Justice At The Door-Step Of The People: The Lok Adalat System", A.I.R. 1991, Journal Section, p.86.
15. Supra note 5, p.16.
16. Supra note 14, p.86.
17. Supra note 3, p.132; also see Upendra Baxi, Towards A Sociology Of Indian Law (1986) p.90.

moral character as embodied in Indian culture and civilization. It endeavours to restore the confidence of a common man in the judicial system and contemplates the justice where strict provisions of Evidence Act, Limitation Act, Criminal Procedure Code and Civil Procedure Code are not rigidly followed and are relaxed whenever necessary in the ends of justice[18]. It hears and settles the disputes in the language of the people, in the public presence[19]. Moreover, it earnestly endeavours to invent new prospects for resolution of disputes which is not possible under the conventional justice delivery system[20].

The true basis of the settlement of dispute by the Lok Adalat is the principle of mutual consent and voluntary acceptance of the solution with the help of the Conciliators. It revolves around the principle of creating an awareness amongst the disputants to the effect that their welfare and interest really lies in ariving at immediate and peaceful settlement of their dispute. The Conciliators (Judges) of the Lok Adalats make the parties to the suit conscious of the fact that the only suitable remedy with them is to get rid of their case by a single decision through compromise which will save not only their hard earned money, time, but multiplicity of litigation, by being involved in appeal, review, revision, remand, etc , the never ending chain The basic purpose of Lok Adalat is not to impose the justice but the people are awakened to their own rights and duties vis-a-vis the rights

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18. M.N.Morji, "Lok Nyayalaya", A.I.R. 1984, Journal Section, p.68.
19. Ibid.
20. The Tribune, February 1, 1992, p.1.

and duties of others. It works on the equitable principle rather than legal and technical considerations. The Lok Adalat offers its services in the form of suggestions. It makes all possible alternative proposals for mutual settlement but does not impose its decision or will on the disputants. However, when consent decree is passed only then decision becomes almost binding as it becomes psychologically difficult to rebut the consent once given, but at such a stage, Lok Adalat keeps its eyes open, that such a decision is not oppressive to the other party of the dispute.

To sum up, Lok Adalat is a voluntary institution and is itself a direct outcome of activist approach of judiciary. It is a judge-inspired, judge-induced and judge-aided strategy devised with an aim to provide quick and cheap justice so as to reduce the backlog of cases pending in the law Courts. Though it has so far no statutory base, yet the functioning of the Lok Adalats show that they are successfully working in Gujarat, Andhra Pradesh, Bihar, Orissa, Maharashtra, Tamil Nadu, Uttar Pradesh, Haryana, Rajasthan, Goa, Assam, Kernataka, Kerala, Madhya Pradesh, Punjab, Sikkim, West Bengal, Pondicherry, Delhi and Himachal Pradesh[21]. To be brief, Lok Adalats in India have succeeded in disposing of 40 lacs cases awarding an amount of Rs 460,00,00,000/- as a matter of compensation to the aggrieved parties[22]. Similarly, the State of Himachal Pradesh has shown deep interest in holding Lok Adalats. More than 15,408 cases have been settled

21. Supra note 2, p.41.

22. See, The Report Of Workshop On Legal Aid Movement held in Shimla on November 27-28, 1993 (Memeo); also see, Indian Express, December 5, 1993, p.5.

amicably awarding Rs 2,71,67,351/- as compensation in 650 M.A.C.T. and other cases.

II. Objective Of The Study

There is no denying the fact that the present system of administration of justice has become inadequate to meet the needs of time. It has badly failed to keep pace with the aspirations of the people. The system is cracking and is virtually on the verge of collapse[23]. More than 2.6 million cases are reported to be pending in the Supreme Court[24] and the position in High Courts, District-Courts and Subordinate Courts is stated even more alarming. There are 19,76,776 cases pending at the High Courts level[25] and more than 35 lacs cases pending in District and Subordinate Courts[26]. Thus, the case load is so heavy that the Court-cart is grinding to a hault and managerial overhaul of the judicial process is the need of the hour[27]. There is a dire need for a comprehensive inquiry into the roots of our existing judicial system. To our surprise, there is a great contradiction for the reason that our legal system is still a colonial heritage and of Victorian vintage whereas our Constitutional scheme makes justice in its true aspects, social, economic and political - the highest imperative of Freedom and entrusts judicial administration to an independent instrumentality[28]. How long shall we continue to live this life of contradiction ? How long shall we continue to deny justice, which is after all a Constitutional

23. P.N.Bhagwati, quoted in M.G.Chitkara, Lok Adalat And The Poor (1993), p.100.
24. See, The Tribune,Dec.5,1993, p.1; Indian Express, Dec.5,1993,p.5.
25. Shriniwas Gupta, "Judicial Delays Versus Right To Speedy Trial", Link, May 24, 1993, p.32, Lok Sabha USQ No.1464,August 2,1991.
26. Ibid.
27. V.R.Krishna Iyer, "The Judicial System-Has It A Functional Future In Our Constitutional Order ?", 3 Supreme Court Cases, 1979, p.1.
28. Ibid., p.2.

commitment to our people? Frankly speaking, if we continue to deny it for long, we will do so only by putting our political democracy, which our Constituent Assembly has so laboriously built-up, in peril[29]. The solution must, therefore, be original. Pt.Nehru rightly summed up the whole situation in the following words[30]:

> "We must realise that 19th century system has passed away and has no application to the present day needs.... It has to give away and be scrapped as obsolescent material".

In the light of the observation made by Pt.Nehru, the then Prime Minister of India, we must feel it that it is a warning to all of us to be creative and have activist approach to endeavour to overhaul the old methodology being adopted by our Courts on old lines. Moreover, we need the participation of the people in the process of justice. The cry of the time is to decentralize the administration of justice and make each and every person living even at the grass-root level involved and accountable in justice disbursement process[31]. It is in this spirit that Late Rajiv Gandhi, the former Prime Minister of India, rightly concluded that Lok Adalats are a major break-through in the judicial system of our country[32]. Times have now come when the Indian judiciary must be rationalised to the tune of time and accept the reality otherwise we are fast approaching a stage where the case-load is so heavy that it will crush the present judicial

29. Ibid., p.4.
30. Quoted in V.R.Krishna Iyer, "Judicial Perestroika", Illustrated Weekly of India, Dec.31,1989-January 6, 1990, p.51.
31. See, P.C.Jain, "Time For Conciliatory Justice", The Tribune, April 15, 1993, p.6; Guman Mal Lodha, Wanted Evolution Or Revolution In Judiciary", A.I.R.1984, Journal Section, p.20; K.C.Joshi, "Our Judicial System On Trial", A.I.R. 1983; Journal Section, p.79.
32. Quoted in Nomita Aggarwal, Handbook On Lok Adalat In India (1991), p.iii.

system. Unless this problem is tackled intelligently and cautiously, the litigants might be gripped with a sense of frustration and loss of confidence in the Courts. This grave situation really remind us of the statement made by our Prime Minister Shri Narasimha Rao, who whiling inaugurating a one day meet of the Chief Ministers and Chief Justices from all over the country said, "The highest priority should be given to resolving disputes at the grassroots level by a system that is simple and inexpensive and serves the needs of the constantly changing community by giving timely justice"[33]. Meanwhile, he announced that the Government was in the process of giving statutory status to the Lok Adalat soon since they had helped in ensuring speedy, effective and economical remedies all over the country[34].

Keeping in view the importance of the Lok Adalat, the researcher has taken up the topic entitled, "Constitutional Philosophy of Lok Adalats In India: A Study With Special Reference To Himachal Pradesh" mainly to focus on the following objectives:

(i) To study the genesis of Lok Adalat institution that existed in India during ancient, medieval and Modern era.
(ii) To throw light on the causes of the gradual downfall of this scheme after Hindu Period.
(iii) To throw light on the customary mode of appointment of the Judges of Lok Adalat that remained in existence during the Hindu, Muslim and British Period.
(iv) To find out the reasons for the revival of the Lok Adalat scheme in Post-Independence Period.

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33. See, The Tribune, December 5, 1993, pp.1 and 2; also see Indian Express, December 5, 1993, p.5.
34. Ibid.

(v) To analyse the powers, functions, jurisdiction and area of operation of the Lok Adalat.

(vi) To gather views and impressions of the functionaries, advocates, disputants, politicians and the general people of the State of Himachal Pradesh regarding its functioning and effectiveness in the State.

(vii) To assess the extent of benefits derived by the people of the State of Himachal Pradesh from the Lok Adalat scheme.

(viii) To assess the role of the advocates in the functioning of Lok Adalat and analyse their view point and satisfaction about its functioning in the State.

(ix) To see the level of involvement of this institution at the grassroot level and find out as to what extent the people of the Panchayat have been associated in its functioning.

(x) To see whether the people of the State are satisfied with its functioning or whether the Lok Adalat is confined to a mere propaganda value.

(xi) To find the level of legal awareness of the people about this scheme and thereby know the attitudenal change, if any, has occured because of its functioning in the State.

(xii) To gather knowledge about the monitoring aspect of the Lok Adalat scheme and find out the source from which the Lok Adalat gets expenses being incurred on holding Lok Adalats.

(xiii) To find out as to what extent the system of Lok Adalat has inculcated the spirit of self-rule amongst the people at village/Block/District levels.

(xiv) To know whether the people of the State have a popular faith in Lok Adalat.

(xv) To analyse the role of women and people belonging to Scheduled Castes and Scheduled Tribes categories in the present scheme.

(xvi) To see whether the functioning of Lok Adalat in Himachal Pradesh has really lessened the burden of regular Court and saved them to crumble down because of the massive pendency before them.

(xvii) To assess the views of the disputants with regard to their choice of preference between Lok Adalat and the Law Court.

(xviii) To make an appraisal of the contribution made and effectiveness shown in compromising/disposal of cases and compensation awarded to the disputants in M.A.C.T. and other cases.

(xix) To find ways and means for making the Lok Adalat Scheme a successful venture and to devise relevant proposals for strengthening the existing infrastructural facilities so that the benefits of the Lok Adalat reach at the door-steps of the people at large.

(xx) To suggest measures to make the Lok Adalat institution a great success.

III. Hypotheses:

The study shall proceed on the following hypotheses:

(i) Whether the Lok Adalat as a dispute management institution has any role in the present complexed and complicated judicial system which oftenly opens a pandora box of legal questions before arriving at a conclusion and giving relief to the parties in dispute.

(ii) Whether the Lok Adalat's justice delivery system is effective and desirable in the changing socio-economic milieu.

(iii) Whether the Lok Adalat institution has the social and community acceptance in the light of the changing philosophy of our society.

(iv) Whether the Lok Adalat has any need of the Constitutional and legal sanction in the present time frame context.

IV Universe Of Study:

The scope of the present study is proposed to be confined to the State of Himachal Pradesh. The idea to limit the present study to the State of Himachal Pradesh is that the geographical social, economic, cultural and educational environment of this State is different from the States like Gujarat, Uttar Pradesh, Andhra Pradesh, Orissa, Rajasthan, West Bengal etc. So, the nature of disputes which the Lok Adalat would have to examine in Himachal Pradesh will certainly be different from the other States. All these factors would necessarily make a great deal of difference in the nature and scope of the functioning of the Lok Adalats in the State when compared with the Lok Adalats of other States. Keeping in view the varying factors in mind, the researcher has deemed it proper to conduct an independent in-depth study of the Lok Adalat institution of the State of Himachal Pradesh within a given geographical, social, economic, cultural and educational climate of the State. Thus, it would be an earnest attempt of the researcher to examine Lok Adalat scheme existing in Himachal Pradesh in its entirety with the objectives stated above.

V. Methodology

The researcher has devised the methodology of the present study in such a manner that the functional aspect of the Lok Adalat Scheme in the State can be investigated in its true perspective. The methodology primarily consists of two parts. The first part relates to the examination of the theoretical aspect of the Lok Adalat which mainly lays emphasis on the genesis, constitutional mandate, structural analysis, achievements of the Lok Adalats etc.etc. In order to know about the theoretical aspect of this scheme, researcher has used secondary information which primarily includes books of eminent authors, journals, Legal Aid Newsletters, Reports of Committees, Lok Sabha and Rajya Debates, Newspapers, projects, Reports of Law Commission, Gazetteers etc.etc. The second part relates to the practical aspect of the Lok Adalat scheme. It is purely exploratory and evaluative in nature. The researcher has collected first hand information with regard to the implementation of Lok Adalat Scheme in the State of Himachal Pradesh. The first hand information has been collected from five Stratas viz., the officials associated with the Lok Adalat Scheme, the Politicians, Disputants, Advocates and General Public.

In the first strata, the selection of the respondents from the officials associated with Lok Adalat Scheme has been made through sampling method. The reason for resorting to this method is that in Himachal Pradesh the total population consists of both tribals and non-tribals. So, in order to select a representative sample from the geographical,

economic, social, educational and cultural point of view a list of sixty respondents have been prepared having five officials each from every Districts on random basis. In the second strata, the Politicians of the State who are/were usually M.L.As of Himachal Pradesh State Assembly have been selected. The researcher has made honest attempt to cover sixty sample units of M.L.As which were/are both from ruling as well as opposite parties. In the third strata, the researcher has selected two hundred disputants by random sampling in the capacity of both plantiffs as well as the defendants of the suits. In the fourth strata professional lawyers who were usually associated as the Counsellors of the parties to suit have been selected from the High Court Bar Association, District Bar Associations and at the Sub-Divisional level. The total number of advocates selected on random basis is sixty. In the fifth strata, the general public of the State comprising one hundred and twenty samples units consisting of rural as well as urban population, government and semi-government servants, members of Scheduled Castes and Scheduled Tribes, women section and student section have been served questionnaires to inquire about the functioning of the Lok Adalats in the State. The questionnaires served on the above stated strata include a number of questions composed with a view to know through these samples units hereinafter called the respondents, about the legal awareness of the rules framed by the State Government for holding Lok Adalats in the State, criteria which is kept in mind to prepare a panel of Judges for Lok Adalat, mode of

selecting the place of holding of Lok Adalat, requirements that ought to be complied with to refer to the dispute from law Court to the Lok Adalat, yardsticks being followed to constitute the benches of Lok Adalat, the role of the advocates, role of the Judges, reasons for less references of the cases to the Lok Adalat, control mechanism to ensure effective functioning of Lok Adalat, attempts made by the Himachal Pradesh Legal Aid Board to organise literacy camps, role of the village Panchayats in promoting the functioning of Lok Adalat, inculcation of the spirit of self-rule amongst the people, attitudenal change in the outlook of the people, categories of cases being entertained by Lok Adalat, level of participation of women in the functioning of Lok Adalat, tightening of the hands of Lok Adalat by the limits of law, revival of jury system, role of Lok Adalat in the dispensation of justice, impact of the Lok Adalat on the life of the people, the degree of faith shown by the people in the Lok Adalat Scheme and the suggestions needed for the effective working of Lok Adalat in the State.

Apart from the collection of data through the questionnaires, the researcher has conducted interviews in informal sittings with the officials of the Lok Adalat which mainly include Mr.Justice Bhawani Singh, the Hon'ble Acting Chief Justice of Himachal Pradesh High Court, Shimla, Registrar (Vigilance), H.P. High Court Shimla, Member Secretary, H.P.Legal Aid Board, Shimla, Deputy Commissioners, Assistant Commissioners, District and Sessions Judge, Mandi, Chief Judicial Magistrates, Sub-Judges, Chairman, Department

of Laws, H.P.University, Dean, Faculty of Law, H.P.University, Deputy District Attorney of H.P.State Legal Aid Board, Director, Labour Bureau, Shimla, Editors of Newspapers, Executive Engineers, Advocates, the General Public, Politicians of different shades and the disputants to know about the functional strength and weaknesses of the Lok Adalat institutions.

The data collected from the various sources, original as well as secondary sources have been analysed to assess and evaluate the performance of the Lok Adalats in the State and find answers to the hypotheses raised in the present study and make valuable suggestions to accelerate the functioning of the Lok Adalats in the State.

The study comprises of six chapters. The present chapter introduces the scheme of Lok Adalat, Objective of the Study, Universe of the Study, Hypotheses framed and Methodology adopted to testify the said hypotheses.

Chapter II is devoted to trace the genesis of Lok Adalat in India. It is divided into six small heads comprising, Prelude, Ancient Period, Muslim Period, British Period and Post-Independence Period. An attempt has been made to trace the evolution of the administration of justice by the Lok Adalat from the ancient period onwards to the present era.

Chapter III exclusively deals with the Constitutional Mandate of Lok Adalats in India. It is a sincere attempt to make an analytical study of the relevant provisions which have shaped path to emerge a functional jurisprudence in the form of Lok Adalat Scheme in the country.

Chapter IV is an explanation with regard to the functional aspect of the Lok Adalat in the country. It has been divided into six small parts dealing with the prelude, nature, modalities and achievements of the Lok Adalats. Moreover, the Legal Services Authorities Act, 1987 has been discussed at length to know the philosophy contained under the provision of the Act and throw light on the powers, functions, jurisdictions of National Legal Services Authority, State Legal Services Authority and Legal Services Authorities at District level. The organisation and powers of Lok Adalat have also been discussed at length.

Chapter V is an empirical study of the functioning of Lok Adalats in Himachal Pradesh. It is exploratory and evaluative in nature. It is a field study of the twelve Districts of Himachal Pradesh with the objective to make a performance audit of the Lok Adalat Scheme which is nearly nine years old.

Chapter VI contains Appraisal of the Lok Adalat Scheme and discusses in detail the suggestions found necessary by the researcher to make the functioning of Lok Adalat effective one.

CHAPTER-II

GENESIS OF LOK ADALATS IN INDIA

CHAPTER - II

GENESIS OF LOK ADALATS IN INDIA

I. PRELUDE

The history of the evolution of courts in India goes back to Vedic times when the king, in return for the taxes paid to him by the people performed the duty of a judge[1]. It is well established fact that administration of justice did not form a part of a State's duties in early time[2]. There are many passages in ancient Hindu literature pointing to a condition of society without a king[3]. The aggrieved party had itself to take such steps as it could in order to get its wrongs redressed. The study of Aitareya Brahmana and Mahabharata discloses that in ancient days men were ruined in consequence of prevalence of anarcy[4]. They devoured one another just as the stronger fish devour the weaker ones in water[5]. Thus there was felt a dire need to create the office of kingship to avoid the situation of exploitation of weak by the stronger one. The Mahabharata stands as a testimony to the fact how a few men assembled together and agreed among themselves that the babbler, the cruel, the voluptuous and the greedy men should be disowned.

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1. See Birendra Nath, Judicial Administration in An Ancient India (1979), p.27.
2. See Dr.A.S.Altekar, State and Government in Ancient India (1977), p.245; also see Parmatma Sharan, Ancient Indian Political Thought (1982), p.478.
3. See C.P.Ramaswamy Aiyar, "Some Aspects of Social and Political Evolution in India", in S.K.De et al. (edn.) The Cultural Heritage of India (1969), Vol.II, p.497.
4. Ibid., p.498; also see Vandana Nagar, Kingship in the Sukra-Niti (1985), p.26, There is however,given a different version of this incident by Bhishma. He opines that in the Krtyayuga there was no sovereignty, no King, no punishment, and no punisher, and that all men used to protect one another actuated by the sense of righteousness.
5. Ibid.

That arrangement worked for sometimes. On seeing that it was not satisfactory, they approached to Brahma with a prayer to grant them a king. Brahma thereupon induced Manu to take up the kingship. The people agreed to pay certain taxes and prayed that in turn the king should destroy their enemies to enable them to lead peaceful life[6]. Thus, Vedic king wielded authority as the head of the judiciary. He acted as the highest authority of the judiciary and claimed himself as the upholder of Dharma of law like Varuna[7]. He appointed judges to assist him in the administration of justice and dominated the entire scene of judicial administration with the passage of time[8].

References to the functions of the king in the Rigveda repeatedly show that the early Vedic king in return for the tax paid to him by the people, performed the duty of a judge[9]. It is thus crystal clear that the origin of judicial system in India can be traced from the pre-historic Vedic times. It is certainly more than 3000 years old, if not older still[10]. The Dharmasutras tell us that the judicial powers of the king swallowed with the passage of time and the machinery for the administration of justice put into motion by him consisted of the sabha and samiti[11]. He used to impart justice with the aid of ministers and legal experts, the most important of whom as the epic and Smritis tell us was the Pradvivaka, the Chief

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6. Ibid.
7. See Rigveda, IV, 4.3, VII, 89 . 5.
8. See Supra note 1, p.35
9. See supra note 1, p.54
10. See P.B.Mukherji, "The HIndu Judicial System", in S.K.De et al., op.cit, p.434.
11. See Atharvaveda 4.22.3.5, 8.9.16.

Justice. He also find similar references in Manusmriti. He speaks of the king's court as Sabha which was designed to look after the judicial matters and was presided by the king himself[12]. The study of Dharmasutras also discloses that with the passage of time king started delegating his judicial authority or atleast the supervision of punishment to a Royal Officer or a Rajanya who could act as an adhyaksha (overseers)[13].

The most pronounced feature of Hindu polity was that law was administered by the Sabha. Normally, it was the Sabha or the popular village assembly rather than the king who tried to arbitrate when it was feasible to do so[14]. Though the king became the above all, he did not become the source of law; he remained simply its holder. He was guided by Dharma. He was expected to live upto the ideals of kingship as laid down in Dharmasastra. In his functions of administering justice, he had to act according to the advice of the priests and learned Brahmanas[15]. So far as judiciary was concerned, the king appointed judges to help him in administering justice, he himself remained head of the administration of civil law and penology[16].

We have a substantial corroboration of the fact that in the later Vedic Samhitas and Brahmanas the old Vedic tribal councils called the 'Sabha' developed into the king's court as well as his council[17]. The Dharamasastra and Niti Sastra

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12. See Manusmriti, Chapter VII.1.
13. See R.C.Majumdar, The History and Culture of the IndianPeople: The Vedic Age (1965), Vol.I, p.494.
14. See A.S.Altekar, op.cit., p.246.
15. See supra note 1, p.35.
16. Ibid.
17. See Parmatma Sharan, op.cit., p.471.

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regard the king as the fountain-source of all justice. He was also the highest court of appeal. Whether a king decided a case properly or not, there was no appeal against him, although he was expected to decide cases according to law[18].

The judges were always helped by the community in the administration of justice[19]. The system of trial by jury prevailed. Gautama observes that that the king shall ascertain the law from those who have authority over these respective classes and shall give his decisions accordingly[20]. Again, we are told by Vasishtha that cases are to be decided, evidently by the local judicial authority on the evidence of elders of the town or the village, or else of the 'Srenis' when there is conflict between the documentary evidence[21]. Kautilya and Brihaspati indicate that disputes should not be decided by the king unaided, but with the help of those learned in the three Vedas[22]. Manu clearly says, "If due to the other works of administrative nature the king is unable to attend to the work of administration of justice, king must appoint a learned Brahmana together with three Sabhyas to decide the disputes of the people"[23].

The study of Arthasastra of Kautilya reveals that there were two types of judicial courts viz., (i) Dharmasthiya or the civil courts, and (ii) Kantakasodhana or the criminal courts[24]. Besides the two important courts, a large number of

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18. Ibid., p.472.
19. See K.P.Jayaswal, Hindu Polity (1967), p.311.
20. See U.N.Ghoshal, A History of Indian Republic Life (1966), Vol.II, p.126.
21. Ibid.
22. See S.D.Sharma, Administration of Justice in Ancient India (1988), p.170.
23. Ibid., p.174.
24. See supra note 1, p.62.

popular courts also functioned. It is witnessed from the Arthasastra or Kautilya that there was decentralization of the administration of justice with a view to avoid delay and other complications connected with the investigation of cases. Thus a sense of public responsibility in all aspects of village life was expected from every village[25]. Kautilya and Manu have given two different systems of gradation of courts. Kautilya has not given much importance to popular courts as is the case with Manu. In the scheme of Kautilya courts were instituted at Sangrahana, Dronamukha, Sthaniya and where districts met[26]. According to the scheme of Manu, adopted by Yajnavalkya, Narada, Brihaspati and Katyayana the Sabha system formed the basis of forming and grading courts. A headman was appointed over each villages consisting of 10, 20, 100 and 1000 respectively. These courts were known as popular courts and were termed as the Kula, Sreni and Gana courts. They were within the easy reach of the people. The ideal behind these courts was to enable each and every person to receive proper justice without delay. The relationship between the popular courts and king's court was well defined. Brihaspati states that the Sabhyas occupied higher position than that of the Kulas, and the Adhyakshas were above the Sabhyas and the king was above all[27].

It is thus generally considered as a long established policy of the governments in ancient India to encourage the

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25. Ibid., p.65.
26. Ibid., p.71.
27. Ibid., p.72.

people courts and enforce their decisions. Though, these courts were essentially non-official and popular, they had the royal authority behind them. Yajnavalkya claims them as sanctioned by the court[28].

The author has earnestly endeavoured to develop the systematic growth of the Lok Adalats with the help of ancient literature and modern treatises on this subject. The discussion has been divided broadly into four parts dealing with the genesis of the Lok Adalats in India during Ancient period, Muslim period, British period, and Post-Independence period. An attempt has been made to highlight the evolution, composition, and functioning of the Lok Adalats in India during the above referred to periods with an objective to explore the scope of improvement of the functioning these popular courts in India.

II. ANCIENT PERIOD

(i) NATURE, GRADATION AND JURISDICTION OF LOK ADALATS:

Administration of justice by people's courts and concomitant people's participation in India is as old as the village itself[29]. Justice through the people's court has remained a distinct feature of our judicial system since time immemorial[30]. Their foundation in India seems to have been imbibed in the Indian culture and civilization[31]. The beginning of administration of justice through popular courts goes back to the vedic age.

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28. Ibid.
29. See R. Sahai, Panchayati Raj in India (1968), p.95.
30. See Saptahik Bhaskar, April 6, 1986, p.2.
31. See M.N.Morje, "Lok Nyayalaya: A Place For Common Man in Changing Society", AIR 1984 Jour., p.68.

Popular courts or people's courts are for the first time mentioned in Yajnavalkya Smriti. They are unknown to the Dharmasutra as well as to the Manusmriti[32]. Yajnavalkya mentions three types of popular courts viz. (a) Puga, (b) Sreni, and (c) Kula[33]. Brihaspati also agrees with the views of Yajnavalkya and points out that an appeal lied to the Sreni court from the decision of the Kula court and to the Puga court from the decision of the Sreni court[34].

Kautilya observes that there was a dichotomy between the rural and urban branches of judicial administration; the 'Dharmasthas' or judges in the rural areas being the counterpart of the 'Pauravyavaharika' or the town judge and both being distinguished from the corresponding officers of the executive administration, namely the 'samaharta' in the rural and, the 'Nagarika' in the urban areas[35]. The study of Kautilya's Arthasastra reveals that the courts of Dharmasthas' were located at the junctions of two territories (Janapadas) and at the headquarters of 800, 400 and 10 villages called 'Sthaniya', 'Samgrahana', and 'Dronamukha' respectively[36]. 'Sthaniya' courts were vested with the powers to deal with suits between two adjoining Janapadha[37]. The first class of courts dealt with suits between subjects of two adjoining janapadhas. In the three other classes of courts the Dharmasthas (rural judge) deciding judicial matters at their

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32. See A.S.Altekar, op.cit., p.251.
33. Ibid.
34. Ibid., also see R.C.Majumdar, The History and Culture of the Indian People: The Age of Imperial Unity (1968), Vol.II, pp.353-354.
35. See supra note 20, p.125.
36. Ibid., also see, D.Devahuti, Harsha: A Political Study (1983), p.211.
37. Ibid., also see, Sten Konow, Kautalya Studies (1975), p.36.

respective headquarters formed three grades and acted as itinerant justices. The court of the Dharmasthas was constituted in benches of three of these officers, who were all equipped with amatyas qualifications[38]. It appears from the study of Kautilya that there was decentralization of judiciary to a great extent. With an exception that there was inherent right of appeal to the king's court. The court presided over by the king was the highest court and the decision of the king's court was considered to be the final verdict[39].

Vedic literature gives us indications which lead us to believe that normally it was the Sabha or the popular village assembly who tried to arbitrate when it was feasible to do so. This belief is based upon the circumstances that in the 'Purushamedha' sacrifice, a 'Sabhachara' is dedicated to Dharma or law. If the term 'Prasnin' and 'Abhiprasnin' really mean plaintiff and defenddant, they must be referring to those litigants who submitted their disputes for settlement to the village Sabha either voluntarily or because they were too weak to help themselves[40]. Madhyamasi was rather an arbitrator than a judge[41].

Narada points out that there was a provision of appeal against the village courts decision. Appeal against the order of the village court could be possible to the city court. The order passed by the city court could be challenged in appeal

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38. Ibid.
39. See, M.Rama Jois, Legal and Constitutional History of India: Ancient Legal, Judicial and Constitutional System (1990), Vol.I, p.490; A.S.Altekar, op.cit., p.247, also see supra note 19, p.102.
40. See A.S.Altekar, op.cit., p.246.
41. Ibid.

in the king's court who was the highest appellate court[42].

The existence of people's court in ancient India finds mentioning in Narada Smriti. To quote him: "Law suits may be decided by the village councils (Kulani) Corporations (Sreni), assemblies (Puga) in Yajnavalkya, Gana in Narada, the judges appointed by the king, and the king himself, each later one being superior to each preceding one"[43]. Besides these people's courts other courts like Pratisthita (i.e. court established in a fixed place such as a town), Apratisthita (circuit court or Nanagrameapratisthita), Mudrita (court presided over by a judge who is authorised to use the Royal Seal) and Sasita (court presided over by a king himself) were also recognised by the Dharmasastra writers as well as by the commentators and the digest writers[44].

P.V. Kane is of the opinion that Kulani, Sreni, and Puga were the arbitration tribunals like modern panchayats or the Lok Adalats of Today[45]. The study of Yajnavalkya also discloses that they were the courts in hierarchy, the highest being the court of the king himself and the lowest on the ladder was the village council[46]. Whatever was the nature of these bodies, almost all the Smritikaras share a common view to the extent that judicial power was confided with them which implies that in the epochs of Hindu legal history the administration of justice was not the sole concern of the king

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42. Ibid., p.247, M.Rama Jois, supra note 39, p.492; also see R.C.Majumdar, The History and Culture of the Indian People: The Classical Age (1970), Vol.III, p.863.
43. See Narada, quoted in S.D.Sharma, op.cit., p. 167.
44. See Brihaspati quoted in S.D.Sharma, op.cit., p.166.
45. See, P.V.Kane, History of Dharmasastra (1973), Vol.III, p.280.
46. See, Yajnavalka quoted in S.D.Sharma, op.cit., p.167.

alone but the people also shared the burden of the State in administering justice[47]. His view is also shared by U.C.Sarkar who opines that the people were intimately and directly connected with the judicial matters through these popular courts[48].

We also find references about the functioning of people's court in the work of Bhrigu who remarks that there were ten tribunals common to all men, viz., (i) the village people, (ii) the assembly of the citizens of the capital, (iii) Gana, (iv) Sreni, (v) men learned in the four Vedas, (vi) vargins (vii) Kulas, (viii) Kulikas, (ix) judges appointed by the king, and (x) The king himself. According to him, there was existing a peculiar judicial system for the dissolution of disputes amongst the trial people. The people living in forests used to get their disputes settled by forestors, members of caravans by other members, soliders by a tribunal of soldiers and those who stayed in the village as well as in the forests could get their disputes settled either by villagers or forestors by mutual agreement and that five tribunals for forestors and others were Kulikas (high officers or head of the families), Sarthas (members of caravans), headmen, villagers and citizens[49]. Thus, it is quite evident that the administration of justice was being carried out in direct participation with the people of the area where the disputes arose. We also find sufficient

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47. Ibid.
48. See, U.C.Sarkar, "The Socio-Legal Bearing on Expiation on the Conception of Karma, Hell and Transmigration", II Law Review (1965), Vol.XII, No.1, p.119 (April Issue).
49. See, Bhrigu quoted in S.D.Sharma, op.cit., p.169.

description of the fact that the disputes about the boundaries of the villages and about fields in a village, four, eight or ten neighbour were to settle the boundaries[50].

We also find mentioning in Smriti Chandrika to the fact that there existed courts of different descriptions which may be enumerated as under[51]: (i) Aranyasabha, an assembly of forestors; (ii) Sarthisabha, that compose of merchants, (iii) Senikasabha, the members of which were appointed from among military men; (iv) Ubhayanumatasabha, that chosen by parties themselves; (v) Gramavasisabha, composed partly of the villagers and partly of strangers, or of civil and military persons together; (vi) Gramasabha, a village court in which the Mahajenams or heads of the caste are assembled to settle dispute arising in the village; (vii) Purasabha, a town or city court; (viii) Ganasabha, an assembly composed of all the four classes indiscriminately, (ix) Srenisabha, an assembly composed of all the inferior classes, or castes such as washermen, barbers, and for deciding causes among their own tribes; (x) Chaturvidyasabha, that composed of persons learned in all the four sastras; (xi) Vargasabha, an assembly of irreligious men, (xii) Kulosabha, a meeting composed of persons of the same family, (xiii) Kulikasabha in which the relatives of the plaintiff and defendant meet to discuss the matter; (xiv) Niyuktasabha, a court held by a deputy or chief judge, regularly appointed by the king with the sabhasads or

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50. See Manu quoted in S.D.Sharma, supra note 22, p.169; also see, H.S.Bhatia, Origin and development of Legal and Political System in India (1976), Vol.I, p.17.

51. See H.S.Bhatia, supra note 50, pp.16-17; Manmath Nath Dutt, The Dharam Shastra (1979), Vol.V, p.254.

assessors. This was sometime called Mudritasabha as it was presided by Pradvivaka, or chief the judge in Virtue of the king's mudra or seal with which he was entrusted and sometimes also, Pradvivakasabha after the name of presiding officer; (xv) Nripasabha, or king's court which is also called Sastrita, because the king was assisted by persons skilled in sastras, and all decisions passed here were final. The rule of appeal was that it could lay from an inferior to superior court in regular succession to the king's court. These popular courts were assisted by a jury to facilitate the speedy and earlier disposal of the pending cases. The members of the jury appear to have acted as mediators between the parties who could not proceed to higher tribunals without passing the lower[52].

Going back to the oldest literature of the race, we gather from the study of Vedas that our national life and activities in the earliest times were being regulated by our popular assemblies known as the Samiti and the Sabha[53]. The whole people were supposed to be present in the assembly. From the passage in the 'Hymn to the land' of the Artharva-Veda, where the Samities of the whole land are referred to, it seems that those who were assembled (samgramha) were the 'villagers together' (samgrama)[54]. The village, as a collective unit, has thus remained quite popular. It is thus evident that the village formed the basis of the constitution

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52. See H.S.Bhatia, supra note 50, p.17, Manmath Nath Dutt, op.cit., p.254; Vandana Nagar, op.cit., p.50, also see P.B.Mukherji, op.cit., p.436.
53. See, supra note 13, p.433.
54. See, supra note 19, p.15, P.B.Mukherji, op.cit., p.434, and also see, supra note 13, p.489.

of the samiti if not, originally, certainly in later times[55]. The Sabha acted as the judicature. In Vedic literature, the expression Sabha is used in several senses, judicial function being one of them[56]. The judges were always helped by the people in the administration of justice. They made up the Sabha and were, to quote a modern world, the jury of the court[57]. The law was always administered by the people's council (popularly known as Sabha). However, the Sabha had not the same history as of the 'court'. It was not an outcome of the king's household but of the Vedic folk-assembly[58].

Altekar opines that it was the considered and long-established policy of the governments in ancient India to encourage the people's courts and to enforce their decisions. Though these courts were essentially non-official, yet they had the royal authority behind them[59]. The sole idea behind according sanction by the king to these courts was that they should flourish. There were several reasons to appreciate and encourage the popular courts. To quote him, "Ancient India appreciated and encouraged the people courts and guild courts for several reasons. They encouraged the principle of self-government. They reduced the burden of central administration. And above all they helped the cause of justice. The members of a popular court or guild courts have more or less reliable knowledge of the facts in disputes as the parties belonged to their guild or locality. It is difficult for a witness to come

55. See, supra note 19, p.16.
56. Ibid., p.19.
57. Ibid., p.311.
58. Ibid., p.317.
59. See supra note 32, p.253.

to a village court and tell a brand lie in the presence of his compeers whose respect he will be thereby forfeiting"[60].

The study of Sukra-Niti discloses that Kula, Sreni and Gana formed the threefold hierarchy of bodies of self-adjudication[61]. Sukra mentions in his treatise that wherever these three bodies failed, the king along with his officer was entitled to interfere[62]. The views of Sukra have also been shared by P.N.Mukherji who is of the view that during the evolution of Hindu judicial system, the administration of justice had become quite complicated. During this period there were really two sets of courts available to the litigants. (i) There were the courts directly under the authority of the State, (ii) there were the courts of popular character constituted by the people themselves either through local sabhas or panchayat or village councils or even family or tribal councils[63].

According to Colebroke, there existed two different sets of courts in ancient India. The first set of courts was known as State Courts and the second set of courts was known as the people's court. The State courts, where people could go for redress, were[64]: (i) The court of the sovereign assisted by the learned brahmins as assessors[65]. This was known as King's court or King-in-Council. It was ambulatory and was held wherever the king sat or went, (ii) The 'Tribunal' of the Chief Justice or the pradvivaka appointed by the sovereign and

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60. Ibid., p.254.
61. See, Vandana Nagar, op.cit., p.51.
62. Ibid.
63. See supra note 10, pp.439-440.
64. Ibid., p.440.
65. See supra note 13, p.437.

sitting with three or more assessors, not exceeding seven. This was the Supreme Court. It was stationary court held at an appointed place, (iii) The subordinate judges appointed by the sovereigns authority for local areas and local jurisdictions. From their decisions, appeals used to lie to the court of Chief Justice and thereafter to the King-in-council. Besides State courts, the people's courts were functioning who used to deliver justice to the people with the help of jury of the locality where the courts functioned. The three different types of popular courts mentioned by Colebrooke were[66]:(i)Puga, (ii) Sreni, and (iii) Kula. The court of Puga was in assemblage of townsmen or meetings of persons belonging to various tribes and professions, but inhabiting the same place. The Sreni was represented by companies of traders or artisans or persons belonging to different tribes, but subsisting by the practice of the same profession. These appeared to be Industrial Courts or the Courts of Professions or Courts of disciplinary bodies of different professions. The Kula court was connected by consanguinity, mainly confined to personal and family laws and customs. The rules with regard to appeals were that the decisions of Kula were revisable by Sreni courts, and the decisions of Sreni courts by the Puga courts[67]. From the decision of the Puga, an appeal could be made to the Supreme Court and finally thereafter to the King's court i.e. to the court of the sovereign[68]. It is thus apparent from the

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66. See supra note 10, p.440; supra note 13, p.488; also see R.C.Majumdar, Corporate Life in Ancient India (1969), pp.128-129.
67. See supra note 10, p.440.
68. Ibid.

foregoing study that there was a well established hierarchy of courts and appeals with well defined jurisdictions in the existing Hindu judicial system[69].

Medhatithi also throws an interesting light on the nature of the hierarchy of courts in ancient India. Referring Narada as his text, he defines Kula as 'the body of relatives', Sreni as 'a body of traders and others following the same professions', Ganas as 'persons who always move about in groups', and unlike Srenis act collectively[70]. T.V. Mahalingam in his famous book has made the mentioning of popular courts in South-India. He opines that people's courts of various grades functioned in different parts of the country. Manram, avai and avaikalam were the popular courts in the Sangam Age. During the Vijaynagar days the 'nayakas' who were semi-independent rulers in their respective areas enjoyed powers of judicial administration, held courts and decided cases that came up before them. Besides such regular courts, there were a number irregular but popular courts, which were recognised by the government and allowed to dispense justice in cases which arose within their jurisdiction. The existence of these popular courts was justified on the ground that in those days there was lack of easy and quick communication in the country and therefore it was not possible for all people to seek justice at the hands of the regular courts which were few and located at distant

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69. See, H.R.Khanna, Judiciary in India and Judicial Process (1985), p.5.

70. See, R.C.Majumdar, The History and Culture of Indian People: The Age of Imperial Kanauj (1955), Vol.IV, pp.249-250; also see, Parmatma Sharan, op.cit., pp.480-482.

places. Further, cases, which required a good knowledge of the differing local customs and practices of the people, could more easily be enquired into by men of the locality. Thus these local courts enjoyed all the judicial and magisterial authority of a regular court. Even women served on the judicial committee of the village assemblies[71] existence of popular courts is attested by the Rig-Veda and the Atharva-Veda, and later, by the Chandogya Upanishad (800 or 700 B.C.) which marks the end of later Vedic period[72].

These popular courts have also been mentioned frequently in the Buddhist literature and the Mahabharata gives a glorious accounts of the functioning of these courts at village level. There is definite evidence to show that the people's court continued to function down to the eighteenth century and can be claimed to have existed in India even thereafter[73]. It is likely that the popular village courts played a prominent role almost throughout the long course of Indian history for the reason that these courts really reduced the burden of Central judicial administration and paved a solid path towards the realisation of self-government.

(ii) COMPOSITION, POWERS AND FUNCTIONS OF LOK ADALATS

Hindu scriptures[74] entail a detailed information relating to composition of popular courts that remained quite active in ancient India. The most important and authorative

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71. See, T.V.Mahalingam, South Indian Polity (1955); pp.213-215, also see, Mukherji, op.cit., p.441.
72. See, supra note 19, p.16.
73. See, supra note 32 at p.252; also see Fourteenth Report of Law Commission of India (1958), Vol.II, p.874.
74. See, M.K.Sharan, Court Procedure in Ancient India (1978), p.4.

source of legal literature in this regard is found in the Smritis. All the legal principles here and there scattered in the Vedas and also those included in the Dharmasutras as well as the customs or usages which came to be practised and accepted by the society, have been collected together and arranged subject-wise in systematic manner[75]. The codification of the Smritis and the development of Mimamsa gives ample scope to the jurists to contribute to the further development of law with regard to the composition of popular courts which were considered as a primary unit of the disbursement of justice at the village level. A careful study of numerous Nibandhas (commentaries and digests) have been accepted and followed by the society and quoted by the courts in the past whenever there arose the question of rules and regulations to be followed by the popular courts in their day to day business.[77]

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75. For detail see, Manu Smriti, Yajnavalka Smriti; Narada Smriti, Parashara Smriti, Brihaspati Smriti and Katyayana Smriti.

76. See, Mitakshara by Vijnaneswara; Dayabhaga by Jimutavahana, Smritichandrika by Devannabhatta; Vivada Ratnakara by Chandeswara; Parashara Madhaviya by Madhavacharya, Vivada Chintamani by Vachaspati-Mishra; Vivada Chandra by Laxmidevi; Saraswati Vilasa by Pratapa Rudradeva, Dayatatva by Raghunandana, Vyavahara Nirnaya by Vardaraja; Vyavahara Mayukha by Nilakantabhatta; Viramitrodaya by Mitramisra, Nirnaya Sindhu by Kamalakare; Yajnavalka Dharmasastra by Apararka; Dattaka Mimamsa by Nandapandita; Dattakachandrika by Kubera, and Dayakarma Sangraha by Srikrishna Tarkalankar.

77. See, M.Rama Jois, supra note 39, p.24.

It is revealed that the legal life of small towns and villages did not fall under the direct spheres of action of the king and remained under the jurisdiction of his representatives as long as no appeal was made against the judgements given by them to the king, who was the highest authority[78]. This view is also supported by R.C.Majumdar. To quote him, "The village administration was self-contained. It functioned smoothly, whoever became the king at the centre. The central government did not interfere with local administration but exercised only general control, being mainly concerned with the subject of the land, revenue and defence. The village community functioned as miniature state having even the power of administering civil and criminal justice[79].

The study of legal system prevalent in ancient India shows that the small towns and villages enjoyed a systematic and efficient judicial set up. An inscription of King Parantaka found at Uttaramerur discloses several categories of village communities like: (i) Annual Committee, (ii) Garden Committee, (iii) Tank Committee, (iv) Gold Committee, (v) Panchaware Committee, and (vi) Justice Committee[80]. We also find mentioning in Sukranitisara that there were Sashanadhipati and Gramanetri to lookafter the judicial affairs of the village. The members of the Justice Committee were appointed by people's vote in accordance with the rules made for conducting their election[81]. Brihaspati States[82] that there

78. See supra note 1, p.141.
79. See, R.C.Majumdar, The History and Culture of the Indian People (Second end.), Vol.III, pp.359-360.
80. See, Annual Reports of Archaeological Survey of India (1904), p.131.
81. Ibid., pp.142-145.
82. See Brihaspati, quoted in M.Rama Jois, supra note 39, p.677, also see, R.C.Majumdar, Corporate Life in Ancient India (1969), Chapter II, p.135.

were two to five persons selected as advisors and their advice was required to be followed by the villagers, the guilds, the corporations and others. The heads of Kulas, guilds and corporations were empowered to inflict punishment by way of reprimand, censur and ex-communication from the caste. This however had to be approved by the king.

There were a number of popular courts which were recognised by the government and allowed to dispense justice in cases that arose within their jurisdiction. These popular courts were mainly held by the village assemblies, temple, trustees, guilds and the caste elders[84].

A detailed survey of the Hindu judicial system and the historical evidence available concludes that there was the highest court located at the capital city. Besides this, court lower courts and people's court were also functioning with the power to adjudicate upon the disputed matters. The apex court known as the King's court was presided over by the King. The judges of the lower court functioned under the supervision of the judicial officers appointed by the King[85]. At village level, people's courts were functioning under the overall supervision of the King. Narada and Brihaspati have mentioned Nripa, Adhikrita, Gana, Sreni and Kula invested with the power to decide cases. Among these each of the courts mentioned earlier was superior to the one mentioned later[86].

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83. See, T.V.Mahalingam, South India Polity ((1955), p.211.
84. Ibid.
85. See, M.Rama Jois, supra note 39, p.490.
86. Ibid.

The people's courts had the authority to decide civil and criminal cases except those involving trial for an offence committed with violence (Sahasna). They had no authority to administer sentences of fines and corporal punishments. The matter had to go before the King, who alone had the power to execute such sentences if it met with the approval[87]. For deciding cases both civil and detailed nature officer's were appointed by the King. He appointed a Lord over each village as well as Lords for ten villages, Lords for twenty villages, Lord of a hundred villages and Lord of thousand villages[88]. The Lord of one village was subordinate to the Lord of ten villages, the later, to the Lord of twenty and so on. Each subordinate Lord was bound to inform his immediate superior Lord full details of the crime committed in his village or villages. Similarly, in towns there were superintendents of all affairs who were entrusted with the responsibility of personally visiting and supervising the system of justice at these levels. They were assisted by the spies. The spies used to give them information about the behaviour of all judicial officials in their districts. The King had a minister who kept a general control over the affairs of all the officials who were connected with the decision of crimes committed in towns or villages[89].

The study of Hindu scriptures further shows that the Grhapati[90] (head of the family) was vested with the enormous

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87. See, J.R.Gharpure, Manusmriti With The Bhashya Of Bhatta Medhatithi (1920), p.37.
88. See, supra note 74, pp.16-17.
89. Ibid.
90. See, Manu, quoted in M.K.Sharan, supra note 74, p.17.

powers to decide all matters of dispute of household. He was empowered to correct a wife, a son, a servant, a pupil and a younger brother when they committed false and administer punishment prescribed by the scriptures. The Kulas, the Srenis, the Pugas were similarly almost autonomous in their powers of investigation and decision of disputes in their own jurisdiction. Grhapati was the smallest court for judicious decisions in his family whereas the King of the country happened to be the uppermost and supreme court for all civil and criminal cases in his kingdom[91].

(iii) HIERARCHY OF LOK ADALATS

The king appointed the judges and assessors who were empowered by him to decide all matters of litigations. The prevailing people's courts, according to Brihaspati[92], were of the following three types:

A. Gana

B. Sreni, and

C. Kula.

A. GANA

Lee has rightly observed that villagers had their judicial system of their own. To quote him, "The Royal System did not harmonize with the spirit of the day. The villagers had a judicial system of their own at once familiar to and

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91. See, Manu quoted in M.K.Sharan, supra note 74, p.17.
92. Ibid., p.18.

respected by them, the various traders and guilds had a similar system. The presiding officer of the popular courts or the guild courts had office either by election or inheritance according to local custom. With him were associated three or five men. In these apparently private courts settled the affairs of the every day life. In case of grave crimes or when the condemned party refused to obey the judgement of the local court, the court of the King was concerned with litigation"[93].

The word 'puga' or 'gana' appear to have denoted the local corporations of towns and villages during the Post-Vedic period. Thus we find in Viramitradaya 'ganasabdah pugaparyayah and again pugahsamuhah bhinnajatinam bhinna-vrittinam ekasthanavasinam gramanagaradisthanam. Vijnanesvara also, in his commentary to Yajnavalkya, explains gana as 'gramadijana-samuha'. Both these terms no doubt denoted, in general merely corporations, but they were sometimes technically used to denote corporations of particular kinds, as in the present instance the commentators explain them as a village or town corporation[94]. The study of Chullavagga shows that the work puga has been used to have a sense of corporation of a town or a village[95]. These were comprised of the communities residing either in village or in towns. They included the person dwelling in the same place irrespective of their caste or employments vested with the powers to decide cases in which the local public were interested. Yajnavalkya opines that the

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93. See, Lee quoted in M.K.Sharan, supra note 74, pp.24-25.
94. See, R.C.Majumdar, supra note 66, pp.128-129; also see Nanajatiyah Anlyatavrittayah Arthakamapradhana Samghapugah (Ist edn.), Vol.1 3, p.112.
95. Quoted in R.C.Majumdar, supra note 66, p.129.

puga court consisted of members belonging to different castes and profession but staying in the same village or town[96]. The puga court functioned as an agency of adjudication other than official ones. In the Vijaynagar administration this court was called 'Amukhya' or 'secondary court' to distinguish it from the royal tribunals[97]. We find a detailed description about the nature and composition of puga courts in the philosophy of Altekar. To quote him, "The Puga court consisted of members belonging to different caste and profession but staying in the same villages or town. If the Sabha or village assembly of Vedic period was occassionally settling the village disputes, the Sabha court would be the earlier prototype of the Puga court. Gramyavadi of the Taittriva Samhita would be probably a member of that court. The Gramavriddha court of the Arthasastra would also be the forerunner of the Puga court. Puga court later became known as Gota court in Maharashtra and Dharmasasana in Karnataka"[98]. The Mahajans (elder) of the village and twelve village servants were represented upon it and it use to decide private disputes[99]. The study reveals that the decisions of the Puga courts were enforced by the State and executed the decrees of the Puga courts with a view to encourage the principle of self-government to reduce the burden of the central administration[100].

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96. See, supra note 74, p.26, supra note 87, pp.32-33; also see supra note 1, p.76.
97. See, A.S.Altekar, op.cit., p.251.
98. Ibid., p.252, also see, supra note 1, p.74.
99. Ibid.
100. Ibid., p.254.

R.C.Majumdar is of the view that Puga courts remained in existence in the earliest Buddhist period also. The Puga continued to be regarded as a corporate judicial unit throughout the Post-Vedic period and got recognition as the judicial unit in the State fabric[101].

It is quite evident from the philosophy of Brihaspati[102] that the Puga[103] courts were well known to the king and were empowered to decide the disputes of litigants excepts those that fell under 'sahasa'. Thus it was only the King who could carryout the orders for fine or corporal punishments, i.e. the Puga courts could only disputes not involving 'sahasa' and they had no jurisdictions to execute their decrees about fines and corporal punishments, but that their decisions had to be filed with the King, who, if he did not disapprove of them, put them into execution[104].

It is thus crystal clear that Puga court played a prominent part almost throughout the long course of Indian history. The evidence of the existence and continuity of the Puga court is provided by Manu, Yajnavalkya, Brihaspati, Katyayana and Narada. Though the Puga courts were non-official they had the royal authority behind them since they were sanctioned by the King with the result that government had been advised to execute their decrees because the State had delegated these powers to them. It is also equally evident that it enjoyed an appellate jurisdiction in all cases decided by the subordinate popular courts known as Sreni and Kula.

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101. See, R.C.Majumdar, supra note 66, p.129.
102. See supra note 45, p.281.
103. It is revealed from the study of Vyavaharaprakasa that the word 'gana' and 'puga' are synonymous.
104. See supra note 45, p.281.

B. SRENIS

The Srenis was an association of persons engaged in similar pursuits[105]. It was an association or a corporation of merchant guilds. The term Sreni was used to denote the courts of guilds which became a prominent feature of the commercial life in ancient India. The basic feature of the Sreni court was that its members belonged to the same caste as a rule but they could also come from different castes. The Mahabharata reveals that these courts were vested with the powers to decide matters relating to their special callings or trade[106]. The Dharmasastra and Nitisastra show to us that the Sreni courts had jurisdiction to resolve the dispute among their members. The Srenis had their own executive committees of four or five members and it was likely that these committees functioned as the Sreni courts when the effort at the family arbitration failed[107]. In the Vijayanagar administration Sreni courts were called Amukhya or secondary courts to distinguish them from the royal tribunals[108]. Altekar states that the Sreni courts were the courts of guilds and became a prominent feature of the commercial life in ancient India from 500 B.C. There are definite evidences to show that these courts continued to function down the eighteenth century and remained in existence through the length and breadth of India[109]. The Sreni courts were vested with the power to decide all disputes except those falling under the title 'sahsna'[110]. They had the authority to decide

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105. See supra note 74, p.26.
106. Ibid., p.27, also see Shraddhakar Supakar, Law of Procedure and Justice in Ancient India (1986), p.107.
107. Ibid.
108. See A.S.Altekar, op.cit., p.251.
109. Ibid., p.252
110. See M.Rama Jois, supra note 39, p.491.

all civil and criminal cases except those involving trial for an offence committed with violence[111]. They had no authority to execute sentences of fines and corporal punishments. The matter had to go before the King, who alone could execute such sentences if met with his approval[112]. Vijnanesvara describes Sreni as agencies of adjudication other than the official ones. Brihaspati was of the view that the Sabhyas occupied higher position than that of Sreni[113]. The Sreni court had appellate jurisdiction and the appeal lied against the decision of Kula courts in the Sreni courts.

C. KULA

Kula was the lowest court, headed by Kinsmen[114]. Kula was a meeting of persons collectively related by blood as of a family or tribe. They could also be related distantly by marriage[115]. Mitaksara defines Kula as a group of relatives (of the parties to the dispute). All social matters concerning that particular community could be investigated and decided at this level[116]. The Kula court was the informal body of family elders. Kulani has been also interpreted as the officer who presided over the groups of eight or ten villages and received land grant proportion to one family[117]. The Gopa of the Arthasastra was the incharge of such units of villages and they might well have had an informal court of their own

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111. Ibid.
112. See supra note 87, p.37
113. See supra note 1, p.72.
114. See M.G.Chitkara, Lok Adalat and the Poor (1993), p.22.
115. See supra note 74, p.27.
116. Ibid.
117. See supra note 45, p.280; supra note 1, p.73; and also see Sharaddhakar Supakar, op.cit., p.107.

consisting of family elders[118]. Aparaṛka defines Kulani as 'husbandmen', and according to Smriticandrika it meant 'the agnates of the parties[119]. Gupta records[120] referring to the officer Kulika, and Ashtakuladhikarana are taken as supporting the above interpretation. But it is not unlikely that members who have descended from a common family may have looked for settling certain disputes to an organisation representing the group concerned when Kuladharma was recognised as playing important role in matters of imparting justice. Even official courts when deciding cases were to take into account the Kuladharma of the parties concerned. Therefore, it is quite logical to infer the functioning of tribunals concerned with specific Kulas. When the effort at family arbitration failed, the matter was taken into the Sreni court.

The study shows that Kula courts were vested with the powers to discharge judicial functions and was considered to be the lowest popular court in the entire strata of local courts[121]. It enjoyed the judicial functions but was considered to be inferior in jurisdiction to officers appointed by the King. It was an arbitration tribunal or the Lok Adalat of Today[122]. Medhatithi on Manu VIII. 2 defines the village council (Kulani) as group of relatives which used to be the impartial persons comprising of agnatic and cognative of the litigants. They were paid salary to discharge their judicial functions[123]. The judicial powers were vested

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118. See A.S.Altekar, op.cit., p.72.
119. See supra note 45, p.280.
120. See Sharaddhakar Supakar, op.cit., p.107.
121. See supra note 22, p.167.
122. Ibid.
123. See supra note 45, pp.280-281.

in it and the functioning of the Kula court was organised on the basis of the sovereignty of the people. The idea behind this court was that the administration of justice was not the sole concern of the King alone but the people also shared the burden of the State in the administration of justice[124]. To conclude, Kula court was the informal body of family elders taking cognizance of quarrels arising in family units of ten, twenty or forty villages[125]. The functioning of this court concerned with specific Kulas. However, the matter was taken into the Sreni court whenever the effort at family level failed[126].

(iv) JUDICIAL PROCEDURE OF THE POPULAR COURTS

In the early Vedic times, we do not find any reference as regards the establishment of judicial procedure[127]. However, the Rigveda gives, for the first time some clue as civil law and it is on this basis that Roth and Zimmer, accept the existence of mediator (Madhyastha) and judge in the early society. According to the MacDonall and Keith, the King had very little to do with judicial procedure. Generally justice was administered by the King's judges[128]. A clear reference to judicial procedure is available from the time of Brahmans. But justice was still to be done with the help of the mediator.

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124. See supra note 22, p.167.
125. See supra note 74, p.27; also see A.S.Altekar, op.cit., p.252.
126. See supra note 1, p.73.
127. See supra note 1, p.127.
128. Ibid.

The republics had their own laws and the Hindu legal authorities recognised the law of the (Kula States) as well as those of the Ganas. In a mixed constitution of aristocracy and democracy, we find the existence of Kulika court. The republics or Ganas had their own system of law which has been highly praised in the Mahabharata. Their courts were well organised. Amongst the Vajjis, there was a board of eight Kulikas for the investigation of criminal cases. Appeal proceeded from Kula courts to Gana courts. The Lichchhavis had a book of code, probably written legal precedent and their judicial administration has been rightly praised by the Greek observers[129].

The popular element with regard to the procedure of local courts was that the cultivators, artisans, trade guilds, artists, money-lenders, religious mendicants and even robbers were empowered to resolve their disputes according to the rules of their own profession. Similarly, families, craft guilds and local assemblies were Authorised by the king to dispose law suits among their members except such as concerned violent crime[130]. Brihaspati expressly shows that no sentence should be passed merely according to the letter of law, but the circumstances of the case must be closely examined[131]. Narada has mentioned four modes of decision namely, by moral law (Dharma), by judicial (Vyavahara), by popular usage (Charita) and by royal edict. The whole judicial proceeding was divided into four main heads[132].

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129. Ibid., p.142.
130. Ibid., p.145.
131. Ibid., p.146.
132. See supra note 74, p.54; R.C.Majumdar, supra note 34, p.344, also see Parmatma Sharan, supra note 2, p.484.

A. STAGES OF JUDICIAL PROCEEDINGS

(a) The plaint (Bhasa pada or Pratijna),

(b) The reply (or the written statement) (Uttara pada)

(c) The proof (or evidence on behalf of the plaintiff and the defenddant) (Kriya pada or Sadhana),

(d) The decision (or judgement) (Nirnaya).

We also find mentioning of three kinds of evidence namely, documents witness (Sakshi) and possession (Bhukti) and likhita. Other means of proof consisted of reasoning (Yukti) and ordeals (Divyas)[133]. The document, witness, and possession fell under the head of human proof, while ordeals were included under the head of divine proof. The court delivered its judgement when both the parties had submitted their evidence[134].

There was no limit to the jurisdiction of popular courts in civil matters. They could not, however, try criminal cases of serious nature. Minor offences, including accidental homicides, could however, be disposed by them[135]. As regards the civil procedure, voluntary arbitration appears to be earlier farm of judicial procedure, in which the plaintiff (the Prasnin), the defendant (Abhi-Prasnin), and the arbitrator or judge (Prasna-Viveka) figured. Ordeals were rarely used for deciding civil suits, but their use as an evidence in civil law is proved by the case of Vatsa who demonstrated his purity of descent by walking through fire without sustaining any injury[136].

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133. See supra note 1, p.147.
134. Ibid.
135. See A.S.Altekar, op.cit., p.254.
136. See supra note 13, p.440.

Ordinarily, a decision was taken on the strength of evidence both oral and documentary that the party may choose to adduce in support of their respective case. Sometimes it so happened that no evidence was forthcoming and it became very difficult for the judge to ascertain the truth. In such cases religious aid was sought for. The result was that there were two special mode of Trials, namely[137] trial by oaths, and trial by ordeals.

B. TRIAL BY OATHS

The method of trial by oaths has been justified by Manu and Narada both. To quote Manu: "If two disputants quarrel about matters for which no witnesses are available and real truth cannot be ascertain, the judge may discover it by oath"[138]. Vasistha has also attached a great sanctity to oaths. There was a popular belief that no wise man must swear an oath falsely, even in a trifling matter for he who swore an oath, falsely was lost in this world as well as in the next. There were various modes to ordain an oath[139]. Visnu has given mentioning of five types of oaths depending on the value of the property in dispute[140]. The study of Dharmasastra discloses that the sanction of trial by oaths acted as a deterrent for checking false statements in the law court. The mode of trial by oaths appears to have been widely practised in ancient times with the result that the religious faith became intimately connected with oath and began to be

137. See, Manu and Narada quoted in M.K.Sharan, op.cit., pp.144-145.
138. See, Manu quoted in M.K.Sharan, op.cit., p.144.
139. Ibid., p.145.
140. Ibid.

regarded as charges with super natural power and effective due to the sanctity of God[141].

C. TRIAL BY ORDEALS

Similarly the trial by Ordeals appears to have been very well recognised by the Dharmasastra. The use of ordeal could be resorted to only when no human means of proof were available[142]. However, persons observing vows, those performing austerities, distressed persons, women, minors and aged could not be subject to ordeals[143]. Ordeal was an appeal to the immediate judgement of God. In such trials super-natural aid was invoked in the place of evidence. The prominent idea that God helps the just and punishes the unjust was the central theme of the ordeals. The ordinary rule was that ordeals were to be administered to the defendants. But Yajnavalkya gives an option that anyone of the two litigants may by mutual agreement undergo an ordeal and the other should agree to pay on defeat. The practice to conduct trial by ordeals was based on the belief in personal God, who if fervently invoked with religious favour, would declare the innocence or guilt of a person charged with a grave crime[144].

It is quite evident from the study of different authors that there existed many kinds of ordeals which were

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141. For details see Dr.Birendra Nath, supra note 1, p.126.
142. See Katyayana quoted in M.K.Sharan, op.cit., p.146.
143. Ibid., p.147.
144. See Vishnu Purana quoted in M.K.Sharan, op.cit., p.150.

administered keeping in view the nature of the casein dispute[145]. Amongst the popular ordeals were[146]: (a) Ordeal by balance (Dhata), (b) fire (Agni), (c) water (Udaka), (d) poison (Visa), (e) libation, (f) rice (tandula), (g) hot piece of gold, (h) holding hot iron, (i) ploughshare (g) Kosa, (k) Dharma, (l) hot oil, and (m) images.

There has, however, been mentioned a few limitations on the method of trial by ordeals. The study of Narada discloses that no ordeals should be administered to persons engaged in performing a vow, to those distressed under heavy calamity, to the diseased, to the ascetics or to the women[147]. He further ordains that no ordeals should be administered unless the opponent of the party undergoing the ordeals declared himself ready to undergo punishment in case of being defeated by reason of the party coming out successful from the ordeal though this rule does not apply to cases of high treason[148]. Similarly, Vishu opines that no ordeals should be administered to one who is known as honest and virtuous though the matter in contest be ever so important[149].

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145. For details see, M.K.Sharan, Court Procedure in Ancient India (1978), pp.153-165; P.V.Kane, History of Dharmasastra (Ancient and Medieval, Religious and Civil Law) (1973), Vol.III, pp.361-378; M.Rama Jois, Legal and Constitutional History of India (1990), Vol.I, pp.567-571; also see H.S.Bhatia, Origin and Development of Legal and Political System in India (1976), Vol.I, pp.33-45.

146. Ibid.

147. See Narada I, p.256 quoted in M.K.Sharan, op.cit., p.167.

148. Ibid.

149. See Vishnu,IX, 19 quoted in M.K.Sharan, op.cit.

To conclude, the mode of trial by ordeals as a feature of Indian law extends as far back as the Artharveda and Upanishad and continued through all of later ancient Indian Legal Texts[150]. Till recently, a somewhat similar practice has been in force to enable persons who believed in such consequences to have their cases decided on the basis of 'special oaths'[151]. Even Sections 8 and 10 of Indian Oaths Act, 1873 provided for making statement on oath in any form which was held sacred by those concerned subject to both parties agreeing for the adoption of such a course. The spirit of these sections has been upheld in a famous case of Inder Prasad vs. Jagmohan Das[152]. The provisions contained in Indians Oaths Act, 1873 can be said to be a replica of the old method of trial by the Ordeals. However, the Act has been replaced by the Indians Oaths Act, 1968 which does not envisage the corresponding provisions and can safely be stated to be in departure form the irrational system of ordeals.

D. TRIAL BY JURY

The method of trial by Jury in India during ancient judicial system was regarded as fountain of an impartial and acceptable system for administering justice in popular courts[153]. India has known trial by Jury for more than 2200 years[154]. It is quite evident from the court scene in the

150. See Parmatma Sharan, op.cit., p.487.

151. See M.Rama Jois, op.cit., Vol.I, p.571.

152. A.I.R. 1927 P.C. 165.

153. See H.S.Bhatia, Origin and Development of Legal and Political System in India (1976), Vol.I, p.17; K.P.Jayaswal, Hindu Polity, op.cit., p.47, A.S.Altekar, State and Government in Ancient India, op.cit., p.248; and also see Shraddhakar Supakar, Law of Procedure and Justice in Ancient India, op.cit., p.124.

154. See Mrichchhakatika, Act IX, Verse XIV quoted in K.P.S.Jayswal, op.cit., p.312; S.K. De et al., The Cultural Heritage of India (1969), Vol.II, p.436; Parmatma

Mrichchhakatika that the trial by Jury was quite popular in third century A.D.[155]. The functioning of jury in ancient India reveals that it was always composed of odd number comprising either seven or five or three persons known as the 'examiners of the cause'[156]. The working of jury system during ancient days in India reflect a certain outlook, a coherent 'public policy' that assigned to the prople a right to participate in the judicial process. The functioning of popular courts discloses that in the epoch of Hindu legal history the administration of justice was not the sole concern of the King alone but the people also shared the burden of the State in the administration of justice[157]. The people had a right to claim to be tried by the competent persons in all respects. It meant that they could claim to be tried by jury who had the knowledge pertaining to the subject-matter of dispute[158]. The association of the people with the administration of justice was a mark of very high social order and every care was taken to ensure justice to the litigants tried by the popular courts.

We find mentioning about the jury system in the Sukramisara, Brihaspati, Narada, Gautama, Yajnavalkya and Kautilya. It was the jury's separate province (Karma proktam prithak prithak)) to consider the truth or otherwise of the

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Sharan, op.cit., p.476; M.K.Sharan, Court Procedure in Ancient India (1978), op.cit. pp.40-41; A.G.Noorani, "Justice by Jury", Span, Vol.XXX, No.6, June 1989, pp.10-13, H.S.Bhatia, Origin and Development of Legal and Political System in India (1976), Vol.I, pp.16-24; also see S.D.Sharma, Administration of Justice in Ancient India, op.cit., p.169.

155. See K.P.Jayaswal, op.cit., p.312, and S.K.De et al., op.cit., p.436.

156. See S.K.De et al., The Cultural Heritage of India (1969), Vol.II, p.436; also see K.P.Jayaswal, op.cit., pp.311-312.

157. See S.D.Sharma, Administration of Justice in Ancient India, op.cit., p.167.

158. Ibid., p.170.

cause brought before the court[159]. To quote Kautilya and Brihaspati, "The disputes between those who have performed austerities or between those who are expert in witchcraft and yoga should not be decided by the King unaided but with the help of those learned in three Vedas"[160]. Similarly, Gautama opines that King shall ascertain the law from those who has special knowledge of the facts of the case. Thus the jury system was resorted to for setting complicated questions of fact. It is clear from the remarks of Gautama who observed, "the husbandman, merchants, cowherds, moneylender and aritsans desired that disputes should be settled by eminent and known reputed honest men of their own clan or class"[161]. Similarly the Sukraniti adds, "Duly qualified merchants should be made hearers"[162].

It may however be pointed out here that Hindu law did not contemplate trials similar to that of the English by jury. Unlike English practice the jurors in ancient India were selected from twice-born class[163]. It meant that the jurors were selected from the three higher classes, atleast, who were the most respectable in the society and were well versed with questions of fact and questions of law involved in the dispute referred to the popular courts by the parties[164]. It is clearly enjoined in the Arthasastra that disputes with regard to the land were to be decided by a jury of neighbour

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159. See Brihaspati quoted in K.P.Jayaswal, Hindu Polity, op.cit., p.312.
160. Quoted in S.D.Sharma, Administration of Justice in Ancient India, op.cit., p.170.
161. Quoted in M.K.Sharan, op.cit., p.40.
162. *Ibid.*, p.41.
163. See Manu quoted in H.S.Bhatia, op.cit., p.21.
164. Ibid.

i.e. the village elders of the neighbourhood. If there be a division of opinion among them, the decision to prevail was to honest majority[165].

To sum up, the mode of trial by jury in ancient India had always been looked upon as the basic unit of the administration of justice since the early Vedic times and it is thus quite evident that the practice to select a jury to determine the facts of the case remain in vogue in Lok Adalats which functioned throughout the length and breadth of the country. It may also be submitted that there are a number of scriptures[166] and historical accounts which lend support to the existence of jury system in ancient India.

III. MUSLIM PERIOD

(i) HISTORICAL BACKGROUND

The study of the history of India reveals that the glorious Hindu period was subjected to intermittent invasions by the muslims and the beginning was made by Mohammed-bin-Quasim in 712 A.D. However, the real penetration into India was made by Qutub-uddin-Aibek who enabled himself to establish his suppermacy firmly after waging series of wars and finally established a supremacy in the whole of northern India. The Muslims, thereafter continued to rule over India for centuries till the year 1857 when the last Mughal King Bahadur Shah Zafar was dethroned by the Britishers and the English established themselves as the next rulers of India[167].

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165. See, K.P.Jayaswal, op.cit., pp.91-92.

166. See, supra note 76.

167. For detail see, U.C.Sarkar, Epochs in HIndu Legal History (1958), pp.202-203; also see J.L.Mehta, Advanced Study of the History of Medieval India; Medieval Indian Society and Culture (1983), Vol.III, p.1.

It is imperative to mention here that the Muslim ruler did not interfere with the law of Hindus and the Hindus continued to be governed by their own laws in personal matters. A true view of the history of the effect of Muslim period on the Hindu judicial system and Hindu law is that the Mohammedan rulers did not upset either Hindu law or its machinery of administration[168]. The main underlying idea of Muslim rule was its own self preservation and political domination over Hindus.

The judicial system of muslims was modelled after that of the Caliphate of Baghdad and of Egypt with such modifications as were necessary on account of the age and conditions in India[169]. The unique characteristic of Mughal administration of justice was that it did not concern nearly three-fourth of the total population because the people of the rural areas had their own Courts which enjoyed civil and criminal powers[170].

(ii) GRADATIONS OF COURTS

The judicial structure which existed in India during Muslim rule can be conveniently studied under two different periods viz., the 'Sultanate Period' and the 'Muslim Period'. The structure of Courts which was created by the Sultans resembled to a great extent the judicial institutions which existed in Egypt or Turkey as they recognised the Caliph of Egypt as their spiritual overlord[171]. The characteristic of the Sultanate Period was that the Sultan was the supreme authority to administer

168. See S.K.De et al., The Cultural Heritage of India (1969), Vol.II, p.441.
169. R.C.Majumdar, The History and Culture of the Indian People: The Mughal Empire (1974) Vol.VII, p.545.
170. Ibid., pp.549-550
171. See, M.B.Ahmad, The Administration of Justice in Medieval India (1941), p.98.

justice in his kingdom. The justice was administered in the name of the Sultan in three capacities[172]:

(a) As arbitrator in the disputes of his subjects he dispensed justice through the Diwan-e-Qaza;

(b) As head of the bureaucracy, he dispensed justice through the Diwan-e-Mazalim; and

(c) As the Commander-in-Chief of Forces through his military commanders who constituted Diwan-e-Siyasat to try the rebels and those charged with high threason.

There was a systematic classification of the gradation of the courts. The gradation prevalent during Sultanate period was as under:

(i) Central Courts

(ii) Provincial Courts

(iii) District Courts

(iv) Parganah Courts

(v) Village Courts

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172. See H.Beveridge, History of India (1914), p.102; also see M.B.Ahmad, supra note 171, pp.104-105.

The Central courts were six in number viz., the King's court, Diwan-e-Muzalim, Diwan-e-Risalat, Sadre Jahan's court, Chief Justice Court, and Diwan-e-Siyasat[173]. Five courts namely, Adalat Nazim Sabha, Adalat Qazi-e-Subah, Governor's Bench (Nazim-e-Subha's Bench), Diwan-e-Subah, and Sadre Subah were established at the Provincial headquarters in each Province[174]. Qazi, Dadbaks or Mir Adils, Faujdars, Sadre Amirs, and Kotwals were the courts functioning at the District headquarters of each districts[175]. At each Parganah headquarter two courts were established namely, Qazi-e-Parganah, and Kotwal. A Parganah was further divided into the village assemblies or Panchaytas which were vested with the enormous powers to decide civil and criminal cases of a purely local character[176].

During the Muslim period, the Emperor was the sole fountain of justice. There existed a systematic gradation[177] of courts with well defined powers of the presiding judges. Three important courts, viz., the Emperors court, the Chief court of the Empire, and the Chief Revenue Court were established at Delhi, which was the capital of Mughal Emperors in India[178]. The Governor's Court (Adalat-e-Nizim-e-Subah), the Chief Appellate Court and the Chief Revenue Court existed in each Province (Subah)[179]. At district level four courts,

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173. See B.M.Gandhi, V.D.Kulshreshtha's Landmarks in Indian Legal and Constitutional History (1992), p.19.
174. Ibid., p.20.
175. Ibid.
176. See W.Briggs, Rise of the Mohammedan Power in India (1829), Vol.III, p.420.
177. See supra note 171, pp.104-125; R.P.Khosla, Administrative Structure of the Great Mughals (1991), p.126.
178. See supra note 173, p.23.
179. See Henry Elliot and Dowson, History of India ,(Ist Ed.) Vol.VII, p.173.

namely, the Chief civil, and criminal courts of the District, Fauzdari Adalat, Kotwali and Amalguzari Kachehri were existing[180]. In each Parganah there were three courts namely, Adalat-e-Parganah, Kotwali and Kachehri. The Parganah courts were vested with the jurisdiction to entertain civil and criminal cases[181]. The villages was the smallest administrative unit. The village-Council (Panchaytas) were empowered to administer justice in all petty civil and criminal matters[182]

The Emperor's court, presided over by the Emperor, was the highest court of the empire. Below this court functioned the Chief court of Empire which was vested with the powers to hear the appeals from the Provincial courts. It also enjoyed the powers to supervise the working of the provincial courts. The Chief Revenue court was the third important court established at Delhi. It was the highest court of appeal to hear appeals in revenue cases from the Provincial Chief Revenue Courts. Similarly, Adalat-e-Nazim-e-Subah (Governor's Court) was the highest court in each Province. It was presided over by the Governor. The provincial courts were vested with the powers to hear appeals from the District Courts. Similarly, the District Courts had the jurisdiction to hear appeals from the Parganah courts. The Parganah courts were also vested with the jurisdiction over all civil and criminal cases arising within its original jurisdiction. It could try cases of those villages which were under the Parganah court's jurisdiction. As there were no other lower court so Adalat-e-

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180. Ibid., Vol.III, pp.172-173.
181. Ibid.
182. Ibid.

Parganah had no appellate jurisdiction. Appeals from this court were made to District Courts[183].

It is thus quite evident from the foregoing study of Muslim period that there was a well established hierarchy[184] of courts, the highest being the court of the Emperor himself and the lowest on the ladder was the village-council popularly known as Lok Adalat of today[185]. However, a different opinion has been expressed by Sir Jadunath Sarkar about the systematic gradation of courts during Muslim period.

To quote him, "The main defect of the department of law and justice was that there was no system, no organisation of law courts in a regular gradation from the highest to the lowest nor any proper distribution of courts in proportion to the area to be served by them"[186].

(iii) FRAMEWORK OF LOK ADALATS

The local courts remained distinctive institutions even in Muslim rule in the Medieval India. Although, there were royal courts in administrative centres, these did not produce a unified national legal system of the kind that developed in the West[187]. The law made by the Muslim rulers did not penetrate into the countryside with the result that textual law influenced but did not displace the local law. Throughout most of the Muslim rule there was no direct or systematic

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183. Ibid.
184. See R.P.Khosla, op.cit., p.146.
185. See supra note 45, p.280; Upendra Baxi, Towards A Sociology of Indian Law (1986),p.69.
186. See Sir Jadunath Sarkar, Mughal Administration (1935), p.72.
187. See Upendra Baxi and Marc Galanter, "Panchayat Justice: An Indian Experiment in Legal Access", in M.Cappelletti, edn. (1979), Vol.III, p.343.

state control of the administration of law in the village where most Indian lived[188].

It is revealed that there were innumerable overlapping local jurisdictions, and people's courts had some degree of autonomy in administering law to themselves[189]. The disputes in villages and even in cities were not settled by royal courts, but by the Lok Adalats, of the caste within which the dispute arose, or of guilds and associations of traders and artisans[190]. These tribunals were empowered to adjudicate in accordance with the custom or usage of the locality, caste, trade or family[191]. However, Muslim ruler traditionally enjoyed and occassionally exercised a general power of supervision over all these popular courts. In theory, only the Royal courts could execute punishments. These lesser tribunals could pronounce decrees and invoke Royal power to enforce them. But while some adjudications might be enforced by governmental power and most depended on boycott and ex-communication as the ultimate sanctions[192].

Sir Jadunath Sarkar opines that Indian villager in the Mughal empire was denied the greatest pleasure of his life, viz., facility for civil litigation with Government courts of first instance close at his door and an abundance of Courts of appeal rising upto the HIgh Court at the capital. Therefore,

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188. See N.Sen Gupta, Evolution of Ancient Indian Law (1953), p.112; M.Ahmad, The Administration of Justice in Medieval India (1941), p.98; and also see Marc Galanter "The Displacement of Traditional Law in Modern India", Journal of Social Issues (1968), No.24, pp.65-91.

189. supra note 187, p.344.

190. Ibid.

191. Ibid.

192. See Rudolph and Rudolph, "Barristers and Brahamanas in India: Legal Culture and Social Changes", Journal of Comparative Study in Sociology and History (1965), No.8, pp.24-49; Sir Jadunath Sarkar, op.cit., p.74.

these villagers were to settle their disputes locally by appeal to the caste courts and local juries (called Panchaytas in North India and Mahazars in the Deccan) the arbitration of an impartial empire (Salis), or by a resort to force[193]. The study further discloses that the People's Courts played an important role in the resolution of disputes at village level[194].

There is no denying the fact that the Muslims rulers made substantial in roads into the existing judicial system by way of creating the courts of judicature totally at variance with traditional system with the results that the village disputes, which hitherto were settled locally began to be referred to the Central Courts. However, these courts mostly functioned at the district level or above, leaving lower village level functioning of people's courts untouched. The traditional dispute-resolution system through Lok Adalats was not very much affected by the introduction of 'Qazi' as the social adjudicatory system[195].

With the consolidation of Muslim rule in India, the character of popular courts underwent a tremendous change. Their link with the King at the last resort was not to be found in the Muslim rule. Hence these courts became only popular village courts unconnected with the Muslim Royal Courts. They became important instruments and began to serve the legal purposes of Hindus almost exclusively, so far as the

193. See, Sir Jadunath Sarkar, op.cit., p.74.
194. Ibid.
195. See Legal Aid Newsletter (1990), May-August, p.14.

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civil side atleast was concerned[196]. The Hindus did not relish to approach the Muslim rulers or the Royal courts presided over and assisted by Muslim Officers; the conditions for the regular administration of justice also were not perfectly favourable and above all the rulers themselves also were very much relieved when they saw that the administration of justice was being carried on by the popular courts of the Hindus-themselves[197]. The people's court thus played a very conspicuous role during Muslim rule. It may be mentioned here that there were many factors that contributed to the survival and even strengthening of popular courts during the Muslim rule. Moreover, there were not so many Royal courts which could be within the easy reach of the people. To quote Sir Jadunath Sarkar[198], "In Indian villagers in the Mughal empire... had to settle their differences locally by appeal to the caste courts or the arbitration of an impartial empire (Salis)". The people courts were vested with the power to try both civil and criminal cases. The local courts enjoyed the power to decide local disputes and acted as an effective instrument for administration of justice both civil and criminal. It is revealed that people were satisfied by the decisions of the popular courts and relieved the government to a very great extent of its judicial functions[199].

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196. See U.C.Sarkar, op.cit., p.250.
197. Ibid.
198. Ibid., p.251.
199. Ibid.

(iv) JUDICIAL PROCEDURE

The procedure followed by the people's courts was quite simple and primitive. There was no regular administration of justice, no certain means of filing a suit and no fixed rule of proceeding after it had been filed[200]. It rested with the judges of the popular courts appointed to decide the dispute. It is apparent from the study that there were no hard and fast rules meant for administering justice. The Muslim law of procedure was far from elaborate; there was also no regular and full-fledged legal profession. Nor was there any elaborate provisions for the law of evidence. Hence the justice could be delivered speedily and effectively[201]. It appears that the process of getting justice under the Mughals was not such a long drawn-out agony as it is at present. The decision were quick. The lengthy and elaborate process through which a litigant had necessarily to pass was discouraged. There was no tedious briefs of cases, no methodized forms, and no harangues to keep the parties longer in suspense[202]. The speedy decisions of cases and the absence of long and intricate legal proceedings was admired by the rulers[203]. Qazis were concerned more with the ecclesiastical matters among the Muslims. The Hindus were generally governed by their customs and the provisions of Shastras[204]. When any accused person was

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200. See U.C.Sarkar, op.cit., p.252.
201. See Bernier quoted in U.C.Sarkar, op.cit., p. 242, R.C.Majumdar, et al., Advanced History of India (1977), p.552.
202. See R.P.Khosla, op.cit., p.127.
203. Ibid., p.128; Sir Jadunath Sarkar, op.cit., pp.71-88; Ishtiaq Husain Quareshi, The Administration of the Sultanate of Delhi (1971), p.211; R.C.Majumdar, et al., supra note 201, p.552.
204. See U.C.Sarkar, op.cit., p.253.

apprehended and when a public trial of that accused person was deemed necessary, the Amil could order the people's court to be assembled. There was one very significant rule of evidence. It was a rule to view with suspicion the testimony of all witnesses unless it was otherwise corroborated[205]. Many factors were taken into consideration for arriving at the truth after setting every item of the evidence educed. It is thus apparent that the people's court remained always anxious for the examination of collateral facts, of matters of general notoreity and of all that entered into circumstantial evidence[206]. Civil and criminal disputes were decided by castemen or village elders and popular courts in the form of caste-courts, guild or religious heads[207].

There was very little interference by the Muslim rulers though from the popular courts appeal could ultimately lie before the King. However, the character of these courts underwent a fundamental change with the consolidation of muslim rule in India. There link with the King at the last resort was not to be found in the muslim rule. Hence they became only people courts unconnected with the Muslim royal courts. It is, however, imperative to mention here that these local courts began to serve the legal purposes of the people so far as the civil side atleast was concerned. The existence of these courts reveal that perhaps the country had hardly any central judicial structure[208]. The villagers had a judicial system of their own at once familiar to and respected by them;

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205. Ibid.
206. Ibid.
207. Supra note 200, p.252, also see supra note 169, pp.545-550.
208. See Sir Henry Maine, quoted in U.C.Sarkar, op.cit., p.243.

the various trades and guild had a similar system. These courts settled the affairs of everyday life. In case of grave crime or when the condemned party refused to obey the judgement of local courts, the court of the King was concerned with litigation. To quote Pitamā , "A suit should first tried in the village court; then it should be tried in the town (in appeal) and last of all the King should give the final decision as the highest appellate tribunal. There is no re-trial of any case once it has been decided by the King... rightly or wrongly; further he remarks that between the parties of the same country, town, societies, cities or villages, the adjudication should be made by following their own convention and usages; but when the dispute is between these persons and strangers, the law of the Dharmasastra should be applied"[209]. The decisions of the Panchayats or people's courts were almost invariably unanimous and the punishments inflicted were fines, public degradation or reprimand or ex-communication. No sentence of imprisonment or death was awarded, because there was no proper authority to execute these sentences, and also because there was no jails in the villages. The fear of public opinion was one of the most potent factors responsible for the prevention of crimes and hardly did any case go out of the boundaries of a village. Normally, cases involving even murder were settled locally. The law administered by the Panchayats or people's courts was usually caste and tribal usage and the customary law of the land[210].

209. See U.C.Sarkar, op.cit., p.244.

210. See supra note 169, also see A.L.Srivastava, Akbar the Great, Vol.II, p.279.

IV . BRITISH PERIOD

The philosophy of the administration of justice during British period has initially a different history. The study shows that Magisterial functions in the beginning were delegated to the native people for the reason that Britishers were unaware of the local languages and the local laws. Besides, there was a lurking fear in the mind of British rulers that the act of the punishment of the members of the native population could lead to agitation at any time. They inducted therefore Indians to discharge the judicial functions in the early days of company rule[211]. However, it is only after the courts reorganisation in 1861 that justice was administered at higher level by judges trained in common law. The result of the induction of British judges in Indian judicial system shaped the entire working of the local courts. The people's courts thus entered into an era of lessening importance, until, it went into eclipse, as a result of British policy of feudalistic control of the countryside[212].

It appears that though the community life in the villages was not deliberately undermined by the ascendancy of British rule but it was gradually weakened by several factors. The administration of villages by the agencies of the central government, extension of the jurisdiction of the civil and criminal courts with their adversary system of adjudication which was unknown and new to village population, increase in

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211. For detail see V.N.Srinivasa Rao, "A Sketch of Three Centuries of Courts In Madras (1640-1947)", Lawyer (1984), Vol.XVI, No.8, p.81 at 82.

212. See R.C.Majumdar, et al., An Advanced History of India (1977), p.553.

the means of communication, progress of English education, police organisation, migration of persons from village to towns, growing spirit of individualism resulting from new English education, growing pursuits of individual interests and consequent lessening of community's influence over the members may be said to be some of the main factors which gradually contributed towards the decay of the people's courts in India[213].

However, it is quite evident that the British rulers did not immediately dislocate the system of Kazi, nor did they interfere with the Panchas. But the establishment of adjudicatory courts in course of time brought about the formalisation[214] of the justice system. The hard reality is that the English men brought with them the concept of ruler and the ruled and the sense of superiority over the local men. The Englishmen was, therefore, not subjected to the local laws and the system of justice kept him out of the purview of law that bound the local people[215]. Gradually, the adjudicatory process became more and more formal with the introduction of Anglo-Saxon system of jurisprudence and when India came to be a part of the British Empire under the direct suzerainty of the Crown, a full-fledged adjudicatory set up came into being[216]. Technicalities were introduced into the Indian justice system. The net effect was that the poor man found it difficult to enter into the portals of the court and the

213. See K.N.C.Pillai, "Criminal Jurisdiction of Nyaya Panchayat-s", J.I.L.I. (1977), Vol.XIX, No.IV, p.439.
214. See Legal Aid Newsletter, Vol.X (Part I & II), May-August, 1990, p.14.
215. Ibid.
216. Ibid.

rich man was able to use the legal process as an instrument of harassment of his poor adversary. Moreover, it became time consuming[217]. This gave ultimately arise to two fold difficulty,[218] viz., (i) The system could not be approached without the services of trained personnel; and (ii) it became highly expensive. All this resulted in a gap between the people and the justice delivery system which could be bridged at considerable cost by engaging a person qualified to practice law. The British legal system became highly profession oriented. The cost of litigation and lawyers fees gave rise sharply making access to justice even more difficult[219].

Unfortunately, the judicial administration during British period became more complexed, both in terms of substance and procedure[220] with the result that the judicial administration at the lower level turned to be an instrument of exploitation for the obvious reason that the common man was at the victim end[221]. It is revealed that British rulers moulded the Indian legal system according to their vested interest with the result that the functioning of people's court withered away and became empty and suffocating with engulfing nothingness[222]. In this way the advent of British rule gradually led to the decline of people's court in India[223].

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217. Ibid.
218. See A.M.Ahmadi, "Access To Justice In India", Legal Aid Newsletter, Vol.XI (Part 4), Jan.-March, 1992, p.17.
219. Ibid.
220. Clark D, Gunninghan, "Legal Ethics-Gandhian Perspective", Indian Bar Review, Vol.15, (1 & 2), 1988, p.69.
221. V.R.Krishna Iyer, "judicial System - Has It A Functional Future in Our Constitutional Order ?" (1979) 3 SCC Journal 1 at 11.
222. P.Parameswaran, "Dispensation of Justice-Problem of Cost, Quality and Delay", A.I.R. 1991, JOurnal Section 25 at 31.
223. See K.N.C.Pillai, "Criminal Jurisdiction of Nyaya Panchayat-s", J.I.L.I. (1977), Vol.19: 4, p.438 and 439.

However, it is disclosed from the study that the British rulers tried to revive the functioning of people's courts in the early Nineteenth century. But it was nowhere intended to produce the characteristics of old-time people's courts. It is evident from Lord Hailey's statement. He, in his foreword to Tinker's work, says[224]:

> "It was deliberately designed to exercise a new and formative influence on the relations between the ruling powers and the people of India. On a more immediate plan it was intended to secure the increased assistance of Indian in the administration of country; on a wider plane, it was to be an instrument of political and popular education in the use of self-governing institutions".

To sum up, Gandhiji had rightly to caution the people of India that it was dangerous for them merely to copy the British judicial model making the judicial machinery cumbrous and slow-moving. He therefore suggested that there was a dire need for the Indians to have a simple and effective judicial system avoiding the law's delay, expense and complicacy. He reminded the people to resort to the home-spun judicial system or Lok Adalats so that the poor litigants need not to go out of his village, spend hard earned money and waste weeks and month in towns on litigation. Such a judicial system will not only be simple and cheap but also 'just' because the details of civil and criminal cases will be more or less, open secrets in the village and there shall be highly any scope for fraud and legal juggleries[225].

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224. Hugh Tinker, Foundations of Local Self Government in India, Pakistan and Burma (1967), p.xii (Foreward).

225. See Gandhiji quoted in H.B.Malaviya, Village Panchayat in India (1956), p.19.

V. POST-INDEPENDENCE PERIOD.

The dawn of independence brought many golden things to the people of India. The restructuring of the judicial system at grass-root level may be said to be one of them. It was realized by the wise founding fathers of the constitution that the Anglo-Saxon judicial system must be reorganised as to make legal relief easily accessible to the indigent and backward in our villages. To quote Mahatma Gandhi[226]:

> "India lives in her villages and most of the countryside is smeared with poverty and social squalor. Today the poor and disadvantaged are cut-off from the legal system - they are functional out laws not only because they are priced out of judicial system by a reason of its expansiveness and dialatoriness but also because of the nature of the legal and judicial system. They have distrust and suspicion of the law, the law courts and the lawyers for several reasons. There is an air of excessive formalism in law courts which overowes them and sometimes scares them. They are completely mystified by the court proceedings and this to a large extent alienates them from the legal and judicial process. The result is that it has failed to inspire confidence in the poor and they have little faith in its capacity to do justice".

In these circumstances it was thought proper by the makers of the Constitution that the judicial process must be reorganised with a view to bring justice nearer to the people. They rightly thought that the soul of good government was justice to the people and that is why the Preamble of our

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226. See Mahatma Gandhi, quoted in Juridicare: Equal Justice-Social Justice Report (1977), p.32.

Constitution highlights it in its triple aspects, namely, political, social and economic. The question therefore, arose as to how we can redeem this tryst with justice on behalf of our teeming millions in rags and tatters. The main problems that haunted the minds of our makers of the Constitution were: who are our people ? Where is their habitate? What, in human terms, does justice mean to them ? How can law and its administration, through conventional court processes, fulfill the hunger of the common man for simple and quick justice which assures to him a fair share of goods things of life ? Why cannot we abolish the causes of litigation and build a new way of life or legal order ? How can the gap between the lawyers law and the rule of law be abridged ? These were the basic radical issues for which the founding fathers of the Constitution wanted answers.

Moreover, it was also badly felt that we in India need a new legal technology, new judicature models and a remedy-oriented juridicare that is designed as a pervasive and potent delivery system of law and justice to the people in rural remoteness. Having given full weight to these thoughts Article 40 was incorporated in our National Charter which mandates the State to organise village Panchayats and invests them with necessary authority and power. The intention behind the reorganisation of the indigenous judicial system is to ensure people's participation in the administration of justice at the lowest level which will ultimately help in delivering justice to the poor and the backward in rural areas without any delay

and at practically no cost. The revival of ancient judicial system has been intended to bring justice to the door-steps of the poor and make it cheaply, easily and expeditiously available to them. It would certainly assist them in asserting their legal rights against those who are inclined to violate them. They are also expected to remove many of the defects of the British system of administration of justice. Drastically low-cost, informal atmosphere, absence of technicalities, nearness both geographical and psychological community of shared attitude and values and a great scope for compromise have been expected as some of the definite advantages of these local judicial institutions.

However, the modern version of Lok Adalat arose out of the fact that the present judicial system as forum for resolving conflicts, civil, criminal and revenue, has floundered on a single major piece of rock-inordinate delay and the monumental wastage of time in deciding cases. Litigants have often found themselves impaled on this unholy trident of delay, cost and complexity with the result that the accumulated frustration of the people desirous of quick decisions has responded them with a hope, excitement and zeal to experiment in holding Lok Adalats for dispute ending for dispute pending. Thus the idea for the need of Lok Adalat as a different kind of forum for expeditious settlement of dispute is currently sweeping the nation. Moreover, the modern version of Lok Adalat has arisen out of the concern expressed by the committees set up to resort on

organising Legal Aid to the needy and poor people and alarm generated by judicial circle on mounting arrears of cases pending for long at different levels in the court systems[227]. P.N.Bhagwati and V.R.Krishna Iyer, JJ, laid emphasis on the need for revival of informal systems of dispute resolutions including the Nyaya Panchayats. They mobilised social action groups, public spirited citizens and a section of lawyers to experiment settlement of disputes outside the courts. Further, setting up of the committee for implementing Legal Aid Schemes (CILAS) by the Union Government in 1980 under the Chairmanship of P.N.Bhagwati, CJ, gave an impetus to the Legal Aid Movement in general and concept of Legal Aid Camps and Lok Adalats in particular[228]. Hence the introduction of Lok Adalat in 1982 as part of the strategy of Legal Aid Movement has virtually raised a fond hope to the millions of poor people who are denied equal justice under the present existing system.

VI. SUM UP

It may thus be summed up that there is a considerable unanimity on the point that the people's court in India, popularly known as Lok Adalat, as an agency for settling local disputes has remained in existence since time immemorial. The administration of justice by these courts through concomitant people's participation is as old as the Indian village itself. The Vedic period throws a flood of light on this aspect that

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227. For detail see Report of the Gujarat Legal Aid Committee (1971), Report on Processual Justice to the People (1973), and Juridicare: Equal Justice-Social Justice Report (1977).

228. For detail see Report of the Committee for Implementing Legal Aid Scheme (CILAS), 1980.

these courts were in existence in ancient India. There are number of scriptures and historical accounts[229] which lend support to the people's court in which mainly, amicable system of settlement of dispute was followed. These courts are for the first time mentioned in Yajnavalka Smriti. Narada Smriti also discloses three types of traditional courts of adjudicature, viz., Puga, Sreni and Kula. Though the King was an overall guardian of these institutions, the King seldom intervened in their working[230]. It is revealed that there was hardly any rigid and complex procedural laws dealing with the disputes in people's courts during ancient times. The important aspect of these courts was that they gave less importance to the technicalities and paid much stress upon the amicable settlement of disputes. The adjudicators were adored as 'punch parameshwar' and their verdicts were honoured[231].

These popular tribunals, particularly the village courts, survived for a long time and existed even at the time of the commencement of the British rule in India[232]. Though the Muslim rulers made substantial inroads into the existing judicial system by way of creating the courts of judicature totally at variance with traditional system yet the effect of these changes did not percolate down to the village level. The simple reason was that the Hindus did not relish to approach the muslim rulers or the Royal courts presided over and assisted by Muslim officers. The procedure followed by these

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229. See supra note 76.
230. M.G.Chitkara, op.cit., p.22.
231. See T.S.Misra, "Alternative To The Present System of Settling Village Disputes of Civil Nature", J.I.L.I., April-June, 1980, Vol.22, No.2, p.213.
232. See Law Commission of India: Fourteenth Report (1958), Vol.I, p.27.

courts was quite simple. There was no hard and fast rule to file suits and resolve the disputes. The speedy decisions of the cases and absence of long and intricated procedure contributed further towards the strengthening of these courts and got coinage even during Muslim era.

The advent of Britishers in India, however, gave a death blow to the functioning of popular courts as there was a complete centralisation of the judiciary and local courts were discouraged and replaced by the Royal Courts. The ultimate result was that these institutions were eclipsed and there came a down of new judicial system entirely dominated by the British Rulers. They moulded the Indian legal system according to their vested interest with the result that the functioning of people's court withered away and became empty and suffocating. The administration of villages by the agencies of Central Government, extension of jurisdiction of modern civil and criminal courts with their adversary system of adjudication which was unknown and new to the village population, increase in the means of communication, migration of people from village to towns... and consequent lessening of communities influence over the members may be said to be some of the main factors which gradually attributed towards the decay of the people's courts in India[233].

The study of post-independence period discloses that the wise founding fathers of our National Charter quickly realised the drawbacks of Anglo-Saxon judicial system and endeavoured

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233.See, supra note 213, p.439

to reorganise it on the lines of indigenous legal system that remained in existence in India since the dawn of its civilization. They knew it well that the British judicial system would certainly price-out the poverty-ridden clients and the access formalism in law courts would over throw and mystify them and ultimately fail badly to inspire confidence in them to beget justice in their favour. So they realised that the reorganisation of the existing Anglo-Saxon judicial system was the need of the day to bring justice to the door-steps of the poor and ignorant people of India. The survey of Indian Constitution reveals that many provisions have been incorporated in our National Charter with a view to uphold the spirit of justice and give quick reliefs to the people. The very Preamble of the Constitution reflects that the makers of our Constitution had in their mind a burning issue as to how justice-political, social and economic, could be made possible for the ignorant masses. This idea in their mind haunted them badly to evolve novel legal technology, new judicature model and a remedy-oriented juridicare. They, therefore, committed themselves to the goal to redesign a pervasive and potential delivery system of law and justice to the people residing in the rural remoteness.

The incorporation of Article 40 in our National Charter is itself a testimony to the fact that these constitution makers, while making the Constitution, had in their minds a firm commitment to revive indigenous judicial system which could ensure people's participation in the administration of

justice and make it possible to have easy access to the doors of justice. That is why Article 40 mandates the State to decentralise the judicial system and organise village Panchayats and invest them with necessary authorities and powers to render justice to the poor and bring it to their door-steps.

It is also a well established fact that modern version of Lok Adalat has appeared because the judicial model borrowed from the British rulers has virtually failed to meet out the demand of justice imbibed in our Constitution. It has really come into existence because of grave concern expressed by various committees constituted to report on the reorganisation of Indian legal system. The Report of Gujarat Legal Aid Committee (1971), Report on Processual Justice to the People (1973), Juridicare: Equal Justice-Social Justice Report (1977), and Committee for Implementation of Legal Aid Schemes (1980) have laid emphasis on the need for revival of informal system of dispute resolution. Hence, we have recently enacted The Legal Services Authority Act, 1987 with a fond hope to allow people's participation in the administration of justice and to away with the legal complexities which have come in the way of the administration of justice.

CHAPTER-III

CONSTITUTIONAL MANDATE OF LOK ADALATS

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I. INTRODUCTION

Rendering of justice to the people, rich or poor, is not a minor problem but a question of fundamental character[1]. It is an obligation of the State to provide a judicial system where its people are enabled to vindicate their grievances and have justice without any delay on the part of the judiciary. Moreover, there is no denying the fact that we are today badly fed-up with obsolete, irritating and isolationist ways of administration of justice. Perhaps everybody will agree that we need to consider a serious rehaul of our legal mechanism. Though legislations may not have an ability to improve the Anglo-Saxon legal system yet there still lies the hope that institution like 'Lok Adalat' provide vistas for further research[2]. Today, we need a legal system which has the ability to deliver the best quality of justice at the least cost and in the shortest time. We are certainly reminded of a pertinent observation made by Hon'ble Justice D.A.Desai, Chairman, Law Commission of India,who has rightly pointed out[3]:

> "In view of the overrising graph of arrears, tinkerings at the fringes far from the yielding the desired results, have further aggravated the situation. The consumers of justice have been patiently waiting for justice to become people oriented".

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1. See, Law Commission of India, Fourteenth Report (Reform of Judicial Administration) 1958, Vol.I, p.587.
2. See, P.C.Jain, "Need of Today: Crisis Management of Justice - Conciliation Courts", Lawyer, June, 1993, p.43; also see The Tribune, March 15, 1993, p.6.
3. Ibid.

It is worthwhile to mention here that unless prompt and effective efforts are taken to ensure that justice becomes a inexpensive and expenditious, the entire system is likely to collapse underneath its weight. The system of prevailing administration of justice has been ruinous to those who evolved it and also those who follow it. It is unfortunate that we even after independence follow a system totally alien to Indian Culture and requirements. Despite the directives contained in Article 39-A of the Constitution of India, we have done precious little towards evolving a system which can impart prompt and inexpensive justice to millions of our people. Thus there is today an ample need of creativity in the functioning of judiciary so that the poorest of the poor even may get justice. It has, therefore, become imparative to revive the indigenous legal system and think for an alternative forum for the resolution of disputes. To be true, the British system of administration of justice in our country has alienated the ignorant and poor people from the system because of its foreign origin, technicality, extreme formalism, rigid rules of procedure and relevance and foreign language[4]. It is thus in this backdrop that we have been compelled by the urgencies of time to look forward for new means and methods as an alternative forum to the existing complexed Anglo-Saxon legal system.

We are much obliged today to the activists approach of our independent judiciary which is trying to revitalize and

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4. See, Report of Legal Aid Committee (Government of Gujarat), 1971, p.209.

rejuvenate the indigenous legal system where people's courts had a vital say in rendering justice to the people at large. The institution of Lok Adalat is therefore a judge-aided and judge-guided strategy hammered out with an intention to reduce the backlog arrear of cases and get justice without any delay. Time has now come to have the local judicial institution like People's Court, simple in nature which people can easily understand and appreciate. Sabyasaachi Mukherjee, the then. Chief Justice of India, has rightly expounded the need to simplify the judicial system, revive the indigenous system and devise further means to ease the pressure on the court. It is because the arrears which stood at 2,319 in 1960, went up sixfold in 1975 to 15,000[5]. Another fifteen years later the problem of pendency has exploded through the roof as it has touched the 2,30,000 mark[6]. The position of arrear is also quite alarming in the High Courts. Allahabad High Court tops the list with more than 5,00,000 pending cases as on June 31, 1991, with a total number of 19,76,776 cases pending in various High Courts of India. All this shows that health of our judicial edifice has been steadily deteriorating and it has almost become impossible to grapple with and render justice to the prople at large[7]. Certainly, we need an over-hauling of the existing Anglo-Saxon judicial system on the guidelines of the People's Courts which dispensed justice in the entire course of ancient Indian legal history. Lok-

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5. See, Sanjay K.Das, "State of the Judiciary", Onlooker, July 15, 1990, p.18.
6. L.S.USQ No.1464, August 2, 1991; Hindustan Times, Nov.22, 1987, p.11; also see Shriniwas Gupta, "Judicial Delays Versus Right To Speedy Trial", Link, May 24, 1992,p.32
7. L.S. USQ No.1464, August2, 1991; Law Commission of India, One Hundred Twenty Fourth Report on The High Courts Arrears - A Fresh Look (1988), p.2; also see Shriniwas Gupta, op.cit., p.32.

Adalat system may provide an answer to our mounting arrear of cases in the courts. It accords with the genius of India[8]. It is a medicine in litigation with hardly any adverse effects. In fact, apart from easy accessibility, quicker and cheaper justice, the chief beauty of Lok-Adalat is the decimation of bitterness, because compromise is the very soul of the Lok-Adalat justice. The present resurgence of the concept of Lok Adalat is, no doubt, a virtue of necessity, forced by flaws and failings of the general court system in the country. Now this feeling is at work with encouraging results, this tide has to be grasped and taken into as good and useful a future account as humanly possible[9]. It is purely in response to the spirit of justice imbibed in the Preamble of our National Charter and the directive contained in Article 39-A[10] of Indian Constitution which is added with a view to invest the prevailing legal process with functional relevance and promotion of justice through law.

II. Preambular Spirit of Justice

A government founded on anything except liberty and justice can not stand[11]. All the nations that have passed away furnish a note of warning that no nation founded upon injustice can stand[12]. From the sand enshrouded Egypt, from

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8. See M.G.Chitkara, Lok Adalat And The Poor (1993), p.vii (Appreciation).
9. Ibid; p.viii (Appreciation).
10. Test of Art.39-A says: "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 scheme or in any other way to ensure that oppotunities for securing justice are not denied to any citizen by reason of economic or other disabilities".
11. See, Robert Ingersoll, quoted in V.R.Krishna Iyer, Law Versus Justice (1981), p.16.
12. Ibid.

the marble weilderness of Athens, and from every fallen, crumbling stone of once mighty Rome, comes a wail as it were, the cry that no nation founded on injustice can permanently stand[13]. Perhaps that is why the finest tribute to our National Charter is to make justice available even to the poorest of the poor through decentralized process and inexpensive access. Our founding fathers rightly envisioned[14] Constitutional harmony in action for fulfilment of this goal through the rule of law. A parliamentary process, with a legislative passion to remove injustice by appropriate laws promptly made, is basic[15]. An Executive, committed to the socio-economic transformation projected by the Preamble, charged with missionary zeal, possessed of scruplous probity - Caesar's wife shall be above suspicion- and breaking down bureaucratic insensivity through a humanist activism, is a major postulate[16]. Central to a democracy of rights and remedies, for a people who had suffered irremediable wrongs from lawless lawmakers and callous, cruel Authority and influencial brackets of society is a judiciary upright, independent, equally excessible, activist and creative and geared to the promotion of a social justice revolution[17]. All these three organs, having derived power from the people, via the Constitution and owe, both at the ideological and the performance levels, answerability to the founding creed of

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13. Id.
14. See Supra note 11, p.9.
15. Ibid
16 Id
17. Id.

equal justice to the broad masses. It has been rightly realised that unless equal justice under the law becomes a living reality, not a litigative possibility, the Constitution itself may be managed by the 'Frankensteine's monster of Constitutionalized corruption and a social justice manacled by legalised injustice[18].

It is intended by the makers of the Constitution that the largees of law must belong to all, not, as now, to those who use the constitution for unconstitutional ends. They were quite hopeful that the poor and the needy must not be at the victims end but at the consumers end[19]. The very Preamble of the Constitution represents, therefore, the aspirations of the people's of India and are expected to enable the people of India to march towards this cherished goal of justice. The Preamble states, "We The People of India having solemnly resolved to constitute India into a Sovereign Socialist Secular Democratic Republic and to secure to all its citizens:

> Justice: Social, economic and political;
>
> Liberty of Thought, expression, belief, faith and worship;
>
> Equality of status and of a opportunity; and to promote among them all.

Fraternity assuring the dignity of the individual and the unity and integrity of the nation".

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18. Supra note 11, p.10
19. Ibid, p.11

The text of the Preamble makes it abundantly clear that justice, social, economic and political is the final aim of the government. The Constitution mandate philosophises that individual justice is integral, not expendable, and so, no one shall be unjustly treated in his several spiritual, social, economic and political relations. Personhood-equal dignity, opportunity and worth of human being, actual and potential, is the specific guarantee and law must become self-aware of this vision and mission if its function be justice[20].

The philosophy of justice enshrined in the Preamble of our Constitution is based on the spirit contained in clause (5) of Objective Resolution[21] of Pt.Nehru which was adopted by the Constituent Assembly on January 22, 1947, and which inspired the shaping of the Constitution through all its subsequent changes. It reads[22]: "This Constituent Assembly declare its firm and solemn resolve to proclaim India as an independent Sovereign Republic and to draw up for her future governance a Constitution wherein shall be guaranteed and secured to all the people of India justice, social, economic and political; equality of status, of opportunity, and before the law; freedom of thought, expression, belief, faith, worship, vocation, association, and action, subject to law and public morality".

The idea embodied in clause (5) of the Objective Resolution moved by Pt.Nehru in the Constituent Assembly has been faithfully reflected in the Preamble to the Constitution.

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20. Ibid, p.15
21. C.A.D. 1947, p.304 (moved by Pt.Nehru December 9, 1946).
22. For detail see Text of Objective Resolution Clause (5).

It secures to all its citizens justice, social, economic and political. In short, the Indian Constitution promises the troika of justice to the community at large. Moreover, Indian Constitution mandates that the States shall endeavour to bring about a social order in which justice, social economic, and political shall inform all the institutions of national life[23]. The aim of our constitution makers has been to wipe every tear from every eye and it is expected that the law must go to eye and not compell the weaper to reach the urban based lawyer and judge[24].

The objective of justice embodied in our constitution implies some daring reform whereby even an average Indian can pursue his remedy or defend an action without being baffled by procedural pitfalls, expensive protections, processual sleights of hand, and ceaseless draining of poor man's purse, and popular participation in the administration of justice[25]. Much leeway has to be made by all the three branches, if justice is not to be a black-market commodity beyond the common man's ability to buy it.

III. Constitutional Philosophy of Equality of Justice - A Contradiction

The philosophy of equality before law has been deeply engrained in Article 14 of our National Charter. It explicitly states, "the State shall not deny to any person equality

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23. Constitution of India, Article 38, Clause (i).
24. Supra note 11, p.17: also see Granville Austin, The Indian Constitution: Cornerstone of A Nation (1972), p.26.
25. Id.

before law or the equal protection of laws within the territory of India". Truely, this philosophy of equality of justice is based on the last clause of 14th Amendment of American Constitution, which enjoins that the equal protection shall be secured to all such persons in the enjoyment of their rights and liberties without discrimination or favouritism or so as an American judge put it, it is a pledge of the protection of equal laws[26]. Conscious of the history of French revolution our founding-fathers not only put equality in the Preamble to our Constitution but gave it practical effect in Article 14. In the light of the principle embodied in Article 14, our Constitution is committed to cherish the goal of equality of status and opportunity for all including those who are socially, economically and educationally backward. The word equal justice has reference to inequalities and injustices that dominated the entire scene of Indian society. It is implied from the spirit of Article 14 that the goal of equality can be achieved only when the long established phenomena of inequalities and injustices are weeded out from the Indian society.

Frankly speaking, the guarantee of equality before law gives hardly any satisfaction to a poor man if there is no one to tell him what the law is or that the courts are open to him on equal terms as to other persons. The bitter truth is that the philosophy of equality before law can really be made meaningful only when the price of admission to opportunities

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26. See State of West Bengal Vs. Anwar Ali Sarkar, A.I.R. 1952 SC 75 at 79.

for justice can be equally paid. There can hardly be said equal access to justice where one litigant is rich and other poor because the rich litigant may purchase justice with his heavy purse while the poor may not do so. The philosophy of equality before law, therefore, can be put into action when the law is loaded in favour of weak and can afford him an opportunity to have an access to courts vis-a-vis, through agencies like Lok Adalats. Though Article 14 does not explicitly talk of Lok Adalats, but it is implied from its spirit that State must create conditions whereby existing economic disabilities are removed and social equality in its true perspective is established. Moreover, it is a well acknowledged fact that there is a complete absence of two things in Indian society. To quote Dr.Ambedkar, "we must begin by the acknowledging the fact that there is complete absence of two things in Indian society. One of these are equality. On the social plane, we have in India a society based on the principles of graded inequality which means elevation of some and degradation of others. On the economic plane, we have some, who have immense wealth as against many who are living in abject poverty. On January 26, 1950, we are going to enter into a life of contradictions. In politics, we will have equality and in social and economic life we will have inequality...., we must remove this contradiction or else who suffer from inequality will blow up the structure of political democracy which the Assembly has no labouriously built up"[27].

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27. Quoted in N.H.Thomas vs. State of Kerala, A.I.R. 1976 SC 490 at 513.

The observation made by Dr.Ambedkar really highlights the needs for giving special treatment to the weaker section of society and afford equal opportunity so as to render justice, political, social and economic as intended to by the wise founding-fathers of the Constitution in the very Preamble of our National Charter.

Keeping in view the truth revealed by Dr.Ambedkar, the fighting creed of equal justice, regardless of 'adversarial' legalistic is best spelt out in India's Founding Deed Article 39-A which puts the State under obligation to secure that the operation of legal system promotes justice, on the basis of equal opportunity and shall, in particular, provide free legal aid, by suitable legislation of 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.

The Supreme Court of India, keeping in view the philosophy envisaged in our National Charter, observed[28],

> "The rule of law does not mean that the protection of laws must be available only to a fortunate few or that the law should be allowed to be prostituted by the vested interests for protecting and upholding the status quo under the guise of enforcement of their civil and political rights. The poor too have civil and political rights and the rule of law is meant for them also, though today it exists only on papers and not in reality.... So far the Courts have been used only for the purpose of vindicating the rights of the wealthy and the affluent. It is only those privileged classes which have been able to approach the Courts for protecting their vested interests. It is only the moneyed who have so far had the golden key to unlock the doors of justice .... They have been crying for justice but their cries have so far been in the wilderness. They have been suffering injustice silently.... But time has now come when the Courts must become the Courts for the poor and struggling masses of this country.... It is true that there are large arrears pending in the Courts, but that cannot be any reason for denying access to justice to the poor and weaker section of the community. No State has right to tell its citizens that because a number of cases of the rich and the well-to-do are pending in our courts, we will not help the poor to come to the courts for seeking justice until the staggering load of cases of people who can afford, is disposed of.".

28. See People's Union For Democratic Rights And Ors. vs. Union of India and Ors., A.I.R 1982 SC 1473 at 1478; Bandhua Mukti Morcha vs. Union of India, 1984 SC 802.

Similarly, the Supreme Court in number of recent decisions gave a warning to the judicial system of the country as well as to the legal profession in particular that they must shed their character as upholder of established order and the status quo. The Court felt that the necessity that time has now come for the Indian judiciary to sensitize themselves to the need of doing justice to the large masses of people to whom justice has been denied by a cruel and heartless society for generations[29]. The Court made its stand clear that this new change has to come if the judicial system is to become effective instrument of equal justice, for without it, it can not survive for long[30].

The Supreme Court of India has really made a bold attempt to give meaningful interpretation to the spirit of Article 14 and endeavoured to fill up the wide gulf between reality and ideal in the average citizens access to equal justice. Though it may appear ironical that the highest Court of land had to confess its inaccessibility to the poor yet it is a hard fact that the poor in India have miserably failed to have equal justice as enshrined in Article 14 of the Constitution. Whether there has been a collective institutional failure in denying justice to the poor or it is a failure of law itself to match up to the new values and aspirations of the Constitution or it is the result of deliberate refusal on the part of the poor to avail themselves of legal remedies even when provided free, whatever be the

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29. Ibid, also see Sunil Batra vs. Delhi Administration, A.I.R. 1978 SC 1675 and A.I.R. 1980 SC 1579; Babu Singh Vs. State of U.P., A.I.R. 1978 SC 527; Raghubir Singh vs. State of Haryana, A.I.R. 1980 SC 1087 and Hussainara Khatoon vs. State of Bihar, A.I.R. 1979 SC 1360, 1369 and 1377.

30. Supra note 28, p.1478.

answers to these questions, one thing is certain that the utilisation of the legal system by the poor has been marginal all these years with the consequence that the judicial system has operated unfairly to the interests of the poor and one of the consequences of this is that the philosophy of equality before law exists only on papers and not in reality[31].

The starke reality today is that a large number of men, women and children who constitute the bulk of our population are living a sub-human existence in conditions of abject poverty, utter grinding poverty has broken their back. They have badly lost faith in the existing legal system. The fundamental rights embodied in our Constitution have no meaning to the millions of our people to whom food, drinking water, timely medical facilities and relief from disease and disaster, education and job opportunities still remain unavoidable. In these circumstances the only solution for making civil and political rights meaningful to these large sections, of society would be to remake the material condition and restructure the social and economic order so that they may be able to realise the economic, social and cultural rights[32].

Time has now come to realise that there is a dire need to make judicial system an effective instrument of equal justice, for without it, it cannot survive for long. Fortunately, this change is gradually taking place and Lok

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31. Ibid, p.1477
32. Ibid.

Adalat is playing a vital role in bringing about this change. It is through this noval system that the problems of the poor are coming to the fore-front and the entire theatre of law is changing. There is a need to update Legal Justice to legitimise progressive urges, discern the reality of social changes and design its delivery system, so as to obviate the dominance of the poor by the rich and accelerate the people's access to effective, litigative justice. To quote Justice Krishna Iyer[33]

> "The activist strategy of 'justicing' must suffer processual mutations with a people orientation if the gaping gap between the old order and the new is to be bridged and the government of the people, for the people, is not to be a legal fiction".

The spirit of Article 14 necessitates to take a hard sociological look at the social balance sheet of judicial functionalism in the context of equal justice. The adversary regime, legacy of Anglo-American legal culture, is basically hostile to the actualisation of equal justice embodied in our Article 14 of Constitution unless operational innovations to conscientize, sensitize and radicalise current judicial methodology be creatively and crusadingly undertaken[34]. Keeping in view the fulfilment of the Constitutional Commitment of equality before law we may resort to harder adventure to judicial reform. The five fundamentals (Panchasheel) which may radiclise and democratise judicial

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33. See, V.R.Krishna Iyer, Equal Justice And Forensic Process: Truth And Myth (1986), pp.56,57.
34. Ibid, pp.58,59.

remedies in consonance with the real life milieu of Indian society may be mentioned as follows[35]:

Firstly, access to justice, civil criminal and other, must be democratized, humanised and the doors of all be kept ajar for the citizenry, without the janitors of legal justice blocking the way and hampering the entry, initially and at higher levels, using various constraints.

Secondly, the procedure for judicial consideration of disputes must be streamlined, rationalised and rendered easy and inexpensive, informal and flexible, compassionate and realistic, and shorn of inherited technicalities, rigidities and other legal complexities mystifying the rag-tag masses and rebuffing the Good Samaritan social action groups from securing for their humbler neighbours effective relief.

Thirdly, institutional diversity and remedial plurality adapted to different types of litigation and layers of people, invested with mobility, even door delivery, dynamism and ability to rely upon all sources and materials which, in broader terms of justice, equity and good conscience, and without technical interdicts bear upon searching for truth.

Fourthly, the provision for the participation of the people in the delivery system of justice and bringing into vogue versatile modes of judicial engineering and 'hearing' structuring, so that processual justice to the common people may become a fruitful reality, not remantic rhetoric. Here, we must concretise the principles of economic justice, local trials and early finality, ensuring fair facilities for all

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35. Id; pp.59-61.

regardless of economic and other disabilities, personal or of groups. This massive, meaningful reform exercise must be geared to changing the structure and culture of the social order in terms of Article 38.

Finally, preventive justice with prophylactic goals including legal literacy, local negotiated settlements, give and take adjustments, reconciliation procedures, arbitral bodies and other non-formal variants must be explored. There is a need to have broad judicial accountability to the nation on an institutional footing and a social philosophy in the robbed brethern' which makes them affirmative actors of the Constitutional order which envisions a 'rights revolution', decentralisation of State processes and socialistic pattern of society.

Article 14 of our National Charter makes People's justice a national imperative that is why Pandit Jawahar Lal Nehru, as the foremost servant of the India people, rose, at that first free midnight hour of August, 1948, to speak to distant destiny as the surrogate of the voiceless Indian humanity. To him, "Many a Ministers, who 'struts and frets his hour upon the stage', many a minion, 'drest in a little brief authority', in charge of executive power, many a judicial professionals meditating on law and blinking at justice, and many a responsive legislator and leader in public life will need the national pledge of social justice as too solemn to be siloed too long. For, anyone, great or small, be he parliamentary debator, authoritarian executive or legalist justice, who betrays this cause is a 'trailor' to the masses

of miserables for whose work, wealth and happiness public power is vested in him legally. The means (law) shall not scuttle the end (justice) but shall sail to subserve it if both must survive"[36].

It is in this context that the wise founding-fathers of our Constitution gave Swaraj a fuller meaning and human rights content. The new social order the freedom fighters had in mind over threw the old frustrations and installed those aspirations now inscribed into the Preamble and articulated in Article 14 of our Constitution. The revolutionary link-up between the dynamics of equal justice and the dialectics of social conflict is now the Keynote of Indian jurisprudence[37]. Krishna Iyer, J., rightly remarked, "If equal justice has a new five-fighting role for the Court, there is a need for it to be energetic, original and adaptative to provide shelter to the vast victims of social injustice [38]. Thus the burning issue envisaged in the Constitutional philosophy of equal justice is how to convert judicial philosophy of egalite into a living jurisprudence of remedies. Judicial survival in India summons the spirit of innovation to face current challenges. "Radicalised or perish" is the dialectic of rapid and ragging change fuelled by the people's urge for social justice[39]. The spirit of Article 14 demands that Legal Justice must update itself to the time of social conditions and design its delivery system so as to accelerate the philosophy of equal justice enshrined in our National Charter.

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36. V.R.Krishna Iyer, Indian Social Justice In Crisis (1983), p.7.
37. Supra note 33, p.38.
38. Ibid, p.55
38. Ibid, p.62.

Frankly admitting, Indian lives in her villages, social exploitation, economic exploitation and denial of legal rights are the stark realities of our countryside. Justice has still no defacto jurisdiction in the agriculture sector. Bonded labour abounds and agricultural workers, unorganised and demoralised, submit themselves to torture, although law makes formal statutory presence in these regions. Similarly, industrial workers, though better organised are still a better species and subject to exploitative privation with the result that execution of welfare legislations for their benefit is still a cry in wilderness. Moreover the Scheduled Castes and Scheduled Tribes are still the victims of socio-economic suppression and form a third world within the third world[40]. Equal justice for them is a formal promise and a fictitious prospect[41]. Moreover, another considerable group-half of Indian humanity is the weaker gender. The Constitution even today had badly failed to prevent bias towards them. Equal justice holds them dear. The stark truth is that over 300 million Indians labour under gender justice, with dowry burnings and gang rapes and discriminatory wages insatiably escalating[42].

Despite the humanism of the Constitution, there are still flourishing social evils like human bondage, trafficking in human beings and child labour. A gathering storm is bound to blow unless a creative rule of law, socially sensitive, operationally dynamic and remedially prompt and potent, comes

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40. Ibid, p.65
41. Id.
42. Id.

into being. The grim urgency summons for a radical humanist version of the jurisprudence of justice, cadre of justices and techniques of justicing is needed to weed out terrible injustices prevalent in Indian society on a macroscale[43]. A struggle for peaceful deliverance is possible only if the law and Court conspire to change this sorry scheme of things *entire and remould it nearer to our heart's desire*[44]. We are in the midst of rising revolution of equal justice expectations and it may burst as an angry exploison of frustrations if the judiciary, by omission and commission and conservative tradition fail in its mission as a radical fiduciary and redumptive instrumentability of the people[45]. There has to be a swift mutation if the march from despair to hope is to take place - a new way of thinking about old problems, a shift of the judicial centre of gravity from the affluent to the indigent which, in truth, is the fulfilment of the aspirations contained in the 'equality clause' of our Constitution. It would be appropriate here to remind ourselves of Pandit Nehru's words[46]: "If we cannot solve this problem soon, all our paper Constitution will become useless and purposeless ....". The dynamics of equal justice, therefore, demands that in a society of chronic disabilities, judicial technology, to be functional must reach the whole range of these handicapped millions. The need of the day is that legal justice must not operate in a sound-proof and light-proof

43. See, V.R.Krishna Iyer, "Towards a Burgeoning Indian Jurisprudence of Social Action and Public Interest Litigation", India Bar Review, Vol.16(2), 1989, p.132 at 136-137
44. *Ibid*, p.137.
45. Id.
46. Quoted in V.R.Krishna Iyer, Equal Justice And Forensic Process: Truth And Myth (1986), p.66.

Courts room with absolete techniques, but discern the social changes and redesign its delivery, system, so as to accelerate the people's access to effective litigative justice and in its true perspective accomplish the philosophy of 'equal justice' envisioned in our Constitution.

IV. Constitutional Mandate Of Social Justice

Article 38 of the Constitution gives content to that part of Preamble of our Constitution which refers to social, economic and political justice. The mandate of this article provides specifically that the State should strive to promote the welfare of people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life[47]. The State has been obligated, in particular, to strive to minimise the inequalities in income, and endeavour to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of peoples residing in different areas or engaged in different vocations[48].

The spirit of Article 38 discloses that the high ideals of the Constitution of India are adumbrated in this article which proposes to secure to all its citizens, triology of justice - social, economic and political. The framers were well aware of the fact that political freedom without socio-

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47. See, Constitution of India, Article 38(1).
48. Ibid, Article 38(2).

economic justice is meaningless. Therefore, they wished to secure triology of justice. Frankly speaking, social justice demands eradication of social inequalities based on caste, colour, race, creed etc. Economic justice rules out distinction from man to man from the point of view of economic values. Political justice refers to the absence of arbitrary treatment of citizens in the political spheres. The tripple justices ensure something which is not only right to do, and wrong not to do but which individual persons can claim from us as their moral right and moreover, social justice is all inclusive of all the tripple justice[49].

To be true, Indian Constitution is really a social document having majority of its provisions directed at promoting the goals of justice and establishing the conditions necessary for its achievements. In order to achieve the goal of triology of justice Article 39-A has been embodied in the Constitution of India with an intention that State shall endeavour to secure that the operation of the legal system promotes justice on the basis of equal opportunities so that it is ensured that the opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities[50]. That is why Indian Parliament has enacted The Legal Services Authorities Act 1987 with a view to provide free and competent legal system to the weaker section of society to ensure that the opportunities for securing justice are not denied to any citizen by reason of economic and other disabilities, and to organise Lok Adalats to secure that the

49. See K.Subha Rao, "Law And Social Justice", Indian Constitutional And Parliamentary Studies (1974), p,7.

50. See Constitution of India, Article 39-A.

operation of the legal system promotes justice on the basis of equal opportunity[51].

It is an admitted fact that the Constitution of India inscribes Justice as the first promise of the Republic, which means that the State Power will execute the pledge of Justice in favour of millions who are Republic. Social Justice is People's Justice where the tyranny of power is transformed into the democracy of social good. It is, however, imparative to mention here that the Constitution does not specifically mention the ways and means to accomplish the goal of social justice. Therefore, the dire need of the day is how to redesign the instruments, re-educate the operators and recondition the climate through a new legal culture - administrative law, of parliamentary process and socially sensitive judicial process so that social justice for millions may be actualised. Our bureaucracy which at one time served well in a government with the limited task of revenue collection and maintenance of order is no longer adequate to fulfil the new requirements generated by the State undertaking new functions and responsibilities of welfare State. The prospect of realising social justice is remote unless Article 38 and 39-A go into militant action and unless there is a committed cadre of the legislators, bureaucrates and the judiciary. There is needed an entire break and substitution of an administrative and judicial set-up committed to the Constitutional philosophy of social justice. Irrespective of the ideology to which a particular party in power to is

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51. See, The Text of The Legal Services Authorities Act, 1987.

attached to, the instrumentalities of the State must enforce to the best of its ability the programme designed to accomplish the goal of social justice. In this context, our legislatures, our government and Courts must be judged by fundamental evaluation of their performance.

Moreover, the Constitutional system created by our National Charter entrust the judiciary with administration of justice including adjudication of dispute and interpretation of laws between citizens and State and States inter se, between the Union and a State. The Indian judiciary enjoys an authority which is the summation of the Court of Appeal and House of Lord in England and the Supreme Court of the United States. It is under the Constitutional obligations to defend the Fundamental Rights of citizens and human rights of persons to the extent the Constitution gives expression. The progressive march of the Nation, its integrity and unity, its guarantee of legality and equality are in the hands of the judiciary in a large sense; and functionally speaking, the Court's performance has to be judged by the measure of success which has attended upon its fulfilment of this expectation[52].

The role of judiciary has further become imparative because we are committed to the goal of establishing a welfare society mandated under Article 38 of our National Charter[53]. The right of effective access to justice has thus emerged with the new social rights. Moreover, the enjoyment of traditional as well as new Constitutional rights presupposes mechanism for

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52. See V.R.Krishna Iyer, "The Judicial System - Has It A Functional Future In Our Constitutional Order", Supreme Court Cases (1979) 3 SCC 4 at p.7 (Journal Section).

53. See Text of Article 38 of The Constitution of India.

their effective production. Such protection, moreover, is best assured by a workable remedy within the framework of judicial system. The entire effectiveness of access to justice is thus a basic requirement of a system which purports to guarantee justice, political, social and economic to its people[54]. To quote Granville Austin[55],

> "The judiciary was to be an arm of the social revolution, upholding the equality that Indian had longed for during colonial days but had not gained".

Thus, the judiciary in India is armed with the responsibility to carry out the mandate of social justice as intended to by the wise founding-fathers of our Constitution. The Court belongs to the country and imperial vintage stances must yield place to dynamic, democratic changes so that, a National Institution, the judiciary may rise to radical stature and function as a goal-oriented institution[56]. The founding-fathers envisioned the Court as the judicial arm of the Constitutional revolution whereby social justice, in its broader semantics, was to be secured to every citizen, even the humblest and the most handicapped[57]. Moreover, democratic, secular, socialist creed of our Republic depends, in large measures, on the social conscience and management abilities of Justice[58]. It has become a need of the day for each and every judge to have a social vision which may enable him to accomplish the goal of social justice.

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54. See V.R.Krishna Iyer, Our Courts On Trial (1987), p.v (My Alibi).
55. Quoted in V.R.Krishna Iyer, Ibid, p.viii.
56. Supra note 54, p.2.
57. Ibid, p.8
58. Id.

The finest hour of the judiciary arrives when its members bear true faith and share its social philosophy and strategy of action. Philosophy of social justice under Article 39-A requires a radical change in the judicial process so that every high and low can get justice without delay. Justice Krishna Iyer has rightly opined[59].

> "We want a revolutionary judicial system which will fight for people's sake, even the Cabinet's policy - not a dependent creature funded and controlled by the administration. We want legal - social research, lobbying for legislations, new models of mobile, people-oriented tribunals. We want justice to be a proletarian estate. This is the preambular tryst".

The New Justice Order is vibrantly implicit in Part-III and Part-IV, both of which are fundamental in the governance of the country. The judiciary in India is expected to be the sentinal, sword, and shield of rights of the humblest millions with an assurance to bring social salvation of the weaker section. That is why Article 39-A likewise obligates the State which includes the judiciary to secure that the operation of legal system promotes justice on the basis of equal opportunity to ensure that opportunities for securing justice are not denied to any citizen by reasons of economic and other disabilities.

The judiciary in India is no longer a mere adjudicatory umpire but is expected to be an activist engineer and curial catalyst of social justice[60]. The judiciary is no imperium in imperio and must change colour. New People's tribunals are

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59. See supra note 54, p.32.
60. Ibid, p.38.

envisioned by Article 39-A to ensure a new legal system and procedure which are operationally geared to social justice and elimination of all disabilities, economic or other, of the masses in getting real remedial justice. The ends are social and economic justice, the means are legal remedies; the parameters are equal opportunities for the masses to reach remedies. All the innovations, institutions and procedural, necessitated by the broad democracy of legal remedies, are covered by this mandate[61].

The Constitutional commitment to have social justice for all requires an audit of the existing justice system and its performance is very essential and even the High Courts and Supreme Court must come within the scope of such a critical scrutiny. What is required is that we should, beyond gimmery within the existing system, attempt many new methods of decentralised non-professional, people-participatory justice strategies and flexible models responding to local conditions. There is a need to revive Lok Adalats, indigenous Panchayat Courts, conciliation bodies, arbitral organs and the like with safeguards built in so as to prevent institutional miscarriage of justice[62]. We need to be ready for original experiment in the judicial system, buring orthodoxies of the past[63]. This is a dire need to remodel Indian judicial system so that justice may come up within the reach of common classes. This is urgently necessary even in the Courts at the floor level where little men seek justice.

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61. Ibid, p.104
62. Ibid, p.112
63. Ibid, p.113.

The spirit of Article 38 and 39-A reveals that it is a categorical imparative to have and hold a Judicial Estate where the little Indian may demand and be delivered his due without fear of favour. It is in this context that our system of government, with the rule of law as the guardian of social justice and human rights necessarily broadens the jurisdictional spread of judicial powers, immunizes it from insecurity and keeps it as an institutional controllerate over the Executive and in federal politics with written Constitutions even the legislature[64]. The judiciary thus has been made a paramount 'institute of national life' and is a major member of the trinity of State instrumentalities. The judiciary is obligated to be activist in redeeming its functional tryst with the Constitution, which is its very creator and power-conferor. The dynamics of equal justice through the judicial process thus is a Constitutional fundamental and embraces the weak and the meek, the suppressed and the repressed who are the real consumers, individually and in groups, of social justice[65].

V. Philosophy of Panchayat Justice

India's massive attempt to provide access to justice for hundreds of millions of villagers through village Courts is theoretically provocative as well as practically important. Panchayats, which have existed in India for thousands of years, are a characteristic and distinctive institution of

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64. Ibid, p.128
65. V.R.Krishna Iyer, Equal Justice And Forensic Process: Truth And Myth (1986), p.14.

Indian civilisation[66]. The study of the history of evolution of Indian legal system discloses that although there were Royal Courts in administrative centres, there did not produce a unified national legal system of the kind that developed in the West. Equally is true the fact that textual law influenced but did not displace the local law. The harsh reality is that textual law did not penetrate deeply into the countryside[67]. Throughout most of Indian history there has never been a direct or systematic State control of the administration of justice in the villages where most Indian lived[68]. Even in Pre-British India we witness innumerable overlapping local jurisdictions and many groups enjoyed some degree of autonomy in administering law to themselves. Very oftenly, disputes in villages and even in cities were not settled by Royal Courts even but by People's Courts of the locality, of caste within which the dispute arose, or of guilds and associations of traders or artisans[69]. There was a well-established practice almost throughout the length and breadth of India to the fact that rulers traditionally enjoyed and occasionally exercised a general power of supervision over all these lesser tribunals[70]. In theory, only the Royal Courts could execute severe punishments. These lesser tribunals could pronounce decrees and invoke Royal powers to enforce them[71].

66. See Upendra Baxi and Mare Galanter, "Panchayat Justice: An Indian Experiment In Legal Access" in M.Cappelleti (ed.), Access To Justice (1979) Vol.III, p.343; also see Law Commission of India: 14(2) Report (1958), p.874.

67. Upendra Baxi and Marc Galanter, op.cit., p.344.

68. M.Ahmad, The Administration of Justice in Medieval India (1941), p.3; Galanter, "The Displacement of Traditional Law In Modern India", Social Issues (1968), Vol.24, pp. 65-69; Rudolph and Rudolph, "Barristers And Brahamanas in India; Legal Cultures And Social Change", Comparative Studies in Sociology And History (1965), Vol.VIII,pp.24-49; and N.Sen Gupta, Evolution of Ancient Indian Law (1953), p.119.

69. See Barnard Cohn, "Anthropological Notes on Disputes And Law In India, "The Ethnography of Law (1965), p.90.

70. Supra note 67.

71. See Shri Nivas, "The Study Of Disputes In An Indian Villages", in M.Shri Nivas,

The pre-Independence attempts to revive the local units of administration throw a flood of light on the aspect that some efforts were made to reorganize rural self-government through Panchayats[72]. The Mayo Resolution of 1870 on Decentralisation, Lord Ripon's famous Resolution of 1882, The Report of Royal Commission on Decentralisation, The Government of India Resolution of 1915, and The Montague - Chelmsford Report of 1918 stand as a testimony to reorganise the working of village Courts, though not intended to reproduce the characteristics of old-time Panchayats[73]. Thus, India's practice has been one long story of seeking access to village people through their participation in the working of village Courts. By and large, India created an institutional infra-structure in her quest for public participation[74].

It is quite manifest from the study of the working of Panchayat justice that there was a progressive effort at the reorganisation of local self-government including rural self-government through Panchayats. It is revealed that the village government as developed from 1920 to 1947 consisted primarily of the creation of Panchayat bodies, with a blend of "municipal/administrative" and judicial functions[75]. The administrative task entrusted to Panchayats were really of minor nature which included up-keep of country roads, village streets, minor sanitations etc. However, the judicial functions seem quite eminent in the available accounts of the

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Caste In Modern India And Other Essays (1962), pp.112-119; and Nicholas and Mukhopadhyaya, "Politics And Law In Two West Bengal Village", Bulletin of The Anthropological Survey of India (1962), Vol.XI, pp.15-40.

72. Supra note 66, p.347.

73. See H.Tinker, Foundations of Local-Self Government in India,Pakistan And Burma (1954),p.90.

74. Supra note 66, p.346.

75. See Upendra Baxi, Alternatives In Development: Law - The Crisis of Indian Legal System (1982), p.297; also see Upendra Baxi, "Access, Development And Distributive

Panchayat institutions[76]. The study discloses that the judicial functions were sometimes performed by special village Courts or by ordinary territorial Panchayats. The principal function of the Panchayat was to act as a petty Court. The performance was praise-worthy. The study of the dimensions of the judicial activity of Panchayats show that in Uttar Pradesh, the Panchayats successfully disposed off 1,22,360 cases in 1925, 91,476 cases in 1931, 85,99 in 1936 and 67,233 cases in 1937[77]. Similarly, the Panchayats Courts in West-Bengal disposed off 1,20,000 cases in 1929 and 1,74,000 cases in 1937[78]. Though there was almost a similar performance in other provinces, but not on such a huge scale[79]. However, there is witnessed a decline in the performance of Panchayat Court after 1935[80].

Although Gandhi endeavoured to create an atmosphere in which the over-westernizative of the projected political system could be corrected, yet his advocacy of this kind of polity, served little purpose on the eve of Constitution - making[81]. Infact, the architect of the Constitution Dr.Ambedkar was not very enthusiastic about the village Panchayat. While introducing the Draft Constitution and referring to the criticism thereof, he had expressed himself strongly against the system of village Panchayats. Characterising the village as "a sink of localism" and "a den

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Justice: Access Problems of The Rural Population, "Journal of Indian Law Institute, Vol.18, July-Sept., 1976, No.3, p.375 at 396.

76. Ibid, p.298.
77. Id.
78. Id.
79. Id.
80. Id.
81. Supra note 75, p.298.

of narrowmindedness", he had observed, "I am glad that a Draft Constitution has discarded the village and adopted the individual as the unit[82]. It is quite evident from the study of the discussion of the Constituent Assembly that the entire august body was divided into two schools[83] of thought as to the nature of democracy it wanted. One school was the School of Gandhian Philosophy[84], while the other school projected the Ambedkar's philosophy[85]. In response to Dr.Ambedkar's statement, Mr. H.V.Kamath insisted that "sympathy, love and affection" toward "out village and rural folk" was essential to the uplift" of India Mr. T. Prakasam pleaded for a modernised system of Panchayats which will give "real power to rule in the hands of the villagers". Professor N.G.Ranga laid emphasis on the aspect that "without this foundation stone of village Panchayats it would be impossible for our masses to play their rightful part in our democracy[86]. Gandhi concluded his outline of village government in the following words[87]:

> "The Panchayats will be the legislatures, judiciary and executive combined".

Gandhiji compared Gram-Rajya to Ram Rajya. His main aim was to assert the values of Panchayat justice in the Constituent Assembly with a strong zeal to build an atmosphere in which the political system based on Western pattern could

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82. Constituent Assembly Debates, Vol.VII, p.219.
83. Ibid, p.38.
84. Ibid, The Constituent Assembly reveals that the most prominent members of this group were the veteran Congress leaders like D.S.Seth, K.Santhanam, Professor N.G.Ranga, A.K.Ayyer, M.M.Das and H.V.Kamath.
85. The views of Dr.Ambedkar were supported by N.G.Ayyangar, K.M.Munshi, Saiyed M.Saddula, B.L.Mitter and Dr.D.P.Khetan.
86. Quoted in M.Venkatrangian and M.Patabiraman, Local Government in India (1969),pp.248-253.
87. Ibid., p.247.

be conciously corrected[88]. Similarly, D.S.Seth wanted that the Government system should be based on the Panchayati Institution because he viewed that too much concentration of powers makes that power totalitarian and takes in towards fascist ideals[89]. H.V.Kamath went even to the extent of saying that our polity in ancient times was securely built on village communities which were autonomous and self-contained; that is why our civilization has survived through all these ages[90]. To be brief, the Congress lobby in the Constituent Assembly emphatically asserted that Panchayati Raj was the basic touch-stone of our ancient political philosophy and therefore, should find place in the Constitution of country.

It is, however, revealed from the Constituent Assembly Debates that the Ambedkar group[91] rejected the philosophy of the supremacy of Panchayati Institutions. This explain the reason why the Draft Constitution did not mention the name of Panchayat Institution. Perhaps, socio-political factors did play an important role in the non-inclusion of the name of the Panchayati Institution in the Draft Constitution. Dr.R.S.Rajput has rightly observed Dr.Ambedkar and his social background as the principal reason for this cause. To quote him[92],

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88. See G.Austin, The Indian Constitution: Cornerstone Of A Nation (1966), p.50; and Upendra Baxi, "The Little Done, The Vast Undone: Some Reflections on Reading Granville Austin's The Indian Constitution, Journal of Indian Law Institute (1967), Vol.IX, p.343.
89. Supra note 82, p.38.
90. Ibid, p.219.
91. Supra note 85.
92. See R.S.Rajput, "The Concept of Village Republics And The Spirit of Article 40", in in R.S.Rajput and D.K.Meghe (Ed.), Panchayati Raj in India: Democracy At Grassroots (1984), p.54.

"But so far as Dr.Ambedkar is concerned, he was born in a village and belonged to Scheduled Caste. His Caste had suffered a lot in the villages at the hands of upper castes. The institutions of Panchayats had no regard for the backward communities in villages. It was only in the cities where they could breathe freely. The writings of Dr.Ambedkar had focussed the oppression of the Scheduled Castes in the villages and preferred the city life. He had included everything which was useful for the cities but not for the villages.... That perhaps could have been the reason for ignoring the villages in the Draft Constitution".

There are, however, some divergent views with regard to non-inclusion of Panchayati Institutions in the Draft Constitution. The Congress lobby imputed political reason for this non-inclusion. H.V.Kamath was of the view that the principal reason for non-inclusion was the composition of the Draft Committee itself. None of the members, except Sriyut Munshi, had taken active part in the struggle for countries freedom and therefore had failed badly to catch the imagination of entering into the spirit of our struggle. Moreover, another criticism against the composition of Drafting Committee is that no part of it represented the ancient polity of India[93]. Consequently, all this resulted into the non-inclusion of the Panchayati Raj Institutions in the Draft Constitution.

It is thus quite evident that the whole course of the Constitutional development reveals the lack of strong "political-will" right from the very beginning, the time when the Constitution was drafted, to decentralise powers to these institutions. These Panchayati Raj Institutions have thus been

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93. See Upendra Baxi, "Access, Development And Distributive Justice: Access Problems of The Rural Population", Journal of Indian Law Institute, Vol.18, July-Sept., 1976, No.3, p.375 at 394.

accorded secondary position in the Constitutional hierarchy of political set-up, and that also not as an independent provision but as the submerged provisions finding place amongst the scattered non-justiciable[94]. Directive Principles of State Policy resting purely on the will of the government for their implementation. The Constitution as it emerged did include certain village-oriented Directive Principles of State Policy[95].

Article 40 obligates the State to take steps to organise village Panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government. The spirit reflected in this article reveals the truth that power of the people, which is the soul of a republic, stands subverted if decentralization and devolution desiderated in Article 40 is ignored by the Executive in action even after holding elections to the floor-level of administrative bodies[96]. Thus to actualise the goal of democracy, the power to organise Panchayati Raj Institutions has been vested in the States. Entry No.5 in the State List of Seventh Schedule provides, "The local government that is to say, the Constitution and powers of municipal

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94. See Constitution of India, Part-IV, Article 37. This Article enacts, "The provisions contained in this part shall not be enforceable by any Court, but the principles therein laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles to make laws".

95. For instance, Article 48 urges the State to "endeavoured to organise agriculture and animal husbandry on modern and scientific lines". To promote the well being of agricultural workers, Article 42 exhorts the State "to endeavour to promote cottage industry on an individual or cooperative basis in rural areas". The State is directed, by Article 46 to "promote with special care" the "educational and economic interests of the weaker sections of the people and in particular of the Scheduled Castes and Tribes" who shall be protected against injustice and "all forms of exploitation".

96. N.M.Kheni vs. Manik Rao Patil, A.I.R., 1977 SC 2171.

corporations, improvement trust, district boards, mining settlement authorities and the other local authorities for the purpose of local self-government or village administration".

The philosophy behind Article 40 is that village Panchayats as units of self-government would go a long way in ensuring democratic decentralization and creating an exhilarating feeling and a sense of confidence among the villagers in the sphere of decision-making[97]. The Panchayati Raj Institutions are expected to be recognised as that branch of administration which must eventually take charge of the expanding social and economic services of the State[98]. So, it has, assumed a special significance in the context of the basic aims of our political, economic and social development of our country. These institutions are expected to be as sin qua non of our rural programmes especially related to rural India to fight against poverty, injustice and exploitation[99].

The aim of Article 40 is: "If India is to progress it must do so through reawakened village life[100]. The idea underlying this Constitutional provision is to introduce democracy at the grassroots. The objective of this Constitutional provision is to promote three main aims[101].

(a) To foster the involvement of individuals throughout the nation in the process of democratic government.

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97. See Sibnath Bhattacharya, Rural Poverty In India, (1989), p.137.
98. Ibid.
99. Ibid.
100. Supra note 92, p.61.
101. See Henry Maddick, "Panchayati Raj", Journal of Local Administration Overseas, October 1962, p.19.

(b) To gain participation of villagers in national development from the village level upwards and thus promote improvements in the village conditions and render justice - political, social and economic as envisaged in the very Preamble of our Constitution, and

(c) To lessen the burden of State administration through decentralization.

The spirit behind the provisions contained in Article 40 of the Constitution spells out an active obligation of the State to secure a social order in which social, economic and political justice shall inform all the institutions of national life thus bringing about the welfare of the community as a whole[102]. It is a concession to the Gandhian point of view regarding the village Panchayats as the foundation of self-government in the country. The Gandhian concept of society was that of oceanic structure comprising of concentrated circles of life and vibrant communities of which the village or primary face-to-face community was to be the hub. Similarly, Jayaprakash Narayan, while agreeing with Gandhian philosophy developed the concept of Panchayati Raj in the form of "communitarian society"[103]. In Gandhiji's dream of Panchayati Raj and his concept of power structure, life was picturised as, "consisting of concentric circles dependent and complimentary to one another"[104]. According to him,

102. Constituent Assembly Debates, Vol.VIII, p.41.
103. Supra note 92, p.18.
104. Ibid, p.83.

"Administration of justice by Panchayats in villages would be speedy, efficient and quick, would discourage litigation and help settlement of disputes out of the Court by agreement among the parties. It will also lay foundation of non-violent democracy fostering love of justice away the people"[105]. He opined that Centre would automatically become strong if we can build the whole structure on the village Panchayats, on the willing co-operation of the people. He further gave the idea of Trusteeship and supported the view that the State was under the duty to carryout the will of the people and not to dictate them[106].

Keeping in view the spirit contained in Article 40 the Government of India appointed Balwantrai Mehta Committee[107] to go into the power structure in rural India and to make recommendations for its distribution for realisation of socio-economic progress and alround development of the rural population. The committee envisaged, among other things, the establishment of Panchayats at village level, Panchayat Samiti at the Block level, and Zila Parishad at the District level. The Committee chiefly made recommendation for three-tier system[108] of a democratic local institutions to run their respective administration at the village, block and district level inter-connected with one and another so that all the developmental programmes at these levels should be channelised through these institutions. The submission of Mehta Report (1957) and its adoption in different States in India had a

105. Id.
106. Id.
107. See Text of Balwantrai Mehta Committee Report, 1957.
108. Ibid.

snowball effect with the result that fifteen States adopted the recommendations as originally made by the Committee itself. The Committee suggested a pattern whereby rural development could be accelerated through people's participation. Even Jaya Prakash Narayan in his 'Plea For Reconstruction of Indian Policy', while agreeing with the text of the report favoured the idea of complete transfer of power to Panchayati Raj Institutions, in matters pertaining to local development and administration starting right from the village Panchayat to the Lok Sabha[109]. The spirit of the recommendations of Mehta Committee (1957) was to create an agency like rural local self-government with the responsibility of of discharging certain selected functions pertaining to development. So, it was recommended by the Committee that the overall and desirable development could be possible only by way of "democratic decentralisation"[110]. The Committee also suggested that the scope of Panchayati Raj Institutions should be wide enough to bring about substantial changes which are necessary to transform it traditional society like India[111].

It is shown from the different studies conducted by various social scientists[112] that the main objective of the

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109. See Jaya Prakash Narayan, "Towards Total Revolution (1959)", Vol. 4, p.3.

110. See R.N.Haldipur, "Sociology of Community Development And Panchayati Raj (Part II)", A Survey of Research In Sociology And Social Anthropology, Vol.II,No.3,1974, p.66.

111. Ibid., p.67.

112. For detail see R.H.Retzlaff, "Village Government in India: A Case Study", Economic Weekly, Vol.XII, 1960, pp.45-48; K.S.Bhat, "The Role of Political Parties in Panchayati Raj", in Haldipur and Paramahamsa (ed.), Local Government Institutions In Rural India: Some Aspects (1970), p.26, F.G.Bailey, Caste And Economic Frontier - A Village In Handland Orissa (1957); Ensminger Douglas, "Democratic Decentralization - A New Administrative Challenge", The Indian Journal of Public Administration (1961), Vol.VII, No.3, July-Sept., p.7, Sunil Guha, "Democratic Decentralisation", Economic Review, Vol.X, Jan.9, 1959; and Paul H.Appley, "Some Thoughts On Decentralised Democracy", The Indian Journal of Public Administration, Vol.VIII,No.4, Oct.-Dec., 1962.

Study Team to recommend the complete transfer of power from Centre to local units was to consider these local institutions to be limbs and agencies of self-government[113]. The importance of these institutions was highlighted by Mehta Committee (1957) on the fact that introduction of Panchayati Raj would result in giving a new sense of self-governance at the local level and generate the capacity to awaken the village people from traditional way of living enabling them to join the main stream of national life[114].

Though local government is in the State List of the Seventh Schedule, the purpose of Balwantrai Mehta Committee was to persuade the States to accept the recommendations and to pass on power to popularly elected Panchayati Raj bodies, popularly known as Gram Panchayat, Panchayat Samiti and Zila Parishad, so that they could be made responsible for their development. It is revealed from the study that these recommendations were accepted and executed by a number of States and nearly ninety percent of the rural-folk was covered by the provision of Panchayati Raj[115]. It is revealed that more than 2,19,694 Gram Panchayats covering 99% of the villages and a population of more than 406 million[116] were in existence till 1965. Besides, there were 3,485 Samities and 246 Parishads busy with the functions to promote overall development of the people in villages[117].

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113. Ibid.
114. See Veena Das, "Sociology of Law", A Survey of Research In Sociology And Anthropology (1974), Vol.II, p.77.
115. Supra note 92, p.55; also see supra note 66, p.352.
116. H.Maddick, op.cit., p.79 and 82.
117. Ibid, p.85.

Further, The Mehta Committee Report (1957), recommended that judicial Panchayats should have much larger jurisdiction than even a Gram Sevak's circle; possibly two or three such circles[118]. The Committee also suggested that the village Panchayats should suggest panels of names from which Sub-Divisional Magistrate or the District Magistrate should select persons who would form judicial Panchayat, having jurisdiction to adjudicate upon the matters of both civil and criminal nature[119]. The Committee laid emphasis on the use of local knowledge in adjudicating the disputes by the Gram Panchayats. It was also suggested that Nayaya-Punchas should exercise some caution and should have a degree of humility in the discharge of their functions. At the same time they should be fearless and must administer justice in such a way that respect for law is maintained[120]. Moreover, the Study Team found the following items within the jurisdiction of Nayaya Panchayats in almost all the States[121]:

i) Suits for money due on contract, other than contracts of immovable property;

ii) Suits for the recovery of movable property or value of such property;

iii) Suits for compensation for wrongfully taking or injuring movable property; and

iv) Suits for compensation for damage to property caused by cattle trespass.

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118. Supra note 107.
119. Ibid.
120. Id.
121. See K.N.Pillai, "Criminal Jurisdiction of Nyaya Panchayats", J.I.L.I. (1977), Vol.19, No.4, p.438 at 456-457.

Similarly, the Law Commission in its Fourteenth Report highlighted the importance of Panchayats Courts and supported the view point that these village Courts are capable of doing a good deal of useful work by relieving the regular Courts of petty civil and criminal litigation. The statement made by the Law Minister in the Parliament in 1959 also reminds us of the fact that small disputes must necessary be left to be decided by the system of Panchayat justice - the People's Court. The clear statement made by the Law Minister runs as follows[122]:

> "There is no doubt that the system of justice which obtains today is too expensive for the common man. The small disputes must necessarily be left to be decided by a system of Panchayat justice - call it the People's Court, call it the Popular Court, call it anything - but it would certainly be subject to such safeguards as we may devise - The only means by which for ordinary disputes in the village level the common man can be assured of a system of judicial administration which would not be too expensive for him and which would not be too dilatory for him."

It is further evident that as a follow-up of their recommendations, the Central Government set up a Study Team under the Chairmanship of G.R.Rajagopaul, then a member of Law Commission, to go into the validity of organising Nyaya Panchayats in the country. It was also endeavoured by the Gujarat Government in 1970 to constitute a Committee under the headship of Justice P.N.Bhagwati to endorse view points on the need and functioning of Panchayats in their judicial capacity. The excerpts from the Bhagwati Report, 1970 show that revival and reorganisation of Panchayats was necessitated by the circumstances to have easy access of the rural population to

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122. For detail see Rajya Sabha Debates, 1959, Vol.27, No.3, Col. 388.

the lower Courts and provide cheap and expeditious justice to them. It is evident from the excerpts of the Report[123] produced hereunder:

> "The lower Courts infact the lowest in the hierarchy of courts under our system of administration of justice are located almost invariably in taluka towns and since a taluka ordinarily comprises forty or fifty villages sometimes more. Sometimes less, and the overwhelming majority of our people live in villages, it always become a problem for them to approach the courts when they get involved in legal disputes with others. They are required to travel quite a long distance, sometimes running into as much as forty or fifty miles to go to the taluka towns and there they have to engage a lawyer by paying him his charges which may quite conceivably be exorbitant and then they have to waste considerable time in going to and far from their village to the taluka town whenever any date is fixed by the court and also take their witnesses from the village to the taluka town and back on every date fixed for hearing of the case by the court. This involves considerable waste of time and money and quite often, it is disproportionate to the stake involved in the litigation. It is, therefore, necessary to examine the nature organisation and the working of lowest court with a view to see whether it is possible to eliminate this un-necessary waste of time and money by bringing justice to the door-step of the people".
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> "... the poor who constitute the vast majority of the people of India are concerned in cases of litigation primarily and almost exclusively with the lower Courts. They cannot dream of going to the higher courts because of the nature of the claims or disputes as also because of forbidding cost of appeal. Their contact is, in the circumstances limited only to the lower courts even on those rare occasion on which they can gather sufficient means and courage to engage in litigation or they are compulsorily brought before the Courts by their opponents. It, therefore, we really want to help the poor, it is time we cure ourselves of the occupational diseases and devote more thought and attention to the lower courts and bring their organisation and working under rational and scientific analysis. It is in this context that the question of setting-up of Nyaya Panchayats as the lowest courts easily accessible to the rural population and providing cheap and expeditious justice to them in small cases arising out of their daily lives, requires to be seriously considered."

The working of Article 40 of the Constitution reveals that village Panchayats are serving a real felt need of the village people by disposing of cases more expeditiously and with minimum of inconvenience and expense to parties. They have justified the expectation of the people and relieved the regular Courts of a large amount of their petty work. This is

123. For detail see Gujarat Report of Legal Aid Committee (1970), par. 13, pp.204-205, also see Juridicare: Equal Justice - Social Justice Report, 1977, p.35.

evident from a note prepared by a Joint Director, Panchayats, Uttar Pradesh wherein he had stated that after the Panchayat Raj Act of 1947 the Panchayati Adalats in that State had during their life time of nearly six years disposed of as many as 18,94,440 cases[124] out of a total 19,14,098 cases instituted before them. Besides, the figures of suits disposed of by Panchayati Adalats in other States are also quite considerable. In the State of Madras[125] these Courts disposed of 40,635 suits in the year 1953 and 30,000 suits in the year 1954. Besides, 1,73,762 and 1,45,891 civil suits were also disposed of by the States of Andhra Pradesh, Bombay, Madhya Pradesh, Madras, Orissa, Traven core-Cochin, Uttar Pradesh and West Bengal in the year 1954 and 1955 respectively out of the total of 2,04,922 and 1,57,544[126]. In addition to these suits of civil nature, the village Courts in the States of Andhra Pradesh, Bombay, Madhya Pradesh, Madras, Orissa, Travencore-Cochin, Uttar Pradesh and West Bengal successfully disposed of 2,34,590 suits of criminal nature during the year 1954 and 1,72,687 suits in the year 1955 out of 2,85,201 cases for disposal during 1954 and 2,26,953 in the year 1955[127].

Moreover, the Fourteenth report of Law Commission of India reveals that the Panchayats in Uttar Pradesh have shown a vigorous endeavour in the field of settlement of disputes through conciliation process. As large a number as 6,80,477 cases[128] of civil nature were finally disposed of by way of compromise. These compromised cases included cases referred to

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124. See Law Commission of India: 14th (2) Report (1958), Table VI, p.901.
125. Ibid, p.896.
126. Ibid, Table V, pp.897-899.
127. Id.
128. Supra note 124, p.902.

these Adalats by the consent of parties for recording settlement, even though they were beyond their jurisdiction. Thus this large proportion of cases compromised to the total number of cases disposed of i.e. 18,94,440, amounting to over one-third clearly points to these Panchayats to be able to fulfil, in a large measure, the task of conciliation disputes[129].

Keeping in view the successful working of the village Courts in the majority of the States of India and the increasing importance of the settlement of disputes through people's participation at grassroot level, P.N.Bhagwati and V.R.Krishna Iyer, JJ. in their Report entitled "Juridicare: Equal Justice - Social Justice" endorsed the view to revive the activise the functioning of mini-Courts at the village level. They were heavily in favour of the need to overhaul and modernise the antiquated system of judicial administration that still continues and holds the field in our country. They observed[130]:

> "There can be little doubt that our legal and judicial system is not adequate to meet the needs of new society which is emerging in our country. It is not effective to provide a solution to the new problem which are coming up and presenting a challenged to contemporary society. It is not sufficiently responsive to the new norms and values which are replacing the old and it does not reflect properly and adequately the new approach which characterises the true purposes and function of law. The legal and judicial system, therefore, needs to be reformed and changed so that it becomes more suited to our socio-economic conditions and can become an effective instrument for delivering justice to the poor and the disadvantaged. It must be realised that a twentieth century service cannot be produced from an unaltered nineteenth century mould. It is, therefore, necessary to consider what alterations and changes must be made in our legal and judicial system so that the end product which comes out of it, the social product that emerges, is justice, not only for a few privileged classes but for the entire mass of the poor and under privileged."

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129. Id.

130. See Juridicare: Equal Justice - Social Justice Report (1977), Chapter VI (Nyaya Panchayats And Lok Nyayalayas), p.32.

Further, they stated in their Report that "in order to make distributive justice a reality for those who now share starke deprivation and poverty: one of the basics should be easy access to institutions of justice through village level delivery of justice. Having regard to the smallness of the subject-matter of village litigation and the considerable bad blood that may be generated by unproductive and cantankerous legal battles, and remembering that petty cases are mostly where atleast one party is a small man, we must create mini-Courts which save the poor from litigiousness"[131].

The Report submitted by Bhagwati and V.R.Krishna Iyer, JJ, in 1977 support the view that the village Panchayats should be entrusted with the dispensing of justice and there was no need to have separate judicial Panchayats for the administration of justice at village level. The entire Report is pre-ponderantly in favour of the establishment of the Lok Nyayalayas at the village level[132].

The Central Government in 1977 appointed a Committee on the Panchayati Raj Institutions under the Chairmanship of Ashoka Mehta to review the existing situation regarding the democratic decentralisation in the States. The Committee was vested with the power to review the working of Panchayati Raj Institutions, particularly, in respect of planning and implementation of schemes for rural development, the method of their constitution including the system of election, the short-comings and defects in the present system and to suggest

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131. Ibid, p.33
132. Ibid, p.35

measures for removing such defects and to enable these institutions to fulfil their future role[133]. The Ashoka Committee (1978) merely reiterated[134] the recommendations made by Balwantrai Mehta Committee (1957) and agreed to proposals for extension of Nyaya Panchayats jurisdictions. The Committee, moreover, shared the views of Fourteenth Law Commission on the role and functions of Nyaya Panchayats at the village level. The Committee found that Panchayati Raj Institutions had performed a magnificient role and expressed the hope that these institutions can do a promising role in the administration of justice. It also observed that Panchayati Raj, like democracy at the national and State levels, is both an end and as a means. As an end, it is an inevitable extension of democracy, as a means it would continue to be responsible for discharging obligations entrusted to it by the national and State governments[135]. The Committee was quite hopeful about the performance of Panchayati Raj Institutions and firmly supported the view-point that these institutions can be developed into effective tools of administration of justice[136].

It is revealed from the Ashoka Mehta Report (1978) that the Committee gave 132 recommendations for the decentralisation of Panchayati Raj Institutions. It recommended for the establishment of two-tier system[137] instead of three-tier system evolved by Balwantrai Mehta Committee (1957) and desired that all the powers should be concentrated at District

133. For detail see Text of the Report of The Committee on Panchayati Raj Institutions, Ministry of Agriculture And Irrigation (1978), p.IV.
134. See Upendra Baxi, Alternatives In Development: Law - The Crisis of The Indian Legal System (1982), p.320.
135. Supra note 133, p.176.
136. Ibid, p.182.
137. Ibid, pp.180-189.

level. Further, it also recommend that Mandal Panchayat system for the population of 15,000 to 20,000 should be introduced instead of Panchayat Samiti and Gram Panchayats[138].

It is, however, unfortunate to mention here that the working of Panchayati Raj Institutions in the late seventies has not been praiseworthy. An empirical study[139] conducted by K.Singh during the year 1972 stands as a testimony to the fact that 97% of the villagers in Ghaziabad, Uttar Pradesh, were of the view that the working of Panchayati Raj Institutions encouraged such evils as crimes, theft, personal jealousies, favouritism, litigations, feuds and insecurity of life and property at the village level. The information with regard to the disposal of cases by the village Courts in Uttar Pradesh for the period 1950-56 and 1960-70 and on Rajasthan for the period 1961-62 makes it quite evident that their working efficiency remained obviously in unsatisfactory state of affairs[140]. The study of Nyaya Panchayats conducted by Detlef Kantowsky in Uttar Pradesh shows that there was a clear-cut decline in the total number of cases going before the Nyaya Panchayats in Uttar Pradesh. Taking the year 1957-58 as the norm (when 2,02,116 cases were filed, of which 82% were heard; of the latter 83% were disposed off, 3% were appealed, and 41% of those disposed off were settled by compromise), the researcher found that the percentage index of cases filed before Nyaya Panchayats in the year 1963-66 had declined

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138. Id.

139. See K.Singh, Rural Democratisation X-Rayed (1972), p.112; K.Singh,"Social Structures And Panchayats", in R.Mathur and I.Narain (Eds.), The Emerging Concept of Panchayati Raj, Planning And Democracy (1969), pp.19-34.

140. See Upendra Baxi and Marc Galanter, op.cit., 343 at 368.

(1963-63, 1,94,625 (96%); 1964-65, 1,59,840 (79%); 1965-66, 1,22,923 (61%)[141]. Similarly, the number of cases filed in the Banaras District Nyaya Panchayat showed a similar marked decline; from 2,671 cases in 1963-64, Nyaya Panchayats in the district handled only 1,399 cases in 1965-66 (registering nearly a 50% decline). Moreover, it was found that the rate of appeal from Nyaya Panchayat's decisions had increased in the period 1963-66[142]. Moreover, the result of Detlef Kantowsky with regard to the decline in the number of cases going before Nyaya Panchayats is also corroborated by State report on the administration of justice in Uttar Pradesh[143]. The decline in the institution of cases filed before the Nyaya Panchayats in Uttar Pradesh during 1950-70 may, however, be depicted as under[144]:

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141. Id.
142. Quoted in Upendra Baxi and Marc Galanter, op.cit, p.368.
143. See Report on The Administration of Justice, Uttar Pradesh (Allahabad), 1961-66, 1969-70.
144. Ibid, Table 1, p.21.

TABLE-1

WORKLOAD OF NYAYA PANCHAYATS IN UTTAR PRADESH

1950-1970

Year*	No.of NP	Civil		Criminal		Total filings	Filings per NP	Source
		Filed	Pending	Filed	Pending			
								(a)
1950-51	8.543	-	-	-	-	633,502	59.3	202
1951-52	8.543	-	-	-	-	123,363	14.4	202
1952-53	8.543	-	-	-	-	302,548	35.4	202
1953.54	8.543	-	-	-	-	347,790	40.7	202
1954-55	8.543	-	-	-	-	371.519	43.4	202
1955-56	8.543	-	-	-	-	105,376	12.3	202
								(b)
1960	8.583	82,321	-	-	-	-	-	1961: 6.45
1961	8.662	53.523	22.744	37.584	20.852	91.107	10.51	1961: 6.45
1962	8.662	49,164	22.275	32.579	18.384	81.743	9.43	1962: 6.51
1963	8.700	93,994	25.350	71.792	17.059	165.786	19.05	1963: 7.57
1964	8.626	83.627	19.684	55.873	15.424	139.500	16.17	1964: 6.54
1965	8.687	55.000	11.898	36.904	11.451	91.904	10.57	1965: 7.46
1966	8.680	35.362	19.498	31.854	8.059	67.216	7.74	1966: 8.47
1967	-	-	-	-	-	-	-	-
1968	8.580	-	-	-	-	-	-	1969: 7
1969	8.833	22.000	4.025	15.671	2.780	38.271	4.33	1969: 7.53
1970	8.727	22.912	4,706	12.953	4,293	35.865	4.10	1970: 8.65

* Year runs 1.1.50 to 31.3.51, thereafter each year begins at 31.3. of the year. The filing rate is prorated to 12 months

(a) V.PURWAR, Panchayat in Uttar Pradesh (Lucknow, Tej Kumar, 1960)

(b) Report On The Administration of Justice, Uttar Pradesh (Allahabad).

The study of **Table-I** shows that there was a drastic gradual decline in the number of cases filed before the Nyaya Panchayats. Study of column 7 of the table shows that against 6,33,502 cases filed during 1950-51, the number of total cases instituted before Nyaya Panchayats decreased to 35,865 during the year 1970. Thus, there was a sharp decline from 59% to 4.10% during the course of 1950-70. This is also proved from the study of Table-II[145] (given below) that the decline alternatively resulted into heavy increase in the workload of regular Courts. Column 2 and 3 of Table-II discloses that the number of civil cases increased from 74,958 to 86,749 within the span of ten years and number of criminal cases similarly increased from 7,60,704 to 10,37,896 during the year 1960-70. The detail of Table-II is given as under:

TABLE 2

CASES IN CIVIL AND CRIMINAL STATE COURTS IN UTTAR PRADESH 1960-1970

Year	Civil Cases in Subordinate Court (a)	Criminal Total No.of Persons on Trial	Total number of cases Instituted (2 & 3)
1	2	3	4
1960	74,958	-	74,958
1961	75,174	760,704	8,35,878
1962	71,912	789,670	8,61,582
1963	71,068	845,982	9,17,050
1964	71,371	879,687	9,51,058
1965	81,908	895,859	9,77,767
1966	85,114	873,023	9,58,137
1967	-	-	-
1968	88,762	-	88,762
1969	91,859	1,001,249	10,93,107
1970	86,749	1,037,896	11,24,645

145 Ibid, Table II, p.16.

Further, the Maharashtra Committee Report on Panchayati Raj (1971) shows that out of 3,446 Nyaya Panchayats in the State only 703 were reported to be actively functioning and 86% of the Nyaya Panchayats had gone out of functions and were moribund and ineffective[146]. Similarly, Rajasthan Committee also concluded that the Nyaya Panchayats were "neither functioning properly nor had they been able to inspire confidence in the people"[147]. The Committee pithily stated that want of funds, secretarial assistance, adequate powers and people's faith were the contributory factors to come to a stand still point[148]. The Committee, therefore, emphasised that there was great need for an endeavour on the part of all the official agencies to extend the fullest co-operation[149] to Nyaya Panchayats and stressed also the need to accord them the status and courtesy due to them for the proper discharge of their functions[150]. Consequently, both Maharashtra and Rajasthan subsequently abolished[151] Nyaya Panchayats.

Despite the abolition of Nyaya Panchayats by the State of Maharashtra and Rajasthan, we find some persuasive efforts on the part of Law Commission to encourage and accelerate the healthy growth of Panchayati Raj Institutions. The Commission urged to take steps to strengthen the functioning of Nyaya Panchayats[152]. The text of G.V.K.Rao Committee, 1985 also

146. For detail see Report of Maharashtra Committee on Panchayati Raj (1971), p.202.

147. For detail see Report of Rajasthan Committee on Panchayati Raj (1973), pp.42-43.

148. Id, also see P.Satyanarayana, Towards New Panchayati Raj (1990), pp.183-186.

149. Supra note 147, p.121.

150. Ibid, p.118.

151. The State of Maharashtra did abolish Nyaya Panchayats with the passage of the Bombay Village Panchayat (Amendment) Act, 1974, effective as of August 1, 1975. Cases pending before the Nyaya Panchayats were transferred to regular Civil and Criminal Courts. Similarly, the State of Rajasthan also abolished Nyaya Panchayats in the Rajasthan Panchayat (Amendment) Ordinance of 24 Sept.1975, rectified by Legislation passed in Feb. 1976.

152. See Upendra Baxi and Marc Galanter, op.cit., p.377; also see P.Satyanarayana,

highlights the role of Panchayati Raj bodies in the task of rural upliftment. Though, it is true that Panchayati Raj bodies came only for incidental consideration when the Committee was asked to study the role of Panchayati Raj bodies and their relationship with the proposed administrative system, the Committee observed that the administration of justice depends heavily upon the effective steps to be taken for decentralisation of powers and involvement and the participation of people in the dispensation of justice through elected grassroot level institutions[153]. The Panchayati Raj Institutions were considered to be the focal points to act as the centres of decentralised administrative set-up as well as the form through which the people's participation could be secured. The Committee observed that there was no better instrument to realise the goal of justice than Panchayati Raj Institutions. Therefore, the Committee opined that this inevitable need to transfer power of the State to democratic bodies like Panchayats at local level had to be recognised[154]. Keeping in view the need, the Rao Committee (1985) recommended that Mandal Panchayats should be constituted for a group of villages with a population of 15,000 to 20,000 instead of present Gram Panchayats[155]. The Committee, however, left the choice to adopt the Mandal Panchayats on the sweet-will of the respective States[156].

Towards New Panchayati Raj (1990), p.211 at 213-216.

153. See The Report of The Committee To Review The Existing Administrative Arrangements For Rural Development And Poverty Elevation Programmes (1985), Ministry of Agriculture, Government of India, p.42, also see P.Satyanarayana, Towards New Panchayati Raj (1990), pp.195 at 197.

154. Ibid, p.44

155. Ibid., p.48, also see S.N.Mishra, New Horizon in Rural Development Administration (1989), p.161.

156. Id.

It was in the same spirit that Eleventh Law Commission was constituted on September 1, 1985. The terms of reference relevant to judicial reform on which the Law Commission was invited to work were[157]:

(a) The need for decentralisation of the system of administration of justice by - (i) establishing, extending and strengthening in rural areas the institution of Nyaya Panchayats or other mechanisms for resolving disputes; (ii) setting up of a system of participatory justice with defined jurisdictions and powers in suitable areas and centres; (iii) establishing other tiers or systems within the judicial hierarchy to reduce the volume of work in the Supreme Court and High Courts....

(b) The role of the legal profession in strengthening the system of administration of justice.

Having regard to its term of reference, namely, "to keep under review the system of judicial administration to ensure that it is responsive to the reasonable demands of the times", the Commission decided to give highest priority to the question of basic reforms in the judicial administration. The Commission visualized the problem of administration of justice in the light of the spirit contained in the Article 39-A of the Constitution of India which directs the States to secure

157. For detail see Law Commission of India - One Hundred And Fourteenth Report On Gram Nyayalaya, August 1986, Chapter I, p.1.

that the operation of legal system promotes justice, on a basis of equal opportunity to ensure that opportunities for securing justice are not denied to any citizens by reason of economic or other disabilities[158].

The One Hundred and Fourteenth Report on Gram Nyayalaya submitted by the Law Commission of India in August 1986 reveals that the Commission did not agree with the idea of abolition of Nyaya Panchayats, rather it concluded that there was no reason why, with proper safeguards, these Courts (Nyaya Panchayats) should not function with a fair amount of success and either conciliate or decide the petty disputes arising in the villages[159]. The report has laid great emphasis on the aspect of people's participation in the administration of justice[160]. The Commission further recommended that villagers must be given a free hand in electing members of Nyaya Panchayats and was also of the view that the jurisdiction of the Nyaya Panchayats should be exclusive but in the first instance, it must be confined to simple, money and other suits and the upper pecuniary limit of civil jurisdiction might be rupees 250/- which may go upto Rs 500/-- with the consent of the parties. It also recommended confirment of jurisdiction for trying criminal cases in respect of petty matters where the punishment in the form of a fine could be an adequate corrective[161]. It also advocated introduction of conciliation as the method of resolution of disputes to be undertaken at

158. For detail see Text of Constitution of India, Article 39-A and Article 40.
159. Supra note 157, p.18.
160. Ibid, pp.17-18 and 56; also see Rajni Kothari, "More Centralisation", in P.Satyanarayana (ed.), Towards New Panchayati Raj (1990), p.102.
161. Ibid, p.54.

the discretion of Nyaya Panchayats[162]. Inspired by the working of Lok Adalat in Gujarat under the guidelines of a voluntary organisation named Anand Niketan Ashram - Rangpur, the Commission even invited the views and comments on the subject with special reference to the question whether there was a need to constitute a body variously described a Nyaya Panchayat, Lok Adalat, Jan Panchayats, and People's Court[163].

Similarly, the study of One Hundred Twenty Fourth Report submitted by the Law Commission of India in 1988 discloses that it heavily favoured the idea to restructure the judicial system from its lowest ebb to provide a new mechanism for resolving disputes. The Commission came to the conclusion that there was a need for decentralisation of the system of administration of justice by establishing other tiers or systems within the judicial hierarchy to reduce the burden of work in the regular Courts[164].

The working of Nyaya Panchayats shows that there were over 2,17,300 village Panchayats in the country covering 96% of about 5.79% lakh inhabited villages and 92% of the rural population of the country[165]. Similarly, 4,526 Panchayat Samities were functioning at Block/Tehsil level covering 88% of Blocks in the country[166]. 330 Zila Parishads covering about 76% of the districts in the country were in existence vested with the power to carry out the functions of administrative and judicial nature[167]. A detailed study of the functioning of the Panchayati Raj Institutions working at different levels

162. Ibid.
163. Ibid, p.58.
164. For detail see Law Commission of India: One Hundred Twenty Fourth Report, 1988,Chapter I,p.1.
165. P.Satyanarayana, op.cit, p.197, also see Bunker Roy, "Whose Power: Is It Anyway" ?", Illustrated Weekly of India, June 4, 1989, pp.6-7.
166. P.Satyanarayana, op.cit., p.197.
167. Id.

i.e. village, Block and District may be depicted with the help of the Table-III given below[168]:

TABLE-III

Number of Panchayati Raj Institutions at Various Level & their Coverages of Rural Population & Villages

(As on 31.3.88)

States/UTs	Lower level i.e. Gram Panchayats (No.)	Middle level i.e. Panchayat Samities Taluka Panchayat (No.)	District level i.e. Zila Parishads (No.)	Rural Population Covered (in Lakhs)	Villages Covered (No.)	Remarks
1	2	3	4	5	6	7
1. Andhra Pradesh	19550	330	22	409.85	29293	
2 Arunachal Pr.						
3.Assam	714	-	315	171.83	20799	S-At sub-divisional level
4 Bihar	11653	589	39	611.96	76488	
5. Goa	NA	NA	NA	NA	NA	
6. Gujarat	13059	182	19	234.84	185.50	
7. Haryana	5790	102	Abolished	100.96	7064	
8. Himachal Pr.	2597	67	-	42.57	18843	
9. Jammu & Kashmir	1469	-	-	47.27	6900	Fig.relates 1981-82
10. Karnataka*	"	"	19	264.06	29390	
11 Kerala	1001	..	..	206.82	1219	
12 Madhya Pr.	18801	459M	43	415.92	76603	
13 Maharashtra	24600	298Z	29Y	407.91	39345	Figs,relates 1987-88
14 Manipur*	..	..	..	5.79	667	
15 Meghalaya*	No Panchayati Raj Set Up					
16 Mizoram*	No Panchayati Raj Set Up					
17 Nagaland	Refer to Annex.I					
18 Orissa*	4388	314	Abolished	232.60	516.39	
19 Punjab	10953	118x	12x	121.41	12795	
20 Rajasthan	7351	237	27	270.51	37124	

Contd...

168. The figures are borrowed from P.Satyanarayana, Towards New Panchayati Raj (1990), Table 4, p.246.

21.Sikkim*	153	-	..	2.65	440	
22 Tamil Nadu*	....	....	24	359.00	16696	
23 Tripura*	704	..	..	18.27	864	
24 Uttar Pr.	73914	895	56	909.13	112566	
25 West Bengal*	3242	324	15	394.78	38047	Fig.relates 1982-83
U Ts.						
26.A & N Islands*	43	..	..	0.97	183	
27.Chandigarh*	21	1	1	0.29	22	
28 D & N Haveli*	10	..	..	1.03	72	
29 Delhi*	191	5@	..	4.52	258	@Non-statutory body
30 Daman & Diu*	196	..	..	7.30	462	
31 Lakshdweep*	No Panchayati Raj Set Up					
32 Pondicherry*	..	11	..	..	334	Only a Block level

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* 8373 Panchayats & 175 Panchayat Samilities are under Administrator Control.

.. 107 Panchayats & 6 Panchayat Samities dissolved

... 118 Panchayat Samities & 12 Zila Parishads are under super session since 1978.

.... 13097 Panchayats & 378 Panchayat Samities superseded

x Superseded w.e.f. Oct. 1978.

Y 19 Z.P. are in position and 10 Z.P. are under Administrators.

Z 255 PS in position

M No distributed 415

. Information related to March 1985

However, the functioning of Nyaya Panchayats as the agencies of administration of justice could not get a praise-worthy success as is evident from the intensive study conducted by Indira Hirway[169], George Methew[170], Gurumuthy[171]. The study shows that people of the villages have not gained much out of the system, but are exploited by the Panchayati Raj leaders. Similarly, Bunker Roy, the nations best known social activist, draws the picture of our Panchayati Institutions in the following words[172]:

> "Look at the profile of Sarpanches and members of the 2,17,300 Gram Panchayats all over the country and you will notice that most of them have encroached upon government land or still possess more land than the law allows, money landers and banias who run fair price shops for government and openly exploit tribals, practise untouchability and abuse women; other castes who cannot service without keeping bonded labourers in their factories; on their farms; in their houses and shops."

Having regard to the inadequacies in the existing system, and keeping in view the Directive Principles of State Policy enshrined in Article 40 which aims at endowing Panchayats with such powers and authority as are necessary to enable them to function as units of self-government, Constitution (Seventy-Second Amendment) Bill, 1991 was introduced in Lok Sabha in September 1991 and was referred to a Joint Committee of Parliament. The Bill inter-alia proposed to:

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169. "Panchayati Raj Act Cross-roads", Economic And Political Weekly, July 22,1989,p.1664
170. Id.
171. Id.
172. "Whose Power: Is It Anyway ?", Illustrated Weekly of India, June 4, 1989, pp.6-7.

(a) make it obligatory for all States to establish a three-tier system of Panchayats at the village, intermediate and district levels;

(b) provide for all seats in Panchayats at all levels to be filled by direct election;

(c) provide for reservations to ensure the due representations in the Panchayats of the Scheduled Castes, Scheduled Tribes and Women;

(d) ensure a fixed tenure of five years for the Panchayats;

(e) provide for the devolution by the State Legislature of powers and responsibilities upon the Panchayats with respect to the preparation of plans for economic development and social justice.

On the basis of the Report of a Joint Committee of Parliament, the Lok Sabha passed the Bill on 22nd December, 1992 and Rajya Sabha passed the Bill on the following day. After retification by legislatures of more than half the States, the President was pleased to give the assent the Bill on April 20, 1993 with the result that Act has been brought into force by a notification with effect from April 24, 1993. The Seventy-Second Amendment Bill, 1991 seeks to provide, among other things, formation of Panchayats at village and other levels, direct elections to seats in Panchayats,

reservations of seats for scheduled castes and scheduled tribes and fixing of tenure of five years for Panchayats. Similarly, Seventy-Third Constitution Amendment Bill, 1993 provides for formation of three types of municipalities and reservation of seats in every municipality for scheduled castes and scheduled tribes, women and backward classes. The representation of scheduled castes, scheduled tribes, backward classes and women in the Panchayats or municipalities is virtually a revolutionary step towards their greater involvement to allow them an opportunity to participate in the dispensation of justice[173] at the very grass-root level. It is, therefore, quite imperative to point out here that Seventy-Second Amendment Bill, 1991 and Seventy-Third Amendment Bill, 1993 stipulate that the legislatures of the State must endow Panchayats and the municipalities at every level with such powers and authorities as may be necessary to enable them to function effectively as institutions for self-government.

To sum up, devolution of powers on Panchayats has now become part of the most sacred document of this nation i.e. The Constitution of India. It is expected that Constitutional changes will prove to be a major land-mark in the history of the evolution of the philosophy of administration of justice at grass-root level through people's participation. The Panchayati Raj Act, 1993 will certainly ensure that real power

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173. See O.P.Khanna, General Knowledge Refresher (1993), pp.591-593; also see P.V.Narsimha Rao, Unity And Stability for Sustained Growth, Ministry of Information And Broadcasting, Government of India, Delhi, August 1993, p.10.

will go back to the people and will use it as an effective instrument for the administration of justice at the grass-root level. All this has been done with a hope to actualise the goal contained in Article 40 of the Constitution.

VI. SUM-UP

The Constitutional spirit of justice envisaged in our National Charter shows that the intention of the framers of our Constitution was that the largees of law must belong to all irrespective of religion, race, caste, creed, colour and sex. Therefore, the legislature, the executive and the judiciary have been put under an obligation to create an environment where justice is rendered possible to all, high or low. Our founding-fathers have rightly envisioned Constitutional harmony in action for fulfilment of this goal through the rule of law. A Parliamentary process, with a legislative passion to remove injustice by appropriate laws promptly made is basic. An executive committee to the socio-economic transformation projected by the Preamble, charged with missionary zeals, is a major postulate. Central to a democracy of rights and remedies for a people who had suffered irremedial wrongs from lawless law makers and cruel authority and influential brackets of society is a judiciary upright, independent, equally accessible, activist and creative and geared to the promotion of social justice revolution. These powerful institutions have been made

answerable to the founding creed of equal justice to the broad masses.

goal of rendering justice to all and make it a living
There is a clear-cut commitment to achieve the reality. The notion of justice is envisaged in the very Preamble of the Constitution which secures to all its citizens: Justice, social, economic and political. The starke reality is that the Constitution mandate philosophises that individual justice is integral, not expendable, and so, no one shall be unjustly treated in his several, spiritual, social, economic and political relations.

Preambular notion of justice imbibes the spirit contained in clause (5) of Objective Resolution of Pandit Nehru which was adopted by the Constituent Assembly on January 22, 1947. The objective of justice embodied in our National Charter implies daring reforms whereby even an average Indian can pursue his remedy or defend an action without being baffled by procedural pitfalls, expensive protections and ceaseless draining of poor man's purse. It is with this objective in mind that high ideals of justice have been adumbrated in Article 38 which aims at securing to all its citizens triology of justice - social, economic and political. A glance at our National Charter reveals that it has majority of its provisions directed at promoting the goals of justice and establishing the conditions necessary for its achievement. Article 39-A has been embodied with this intention in mind that it is the Constitutional obligation of State to secure that the operation of the legal system promotes justice on the

basis of equal opportunities so that it is ensured beyond the shadow of doubt that justice is not denied to any citizens by reason of economic or other disability.

The Constitutional mechanism designed by the wise founding-fathers of our National Charter entrusts the judiciary with the administration of justice and vast powers have been assigned to it to actualise the goal of justice. It has been put under Constitutional obligations to defend the fundamental rights of citizens and human rights of persons. It is in this perspective that Granville Austin rightly observed that Indian judiciary is an arm of social revolution and must uphold the equality that Indian had longed for during Colonial days. Truely speaking, the judiciary in India is armed with the responsibility to carry out the mandate of social justice. It is expected that it must yield place to dynamic, democratic changes so that it may rise to radical stature and function as a goal oriented institution. A ray of hope is quite visible in our National Charter. It is hoped that Articles 38 and 39-A will perform a role of bulwark of liberty, equality and justice. There is hidden a cherished desire in many provisions of Constitution of India to revolutionise judicial system which will fight for people's cause. The judiciary in India is expected to be the sentinel, sword, and shield of rights of the humblest millions with an assurance to bring justice to even the lowest of the low.

The survey of the provisions of our Constitution makes it very clear that judiciary in India is expected to be an

activist engineer and crucial catalyst of social justice. It has been made a 'paramount institute of national life' and is assigned the role of a major member of trinity of State instrumentalities. It is thus the Constitutional obligation of the Indian judiciary to uphold the spirit of equality of justice which is deeply engrained in Article 14 of our National Charter.

The functional aspect of Indian judiciary shows that it has left no stone unturned in its mission so far as the actualisation of fulfilment of justice is concerned. The apex Court in India has really made bold attempts to give meaningful interpretation to the spirit of Article 14 and put a great deal of efforts to fill-up the wide gulf between reality and ideal in average citizens access to equal justice. Moreover, the Supreme Court of India has furnished in number of recent cases a warning to the judicial system of the country that it must shed its character as upholder of established order and the status quo. It has even gone to the extent of sermonising that there is time for Indian judiciary to sensitize itself to the need of doing justice to the large masses of people to whom justice has been denied by a cruel and heartless society for generations. The extreme view has been expressed by the apex Court on many occasions and clarified its stands to the effect that there is a dire need to revolutionise the judicial system if it is to become an effective instrument of equal justice for without it there is hardly any hope for its survival for long.

Further, the foregoing study depicts that despite strenous efforts of the apex Court the justice has so far been made available only to a fortunate few and it seems that the Constitutional commitment of providing justice-social, economic and political, to all exists only on papers and not in reality. It seems that Courts in India have been used only for the purpose of vidicating the rights of the wealthy and the affluent. It is only the privileged classes which have been able to approach the Courts for protecting their vested interests. It is only the moneyed who have so far had the golden key to unlock the doors of justice. The poor have been crying for justice but their cries have so far been in the wilderness. The haves not are suffering injustice silently and their right to have access to justice has been restricted because of heavy costs of litigation, abnormal delay in disposal of cases and complexity of law. Further, the mounting arreas of cases shows that our judicial edifice is steadily deteriorating and it has almost become impossible to grapple with and render justice to the people at large. The arrear in the Supreme Court of India which stood at about 2500 in 1960 has exploded through the roof as it has touched the mark of 2,30,000 cases. The position of arrear is also alarming in the HIgh Courts. More than 19,76,776 cases are pending for disposal in various High Courts of India. All this reminds us of observation made by Sanjay K.Dass that unless the huge arrear of cases pending in the Courts are disposed of in a *war manner the system may crumble down in a few years time.*

Thus, a gathering storm is bound to blow unless a creative judiciary, socially sensitive, operationally dynamic and remedially prompt and potent comes into being. The situation demands a reme-dial humanist version of the jurisprudence of justice and there is a need to weed out terrible injustices prevalent in Indian society on a macro scale. The study also shows that there is a high need for the Courts to change this sorry scheme of things entire and remould it nearer to our heart's desire. We are today in the midst of rising revolution of equal justice expectations and it may burst as an angry explosion of frustration if the judiciary, by omission and commission and conservative tradition fail in its mission as redumptive instrumentality of the people. There is a need that legal justice must not operate in a sound proof and light-proof Court room with absolete techniques, but discern the social changes and redesign its delivery system in accordance with the spirit contained in the Preamble, Article 38, Article 39-A and Article 40 of our Constitution, so as to accelerate the people's access to effective litigative justice and in its true design accomplish the philosophy of equal justice envisioned in our Constitution.

The modern version of Lok Adalat, therefore, arose out of the concern expressed by the Committees[174] set up to report on organising the legal aid to the needy and poor people and the alarm generated by judicial circles on mounting arrears of

174. For detail see Report of the Gujarat - Legal Aid Committee (1971); The Report On The Processual Justice To The People (1973); Juridicare: Equal Justice - Social Justice Report (1977); Report Of The Committee For Implementing Legal Aid Schemes (1980); Report of G.V.K.Committee (1985); and Law Commission of India: One Hundred And Fourteenth Report On Gram Nyayalaya, August, 1986.

cases pending for long at different levels in the country system. These reports have given impetus to the Legal Aid movement in general and concept of Lok Adalat in particular. The introduction of Lok Adalat may thus be said an off-spring of the Reports of these Committees. It is in this background that we have been compelled by the urgencies of time to look forward for new means and methods as an alternative forum to the existing complexed Anglo-Saxon legal system. Frankly admitting, the institution of Lok Adalat is a judge-aided and judge-guided strategy hammered out with an objective to reduce the backlog arrears of cases. The philosophy behind the introduction of Lok Adalats in India is that we need to prevent institutional miscarriage of justice which has surfaced the whole legal system for a mere reason that we could not switch over to our indigenous legal system which at one time was serving the need of justice on a wider scale because of its simplicity. That is why Indian Parliament has enacted the Legal Services Authorities Act, 1987. The Act has received the assent of the President on October 11, 1987. This Act inter-alia makes, detailed provisions about the set-up of Lok Adalats and their functioning etc. The objective of bringing this Act into existence is to devise more ways of reaching the poor man and evolving speedy and less expensive system of administration of justice. The intention of the Parliament to bring this legislation into existence is to carry out suitable reform in judicial administration and

provide golden opportunity of better access to justice for even to the poorest of the poor. It cherishes the goal of justice contained in the Preamble, Articles 14, 38, 39-A and 40 of our Constitution.

CHAPTER-IV

FUNCTIONING OF LOK ADALATS IN INDIA

I. PRELUDE

Unmanageable backlog of cases, mounting arrears and inordinate delay in disposal of cases in Courts at all levels- lowest to the highest - coupled with exorbitant expenses - have undoubtedly attracted the attention of not only the members of the Bar, consumers of justice (litigants), social activists, legal academics and Parliament but also managers of the Court[1]. So huge is the arrears of cases that unless they are disposed of in a war manner, the system may crumble down in a few years time. It appears that the justice system as in vogue in this country is about to collapse. So, it is but natural that the alarming situation of the Indian judiciary has attracted attention of anyone concerned with law reforms. The sole governing consideration, therefore, is how to reduce the delay in disposal of cases, make the system resilient by removing its stratification, making the system less formal and truely inexpensive so as to bring justice within the reach of the poor[2]. The perusal of Fourteenth, Fifty-Fourth, Seventy Seventh, Seventy-Nineth, One Hundred and Fourteenth and One Hundred Twenty-Fourth amongst other reports of the Law Commission have strongly recommended for revamping of the existing Anglo-Saxon model with a view to interlink it with participatory model which may help in deprofessionalisation of the administration of justice. The non-participatory British model of administration of justice has certainly alienated the people from the system because of its foreign origin, technicality extreme formalism, and rigid rules of procedure.

1. See Law Commission of India: One Hundred And Fourteenth Report On Gram Nyayalaya, August 1986, p.7.
2. Ibid.

Frankly admitting, the existing legal system has remained unfortunately alien having no living contact with the masses and is at all not meaningful to them[3].

The surprising growth in the arrear of cases has compelled the members of Law Commission of India to deliberate on the revival of indigenous legal system[4] and recommended its restructuring to provide a new model or mechanism for dissolving disputes on the principles of participatory justice. A need has been felt for decentralisation of the system of administration of justice to reduce the volume of a work[5]. The most glaring malady which has really afflicted the justice system is the tardy process and the inordinate delay that takes place in the disposal of cases. The former Chief Justice, E.S.Venkatarahmiah once rightly observed[6]

> "The problem of delay and backlog was likely to put the functioning of Constitutional Government in disarray".

This warning of former Chief Justice carries really a great weight when examined in the light of piling arrears and accumulated work-load of different Courts and poses a frightening scenario to the survival of the legal system itself. The mounting arrears of cases in the Supreme Court and various High Courts in India prove it beyond the shadow of doubt that the position of arrear is quite alarming and as a matter of fact the whole system is likely to crumble down under the weight of pending cases which go on increasing everyday[7]. The arrearof cases in Supreme Court, which stood at

3. See Report of Legal Aid Committee (Government of Gujarat,1971), para 13.12,p.209.
4. Supra note 1, p.16.
5. See Law Commission of India: One Hundred Twenty Fourth Report On The HIgh Court Arrears - A fresh Look,1988, p.1.
6. Shrinivas Gupta, "Judicial Delays Versus Right to Speedy Trial", Link,May 24,1992,p.32
7. Ibid, also see L.S.USQ No.1464, August 2, 1991.

2319 in 1960 went up six fold in 1975 to 15000[8]. The record of another sixteen years shown that the arrear of pending cases in the Supreme Court of India touched the mark of 2,30,000[9]. The year-wise detail of cases pending in the Supreme Court as on 30.8.1991 is as under[10]:

TABLE-I

Sr.No.	Year	Pending in the beginning of the year	Instituted during the year	Disposed of during the year	Pending at the end of the year
1	1960		3,247	3,202	2,319
2	1961				1,977
3	1962				1,703
4	1963				2,170
5	1964				2,166
6	1965	2,166	3,930	3,814	2,282
7	1966	2,282	5,507	3,806	3,983
8	1967	3,983	5,202	4,146	5,039
9	1968	5,039	6,576	6,228	5,387
10	1969	5,387	7,524	6,641	6,270
11	1970	6,270	7,106	6,272	7,104
12	1971	7,104	7,949	6,941	8,592
13	1972	8,592	9,076	6,822	10,846
14	1973	10,846	10,174	8,175	12,845
15	1974	12,845	8,203	8,261	12,787
16	1975	12,784	9,528	8,727	13,588
17	1976	13,588	8,254	7,734	14,109
18	1977	14,109	14,501	10,395	18,215
19	1978				23 092
20	1979				21,960
21	1980-82				
22	1983				1,33,000
23	198 -89				
24	1990 April)				1,99,000
25	1991				1,34,221
26	1992				2,30,000
27	1993				

8. Sanjay K.Das, "State of The Judiciary", Onlooker, July 15, 1990, p.18.
9. Lok Sabha USQ No.1464, August 2, 1991.
10. The figures have been borrowed from secondary source. For detail see Rajeev Dhavan and P.Kalpakam, The Supreme Court Under Strain: The Challenge of Arrears (1978), pp.43 and 51; Upendra Baxi, The Crisis of The Indian Legal System (1982), p.63,Sanjay K.Das, "Justice Delayed", Onlooker, July 15, 1990, pp.8-9; Lok Sabha USQ No.1464, August 2, 1991; Indian Express, March 16, 1992, p.6.

Similarly, the condition of arrear of pending cases in various High Courts of India also disclose that the goal of justice enshrined in the very Preamble of the Constitution has completely been forgotten by our legal system. The problem of disbursement of justice at the speedy rate has further been aggravated because of the increase in the institution of cases in these Courts. It is revealed from various studies that there were 19,76,776 cases pending in various High Courts of India as on August 2, 1991[11]. Allahabad High Court tops the list with about 4,99,748 cases pending for disposal, while Delhi High Court witnessed an arrear of 1,24,239 pending cases as on August 2, 1991[12]. The position of pending cases as on 31.12.1991 in various High Courts are shown as under[13]:

TABLE-II

Sr.No.	Name of the High Court	Pending cases as on 31.3.1991
1.	Allahabad	4,99,748
2.	Andhra Pradesh	69, 805
3.	Bombay	1,73,106
4.	Calcutta	2,00,528
5.	Delhi	1,24,239
6.	Gujarat	84,240
7.	Guwahati	21,358
8.	Himachal Pradesh	12,075
9.	Jammu & Kashmir	42,099
10.	Karnataka	91,530
11.	Kerala	73,411
12.	Madhya Pradesh	67,946
13.	Madras	2,36,579
14.	Orissa	33,303
15.	Patna	66,190
16.	Punjab & Haryana	96,946
17.	Rajasthan	83,601
18.	Sikkim	72
	Total	19,76,776

11. Lok Sabha USQ No.1464, August 2, 1991; also see supra note 6, p.32.
12. Supra note 6, p.32, also see Legal Aid News Letter, Vol.XI, Part-IV,Jan-March,1992,p.6.
13. These figures have been drawn from Lok Sabha USQ No.1464, August 2, 1991; Indian Express, March 16, 1992, p.6.

Further, the position of pending cases in the subordinate Courts of our country is also equally alarming. The Civil and Session Courts in Bombay for instance had 49,937 pending cases in 1985 which mounted to 56,000 in 1989. Similarly, such cases are also gathering dust in the temples of justice of Subordinate Courts existing throughout the length and breadth of India. Moreover, the Criminal Courts are the worst sufferers in this regard, for instance, in Bombay they had 3.82 lacs cases in 1987 which are reported to have crossed 4,50 lacs[14] figure mark in 1989. The District and Subordinate Criminal Courts in various districts of Maharashtra are no exception to this malaise. The number of cases pending in these Court was 22.50 lacs in 1989, perhaps touching the mark of about 35 lacs by the end of 1993. The same is the position of pending cases in other Subordinate Courts of the country.

The alarming position of pending cases in Courts at all levels - lowest to the highest - has really belied our faith in the present legal system. Thus the judicial revolution envisioned by our founding fathers is long overdue. Moreover, British - Indian Justice is modelled on English wigs and gowns and has a limited scope in the light of prevailing circumstances of Indian society. It, of course, could owe loyalty to emperical values rather than to the values of the people of India who have been nourished in the different climate from the day they took birth on the Indian soil. The intention of judicial revolution is,therefore, very much present in Article 39-A of our National Charter.It explicitly

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14. Id.
15. Id.

states "State shall secure that the operation of legal system promotes justice on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislations 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"[16]

Our founding fathers of the Constitution knew it very well that we in India live in the bullock-cart age, except that the case load is so heavy that the Court-cart is grinding to a halt. They thus realised that the overhaul of judicial process is the need of the hour. Nehru has rightly summed up the whole situation in the following words[17]:

> "We must realise that the 19th century system has passed away, and has no application to present day needs. The lawyer's view so prevalent in India of proceeding from precedent to precedent is of little use when there is no precedents. We cannot put a bullock-cart on rails and call it a railway train. It has to give way and be scrapped as obsolescent material".

Moreover, the makers of our Constitution had in their mind a fear that a government found on injustice can hardly stand. They thought that the integral Yoga of justice was basic to Swaraj. To explain their mind we may refer a few lines of Robert G.Ingersoll. To quote him[18]:

> "A government founded upon anything except liberty and justice cannot stand. All the wrecks on either side of the stream of time, all the wrecks of the great cities, and all the nations that have passed-away - all are warming that no nation founded upon injustice can stand. From the sand - enshronded Egypt, from the marble wilderness of Athens, and from every fallen, crumbling stone of the once might Rome, comes a wail as it were, the cry that no nation founded upon injustice can permanently stand".

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16. Inserted by the Constitution (Forty-Second Amendment) Act, 1976, Section 8 (with effect from 3.1.1977).
17. Quoted in V.R.Krishna Iyer, "Judicial Perestroika", Illustrated Weekly of India, December 31, 1989-Jan.6, 1990, p.50 at 51.
18. Quoted in V.R.Krishna Iyer, Equal Justice And Forensic Process: Truth And Myth (1986) p.1, also see V.R.Krishna Iyer, Indian Social Justice In Crisis (1983), p.26.

In the light of fear displayed by Robert G.Ingersoll, our makers of the Constitution have endeavoured to innovate the philosophy of justice to salvage the masses of victim to make 'assurance doubly sure'. Article 38 has been envisaged in our Charter obliging the State to promote the welfare of the people of securing and protecting as effectively as it may a social order in which justice social, economic and political, shall inform all the institutions of national life. In order to accomplish the goal of imparting justice to all the judicature has been made a paramount institution of national life and assigned a major role to work as an active member of the trinity of State instrumentalities. That is why Article 38 obligates the Court to be activist in redeeming its functional tryst with the Constitution which is its very Creator and Power-Conferor[19]. The dynamic of equal justice through the judicial process is thus Constitutional fundamental and embraces the weak and the meek, the suppressed and the repressed who are the real consumers. That is why Article 39-A brings out vividly what lay latent in the womb of Article 14 so far as the philosophy of equal justice is concerned.

Moreover, it is imparative to conceive that the Constitution is not the jural opium of the people but the remedial realism of the oppressed. To give divorce to this Constitutional commitment is to betray the Founding-fathers who knew that justice was a foundation stone upon which the whole fabric of a good government stand. To quote Jawahar Lal Nehru[20]

19. Ibid, p.14.
20. Quoted in Granville Austin, The Indian Constitution - Cornerstone of The Nation (1966), p.27.

"If we cannot solve this problem soon all our Constitution will become useless and purposeless... if India goes down, all will go down, if India thrives, all will thrive; and if India lives, all will live".

There is thus a need of novel and activist approaches and overhauling of methodology being adopted by our Courts since long if the nation is to live upto the expectation of the Constitution. Nobody will disagree to the fact that our judicial administration still lives in the medieval ages. This is a summons to Indian jurists not to be corals-fossils of the law - but to be creative, to promote the goal of justice. We need to conceive of operational legal transformation in the spirit of Constitutional commitment. Moreover, our problems are more intractable, our changes are more rapid and our frustrations are more frightening. Judges high up must certainly know that the 'ermine' is unworthy of people's esteem, unless they redeem their part of the 'tryst with destiny' which is to wipe every tear from every eye[21]. It is widely accepted today that no democracy can last long with our sensitized judicial process which reaches effective relief to those who hunger for right and justice[22].

Moreover, our National Charter solemnly declares justice - social, economic and political as one of its Central aims and desiderates that the Court shall not only be sancturay of those who have been wronged by the strong but the palladium of those who are weak and seek refuge against injustice[23]. In this sense, the Constitution envisions the Court system as

21. V.R.Krishna Iyer, Indian Social Justice In Crisis (1983), p.101.
22. Ibid.
23. Ibid, p.102.

more than the dispenser of legal justice and expects it to work as a judicial arm of civil revolution. There is a dire need that the Indian Courts must respond sensitively to the task of nourishing a philosophy arising out of Parts III and IV of our Constitution. In order to actualise the Constitutional philosophy of justice, there is nothing wrong to add here that Court system is the sword and the shield of the entire people and is answerable to them. It is an instrument of the socialist democratic republic of India. Therefore, it is their Constitutional obligation to serve those who are weak and need assistance to guard themselves against injustice and claim enforcement of their rights[24].

The imparatives of Constitutional commitment to the goal of justice demand - dynamic change in the justice system. Justice, Justices and Justicing demand renovation so that the Constitution and the revolution of people's expectation be not still-born. Courts, belong to the people, its presiding officers are broadly accoutable to the nation and both are at the service of the whole community. The judiciary is expected to function as the judicial arm of the Constitutional revolution. All the common people, the weaker sections, the handicapped groups, the minorities, linguistic, religious and others, the toilers in towns and tillers on land, redressal of whose socio-economic grievances is a fighting creed, are a first charge on the jurisdiction of the judge, as underscored in the Preamble, Part III and IV and other portions of the Constitution[25]. The Courts are supposed to stand against any

24. Ibid, p.106
25. Ibid, p.109.

winds that blow as heavens of refuge for those who might otherwise suffer because they are helpless, weak, out-numbered or because they are non-conforming victims of prejudice. They are expected to translate into living law and maintain this Constitutional shield deliberately planned and inscribed for the benefit of every human being subject to our Constitution - *of whatever race, creed or persuation*[26].

All this necessitates that the Courts in India must, by negative as well as affirmative action, speedy decision and early finality, secure actual relief to the consumers of justice and not stop short of it. It is further expected that the Indian judiciary will change itself to the tune of time and need to accelerate the goal of justice. They are meant to guard every high and low against injustice and vindicate their rights guaranteed to them in the legal framework of the nation. The Constitutional obligations, put on their shoulders, oblige them compulsorily to weave a new legal culture, build a new justice jurisprudence and construct an effective egalitarian Kingdom of justice. But who will have faith in a system which keeps in litigative abeyance the consumers of justice who are aping for it since long. The truth about Indian judicial system is that even where there is well drafted comprehensive legislations, such as, the Contract Labour (Regulation and Abolition) Act, The Bonded Labour System (Abolition) Act and The Inter-State Migrant Worksmen (Regulation and Condition of Service) Act, it is often not

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26. *Id.*

properly and effectively implement in the interest of the poor and disadvantaged persons for whose purpose it is enacted. Much of Socio-economic legislations passed by the Legislatures has remained a mere paper tiger without teeth and cloth. They have failed to get a fair deal from judicial authorities. The poor always look upon the Court as an enemy rather than as a friend, because it is always taking something away from them rather than giving justice to them. They now firmly believe that the Courts are heavily weighed against them and are not going to help them very much in their cause[27]. The Constitutional promise of rendering justice - social, economic and political has become for them a cry in widerness.

In these circumstances, participation of the people in the process of justice, particularly those for whose benefit the laws are made, is both a desirable value and functional necessity. It is unfortunate that this has been understood to mean interference with the judicial administration. The idea canvassed here is that we need decentralisation of justice and make each and every person living at the grass-root level accoutable and be involved in justice disbursement process at the local level if the goal of justice is to be accomplished in the spirit contained in our Constitution[28]. Today, the common man in this country feels that the Courts of law are beyond its reach. Approaching the Courts has become costly, the proceedings in Courts are usually protracted and very

27. See Justice P.N.Bhagwati, "From The Chairman", Legal Aid Newsletter, Vol.IV; Parts 1 & 2, May and August, 1984, p.2.

28. N.R.Madhava Menon, "Law And Development Of Weaker Section: A Note", Legal Aid Newsletter, Vol.IV, Part 1 & 2, May and August, 1984, p.9, also see V.R.Krishna Iyer, Our Courts On Trial (1987), p.10.

often being disadvantageously placed, he is not able to match his adversary in judicial proceedings[29]. A long ago Legal Aid Report set it out sharply in the following words[30]:

> " A strong, though exaggerated criticism has been voiced in some quarters, that side by side, in uneasy co-existence survives a law administration shaped by the British and enshrining values not wholly indigeneous or agreeable to Indian conditions, scaring away or victimising the weak through slow-motion justice, high priced legal service, long distance delivery centres, mystiques of legalese and lacunose laws and a processual pyramid made up of teetering tiers and sophisticated rules and tools. Our nation, with all its hopes and all its boasts, can never really be free and just till all its citizens high and low can claim equal justice through law-in-action".

There are still unfortunately in our country a few lawyers, judges, jurists and men in high position who are unwilling to recognize the new change in the judicial process. Trained in the old British tradition of adversary justice and born and brought up in an era where the doctrine of laissez faire prevailed, and with their mind fossilised and intellect suffering from jurisprudential pubescence, they find it difficult to reconcile themselves to the new wind of change. To them justicing process is merely an intellectual exercise where judges can display their learning and scholarship for them, the Goddess of justice is truely blind. That is why they always walk on the highway of justice and do not care to look into the bye-lanes, forgetting that the highway is paved with hold on which only affluent and well-to-do can walk while the large millions of our people who are deprived of the basic necessities of life, who are subjected to inhuman exploitation and who are denied elementary justice, are languishing in bye-lanes[31].

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29. Justice P.N.Bhagwati, "From The Chairman", Legal Aid Newsletter, Vol.IV-VI, Nov., 1984-August 1986, p.1.
30. Quoted in V.R.Krishna Iyer, Our Courts on Trial (1987), p.5.
31. V.R.Krishna Iyer, Equal Justice And Forensic Process: Truth And Myth (1986), p.49.

We should, however, not forget that these unfortunate human beings who are forgotten in the bye-lanes by these champions of justice are also entitled to justice and if they do not get it soon they will one day storm the highway and destroy those who claim it to be their exclusive right to walk along it[32]. To quote Krishna Iyer:[33]

> "Indian judges must creatively strike an Indian path on the authority of their Constitution. Erudite genuflexion before British precedents is not fidelity to India's supreme lex. There is an inoperative tone of urgency in my appeal for benign change. Time is of the essence. Else chaos will blow away legal order and that may end the court's promotive role for orderly change which is the finnest and the final hour. A cultural revolution, peaceful if possible, coersive if necessary, is on the cards".

We must not disagree with the remarks made by Justice Brennan in a famous case of **Illinois** Vs. **Allen**, who cautioned the whole world by his handful of revolutionary words:[34]

> "Nation cannot endeavour if it falls short on the guarantee of liberty, justice and equality embodied in our founding document. If that resolution cannot be reached by judicial trial in a court of law it will be reached elsewhere and by other means, and there will be grave danger that liberty, equality, and the order essential to both will be lost".

Similarly, we are reminded of a pertinent observation made by Hon'ble Justice D.A.Desai, Chairman, Law Commission of India. To reiterate, he, while lamenting on the failure of early efforts to rejuvenate the judicial system to the unrgencies of time rightly pointed out[35]

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32. Id, also see Anirudh Prasad, Social Engineering And Constitutional Protection of Weaker Sections in India (1980), p.10.
33. Supra note 31, p.52.
34. See Justice Brennan, quoted in V.R.Krishna Iyer, supra note 31, p.54.
35. P.C.Jain, "Need of Today: Crisis Management of Justice - Conciliation Courts", Lawteller, June 1993, Vol.1,No.6,p.43; also see P.C.Jain, "Time For Conciliatory Justice", The Tribune, April 15,1993, p.6.

"The over rising graph of arrears, tinkerings at the fringes far from yielding the desired results have further aggraved the situation. The consumers of justice have been patiently waiting for justice to become people-oriented. The problem of inexpensive and expeditious system of justice is torturing the minds of jurists and judges. The more we examine it in depth the more frustrated we feel by its 'Sursa' like mouth growth. Unless prompt and effective steps are taken to ensure that justice becomes inexpensive and expeditious, the entire system is likely to collapse underneath its weight.... The system of prevailing administration of justice has thus been ruinous to those who evolved it also those who follow it. To a certain extent this is English, American and Australian heritage".

In the light of crisis management of justice, we need badly a serious rehaul of our legal mechanism. The legislation may not have an ability to improve the system. In the context the concept of Lok Adalat provide vistas for further research[36]. The modern version of Lok Adalat has arisen out of the concern expressed by The Gujarat Legal Aid Committee (1971), The Report on Processual Justice To The People (1973), Juridicare: Equal Justice - Social Justice Report (1977) and Committee For Implementing Legal Aid Schemes (CILAS), 1980 set up to report on organising legal aid to the needy and poor people. Moreover, the need has also been felt because of the astounding alarm generated by judicial circle on mounting arrears[37] of cases pending for long at different levels in the Court system. It is crystal clear from these reports that the legal luminaries like P.N.Bhagwati and V.R.Krishna Iyer, JJ., consistently advocated the need for revival of informal system of dispute resolution including the Lok Adalat. They have laid great emphasis on the settlement of dispute outside the Courts. The basic idea behind the scheme of Lok Adalat is to

36. Id.
37. See Table I and Table II, op.cit.

speed up clearance of pendency of huge arrears in Courts, and to reduce the cost of litigation and secure speedy justice to the needy at the very grass-root level[38].

The accumulated frustration of the people desirous of quick decision, is the biggest single reason for the people having responded with hope, excitement and zeal, to experiment in holding Lok Adalats, for the early resolution of disputes. The philosophy behind holding Lok Adalat is to root out on war footing the triple vices of delay, cost and complexity from the existing Courts. Though Lok Adalats cannot serve as substitutes for Law Courts but they are expected, if properly and thoughtfully constituted, become a welcome additional arm of the existing judicial institution[39].

II. NATURE OF LOK ADALAT

Frankly speaking, Lok Adalat is not a Court[40] in its accepted connotation. It is a forum provided by the people themselves or by interested parties including social activists, legal aiders and public spirited people belonging to every walk of life. Here voluntary effort are aimed at bringing about settlement of disputes between the parties through conciliatory and persuasive efforts[41]. The function of Lok Adalat is only to enable the parties who voluntarily seek the Adalat's intervention to understand their respective rights and obligations with reference to the disputes brought before it and to help keep the dialogue going in a fair

38. K.M.H.Rayappa, "Lok Adalat: Objective, Prerequisites, Strategies and Organisation", Indian Bar Review,Vol.14,No.4,1987,p.711 at 712.

39. Virendra Singh Barhat, "Judicial Courts V. Lok Adalats", A.I.R.1987 (Journal Section)p.6

40. See An Article entitled "Alternative Dispute Resolution A Paper By Government of India",submitted to the Meeting of Commonwealth Law Ministers At Christ Church, New Zealand (23-27 April, 1990), in Legal Aid Newsletter,Vol.X (Parts 1 & 2),May-August, 1990, p.15; K.Gupteshwar, "The Statutory Lok Adalat: Its Structure And Role", J.I.L.I Vol.30, April-June, 1988, p.174.

41. Legal Aid Newsletter, May-August 1990, p.15.

manner. It is just a forum provided by the people themselves with a view to contrive for enabling the common people to ventilate their grievances against the State agencies or against other citizens and to seek a just settlement, if possible. The role of the judges of the Lok Adalat is to clarify law and by gentle persuation to convince the parties how they stand to gain by an agreed settlement[42].

The basic objective of coming of Lok Adalat into existence is a sound rationale which tells us that an adversary adjudication ending up in one party declaring the victor and the other the vanquished does not remove the dispute from the society and may lead to further disputes or social tension. It is perhaps based on a sound historical experience which shows to us that Indian people are disposed to conciliated settlements with community intervention rather than adjudicated decisions through adversarial process of formal Courts[43].

Generally speaking, Lok Adalat is a para-judicial institution being developed by the people themselves with an endeavour to find an appropriate structure and procedure in the struggle of common people for social justice[44]. In other words, Lok Adalat phenomenon, is an expression of disgust and disenchantment of the poor and the middle class people in respect of the Court system as it functions today[45]. Moreover, the birth of Lok Adalats in India may be attributed to the cause of exposing the defects of the formal Court system and

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42. See N.R.Madhava Menon, "Lok Adalat: Peoples Programme For Speedy Justice", Indian Bar Review, Vol.13,No.2, 1986, p.132.
43. Ibid.
44. Ibid., p.133.
45. Id.

put it on defensive before the public[46]. It is, moreover, the brain child of necessity[47]. The alarming increase in the arrear of cases stand as a testimony to the fact that the present system of justice has become inadequate to meet the need of the time[48]. Moreover, the masses are loosing faith in justice delivery system itself, which developed in the last several hundred years in British traditions and footprints. By the passage of time, it has really grown more and more complex in terms of substance and procedure and administration existing in present form has become awefully inadequate to meet the needs of time[49]. All this, therefore, has created a great need to look forward for new methods, means and modes to settle the disputes. There appears to be a deep-felt need to avoid all sorts of confrontation and adopt a peaceful method of conciliation with the hope to maintain peace and amity in the society[50]. In the light of these circumstances the basic principle and underlined idea of Lok Adalat is to provide cheaper and quicker justice at the door-steps of the people so as to relieve the workload on the regular Courts and go a long way in settling disputes outside the forum of the Court. Perhaps the need of Lok Adalat can be betterly understood from the following words[51]:

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46. Supra note 42, p.134.
47. M.G.Chitkara, Lok Adalat And The Poor (1993), p.93.
48. Dhirya Sheel Patil, "Judicial Delivery System And Socio-Economic Realities", Indian Bar Review, Vol.14,No.3 (1987), p.373.
49. Ibid.
50. See I.P.Massey, "Conciliation Through Subordinate Courts: A Unique Himachal Experience", Paper presented at All India Workshop of Law Commission of India, held at Shimla on June 6-7, 1987 (Mimeo).
51. See V.R.Krishna Iyer, P.N.Bhagwati and Parkash Narain, quoted in M.G.Chitkara, op.cit pp.100-101.

"Our present judicial system has badly failed to keep pace with the aspirations of the people. The system is cracking and is on the verge of collapse. Now blind-folded Dike, the Greek Goodess of Justice cannot be the symbol of twenty first Century Goddess of Justice. The twenty first century Goddess of Justice holding a scale of justice eventh her hand, cannot and need not be blind-folded. Her eyes must be wide open so as to see that justice is being done between the parties and no one turns its back to justice with bitterness".

The emergence of the concept of Lok Adalat as a new system of dispensation of justice is thus a result of social philosophy of judges, jurists and eminent scholars who are always engrossed in the thought to provide a new forum to grapple with the problem of giving cheap and speedy justice to the people. They see in this system a strong ray of hope and visualize it not as a substitute for the present judicial system but as supplementary to it so that the mounting arrears are reduced and the consumers of justice have a sign of relief. The basic philosophy behind the Lok Adalat is to resolve the people's disputes by discussions, counselling, persuation and conciliation so that it gives speedy and cheap justice with the mutual and free consent of the parties. In short, it implies participatory justice in which people and judges participate and resolve their disputes by discussion, persuation and mutual consent[52].

We may be reminded of the realistic views expressed by Guman Mal Lodha in his Article[53], 'Wanted Evolution or Revolution in Judiciary' wherein are concerned the rays of revolution. His words may compell anybody to think that writing of the walls tell us that the traditional 'bullock cart speed' of dispensing justice will not be sufficient to

52. Paras Diwan, "Justice At The Door-Step Of People: The Lok Adalat System", A.I.R.1991 (Journal Section), p.86.

53. See A.I.R. 1982 (Journal Section), p.17.

actualise the goal of justice highlighted in the Preamble, Part III and IV of our National Charter. Judicial reforms, simplifications and modernisation of laws, eradication of arrears and avoiding delay in disposal of cases, procedural radical amendments, statute changes for Administrative Tribunals, Lok Adalats, Nyaya Panchayats and legal aid to the poor are some of the areas which needs special attention of those who want to safeguard the very existence of the legal system. J.C.Shah, Former Chief Justice, rightly observed:[54]

> "The accumulation had reached such a proportion that there is danger of judicial administration breaking down in few years, if the cases before the Courts increased at the rate at which they were mounting today. I shudder to think what the position of judicial administration will be in a decade or two if the present vast disparity between the inflow and disposal of cases, continues. Unless this problem is tackled, the litigants might be gripped with a sense of frustration and loss of confidence in Courts and Tribunals".

Pandit Nehru, while addressing a Conference of State Law Ministers has already expressed a similar alarm at the slow pace of the wheels of Justice and pleaded for a change of attitude and a genuine effort to accelerate the judicial machine which according to him is rusty and outmoded[55]. It is in the same spirit that S.M.Sikri, Former Chief Justice remarked:[56]

> "We are fast approaching a stage not only in tax matters but also in other cases where the case load is so heavy that it will crush the present judicial system".

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54. Quoted in Guman Mal Lodha, "Wanted Evolution Or Revolution in Judiciary", A.I.R.1984 (Journal Section), p.20.
55. Times of India, March 11, 1969, p.6.
56. The Statesman, October 29, 1972, p.9, K.C.Joshi, "Our Judicial System On Trial", A.I.R.1983 (Journal Section), p.79.

What is thus urgently needed is a practical overriding renovation as Justice Lodha puts it revolution. Judicial power, as the Constitutional sentinel on the qui vive, has vigilant, versatile functions. There is a rising revolution of justice expectations, ignited by Independence, which may burst as an angry explosion of frustrations if the judiciary by ommission and commission and conservative tradition, fail in its mission as a radical fiduciary and redemptive instrumentality of the people[57]. There is thus a need of great degree of change if the march from despair to hope is to take place. We need a new way of thinking about old problems, a shift of the judicial centre of gravity from the affluent to the indigent which, in truth, is the fulfilment of the Constitution. There is a dire need to dynamise the forensic methodology with creative intelligence and consciousness of social dimensions and democratised its institutional accoutability so as to ensure justice in favour of those who need it badly but still are victims of it[58].

The intention, therefore, of those who support the role of Lok Adalat is to solve the people's problem in speedier, cheaper and more efficient manner without recourse to the legalistic, cumbersome, and costly Court room scenario. There is a cry in India for the holding the Lok Adalats to hear and redress grievances of the people by solving their disputes amicably. There working will certainly help the Courts in reducing their work load to a substantial extent in their

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57.V.R.Krishna Iyer, Towards A Burgeoning Indian Jurisprudence of Social Action And Republic Interest Litigation", Indian Bar Review, Vol.16, No.2, 1989, p.132 at 137.

58.Ibid., p.138.

newly acquired jurisdiction. Moreover, it is interesting to note that even the Law Commission of India in its One Hundred And Fourteenth Report on Gram Nyayalaya (August 1986) has strongly recommended for setting up of a system participatory justice with defined jurisdiction and highlighted the need for establishing and extending and strengthening in rural areas the institution of Lok Adalats for resolving disputes expeditiously[59].

Keeping in view the nature of the Lok Adalat institution, Professor Upendra Baxi[59A] has made a mentioning of two types of functions which it must perform to justify its role as a best supplement to regular Court. These functions may be divided into two categories viz., (i) manifest functions which may be specified as: (a) conflict resolution, (b) dispensation of justice, (c) Ombudsman type function, (d) legal aid and services, (e) legislative innovation, (f) public record, (g) marital counselling, and (h) initiation of social change or "development" function, and (ii) latent functions and dysfunctions. Latent functions may be called as observable consequences which are neither intended nor recognised by the challenge elites. The aim of latent function is to be corrective in nature so as to improve the working efficiency of Lok Adalat. They provide a working efficiency and help in accelerating the speed of rendering justice to the needy, rising above the legal complexieties created by the law Courts.

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59. See Law Commission of India: One Hundred And Fourteenth Report On Gram Nyayalaya, August 1986, p.1.

59A. See Upendra Baxi, From Takrar To Karar: The Lok Adalat Rangpur (1976), pp.53-64.

III. MODALITIES OF WORKING OF LOK ADALATS

The modalities of the working of Lok Adalats are based on the guidelines given by The Committee for Implementing Legal Aid Schemes[60]. The Lok Adalats are generally organised by the State Legal Aid and Advice Boards or the District Legal Aid Committee's etc. The date and place of holding a Lok Adalat are fixed about a month in advance by the Legal Aid Board[61]. The date so fixed is, generally, a Saturday or Sundary or some other holiday with the objective that the work of regular Court may not suffer due to the holding of Lok Adalats. Information about the holding of Lok Adalat is given wide publicity through press, posters and, where possible, through radio, television, and Cinema slides[62]. Before a Lok Adalat is held, its organisers request the Presiding Officers of the various local Courts to examine cases pending in their Courts where, in their opinion, conciliation appears possible. Once the cases are identified, parties to the disputes are motivated by the judges of the Lok Adalats to settle their cases through Lok Adalats[63].

Lok Adalat is a day long exercise at a pre-determined place, in some village or in some other area, where the legal aid team assemble to resolve the disputes of the people by reconciliation and compromise[64]. Generally, senior judicial officers are invited to inaugurate a Lok Adalat. The team of Lok Adalats generally consists of retired judges, senior local officers, members of the Bar, spirited public men, experienced

60. Legal Aid Newsletter, Vol.IV-VI, Nov.1984-August 1986,p.6.
61. Supra note 41, p.15; K.Gupteshwar, op.cit., p.174, at 179.
62. Supra note 41, p.15.
63. Id, also see P.C.Jain, op.cit, p.44.
64. Supra note 52, p.86.

law teachers, active women social workers, elders of the locality, and voluntary social organisations[65]. The members of the Lok Adalats are called conciliators. The number of conciliators is usually three[66]. IN some places, especially at District or Sub-Division level, serving judges either function as conciliators or help the conciliators in arriving at a fair settlement between the parties. If conciliation result in a settlement of a dispute, a compromise deed is drawn up and after obtaining the signatures of the parties to the disputes and their advocates. If present, the compromise deed is presented to the Presiding Officers of the competent Court who is normally present at the place where the Lok Adalat is organised, for passing a decree in terms of compromise. Before passing a decree, the judge examines the fairness and legality of the compromise and satisfies himself that the compromise has been arrived at by the free will and mutual consent of the parties[67]. Every efforts are made to ensure on-the-spot payment of compensation, specially in case involving Motor Accident Claims[68].

The Lok Adalat, generally take up the cases, pending in Court, Tribunals, and before the Executive. The cases may pertain to civil, revenue and compoundable criminal disputes[69]. For the selection of cases fit for compromise no hard and fast criteria or rules have so far been laid down by the authorities concerned. However, the subordinate judges are competent enough and well-equipped to sense the cases in

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65. See supra note 41,42 and 52; also see Justice A.M.Ahmadi, "Access To Justice", Legal Aid Newsletter, Vol.XI, Part 4, Jan-March, 1992, p.19.
66. See supra note 41, p.15.
67. Id.
68. Id.
69. Supra note 52, p.87.

which the compromise is possible. Upon the preparation of list of such cases, they are analysed and consolidated under various heads to which the group of cases pertain and substance of each case is recorded in a proforma which can be used for reference, verification and correspondence later on. The cases which are generally brought before Lok Adalat relate to, among others, the following matters: Criminal Offences which are compoundable mutation of land, encroachment on forest lands, family disputes, land acquisition, Civil miscellaneous appeals, rent petition, arbitration cases, private challans, small cause cases, executions, petition under Section 125 Cr.P.C., summary challans, Workmen Compensation Cases, Mining Act cases, Panchayat Act cases, Guardian and Ward Act cases, police challans, Succession Act cases, pauper applications and cases pertaining to payment of minimum wages. Further Lok Adalats also may take up disputes which have not yet gone to Courts[70].

Multiple panels of the Lok Adalats are set-up to deal with the cases referred to it by the regular Courts. These panels generally comprise of two to three persons, one of them may be a retired judge or senior retired civil servant or an advocate or a law teacher, and others are social workers and eminent persons of the locality. These persons are carefully chosen by the local Legal Aid Committee on the basis of their record of public service, honesty and respectability of among local population[71].

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70. Supra note 41, p.15.

71. Supra note 52, p.86; Justice A.M.Ahmadi, "Workshop On Lok Adalat - An Appraisal", Legal Aid Newsletter, Vol.XII, Part I, April-June, 1992, p.7.

The peculiar feature of Lok Adalat is that it has neither uniformity in structure nor in its procedure. The procedure followed by these Lok Adalats is different in different States as they are sponsored, patronised, financed and guided by Legal Aid Boards and Legal Aid Committee's of respective States[72]. Moreover, the organisation of Lok Adalat is quite flexible and informal. Apart from some minimum requirement in respect of procedure and approaches, rest of the exercise has to be as informal and varied as the nature of the problems and the culture of the community demand. There can be variation in approaches and procedures depending upon whether the place is urban, rural or tribal and whether the dispute pertain to property, personal relation or public administration[74]. In terms of procedure in the Lok Adalats, there is not set pattern[75].

The Lok Adalats are not of uniform pattern all over the country[76]. At very many places Lok Adalats are inaugurated, at some places they do not have inaugural functions at all, there are only valedictory functions. There is also no uniformity about the method of working of the Lok Adalat. Each High Court or State evolves its own methods and there is no interference about the use of methods adopted by the Lok Adalats. They are given a freehand, a long rope to experiment with different methods[77]. They are always flexible with regard to the rules and procedure because the parties come to their own term with little assistance here and there, and they are able to reach a particular decision they consider it to be just and acceptable, that can be given effect to without there being

72. Supra note 42, p.133. 73. Ibid., p.135 74. Ibid.,
75. Supra note 42, p.137.
76. Justice A.M.Ahmadi, "Workshop On Lok Adalat - An Appraisal", Legal Aid Newsletter, Vol.XII, Part 1, April-June, 1992, p.7.
77. Ibid, p.7.

the difficulty which the Court experiences due to restricted parameters of the law[78].

The Lok Adalats function purely on democratic basis. There is no compulsion to settle the disputes through Lok Adalats. If the parties agree to decide their dispute mutually on the basis of their free will and in a voluntary manner, only then Lok Adalats come to their assistance. Moreover, no pressure is exerted by the advocates of the parties. The presence of lawyer is not required in the process of conciliation and settlement, they are, however, not debarred from attending the Lok Adalat. The role of advocates in the Lok Adalat is simply of advisory nature and help their clients to arrive at a compromise through their sweet efforts. The process of negotiation starts between the parties when both the parties make their presence before the judges of the Lok Adalat. The negotiation is assisted by the volunteers, well spirited social workers, senior law teachers and the others who formed the part of the Lok Adalat. Once the settlement is arrived between the parties, the Lok Adalat reduces it into black and white on the spot and the signatures of the parties are obtained. Members of the panel of the Lok Adalat also countersign it. Thereafter, either on the same day or the following day decree or orders are passed in terms of the compromise after the Judge has examined the fairness and legality of the compromise[79].

Lok Adalats are not constituted under specific rules and regulations made under the legislations. The evolution of the

78. Ibid, p.8.
79. See supra note 52, p.87.

structure of Lok Adalat has been a gradual process and the founders of the institution have not attached much importance to this aspect because their mind remained totally absorbed with the idea of resolving the disputes of the Local people speedily and save their time, energy and money so far as possible[80]. Generally, the composition of the Lok Adalat comprises of the Presiding Officers, Members and the Assembly of the people present at the time of holding the Lok Adalat. The procedure followed by the Lok Adalat may be summed-up as under:

1. The Lok Adalat, at first instance, calls both the parties to the disputes for the presentation of their case before it.
2. It asks for the elucidation of the points of disputes and afford opportunities for both the parties to explain their view points of the dispute.
3. The members of the Lok Adalat endeavour to provide guidelines for both the parties for arriving at truth of the matter.
4. The Lok Adalat provides even a solution with regard to resolution of dispute in case of any difficulty faced by them in the decision-making process.
5. A Krarkhat is finally drawn on the basis of the free consent of the parties and is signed by the both parties in the presence of the members of the Lok Adalats.
6. The Lok Adalats take initiative to acquaint the regular Court with the resolution of dispute and request for the execution of agreement arrived at between the parties.
7. Finally, the Lok Adalat request the Court to withdraw the case of the party on the lines agreed to by both the parties before the Lok Adalat.

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80. Awadh Prasad and Gopi Nath Gupta, Lok Adalat - A Probe Into Its Organisation And Working Process (1976), p.43.

The Lok Adalat is an unique institution which does not handle only their mutual disputes and points of contention but also contributes to their well-beings in several other ways. It meets the aspirations of the people by getting them economic and social justice. Their main aim is to settle the dispute in such a manner that the mutual relations of the disputants remains practically the same as existed before the commencement of such a dispute. They aim not only at the restoration of normal relations between the disputing individuals and families but also at a better and more lasting solution of the problem so that their future relations might not get strained at a slight provocation and a tense situation in the immediate future might be avoided[81]. More so, Lok Adalat lays a great emphasis on the social aspect of the dispute also. Obviously, it holds that the aim of justice is not to pronounce a barran decision on the basis of law evidence only but that it should also have two aims and objectives in its decision-making process: (a) The wrong doer might repent and mend his ways and may not repeat the wrong, and (b) the tension between the two parties may be minimised so that their mutual relations might again get normalised. It always aims at the removal of misunderstanding at the initial stage so that any trivial disputes might not grow into proportions and reach a point of no return.

While discussing the nature of modalities being adopted by Lok Adalats, the Study Team has observed the following stages and processes of Lok Adalat working methods[83]:

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81. Ibid, p.54.
82. Ibid, p.55.
83. Ibid, p.58; also see Upendra Baxi, From Takrar to Karar: The Lok Adalat Rang-pur (1976), p.17.

(A) Presentation and registration of a complaint.
(B) Issuance of invitation letters to the opposite parties for attending the session of Lok Adalat alongwith witnesses and friends on a specific date for the settlement of disputes.
(C) Starting of the hearing process.
(D) The summation of disputes matter.
(E) Nomination of the Pakshakaras (Arbitrators or negotiators).
(F) Public Exortation to elevate Pakshakaras into Panchas.
(G) Deliberation and decision by Panchas and the proclamation of the decision.
(H) Approval of the decision.
(I) Preparation of the Kararkhat (Mutual Agreement).
(J) Distribution of sweets (Gur).

The Lok Adalat method is quite inexpensive. It discards the unnecessarily imposes financial burden on the disputants. It assists the poor people to get prompt and speedy justice at the local level and affords opportunity to have easy access to the Lok Adalat. In this system one need not approach the advocates who are an unavoidable feature in law Court. He even need not get the plaint drawn up. The Lok Adalat may take into consideration an oral submission made by the party before it. One is also saved of the expensive and the trouble, he has to take in getting the summons served on the opposite parties[84]. The disputants are saved of the complications of law and legal technicalities and cumbersome procedures adopted at various stages of litigations by the regular Courts, in respect of the framing of the issue of the disputes, producing witnesses, pleadings and arguments putforth by the advocates before the Courts and the final judgment and eventually execution of the

84. Supra note 80, p.71.

decree awarded by the judge[85]. The idea behind the entire concept of Lok Adalat is that it should enlighten the outlook of the disputant and inculcate in them a spirit of "forgive and forget" and enable them to look to their social problem from a new angle of vision and changed attitude of life[86].

So far as the implementation aspect of the decision of Lok Adalat is concerned, it is based on the extent of trust, faith and confidence enjoyed by it in the area of its operation and whatever sanction, it has got, is related to its capacity to serve the people of the area and its judicious and impartial handling of the disputes. The reality is that moral sanctity, popularity and approval enjoyed by the Lok Adalat have helped it in getting its decisions executed and implement by the disputants. The Lok Adalat does not believe in the coersive method, but relies solely on its moral and social force to have its decisions carried out[87]. To be brief, the whole bases of Lok Adalat is mutual trust and confidence existing between the Lok Adalats and the disputants. Most of the disputant voluntarily takes upon themselves the responsibility to fulfil the obligations imposed upon them by the Lok Adalat either because of public pressure upon them or because of the self-realisation of any mistake or offence committed by them and the necessity of rectifying that mistake by fulfilling the obligation imposed by the Lok Adalat in that respect[88].

Lok Adalat is certainly distinct from the law Courts. Lok Adalat cannot award exparte decree and sentences in the

85. Ibid, p.72.
86. Ibid, p.73.
87. Ibid., p.74.
88. Ibid, p.76, also see Upendra Baxi, From Takrar to Karar: The Lok Adalat Rang-pur (1976), p.47.

manner the regular Courts does. The presence of the opposite party in the Lok Adalat is essentially necessary if any dispute is to be heard and decided by it. It cannot pass any order for the confiscation of an offenders property if he avoid to be present before the Lok Adalat. The Lok Adalat cannot take any steps to make one's presence obligatory. The power to summon the party is not at all vested in the Lok Adalat, rather it all depends only on the extent of social and moral pressure which it can exert on the disputant[89].

From the above study of Lok Adalat it is now quite evident that the mechanism of Lok Adalat is not just a dispute resolution forum or a contrivance introduced to reduce Court arrears, but a people's movement for orderly progress through rule of law and participate in self-government in the cause of social justice. To quote Madhava Menon[90]

> "Lok Adalat has the potential for social reconstruction and legal mobilization for social change. It can influence the style of administration of justice and the role of lawyers and judges in it. It can take law closer to the life of the people and reduce disparity between law in the books and law in action. Of course, in wrong hands it has also the potential to undermine stability and respect for the system of justice and to act as yet another forum of exploitation of ignorant and poor masses. It may be used by self-seeking politicians, lawyers and judges to advance their own interests and malign their enemies in the profession. It may become another bureaucracy if attempted to be stereo-typed and made an apendage of the formal court system. The dangers are infinite and the potentialities are limitless".

89. Supra note 80, p.124
90. Supra note 42, p.140.

IV. ACHIEVEMENTS OF LOK ADALATS

The concept of Lok Adalat is fairly an old concept[91]. The legal history of India reveals that people's Courts had a significant role in the resolution of disputes even in ancient India. We find mentioning of People's Court for the first instance in Yajnavalkya Smriti[92]. Brihaspati also shares the views of Yajnavalkya and opines that there were functioning two types of Courts simultaneously viz., the Royal Courts and People's Courts, i.e. Lok Adalats[93]. These Courts are stated to function as Amukhya or Secondary Courts which functioned at the village level and enjoyed vasts powers in the administration of civil and criminal justice[94]. These Courts functioned under the authority of Royal Seal and were popularly known as Mudrita in later times[95]. Though the ancient polity was a highly centralised one but it left a number of disputes to be decided by unofficial Courts. It is quite evident that the governments in ancient India encouraged the functioning of the Popular Courts to make justice easily accessible. Though these Courts were essentially non-official, they had the Royal authority behind them. Yajnavalkya claims them as sanctioned by the King[96].

The popularity of People's Court remained in existence till advent of the Muslim era. They continued functioning with minor variations, here and there, till the advent of Muslim rule in India. The advent of Muslim era, however, changed the whole notion of Lok Adalats and the rulers made substantial

91. See P.L.Mehta and Sunil Deshta, "Genesis of Lok Adalat: A Study with Special Reference To Ancient India", Civil & Military Law Journal, Vol.29,No.2,April-June,1993,p.132 at 137.
92. A.S.Altekar, State And Government In Ancient India (1977), 245.
93. Ibid, p.250.
94. See Vijnaneswara quoted in A.S.Altekar, op.cit, p.251.
95. Supra note 91, p.132.
96. Birendra Nath, Judicial Administration In Ancient India (1979), p.72.

inroads into the existing judicial system by way of creating the Courts of judicature, totally at varience with traditional system. The result was that the village disputes which hitherto were settled locally by the Lok Adalats began to be referred to the Central Courts[96a].

However, a severe death blow was given to the institution of Lok Adalat by the Britishers when they centralised the functioning of judiciary and discouraged and replaced the local Courts by the Royal Courts[97]. This discouraging trend on the part of the British ruler ultimately brought to an end a glorious chapter of People's Courts. The truth is that the Muslim and British rulers moulded the indigenous legal system according to their own vested interests with a dire consequence that the home spun legal system was replaced by a legal system unsuited to the climate of people of India[98].

The concept of Lok Adalat is relatively new merely in the sense that it has been accorded a legal sanction by the Forty-Second Amendment brought about in 1976[99]. Besides, The Legal Services Authority Act, 1987 has clothed it with legal sanction to ensure the sound functioning and the enforcement of its decision with the help of law. It is equally important to mention here that the institutional framework of Lok Adalat is a result of the social philosophy of the judges and eminent scholars. The judiciary has invented it in the light of

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96a Supra note 91, p.138.

97. Ibid.

98. Id., M.G.Chitkara, op.cit., pp.27-31; P.C.Jain, "Crisis Management of Justice - Conciliation Courts", Lawteller, June 1993, Vol.1, No.6,p.4; also see P.C.Jain, "Time For Conciliatory Justice", The Tribune, April 15, 1993, p.6.

99. Article 39-A was inserted which states: 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

necessity that has arisen because of the arrears of Himalayan height pending in the Courts at various level.

(i) **Lok Adalats Programme in Gujarat**

The movement for dispensation of justice through the Lok Adalats for the first time was started in Gujarat[100] on March, 1982 under the leadership of M.P.Thakkar, The Hon'ble Judge of the High Court of Gujarat. This programme of Lok Adalat commenced in this State with the Lok Adalat camp held on the March 14, 1982 at Una in Junagadh District and it was inaugurated by the Hon'ble Justice D.A.Desai, the then Judge of the Supreme Court[101]. It is revealed from the study of Legal Aid Newsletter, Nov. 1984-August, 1986 that till May 1986, the Government of Gujarat organised 114 Lok Adalats and took up 32,032 cases for the purposes of conciliation. However, 19,353 cases were disposed of and advice was given in 1,942 cases[102]. A good work has been done by Lok Adalats in Gujarat with special reference to Motor Accident claim petitions. The detail of number nof cases dealt with and disposed of in the Lok Adalat held by the government of Gujarat between August 25, 1985 to June 22, 1986 may be shown in **Table III.**

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other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.

100. Supra note 76,p.6. To have a detailed idea about the functioning of Lok Adalats in Gujarat see Upendra Baxi, From Takrar To Krar.

101. See Legal Aid Newsletter, Vols. IV-VI, Nov.1984 - August, 1986, p.12, Legal Aid Newsletters, Vol.VIII, Part 1 & 2, May 1988-August, 1988, p.2, also see Legal Aid Newsletter, Vol.IX, Part 1 & 2, May-August, 1990, p.4 at 7.

102. Legal Aid Newsletter, Vol.IV-VI, Nov.1984, August 1986, p.12, Indian Express, Nov.28, 1988, p.2, Lok Sabha USQ No.672, July 22, 1986, pp.211-213; For more detail see Lok Sabha USQ No.1240, Nov.11, 1986, pp.250-252; Lok Sabha USQ No.214, Feb.24, 1987, p.290; Rajya Sabha USQ No.51, April 13; 1989, pp.83-84.

TABLE-III

Sr.No.	Place where Lok Adalat held	No.of cases dealt with	No.of cases disposed of	Amount of compensation awarded
1	Bharuch	488	338	29,93,000
2.	Mohsana	606	327	41,00,000
3	Jamnagar	363	220	47,14,000
4	Godhra	651	455	24,71,000
5	Ahmedabad	529	259	35,49,000
6	Palampur	596	290	37,48,000
7.	Bhuj	148	106	13,96,000
8.	Surendranagar	78	78	4,24,000
9.	Surat	610	553	77,65,000
10.	Navsari	185	90	21,40,000
11.	Narei	322	227	42,32,000
		4,576	2,943	3,75,12,000

The study of Table-III shows that the Lok Adalat programme in Gujarat during a short period of about one year achieved a tremendous success in the field of settlement of disputes amicably. Moreover, the award of compensation to the tune of Rs 3,75,12,000 is a testimony to this success.

The scheme of Lok Adalat in Gujarat is a class by itself. The activity of the Lok Adalat have been taken over by the Gujarat State Legal Aid and Advice Board. It is revealed that the Board has concentrated attention to substantial litigation. It is taking up cases with regard to civil matters, matrimonial matters and motor accident claims. The cases of criminal nature are also referred to Lok Adalats for amicable settlement[103]. The modalities being followed by the Lok Adalats in Gujarat are quite simple. In all ten to twelve conciliation Boards (Sibirs) are established. There are four

103 Legal Aid Newsletter, Vol.VIII, Parts 1 & 2, May 1988-August 1988, p.3.

persons which constitute a bench to bring the parties to the negotiable table[104]. Out of these four persons one is generally a practicing Advocate of Gujarat High Court. Whenever there is a Lok Adalat, about 10 Advocates practising at Gujarat High Court come to the place of Lok Adalat and in each conciliation Board one such Advocate of the High Court works as a voluntary social worker and motivates the parties to settle the disputes by making various suggestions. As soon as the parties arrive at a compromise, the agreement is prepared in the open conciliation Board and after the parties sign the compromise, it is immediately presented to the judge concerned who is requested to sit in the separate room. The judge after inquiring about the consent given by the parties records the compromise according to law[105].

It is evident from different studies that Lok Adalats in Gujarat are organised strictly on non-working days only avoiding conflicts with judicial working hours and days[106]. The Legal Aid Board works as a supplement to and is not intended to have any conflict with the judicial set-up or judicial work. All cases are dealt with by the concerned judge of appropriate level who also happens to be the Chairman of the relevant Legal Aid Committee and hence obviates the necessity of transferring the records or shifting the responsibility from one body or authority to another. When a matter is settled in the Lok Adalat the Judge, like any other matter, records the compromise and further action thereon, as may be required to be taken in case of any other judicial

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104 Ibid.
105. Ibid, p.3.
106. See Legal Aid Newsletter, Vol.X, Parts 1 & 2, May-August, 1990, p.4 at 7.

matter settled through Court on a working day, follows and thus it make no difference for the litigation in following subsequent procedure, whether the matter is settled in Lok Adalat on non-working day or on a working day[107].

It is revealed that Gujarat Government has held 355 Lok Adalat camps till the end of December 31st, 1989. The yearwise number of cases, dealt with and settled in Lok Adalats during 1982-1989 may be shown in **Table IV**[108].

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107. Ibid.

108. Ibid, pp.10-11, Annexure-II and Annexure IV; also see Lok Sabha USQ No.1752, July 28, 1989, p.146.

TABLE-IV

Yearwise Number Of Cases Placed, Dealt With And Settled In Lok Adalats

Year	M.A.C.T. Lok Adalats only	M.A.C.T. cases settled	Amount awarded (in Rs.)	Total No.of Lok Adalats	No.of cases Placed	No.of cases Settled	Advice Given	Lok Adalat In High Courts	High Court cases Settled	Legal Literacy Camps Held
1	2	3	4	5	6	7	8	9	10	11
1982	-	-	-	30	7,142	3,951	1,032	-	-	-
1983	-	-	-	24	6,964	4,069	317	-	-	-
1984	-	-	-	28	6,545	4,142	221	-	-	4
1985	3	885	1,18,07,911	16	5,810	3,724	65	-	-	4
1986	15	3,055	4,03,33,223	33	9,072	5,644	358	3	562	16
1987	22	2,126	4,68,71,308	31	6,886	4,714	2	3	107	9
1988	29	2,063	5,37,05,956	52	9,991	6,570	58	2	34	15
1989	48	3,411	10,38,12,632	141	25,965	19,683	570	1	22	18
Total	117	11,540	25,65,31,021	355	78,375	52,497	2,623	9	725	66

The importance and magnitude of the work done through settlement of Motor Accident Claims cases can be better visualised by the amount of compensation awarded. **Table IV** shows that a large amount of Rs 25,65,31,021 has been awarded in 117 Motor Accident Claims Cases till the end of December, 1989. A similar success is also shown in the disposal of cases referred to it by the parties from time to time. Column 6 of Table IV discloses that 78,375 cases were referred to 355 Lok Adalats, out of which 52,497 cases were finally settled amicably and a valuable advice rendered by the Lok Adalats in 2,623 cases. It is thus clear from the study of Table IV that Lok Adalats in Gujarat have successfully disposed of 67% of the total cases referred to it during the year from 1982-1989. Besides, 66 Legal Literacy Camps have been organised during a period of eight years with a view to remove illiteracy in matters of legal knowledge and bring awareness, particularly to the weaker sections of the community having low aptitude for the working of such institutions. These literacy camps have covered for discussion important topics which include: (1) Information regarding: (a) Lok Adalats and its activities, (b) Legal Literacy Camps, (c) Legal Aid, (d) Permanent consideration committee; (2) Special provisions regarding: (a) pension (b) law family, touching dowry, (c) law touching inheritance, (d) law relating to divorce, (e) law relating to guardianship and minority; (3) information regarding (a) Gujarat Panchayat Act, (b) Co-operative Societies Act, (c) Workmen's compensation Act, (d) Motor Vehicles Act, (e) Hindu Maintenance Act, (f) Minimum Wages Act, (g) Labour Abolition Act; (4) Special

compilation of topics touching; (a) family pension, (b) divorce, (c) Succession, (d) Maintenance under civil and criminal law, (e) custody of minors, (f) dowry, and (5) topics regarding workers which include: (a) Workmen Compensation Act, (b) Minimum Wages Act, (c) Insurance Act, and (d) Labour Welfare legislation[109].

Further, study shows that Gujarat Legal Aid Board has established Permanent Conciliation Committee's atleast one in each district. At present, there are functioning three Committees, one at Junagadh since April, 1984, one at Surat since Oct., 1987 and one at Rajkot since September, 1989. These Committees meet in routine at regular intervals and entertain applications for compromises or conciliations. They contact the other side in order to ascertain the willingness to negotiate and when the other side expresses its willingness to negotiate, such Committee's call concerned parties for personal discussions and help them to resolve their disputes[110].

The Gujarat Legal Aid Board has started holding competition to promote the working efficiency of the Lok Adalats in the State. For this purpose a Running Shield is donated to a district who shows the highest performance in the settlement of disputes. The Government of Gujarat has awarded the shield to Bhavanagar District Legal Aid Committee in 1985 Ahmedabad (Rural) District Legal Aid Committee in 1986, Surat District Legal Aid Committee in 1987, 1988 and 1989 consecutively[111]. Similarly, through the good office of Rajkot Bar Association a Running Trophy known as "Advocate Mr.

109. Supra note 106.
110. Id.
111. Supra note 106, p.9.

Nalinkant Dave" has been instituted since September, 1989. It is awarded to a District which shows best performance in the disposal of cases during a calender year. The trophy has been awarded to Rajkot District Legal Aid Committee as it stood first by settling large number of cases in Lok Adalat[112].

It is further revealed that Gujarat Legal Aid and Advice Board organised 41 Lok Adalats during the first quarter of the year 1991. 5275 cases were referred to these Lok Adalat out of which 4199 cases were disposed of during the first quarter of the year[113]. The success of the functioning of Lok Adalat can be seen from the fact that the Gujarat Government successfully held the 500th Lok Adalat on August 25, 1991 under the guidance of Hon'ble Chief Justice of India and Patron-in-Chief (CILAS), 2,187 cases were placed before this Lok Adalat out of which 2044 cases were finally settled. The success of the 500th Lok Adalat lies in the fact that it could successfully settled 93.5% cases referred to it by the Courts[114]. Gujarat Government has set up Pre-Litigation Conciliation Cells which are doing good work. These cells entertain even those cases which form apprehension for the future litigation[115]. The latest figures available about the performance of Lok Adalat in Gujarat reveals that 571 Lok Adalats have been organised till November 1992. They have settled amicably 83,640 cases till the end of November 1992, which included 18,000 cases belonging to Motor Accident Claims. These Adalats have paid to the claimants an amount of Rs 42,80,00,000 till the end of November, 1992[116].

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112. Ibid, p.9.
113. Legal Aid Newsletter, Vol.X, Parts 3 & 4, Sept. 1990-March,1991, p.6.
114. Legal Aid Newsletter,Vol.XI, Parts 2 & 3, July-December, 1991, p.3.
115. Ibid, p.15.
116. Legal Aid Newsletter,Vol.XII,Part 1, April-June, 1992,p.19; Legal Aid Newsletter, Vol.XII,Part 2, July-Sept.,1992,p.36.

(ii) **Lok Adalats Programme in Maharashtra**

The Maharashtra Government, on the recommendation of the Legal Aid Board, have framed rules for conducting Lok Adalats in the State[117]. The experiment of Lok Nyayalaya in the State was started in 1984. During the year 1984-85 about 77 Lok Nyayalayas were organised which settled 1592 cases emicably[118]. Similarly, 170 Lok Adalats were held during the year 1985-86 which settled 3,217 cases out of 7,013 cases referred to it by the Court[119]. It is revealed that out of 170 Lok Nyayalayas 14 were exclusively arranged for settling the disputes pending with the Motor Accident Claims Tribunals. About 1130 such cases were considered by these Lok Nyayalayas and about 741 cases were amicably settled and a sum of Rs 1,72,74,200 was awarded as a matter of compensation to the parties concerned[120]. So also, during the period from April 1, 1986 to March 31, 1987 there were organised 184 Lok Adalats. During this period these Nyayalayas settled amicably 7,655 cases out of the total of 15,981 referred to it by the Courts[121]. Out of 184 Lok Nyayalayas 16 were arranged for Motor Accident matters. About 3,334 cases were brought before 16 Lok Nyayalayas and they could settle 1959 cases which comes to 58.9% of the cases referred to it. The amount awarded by these Nyayalayas as compensation to the victims was Rs 4,17,54,772[122].

The State of Maharashtra has now framed rules known as "Maharashtra State Lok Nyayalaya Rules, 1986" on the basis of a Study Report of Maharashtra Legal Aid and Advocate Board.

117. Legal Aid Newsletter,Vol.VI, Parts 3 & 4, Nov.1986-February, 1987, p.6.
118. Legal Aid Newsletter, Vol.VII, Parts 1 & 2, May-August, 1987, p.1.
119. Ibid, p.13; also see Lok Sabha USQ No.3160, March 18, 1986, p.52.
120. Supra note 118.
121. Ibid.
122. Id.

The rules have been published in the Maharashtra Government Gazette, Part IV-A on November 20, 1986[123]. The rules generally deal with the following matters, namely[124]:

(A) Complying with the preliminary matters required for organising the Lok Nyayalayas.
(B) Kinds of cases to be brought before Lok Nyayalayas for amicable settlement.
(C) Procedure for bringing the cases before the Lok Nyayalayas.
(D) Attendance of Judicial Officers in the Lok Nyayalayas.
(E) Procedure for organising the Lok Nyayalayas.
(F) Financial control and supervision of Lok Nyayalayas
(G) Composition, powers and functions of the panels of conciliators.
(H) Procedure for effecting compromise.
(I) Special provision for pending cases before the Motor Accident Claims Tribunals.
(J) Transport arrangements etc.

The Lok Nyayalayas are competent to entertain matters falling under three categories[125]:

(A) Pre-Litigation cases, i.e. disputes which have not yet gone to the Courts.
(B) Pending cases, i.e. disputes which have already gone to Law Courts.
(C) Legal advice in respect of any legal matters.

The study of the working of the Lok Nyayalayas in the State of Maharashtra discloses that the cases so far dealt with by these Lok Adalats include one of the categories states as under[126]:

123. Supra note 118, p.14.
124. Ibid.
125. Ibid.
126. Ibid.

(A) Civil
(B) Civil execution
(C) Matrimonial
(D) Criminal (excluding non-compoundable ones).
(E) Labour
(F) Matters under all Special Laws etc.
(G) Miscellaneous
(H) Motor Accident Claims etc.

It is, however, clear from the working of these Lok Nyayalayas that except the Motor Accident Claims cases, no cases against the Government, semi-government bodies, local authorities or State Government Undertakings have been brought before Lok Adalats for amicable settlement[127]. These Lok Nyayalayas obtain cases through three sources, namely, (a) social organisation and social workers, (b) local advocates, and (c) selection made from the file of the concerned Court[128]. The composition of Lok Nyayalayas is quite simple. Each Lok Nyayalayas consists of different panels of Conciliators constituted for that day depending upon the number of cases proposed to be brought before the Lok Nyayalaya on that day. Each panel consists of three Conciliators drawn from different professions, such as, panel advocates, retired judges, social workers, law teachers etc. Their working shows that generally the cases are grouped subjectwise and each panel is entrusted about 20 to 30 cases[129].

The working of Lok Nyayalayas right from 1984 onwards shows that the Government of Maharashtra is putting streneous

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127. Ibid.
128. Id.
129. Supra note 118, p.15.

efforts to organise Lok Adalats and hence it has been successful to hold 553 Lok Adalats till the end of February, 1989 and about 19,245 cases have been amicably settled with the result that a sum of Rs 10,41,82,584 has been awarded to the disputants as a matter of compensation[130]. The Government of Maharashtra has shown keen interest to organise the Lok Nyayalayas regularly. The Motor Accident Claims Tribunal has organised a Lok Adalat in Bombay on April 13, 1991 wherein Justice A.M.Ahmadi, Supreme Court of India and Executive Chairman, CILAS, addressed an inaugural session and Hon'ble Mr.Justice S.C.Pratap, Chief Justice, Andhra Pradesh High Court presided over the same. 849 cases were referred to it out of which 314 cases were settled amicably by the Lok Adalat[131]. It is a matter of great satisfaction that the Lok Nyayalayas in the State of Maharashtra has shown a tremendous success in the disposal of cases referred to it from time to time. The Lok Nyayalaya movement has made quick disposal of approximately 1.10 lac cases and disbursed through this machinery a large amount of 250 crores as a matter of compensation till the end of March 1992[132]. The figures shown in Legal Aid Newsletter of July-September, 1992 show that the State of Maharashtra has so far organised 925 Lok Adalats with the objective to dispose of cases expeditiously and accomplish the goal of providing speedy justice to victims who lack resources to prosecute their claims[133].

130. Legal Aid Newsletter, Vol.VIII, Parts 3 & 4, November 1988-February, 1989, p.8, at pp.10-11; also see Lok Sabha USQ No.1752,July 28, 1989, p.147.
131. Legal Aid Newsletter, Vol.XI, Part I, April-June, 1991, p.4.
132. Legal Aid Newsletter, Vol.XI, Part 4, January-March, 1992, p.13.
133. Legal Aid Newsletter, Vol.XII, Part 2, July-September, 1992, p.36.

(iii) Lok Adalats Programme in Uttar Pradesh

The Government of Uttar Pradesh organised its first Lok Adalat in 1984 with the objective to dispose of petty pending cases - civil, criminal, and revenue - so that for these matters the poor litigants do not have to run to Courts by spending a lot of time and money[134]. They endeavour to nourish the idea of settling the disputes between the parties by amicable settlements through negotiations and with the help of panels of conciliators consisting of retired officers, teachers, social workers and advocates who feel committed to the cause of the poor. Disputes not pending in the Courts are also taken up at the Lok Adalats[135]. The Lok Adalats provide ample opportunity for spot disposal of petty matters pending in Courts. The Legal Aid Board has organised 170 Lok Adalats during the period from August, 1984 to May, 1986 at various places in the State and decided 1,35,635 cases belonging to different categories which mainly included civil, criminal and revenue cases including consolidation matters. It is revealed that 2,07,753 persons were benefited till May 1986 by way of this strategy[136]. Besides, the Lok Adalats decided 132 Motor Accident Claims Cases and awarded an amount of Rs 19,98,293.75 paisa as a matter of compensation[137]. Similarly, 191 cases were filed by Potato growers against the owners of Cold Storages in District Fatehpur in the Lok Adalats for compensation. They decided all of these cases and awarded compensation to the potato growers to the tune of Rs 8,00,000/-[138].

134. Legal Aid Newsletter, Vols.IV-VI, Nov.1984-August, 1986, p.22; supra note 117, p.6.
135. Legal Aid Newsletter, Vols.IV-VI, Nov.1984-August, 1986, p.22.
136. See Supra note 135; also see The Statesman, Nov.14, 1987, p.1.
137. Supra note 135.
138. Id.

It is interesting to note that the Lok Adalats made an experiment at Panchayat Level to take up cases in entirety and dispose them of in a complete manner. As an experimental measure an area covered by a Panchayat Adalat, consisting of 22 villages, was taken up for being declared as **"Litigation Free Zone"** by taking all the pending cases of that area to a Lok Adalat. It is a matter of great achievement that as a result of this experiment 90% of the cases pending in that area were all disposed of by compromise with the efforts of conciliators[139]. It is equally clear from the information available that Lok Adalats in Uttar Pradesh has gained immense popularity even during the subsequent years. During one year period commencing from June, 1986 to May, 1987, 77 Lok Adalats and 49 Legal Aid camps were held in the various districts of Uttar Pradesh. During this period 13,667 disputes pending in Courts were taken up for amicable settlement. Besides, 1,313 Motor Accident Claims were also settled amicably and an amount of Rs 2,91,64,475.75 paisa was awarded to the heirs of the deceased as compensation. The State of Uttar Pradesh made special efforts for expediting payment of money awarded long back in land acquisition cases with the result that in 9 cases of District Saharanpur an amount of Rs 32,45,860/- was paid to 17 persons through the agency of Lok Adalat[140]. The Lok Adalat also took up initiative to decide claim cases pending against railways in respect of the goods demaged or not delivered by it. These Adalats successfully disposed of 6 cases at Ghaziabad and negotiated with the railways to make payment of Rs 11,913 as compensation and similarly an amount of

139. Supra note 135, p.22.
140. Supra note 118, p.8.

Rs 22,112 was paid as compensation in 19 cases at Gorakhpur[141]. The figures published in Indian Express of July 23, 1989 shows that 174 Lok Adalats were held during 1988-89 which disposed of 1,83,384 cases in Uttar Pradesh which included 1,867 cases relating to Motor Accident Claims.

The Legal Aid Board in Uttar Pradesh has shown a keen interest to persuade Lok Adalats at various levels to put efforts to make a Block Area, Taluka or Tehsil free from litigation and declare it as "Litigation Free Zone"[142]. The experiment to this effect was first of all carried out by District Legal Aid and Advice Committee Varanasi. It convened a meeting of 22 Gram Pradhans and apprise the scheme of Litigation Free Zone. Gram Pradhan got prepared a list of cases pending in different Courts. There were 82 cases in which the parties were invited on a fixed day. On that day Lok Adalats were organised on different subjects and the disputes were presented before the conciliators. The conciliators succeeded in getting 68 disputes compromised. Adopting this procedure 17 out of 22 villages, were made Litigation Free. There were only 14 cases which could not be compromised because they were of serious criminal nature[143].

It is also evident from the working of Lok Adalats in Uttar Pradesh that they have proved themselves very useful and beneficial to the tribal people living in the remote and hilly areas of the State. Hon'ble Mr.Justice A.M.Ahmadi, inaugurated Legal Aid Camps and Lok Adalats at Chakrata on June 21, 1991, with a view to provide speedy justice to the

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141. Ibid.
142. Legal Aid Newsletter,Vol.IX,Parts 1-4,May 1989-Feb.,1990, p.16.
143. Ibid.

down-trodden who have a little capacity to stand against the mighty persons for a long course of time. The Lok Adalat provided relief within a record period of one and a half month to the sufferers who had approached the Adalat in Motor Accident Claims Cases[144]. The figures depicted in Newsletter of July-September, 1992 show that the State of Uttar Pradesh have organised 1,349 Lok Adalats and disposed of 13,66,869 cases which include 12,249 concerning Motor Accident Claims. An amount of Rs 37,77,57,917 has been awarded to the aggrieved till the end of November, 1992[145].

(iv) Lok Adalats Programme in Andhra Pradesh

Lok Adalats in the State of Andhra Pradesh caught the attention of the people in the later half of 1985[146]. The first Lok Adalat in the State was organised in Vishakhapatnam on December 15, 1985, and the second one at Ongole and the third Lok Adalat was inaugurated in Hyderabad city[147]. According to Dr. N.R.Madhava Menon, the State of Andhra Pradesh held 9 Lok Adalats till April 1986 and settled 2,581 cases amicably on the principle of 'mutual give and take'[148]. It is revealed from the study of 'The Hindu' that during the years 1985-1987, the Lok Adalats successfully settled 57,000 disputes through this forum. Most of the cases concerned land acquisition and Motor Vehicle Accident compensation[149]. A year-wise detail of holding Lok Adalats during the year 1985-86 to 1987-88 may be shown as follows[150].

144. Supra note 131, p.4. 145. Supra note 133, p.36
146. Supra note 142, p.2; also see The Hindu, May 9, 1988, p.8.
147. K.M.H.Rayappa, "Lok Adalat: Objectives, Pre-requisites And Organisation", Indian Bar Review,Vol.14(4), 1987, p.712.
148. N.R.Madhava Menon, "Lok Adalats: People's Programme For Speedy Justice", Indian Bar Review, Vol.13(2), 1986, p.130. also see Lok Sabha USQ No.3160, March 18,1986, p.52.
149. The HIndu, May 9, 1988, p.8.
150. Supra note 142, p.2.

TABLE-V

Sr.No.	Year	No. of Lok Adalats held
1	1985-86	16
2	1986-87	26
3	1987-88	23
Total	1985-88	65

Of the 65 Lok Adalats organised in Andhra Pradesh, 6 were exclusively for settlement of Railway Claims. The study shows that out of 244 cases referred to the Lok Adalats 141 of them were amicably settled and the total amount of compensation awarded by this Lok Adalat in these cases was to the tune of Rs 10.87 crores[151]. In this way, Andhra Pradesh stood first in the country in respect of settlement of compensation claims under the Motor Vehicle Act. The Lok Adalats also showed a magnificient progress in the disposal of cases relating to land acquisition matters. As many as 25,000 cases belonging to Motor Accident Claims were settled by the Lok Adalats and the amount involved was 18.72 crores[152]. The State of Andhra Pradesh organised its 65th Lok Adalat on January 31, 1987. It was an unique event in the history of Lok Adalat Scheme in the country where thousands of persons were benefited and the huge volume of litigations were settled finally. It evoked a great response throughout the country seeking information as to the procedure to be followed for settlements of claims by Lok Adalat[153]. Similarly, two Lok Adalats were held on February 23 and 25, 1991 at Visakhapatnam and Karim Nagar which were attended by Hon'ble Mr.Justice A.M.Ahmadi, Judge, Supreme Court of India and Executive Chairman, CILAS, Hon'ble Justice

151. Supra note 149, p.8.
152. Id: also see Lok Sabha USQ No.1752, July 28, 1989, p.145.
153. See supra note 146; also see Indian Express, April 2, 1988, p.5.

Yogeshwar Dayal, the then Chief Justice of Andhra Pradesh. The Lok Adalat at Vishakhapatnam was 83rd in series wherein 53,153 cases were settled. These cases included 508 Motor Accident Claims compensation cases, 110 land acquisition cases, 611 original suits relating to municipal taxes, 454 other civil matters, 1,288 criminal cases, 74 summary trial cases and 21 agency calendar cases. An amount of Rs 1,63,98,680/- was awarded towards compensation in Motor Accident Claim cases and Rs 94,80,009.75 paisa as enhanced compensation in land acquisition cases[154].

At the 84th Lok Adalat held at Karim Nagar 10,553 cases were settled which included 9,118 original suits, 507 criminal cases, 57 maintenance cases under Section 125 Cr.P.C. 46 Municipal Tax Cases, 50 Bank cases, 25 original petitions under Hindu Marriage Act, 4 Appeals and 1 civil miscellaneous appeals. An amount of Rs 1,80,79,760.48 paisa was paid as enhanced compensation for land acquisition cases and Rs 60,09,677/- as compensation for Motor Accident Claim cases[155]. On May 29, 1991 the 85th Lok Adalat was held at Vishakhapatnam with a view to settle cases pertaining to land acquisition. The said Lok Adalat was inaugurated by Justice A.M.Ahmadi. He welcomed the efforts made by authorities concerned to settle land acquisition matters in the Lok Adalat. A total number of 689 cases, including land acquisition cases, Motor Vehicle Act cases, civil and criminal cases were settled and compensation amounting to Rs 1,20,50,734 was awarded to those whose land was compulsorily acquired by the State[156]. Similarly, 86th Lok Adalat was held at Bobbili on June 29, 1991. It was also

154. Supra note 113, p.6
155. Ibid.
156. Supra note 131, p.2.

inaugurated by Hon'ble Mr.Justice Ahmadi. The main issue to hold this Adalat was that the small cane-growers were not paid the price of sugar-cane supplied by them to the factories during 1975-76 and 1976-77. The Lok Adalat put earnest efforts to settle the dispute amicably and the result was that the Nizan Sugar Factory was made to agree to pay Rs 1,23,35,000/- to the claimants which were 10,232 in number[157]. The significant features of this Lok Adalat were (a) Cane-growers and workers who were not paid for the last fifteen years were paid their claim; (b) Though some of the claimants had not preferred claims and some of the claims were rejected, the amount was paid to all the cane-growers and workers without any discrimination, (c) Though under the Act the liability of the State Government was restricted to 36.24 lacs, the claim was finalised and settled for Rs 123.35 lacs due to the efforts of the Lok Adalat; (d) 10,232 families mainly from agricultural and weaker sections were benefited by the Lok Adalat[158]. The 87th Lok Adalat was held at Srikakulam on June 30, 1991. It was inaugurated by Hon'ble Chief Justice of Andhra Pradesh High Court and presided over by Hon'ble Mr.Justice S.Parvatha Rao, Judge, Andhra Pradesh High Court. The said Lok Adalat succeeded in settling 504 cases which included 358 pertaining to Motor Vehicle Matters. The Adalat awarded a sum of Rs 97,04,780.17 paise towards compensation to the victims in the M.A.C.T. cases[159].

The study shows that a special Lok Adalat was organised to settle the dispute arising with regard to the acquisition of the land in respect of a major irrigation project, namely,

157. Ibid.
158. Ibid, pp.2-3.
159. Ibid, p.3.

Telgu Ganga Project in Nellore District. The achievement of this unique Lok Adalat lies in the fact that it successfully disposed of 5,169 cases which were pending in Courts for the last two and a half years. The Lok Adalat was successful in awarding compensation to the tune of Rs 2,51,76,754/- to the owners of the land[160]. The latest figures depicted in the Legal Aid Newsletter show that the State of Andhra Pradesh has organised 128 Lok Adalats till the end of November 1992 and settled 1,83,549 cases out of which 12,014 cases relate to Motor Accident Claims. The total amount awarded by the Lok Adalat in these cases comes to Rs 33,68,34,444[161].

(v) **Lok Adalats Programme in Orissa**

The working of Lok Adalats in the State of Orissa shows that first Lok Adalat was held at Cuttack on November 24, 1985 as an experimental measure. The objective of holding this Adalat in the State was to dispose of cases amicably, expeditiously and reduce the burden of the regular Courts[162]. Thereafter, Orissa Legal Aid and Advice Board organised three more Lok Adalats in the State - on 17th and 18th January, 1986 at Puri; on 22nd and 23rd February at Berhampur and on 20th April, 1986 at Rourkela[163]. In these Lok Adalats 140 Motor Accident claims cases were disposed of on compromise with the concerned Insurance Companies and Rs 24,68,650/- was awarded as an amount of compensation. Besides, at Rourkela Lok Adalat 7 civil cases, 34 criminal cases, and 5 labour cases could be disposed of amicably[164]. During the second quarter of 1987-88,

160 Supra note 114,pp.2-3.
161. Supra note 133,p.36.
162. Supra note 142,p.8.
163. Supra note 135,p.17; Lok Sabha USQ No.1240; Nov.11,1986,p.251; Lok Sabha USQ No.214, Feb.24,1987, p.290; also See Rajya Sabha USQ No.51, April 13, 1987, pp.83-84.
164. Supra note 135,p.17.

(July-September, 1987) 2,540 cases were referred to the Lok Adalats, out of which 1,178 cases were settled amicably. Besides, there was a special Lok Adalat to deal with the Motor Accident claims cases. It settled 65 cases and awarded a sum of Rs 15,98,200/- as compensation to the claimants. During the third quarter of 1987-88 (October-December, 1987), 2,903 cases were referred to Lok Adalats. Out of these the Lok Adalats could settle 36 cases and provided legal aid in the rest of the cases[165]. Similarly, 14 Lok Adalats were held in which 426 Motor Accident claim cases, 4 cases under Workmen Compensation Act, 34 civil, 520 criminal and 715 revenue cases were settled by way of compromise and a sum of Rs 96,94,929/- was awarded as compensation[166].

It is further revealed that the State of Orissa organised 100th Lok Adalat on July 3, 1988 and 174th Lok Adalat on November 6, 1988 at Puri[167]. The popularity acquired by the Lok Adalats is quite visible from the performance they have shown from time to time. The holding of Lok Adalat at Sambalpur on September 11, 1988 is in itself a great achievement. About 100 Motor Accident claims were disposed of on settlement with the Insurance Companies and Compensation totalling Rs 26 lacs was awarded to the victims and their next kins. The efficiency of the working of Lok Adalat is apparent from the fact that it decided successfully 1600 civil, criminal and revenue cases which were pending in the regular Courts for the last about one decade[168]. The State Legal Aid Board has also organised Lok Adalats regularly during the year 1989. 398 Lok Adalats were organised till the end of December

165. Legal Aid Newsletter, Vol.VIII, Parts 1 & 2, May-Aug.,1988, p.7.
166. Ibid.
167. Legal Aid Newsletter, Vol.VIII, Parts 3 & 4, Nov.1988-Feb.1989, p.6.
168. Id.

1989 and 97,017 cases were compromised in a short span of one year[169]. According to the information furnished by the Committee For Implementating Legal Aid Scheme the State of Orissa crossed the 400th mark in the Lok Adalat held exclusively for industrial disputes and cases under the different labour laws at Bhubaneshwar. 437 Lok Adalats have been organised till July, 1989 which could settle 1,16,345 cases[170] and awarded compensation to the tune of Rs 8,00,17,891/- to the victims or their next in kins in claim cases arising out of the Motor Vehicle's Act and Workmen's Compensation Act.

It is revealed that quite a good number of cases have so far been settled amicably with the co-operation of the judges, advocates and the disputants and has achieved success to a large extent[171]. The State of Orissa has to its credit the owner of organising of the 1000th Lok Adalat at Cuttack on June 30, 1991. A total number of cases referred to it was 33,974. Moreover, the overall performance of the Lok Adalats from the first held on November 24, 1985 to the 1000th held on June 30, 1991 at Cuttack reveals that 2,48,458 cases, which included 4,332 Motor Accident claims, were settled by these Adalats and awarded a huge amount of Rs 9,99,69,744/- to the claimants as a matter of compensation[172]. The figures depicted in Legal Aid Newsletter July-September, 1992 discloses the tremendous performance of the Lok Adalats functioning in Orissa. More than 3,79,993 cases have been settled by 1,327 Lok Adalats till the end of November, 1992. An amount of Rs

169. Lok Sabha USQ No.1752, July 28, 1989, p.147.
170. Supra note 142, p.9.
171. Ibid.
172. Supra note 131, p.17.

11,97,66,044/- has been awarded as a matter of compensation in 5,010 Motor Vehicle's claims decided by these Adalats in a span of about seven years[173].

(vi) Lok Adalat Programme in Rajasthan

The history of Lok Adalat Programme in the State of Rajasthan is not difficult to trace. It is a programme of recent origin. The Lok Adalat programme in the State took its birth in November, 1985. The first Lok Adalat was organised at Banswara on November 30, 1985. It could settle 532 cases in all. It is also shown in different studies that 6 Lok Adalats were organised during December, 1985 and 6,637 cases were settled amicably[174]. The Lok Adalat programme in Rajasthan has become so much popular that the flow of public in Lok Adalat camps is now uncontainable. The people in their best and vast numbers gathered at the Lok Adalats camps organised at 48 places since November 1985. The cases settled and disposed of at such Lok Adalats camps have touched the mark of 1,00,000 cases[175]. An amount of Rs 2,38,26,375/- was awarded and paid as compensation in 1,162 Motor Accident Claim cases. The study further shows that 154 Lok Adalats were organised in the year 1986, which could dispose of 2,02,579 cases in a period of one year[176]. This included 1,982 cases of Motor Vehicle's claims and 1,875 cases were pertaining to industrial and labour disputes. Besides, many matrimonial suits were also decided resulting in uniting a large number of families through reconciliation. The success of the functioning of these Lok

173. Supra note 133, p.36.
174. Supra note 118,p.7, Formore detail see supra note 133, pp.1-11 and 36.
175. Supra note 135,p.18.
176. Supra note 118,p.7, Rajya Sabha USQ No.51, April 13, 1986, p.18.

Adalats is visible from the fact that a large amount totalling to Rs 4,51,97,808/- was awarded as a matter of compensation in 1982 Motor Vehicle's Accident claims[177]. The record further reveals that 167 Lok Adalats were organised in between November 30, 1985 to March 31, 1987[178]. The achievement made by these Lok Adalats speak about the fact that 2,14,035 cases were settled by these Adalats in between the above said period. The cases decided included 10,790 civil matters and 43,071 as criminal matters and 1,60,174 were of miscellaneous nature[179]. One can easily assess the achievement these Lok Adalats from the fact that these decided cases include one case of 1960, ten cases of 1962, one of 1965, four of 1966, one of 1967 and three of 1968. Thus credit to provide speedy and cheap justice undoubtedly goes to the Lok Adalats who quite successfully disposed of the cases which had been pending for long[180] in the regular Courts.

The Rajasthan State Legal Aid and Advice Board has shown keen interest in organising the Lok Adalats at the regular interval. With the help of the Board a Lok Adalat was organised at Banswara on July 20, 1991. The Hon'ble Chief Justice of India Mr.R.N.Misra inaugurated the said Lok Adalat. It showed an unprecedented success in the disposal of cases. More than 32,000 cases were settled by this Lok Adalat and a sum of Rs 52,00,000/- was awarded as matter of compensation to the aggrieved[181]. An overall performance of the Lok Adalats for the period November 1985 to November 1992 shows that the

177. Supra note 118, pp.7-8.
178. Ibid, p.8.
179. Ibid.
180. Id.
181. Supra note 114, p.4.

working of Lok Adalats in the State of Rajasthan has attracted the hearts of the millions of people. It has in a short period of its seven years history, assumed such a large proportions and dimensions that 293 Lok Adalats have so far been organised settling 4,64,366 cases amicably. The performance is also evidently visible from the fact that Rs 24,78,31,812/- have been awarded to the aggrieved in 8,603 Motor Accident claims cases[182].

(vii) **Lok Adalats Programme in Assam**

Lok Adalats in Assam have shown tremendous results in the disposal of cases referred to it from time to time. The State of Assam has taken vigorous steps for giving wide publicity to the functioning of Lok Adalats. A number of Lok Adalats have been held in the districts of the State. During the period of four months (May-August, 1988) two Lok Adalats were held, one at Hojo in the Kamrup District and other at Borhampur in the Nagaon District where 244 cases were disposed of and an amount of Rs 14,06,500/- was awarded as compensation in M.A.C.T. cases under the Motor Vehicle's Act[183]. Besides, these 14 Lok Adalats were held in the State till October 30, 1988 where 1,272 cases were disposed of including 310 Motor Accident Claims Tribunal cases. These Adalats awarded Rs 1,20,44,060/- as a matter of compensation to the claimants[184]. It is also revealed that the Assam State Legal Aid and Advice Board held 16 Lok Adalats during the year 1990, covering most of the Districts of the State. These Adalats could successfully disposed of 1,456 cases including 365 pertaining

182. Supra note 133, p.36.
183. Supra note 165, p.2.
184. Supra note 167, p.2.

to the subject-matter of Motor Accident Claims. Rs.1,20,33,392/- was awarded to the aggrieved as a matter of compensation. The State of Assam is busy in giving wide publicity to the scheme of Lok Adalat amongst the rural poor through Press, Radio and Television[185]. The information available with CILAS as on July 20, 1989 shows that 19 Lok Adalats were held by the State of Assam and 1,661 cases were settled on the basis of compromise between the parties[186]. The latest study of the functioning of Lok Adalat in the State of Assam discloses that it organised 43 Lok Adalats till November 1992 and disposed of 4,062 cases which included 923 M.A.C.T. cases. An amount of Rs.3,38,96,152/- was awarded to the claimants as a matter of compensation[187].

(viii) Lok Adalats Programme in Tamil Nadu

The Tamil Nadu State Legal Aid and Advice Board organised the first Lok Adalat to settle Motor Vehicle's Accident Claims in the year 1986. It followed the Gujarat pattern evolved by the Gujarat Legal Aid Board. Adalat comprised of retired District Judges and Senior Members of Bar like Public Prosecutor, Government Pleaders etc. It is quite evident from the scrutiny of the record that 115 cases were settled amicably[188]. The Lok Adalat functioned on the following guidelines[189].

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185. Supra note 114, p.5.
186. Lok Sabha USQ No.1752, July 28, 1989, p.145.
187. Supra note 133, p.36.
188. N.R.Madhava Menon, supra note 148, p.131; Rajya Sabha USQ No.51, April 13, 1987,p.84.
189. Supra note 135, p.21.

(A) As far as possible the matter for decision by the Adalat should comprise cases where no elaborate legal issues are required to be settled, but only the quantum has to be settled.

(B) The preliminary stage of preparation for the Adalat should provide an opportunity for a prior discussion between the parties assisted by their lawyers and the representatives of the Insurance Companies. At this discussion, an estimate for the quantum should be arrived at by consensus. Only where there is difference, it will be left for the Adalats decision.

(C) The procedure to be followed by the Lok Adalat should be such as to exclude the interference of vested interest and middlemen and should enable the poor persons to get the full benefit of the award.

(D) Efforts should be made to devise strategies to bring the groups of claims within the scope of Lok Adalat.

(E) There should be growing awareness that Adalat procedure will lead to early settlement.

The remarkable feature of Lok Adalat Scheme in Tamil Nadu is that it always aims at promoting the objective of Pre-Litigative Settlement and has therefore projected a scheme for opening Mediation Centres in the Rural Area. It is device adopted by the Board for experimenting as alternative system of dispute resolution. Earnest efforts are being made to have involvement of the community in this programme. These Mediation Centres function once in a week on a holiday[190].

190. Supra note 142, p.11.

Though there is at present no statutory backing for the scheme, the experience shows that 7,250 cases have been settled which include 2,724 being matrimonial dispute[191]. More than 77 Mediation Centres are operating regularly in Rural Centres and have successfully settled a large number of Pre-Litigation disputes almost on the pattern of Lok Adalats elsewhere[192].

The Tamil Nadu Legal Aid Board is also busy with the programme of holding Lok Adalats at different places of the State. The scheme is oriented with the object of resolving legal disputes between the parties by negotiation and conciliation and by adopting persuasive, commensense and humane approach to the problem, with the assistance of socially oriented and experienced members of a team of conciliators. The Lok Adalat Scheme aims at resolving the disputes[193]:

(A) which have not yet gone to the Court of Law (Pre-Litigation matters), and

(B) which are pending in the Courts of Law (pending cases).

It is revealed that the State of Tamil Nadu has so far been holding Adalats for settling claims pending before the Motor Accident Claim Tribunals[194]. The Legal Aid Newsletter of May 1989 - February 1990 shows that the State of Tamil Nadu had convened 15 Adalats till the end of February 1990. These Lok Adalats disposed of 1,927 cases and awarded Rs 4.11 crores as compensation in M.A.C.T. cases[195]. In addition to 15 Lok Adalats organised by Legal Aid Board, the M.A.C.Tribunal also organised 29 Lok Adalats and settled 2,453 claims for a total

191. Ibid., p.10.
192. Ibid., p.12.
193 Ibid.
194 Id.
195 Supra note 142, p.13.

sum of Rs 4.29 crores[196].

The achievement made by the Lok Adalats since inception and upto 30-11-1989 may be shown as under:[197]:

1.	**Receipt**		
	a)	For relief through authorities	1,37,769
	b)	For relief through Courts and Tribunals from (a) and (b)	3,68,329
	i)	No. of applications from women	66,641
	ii)	No.of applications from S.C.	58,610
	iii)	No.of applications from S.T.	6,766
	iv)	No.of Matrimonial and maintenance matters received	19,496
2.	**Disposals**		
	a)	For relief through authorities	1,35,241
	b)	For relief through Courts and Tribunals from among (a) and (b)	3,36,763
	i)	Compromised through efforts of the Board	7,250
	ii)	Disposed of in Courts	1,21,582
3.	**Cases Pending in Courts and Tribunals**		24,748
4.	**Benefits Secured for Women and Children for Maintenance**		
	i)	Monthly maintenance	1,82,165
	ii)	Commuted payments	5,47,474.15
	iii)	Cases settled and parties helped to settle differences	2,724
5.	**Awards Secured**		
	a)	For workmen under Workmen's Compensation Act	28,24,186.16

196. Ibid.
197. Ibid, p.15; Legal Aid Newsletter, Vol.XII, Part 1,April-June,1992,p.11.

b)	For victims of Motor Accidents	7,98,48,549.11
c)	Compensation secured before the Adhoc claims Tribunals in Railway Accidents	14,61,786.00

6. **No.of Mediation Centres** 78

The Tamil Nadu Legal Aid Board organised its 5th Lok Adalat in Coimbatore District to settle Motor Accident claim cases and also Maintenance Petitions under Section 125 Cr.P.C. The Lok Adalat settled 532 Motor Claims, Original Petitions and awarded compensation to the tune of Rs 1,76,17,917.49 paise. Besides, 15 Maintenance Petitions were also settled amicably and the parties were agreed to pay Rs 2,90,000/- as an award of Maintenanceto the wives[198]. It is a matter of great pride that Tamil Nadu Legal Aid and Advice Board organised 100th Lok Adalat on September 28, 1991, at Chinglepattu[199]. The Adalat settled 700 cases and paid compensation amounting to Rs 2 crores[200]. To sum up, in about 131 Lok Adalats, the State of Tamil Nadu has secured the disposal of 15,025 cases which include 14,971 M.A.C.T. cases and has successfully made the parties to pay an amount of Rs 37,42,77,982/- as a matter of compensation to the claimants till the end of 1992[201].

(ix) Lok Adalats Programme in Kerala

The Kerla Lok Adalat movement dates back to the year 1985. The first Lok Adalat was conducted at Parur on January

198. Supra note 113, p.7
199. Supra note 114, p.4.
200. Ibid.
201. Supra note 133, p.36; also see Legal Aid Newsletter, Vol.XII, Part 1, April-June,1992 p.19.

5-6, 1985[202]. It was a unique Lok Adalat in several respects. Mr.Justice V.R.Krishna Iyer, its originator, styled this as Molakar Neeti Mela (People's festival for justice)[203]. The Justice Mela was inaugurated by Hon'ble Chief Justice of India, Y.V.Chandrachud, who commended the scheme of conciliatory settlement of disputes outside the Court for speedier and quicker justice[204]. The study further reveals that a Lok Adalat was conducted at Kochi in the premises of High Court on February 9-10, 1991. It was inaugurated by Hon'ble Chief Justice of India, Mr.Ranga Nath Misra and the function of Lok Adalat was presided over by the then Chief Justice of Kerala, Mr. V.S.Malimath[205]. A total number of 632 cases were settled out of which 578 were Motor Accident claim cases[206]. The Lok Adalats were conducted at Kozhikode, Kasargod, Kottayam and Manjeri. These Adalats settled 2,256 Motor Accident claims cases, 446 criminal cases of minor nature and 164 civil cases. An amount of Rs 4,80,93,999/- was agreed to be paid as compensation to the victims of Motor Accident claims cases[207]. The latest record available against the functioning of Lok Adalat reveals that 12 Lok Adalats have been conducted by Kerala State. 7840 cases have been amicably resolved including 3,655 matters relating to Motor Vehicle's Accident Claims. An amount of 1,58,00,000/- has been awarded by these 12 Lok Adalats in 3,655 Motor Vehicles cases till the end of November, 1992[208].

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202. Legal Aid Newsletter,Vol.IV, Parts 1 & 2, May-August 1984,p.5.
203. Ibid.
204. Id.
205. Supra note 114, p.7.
206. Ibid.
207. Ibid.
208. Supra note 133, p.36.

(x) Lok Adalats Programme in Karnataka

The Karnataka Legal Aid and Advice Board gained its real momentum towards holding Lok Adalat by the end of 1983[209]. On June 9, 1984, a conference of the office bearers of Legal Aid Committee at district and taluka levels was inaugurated by Hon'ble Chief Justice Mr.P.N.Bhagwati. The conference gave considerable publicity to the strategy of Lok Adalat. The Board also took up massive publicity work to give publicity to the Lok Adalat movement through Cinema slides, wall posters, folders, lectures, television and radio programme etc. The Legal Board has proposed to hold periodical Janata Nyayalaya (Lok Adalats) in all districts of the State. Accordingly Lok Adalats have been held at Mandya, Karwar, Mangalore, Mysore and Chitradurga districts during the last quarter of 1984[210]. It is also revealed that a Marriage Counselling Centre was set up at Bangalore with the help of retired judges, social workers and family counsellors. The Centre has conducted 14 Janatha Nyayalayas and has successfully settled 1,058 Motor Accident claims amicably. A sum of Rs 1,58,00,000/- has been awarded in these cases to the aggrieved disputants[211]. It is also shown that the motto of dispute resolution has gained special strength from June 28, 1986 and consequently 38 Janatha Nyayalayas have been conducted in the State settling 2,713 Motor Vehicles claim cases with compensation of Rs 4,02,19,160/-. In addition to these cases 46 civil cases and 87 criminal cases have also been compromised in the Janatha Nyayalaya camps[212].

209. Supra note 135,p.15.
210. Ibid, p.16
211. Supra note 135, p.15.
212. Ibid, p.16.

There has been considerable progress in settling the disputes by conciliation and mediation through Janatha Nyayalayas. It is evident from the fact that 224 Janatha Nyayalayas were organised from June 1986 to October, 1988 which could successfully resolve 13,423 cases amicably, which included 8,256 M.V.A. cases. A large sum of Rs 12,14,07,391/- has been awarded by these Lok Adalats as a matter of compensation to the various claimants in 8,256 M.V.A. cases[213]. Dynamic leadership and unceasing efforts on the part of the Chairman and Members of Karnataka Legal Aid Board[214] has given considerable impetus to the Lok Nyayalaya movement in the State. As a result, the Board has been able to organise 250 Janatha Nyayalaya camps in the State by the end of February 1989 settling 15,751 cases of different nature. These Adalats could successfully compromise 9,805 M.A.C.T. cases, 4,185 criminal cases, 1,305 civil cases, 154 maintenance cases and 298 other cases of miscellaneous nature. The total compensation awarded comes to Rs 14,41,07,027/- in the above referred 9,805 cases[215].

Thus it appears that Karnataka Government is firmly committed to achieve a world record by setting 1,00,000 different cases pending in Bangalore district for several years[216]. More than 22,000 cases were settled by the Janatha Nyayalayas and Rs 22 crores were agreed to be paid on compromise basis to the various claimants between the period 1983 to May 30, 1990[217]. The information available with the

213. Supra note 167,p.4.
214. Supra note 142,p.5.
215. Ibid.
216. The Hindustan Times May 31, 1990, p.4.
217. Ibid.

CILAS as on 20-7-1989 also discloses that Karnataka Legal Aid Board had organised 272 Lok Adalats and succeeded in achieving the goal to settle 17,599 cases referred to it for resolution of dispute[218]. We also witness involvement of law teachers and law students on large scale to make the movement a grand success[219]. The latest record throws a flood of light on the achievements shown by Karnataka Legal Aid Board in holding Lok Adalats at regular interval. A keen interest seems to have been shown by the State of Karnataka to make the movement of Lok Adalat a success. The result of these earnest efforts is that 965 Lok Adalats have so far been held settling 2,39,034 cases amicably which included 23,879 M.A.C.T. cases. A total sum of Rs 38,37,55,527 has been awarded by the Janatha Nyayalaya in these M.A.C.T. cases[220].

(xi) Lok Adalats Programme in Bihar

Bihar Legal Aid Board was brought into existence in the year 1983[221]. It has made a great deal of efforts to streamline the working of the Lok Adalats in the State in order to provide quick disposal of cases to all walks of life. To achieve this objective, reconciliation Committee's have been established at Block level which have helped to a great degree in settling many pending litigations through compromise. Many camp Courts have been organised in a chain to follow up the settlements and final disposal to fulfil the idea of justice at the door-step. With a view to arouse

218. Lok Sabha USQ No.1752, July 28, 1989, p.142.
219. Supra note 132,p.; A Lok Adalat was organised by Legal Aid Clinic of Visweswarapuram Law College,Bangalore in Oct.1991 with the help of 30 selected students and were able to successfully settle 26 criminal cases.
220. Supra note 133, p.36; also see Legal Aid Newsletter,Vol.XII,Part 1,April-June,1992,p.19.
221. Supra note 114, p.5.

awareness amongst the masses, the Board has started publishing magazine entitled, "Lok Nyaya Sandesh". The magazine covers all the programmes of the Boards and also invites the suggestions of the people for resolution of the cases pending since long in the regular Courts[222].

The Bihar State Legal Aid Board is making great deal of efforts to hold Lok Adalats every month in four districts. The record shows that 5 Lok Adalats were held till the end of April, 1986 which could successfully compromise and settle 2,595 cases[223]. Similarly, Lok Adalat was also held at Hazaribagh on April 10, 1988. As many as 1,345 cases, including 73 M.A.C.T. cases, 34 civil suits, 6 mutation cases, 253 cases under Indian Penal Code and 928 cases under the Forest Act were compromised through the conciliatory efforts of the Lok Adalat[224]. Five Lok Adalats were also organised in the State of Bihar during the financial year 1989-90. The main objective of holding these Lok Adalat was to get the jails surveyed and settle the score where there were ignorant prisoners languishing since long for no fault on their part[225]. The study of Lok Sabha Debates reveals that 19 Lok Adalats were held in Bihar till July 20, 1989 and settle 1,661 cases amicably[226]. It is also disclosed from the study of Legal Aid Newsletter of July-December, 1991 that 5 Lok Adalats were held in the district of Bhojpur, Siwan Purnea, Hazaribagh and Singhbhum (East) during the year 1990. The Adalats could settle 22,282 cases and compensation amounting to Rs 64,44,380

222. Ibid.
223. N.R.Madhava Menon, "Lok Adalat: People's Programme For Speedy Justice", Indian Bar Review, Vol.13(2), 1986, p.130.
224. Supra note 165,p.2.
225. Supra note 106, p.2; and supra note 114, pp.5-6; also see supra note 66,p.20.
226. Lok Sabha USQ No.1752, July 28, 1989, p.145.

was paid to the parties in M.A.C.T. cases[227]. The latest study shows that Bihar State Legal Aid and Advice Board has organised 22 Lok Adalats till November 1992 and 39,693 cases were settled amicably which included 172 M.A.C.T. cases. Rs.32,27,569/- have been awarded as a matter of compensation to the claimants in the M.A.C.T. cases[228].

(xii) Lok Adalats Programme in Madhya Pradesh

The first Lok Adalat was conducted by the Government of Madhya Pradesh in the tribal area at Bilaspur on April 13, 1986[229]. The Government is actively involved in holding Lok Adalat and it has organised 57 Lok Adalats resolving 2,35,860 cases by mutual settlement till March 31, 1988[230]. Rs.3,13,79,650/- were distributed to the litigants as compensation in M.A.C.T. cases[231]. The interesting point with regard to these Lok Adalats is that they succeeded in resolving those typical 2,35,860 cases which were pending for a number of years in the regular Courts. The study shows that Lok Adalats have become very effective and popular in dissolving the disputes in the State of Madhya Pradesh. More and more litigants in rural, urban and tribal areas are now bringing their disputes to the Lok Adalats which are being organised both at the District and Tehsil levels[232]. The break-up of Lok Adalats held and cases settled from time to

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227. Supra note 114, p.5.
228. Supra note 133, p.36; Legal Aid Newsletter, Vol.XII, Part 1, April-June 1992, p.19.
229. Supra note 165, p.6.
230. Ibid, Lok Sabha USQ No.6075, April 3, 1992, pp.351-356.
231. Supra note 165, p.6.
232. Id.

time in Madhya Pradesh may be shown as under[233].

TABLE-VI

Sr.No.	Year(s) (as on)	No.of Lok Adalats held	No.of cases settled (including MACT cases	No.of M.A.C.T. cases settled	Amount of Compensation paid the claimants
1.	April 13,1986 to May 25, 1990	156	3,99,392	3,736	7,04,78,201
2.	14.3.1991	43	33,027	1,230	1,55,85,701
3.	30.6.1991	23	10,559	-	1,39,058,842
4.	15.3.1992	75	38,943	38,943	6,46,49,883
5.	1.11.1992	47	28,433	-	3,15,56,805
Total	1986-1992	344	5,10,354	43,909	19,61,76,432

It is clear from Table VI that within a short span of about six years, the Lok Adalats in Madhya Pradesh have almost been able to settle 5,10,354 cases in 344 Lok Adalats, conducted during April 13, 1986 to November 1, 1992. The Lok Adalats have settled 43,909 M.A.C.T. cases awarding Rs.19,61,76,432/- as a matter of compensation to the claimants. It appears that these Lok Adalats have created awareness amongst the ignorant people of tribal areas where the poor litigants were not in a position to vindicate their rights against the mighty money-lenders and the land-lords. An award of Rs.19,61,76,432/- is a strong testimony to the fact that these Adalats have won the hearts of the litigants and

233. The figures shown in Table VI have been borrowed from Legal Aid Newsletter, Vol.X, Parts 1 & 2, May-Aug. 1990, p.32, Legal Aid Newsletter, Vol.X, Parts 3 & 4, Sept.1990 -March 1991, p.24; Legal Aid Newsletter, Vol.XI, Part 1, April-June 1991, p.17; Legal Aid Newsletter, Vol.XI, Part 4, January-March, 1992, p.24 and Legal Aid Newsletter, Vol.XII, Part 2, July-Sept., 1992, p.36; also see Lok Sabha USQ No. 6075, April 3, 1992, pp.351-36.

thus made the litigants to agree to pay to the poor claimants such a large amount on compromise basis. All this makes us to believe that in order to fulfil the commitment of making available justice at the door-step, the State Legal Aid Board of Madhya Pradesh has put earnest efforts to organise Lok Adalats regularly with the result that 344 Lok Adalats have been successfully organised compromising 5,10,354 cases which were pending in the regular Courts at various level for quite a long period.

(xiii) Lok Adalats Programme in Haryana

Haryana is a late starter in the Lok Adalat programme. The first Lok Adalat in Haryana was held in the District of Karnal at village Kunjpura[234]. Thereafter, 36 more Lok Adalats were held which could decide cases between 25 to 500 in each Lok Adalat. The reason for small number of cases resolved is that the people of Haryana had little awareness about the functions of the Lok Adalat. However, the break-up of the Lok Adalat held during the years 1985-1991 is as under[235]:

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234. Supra note 135, p.14.

235. The figures shown in Table VII are drawn from Legal Aid Newsletter. Vol.XII, Part 1, April-June 1992, Annexure A, p.3; Lok Sabha USQ No.3160, March 18, 1986, p.51, Lok Sabha USQ No. 1752, July 28, 1989, p.146, Rajya Sabha USQ No.51, April 13, 1987, pp.83-84, also see Lok Sabha USQ No.1240, Nov. 11, 1986, p.251.

TABLE-VII

List of Lok Adalats Held In Haryana from 1985-1991

Year	Total No.of Lok Adalats held	NO.of cases taken up	No. of M.A.C.T. cases decided	M.A.C.T. cases decided	Compensation paid in M.A.C.T. cases
1985	16	1,582	1,002	-	-
1986	23	6,903	5,054	115	25,65,500.00
1987	41	31,854	26,655	1,130	2,31,91,308.00
1988	46	20,085	16,880	599	2,25,75,111.00
1989	53	24,891	19,188	914	3,85,34,214.30
1990	63	22,918	19,240	984	4,29,68,128.00
1991	68	20,913	15,647	985	4,53,27,235.00
Total	310	1,29,046	1,03,666	4,727	17,51,61,496.00

The figures shown in Table VII reveals that a total number of 310 Lok Adalats have been organised between 1985-1991. The number of cases referred to these Lok Adalats was 1,29,046. These Lok Adalats could settle 1,03,666 cases which included 4,727 M.A.C.T. cases. A sum of Rs 17,51,61, 496.80 paise was awarded as a matter of compensation in M.A.C.T. cases till the end of 1991. The unique features of Lok Adalats in Haryana is that they have attained remarkable success in Motor Vehicle Accident Cases. The remarkable aspect of the determination of these cases in the Lok Adalat was that the claims were settled then and there and the Insurance Companies had paid amount within two to three weeks of determination. The Lok Adalats have been able to persuade Insurance Companies even to agree at a higher compensation i.e. to say higher than what they have got at the determination by the Court[236].

The record available also throws light on the aspect of resolving cases pertaining to matrimonial affairs. It is shown

236. Supra note 118, p.6, also see Paras Diwan, Legal Aid Programme: Aims And Sources, Public Relations Department Haryana, Chandigarh, February, 1991, pp.34-37.

that Lok Adalats have decided some matrimonial cases. However, the rate of success in such cases is not praise-worthy. It is hardly 30%. The reason attributed for the poor success is that a couple who has gone to the Court of law has gone there practically when all efforts of reconciliation have failed. But there is no denying the fact that in some cases the Lok Adalat succeeded in getting a maintenance allowance fixed from husband for the wife. In these circumstances, success in 30% cases should not be under-rated. Moreover, the number of matrimonial cases being settled by the Lok Adalats is regularly increasing despite the fact that the Indian couples go to the Court of Law only when all efforts of reconciliation have failed[237].

The Haryana Government has also organised 91 Legal Aid Camps-cum-Lok Nyayalayas upto March 12, 1988 all over Haryana at village level or in the poor areas of the cities. These Lok Adalats decided 36,019 cases which included cases of different nature, such as, civil, criminal, M.A.C.T., matrimonial etc[238]. Similarly, Haryana State level Legal Services and Advice Committee has organised the Seventh Lok Adalat for High Court cases at Chandigarh on July 27, 1991. The Adalat obtained success in resolving 500 cases during its session[239]. The latest figures recorded in Legal Aid Newsletter of July-September, 1992 shows that the State of Haryana has organised 330 Lok Adalats till the end of November, 1992. These Adalats have successfully settled 1,10,611 cases which included 5,102

237. Ibid, also see The Statesman, August 13, 1989, p.3.
238. Supra note 165, p.4.
239. Supra note 114, p.3; also see The Hindustan Times, July 28, 1991, p.1.

M.A.C.T. cases. Rs. 19,64,93,497/- have been awarded as amount of compensation to the claimants[240].

(xiv) **Lok Adalats Programme in Other States and Union Territories**

The functioning of Lok Adalats in other States and Union Territories of India reveals that the mechanism of resolving disputes on amicable basis has currently swept the nation. The accumulated frustration of the people desirous of quick decision, is the biggest single reason for the people having responded with hope, excitement and zeal to experiment in holding Lok Adalats, for dispute ending for dispute pending. Almost all the States and Union Territories are now working hard to hold Lok Adalats at regular intervals and root out the tripple vices of delay, cost and complexity from the existing Courts. Apart from the immediate benefit of getting disputes resolved expeditiously the long range advantage of gradual reduction in arrear of cases in Courts has adverted the intention of the Government to switch over the device of Lok Adalat. The determination of shape and form in which Lok Adalats are being brought into existence as a successful institution has now attracted the attention of each and every persons in the country with the result that Lok Adalats have become popular as an institute to deliver justice without delay on amicable basis. The year-wise break-up of the functioning of Lok Adalat is given in Table VIII which speaks

240. Supra note 133, p.36.

about the role performed by these institutions since their inception[241].

TABLE-VIII

Year-wise Break-up Of Lok Adalats Held In The States/Union Territories

Sr.No.	Name of State/UT	Year (as on)	No.of Lok Adalats Held	No.of cases settled including MACT Cases	No.of MACT cases settled	Amount of Compensation Awarded
1	2	3	4	5	6	7
1	Delhi	1980-1990	12	4,561	2,994	19,56,22,240
		14.3.1991	1	385	385	3,02,40,227
		15.3.1992	3	988	988	4,27,36,007
		1.6.1992	2	335	302	6,83,96,614
		1.11.1992	1	813	813	6,30,04,912
	Total	1980-1992	19	7,082	5,482	40,00,00,000
2	Pondicherry	1986-1990	10	310	304	64,14,034
		14.3.1991	1	16	16	2,52,000
		30.6.1991	1	37	37	6,81,168
		15.3.1992	1	55	55	11,47,300
		1.6.1992	1	26	26	5,25,500
		1.11.1992	2	129	129	33,59,100
	Total	1980-1992	16	573	567	1,23,79,102
3	mizorum	27.9.1991-1.11.1992	2	235	163	40,31,300
	Total	1991	2	235	163	40,31,300

Contd....

241. The figures shown in Table VIII are drawn from Legal Aid Newsletter, Vol.X, Parts 1 & 2, May-August, 1990, Appendix-II, pp.20 and 32; Legal Aid Newsletter, Vol.X, Parts 3 & 4, Sept. 1990-March, 1991, p.24; Legal Aid Newsletter, Vol.XI, Part 1, April-June, 1991, p.17; Legal Aid Newsletter, Vol.XII, Part 2-July-September, 1992, p.6; Indian Express, March 22, 1992, p.1, Hindustan Times, Sept. 6, 1989, p.5; Hindustan Times, April 9, 1989, p.8, The Hindu, December 16, 1989, p.9, Patriot, November 22, 1989, p.4, Hindustan Times, Nov.22, 1989, p.11, Hindustan Times, May 12, 1989, p.13; Hindustan Times, March 15, 1988, p.3; Indian Express, August 29, 1988, p.2; National Herald, August 29, 1988, p.3; Statesman, August 29, 1988, p.4; Times of India, Nov.8, 1987, p.8; National Herald, April 30, 1988, p.3; National Herald, December 11, 1987, p.4; Times of India, August 25, 1987, p.9; Indian Express, March 22, 1992; Economic Times; December 18, 1991, p.7; HIndustan Times, Oct. 28, 1991; Hindustan Times, July 28, 1991, p.1; HIndustan Times; Feb. 27, 1991; HIndustan Times, April 29, 1991; Indian Express, Sept.10, 1990; Hindustan Times, July 29, 1990, p.12; Hindustan Times, April 1, 1990, p.5; Hindustan Times, Aug.13, 1989, p.5; Indian Express, Aug.29, 1989, p.2; Lok Sabha USQ No. 1752, July 28, 1989, pp.146-148; Rajya Sabha USQ No.51, April 13, 1987, pp.83-86, Indian Express, April 29, 1991, Indian Express, April 10, 1991.

4	Meghalaya	1990-1991	1	-	-	-
		1.11.1992	2	236	114	39,54,000
	Total	1980-1992	3	236	114	39,54,000
5.	Jammu & Kashmir	30.6.1991	1	76	76	59,97,000
	Total	1991	1	76	76	59,97,000
6	Sikkim	1988-1992	3	10	-	-
	Total	1980-1992	3	10	-	-
7	West Bengal	1980-1991	13	868	868	2,09,82,500
		15.3.1992	5	460	460	1,15,29,000
		1.11.1992	12	851	-	1,92,38,200
	Total	1980-1992	30	2,179	1,328	5,17,49,700
8	Chandigarh	1980-1991	2	98	74	38,14,800
		1.11.1992	6	1,525	-	-
	Total	1980-1992	8	1,623	74	38,14,800
9	Punjab	30.6.1991	2	823	182	1,43,41,600
		15.3.1992	10	4,386	-	2,35,04,350
		1.6.1992	6	1,751	-	-
		1.11.1992	13	3,000	-	2,20,39,964
	Total	1991-1992	31	9,960	182	5,98,85,914
10	Manipur	1980-1992	4	476	67	20,02,000
	Total	1980-1992	4	476	67	20,02,000
11	Goa	1980-1990	5	513	513	1,73,36,451
		14.3.1991	2	13	13	49,39,800
		1,11.1992	4	325	325	97,11,500
	Total	1980-1992	11	851	851	3,19,87,751
12	Tripura	1980-1991	1	156	68	19,84,500
		1.11.1992	2	318	17	8,30,000
	Total	1980-1992	3	474	85	28,14,500

The study of Table VIII shows that Lok Adalats in Delhi have attained these goal of settling 7,082 cases which includes 5,482 M.A.C.T. cases. The progress of the performance of these Lok Adalats is quite manifest from the fact that Rs.40,00,00,000/- have been awarded to various claimants till the end of 1992 in M.A.C.T. cases. It is also revealed from the Table that Lok Adalats in Delhi have fastly chased the target to compromise 7,082 cases in 19 Lok Adalats which in itself is a mark of tremendous performance. The remarkable feature of the Lok Adalat of Delhi is that it has been successful to compromise one of the oldest labour cases which was pending in the Supreme Court since 1973[242]. The reason for gaining popularity also lies in the fact that they have provided the litigants a forum to settle their disputes in amicable manner. The concept has caught on in M.A.C.T. cases, for the reason that claimants who were related to the victims of accidents got speedier justice and quick compensation which alleviated their miseries to a large extent[243].

The functioning of Lok Adalat in Pondicherry, as evident from Table VIII above, marks an important milestone in the evolution of the concept of "Courts of People", mooted for delivery of quicker and a cheaper justice in matters that lend themselves to reconciliation. The innovative experiment, tried out successfully in Pondicherry during June 1986 to November 1992 could reach the portals of apex Court in the country within six years testifies to its intrinsic worth. The Pondicherry Legal Aid and Advice Board organised the first Lok

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242. Hindustan Times, September 6, 1989, p.5.
243. Hindustan Times, April 9, 1989, p.9.

Adalat in June 1986 in which over 100 cases were settled[244]. Thereafter it has successfully organised 16 Lok Adalats disposing of 573 cases which include 567 Motor Accident Claims. A sum of Rs.1,23,79,102/- has been awarded to the aggrieved in lieu of compensation to provide relief to them.

The Lok Adalats are equally active and aware of their role in Mizorum, Meghalaya, Jammu & Kashmir and Sikkim. The figures depicted in Table VIII at serial nos. 3,4,5 and 6 respectively disclose that the Lok Adalats have crossed 557 mark in 9 Lok Adalats. A sum of Rs.1,39,82,000 has been awarded to 353 M.A.C.T. cases to the aggrieved during a short span of about two years.

The nation-wide Lok Adalat movement has also gained momentum in West Bengal, Chandigarh, Punjab, Manipur, Goa and Tripura. Serial Nos. 7,8,9,10,11 and 12 of Table VIII above show that 87 Lok Adalats have been organised so far by the States of West Bengal, Chandigarh (Union Territory), Punjab, Manipur, Goa and Tripura and have succeeds to settle 15,563 cases which include 2,587 Motor Accident Claims. These Adalats have been able to make the parties to agree to pay Rs.15,22,54,665/- as a matter of compensation to the various claimants.

The performance shown by the various States and Union Territories enable us to conclude that the functioning of Lok Adalats has made people really conscious and aware of their basic rights and allured them to knock at the treshold of these institutions to have speedy justice in their favour. Lok

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244. Supra note 117, p.6.

Adalat system has enabled the weaker sections of the society to obtain justice within the shortest possible time in the cheapest possible manner. Today, Lok Adalat has grown as an institution from an experiment stage and lessened the burden of the regular Courts to a great extent. It has virtually attained adulthood in many States and is functioning as a mature institution to share the burden of regular Courts with a zeal to bring justice within the easy reach of common man[245]. It is working as brave soldier of judiciary with a strong commitment to endeavour to provide justice to all especially the "little man" in the society[246]. In order to give a statutory recognition of Lok Adalats and make them more effective as dispute resolution forum, an Act has been passed by Parliament, popularily known as "The Legal Services Authority Act, 1987". It provides for setting up Lok Adalats which will have jurisdiction to determine and arrive at a compromise and settlement between the parties to a dispute in respect of any matter falling within the jurisdiction of any civil, criminal or revenue Court or any tribunal constituted under any law.

V. TEXT OF THE LEGAL SERVICES AUTHORITIES ACT, 1987

I. PRELUDE

The most glaring malady which has afflicted the judicial system is the tardy process and inordinate delay that takes place in the disposal of the cases. The piling arrears and accumulated workload of different Courts presents a frightening scenario. As a matter of fact, the whole system is crumbling down under the weight of pending cases which go on

245 National Herald, December 11, 1987, p.4.
246 Hindustan Times, July 28, 1991, p.1.

increasing everyday. It appears that the problem of delay and backlog will one day put the functioning of the Constitutional Government in disarray. To quote Justice V.R.Krishna Iyer[247]

> "Here is a rising revolution of justice expectations, ignited by Independence, which may burst as an energy exploison of frustration if the judiciary by mission and commission and conservative tradition, fail in its mission as a radical fiduciary and redemptive instrumentality of the people".

The whole studies which throw light on the functioning of Indian Legal system furnish a note of caution that we are fast approaching a stage where the case load is so heavy that it will crush the present judicial system[248]. Pandit Nehru, while addressing a Conference of State Law Ministers expressed alarm at the slow pace wheels of justice and pleaded for a change of attitude and a genuine effort to accelerate the judicial machine which according to him is rusty and outmoded[249]. Further, the accumulation of arrear in Courts at all levels has reached such a proportion that there is a danger of judicial administration breaking-down in few years.

Therefore, the introduction of the Legal Services Authorities Act, 1987, is a welcome step to unburden the judiciary and dispose of cases expeditiously. The need of enactment of this Act arose out of the growing concern of justice. The Act has received the assent of the President on October 11, 1987[250]. It is a composite enactment covering Legal Aid and Lok Adalat - the twin institutions intended to secure that operation of legal system promotes equal justice. The basic objective of this Act is to provide free and competent

247. V.R.Krishna Iyer, "Towards A Burgeoning Indian Jurisprudence of Social Action And Public Interest Litigation", Indian Bar Review,Vol.16(2), 1989, p.132.at 137.
248. Statesman, Oct. 29, 1972, p.9.
249. Times of India, March 11, 1969, p.6.
250. A.I.R. 1988, Act 39, p.2. However the Act has not so far come into existence.

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 organise Lok Adalats to secure that the operation of Legal system promotes justice on the basis of equal opportunity[251]. The Act has mainly three-fold objectives before it - (i) To provide free and competent legal service to the weaker section of the society, (ii) to ensure security of justice to all despite their economic or other disabilities, and (iii) to organise Lok Adalats with a view to promote justice on a basis of equal opportunity.

The remarkable features of the Act is that, while giving statutory authority to both Legal Aid and Lok Adalat, it enlarges the scope of the former in coverage alongwith the beneficial effects flowing from it. The merit of the Act is that it has clothed Lok Adalats with wider jurisdiction in the sense that it can deal with any matter, whatever be its legal character and in whatever Court or tribunal it might be pending[252]. The aim of this Act is carry out suitable reforms in judicial administration and afford opportunities of better access to justice for the common people. The intention behind the enactment of this Act is to accomplish the social objective of the Directive Principles of The State Policy embodied in Article 39-A of our National Charter which States[253]. "The State shall secure that the operation of legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid by suitable

251. See The Legal Services Authorities Act, 1987, The Preamble.
252. Ibid, Section 20.
253. See Constitution of India, Article 39-A.

legislations 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". The Legal Services Authorities Act, 1987 provides ample opportunity to all to have easy access to justice at the doorsteps of the Lok Adalat. It has virtually given birth to the participatory justice and has fulfilled the need to work as an alternative forum to quench the thirst of justice. Therefore, the very objective of the Act is to evolve a mechanism to deal with arrear of cases expeditiously by resorting to the device of Lok Adalats.

VI CONSTITUTION OF LEGAL SERVICES AUTHORITIES

The Legal Services Authorities Act, 1987 creates three kinds of legal service authorities viz., National Legal Services Authority[254]. State Legal Services Authority[255], and District Legal Services Authority[256].

(i) National Legal Services Authority

The Act empowers[257] the Central Government to constitute the National Legal Services Authority to exercise the powers and perform the functions[258] conferred on it under this Act. Section 3(2) provides that the Central Authority shall consist of:

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254. The Legal Services Authorities Act, 1987, Section 3.
255. Ibid, Section 6.
256. Ibid, Section 9.
257. Ibid, Section 3(1)
258. Ibid, Sections 4 & 5.

(a) The Chief Justice of India who shall be the Patron-in-Chief.

(b) A serving or a retired judge of the Supreme Court nominated by the President, in consultation with the Chief Justice of India, who shall be the Executive Chairman; and

(c) Such other members, possessing such experience and qualifications as may be prescribed and nominated by the Central Government.

Further, clause 3 of Section 3 empowers the Central Government to appoint an officer of the Department of Legal Affairs of The minister of Law and Justice of The Government of India, not lower in rank than that of a Special Secretary to that Government as the Member-Secretary of the Central Authority. Besides, it is also within the ambit of the Central Government to provide the Central Authority with such other officers and employees as it considers necessary for carrying out the functions of that Authority under this Act[259]. There are provisions to the effect that administrative expenses of the Central Authority, including the salaries, allowances and pensions payable to the officers and staff of the Central Authority shall be defrayed out of the Consolidated Fund of India[260]. There is a clear-cut stipulation in the Act that Central Authority in the discharge of its functions under this Act shall, whenever appropriate, act in co-ordination with other Governmental and non-Governmental agencies, Universities and others engaged in the work of promoting the cause of legal services to the poor[261].

259. Ibid, Section 3(5).
260. Ibid, Clause 6.
261. Ibid, Section 5.

The Central Authority has been obligated to perform the following functions, namely[262]:

(a) lay down policies and principles for making legal services available under the provision of this Act;
(b) frame the most effective and economical schemes for the purpose of making legal services available under the provision of this Act;
(c) utilise the funds at its disposal and make appropriate allocations of funds to the State Authorities and District Authorities;
(d) take necessary steps by way of social justice litigation with regard to consumer protection, environmental protection or any other matter of special concern to the weaker sections of the society and for this purpose, give training to social works in legal skill;
(e) organise legal aid camps, especially in rural areas; slums or labour colonies with dual purpose of educating the weaker sections of society as to their rights as well as encouraging the settlement of disputes, through Lok Adalats;
(f) encourage the settlement of disputes by way of negotiations, arbitration and conciliation;
(g) undertake and promote research in the field of legal services with special reference to the need for such services among the poor;
(h) to do all things necessary for the purpose of ensuring commitment to the fundamental duties of citizens under Part IVA of the Constitution;
(i) monitor and evaluate implementation of the legal aid programmes at periodic intervals and provide for independent evaluation of programmes and schemes implemented in whole or in in part by funds provided under this Act;

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262. Ibid, Section 4.

(j) recommend the Central Government grants-in-aid for specific schemes to various voluntary social welfare institutions and the State and District Authorities, from out of the amounts placed at its disposal for the implementation of the legal services schemes under the provisions of this Act;

(k) develop, in consultation with the Bar Council of India, programmes for clinical legal education and promote guidance and supervise the establishment and working of legal services clinics in Universities, law colleges and other institutions;

(l) take appropriate measures for spreading legal literacy and legal awareness amongst the people and, in particular, to educate weaker sections of the society about the rights, benefits and privileges guaranteed by social welfare legislations and other enactments as well as administrative programmes and measures;

(m) make special efforts to enlist the support of voluntary social welfare institutions working at grass-root level, particularly among the Scheduled Castes and the Scheduled Tribes, women and rural and urban labour; and

(n) co-ordinate and monitor the functioning of State and District Authorities and other voluntary social welfare institutions and other legal services organisations and give general directions for the proper implementation of the legal services programmes.

(ii) State Legal Services Authority

Every State Government has been clothed with a power to constitute a Legal Services Authority at State level to exercise the powers and perform the functions[263] laid down in the Act. The Act mandates that the State Legal Aid Authority shall consists of:

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263. Ibid, Section 7.

(a) The Chief Justice of the High Court or any other serving or retired judge of the High Court nominated by the Governor in consultation with the Chief Justice, who shall be the Chairman of the State Authority; and

(b) such other members possessing such experience and qualifications as may be prescribed and nominated by the State Government.

The State Government is also empowered to appoint Law Secretary or the Judicial Secretary of the State as the Member Secretary of the State Authority[264]. It is also within the competence of the State Government to provide the State Legal Services Authority with such officers and employees as it considers necessary for carrying out the functions of this Authority under this Act[265]. The terms and conditions of the services of the Members of the State Authority are to be determined by the State Government[266]. The Act stipulates that the administrative expenses of the State Authority, including the salaries, allowances and pensions payable to the Member-Secretary and other officers shall be defrayed out of the Consolidated fund of the State[267]. The State Legal Services Authority has been obligated to give effect to policy and directions of the Central Authority[268]. The State Authority is under a legal duty to perform all or any of the following functions[269]:

(a) give legal service to persons who satisfy the criteria laid down under this Act;

(b) conduct Lok Adalats;

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264. Ibid, Section 6(3)
265. Ibid, Section 6(5)
266. Ibid, Section 6(4)
267. Ibid, Section 6(6)
268. Ibid, Section 7(1)
269. Ibid, Section 7(2)

(c) undertake preventive and strategic legal aid programmes; and

(d) perform such other functions as the State Authority may, in consultation with the Central Government, fix by regulations.

It is the legal obligation of the State Legal Services Authority to act in co-ordination with other Governmental agencies, non-Governmental Voluntary Social Welfare Institutions, Universities and other engaged in the work of promoting the cause of legal services to the poor[270]. The Act empowers the Central Government, the State Government or the Central Authority to give directions to the State Authority as and when they deem it fit[271].

(iii) District Legal Services Authority

The rules with regard to the composition nof District Legal Services Authority are laid down in detail under Section 9 of this Act. It is within the power of the State Government to constitute a Legal Services Authority for every District in the State[272]. The District Authority consists of[273]:

(a) the District Judge, who shall be its Chairman;

(b) such other members possessing such qualifications and experience as may be prescribed and nominated by that government; and

(c) Secretary to be appointed by the State Government.

The State Government has been given a free hand to lay down terms and conditions of the services of the members of

270. Ibid, Section 8
271. Id.
272. The Legal Services Authority Act, 1987, Section 9(1).
273. Ibid., Section 9(2).

the District Authority from time to time[274]. The State Government has also the power to provide every District Authority with such as it considers necessary for carrying out the functions assigned to the District Authorities under this Act[275]. It is the duty of every District Authority to perform such a functions of the State Authority in the District as may be delegated to it from time to time by the State Authority[276]. The District Authority is bound to carry out all or any of the following functions, namely[277]:

(a) co-ordinate the activities of legal services in the District;
(b) organise Lok Adalats within the District; and
(c) perform such other functions as State Authority may, in consultation with the State Government, fix by regulation.

III. ORGANISATION OF LOK ADALATS

The Act has carved out a separate chapter viz., Chapter VI, to deal with the organisation, cognisance of cases, award and powers of Lok Adalats[278]. The text of Act reveals that State or District Authorities may organise Lok Adalats at such intervals and places as they think fit[279]. The Act states that every Lok Adalat organised for an area shall consist of such judicial officers of the area as may be specified by the State or District Authorities organising the Lok Adalat. The State

274. Ibid, Section 9(4).
275. Ibid, Section 9(5)
276. Ibid, Section 10(1)
277. Ibid, Section 10(2)
278. Ibid, Chapter VI, Sections 19-22.
279. Ibid, Section 19(1).

Government is empowered to induct any other person as the judge of the Lok Adalat in accordance with the rules prescribed from time to time[280].

The Act clothes the Lok Adalat with jurisdiction to determine and arrive at a compromise or settlement between the parties to a dispute. In respect of any matter falling within the jurisdiction of any civil, criminal or revenue Court or any tribunal constituted under any law for the time being in force in area for which the Lok Adalat is organised[281]. The Act also provides for cognisance of cases by Lok Adalats. Section 20 states: (1) where, in any dispute or other proceeding which is capable of being taken cognisance of by a Lok Adalat under the provision of this Act and pending before any Court or Tribunal, if the parties thereof make a joint application to the Court or Tribunal indicating their intention to compromise the matter or to arrive at a settlement, the presiding officer of the Court or Tribunal, as the case may be, may, instead of proceeding to effect a compromise between the parties or to arrive at a settlement himself, and notwithstanding anything contained in any other law for the time being in force, pass an order that the suit or proceeding shall stand transferred to the Lok Adalat for arriving at a compromise or settlement.

(2) Notwithstanding anything contained in any other law for the time being in force, the District Authority may, on receipt of application from any person that any dispute or

280. Ibid, Section 19(2).
281. Ibid, Section 19(3).

matter pending for the compromise or settlement needs to be determined by a Lok Adalat, refer such dispute or matter to the Lok Adalat for such determination.

(3) Where any suit or proceeding is transferred to a Lok Adalat under sub-section (1) or where a reference has been made to it under sub-section (2), the Lok Adalat shall proceed to dispose of the suit, proceeding, dispute or matter and arrive at a compromise or settlement between the parties.

(4) Every Lok Adalat shall, while determining any proceeding before it under this Act, with utmost expedition to arrive at a compromise or settlement between the parties and shall be guided by the legal principles and principles of justice, equity and fair play.

(5) Where no award is made by the Lok Adalat on the ground that no compromise or settlement could be arrived at between the parties, it shall be open to the parties to a suit or proceeding transferred from a Court or Tribunal under sub-section (1) to continue such suit or proceeding before such Court or Tribunal, or if it is a dispute or matter referred to a Lok Adalat under sub-section (1), any of the person may institute a proceeding in an appropriate Court.

(6) Where, under Sub-Section (5) the parties to a suit or proceeding intend to continue the proceeding in such suit or proceeding before the Court or Tribunal from which it was transferred, such Court or Tribunal shall proceed to deal with such suit or proceeding from the stage at which it was before the suit or proceeding was transferred to the Lok Adalat.

IV POWERS OF LOK ADALATS

The Lok Adalats enjoy vast powers[282] to carry out the purpose of this Act. Their powers are the same as are vested in a Court under the Code of Civil Procedure, 1908[283]. They are empowered to summon and enforce the attendance of any witness and examine him on oath[284]. They can discover any document and ask the parties in dispute for its production as and when needed for the disposal of the dispute referred to it[285]. The Lok Adalats can receive evidence on affidavits and requisition any public record or document or copy of such record or document from any Court or office[286]. They can also enjoy powers under the Code of Civil Procedure, 1908 while trying a suit in such other matters as may be prescribed from time to time by the competent authority[287]. Moreover, Lok Adalats have the requisite powers to specify its own procedure for the determination of any dispute coming before it. However, these powers have been subjected to the control of Section 22, Clause (1) of this Act[288]. The Act specifically lays down that all proceedings before a Lok Adalat shall be deemed to be judicial proceedings within the meaning of Section 193, 219 and 228 of Indian Penal Code and every Lok Adalats shall be deemed to be a Civil Court for the purpose of Section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973. Every award of the Act has been deemed to be a decree of a Civil Court or order of any other Court or

282. Ibid, Section 22(1) to (3).
283. Ibid.
284. Id.
285. Id.
286. Id.
287. Id.
288. Id.

Tribunal. The Act makes it abundantly clear that every award made by the Lok Adalat shall be final and binding on all the parties to dispute, and no appeal shall lie to any Court against the award[289].

VI SUM-UP

It may thus be summed up from the foregoing study that our judiciary is badly over-burdened with unmanageable backlog of cases. It is revealed from the study that more than 2,30,000 cases are pending for disposal before the Supreme Court of India. The position of High Courts and the Subordinate Courts may be said to be worst than the Apex Court. More than 19,76,776 cases are pending at the High Courts level and similarly the Himalayan height of arrear of pending cases is equally visible at different levels of the Subordinate Courts of our Country. The alarming position of pending cases in Courts at all levels - lowest to the highest - has virtually belied our faith in the present legal system. It appears that the dream of providing justice to the people, high or low, has remained confined to the papers and the philosophy of justice envisaged in our National Charter could hardly make any dent on the hopes and aspirations of the people of India. We are constrained therefore, to agree with the warning of Robert G.Ingersoll who rightly remarked that a government founded upon anything except liberty and justice cannot stand permanently. Moreover, it is quite imperative to note here that the Constitution is not the jural opium of the

289. The Legal Services Authorities Act, 1987, Section 21.

public but the remedial realism of the oppressed. To give divorce to our Constitutional commitment is to betray our Founding-Fathers who knew that justice was a foundation stone upon which whole edifice of a good government stands.

It is, therefore, quite imparative to conceive that we need a dynamic change in the justice system so that the Constitution and revolution of people's expectation be not still born. The Courts are expected to be broadly accountable to the nation and function as an instrument of Constitutional revolution. They must, by negative as well as affirmative action and speedy decisions secure justice to consumers of justice and change itself to the tune of time to accelerate the goal of justice. It is their Constitutional obligation to compulsorily weave a new culture and construct a new justice jurisprudence to build an affective egalitarian Kingdom of justice. The over rising graph of arrears has necessarily compelled us to re-examine our legal system and find an affirmative answer to render justice to all. Unless prompt, effective and daring steps are taken to ensure the justice become inexpensive and expeditious, the entire Indian legal system is likely to collapse underneath its weight. Thus in the light of crisis management of justice, we need badly a serious rehaul of our legal mechanism. Perhaps the legislation may not have an ability to improve the system in the context the concept of Lok Adalat provide vistas for further research.

It is revealed from the foregoing study that the accumulated frustration of the people desirous of quick

decisions is the biggest single reason for the people to experiment with the holding of Lok Adalats in India. It is also clear from the above study that the basic objective behind holding Lok Adalat is to weed out on war footing triple vices of delay, cost and complexity from the existing Court. Though the Lok Adalats cannot serve as substitutes for Law Courts but they are expected to play the role of an additional arm of the existing judicial institutions. The study discloses that Lok Adalat is a para-judicial institution being developed by the people themselves with a zeal to evolve an appropriate structure and procedure in the struggle of common people for social justice.

It is also crystal clear from the above study that Lok Adalat is a brain child of necessity. The basic principle and underlined idea of Lok Adalat is to provide cheaper and quicker justice at the door-step of the people so as to reduce the work load on the regular Courts and go a long way in settling disputes outside the forum of the Court. It may be easily concluded that the emergence of the concept of Lok Adalat as a new strategy of dispensation of justice is a result of social philosophy of judges, jurists and eminent scholars who are always engrossed in the thought to provide a new forum to grapple with the problem of giving cheap and speedy justice to the people. These institutions aim at resolving the people's disputes by discussions, counselling, persuation and conciliation so that it gives speedy and cheap justice with the mutual and free consent of the parties. The idea behind

the thought of Lok Adalat is that it is expected to work not as a substitute for the present judicial system but as supplementary to it so that mounting arrears are reduced and the consumers of justice have sigh of relief. It reminds us of a new way thinking about old problems, a shift of a judicial centre of gravity from the affluent to the indigent.

The modalities of Lok Adalats are quite simple, mostly based on the guidelines of the Committee For Implementation of Legal Aid Scheme. It is merely a day long exercise at a pre-determined place, in some village or in some other area where the legal aid team assemble to resolve the disputes of people by reconciliation and compromise. It generally take up the cases pending in the Courts, Tribunals and before the Executive. There is no uniformity in its procedure. They are always flexible with regard to the rules and procedure. Lok Adalats are not constituted under specific rules and regulations made under the legislation. Its evolution has been a gradual process and moreover, the founder of this institution have not attached much importance to this aspect because basically their mind remained totally absorbed with the idea of resolbing disputes of the local people speedily and save their time, energy and money so far as possible.

The functioning of Lok Adalat as discussed in the foregoing Chapter shows that it has been quite successful in meeting the aspirations of the people by enabling them to have justice expeditiously without losing their friendly ties. Obviously, it holds that the aim of justice is of law and

evidence only but it should have two aims and objectives in its decision-making process: (a) wrong-doer might repent and mend his ways and may not repeat the wrong, and (b) the tension between the two parties may be minimised so that their mutual relations might again get normalised. Lok Adalat endeavours to save the parties from the complications of law and legal technacalities and cumbersome procedure adopted at various stages of litigations by the regular Courts, in respect of the framing of the issue of the disputes, producing witnesses, pleadings and arguments put forth by the advocates before the Courts and the final judg-ment and eventually execution of the decree awarded by the judge. It is quite evident from the study that Lok Adalat is not just a dispute resolution forum but it is rather a people's movement for orderly progress through rule of law.

The Lok Adalats programmes, as discussed above, shows that the movement for dispensation of justice through the Lok Adalats was for the first time started by the State of Gujarat in the year 1982. It is shown that the first legal aid camp was held on March 14, 1982 at Una in Junagadh District of Gujarat. The overall description of the working of Lok Adalat in Gujarat reveals that the State of Gujarat has so far successfully organised 571 Lok Adalats till November, 1992 and has amicably settled 83,640 cases which include 18,000 claims dealing with Motor Accident. The success of the functioning can be assessed from the fact that these Adalats vigorously persuaded the disputants to compromise their cases on their

free consent and accordingly made the claimants to agree to have an amount of Rs 42,80,00,000/- as a matter of compensation in the above referred 18,000 cases of Motor Accident. Similarly, the study of the functioning of Lok Adalats in Maharashtra discloses that the first experiment of holding Lok Nyayalaya in the State was initiated in 1984 and it has been able to organise 925 Lok Adalats till the end of November, 1992, deciding 2,39,034 cases which include 23,879 M.A.C.T. cases. It has awarded an amount of Rs 38,37,55,527/- to the aggrieved claimants as a matter of compensation.

The Government of Uttar Pradesh has also not lagged behind in this endeavour. The study discloses that it organised its first Lok Adalat in 1984, providing ample opportunity for deciding the disputes amicably through negotiations. The Uttar Pradesh Legal Aid Board has so far managed to hold 1,349 Lok Adalats resolving a large number of cases which come to the tune of 13,66,869. The sum of Rs 37,77,57,917/- has been awarded by these Lok Adalats in 12,249 M.A.C.T. cases. Further, the study discloses that the Legal Aid Board endeavoured to carry out an experiment to declare at Panchayat level an area consisting of 22 villages as **"Litigation Free Zone"** by taking all the pending cases of that area to a Lok Adalat. It is interesting to note that the Lok Adalat achieved a great success in this experiment by resolving 90% of the cases pending in that area by way of compromise with the earnest efforts of conciliators. The study

also reveals that the functioning of Lok Adalats in the State of Andhra Pradesh got the attention of the people in the year 1985 and has been successful to hold 128 Lok Adalats till November, 1992, resolving 1,83,549 cases which included 12,014 of M.A.C.T. nature. It has awarded Rs 33,68,34,444 to various claimants on compromise basis. Similarly, the State of Orissa organised its first Lok Adalat at Cuttuck on November 24, 1985 as an experiment measure. It has, however, shown a tremendous success in the disposal of cases which is apparent from the fact that during the period of seven years, more than 1,327 Lok Adalats have been held deciding 3,79,993 cases awarding Rs 11,97,66,044 to the aggrieved in 5,010 M.A.C.T. cases.

The history of Lok Adalat programme in the State of Rajasthan is, however, of recent origin. It organised its first Lok Adalat at Banswara on November 30, 1985. The record available with regard to the functioning of Lok Adalat in Rajasthan shows that State Legal Aid and Advice Board is actively engaged in holding Lok Adalats at the regular interval and has successfully managed to organise 293 Lok Adalats till November, 1992, settling 4,64,366 cases. More than Rs 24,78,31,812/- have been disbursed as a matter of compensation in 8,603 M.A.C.T. cases. Similarly, the State of Assam has also undertaken vigorous steps for giving wide publicity to the functioning of Lok Adalats in the State. The information available with CILAS disclose that it has organised 43 Lok Adalats till November 1992 and has settled 4,062 cases which include 923 M.A.C.T. cases. These Lok

Adalats have made the parties pay Rs 3,38,96,152/- as an amount of compensation.

The Lok Adalat programme in Tamil Nadu acquaint us with the fact that the State organised its first Lok Adalat in 1986 on the pattern evolved by Gujarat Legal Aid Board. The peculiar feature of the Lok Adalat scheme in the State is that it always aims at promoting the objective of pre-litigative settlement and has therefore projected a scheme for opening Mediation Centre's in the rural areas. It is also revealed from the study that government is putting earnest efforts to involve people of the rural areas in this programme. Though there is at present no statutory backing for the scheme, still the experience shows that more than 131 Lok Adalats have so far been held and has attained a great success in resolving 15,025 cases which includes 14,971 M.A.C.T. cases. The sum of Rs 37,42,77,982/- has been awarded as compensation to the aggrieved parties till the end of November, 1992.

It is also quite evident that Lok Adalat movement in Kerala was initiated in the year 1985 when first Lok Adalat was conducted at Parur on Jan. 5-6, 1985. The latest information available shows that the State has successfully held 12 Lok Adalats till Nov. 1992 and disposed of 7,840 cases, awarding an amount of Rs 1,58,00,000/- to the claimant in 3655 MACT cases. It is in the same spirit that Karnataka State also has gained momentum in this direction and there is a considerable progress in resolving the disputes by

conciliation and mediation through Janatha Nyayalayas. 965 Lok Adalats have so far been organised between June 1984 to Nov. 1992 and it is a matter of great pride that 2,39,034 cases have been disposed of by these Lok Adalats and a sum of Rs 38,37,55,527/- has been awarded to the aggrieved in 23,879 M.A.C.T. cases.

The study further reveals that the State of Bihar, Madhya Pradesh and Haryana have also shown a keen interest to make this movement a great success. The record available against the functioning of Lok Adalats in Bihar speaks that the State is making a great deal of efforts in this directions and disposed of 39,693 cases through the mechanism of Lok Adalat. Rs 32,27,569 have been awarded as compensation to the aggrieved persons in 172 M.A.C.T. cases. Similarly, the State of Madhya Pradesh is actively involved in this movement and has managed to settle 5,10,354 cases on the basis of amicable settlement and made vigorous efforts to award compensation to the tune of Rs 19,61,76,432/- in 43,909 M.A.C.T. cases. The State of Haryana, though a late starter, has not lagged behind in this movement which is apparent from the fact that in a short span of eight years, that is, between 1985 to 1992, the State has organised 330 Lok Adalats and has disposed of 1,10,611 cases, which include 5,102 M.A.C.T. cases. More than Rs 19.65 crores have been awarded as compensation to the aggrieved persons.

To sum up, the experience of the functioning of Lok Adalats in other States and Union Territories is also quite

satisfactory. Table VIII shows that Lok Adalats are being held in the States and Union Territories regularly and these States have so far organised 131 Lok Adalats and decided 23,765 cases. A sum of Rs 57,66,13,767/- has been awarded in 8989 M.A.C.T. cases. Thus the foregoing study makes it clear that Lok Adalats in India are functioning as an alternative to the judicial justice. The recent strategy being adopted by the Lok Adalat has enabled us to conclude that by adopting persuasive, commonsense and human approach to the problems of disputants, with the assistance of specially trained and experienced members of a team of conciliators, the disputes which are even pending in the Courts can be settled in friendly spirit if their sentiments are taken into consideration and they are made to understand the philosophy which govern their psychology. That is why the Indian Parliament has brought the Legal Services Authorities Act, 1987 into existence. The objective of the Act is to organise Lok Adalats to secure that the operation of the Legal system promotes justice on the basis of equal opportunity.

CHAPTER-V

LOK ADALATS AT WORK: A SOCIO-LEGAL STUDY OF HIMACHAL PRADESH

1. Introduction

The Himachal Pradesh was settled by a series of migrations that took centuries. The settlers came from all the surrounding areas, but principally from Indian plains[1]. Etymologically, Himachal stands for the region which lies in the slopes and foot hills of snow (Him-Achal) i.e. the Himalayas. Before 1948, this region was popularly known as Punjab Hill States. This name was for the first time used in the Covenant signed on March, 1948 by twenty-one East Punjab Hill States[2]. By this Covenant, these States were integrated into a single centrally administered unit presently known as Himachal Pradesh[3]. In pursuance of agreements signed by the rulers of twenty one Punjab Hill States the central Government, by virtue of Sections 3 and 4 of Foreign Jurisdiction Act, 1947, issued the Himachal Pradesh (Administration) Order 1948 accordingly to which the territories of twenty one States with their tributories constituted Himachal Pradesh. In pursuance of the agreement executed by Raja of Bilaspur on August 15, 1948, the State of Bilaspur was taken over under the Central Administration on October 12, 1948. By the State Merger (Chief Commissioner's Provincies) Order 1949, Himachal Pradesh and Bilaspur became Chief Commissioner's Provincies with effect from August 1, 1949. Consequent upon the coming into force of the Constitution of India on January 26, 1959, these Chief Commissioner's Provincies of Himachal became Part-C States.

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1. Mian Goverdhan Singh, History of Himachal Pradesh (1982) p.22.
2. M.S.Ahluwalia, History of Himachal Pradesh (1988), p.9. These were Bhagal, Baghet, Balson, Bhajji, Beja, Bushahr, Chamba, Darkoti, Dhami, Jubbal, Keonthal, Kumarsain, Kunihar, Kuthar, Mahlog, Mandi, Mangal, Sangri, Sirmour, Suket and Tharoach.
3. V.P.Menon, The Story of Integration of The Indian States (1957), p.299.

Later on, in the 1954, the Parliament passed the Himachal Pradesh and Bilaspur (New State) Act, 1954 and both these Part-C States were merged into one State to be called the State of Himachal Pradesh with effect from July, 1954. This State became a Union Territory after passing the Constitution (Seventh Amendment) Act, 1956. The Union Territory of Himachal Pradesh from 1956 to October 1966 consisted of six districts viz., Bilaspur, Chamba, Kinnaur, Mahasu, Mandi and Sirmour. However, under the Punjab Reorganisation Act, 1966 a few more territories[4] previously part of Punjab were added in the Union Territory of Himachal Pradesh with effect from November 1, 1966. After the inclusion of these territories in Himachal Pradesh by Punjab Reorganisation Act, 1966, four new districts, namely, Simla district, Kangra district, Kullu district and Lahaul and Spiti districts were added in the Union Territory of Himachal Pradesh with effect from First of November, 1966. After the establishment[5] of the State of Himachal Pradesh on January 25, 1971 the districts of Himachal Pradesh were reorganised into twelve districts with effect from September 1, 1972 by virtue of Himachal Pradesh Government No. 8-6/71 Apptt. dated 29.8.1972, published in H.P.Rajpatra (Extra-ordinary) on August 30, 1972. Thus, Himachal Pradesh presently comprises of twelve districts[6]. The State has an area of 55,673 sq.kms. which has been divided into three divisions and 52 tehsils having 2,597 Gram Panchayats in its fold.

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4. These territories were (a)Shimla, Kangra,Kullu and Lahaul & Spiti districts; (b) Nalagarh Tehsil of Ambala district; (c) Lohara, Amb and Una Kanungo Circles of Una Tehsil; (d) The territories in Santokhgarh, Kanungo circle of Una tehsil of Hoshiarpur district; (e) The territories in Una Tehsil of Hoshiarpur district specified in Part-II of the Third Scheduled; and (f) The territories of Dhar Kalan Kanungo circle of Pathankot tehsil of Gurdaspur district specified in Part-III of the Third Schedule.
5. Inserted by the State of Himachal Pradesh Act,1970(53 of 1970) Section 5 (w.e.f.25.1.71).
6. These are: Shimla,Solan,Sirmour,Kinnaur,Lahaul-Spiti,Chamba,Una,Hamirpur,Kangra,Kullu,Mandi, Bilaspur.

The State has made a sustained progress in every field of activity and achieved many milestones. The magnitude of activity can be assessed from the fact that it has made a tremendous progress in holding Lok Adalats regularly and has successfully organised 122 Lok Adalats till December, 1993. More than 17,859 cases were referred to 65 Lok Adalats till December, 1992. Out of which 9,982 were amicably settled, awarding Rs 2,10,58,479/- as a matter of compensation to the aggrieved[7]. The basic objective of holding Lok Adalats in the State is to achieve the twain aims of providing speedy justice to the litigants and also reduce the huge arrears before the Courts at various level. The basic philosophy behind the mechanism of Lok Adalat in the State is that a judge should not merely work like an umpire but must actively participate in the administration of justice so that the Constitutional philosophy of imparting justice to all - high or low is concretized strictly in accordance with the will of the wise founding-fathers of our Constitution[8].

Keeping in view the Constitutional philosophy of providing justice to all, the author has endeavoured in the present chapter to conduct an empirical study of the administration and implementation of the working of Lok Adalats scheme, in the State of Himachal Pradesh. The main concern of the author is to throw light on the composition, working and the impact of the Lok Adalat mechanism on the

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7. These figures have been borrowed from H.P.State Legal Aid Board, Shimla. The first Lok Adalat in Himachal Pradesh was held at Shimla on August 25, 1990 under the Chairmanship of Hon'Ble Mr.Justice R.N.Misra, Judge, Supreme Court of India. The State was so far successfully organised 122 Lok Adalats, last being the Lok Adalat at Chopal, Theog, Nahan and Sundernagar on November 21, 1993.

8. See, Constitution of India, The Preamble, Articles 14, 38 and 39-A.

people of Pradesh. The main thrust of the author is to throw light on the functional aspect of the Lok Adalats with a zeal to know the future scope of the growth of the Lok Adalat as an institution to share the burden of settling cases which are pending before regular Courts since long. To our surprise 19,443 cases are pending at the High Court level and 89,648 cases at the level of subordinate Courts. The burning questions which have therefore arisen in this context are: (a) why has arisen the need to resort to the mechanism of Lok Adalat when there are regular Courts functioning in accordance with the mandate of the Constitution ? (b) Who motivated us to resort to the mechanism of Lok Adalat in the State ? (c) What exactly is the legal sanction behind the mechanism of Lok Adalat ? (d) What exactly is the composition and structure of Lok Adalat in Himachal Pradesh ? (e) What are the powers and jurisdiction of the Lok Adalat ? (f) Do we have any legal or administrative set up for conducting Lok Adalats in the State ? (g) What precisely is the methodology adopted for conducting proceedings of the Lok Adalats ? (h) To what extent the legal profession has discharged its responsibility in implementing the scheme of Lok Adalat ? (i) Whether the device of Lok Adalat has remained confined to the Court room advocacy or it has really reached at the grass-root level ? (j) Has the Lok Adalat movement in the State really created a mass awakening and aroused a massive consciousness to refer their cases for amicable settlement to the Lok Adalat ? (k) Whether the people at the village level have really been associated with the

scheme of Lok Adalat ? (l) What significance is given to the legal formalities, if any, during the settlement of dispute by the Judges of Lok Adalat ? (m) What mechanism, if any, has been evolved by the State for monitoring the implementational aspect of the Lok Adalat Scheme ? (n) Has the Lok Adalat scheme really imbibed the spirit of self-rule amongst the people at village, block and district level and has brought about any attitudenal change in the outlook of the people so far as settlement of dispute is concerned ? (o) Has the functioning of Lok Adalat in Himachal Pradesh created a popular faith in the people to provide justice within reasonable time at cheaper rate ? (p) Has the Lok Adalat in Himachal Pradesh been merely confined to propaganda value rather than dispensation of justice ? (q) Who bears the expenses incurred in holding Lok Adalats ? (r) To what extent the Lok Adalats in the State of Himachal Pradesh have been successful in rendering justice to the people expeditiously ? And lastly, (s) Do we need to take a few more steps to improve the functioning fo the Lok Adalat in the State ?

In order to have answer to these quarries, the author has used multi-pronged methodology for assessing the progress made[9] by Lok Adalat in the State of Himachal Pradesh. The assessment as shown in Annexure-IX is a collection work based on the questionnaires[10] served on (a) the persons associated with the administration of Lok Adalat, (b) the advocates who worked as the counsellors of the disputants, (c) the

9. See, Annexure-IX

10. See, Annexures I-IV.

disputants who referred their cases from regular Court to the Lok Adalat for amicable settlement and (d) the people belonging to various walks of life. The study is purely explorative in nature. In addition to the questionnaires the author has based his study on documentary source of data collected from statistical books, official reports and newspapers etc. In addition, an attempt has also been made to conduct interviews of a selected number of politicians both from ruling as well as opposite parties to find out their response and reaction to the Lok Adalat mechanism functioning in the State. All the aspects of the Lok Adalat have been discussed and analysed in detail at appropriate places in the present chapter. Moreover, the rules framed by the State have also been discussed to examine the dimension of Lok Adalat scheme in the State.

II. Genesis of Lok Adalats

The genesis of Lok Adalat in the State of Himachal Pradesh is quite recent in nature. The study of the existing legal system of Himachal Pradesh, right from the day Himachal Pradesh came into existence, shows that no Lok Adalat was functioning as a dispute resolution institution in the State. It is revealed that neither there was any statutory recognition being given to the device of Lok Adalat schemes nor was there any practice being followed by the people to hold Lok Adalats for the settlement of disputes on amicable basis. The survey of the rules framed under the title: (i) the Legal Aid to the Poor (Himachal Pradesh) Rules, 1973,

(ii) The Himachal Pradesh Scheduled Castes and Scheduled Tribes Legal Aid Rules, 1974 and (iii) The Himachal Pradesh State Legal Aid to the Poor Rules, 1980, clearly shows that there were no provisions with regard to the holding of Lok Adalats in the Pradesh till the year 1984. The first break-through occurred in 1984 when the Government of Himachal Pradesh formulated a comprehensive legal aid scheme in the form of 'The Himachal Pradesh Legal Aid Rules, 1984'.

The Himachal Pradesh experiment of holding Lok Adalats seems to be inspired by the Lok Adalat Movement in Rajasthan which started a decade back[11]. The State of HImachal Pradesh enacted Himachal Pradesh Legal Aid Rules, 1984 and made specific rules to arrange for holding Lok Nyayalayas in different areas for the purpose of bringing about voluntarily settlement of disputes. The spirit of Rule 10(21) reveals that it is the primary duty of the Himachal Pradesh Legal Aid Board to arrange for holding Lok Nyayalayas in different areas for the purpose of bringing about voluntary settlement of disputes. The Himachal Pradesh Legal Aid Board has been obligated to take steps to hold at different levels Lok Adalats in consonance with the spirit of justice adumbrated in our National Charter. It is one of the functions of the Board to generate an environment wherein holding of Lok Adalat is made convenient for the purpose of bringing about voluntarily settlement of dispute. The Rule 10(21) is based on the Constitutional philosophy of promoting justice on a basis of

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11. P.C.Jain, "Crisis Management of Justice - Conciliation, Courts", Lawteller, Vol.1, No.6, June, 1993, p.43 at 45; P.C.Jain, "Time For Conciliatory Justice", The Tribune, April 15, 1993, p.6.

equal opportunity and ensure that opportunities for securing justice are not denied to any citizens by reason of economic and other disabilities[12]. The guiding light of Constitution has revealed new dimensions and provided stronger and sounder justification for the Lok Adalat movement in the country. To be true, the Constitutional guarantee of equality has paved path for the strongest foundation of the Lok Adalats and moreover, the links of Lok Adalat with social justice, equality and rule of law have emerged only through the Constitutional provisions. It is one of the Directive Principles of State Policy that measures should be provided to ensure equal justice to all. The land mark was thus reached with the welcome step of the introduction of new article[13] through the Constitution (Forty-Second Amendment) Act, 1976. It is in this spirit that the State of Himachal Pradesh brought into existence the Himachal Pradesh Legal Aid Rules, 1984 which provide specifically that the State Legal Aid Board shall be in overall charge of the administration and implementation of the Legal Services Programme in the State. It is one of the cardinal functions of the Legal Aid Board that it shall arrange for holding Lok Nyayalayas and make a congenial atmosphere to bring about amicable settlement of disputes. Thus, the history of evolution of the Lok Adalats in the State is of recent origin and dates back to the year 1984.

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12. See, Constitution of India, Article 39-A
13. Ibid.

It is, however, imperative to mention here that there does not seem to be much basic difference between the Lok Adalats and the Conciliation Courts. The objectives of both are also identical[14]. Moreover, the schemes of Lok Adalat and Conciliation Courts are grounded in the existing legal framework and are not outside it[15]. The basic bricks of these schemes are Rule 10 of The Himachal Pradesh Legal Aid Rules, 1984 and Rule 5-B of Order XXVII and Rule 3 of Order XXXII-A of the Code of Civil Procedure, 1908 (as amended by the Act No.104 pf 1976)[16]. These rules enjoin upon these institutions to make efforts and assist parties in arriving at a settlement in certain categories of suits and procedure. Almost similar provisions exist in Section 23 of Hindu Marriage Act, 1955[17].

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14. Supra note 11.

15. For detail see, The Himachal Pradesh Legal Aid Rules, 1984, Rule 10, Sub-Rule 2(1) and (2f) respectively. Both schemes are basically designed with a common objective that it is now a ripe time for rendering cheaper justice to the frustrated people who are anxiously waiting for quick decisions from the regular Court but feel helpless when they find the Courts awefully over-burdened with the arrear of cases pending before it since long.

16. Rule 5-B sates: "(1) In every suit or proceeding to which the Government, or a public officer acting in his official capacity is a party, it shall be the duty of the Court to make in the first instance, every endeavour where it is possible to do so consistantly with the nature and circumstances of the case, to assist the parties in arriving at a settlement in respect of the subject matter of the suit. (2) If, in any such suit or proceeding, at any stage, it appears to Court that there is a reasonable possibility of a settlement between the parties, the Court may adjourn the proceeding for such period as it thinks fit, to enable attempts to be made to effect such a settlement". Similarly, Rule 3 of Order XXXII-A provides "(1) In every suit or proceeding to which this Order applies, an endeavour shall be made by the Court in the first instance, where it is possible to do so consistent with the nature and circumstances of the case to assist the parties in arriving at a settlement in respect of the subject matter in the suit. (2) If, any such suit or proceeding, at any stage it appears to the Court that there is a reasonable possibility of a settlement between the parties, the Court may adjourn the proceedings for such period as it thinks fit to enable attempts to be made to effect such a settlement".

17. Section 23 Clause (2) reads: "It shall be the duty of the Court in the first instance, in every case where it is possible so to do consistently with the nature and circumstances of the case, to make every endeavour to bring about a reconciliation between the parties".

The basic idea contained in these provisions is that it is their duty to actively participate in the administration of justice and persuade the parties to the suit to arrive at a compromise amicably.

The survey of the functioning of the Himachal Pradesh High Court reveals that it has really developed on the guidelines of above mentioned rules the strategy of settlement of disputes by way of conciliation. Perhaps the Court has resorted to the strategy of conciliation of dispute, because of the main challenge of huge arrears of cases pending at different levels in the Courts. With a view to provide a solution to this problem, it is revealed that the High Court of Himachal Pradesh has taken a lead to evolve a Pre-trial, In-trial and Post-trial Conciliation Project on an experimental basis. The credit to initiate the Conciliation Project at war-footing goes to the then Hon'ble Chief Justice of H.P.High Court Shri P.D.Desai, who initiated for the first time a unique Pre-trial, In-trial and Post-trial Conciliation Scheme in the State[18]. It is this spirit that the Senior Sub-Judge Shimla was for the first instance, entrusted with the job of conciliation in respect of cases triable by the Sub-Judges[19]. The Court started functioning with effect from September 1, 1984 in the light of the aforesaid new legislative policy and with a view to minimising the pendency of old cases and ensuring that the litigation comes to an end

18. I.P.Massey, "Conciliation Through Subordinate Courts In Himachal Pradesh", Legal Aid Newsletter, Vol.VII, Parts 1 & 2, May-August, 1987, p.16.

19. Ibid., p.17.

by way of an amicable settlement of the dispute. Subsequently, the Courts of District and Session Judges and Additional Session Judge, Shimla were designated as Conciliation Courts in respect of the cases which were identified as triable[20] by the Conciliation Courts. With a view to identify and transferring such cases to the Conciliation Court, the Subordinate Judges have been put under the guidance of the District and Session Judge or Additional District and Session Judge, as the case may be. It is the duty of the Subordinate Judge to examine the files of cases pending in his Court and identify the cases referable to the Conciliation Court for amicable settlement. He is required to discuss such cases with his Senior Judicial Officer before the reference is made to the Conciliation Court.

The working of Conciliation Courts in the State discloses that they are not to go strictly by rules. They, however, endeavour to evolve a fair and just formula, acceptable to both the parties for an amicable settlement of the dispute. The Senior Members of the Bar, amongst others, are invited for personal discussions with legitimate expectation of their co-operation to cut down the proverbial delay in disposal of cases. With the willing participation of

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20. The following cases have been classified as cases in which Conciliation procedure is to be adopted: (a) Applications to sue as indigent persons; (b) applications seeking interim relief, (c) Executions of applications; (d) suits/proceedings relating to matters concerning the family as defined in Order XXXII-A, Rule 1, Sub-rule (2) of the Code of Civil Procedure, (e) Petitions under Section 125 and 127 of the Code of Criminal Procedure; (f) partition suits; (g) cases under the Himachal Pradesh Urban Rent Control Act; (h) money suits on instruments; (i) suits for rendition of accounts; (j) application under Section 110-A of the Motor Vehicle's Act; (k) suit or proceeding to which the Government or a public officer acting in his official capacity is a party; (l) application for restoration of a suit dismissed for default, (m) application for setting aside the exparte decree; (n) application to set aside abatement and/or to condone delay in bringing I Rs on record; (o) all suits/cases arising out of boundary disputes including encroachments; (p) all suits on the basis of easementary rights; (q) Criminal cases of compoundable nature; (r) suits for possession of urban property governed by the Transfer of Property Act; (s) suits for specific performance of contract; (t) suits in which

all, earnest efforts are made to hammer out the difference of opinions and arrive at an amicable settlement on voluntarily basis with a view to save their time and spare them of the trouble of calling witnesses and subjecting them to long drawn examination, Cross-examination and arguments. These Courts function cautiously and take into consideration the facts that an impression should not be created that the powers are used to compel Conciliation. The procedure followed by these Courts is always simple and result oriented. They take an objective view and persuade the parties to come to compromise on the basis of their free will and provide relief in the form of speedy and satisfactory disposal of cases.

A deep survey of the functioning of these Courts reveals that they have shown highly encouraging results in the resolution of disputes by way of amicable settlement. During the period from September 1, 1984 to December 31, 1986, barely within two years, they have successfully disposed of 6,963 cases. To our surprise, the water mark was reached during the period January 1, 1986 to December 12, 1986 when more than 4,897 cases were settled by way of this persuassive device within this short span[21]. Encouraged by the satisfactory results shown by the Conciliation Courts, the scheme has been extended to all other Courts functioning within the jurisdiction of Himachal Pradesh High Court. The success of the working of Conciliation Courts can better be assessed by the fact that more than 46,345 cases have been disposed of by these Courts with effect from September 1, 1984 to December

permanent prohibitory injunction is claimed as a consequental relief; and (u) Any other case which the Court consider fit for Conciliation.

21. Supra note 18, p.17; also see I.P.Massey, "Social Action Litigation And Legal Aid Movement In Himachal Pradesh", Indian Bar Review, Vol.XIV, NO.1, 1987, p.7.

31, 1992[22]. The Himachal Pradesh High Court can thus be termed to be a path-finder who successfully brought a break-through by resorting to the noval strategy of 'Conciliation Court' in the State[23]. It is remarkable in this scheme that not a single case has so far come to the High Court in appeal or revision against the decree of the Conciliation Courts.

On the similar footing, the Government of Himachal Pradesh organised the First Lok Adalat at Shimla on August 25, 1990. It was inaugurated by the then Chief Justice of India Hon'ble Mr.Justice, R.N.Misra who was the Executive Chairman of CILAS. This experiment was carried out in Supplement to the Conciliation Project - already in vogue in the State. The idea behind holding this Lok Adalat in the State was to dispose of the cases speedily, to reduce the backlog of cases in the Court and ensure that the litigation comes to an end by way of an amicable settlement. The functions of Lok Nyayalaya stipulated under Rule 10, Sub-rule 2(1) are identical with the functions of the Conciliation Courts as stipulated in Rule 10, Sub-rule 2(f) which states that Himachal Pradesh Legal Aid Board shall exercise power and perform the function to encourage and promote conciliation and settlement in legal proceedings. Though the rules to oblige the Himachal Pradesh Legal Aid Board to arrange for holding Lok Nyayalayas in the State had come into existence on May 2, 1984 vide Notification No. LIR-E-(9)/41/82, dated April 25, 1984 but it is quite clear from the study of the working of Lok Adalats Scheme in

22. These figures have been borrowed from the Record of Himachal Pradesh High Court Shimla; also see Fin(C)-A(2)-2/82,dated June 30, 1991.

23. I.P.Massey, "Social Litigation and Legal Aid Movement in H.P.", Indian Bar Review, Vol.XIV No.1, 1987, p.25.

the State that no concrete efforts were made by the State Government to hold Lok Adalats and the scheme remained in papers till August 25, 1990. It was only in the month of August 1990 that initiative was taken to refer cases to Lok Adalats for amicable settlement. The record available shows that first Lok Adalat held at Shimla on August 25, 1990 took 406 cases for the purpose of settlement. However, the Lok Adalat could get success to dispose of 181 cases and awarded Rs 1,77,000/- as a matter of compensation to the aggrieved. It is thus quite clear that the device of Lok Adalat was quite successful in settling 44% of the total cases referred to it by the Regular Courts[24]. It is further revealed from the study that the Lok Adalat Movement in Himachal Pradesh is really a new feature of Legal Aid Programme. It has become a people's movement in the State of Himachal Pradesh. The information available from the Tribune[25] shows that the State of Himachal Pradesh had held 100th Lok Adalat till September 4, 1993 and 13,000 cases had been settled by these Lok Adalats and compensation worth Rs 3,00,00,000/- had been provided to the affected persons[26]. Similarly, the State of Himachal Pradesh is quite actively engaged in making the movement of Lok Adalat a grand success. The latest record available with the State Government discloses that 122 Lok Adalats have been organised till December 1993. It is crystal clear from the record that 122nd Lok Adalat was held at Sundernagar and was presided over

24. The data with regard to disposal of cases has been collected from the Office of Himachal Pradesh Legal Aid Board, Shimla-2.
25. September 6, 1993, p.3.
26. Ibid.

by Mr.M.R.Verma, District and Sessions Judge, Mandi, 125 cases were referred to it for amicable settlement out of which it could settle 40 cases which comes to 32% of the cases referred to it[27].

To sum up there is thus considerable unanimity on the point that the Lok Adalat as an agency for settling the disputes in the State of Himachal Pradesh is faily of recent origin. The above discussion with regard to the genesis of Lok Nyayalaya in the Pradesh substantiate the fact that there was neither any statutory recognition of this kind of scheme nor the people of the Pradesh were well acquainted with this scheme. It is only in 1984 that the idea to arrange for holding Lok Nyayalayas in the State was floated in its concrete form by enacting Himachal Pradesh Legal Aid Rules, 1984. Though these rules had come into existence on May 25, 1984 by way of notification yet the scheme of holding Lok Adalat did not find much favour till August 25, 1990 when the first Lok Adalat was held at Shimla. It is from this period onward that the Lok Adalat movement has gained momentum in the State with the result that 122 Lok Adalats have so far been organised to dispose of cases expeditiously and inexpensive manner.

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27. The data has been collected by the author directly from District and Sessions Judge, Mandi who presided over 122nd Lok Adalat at Sundernagar.

III. Institutional Framework of Lok Adalats

The Himachal Pradesh Legal Aid Rules, 1984 have created an administrative framework to arrange for holding Lok Nyayalayas in the different areas of the State with a purpose to bring an amicable settlement of disputes between the warring parties. The Himachal Pradesh Legal Aid Rules, 1984 are principally based on the Model Rules circulated by "The Committee For Implementing Legal Aid Scheme". Accordingly, the Rules of 1984 postulate the setting-up of State Legal Aid Board as an Apex body to arrange for constituting Lok Adalats in the State. For carrying out the objective of Lok Adalat scheme, Himachal Pradesh Legal Aid Board has been constituted by the State Government which comprises of the Chief Minister, the Chief Justice of the High Court, Chairman of the Committee For Implementation of The Legal Aid Scheme Constituted by the Government of India, the Law Minister, the Advocate General, The Chief Secretary, Secretary (Law) to the Government of Himachal Pradesh, Secretary (Finance), Chairman of the Bar Council of Himachal Pradesh, one member of the State Legislature to be nominated by the State Government, two representatives of Legal Profession, one representative of women, one representative of Scheduled Castes, one representative of Scheduled Tribe, one representative of Industrial Labour and Special Secretary (Law) to the Government of Himachal Pradesh[28].

28. Rule 2 of the Himachal Pradesh Legal Aid Rules, 1984 provides that the Chairman of Bar council of Himachal Pradesh, two representatives of Legal Profession, one representative of women, one representative of Scheduled Caste, one representative of Scheduled Tribes and one representative of Industrial Labour shall be nominated by the State Government.

The Legal Aid Board has been put under a legal duty to take steps to establish Legal Aid Programmes in the State. It has been made an overall incharge of the administration and implementation of legal services programmes in the State. It is bound to perform the following functions namely[29]: (a) allot funds to the various committees out of the fund placed at its disposal by the State Government; (b) control, regulate and supervise the working of various committees; (c) lay down policies and give general or special directions to the various committees for the proper administration and implementation of legal services programme and for proper and adequate discharge of their duties and functions; (d) call for and receive from the various committees from time to time such reports and information as may be considered necessary in regard to the administration and implementation of the legal services programme; (e) prepare, consolidate and submit to the State Government by the first week of May every year a general report regarding the administration and working of the legal services programme during the previous financial year; (f) encourage and promote conciliation and settlement in legal proceedings; (g) promote legal literacy and create awareness amongst the weaker sections of the community in regard to the rights, benefits and privileges conferred upon them by social welfare legislations and other enactments; (h) enlighten the people of the rural areas about agrarian reforms and facilities made available to them by the Central Government

29. The Himachal Pradesh Legal Aid Rules, 1984, Rule 10(2).

from time to time and render legal services where necessary; (i) arrange for publicity of important legislation concerning women, bonded labour, industrial workers, agricultural labour, tenants, agriculturists, scheduled castes and scheduled tribes and other sections of the community, as also legislation dealing with social and economic reforms; (j) render assistance to the weaker sections of the society in complying with necessary legal requirements in order to secure the benefits under the various schemes sponsored by the Central or the State Government for the welfare of public in general, or of any section thereof; (k) organise Legal Aid Camps for the purpose of reaching legal services to the weaker sections of the community in rural areas and in slums; (l) arrange for holding Lok Nyayalayas in different areas for the purpose of bringing about voluntary settlement of disputes; (m) prepare a cadre of social workers for para-legal services; (n) help the various Committees to set-up legal service centres within their respective jurisdictions; (o) encourage law colleges and law faculties of Universities to set-up projects for giving free legal service to the weaker sections of the community and to help them in running such projects; (p) hold and conduct seminars, conferences and compaigns for promotion of the legal services programmes in all its aspects, including creation of public awareness and participate in all activities connected with the same; (q) undertake and promote research, experiment and innovations in the areas of law affecting the poor with the object of removing the injustices from which the poor

suffer, bringing about fundamental institutional changes and affectuating reforms in the law with a view to making it to serve the interest of the weaker sections of the community; (r) submit recommendations to the State Government regarding improvements in practice and procedure of the Courts so as to reduce the costs and delays in litigation; (s) suggest and recommend to the State Government such measures of law reforms as it considers necessary for the purpose of improving the socio-economic conditions of the weaker sections of the community and making social welfare legislation effective for them and draw the attention of the administrative bodies or authorities to their grievances and press for redress of such grievances; (t) undertake socio-legal survey and research into the life conditions of the weaker section of the community with a view to ascertaining their problems and difficulties and determining how far and to what extent social legislation has been able to achieve the objective and purpose for which it was enacted and to utilise social working and the student force for the purpose; (u) appoint expert committee for the purpose of assessment and evaluation of the legal services programme undertaken by the Board and its various committees; (v) carry on such other activities as are incidental and conducive to the objects of the legal services programme; and (w) perform such other duties and discharge such other functions, for the purpose of effectively implementing the legal services programme, as the State Government may direct.

It is one of the duties of the Board to constitute Legal Aid Committee's including High Court, District and Sub-Divisional Legal Aid Committee's in accordance with such schemes as may be framed by it in that behalf with the approval of the State Government[30]. However, Rule 21 specifically saves the functioning of the Legal Aid Committee's constituted under Rules 14 and 16 of the Himachal Pradesh State Legal Aid To The Poor Rules, 1980. It lays down that notwithstanding anything contained in Himachal Pradesh Legal Aid Rules, 1984, the existing Legal Aid Boards and Committees constituted under the Himachal Pradesh State Legal Aid To The Poor Rules, 1980 shall continue to function till the constitution of new Board or as the case may be the Committees, under the Himachal Pradesh Legal Aid Rules, 1984. Further, Rule 22 provides that Himachal Pradesh State Legal Aid To The Poor Rules, 1980 stands repealed subject to provisions of Rule 21 of the Himachal Pradesh Legal Aid Rules, 1984. Thus, new rules of 1984 have been designed to give impetus to the effective implementation of the Legal Aid Movement in the State. The aim and object of the new rules are to involve the members of judiciary in the social beneficial programme. That is why the Chief Minister of Himachal Pradesh and the Chief Justice of High Court of Himachal Pradesh have been involved in the Lok Adalat scheme directly and indirectly under Rule 2 of the Himachal Pradesh Legal Aid Rules, 1984.

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30. Ibid., Rule 15.

It is also revealed that Legal Aid Committees have been constituted at three levels of High Court[31], the District[32] and Sub-Divisions[33]. The High Court Legal Aid Committee consists of[4]: (a) a Judge of the High Court to be nominated by the Chief Justice of the High Court of Himachal Pradesh, or a retired Judge of High Court to be nominated by the State Government....Chairman, (b) The Secretary(Law) to the Government of Himachal Pradesh; (c) Advocate General, Himachal Pradesh... Convener; (d) The President Bar Council, (e) Two representatives of Scheduled Castes; Scheduled Tribes or women, nominated by the Himachal Pradesh Government. The District Legal Aid Committee consists of seven members duly nominated by the Government[35]. The District Magistrate functions as the Chairman of the District Legal Aid Committee and rest of the six members are the Chief Judicial Magistrate; the President, District Bar Association; the District Attorney -cum-Public Prosecutor or as the case may be; the Assistant District Attorney-cum-Public Prosecutor; the District Welfare Officer; and two representatives of the Scheduled Castes, Scheduled Tribes or women, nominated by the Himachal Pradesh Government. The Sub-Divisional Legal Aid Committee consists of five members[36] duly nominated by the State Government. The Sub-Divisional Magistrate functions as the Chairman and rest of the four members are the Judicial Magistrate of the Sub-Division; the Assistant Public Prosecutor, a

31. For detail see, The Himachal Pradesh State Legal Aid To The Poor Rules,1980,Rule 14, Annexure-VI.
32. Ibid., Rule 16.
33. Id.
34. Supra note 31.
35. Supra note 32, Sub-rule (2).
36. Ibid.

representative of the Scheduled Castes and Scheduled Tribes nominated by the State Government; and a social worker nominated by the State Government.

Moreover, the State Government, if it thinks necessary, may dissolve or reconstitute the Committee, fill-up the vacancy of a Chairman or a member and remove a Chairman or a member. The survey of the rules contained in the Himachal Pradesh Legal Aid Rules, 1984 discloses that the Legal Aid Board can constitute Legal Aid Committees including the HIgh Court, the District and Sub-Divisional Legal Aid Committees in accordance with the scheme or schemes as may be framed by the Board in that behalf with the approval of State Government[37].

The Government of Himachal Pradesh constituted Legal Aid Committees, namely, the High Court Legal Committees, District Legal Aid Committees and Sub-Divisional Legal Aid Committees in accordance with the provisions contained in Rule 14 and 16 of the Himachal Pradesh State Legal Aid To The Poor Rules, 1980. The record available with the Himachal Pradesh Legal Aid Board shows that the first High Court Legal Aid Committee was constituted under the Chairmanship of Justice D.B.Lall, Retd. Judge of Himachal Pradesh High Court and was notified vide No. LLR-D(9)1/76, dated december 12, 1980. The District Legal Aid Committees were constituted for Bilaspur, Chamba, Kangra, Kullu, Sirmour and Mandi Districts vide Notification No. LLR-E(9)1/81, dated January 14, 1981. Similarly, the District Legal Aid Committee for Hamirpur District was constituted vide Notification No.LLR-E(9)1/81, dated January 8, 1981.

37. For detail see text of Rule 15.

Five more Districts Legal Aid Committees, that is, for Una, Solan, Kinnaur, Lahaul & Spiti and Shimla District, were brought into existence vide Notification No.LLR-E(9)1/81 dated February 21, 1981. In addition to 12 District Legal Aid Committees, there have been constituted 38 Sub-Divisional Legal Aid Committees[38] in accordance with provision contained in Rule 16 of the Himachal Pradesh State Legal Aid To The Poor Rules, 1980. It is further revealed that the first meeting of the Himachal Pradesh Legal Aid Board was held under the Chairmanship of Thakur Ram Lal, the then Chief Minister of Himachal Pradesh at Shimla on January 16, 1981[39]. The salient feature of this meeting was that effort were made to evolve a comprehensive Legal Aid Programme for the State to help the poor in rendering justice free of cost. The Board also gave a general direction to the Legal Aid Committees to give publicity to the Legal Aid Programmes within their respective jurisdictions.

It is a well established fact that though there were constituted Legal Aid Committees at the High Court level, District level, and Sub-Divisional level, yet these Committees could not organise Lok Adalats till August 25, 1990[40]. It appears that the Himachal Pradesh State Legal Aid Board, which came into existence[41] in the year 1981, undertook the work to organise the first Lok Adalat in the Pradesh in 1990 on experimental basis. Moreover, the Himachal Pradesh Legal Aid Board has undertaken the work of providing free legal aid to

38. See Notification No.LLR-E(9)1/81, dated January 14, 1981, LLR.E(9)1/81,dated February 8, 1981, and LLR-E(9)1/81,dated February 21, 1981.
39. P.L.Mehta,"Free Legal Aid Movement:Theory And Practice In Himachal Pradesh", Indian Socio-Legal Journal, Vol.XIII,Nos.1 & 2 (1987), p.77, at 84.
40. M.G.Chitkara, Lok Adalat And The Poor (1993), p.133.
41. Supra note 39.

the litigants and also to organise legal literacy camps with a view to educate people living in rural areas regarding their legal rights. As many as 52 Legal Aid Committees[42] have been constituted throughout the State at District and Sub-Divisional level which provide free legal aid to the needy people and also organise legal literacy camps in their respective areas. Now Legal Aid Programme is being carried out by Legal Aid Board and Legal Aid Committees which consists of Executive and Judicial Officers and Law-knowing Persons who are also associated during the course of this programme. The High Court of Himachal which has hitherto been following the system of "COurt in trial" settlement, has no switched over to Lok Adalats. Between August 25, 1990 to December 1, 1993 the Himachal Pradesh Legal Aid Board has organised through various Legal Aid Committee 122 Lok Adalats throughout the length and breadth of the State. The Legal Aid Board has stressed the need for disposal of cases through conciliation and mediation and observed that Lok Adalats in the State have made a major breakthrough in this direction and have, therefore, become a part of judicial system[43].

The institutional framework of the Lok Adalats revealed that the whole process of its functioning is being controlled by the Himachal Pradesh Legal Aid Board. The Legal Aid Board in coroboration with the concerned District and Session Judge and Additional District Judge prepare the list of the

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42. Legal Aid Newsletter, Vol.XI, Part 4, January-March, 1992, p.3.

43. Legal Aid Newsletter, Vol.XI, Part 1, April-June 1991, p.3.

Presiding Officers who have to sit in the Lok Adalat to decide the cases placed before it. Generally, the Lok Adalat is divided into different Benches and the whole cases referred to the Lok Adalat are assigned to these Benches for amicable settlement. The Conciliators are appointed by the Legal Aid Board in consonance with the social philosophy of the society. The Board lays emphasis on the legal background of the Conciliators and people of social repute of the area where the Lok Adalat is proposed to be held are induced into the Lok Adalats to functions as the Judge of the Lok Adalat. Advocates of high repute are also invited from different places to participate in the Lok Adalat. The date is fixed for organising the Lok Adalats and accordingly the parties are directed to appear on the stipulated date at a specified place. The cases are identified by the concerned Presiding Officer with the help of the Subordinate Judges and a list of cases is drawn to place it before the Lok Adalat. The Lok Adalat function on voluntary basis. No coersion is exercised on the disputants to settle the dispute. Rather the parties are gently persuaded by the Conciliators to arrive at a compromise and bury their differences. On the basis of free consent of the parties, a compromise deed is prepared and it is signed by the parties concerned and the Judges of the Lok Adalat. Accordingly, the Regular Court passes a decree in accordance with the compromise recorded in writing by the Lok Adalat and agreed to by the parties concerned. However, Lok

Adalat has no power to pass an order so long as both parties agree voluntarily to settle the dispute. Moreover, the Lok Adalat has no legal authority to summon the parties compulsorily to the Lok Adalat and proceed further until it agreed to by the parties to the suit.

IV. Lok Adalats in Action

The concept of Lok Adalat in the State is fairly new. The Himachal Pradesh State Legal Aid To The Poor Rules, 1980, clearly disclose that there were no provisions with regard to the holding of Lok Adalats in the State. It was in the year 1984 that the Government of Himachal Pradesh formulated a detailed legal aid scheme and made specific rules to arrange for holding Lok Nyayalayas in the State. Rule 10(21) of Himachal Pradesh Legal Aid Rules, 1984 reveals that it is the primary duty of the Himachal Pradesh Legal Aid Board to arrange for holding Lok Nyayalayas in different areas in consonance with the spirit of justice contained in our National Charter. This rule is based on the Constitutional spirit of promoting justice on a basis of equal opportunity and ensures that opportunities for securing justice are not denied to any citizens by reason of economic and other disabilities[44]. Consequently, The Himachal Pradesh Government has constituted Legal Aid Committees at High Court, District Courts and Sub-Divisional levels to provide justice to all rich or poor people of the society. It is disclosed that 52 Legal Aid Committees[45] have been constituted throughout the

44. Constitution of India, Article 39-A.

45. Legal Aid Newsletter, Vol.XI, Part 4, January-March, 1992, p.3.

State at different levels to provide free legal aid to the needy people and also organise legal literacy camps in their respective areas.

The survey of the Lok Adalat movement in Himachal Pradesh shows that nothing concrete was done prior to 1990 in this direction. It was only on August 25, 1990 that the Government of Himachal Pradesh organised its first Lok Adalat at Shimla[46]. It was inaugurated by Hon'ble Mr.Justice R.N.Misra, Judge, Supreme Court of India and Executive Chairman of CILAS. It took up 406 cases and could dispose of 181 cases, which constituted 44% of the total. A sum of Rs 1,77,000/- was awarded in 6 M.A.C.T. cases. The success of the First Lok Adalat may be shown as under:

TABLE-1

Sr.No.	Nature of case	Total No.of cases taken up	Disposal	Compensation in Rs.	Percentage
1.	Motor Accident Claims	77	6	1,77,000	8%
2	Land Reference Petitions	2	-	-	-
3.	C.M.A.	3	-	-	-
4	H.M.A.Petitions	5	3	-	60%
5	Civil Suits/Rent Petitions	154	57	-	37%
6.	Small Cause Cases	2	2	-	100%
7	Executions	13	5	-	38%
8	Civil Misc.Applications	4	4	-	100%
9	Petitions under Section 125 Cr.P.C.	7	2	-	28%
10	Cr.Cases/complaints under I.P.C.	14	8	-	57%
11	Summary Challans	125	94	-	75%
	Total	406	181	1,77,000	44%

46. *It is submitted that the entire data with regard to the functioning of Lok Adalats in Himachal Pradesh has been personally collected from the Registrar (Vigilance), H.P. High Court, Shimla. The figures shown in the tables are collected and tabulated strictly in accordance with record available with the Registrar(V), H.P.High Court, Shimla.*

The study of Table 1 shows that the First Lok Adalat achieved a remarkable success settling 181 cases out of 406. Moreover, the award of compensation to the tune of Rs 1,77,000/- is again a testimony to this success.

The Second Lok Adalat[47], organised at Solan on May 5, 1991, was inaugurated by the then Governor Shri Virendra Verma. The Adalat toop up 506 cases for settlement and could dispose of 173 cases. A sum of Rs 14,34,185/- was awarded to the various claimants under M.A.C.T. and Workmen Compensation Act. The detail of the success achieved by the Second Lok Adalat is as under:

TABLE-2

Sr.No.	Nature of case	Total No.of cases taken up	Disposal	Compensation in Rs.	Percentage
1	M.A.C.P.	83	38	13,00,176	46%
2	Land Reference	7	1	-	14%
3	Civil Appeals	4	3	-	75%
4	C.M.Appeals	1	-	-	-
5	H.M.A.Petitions	7	4	-	57%
6	Civil Suits/Rent Petitions	203	61	-	30%
7	Cases under I.P.C.	38	23	-	63%
8	Petitions U/SS.125/127/129 Cr.P.C.	40	4	-	10%
9	Challans U/Ss.107/151 Cr.P.C.	35	8	-	23%
10	W.C.Act Cases	19	8	1,34,009	42%
11	Mining Act Cases	7	7	-	100%
12	Executions	14	10	-	71%
13	C.M.Applications	19	-	-	-
14	Revenue Cases	27	6	-	22%
15	Guardian & Wards Act Cases	2	-	-	-
	Total	506	173	14,34,185	34%

47. The figures have been collected by the researcher from the Office of H.P.Legal Aid Board, Shimla in person on November 26, 1993 and Registrar(Vigilance), H.P.High Court, Shimla vide File No. HHC/CJ/Spl.Secy./84-VI-6-A/92,Vol.1, p.1.

It is revealed from the above table that the Adalat settled 173 cases which included 38 M.A.C. Petitions,1 land reference, 3 civil appeals, 4 Hindu Marriage Act Petitions, 61 Civil suits/rent petitions, 23 cases under Indian Penal Code, 4 Maintenance cases, 8 Challans, 8 Workmen Compensation Act cases, 7 Mining Act cases, 10 Executions and 6 Revenue cases. An amount of Rs 14,34,185/- was paid to the aggrieved as compensation in M.A.C.T. and Workmen Compensation matters.

The Third Lok Adalat[48] was organised at Shimla on June 9, 1991 with a view to settle cases amicably. It was inaugurated by Hon'ble Chief Justice Mr. V.K.Mehrotra, H.P. High Court, 1,455 cases were referred to this Adalat out of which it could dispose of only 511. The success of the functioning of this Lok Adalat is further visible from the fact that a large amount of Rs 34,05,985/- was awarded as a matter of compensation in 57 M.A.C.T. cases. The detailed achievements may be shown as under:

TABLE-3

Sr.No.	Nature of cases	Total No.of cases taken up	Disposal	Compensation awarded in Rs.	Percentage
1.	M.A.C.Petitions	126	57	34,05,985	45%
2	Civil Appeals/Misc.Appeals (Civil)	14	6	-	43%
3	Civil Suits	258	95	-	37%
4	H.M.A. Petitions	4	2	-	50%
5	Rent Petitions	81	34	-	42%
6	Private Complaints	6	3	-	50%
7	I.P.C. Cases	19	15	-	50%

Table contd...

48. Ibid, p.2

8	Cases under Section 125 Cr.P.C.	14	7	-	50%
9	Civil Misc.Cases	23	6	-	26%
10	Police Challans	8	7	-	87%
11	Revenue Cases	34	6	-	17%
12	Executions	75	61	-	81%
13	Summary Challans Under M.C.Act	200	83	-	42%
14	Summary Challans under M.V.Act	593	129	-	21%
	Total	1,455	511	34,05,985	35.35%

The Fourth Lok Adalat[49] was held at Mandi on June 30, 1991. It settled 564 cases out of 99. These were: 76 M.A.C.T. cases, 20 Civil appeals, 5 Civil Misc. appeals, 119 Civil suits, 12 Hindu Marriage Act Petitions, 55 Civil Misc. Petitions, 28 Executions, 2 Rent Petitions, 9 Criminal Revisions, 38 Police Challans, 50 Complaint cases, 6 Criminal Executions, 100 Summary Challans under Motor Vehicle Act, 2 Summary Challans under Municipal Corporation Act, 2 Criminal Misc. Petitions, 39 cases under Section 125 Cr.P.C. and 1 Panchayat Appeal. A huge sum of Rs 26,69,200/- was paid to the aggrived as a matter of compensation in 76 M.A.C.T. cases. The success of the working of this Lok Adalat lies in the fact that it succeeded in disposing of 60% of the cases which had come before it for disposal. The remarkable feature of the Fourth Lok Adalat was that it got 80% in disposing of civil suit which had been pending since long in the Law Courts.

49. Ibid.

The figures available with regard to Fifth Lok Adalat[50] show that 91 cases were referred to it for disposal. The cases mainly included 11 Motor Accident Claims cases, 4 Civil appeals, 10 Civil suits, 10 Police Challans, 1 Private Complaint, 3 Maintenance cases, 1 Excise case and 51 Summary Challans under Motor Vehicle Act. The Lok Adalat disposed of 60 cases out of 91. The achievement of this Lok Adalat was that it settled all the 11 Motor Accident Claim cases and got 100% success in disposing of these cases. It was in the same spirit that Lok Adalat disposed of all the 3 cases under Sections 125, 127 Cr.P.C. and 1 case belonging to Excise matter. So far as Challans cases were concerned, the Lok Adalat got 80% success at it could amicably settle 8 cases out of 10. The success was not, however, satisfactory in cases of Summary Challans under Motor Vehicle Act because only 33 cases were disposed of out of 51. It is further revealed that a sum of Rs 7,48,000/- was awarded in 11 Motor Accident Claim cases to the various claimants.

The study also shows that the State of Himachal Pradesh organised Sixth Lok Adalat at Paonta Sahib on August, 1991[51]. There were brought 541 cases for amicable settlement. However, 277 cases belonging to different categories were disposed of, which comes to 51% of the cases taken up for resolution. It is shown that the Lok Adalat disposed of 186 Summary Challans out of 220 cases, 10 Payment of Wages Claims out of 13 and 4 Petitions under Section 125, 127 Cr.P.C. out of 24. The success was 85%, 77% and 17% respectively. A total sum of Rs

50. Ibid., p.3
51. Ibid., p.3

10,82,974/- was awarded in 19 M.A.C.T. and Workmen Compensation Act cases, to the claimants.

The Seventh Lok Adalat was organised at Chamba on September 15, 1991. It was inaugurated by Hon'ble Justice Devinder Gupta[52]. 263 cases were taken up by the Adalat out of which it could dispose of 124. These were: 13 M.A.C.T. cases, 7 Hindu Marriage Act cases, 18 Civil Suits, 2 Police Challans, 5 Private complaints, 2 Petitions under Section 125, Cr.P.C., 4 Challans under Section 107/151 Cr.P.C. and 73 Summary Challans. Thus Adalat could succeed in settling 47% of the cases and awarded a sum of Rs 7,36,304/- as a matter of compensation to the claimants in 13 M.A.C.T. cases. The weak point of this Lok Adalat was that it could not settle even a single case belonging to Civil Appeals, Criminal Revisions, Executions, Civil Misc. Applications and Pauper Applications. Contrary to this, the Lok Adalat, however, could dispose of all the cases belonging to the category of Police Challans and Private Complaints. In case of the Summary Challans the Lok Adalat got 50% success as it could dispose of 1 Police challan out of 2.

The Eighth Lok Adalat was held at Rekong Peo on October 3, 1991. It was inaugurated by His Excellency, The Governor Shri Virender Verma[53]. The Adalat took up 53 cases out of which only 20 could be disposed of. These included 10 Petitions under Section 125 Cr.P.C., 8 Police Challans and 2 Civil Suits. The Lok Adalat disposed of 38% of the total cases

52. Ibid., pp.3-4.
53. Ibid, p.4.

which mainly included Petitions under Section 125 Cr.P.C. and Police Challans.

The Himachal Pradesh Legal Aid Board organised Ninth Lok Adalat at Una on November 9, 1991. It was inaugurated by Hon'ble Chief Justice Ms.Leila Seth[54]. There were listed 390 cases for amicable settlement. The Adalat, however, could dispose of 232 cases. It thus succeeded in disposing of 59% of the total cases which came before it for disposal. A sum of Rs 2,60,000/- was awarded in 7 M.A.C.T. cases. The highlights of this Lok Adalat were that it disposed of 53 Civil Misc. Applications out of 55 and thus succeeded in disposing of 96% of the total referred to it for disposal. 232 Cases disposed of by the 9th Lok Adalat included, 130 Civil Suits, 53 Civil Misc. Applications, 15 Police Challans, 8 Executions, 7 M.A.C.T. Petitions, 5 Rent Petitions, 4 Private Criminal complaints, 3 Petitions under Section 125 Cr.P.C., 2 Transfer applications under Panchayati Raj Act, 2 Civil Appeals, 2 Criminal Revisions and 1 Hindu Marriage Act case.

The Tenth Lok Adalat was inaugurated by Hon'ble Chief Justice Ms. Leila Seth at Hamirpur[55] on November 10, 1991. The total number of cases taken up by the Lok Adalat were 455. The Adalat however, could dispose of 270 cases which included 91 Summary Challans, 86 Civil Suits, 39 Civil Appeals, 13 Hindu Marriage Act Cases, 12 Cases under Sections 125/127 Cr.P.C., 9 Police Challans, 7 M.A.C.T. cases, 5 Civil Misc.Appeals, 5

54. Ibid.,
55. Ibid., p.6

Private Criminal Complaints, 2 Rent Petitions and 1 each Execution and Workmen Compensation Act case. The Lok Adalat awarded Rs 1,63,000/- and Rs 50,000/- as compensation in 7 M.A.C.T. cases and 1 workmen compensation cases respectively.

The eleventh Lok Adalat was held at Dharamsala on December 8, 1991. It was also inaugurated by Hon'ble Chief Justice Ms. Leila Seth[56]. 581 cases were taken up by the Lok Adalat out of which it could dispose of 394. It got success to the extent of 68% of the total. Moreover, the Adalat achieved 100% success in disposing of Summary Challans cases. There were 181 Summary Challans taken up by the Lok Adalat and all these cases were disposed of without any hesitation. It was in the same spirit that 90%, 85%, 80% success was achieved in disposing of Civil Misc. Applications, Private Criminal Complaints, Rent cases, respectively. The Lok Adalat however, could not compromise forest cases and Civil Misc.Appeals. The record to this effect shows that Rs 12,24,800/- were awarded as compensation to various aggrieved persons in 29 M.A.C.T. Petitions. Thus the percentage of disposing M.A.C.T. cases came near to 32% as it fairly succeeded in settling 29 cases out of 90 referred to it for disposal.

The Twelveth Lok Adalat[57] was organised at Bilaspur on January 23, 1992. There were only 227 cases taken up for settlement. It is, however, disclosed that the Twelveth Lok Adalat could settle 111 cases which included 54 Summary cases, 19 Civil Suits, 13 M.A.C.T., 7 Panchayat Act matters, 7 Challans under Section 107/150/146 Cr.P.C., 5 Petitions under

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56. Ibid.
57. Ibid., p.7

Sections 125/126 Cr.P.C. ; 10 Police Challans, 3 Civil Appeals, 3 Civil Misc.cases, 3 Hindu Marriage Act cases, 3 Wages Act cases, 1 each belonging to Private Complaint, Criminal Revision and Workmen Compensation Act case. Rs. 3,60,000/- were awarded as compensation in 13 M.A.C. Petitions. The study further reveals that Twelveth Lok Adalat got 100% success in the disposal of Summary Cases, Wages Act cases, Workmen Compensation Act case, and Private complaint cases. It could however, settle 88% of Panchayat Act matters, 70% Challans under 107/150/146 Cr.P.C., 50% Police Challans, 44% Civil Suits, and 40% Petitions under Sections 125/126 Cr.P.C. It could however, not get much success in settling the dispute belonging to Criminal Revisions, Civil Appeals, Civil Misc.Cases, Execution Petitions and Hindu Marriage Act Petitions. The success of disposal in these cases were between 22% to 33%.

The thirteenth Lok Adalat[58] was organised at Nurpur on February 23, 1992. The Adalat took up 152 cases for amicable settlement. However, 30 cases belonging to different categories were disposed of, which comes to 20% of the cases taken up for resolution of disputes. The figures available with regard to this Adalat show that 27 Civil Suits and 3 Petitions under Sections 125/127 Cr.P.C. could be resolved amicably. The Adalat could not settle even a single case belonging to Hindu Marriage Act, Police Challans, Succession Act and Private Complaints. Similarly, the Fourteenth Lok Adalat[59] was organised at Amb on February 23, 1992 and could

58. Ibid.
59. Ibid., p.8

dispose of only 14 cases out of 80 cases. These included 9 Civil Suits, 2 Civil Misc. Applications, 1 each belonging to Hindu Marriage Act case, Police Challans and Petition under Section 125 Cr.P.C. This Adalat could not get any success in Execution Petitions and Rent Act cases.

The Himachal Pradesh Legal Aid Board organised its Fifteenth Lok Adalat at Sarkaghat on February 21, 1992[60]. There came only 77 cases before this Lok Adalat for settlement. It could successfully dispose of 54 cases which constituted 70% of the total cases which were listed before it for disposal. This achieved 100% success in Execution Petitions, Criminal Private Complaints and Petition under Section 125 Cr.P.C. The performance regarding Civil Suits and Civil Misc.Applications was quite good as it achieved 72% and 68% success in the disposal of these cases respectively.

The Sixteenth Lok Adalat was organised at Hamirpur[61] on March 8, 1992. There were brought 145 cases for settlement, out of which it could dispose of 126 cases which comes 87% of the total. The Adalat achieved 100% success in disposing of Civil Appeals, Civil Misc.Appeals, Hindu Marriage Act cases, Criminal Revisions, Rent Petitions, Succession Act Petitions and Criminal Misc.Application. It was in the same spirit that 89%, 88%, 86%, 82% and 79% success was achieved in disposing of Petitions under Section 125 Cr.P.C., Civil Misc. Applications, Police Challans, Private Criminal Complaints, Civil Suits respectively. The Adalat also disposed of 1 M.A.C.

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60. Ibid.
61. Ibid., pp.8-9.

Petition out of 2 referred and awarded compensation in the tune of Rs 3,500/- to the aggrieved.

The study further reveals that the State of Himachal Pradesh organised Seventeenth Lok Adalat at Nalagarh[62] on March 15, 1992. The Adalat took up 229 cases out of which 119 cases could be disposed of. These included 2 each belonging to M.A-.C. Petitions, Hindu Marriage Act, Challans under Sections 107/151 Cr.P.C., Private Criminal Complaints, 1 each from Civil Appeals, Election Petition, Revenue Case, Workmen Compensation Act, 71 Civil Suits, 3 Execution Petitions, 27 Police Challans and 6 Petitions under Section 125 Cr.P.C. It achieved 100% success in Election Petition and Civil Appeals. A sum of Rs 90,980/- was awarded in 3 cases belonging to Motor Accident Claim Petitions and cases under Workmen Compensation Act.

The Eighteenth Lok Adalat was organised at Paonta Sahib in Sirmour District[63] on March 8, 1992. There were brought 136 cases for resolution out of which 63 cases were settled. Thus, the Adalat could achieve 46% success in disposing of cases by way of amicable settlement. It awarded Rs 1,700/- as a matter of compensation to Workmen in 1 case. The credit which goes in favour of this Lok Adalat is that it could settle 83% of Summary cases there and then, 67% cases belonging to Police Challans, 42% Execution Petitions, 36% Civil Suits and 33% Civil Misc.Applications. To be brief, 63 cases disposed of by this Lok Adalat included 33 Summary Trials, 17 Civil Suits, 5 Execution Petitions, 4 Police Challans, and 1 each Civil Misc.

63. Ibid.

Application, Rent case, Petition under Sections 125/127 Cr.P.C. and Workmen Compensation suit. The Adalat could however, not show good results in case of Workmen Compensation and Petition under Sections 125/127 Cr.P.C.

The Nineteenth Lok Adalat in the State was held in Kangra District at Dehra[64] on March 14, 1992. The total cases which came up before the Lok Adalat for settlement were 254. The Lok Adalat disposed of 133 cases which comes to 52% of the total. The remarkable feature of this Adalat was that it settled hundred percent cases pertaining to Rent Matters, Hindu Marriage Act and cases under Municipal Act. Similarly, it achieved 82% success in disposing Police Challans. Out of 22 Police Challans, the Lok Adalat could finally dispose of 18 cases. However, it could achieve 48% success in Civil suits. The Adalat took up 115 Civil suits for disposal out of which only 55 were compromised. The Adalat, however, failed to show good result in the disposal of Petitions under Section 125 Cr.P.C. and Execution cases.

The Twentieth Lok Adalat was organised on March 14, 1992 at Gumarwin which falls in District Bilaspur[65]. 852 Cases were listed for decision. The Adalat could, however, succeed in disposing of 554 cases which comes to 65% of the cases referred to it for disposal. A sum of Rs 7,000/- was awarded as a matter of compensation in 2 M.A.C.T. Petitions. The record shows that it achieved 100% success in disposing of Revenue Appeals and Wage Act cases. Similarly, the Lok Adalat

64. Ibid, p.10
65. Ibid.

got 87%, 73% and 68% success in settling the disputes pertaining to Execution Petitions, Summary cases and Police Challans respectively. The Adalat however, could not perform well in the disposal of M.A.C.T. cases out of 7 such cases it could hardly succeed in disposing 2 cases which came to 29% of the total.

The Twenty-First Lok Adalat was held at Sundernagar on March 1992. Total number of cases taken up by this Lok Adalat were 100. Out of these, the Lok Adalat disposed of 79 cases with the result that it got 79% success in the disposal of the cases. The record[66] available speaks that it achieved 100% success in the disposal of Civil Misc.Applications. Similarly, it disposed of 90% of nthe Civil Suits which were taken up for amicable settlement by this Adalat. It is disclosed that the Lok Adalat disposed of 37 cases out of 41 belonging to Civil Suits. It is also quite clear that the Lok Adalat succeeded in achieving 71% success in the cases of Police Challans. Out of 28, the Lok Adalat could dispose of 20 Challans.

The Twenty-Second Lok Adalat was organised at Shimla[67] on March 22, 1992. There was a long list of 879 cases before this Lok Adalat. It could, however, disposed of 528 cases of different nature. The success pocketed by this Lok Adalat was to the extent of 60%. A sum of Rs 2,76,000/- was awarded as compensation in 5 M.A.C.T. and 1 Workmen's Compensation case. The credit which goes to this Lok Adalat is that it achieved 100%, 95%, 91%, 75% and 65% success in settling the disputes belonging to Hindu Marriage Act cases, Summary cases, Police

66. Ibid., p.11
67. Ibid.

Challans, Petitions under Sections 125 Cr.P.C. and cases under Sections 107/150 Cr.P.C. respectively. However, Lok Adalat could not perform well in dealing with M.A.C.T. cases, Civil Appeals, Civil Misc.Appeals and cases under Workmen's Compensation Act. The success achieved in disposing of these cases was hardly between 6% to 25%.

The Twenty-Third, Twenty-Fourth, Twenty-Fifth and Twenty-Sixth Lok Adalats were held on March 22, 1992 at Una, Nahan, Kullu and Kangra respectively[68]. It is revealed that Lok Adalat at Una succeeded in settling 45 cases out of 118, Lok Adalat at Nahan disposed of 90 cases out of 192, Lok Adalat at Kullu settled 154 cases out of 235 and Lok Adalat at Kangra succeeded in resolving 68 cases out of 98 taken up for the settlement. In this way it is quite evident that 23rd Lok Adalat got success in disposing of 38% of the cases, 24th Lok Adalat could dispose of 47% of the cases, Twenty-Fifth Lok Adalat achieved the success to the extent of 66% and 26th Lok Adalat topped the list as it achieved 69% success in this direction. It is further shown the 23rd Lok Adalat awarded Rs 21,900/- as compensation in 4 M.A.C.T. claims, 24th Lok Adalat awarded Rs 1,99,842/- in 6 M.A.C.T. claims and 25th Lok Adalat could awarded Rs 4,37,000/- as an amount of compensation in 9 M.A.C.T. cases. However, 26th Lok Adalat did not award any compensation as there was no such suit for disposal. The performance shown in the record available further discloses that these Lok Adalats could not perform well in the disposal of cases pertaining to M.A.C.T. Civil

68. Ibid., pp.12-13.

Appeals, Hindu Marriage Act cases, Rent cases, Guardian and Ward Act cases and Criminal Revisions. The success as depicted in the tables of the Record file[69] shows that it was almost below 20% in such cases.

It is further revealed that Himachal Pradesh Legal Aid Board managed to organise five Lok Adalats on March 29, 1992 at Solan, Mandi, Chamba, Rampur and Palampur. These Lok Adalats were designated as 27th, 28th, 29th, 30th and 31st respectively. The 27th Lok Adalat disposed of 115 cases out of 318, the 28th Lok Adalat settled 290 cases out of 482, the 29th Lok Adalat succeeded in settling 59 cases out of 80, the 30th Lok Adalat endeavoured to compromise 180 cases out of 290 and the 31st Lok Adalat could dispose of 261 cases out of 363 taken up for the disposal. Thus the success achieved by these Adalats was 36%, 60%, 74%, 64% and 72% respectively. It is also clear from the record[70] that an amount of Rs 5,33,000/-, Rs 14,04,100/-, Rs 2,10,000/- was awarded as compensation by the 27th, 28th and 29th Lok Adalat respectively. No amount, however, was awarded as compensation by the Thirtieth and Thirty-first Lok Adalats.

The Thirty-Second Lok Adalat[71] was conducted at Rohru on June 21, 1992. The total number of cases taken up by this Adalat was 319. It could, however, succeed in disposing of 120 cases which comes to 38% of the total. The record shows that 80% success was achieved by this Lok Adalat in disposing of Police Challans, 58% in settling Petitions under Section 125 Cr.P.C. and 50% in Execution Petitions. It is further revealed

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69. Ibid.
70. Ibid., p.14-16
71. The data have been collected in person by the researcher from the Office of Sub-Judge-cum-Judicial Magistrate on June 21, 1992.

that this Lok Adalat could not get much success in dealing with cases belonging to Civil Suits, Rent matters and Private Criminal Complaints. The Adalat could hardly dispose of 12% of Rent cases, 29% of Civil Suits and 38% of Private Criminal Complaints.

The Thirty-Third Lok Adalat[72] was held at Jogindernagar on June 28, 1992. The total cases before the Lok Adalat were 111. Out of these it could dispose of 93 cases which come to 84% of the total. The achievement of this Lok Adalat is that it got 100% success in disposing Rent cases, Hindu Marriage Act cases and Police Challans, 89% success in settling Civil Suits, 86% in Private Criminal Complaints and 74% in disposing of Petitions under Section 125 Cr.P.C.

The Thirty-Fourth Lok Adalat[73] was organised at Chopal in Shimla District on July 5, 1992. Out of 50 cases it could succeed in disposing of 25 cases with the result that it achieved 50% success in the matters of disposal. The highest performance shown by this Lok Adalat was in Arbitration Act Cases, Civil Misc.Applications and Cases under Section 133 Cr.P.C. Almost all the cases were settled and thus achieved 100% success in this direction. The Adalat could, however, show good results in the matters like Execution Petitions and Police Challans. The success in these cases was 20% and 33% respectively.

The State of Himachal Pradesh showed a lot of interest in holding five more Lok Adalats on July, 11, 1992 at Theog, Rajgarh, Arki, Karsog and Chamba. These Lok Adalats were

72. See File No.HHC/CJ/Spl.Secy./84-VI-6-A/92,Vol.II, p.2.
73. Ibid., p.3.

termed as Thirty-Fifth, Thirty-Sixth, Thirty-Seventh, Thirty-Eighth and Thirty-Ninth Lok Adalats respectively[74]. In all 528 cases were listed before these Adalats for amicable settlement These Adalats, however, succeeded in disposing of 275 cases which comes to 58.20% of the total. The Thirty-Fifth Lok Adalat awarded Rs 1,75,960/- as an amount of compensation in 2 Workmen Compensation Act cases and similarly Rs 16,947/- were awarded by Thirty-Ninth Lok Adalat in 8 Workmen's Compensation Act cases to the claimants.

The Fortieth and Forty-Third Lok Adalats[75] were held at Dharamsala and Kullu on August 8, 1992. 202 cases and 107 cases were respectively referred to these Adalats for disposal. The record available reveals that Fortieth Lok Adalat could settle 89 cases out of 202 and Forty-Third Lok Adalat succeeded in disposing of 62 cases out of 107. Thus, the success obtained by these Adalats was 44% and 58% respectively. The amount awarded by Fortieth Lok Adalat was to the tune of Rs 2,74,000/- in 11 M.A.C.Petitions whereas Forty-Third Lok Adalat did not award any amount of compensation.

The Forty-First Lok Adalat was organised at Rekong Peo on August 9, 1992[76]. There were only 30 cases for disposal. The Adalat, however, succeeded in disposing of 17 which comes nearly to 57% of the total. The highest performance was in the disposal of Private Criminal Complaints and the poor performance however, was witnessed with regard to the disposal of Civil Suits. Only 1 Civil Suit was disposed of out of 6

74. Ibid., pp.4-8
75. Ibid., pp.9 and 12.
76. Ibid., p.10.

referred to this Lok Adalat by the authority concerned. Similarly, no Execution Petitions were compromised by this Lok Adalat. It was on August 2, 1992 that Forty-Second Lok Adalat was organised at Keylong. There was a small list of 20 cases before the Lok Adalat and out of these it could succeed in compromising 6 cases which comes to 30% of the total. 100% success was obtained in disposing of Execution Petitions and Petitions under Section 125 Cr.P.C. The, poor performance is however, shown with regard to disposal of Civil Appeals. Out of 6 Civil Appeals it could only succeed in disposing of 1 Civil Appeal and thus the success was to the extent of 17% only.

The Forty-Fourth, Forty-Fifth[78] and Forty-Sixth[79] Lok Adalats were held on August 30, 1992 at Nurpur, Amb and Bilaspur respectively. In all there were 624 cases for disposal out of which 399 cases were settled amicably. The rate of success was 63.93%. The highest performance was shown by Forty-Fifth Lok Adalat held at Amb. It succeeded in resolving 72 cases out of 79 cases which comes to 91% of the total. Moreover, it settled 100% cases belonging to Civil Misc. Applications, Execution Petitions, Hindu Marriage Act cases and Private Criminal Complaints. Further, it also resolved 92% of the Civil suits and 70% of the Police Challans. Similarly, Forty-Sixth Lok Adalat achieved 100% success in disposing Criminal Appeals, Civil Misc. Appeals, Private Criminal Complaints and Petitions under Section 125

78. See, The Tribune, September 2, 1992, p.3.
79. Supra note 72, p.14.

Cr.P.C. Further, the Adalat got 75% success in disposing of Hindu Marriage Act cases and 76% Summary Challan cases. It could, however, not achieve good results in disposing of Civil Appeals, Criminal Revisions, Execution Petitions, Civil Misc. Applications, Police Challans, Private Criminal Complaints and cases under Section 107/150/145 Cr.P.C. The success in these cases was hardly between 25% to 40%. This Adalat awarded compensation to the tune of Rs 9,30,500/- to the affected parties[80].

The Forty-Seventh Lok Adalat[81] was held at Chamba on September 27, 1992. This Adalat took up 192 cases and could dispose of 104 which comes to 54% of the total. The Adalat achieved 100% success in cases belonging to Police Challans, Private Criminal Complaints, Guardian and Wards Act cases and Summary Challans cases. Out of 12 cases listed for disposal under Section 125 Cr.P.C. Only 4 could be settled amicably. It could, however, not settle even a single case pertaining to Succession Act, cases under Sections 107/150 Cr.P.C. and Workmen Compensation Act. The achievement in M.A.C.T. cases was 33% as it could hardly settle only 1 case out of 3. The Forty-Eighth, Forty-Ninth and Fiftieth Lok Adalats[82] were held on September 6, 1992 at Paonta Sahib, Palampur and Sundernagar respectively. There were in all 417 cases for disposal and out of these 298 cases were settled. The success thus achieved by these Lok Adalats was 71.20%. The highest performance was shown by Forty-Eighth Lok Adalat held at Paonta Sahib. It successfully resolved 179 cases out of 217 which comes to 82%

80. See, The Tribune, September 2, 1992, p.3. The Lok Adalat was presided over by the Additional District and Sessions Judge, Ms. Aruna Kapoor.
81. Supra note 72, p.15.
82. Ibid., pp.16-18.

of the total. It settled 100% cases pertaining to Hindu Marriage Act, Arbitration Act and Police Challans. 99% and 87% success was achieved in Summary cases and Civil Misc. Applications. A sum of Rs 67,840/- was awarded as a matter of compensation to the aggrieved in 1 Workmen Compensation Act case. Similarly, 139 cases were taken up by Forty-Ninth Lok Adalat and settled 85 cases which constituted 61% of the total. 100%, 83%, 67%, 64% success was achieved in the case of Private Criminal Complaints, Summary Challans, Police Challans and Civil Suits respectively. Only 31% success was achieved in Hindu Marriage Act cases. Further the Fiftieth Lok Adalat took up 61 cases for disposal. It could settled 34 cases which comes to 56% of the total. The Adalat could not get any success in the disposal of Hindu Marriage Act cases.

The Himachal Pradesh State Legal Aid Board showed a lot of interest in holding five Lok Adalats on September 12, 1992 at Kangra, Hamirpur, Gumarwin, Sarkaghat and Nalagarh. These Lok Adalats were numbered as Firty-First, Fifty-Second, Fifty-Third, Fifty-Fourth and Fifty-Fifth respectively[83]. In all, there were brought 1,389 cases before these Lok Adalats. Only 1,049 cases were settled. Thus the success achieved was 75.50%. The Fifty-First Lok Adalat took up 117 cases for disposal and could settle 60 cases which constituted 51% of the total. 609 cases were taken up by Fifty-Second Lok Adalat. It succeeded in settling 593 cases which constituted 97% of the total. The remarkable feature was that it achieved 100% success in the cases belonging to M.A.C. Petitions, Civil

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83. Ibid., pp.19-23.

Appeals, Civil Misc.Appeal, C.M.A., Rent cases, Small cause cases, Executions, Arbitration Act cases, Panchayat Act cases, Police Challans and Summary cases. The poor performance of this Adalat was only in Workmen Compensation Act cases. Out of 4 cases it could not compromise even the single case. Rs 1,00,000/- was awarded as a matter of compensation in 1 M.A.C. Petition. Similarly, 418 cases were taken up by Fifty-Third Lok Adalat[84]. Out of these 246 cases were settled amicably. The success was the extent of 59%. It achieved 100% success in Criminal Misc. cases, 83%, 81%, 64% success was achieved in cases pertaining to Summary trials, Civil Misc. Applications and Execution Petitions respectively. It could however, not decide any case belonging to Payment of Wages Act. Further, the performance of Fifty-Fourth Lok Adalat was quite good. 83 Cases were taken up by this Adalat and settled 76 which comes to 92% of the total. The 100% success achieved by this Adalat included the cases pertaining to Civil Misc. Applications, Criminal Misc. Applications and Execution Petitions. Similarly, 23 Civil Suits were disposed of out of 25 which constituted 92% of the total. The Fifty-Fifth Lok Adalat which was held at Nalagarh could dispose of 74 cases out of 162. A sum of Rs 62,900/- was awarded as a matter of compensation in 1 M.A.C. Petitions, 1 Workmen Compensation Act case and 7 Payment of Wages Act cases. It achieved 100 success in 10 Civil Misc. Applications, 1 Execution Petition, 2 Hindu Marriage Act cases, 1 Election Petition and 1 Private

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84. This Lok Adalat was presided over by the District and Sessions Judge, Ms.Aruna Kapoor; also see The Tribune, September 16, 1992, p.3.

Criminal Complaint. It, however, could achieve 14% success in M.A.C. Petition, 11% success in Workmen Compensation Act cases and 17 in Petition under Section 125 Cr.P.C.

The State of Himachal Pradesh organised Fifty-Sixth, Fifty-Seventh and Fifty-Eighth Lok Adalats[85] on September 20, 1992 at Una, Dehra and Rampur respectively. These Lok Adalats took up 596 cases for disposal. Out of these 440 were resolved amicably which comes to 73.80% of the total. Similarly, 209 cases were brought before Fifty-Sixth Lok Adalat and could dispose of 176 cases which constituted 84% of the total. A sum of Rs 3,37,000/- was awarded to the claimant in 8 M.A.C. Petitions. 100% success was achieved in Civil Misc.Appeals, small causes cases, Rent cases, Hindu Marriage Act cases, Private Criminal Complaints, Petitions under Section 125 Cr.P.C. and Criminal Transfer Applications. 49 Civil Misc. Applications were disposed of out of 52 listed before it for settlement. It also succeeded in disposing of 8 M.A.C. Petitions out of 17. Similarly, the Fifty-Seventh Lok Adalat took up 105 cases for disposal and could settle 55. This comes to 55% of the total. The Adalat secured 100% success in 1 Hindu Marriage Act case and 1 Private Criminal Complaint referred to it. 35 Civil Suits were decided out of 70, and 10 Civil Misc. Applications out of 14. Further, the Fifty-Eighth Lok Adalat settled 74% of the cases referred to it for disposal. It took up 282 cases for resolution and achieved a satisfactory success by disposing of 209 cases which included

85. Supra note 72, pp.24-26.

110 Summary cases, 21 Petitions under Section 125 Cr.P.C., 22 Police Challans, 3 Private complaints, 45 Civil suits, 3 each Hindu Marriage Act cases and Execution and 1 each Civil Misc. Applications and Rent case. The Adalat achieved more than 50% success in all cases except in Civil Misc. Applications and Execution Petitions. In these categories of cases, it could achieve hardly 25% and 43% success respectively.

The Fifty-Ninth and Sixtieth Lok Adalats[86] were organised on September 21, 1992 at Solan and Mandi. These Adalats took up 586 cases for disposal and could resolve 357 cases. This comes to 60.90% of the total cases referred to this Adalat. The Fifty-Ninth Lok Adalat settled 78 cases out of 224 referred to it which constituted 35% of the total. A sum of Rs 1,7,540/- was awarded as a matter of compensation to 2 each M.A.C.T. and Workmen Compensation Act cases. The Adalat decided 2 each M.A.C. Petitions, Hindu Marriage Act cases, Workmen Compensation Act cases, 1 each Civil Misc. Applications, Execution Petition, Guardian and Wards Act case, 7 each Rent cases, petitions under Section 125 Cr.P.C., 5 each cases under Sections 107/150 Cr.P.C., Revenue cases, 23 Civil suits and 15 Private Criminal complaints. The performance of Sixtieth Lok Adalat can be seen from the fact that it took up 362 cases for settlement and disposed of 279 cases amicably. This constituted 77% of the total cases referred to it for amicable resolution of disputes. The success also be seen from the amount which it awarded to the claimants in 48 M.A.C. Petitions. The amount awarded was Rs 13,17,800/-. The Adalat achieved 100% success in 1 each Small Cause case, Pauper

86. Ibid., pp.27-28.

Applications and Panchayat case. However, the success was 93% in 13 Civil Apeals and 40 Civil Misc. Applications. It could not perform well in Execution Petitions. The rate of success in this regard was 33% only.

The Sixty-First Lok Adalat was organised at Shimla on October 18, 1992. This Adalat was presided over by Mr.M.R.Verma, District and Sessions Judge[87]. In all, 556 cases were placed before 10 benches of the Lok Adalat, out of which 259 cases were amicably settled and disposed of[88]. A sum of Rs. 10,90,222/- was awarded as Compensation in 27 M.A.C. Petitions. The Adalat got remarkable success in settling disputes relating to Guardian and Wards Act cases, Arbitration Act cases, Police Challans, and Petitions under Section 125 Cr.P.C. However, it could not perform well in disposing of Civil Misc. Applications, M.A.C. Petitions, HIndu Marriage Act cases, and Civil Suits. The Lok Adalat could merely succeed in settling 35% of these cases.

The Sixty-Second Lok Adalat was organised at Nahan on November 1, 1992. A list of 146 cases was drawn for amicable settlement. The Adalat, however, could succeed in disposing of 74 cases which comes to 51% of the total. The highest performance is shown to have been made in Criminal Misc. Applications, Summary cases and Rent cases. The success was between 67% to 100%. However, the record shows that it could not show good results in disposing of Hindu Marriage Act cases, Civil Suits, Civil Misc.Applications and Police Challans[89].

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87. See, The Tribune, October 19, 1992.
88. Id.
89. It is clear from the fact that it could dispose only 8 Civil Suits out of 35, one Hindu Marriage Act case out of 5, one Police Challans out of three and 5 Civil Misc. Applications out of 16.

The Sixty-Third Lok Adalat[90] was held at Rohru on November 14, 1992. The Adalat could dispose of 75 cases out of 212. The success was to the extent of 35%. It is revealed that it achieved 62% success in disposing of Private Criminal Complaints, 60% in case of revenue cases and 42% in the matters of Summary trials. The performance with regard to the disposal of Civil Suits, Civil Misc. Applications, Execution Petitions and Petitions under Section 125 Cr.P.C. remained quite poor. Especially in case of Civil suits, only 24 were disposed of out of 81 with the result that it could dispose of merely 30% of the cases. Same remained the case with regard to the disposal of Civil Misc.Applications. It could succeed hardly in settling 7 Civil Misc.Petitions out of 28 listed for the disposal.

The Sixty-Fourth Lok Adalat[91] was organised at Theog on November 22, 1992. The total number of cases taken up for disposal was 345 out of which the Adalat could hardly settle 78 cases. Thus, it is quite evident that it achieved only 23% success in the disposing of cases. Moreover, the success remained absolutely poor in the cases of Civil Suits, Only 14 Civil Suits could be disposed of out of 116 and there was only 12% disposal in these matters. Similarly, there was poor disposal of Summary cases, Revenue cases and Civil Misc. Applications.

The Sixty-Fifth Lok Adalat was arranged at Chopal[92] on November 29, 1992. It was a kind of Mini Lok Adalat. It succeeded in disposing of 25 cases out of 60. The highest

90. Supra note 72, p.31.
91. The data has been collected in person by the researcher from the Office of Sub-Judge,Theog
92. Supra note 72, p.33.

success was in the disposal of Execution Petitions. The Adalat disposed of 13 Execution Petitions out of 23. There was, however, poor disposal of Civil Suits as only 4 Civil Suits were disposed of out of 18 and it succeeded in settling hardly 22% of the total Civil Suits.

The study further reveals that the Himachal State Legal Aid Board organised 30 Lok Adalats at different places of the State during the period February 28, 1993 to June 12, 1993[93]. The total number of cases taken up by these Lok Adalats were 4,699 and out of these only 2,742 cases were settled thus achieving the success to the extent of 58.40% of the total referred to these Lok Adalats for disposal. A detailed description of the working of these Adalats is shown in Table-4

93. Ibid., pp.34-63.

TABLE-4

Sr.No.	Name of Lok Adalat	Date of Holding Lok Adalat	Place of Holding Lok Adalat	No. of Cases Taken up	Disposal	M.A.C.T. Petitions	H.M.Act Cases	Workmen Compensation Act cases	Maintenance cases (125 Cr.P.C)	Compensation	Percentage
I	II	III	IV	V	VI	VII	VIII	IX	X	XI	XII
1	Sixty-Sixth	28.2.1993	Amb	107	74	-	1	-	1		69%
2	Sixty Seventh	28.2.1993	Sarkaghat	133	110	-	-	-	8		83%
3	Sixty Eighth	28.2.1993	Nurpur	153	64	-	1	-	1		42%
4	Sixty Ninth	28.2.1993	Bilaspur	225	167	23	-	2	1	14,40,000	74%
5	Seventieth	13.3.1993	Hamirpur	243	207	-	-	-	5	-	85.18%
6	Seventy First	13.3.1993	Dehra	147	101	-	-	-	4	-	69%
7	Seventy second	13.3.1993	Ghumarwin	262	108	-	-	-	1	-	41%
8	Seventy Third	14.3.1993	Mandi	235	178	39	2	2	14	4,71,158	76%
9.	Seventy Fourth	14.3.1993	Nalagarh	93	25	-	-	-	-	-	27%
10.	Seventy Fifth	21.3.1993	Una	254	175	3	6	-	6	1,35,500	69%
11	Seventy Sixth	21.3.1993	Solan	134	108	-	2	-	2	-	81%
12	Seventy Seventh	21.3.1993	Kangra	121	59	-	1	-	3	-	49%
13	Seventy Eighth	21.3.1993	Kullu	104	45	3	-	-	1	60,000	43%
14	Seventy Ninth	28.3.1993	Paonta Sahib	272	197	-	-	-	7	-	72%
15	Eightieth	28.3.1993	Dharamsala	183	78	7	6	-	5	4,42,000	43%
16	Eighty First	28.3.1993	Sundernagar	96	43	-	2	-	4	-	45%
12	Eighty Second	28.3.1993	Rampur	138	90	-	-	-	4	-	65%
18	Eighty Third	4.4.1993	Chamba	151	86	2	8	-	3	30,500	57%
19.	Eighty Fourth	4.4.1993	Shimla	382	139	11	-	-	1	7,89,742	36%
20	Eighty Fifth	4.4.1993	Palampur	225	120	-	-	-	9	-	53%
21	Eighty Sixth	18.4.1993	Nahan	229	149	13	-	2	-	7,53,824	65%
22	Eighty Seventh	18.4.1993	Rohru	262	111	-	-	-	3	-	42%
23	Eighty Eighth	18.4.1993	Jogindernagar	81	64	-	2	-	6	-	79%
23	Eighty Ninth	8.5.1993	Dalhousie	62	39	-	1	-	1	-	63%
25	Ninetieth	16.5.1993	Chopal	60	32	-	-	-	2	-	53%
26	Ninety First	16.5.1993	Rajgarh	55	24	-	-	2	1	1,77,476	44%
27	Ninety Second	23.5.1993	Theog	159	47	-	-	-	1	-	30%
28	Ninety Third	23.5.1993	Arki	51	48	-	-	-	1	-	94%
29	Ninety Fourth	6.6.1993	Karsog	41	37	-	-	-	6	-	80%
30	Ninety Fifth	12.6.1993	Rekong Peo	41	17	-	-	-	9	-	41%
	Total			4,699	2,742	101	32	8	110	43,00,200	58,40%

The study of Table-4[94] shows that a sum of Rs 4,00,200/- was awarded as a matter of compensation in 101 M.A.C. Petitions and 8 Workmen Compensation Act cases. It is further revealed that 32 Hindu Marriage Act cases were compromised during the course of five months. The study of Column XII of Table-4 above discloses that Ninety-Third Lok Adalat held on May 5, 1993 at Arki ranked first settling 94% of the cases referred to it for disposal. The performance shown by Seventieth Lok Adalat, Sixty-Seventh Lok Adalat, Seventy-Sixth Lok Adalat and Ninety-Fourth Lok Adalat was quite praise-worthy. However, Seventy-Fourth Lok Adalat, Ninety-Second Lok Adalat and Eighty-Fourth Lok Adalat could not show good results in the settlement of disputes referred to it for disposal. The Seventy-Fourth Lok Adalat held at Nalagarh on March 14, 1993 could dispose of 25 cases out of 93, Ninety Second Lok Adalat held on May 23, 1993 at Theog disposed of 47 cases out of 159. Thus, the percentage of disposal of cases remained quite poor and the success was hardly between 25% to 30%.

The Ninety-Sixty, Ninety-Seventh and Ninety-Eighth Lok Adalats were held on August 22, 1993 at Bilaspur, Amb and Nurpur respectively[95]. In all, 620 cases were placed before these Lok Adalats, out of which 381 cases were amicably resolved and thus achieved 61.45% success in all. Similarly, 237 cases were referred to Ninety-Sixth Lok Adalat for amicable settlement. It resolved 182 cases which constituted 77% of the total. A sum of Rs 4,55,740/- was paid as a matter

94. Ibid., pp.33-63
95. Ibid., pp.64-66.

of compensation in 10 M.A.C. Petitions. It achieved 100% success in disposing cases of Summary trials and Criminal Misc. nature. The Adalat could decide 10 M.A.C. Petitions out of 28. The Adalat also succeeded in disposing of 17 Civil Suits out of 33. However, the Adalat could not decide even a single case pertaining to Private Criminal Complaints and Workmen Compensation Act. Similarly, the Ninety Seventh Lok Adalat disposed of 45 cases out of 85. It achieved 100% success in settling Hindu Marriage Act cases and Private Criminal Complaints. It could decide 16 Civil Suits out of 29 and 13 Civil Misc. Applications out of 23. The performance was poor in respect of Petition under Section 125 Cr.P.C. and Criminal Misc. cases. the rate of success in these cases were 22% and 25% respectively. Further, the Ninety-Eighth Lok Adalat took up 298 cases for settlement and could resolve 154. This constituted 52% of the total. 108 Civil Suits out of 209 and 29 Civil Misc.Applications out of 61 were resolved by this Lok Adalat. The success with regard to maintenance cases was poor as it could settle hardly 2 cases out of 6. The Ninety-Ninth Lok Adalat[96] scheduled to be held at Keylong on August 29, 1993 and subsequently postponed to October 3, 1993 was cancelled vide Order (at N/154) passed by the Hon'ble Chief Justice and conveyed through letter dated September 25,1993.

The Hundredth Lok Adalat was organised at Hamirpur on September 9, 1993[97]. The total number of cases taken up by this Adalat was 266. Out of these, 235 were settled which

96. Ibid., p.66
97. See, The Tribune, September 6, 1993, p.3.

comes to 88 of the total listed before it for decision. A detail of the cases decided by this Lok Adalat is as under:

TABLE-5

Sr.No.	Nature of cases	Total No.of cases taken up	Disposal	Compensation in Rs.	Percentage
1	M.A.C. Petitions	8	3	1,05,000/-	38%
2	Civil Appeals	19	14	-	74%
3	Civil Misc.Appeals	2	1	-	50%
4	Civil Suits	89	78	-	88%
5	Rent Petitions	1	1	-	100%
6	Civil Misc.Applications	90	89	-	99%
7	Execution Petitions	7	7	-	100%
8	Hindu Marriage Act cases	9	7	-	78%
9	Petitions under Order 21 Rule 32 CPC	1	1	-	100%
10	Criminal Revisions	4	4	-	100%
11	Private Criminal Complaints	5	2	-	40%
12	Police Challans	6	6	-	100%
13	Petitions under Section 125 Cr.P.C.	9	9	-	100%
14	Forest cases	3	3	-	100%
15	Panchayat Transfer Applications	1	1	-	100%
16	Cr.Misc.Applications	3	3	-	100%
17	Correction Applications	1	-	-	-
18	Kalandra	8	6	-	75%
	Total	266	235	1,05,000	88%

It is revealed from Table-5 that a sum of Rs 1,05,000/- was awarded as a matter of Compensation in 3 M.A.C. Petitions. It is further shown that it achieved 100% success in cases belonging to Rent, Execution, Petitions under Section 125 Cr.P.C., Criminal Revisions, Police Challans, Forest Cases, Panchayat Transfer Application, Criminal Misc. Applications and Petition under Order 21, Rule 32 C.P.C. The Adalat disposed of 78 cases of Civil Suits out of 89 and 89 Civil Misc. Applications out of 90. There was, however, poor disposal of M.A.C. Petitions as only 3 out of 8 could be settled and thus, it obtained 38% success in M.A.C.Petitions.

The State Legal Aid Board organised Hundred-First, Hundred Second and Hundred-Third Lok Adalats[98] on September 11, 1993 at Sundernagar, Kangra and Ghumarwin respectively. In all, 492 cases were taken up by these Adalats and could resolve 233 cases. The success was 49% of the total referred to it for disposal. It is however, evident from the record that Hundred First Lok Adalat could not perform well. It could succeed in settling only 6 cases out of 83 which hardly comes to 7% of the total. Further, it could not resolve even a single case of Civil Misc. Applications, Hindu Marriage Act, Private Criminal Complaints and Petitions under Section 125 Cr.P.C. The Hundred Second Lok Adalat took up 225 cases and settled 115 which constituted 51% of the total. The Hundred Third Lok Adalat settled 112 cases out of 184 and thus got 61% success in the overall disposal of cases. The remarkable feature is that it achieved 100% success in cases belonging to

98. Supra note 72, pp.68-70.

Private Criminal complaints and cases under Section 446 Cr.P.C. But it could not settle even a single case pertaining to cases under Sections 133,145,126 Cr.P.C., Panchayat Appeal and Workmen Compensation Act cases.

The Hundred-Fourth, Hundred Fifth, Hundred-Sixth and Hundred-Seventh Lok Adalats[99] were organised on September 19, 1992 at Sarkaghat, Nalagarh, Una and Dehra respectively. The total number of cases taken up by these Adalats were 678 out of which only 520 cases were disposed of. The success therefore was 76.69%. The remarkable feature of the Hundred-Fourth Lok Adalat was that it achieved 100% success in cases belonging to Execution Petitions and Petitions under Section 128 Cr.P.C. Further it succeeded 92% success in Police Challans, 76% in Civil Suits, 75% in Private Criminal Complaints, 51% in Civil Suits, 50% in Civil Misc. Petitions and 45% in Petitions under Section 125 Cr.P.C. The Hundred-Fifth Lok Adalat succeeded in settling 39 cases out of 73. A sum of Rs 1,94,548/- was awarded as a matter of Compensation in 2 M.A.C. Petitions and 2 Workmen Compensation Act cases. The 100% success was achieved in cases belonging to Summary Trial, Workmen Compensation Act and under Section 107/150 Cr.P.C. It, however, could not show good results in cases pertaining to HIndu Marriage Act and Maintenance. Further, Hundred-Sixth Lok Adalat took up 163 cases and settled 132 which constituted 81% of the total. Moreover, it obtained 100% success in Rent Petitions, Private Criminal Complaints, Criminal Misc.Applications and Police Challans. The Adalat

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99. Ibid., pp.71-74.

settled 6 Petitions under Section 125 Cr.P.C., 1 M.A.C. Petition, 36 Civil Suits, 1 Civil Appeal, 63 Civil Misc. Applications, 8 Hindu Marriage Act cases, 6 Private Complaints, 1 Rent Petition, 7 Police Challans and 2 Criminal Misc. Applications. The success in the disposal of M.A.C. Petitions and Civil Appeals was quite poor and could hardly dispose of 25% cases. The performance shown by the Hundred-Seventh Lok Adalat was excellent one. It succeeded in settling 83% cases. 100% success was however, obtained by it in cases pertaining to Hindu Marriage Act, Rent Matters, Election, Criminal Transfer Applications and other Central and State Act cases.

The Himachal Pradesh State Legal Aid Board organised Hundred-Eighth and Hundred-Nineth on September 26, 1993 at Solan and Mandi[100]. 675 cases were taken up out of which 441 cases were disposed of, obtaining an overall success of 65.3%. The Adalat performed very well with regard to Rent Petitions and Private Criminal Complaints. The rate of success was 100%. Similarly, Hundred-Nineth Lok Adalat took up 471 cases for disposal and could compromise 317 cases and thus obtained 67% success in total. A sum of Rs 7,47,000/- was awarded as a matter of compensation to the claimants in 17 M.A.C.Petitions.

The Hundred-Tenth and Hundred-Eleventh Lok Adalats were held on October 3, 1993 at Dharamsala and Rampur respectively[101]. 277 cases were brought before these Adalats for disposal. Out of which 115 cases were settled amicably which comes to 41.5% of the total. A sum of Rs 1,07,500/- was

100. Ibid., pp;.75-76.
101. Ibid., pp.77-78.

paid to the aggrieved in 4 M.A.C. Petitions. The Hundred-Tenth Lok Adalat took up 226 cases and succeeded in disposing of 84 cases only. The performance was quite poor in M.A.C.T. cases. Out of 40 M.A.C. Petitions, the Adalat could resolve 4 cases only. Hundred Eleventh Lok Adalat settled 31 cases out of 51 and got 61% success in the settlement of the disputes. The Adalat, however, obtained 100% success in the disposal of Summary Cases. In other cases it was between 33% to 63%.

The HUndred Twelveth, Hundred Thirteenth and HUndred Fourteenth Lok Adalats were organised in October 9, 1993 at Shimla, Palampur and Paonta Sahib respectively[102]. In all, 775 cases were placed before these Adalats, out of which 253 cases were amicably resolved and achieved 32.6% success. Similarly, the Hundred Fifteenth and Hundred Sixteenth Lok Adalats were held on October 17, 1993 at Kullu and Chamba respectively[103]. Of a total of 327 cases that came up for decision, 292 were disposed of and compensation worth Rs 7,02,884/- was awarded to the affected parties. The success of these Adalats was praise-worthy with regard to Motor Accident Claims, Civil Appeals, Criminal Revisions, Summary cases, Private Criminal Complaints and Police Challans. The Adalats achieved 89% success in the disposal of these cases.

The Himachal Pradesh State Legal Aid Board organised Hundred Seventeenth and Hundred Eighteenth Lok Adalats on November 7, 1993 at Rohru and Jogindernagar respectively[104]. As many as 98 of the 191 cases were decided, having an overall

102. Ibid., p.79-81.
103. Ibid., pp.82-83; The record of Hundred Fourteenth Lok Adalat was collected by the researchers on October 17, 1993 in person from the Office of Additional District Judge,Kullu.
104. Ibid., pp.84-85; The figures with regard to Hundred Seventeenth Lok Adalat has been collected in person by the researcher from the Office of Sub-Judge-cum-Judicial Magistrate Rohru.

success rate of 51.3%. Individually, the Hundred Seventeenth Lok Adalat listed 94 cases for disposal but could settle hardly 24. These included 5 Civil Suits out of 35, three Execution Petitions out of 6, 12 Summary cases out of 21, and 2 Private Complaints out of 14. The Adalat also decided 2 Police Challans out of 6. Similarly, 93 cases were placed before the Hundred Eighteenth Lok Adalat and resolved 74 cases amicably. The Adalat thus achieved 80 success in settling the disputes. The success was however, 100% in cases belonging to Police Challans and Petitions under Section 125 Cr.P.C., whereas it was 67% to 81% in other suits. The success with regard to Rent Petitions was nil.

The Hundred Nineteenth Lok Adalat[105] was held at Nahan on November 21, 199. In all, 270 cases were placed before this Adalat and it could settle 120 cases only. This constituted 44.5% of the total cases referred to it for amicable settlement. A sum of Rs 4,56,000/- was paid to the claimants in 14 M.A.C. Petitions. The detail of the cases settled by the Hundred Nineteenth Lok Adalat is given as under:

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105. Supra note 72, p.86.

TABLE-6

Sr.No.	Nature of case	Total No. of cases taken up	Disposal	Compensation
1	Civil Appeals	5	3	-
2	Civil Misc.Appeals	3	2	-
3	HIndu Marriage Act cases	5	2	-
4	Criminal Revisions	4	3	-
5	Workmen Compensation Act cases	3	-	-
6	Civil Suits	30	6	-
7	Rent Cases	2	1	-
8	Civil Misc.Applications	17	8	-
9	Guardianship & Ward Act cases	1	-	-
10	Cases under Sections 125 Cr.P.C.	4	1	-
11	Executions	3	-	-
12	Police Challans	2	2	-
13	M.C.Act cases	109	63	-
14	Mines Act cases	7	2	-
15	Motor Vehicle Act cases	5	5	-
16	Shop Act	14	8	-
17	M.A.C.Petitions	56	14	4,56,000
	Total	270	120	4,56,000

The Table 6 reveals that the Adalat achieved 100% success in Motor Vehicle Act cases and Police Challans. Further it could settle 63 Municipal Corporation Act cases out of 109, 14 Motor Accident Claims Petitions out of 56, 8 Shop Act cases out of 14, 8 Civil Misc.Applications out of 17, 6 Civil Suits out of 30, 2 Mines Act cases out of 7, 3 Criminal Revisions out of 3. It is also revealed from the table that a sum of Rs 4,56,000/- was awarded as a matter of compensation in 14 M.A.C. Petitions.

The Hundred Twentieth Lok Adalat[106] was organised at Theog on November 11, 1993. The Adalat was presided over by Additional District and Sessions Judge Ms. Aruna Kapoor. As many as 36 cases were settled out of 160 referred to it for amicable resolution. The success obtained by this Adalat comes to 25% the total. The Adalat resolved 3 Indian Penal Code cases, 6 Civil Suits (Money suits), 9 Civil Suits, 1 Civil Misc. Applications, 6 cases under Section 125 Cr.P.C., 10 Executions and 1 Motor Vehicle Act case. A sum of Rs 300/- was imposed and realised as a fine in Motor Vehicle Act cases. Similarly, Hundred Twenty First Lok Adalat was organised at Chopal[107] on November 21, 1993. The detail of the success is shown as under:

TABLE-7

Sr.No.	Nature of cases	Total No.of cases taken up	Disposal	Compensation awarded in Rs.	Percentage
1	Civil Suits	10	4	-	40%
2	Executions	9	4	-	44%
3	C.M.A.	4	2	-	50%
4	Police Challans	5	3	-	60%
5	Private Complaints	5	3	-	60%
6	Petitions under Section 125 Cr.P.C.	6	4	-	67%
7	Motor Vehicle Act cases	1	-	-	-
	Total	40	20	-	50%

106. Ibid., p.87
107. Ibid., p.88.

It is revealed from the above Table that the Adalat settled 20 cases which included 4 each Civil Suits, Executions and Petitions under Section 126 Cr.P.C., 3 each Police Challans, Private Complaints, and 2 Civil Misc.Applications. However, no amount of compensation was awarded by the Adalat. The Adalat, however, could not settle Motor Vehicle Act case with the result that success remained zero percent. But the overall disposal was 50% i.e. it disposed of 20 cases out of 40.

The last Lok Adalat was held at Sundernagar[108] on November 21, 1993. It was presided over by Mr.M.R.Verma, District and Sessions Judge, Mandi. The Adalat took up 128 cases and could settle 40 only. The detail of the achievement is shown in the following table:

TABLE-8

Sr.No.	Nature of cases	Total No.of cases taken up	Disposal	Compensation in Rs.	Percentage
1	Civil Suits	56	18	-	31.1%
2	C.M.A.	32	8	-	25%
3	Executions	6	3	-	50%
4	H.M.P.	2	1	-	50%
5	Police Challans	15	7	-	46.6%
6	Petitions under Section 125/128 Cr.P.C.	10	2	-	20%
7	Criminal Complaints	4	-	-	-
8	Rent Petitions	1	1	-	100%
9	Compensation cases	2	-	-	-
	Total	128	40	-	31.25%

108. The data has been collected in person by the researcher from the Office of Sub-Judge-cum-Judicial Magistrate, Sundernagar on November 21, 1993.

It is revealed from the above table that 40 cases were settled which included 18 Civil Suits, 8 Civil Misc.Applications, 3 Executions, 1 Hindu Marriage Petition, 7 Police Challans, 2 Petitions under Sections 125/128 Cr.P.C. and 1 Rent Petition. In Rent Petition the success was 100%, whereas in Executions and HIndu Marriage Petitions it was 50%. The Adalat, however, could not settle the cases belonging to compensation and Criminal Complaints. The overall percentage of disposal thus remained only 31.25%.

Keeping in view the overall performance of the Lok Adalats of the State, we may sum up that the Himachal Pradesh State Legal Aid Board has so far organised 122 Lok Adalats at various places and succeeded in disposing of 15,408 cases out of 27,452 placed before them for disposal. A sum of Rs 2,71,67,351/- has been awarded in 650 M.A.C.T. and other cases during August 25, 1990 to December, 1993. The overall disposal of the cases is thus 56.12% which appears quite impressive.

V. Empirical Analysis of Lok Adalats:

(i) General Scenario:

The researcher has already made it very clear in the above discussion that there were no provisions in the State of Himachal Pradesh to hold Lok Adalats for the purpose of amicable settlement till the year 1984. We find that though Himachal Pradesh framed The Legal Aid to The Poor (Himachal Pradesh) Rules, 1973; The Himachal Pradesh Scheduled Castes

and Scheduled Tribes Legal Aid Rules, 1974; and The Himachal Pradesh State Legal Aid To The Poor Rules, 1980, yet there was no reference in these rules with regard to the holding of Lok Adalats in the State. It is apparently clear that there was neither any statutory recognition being given to this scheme nor was there any practice in existence with regard to the holding of Lok Adalats in the State. These rules were totally silent. It was for the first time that the State of Himachal Pradesh made specific rules known as 'The Himachal Pradesh Legal Aid Rules, 1984' and incorporated a specific provision under Rule 10(2 1) which obligated the Himachal Pradesh Legal Aid Board to arrange for Lok Nyayalayas in the State. So, it is now a primary duty of the Legal Aid Board to take necessary steps to hold Lok Adalats in consonance with the spirit inbibed in our National Charter[109]. The reality with regard to the scheme of Lok Adalat in the State is that the State Legal Aid Board has been made an incharge of the implementation of the legal services programmes in the State.

Despite the framing of 'The Himachal Pradesh Legal Aid Rules, 1984', the researcher has pitifully noticed that the State of Himachal Pradesh did not pay much attention to Rule 10(2 1) and the result was that not even a single Lok Adalat was held till the year 1990. Though the State Legal Aid Board had already come into existence and had held its first meeting on January 16, 1981[110], yet no efforts were made by the Board to organise Lok Adalats in the State[111]. The record

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109. See, Constitution of India, The Preamble, Article 14, 38, 39-A and 40.
110. P.L.Mehta, "Free Legal Aid Movement - A Theory And Practice In Himachal Pradesh", Indian Socio-Legal Journal, Vol.13,No.1 & 2, 1987, p.75 at 84.
111. For detail see, Chapter V, Genesis of Lok Adalat, supra.

made available by the Government of Himachal Pradesh as well as the State Legal Aid Board discloses that it could not hold any Lok Adalat till August 25, 1990. The record shows that first Lok Adalat was organised on August 25, 1990 and got inaugurated by the then Chief Justice of India Hon'ble Mr.Justice R.N.Misra; who was also the Executive Chairman of CILAS. However, the State of HImachal Pradesh has now diverted its full attention towards organising Lok Adalats in the State. 122 Lok Adalats have been organised so far disposing of 15,408 cases and achieved success in awarding Rs 2,71,67,351/ as a matter of compensation to the claimants in 650 M.A.C.T. and other cases. Besides, the Legal Aid Board has organised 282 Legal Literacy camps in various districts and Sub-Divisional headquarters of the State with the purpose to enlighten the people of the Pradesh about the functioning and the role being played by the Lok Adalats in administration of justice. The record available with the Law Department of Himachal Pradesh Government and Himachal Pradesh Legal Aid Board reveals that more than 16,500 pamphlets have been distributed to various Panchayats and Mahila Mandals to bring awareness about the functioning of the free Legal Aid as well as the Lok Adalats schemes. Moreover, the Government of Himachal Pradesh has so far provided Rs 54 lacs in the budgets for the year 1984 to 1993 to carry out the expenses of free Legal Aid and Lok Adalat Schemes[112]. To sum up, on the basis of the record available with the Government of Himachal Pradesh and H.P.Legal Aid Board, a year-wise break- up of the

112. The figures have been collected by the researcher from the Office of H.P.Legal Aid Board, Shimla in person on November 26, 1993 and Registrar(V),H.P.High Court,Shimla vide File. No. HHC/CJ/SPL-Secy/84-Vol.VI-6-A/92.

functioning of Lok Adalat in the State may be shown as under:

TABLE-9

Sr.No.		Total No.of Lok Adalats held	No.of cases taken up	No.of cases disposed of	M.A.C.T. cases decided	Compensation paid	Percentage of disposed of cases
I	II	III	IV	V	VI	VII	VIII
1	Aug.25,1990 to Dec.31,1990	1 First Lok Adalat	406	181	6	1,77,000	44.58%
2	Jan.1991 to Dec.,1991	10	5,274	2,626	252	1,13,33,465	49.79%
3	Jan.1992 to Dec.1992	54	12,179	7,157	219	72,39,822	58.91%
4	Jan.1993 to Dec.1993	57	9,593	5,426	173	84,17,064	56.56%
	Total	122	27,452	15,408	650	2,71,67,351	56.12%

The study of Table 9 shows that Himachal Pradesh Legal Aid Board has so far organised 122 Lok Adalats during the period August 25, 1990 to December 1993 and succeeded in compromising 15,408 cases out of 27,452 and awarded Rs 2,71,67,351 as compensation in 650 M.A.C.T. and other cases. In this way, the achievement of the Lok Adalat lies in the fact that they have been successful in disposing of 56.12% of the cases referred to them for disposal.

(ii) Universe of Investigations:

In order to know the real working of the Lok Adalat, the researcher has used multi-proged approach and endeavoured to collect as much relevant information as possible through different sources. The researcher has mainly relied on the available record and literature in various libraries of the State including Report of the Government, Newsletters, Newspapers and the data available with the Office of Registrar

(vigilance), H.P.High Court Shimla and H.P.State Legal Aid Board, Shimla. In addition to these sources, the researcher has also collected information with the help of extensive interviews and the questionnaires. Moreover, the researcher has attended many Lok Adalats in person to have on the spot observation about the functioning of the Lok Adalats. The questionnaires prepared by the researcher and scrutinized by the supervisor in association with the experienced teachers having skill and accumenship in this field are quite comprehensive which envelope within their ambit almost every aspect of the functioning of the Lok Adalat.

With a view to gather information with regard to the working of Lok Adalats in the State, the researcher has constructed questionnaires to elicit the views of the officials associated with the functioning of Lok Adalat, such as the Judges of the Courts, Members of H.P.Legal Aid Board, the Advocates, and the Executive Magistrates vested with the responsibility to discharge judicial functions in the capacity of the Conciliators of the Lok Adalats. The researcher has also put earnest efforts to elicit the views of the disputants who agree to refer their cases to the Lok Adalat for disposal. There is also a questionnaire which deals with the role of advocates who appeared before the Lok Adalat as Counsellors of the parties. Moreover, the researcher has also constructed a questionnaire dealing with the view points of the general public with regard to the role and functioning of the Lok Adalat in the State.

Accordingly, the study has been extended to the whole districts of Himachal Pradesh which are twelve in number. The researcher has put earnest efforts to construct a systematic design of the study to find answers to the hypothesis raised in the study. The emphasis has been laid on four aspects of the functioning of the Lok Adalat with a view to find correct answers to the hypotheses which are:

(a) Whether the Lok Adalat as dispute management institution has any role in the present complexed and complicated judicial system which oftenly opens a pandora box of legal questions before arriving at a conclusion and giving relief to the parties in dispute.

(b) Whether the justice delivery system is effective in the changing socio-economic milieu and if it is not whether it needs any reintroduction of jury system on U.S. pattern.

(c) To what extent Lok Adalat has the social and community acceptance in the light of the changing philosophy of our society.

(d) Whether the Lok Adalat has any need of Constitutional and legal recognition in the light of present time-frame.

For the purpose of having appropriate answers the researcher has chosen all the twelve districts of Himachal Pradesh for the reason to ascertain the exact functioning of the Lok Adalat scheme in the State. Since the State has a composite structure of tribal and non-tribal areas, the researcher has included both areas in his study. Every efforts

has been made by the researcher to give to each district an opportunity to be represented through the officials, politicians, disputants, advocates and the general public to express their views and assess the contribution of the Lok Adalats, functioning since August 25, 1990 in the State. The views of the Judges, disputants, advocates and general public which also include politicians of different shades have been ascertained to arrive at the conclusion and work out answers for the hypotheses stated above. The views of a total number of 60 officials directly or indirectly concerned with the functioning of Lok Adalat, 200 disputants, 60 advocates, and 180 people of different walks of life belonging to the different districts of the State have been obtained through the questionnaires[113]. The views of a select number of personalities functioning at the apex of the judicial system have also been obtained and the researcher was fortunate enough to have the co-operation from them.

(iii) Responses to Questionnaire For Persons Associated With Administration of Lok Adalat Scheme[114]

The researcher has collected responses from 60 persons who are in the charge of rendering justice to the disputants in the capacity of the Judges of the Lok Adalats in the State. The researcher has collected the responses through the questionnaires served on them in person or through postal

113. The questionnaires prepared were got completed by the researcher in his own presence and obtained their signatures there and then.

114. See Annexture-I

services. There are 45 questions in all dealing with legal awareness of the functioning of Lok Adalats, the legal sanctity of the Lok Adalat, Criteria for making a panel of the Lok Adalat Judges, mode of selecting the place of Lok Adalat, factors dealing with the question of making reference of the disputes to the Lok Adalat, Constitution of the benches of the Judges of the Lok Adalat, criteria to be followed for the constitution of the benches of the Lok Adalat, the significance being accorded by the Lok Adalats with regard to legal formalities, role of the advocates in the disposal of cases before the Lok Adalat, reasons for less references of cases to the Lok Adalat, the steps desirable to increase the number of the reference of cases to the Lok Adalat, monitoring mechanism to supervise the functioning of Lok Adalat scheme, role of the Himachal Government with regard to the organising of literacy camps at different levels, role of senior advocates, the mode of bearing expenses by the Lok Adalat, role of the vilage Panchayats in promoting the functioning of Lok Adalats, primary objective of holding the Lok Adalats, impact of the Lok Adalats on the outlook of the people, jurisdiction of the Lok Adalat, the role of the disputants, role of the women's participation in the functioning of Lok Adalats, limits on the functioning of the Lok Adalats, powers of the Lok Adalats to compulsorily summon the parties before it, role of Lok Adalat as an instrument of dispensation of justice rather than its propaganda value, steps required to be taken to make the Lok Adalats a great

success at village level, effectiveness of the decisions of the Lok Adalat, nature of punishment being awarded, if any, by the Lok Adalat and the stage of the case at which it may be referred to the Lok Adalat for amicable settlement.

The various authorities were interviewed for this purpose which mainly included the Hon'ble Acting Chief Justice H.P.High Court Shimla, the regular Judge of District and Subordinate Courts, Deputy Commissioners, Sub-Divisional Magistrates, Member-Secretary, H.P.State Legal Aid Board, Law Secretary to the Government of Himachal Pradesh, Additional Secretary Law, District Attorneys, Assistant District Attorneys, Professors of Law, Himachal Pradesh University, Senior Advocates who have the experience to have worked on many occasions as Judges of the Lok Adalats, and Presidents of Bar Associations. The compilation of the responses concerning the question whether the rules framed by the State Government for holding Lok Adalat derive their authority from H.P.Legal Aid Rules, 1984 reveals that 36 out of 60 respondents have given answers in affirmative and are of the view that there are no separate rules regarding holding of Lok Adalats in the State. To a great extent they agree that the Lok Adalats in Himachal Pradesh are being organised in the light of spirit contained in H.P.State Legal Aid Rules, 1984. The Hon'ble Acting Chief Justice Mr. Bhawani Singh has also responded in affirmative and has specifically added in his response that the rules framed by State Government for holding Lok Adalats derive their authority from Himachal Pradesh Legal Aid Rules,

1984. His views are also supported by Member-Secretary, H.P. Legal Aid Board Shri Rameshwar Sharma, Deputy District Attorney, H.P. Legal Aid Board, Shri Ravinder Dhaulta, Additional Secretary (Law) to Government of Himachal Pradesh Shri Mrigendra Singh, Professor C.L.Anand, Dean Faculty of Law, H.P.University, Shimla, Dr. B.R.Sharma, Associate Professor of Law, H.P.University, Shimla and Dr.Suresh Kapur Associate Professor of Law, H.P.University, Shimla. However, 24 respondents have given their answers in the negative. According to them, there are no rules in existence from where the State Government has derived authority to frame the rules for holding the Lok Adalats. But they have not mentioned any other rule from where the State derive an authority to made rules for holding the Lok Adalats in the State. So far as the question of legal sanctity of the functioning of Lok Adalat in the State is concerned, 35 out of 60 respondents have stated that there is no legal sanction to decide cases by the Lok Adalat. The Hon'ble Acting Chief Justice, H.P.High Court, Shimla, Member-Secretary, H.P. State Legal Aid Board, Additional Secretary, Law to the Government of Himachal Pradesh, Deputy Commissioner, Shimla, Additional District Magistrate, Bilaspur, Assistant Commissioner to Deputy Commissioner, Bilaspur, Professor I.P.Massey, Head, Department of Law, H.P.University, Shimla and Deputy District Attorney, H.P.Legal Aid Board have expressed their views that Lok Adalats do not have any legal sanction to decide cases. Moreover, these Adalats simply persuade the parties to arrive

at a compromise and it is only on this basis that a decree is passed by the regular Court. There are, however, 25 respondents who have supported the view that Lok Adalats enjoy legal sanctity to act as a legal machinery and decide cases referred to it by the disputants. But they have not mentioned the legal source from where the Lok Adalats derive their authority in this regard.

Further, the respondents have failed to give uniform views with regard to the powers, functions, jurisdictions, constitution of benches and other procedural formalities of the Lok Adalats. So far as the criteria to prepare a panel of Judges of the Lok Adalat are concerned, majority of the respondents have laid emphasis on the inclusion of a person with socio-legal background, they have shown second preference to a person who is well conversant with the Court procedure. Third preference has been accorded in favour of retired Judges and government officers having judicial experience. Similarly, a slight weightage has been given to the senior advocates. It is surprising that only two respondents are of the view that Professors of Law must also be included in the panel of Judges of the Lok Adalat.

The respondents have given different preferences with regard to the factors which must be kept in mind by the competent authority to select a place for holding the Lok Adalats. 67% of the respondents have expressed their opinions to the fact that the place of holding of the Lok Adalat must be selected keeping in view the concentration of cases in the

area concerned. 20% are of the view that place of holding Lok Adalat must be selected on the basis of the availability of the persons to be associated with Lok Adalats. 7% respondents are of the view that place of holding Lok Adalat must be selected keeping in view the convenience of the Chief-Guest. Whereas 6% respondents have endorsed the view that while selecting the place of Lok Adalat, political consideration must be taken into account.

While responding to the question that what requirement (s) must be kept in mind by the Judge of the regular Court for making reference of the case to Lok Adalat. 55% of the respondents have expressed their opinion to the fact that consent of the parties to the suit must be the sole criterion to transfer their case to the Lok Adalat. There are, however, 25% of the respondents who support the view that transfer of case from regular Court to Lok Adalat must be made on the initiative of the advocates of both parties. The third view expressed by 20% of the respondents is that the reference to Lok Adalat must be made on the initiative of the Judge. Moreover, the responses indicated by the respondents in the questionnaire disclose that 80% respondent know that there is existing a provision with regard to the benches of the Judges of the Lok Adalat. However, 20% of the respondents have indicated that no separate benches are constituted by the Lok Adalats for the disposal of cases. They who have the idea about the constitution of the benches of the Lok Adalat indicate that these benches are generally constituted on the

basis of the field of specialization of the members of the Lok Adalat. A few respondents are of the view that the benches of the Lok Adalat are constituted on the basis of any other criteria.

It is further revealed from the responses of 40% of the respondents that Lok Adalats give low significance to legal formalities during the settlement of dispute. 37% respondents have expressed their view point that no significance is given to the legal formalities when the settlements are made by the Lok Adalats. However, 23% are of the view that Lok Adalat give 'very high significance' to the legal formalities when the cases are settled. So far as the stage of a case for making its reference to the Lok Adalats is concerned the majority view is that the case can be referred to Lok Adalat at any stage after filing institution and before its decision by the regular Court. A different opinion is, however, expressed by the minority section of the respondents. They are of the view that case can be referred to Lok Adalat for amicable settlement only at the stage of initial hearing. A negligible section of the respondents has indicated that the case can be referred even at the filing stage. So far as the procedure of the Lok Adalat is concerned, 76% of the respondents have established that it has not developed its own procedure for the execution of its own orders passed on the basis of amicable settlement. Only 26% have shown that Lok Adalat has developed its own procedure for the execution of its own orders. Further, 66% of the respondents have stated that

advocates of the disputants are not allowed to argue the case before Lok Adalats. There are only 34% of the respondents who collectively share the view that the advocates of the disputants are allowed to argue the case before the Lok Adalat. So far as the opportunity of the client to establish his case is concerned, 60% share the view that the only opportunity which is provided by the Lok Adalat to the disputant is that justice is rendered to him on the basis of the persuation of both parties by the Judge and no arguments of the advocates are encouraged. But 33% of the respondents share a common view that client is provided an opportunity to argue his case in person and it is on the basis of these arguments of the parties concerned that Judges of Lok Adalats are helped to arrive at a compromise. A very little section of the respondents have supported the view that advocate of the party concerned is allowed to argue the case before Lok Adalat. Similarly, there is a majority opinion on the point that the Lok Adalats can postpone the date of the hearing of the case if it is found that there is the possibility of compromise in the near future. The regular Court is thus intimated officially that the case has been postponed and will be fixed before the next Lok Adalat.

So far as the role of the advocates of the respective parties is concerned, 51% of the respondents have stated that sometimes the advocates of the parties to the suit really create obstacles and the result is that Lok Adalat fails to persuade the parties to reach the settlement. On the other

hand, 49% do not agree on this point. They have supported the view that advocates do not create any obstacle, rather they assist the Judges and the clients to arrive at the desirable compromise.

While mentioning the reason for less reference of cases to the Lok Adalat, 60% of the respondents have pointed out that party unawareness is responsible for this malady as they have at all no knowledge about the role of the Lok Adalat. 33% have, however, stated that lack of initiative on the part of the advocates to persuade their clients for the compromise is the basic cause for making less reference of cases to the Lok Adalat. But there are 7% respondents who have shown that disbelief in the working of the Lok Adalat is the main reason for less reference of cases to the Lok Adalat. While asking as to what steps would you like to suggest to increase the number of references of the disputes to the Lok Adalat, 60% of the respondents have stated that there is a need to generate awareness about the functioning of Lok Adalat amongst the people. 36% of the respondents have suggested that the number of references can be increased if we generate an environment of belief about the functioning of Lok Adalat amongst the people and, moreover, the Judges and the advocates take honest initiative to persuade the parties to go to the Lok Adalat for amicable settlement.

It is further stated by 100% of the respondents that it is the Government and the CILAS who bear the expenses on the holding of Lok Adalats. While asking that what must be the

mechanism to monitor the implementational aspect of the Lok Adalat scheme, 74% of the respondents have stated that the entire functioning of the Lok Adalat scheme must be monitored by the High Court and the State Legal Aid Board. However, 20% are of the view that the whole working of Lok Adalat must be subjected to the control of Supreme Court of India. A little section of the respondents have stated that there must be constituted an independent agency to look after the functional aspect of the Lok Adalat scheme.

So far as the question whether the village Panchayat can play a vital role in promoting the functioning of Lok Adalat at village level is concerned, 65% of the respondents agree that the Panchayat can play a great role in promoting the functioning of Lok Adalat and creating awareness about its working if influential and educated members of the Panchayat actively associate themselves with this scheme. To be specific, the Hon'ble Acting Chief Justice H.P.High Court, Member-Secretary, H.P. Legal Aid Board, Deputy Commissioner, Shimla Shri V.C.PHarka have laid special emphasis on the fact that the influential educated member of Panchayat with legal and social background can be helpful in promoting the function ing of Lok Adalat in his area. A different opinion has however, been given by 35% of the respondents. They do not favour the idea that village Panchayats can play a great role in promoting the functioning of Lok Adalats. Similarly, 51% of the respondents do not favour the idea of revival of jury system and have stated that its association in the functioning

of Lok Adalat will provide no boost to dispose of cases expeditiously. However, 49% respondents have agreed that revival of jury system and its association in the functioning of Lok Adalat may play a great role in the expeditious disposal of cases on amicable basis. Further, almost all the respondents have suggested that in order to make the effective awareness compaign at village level we need to hold more and more Lok Adalats at village level. It will obviously make Lok Adalat movement quite popular even at the grass-root level.

The 49% respondents have supported the view that Legal Aid Board in Himachal Pradesh has made earnest attempts to organise literacy camps at different levels to generate mass consciousness amongst the people of the State. However, 51% do not support this view. Moreover, 66% of the respondents have supported the view point that the system of Lok Adalat in the State of Himachal Pradesh has badly failed to inculcate the spirit of self-rule amongst the people at Village, Block, District and State level. There are only 37% respondents who agree to the fact that Lok Adalat has made deep impact on the people of the Pradesh and succeeded in inculcating the spirit of self-rule amongst the people. They have also expressed their opinion that the Lok Adalat scheme has brought about attitudinal change in the outlook of the people of the Pradesh. Further, majority of the respondents have supported the view that the primary objective of holding Lok Adalat is to dispose of cases speedily with less expenditure on its litigation and developed harmony and peace amongst the

disputants. The Hon'ble Acting Chief Justice of High Court and other legal luminaries of the State have expressed their opinion to the fact that quite a large number of cases have been settled so far by the Lok Adalats in the State and thus they have fairly succeeded in lessening the burden of the regular Courts in the State. They also have stated that the role of Lok Adalat is quite significant and it does not carry a propaganda value. However, 49% of the respondents have still expressed their opinion in the negative.

So far as the categories of cases being entertained by the Lok Adalat are concerned, almost all the respondents have agreed that these Adalats are entertaining Civil, Criminal (if compoundable), land , compensation and other cases. However, 70% of the respondents have stated that the hands of the Lok Adalats are sometimes tightened by the limits of law. But 30% respondents do not agree and support the view that the Lok Adalats are not bound by the limits of law. They are free to compromise cases of various nature provided parties give thier consent to the compromise. There also seems to have emerged a consensus on the issue that the Judges of the Lok Adalat have no legal authority to compulsorily summon the parties in disputes to the Lok Adalat.

It is further revealed that 60% of the respondents are of the view that the members of Lok Adalat have failed to exercise influence on the disputants because of the reason that they are unknown (stranger) to the parties in disputes and the disputants feel it difficult to have confidence in them because of the lack of the knowledge about the members

of the Lok Adalats. However, 40% have supported the view that members of the Lok Adalat have exercised great influence on the disputants despite the fact that they are stranger to the parties in dispute. Similarly, 36 respondents out of 60 have stated that the case once decided by Lok Adalat is rarely challenged in the regular Court. However, 12 respondents are of the view that the decision of the Lok Adalat is very ofteny challenged before the regular Court. The third view that the decision of the Lok Adalat is not at all challenged before the regular Court is supported by 8 of the respondents out of 60. So far as the nature of punishment being administered by the Judges of the Lok Adalat is concerned 30 respondents have stated that Judges of the Lok Adalat prefer remedial view, whereas 18 respondents have expressed their opinion in favour of the theory of remedial and preventive punishment. 4 respondents are of the view that Judges of Lok Adalat prefer deterrant view. However, 8 respondents state that Judges of the Lok Adalat do not give preference to any of the theories of punishment. Their basic objective is to settle the dispute on amicable basis and find out a way where both parties are satisfied in terms of agreement.

So far as the creation of awareness about the functioning of Lok Adalat is concerned, 65% respondents have suggested that wareness can be created by organising legal awareness camps and by use of mass-media like radio, television, cinema slides, newspapers, pamphlets etc. 35% respondents have, however, stated that involvement of law

schools, active participation of non-governmental agencies and person to person contact by the Legal Aid Members with people of the village may bring awareness about the functioning of Lok Adalat even at village level. However, the question whether the members of village Panchayat have ever been involved in the Lok Adalat movement to persuade the parties to come to the compromising terms, 41 respondents have replied in negative. Only 19 respondents are of the view that the members of the village Panchayats have been associated with the Lok Adalats to persuade the parties to come to the compromising terms.

(iv) Responses to the Questionnaires For the Advocates Who Participated As Counsellors To The Disputants[115]

The researcher served questionnaires on the 60 advocates of twelve districts of the Pradesh with a zeal to know their responses to the functioning of Lok Adalats in the State. The researcher has framed 26 questions dealing with the different aspects of the Lok Adalat. The first two questions deal with the legal awareness of the Advocates with regard to the Lok Adalats scheme in the State. 55 respondents out of 60 have stated that they are aware of the steps taken by the Government of Himachal Pradesh to hold Lok Adalats in the State. However, 5 respondents out of 60 have replied in the negative. So far as the awareness about the Legal Services Authorities Act, 1987 is concerned, 39 respondents out of 60 have the knowledge of the Act and 21 respondents do not know

115. See, Annexure-II

anything about the provisions nof Legal Services Authorities Act, 1987.

The 67% advocate respondents have stated in their response that generally the Judge of the regular Court refer the cases of the parties to the Lok Adalat on the basis of the consent of the parties. They have further stated that all types of cases are referred to the Lok Adalats but criminal cases, which are non-compoundable, are not referred to the Lok Adalat because of the fact that the Judges of the Lok Adalat are not empowered to decide such cases. 40 respondents are of the view that all types of cases should not be referred to the Lok Adalat. However, 20 respondents have expressed their opinion in favour of referring of all types of cases to the Lok Adalat.

The question whether the advocates have a popular faith in the functioning of the Lok Adalat is responded by them differently. 37 respondents have stated that they do not have any faith in the functioning of Lok Adalat. There are only 23 respondents who have expressed their popular faith in the functioning of Lok Adalat and moreover, they are of the view that Lok Adalats can deliver better justice than the regular Court. The majority of the respondents, however, disagree with this view. For them, it is the regular Court which can deliver better justice than that of the Lok Adalat. While asking whether the learned advocates have satisfaction about the mode and manner in which the cases are being decided by the Lok Adalats, 30 respondents out of 60 have shown their

dissatisfaction and 25 have opined that the mode being adopted by the Lok Adalats for the settlement of dispute is quite satisfactory and democratic one. However, 5 respondents have not expressed their opinion on this issue. While asking a specific question whether the respondents are really satisfied with the functioning of Lok Adalat in Himachal Pradesh, 40 respondents have replied in negative. There are only 20 respondents who feel satisfied with the functional behaviour of the Lok Adalats. For them, Lok Adalat in Himachal Pradesh is a forum where speedy and less expensive justice is possible. But 67% of the respondents do not share the view expressed by the minority section of the respondents. Further majority of the respondents, 36 out of 60, feel that the functioning of Lok Adalat in the State of Himachal has not reduced any arrear of the regular Court. But 24 respondents feel that the Lok Adalats in the State of Himachal Pradesh have really reduced the Court arrear and quite successfully rendered cheaper and expeditious justice to the people of the Pradesh. While responding to the question whether the role of Lok Adalat is really confined to a propaganda value rather than dispensation of justice, 39 respondents have stated that they really carry with them a mere propaganda value rather than dispensation of justice. There are only 21 respondents who support the view that Lok Adalats play a significant role in the dispensation of justice. For them, it will be wrong to say that role of Lok Asalat is merely confined to a propaganda value.

While asking that what are the reasons for unsatisfactory functioning of the Lok Adalats in the State, 83% of the respondents have stated that improper selection of the Presiding Officers, lack of awareness about Lok Adalat amongst general public and absence of legal sanction behind the Lok Adalat are the main factors which have created dissatisfaction about its proper functioning. 15% respondents are of the view that non-cooperation from the Government Legal Agencies and autonomous bodies (who are parties to the case), absence of the power of the Lok Adalat to summon the parties, and adherence of Lok Adalat to extra-legal procedure are the reasons for the improper functioning of the Lok Adalat and thereby creating dissatisfaction about its working amongst the people. It is, however, surprising that only 2% of the respondents have mentioned the non-cooperative behaviour of the advocate as one of the reasons for unsatisfactory functioning of the Lok Adalat. Further, in order to improve the working of Lok Adalats and bring it to the level of peoples satisfaction, 47% respondents are of the view that proper selection of the Presiding Officers, association of lawyers with social commitment in the functioning of Lok Adalat as Judge, clients awareness about Lok Adalat are the factors which may bring a desirable improvement in the functioning of Lok Adalat. Besides, there are 28% respondents who feel that improvement is possible only if the Lok Adalats are clothed with the legal sanction, the Government agencies give proper co-operation and advocates take initiative to

encourage and help Lok Adalats. There are, however, 25% respondents who opine that Lok Adalat can function satisfactorily only when all the factors as stated by 47% and 28% respondents are taken into consideration. While highlighting the role of man of eminence working as the Judge of Lok Adalat, 39 respondents out of 60 have admitted that he can certainly help the Lok Adalats in the speedy disposal of cases. However, 21 respondents do not find so.

While asking that what role can an advocate play in getting the dispute referred from the regular Court to the Lok Adalat, 48 respondents out of 60 have stated that the advocate can play 'very significance role' in getting a matter transferred to the Lok Adalat. 7 respondents however, are of the view that the advocate plays an 'insignificant role' in this regard. 5 respondents have stated that the advocate has a 'less significant role' in getting the cases referred from regular Court to the Lok Adalat for amicable settlement. While answering the question whether a Judge of the regular Court can play any role in referring the cases to the Lok Adalat for compromise, 75% of the respondents have expressed their opinion to the effect that a judge can play a 'very significant role' in referring the cases to the Lok Adalat, 15% have, however, stated that a Judge plays 'less significant role'. There are only 10% respondents who are of the view that the role of the Judge in referring the case to Lok Adalat is 'insignificant one'.

It is further revealed from the field investigation that 35 respondents are not at all satisfied with the mode of selection of a panel of Judges of the Lok Adalat. 25 respondents have, however, shown faith and satisfaction in this regard, 60% of the respondents have suggested that association of the Senior Advocates of the Bar in the panel may be of significant value for the proper functioning of the Lok Adalat. Besides, 40% respondents have stated that in order to ensure the effective working of the Lok Adalat, steps should be taken to include the names of Senior Working Judicial Officers, Women with socio-legal background, retired Judges, experienced law teachers, and committed social workers in the panel of Judges of the Lok Adalats.

While asking whether the Lok Adalat follow the practice of framing legal issues in cases referred to it for settlement, 55 respondents have stated that there is no such practice being followed by the Lok Adalats. But 5 out of 60 respondents have expressed their opinion in favour of the fact that Lok Adalats follow the practice of framing issues in all cases which are entertained by them for settlement. Further, 40 respondents are of the view that Lok Adalats generally, settle the dispute only in one sitting. However, 12 respondents have stated that the Lok Adalats take more than two sittings to settle the dispute. The third view is that Lok Adalats take two sittings to dispose of the case. This view is supported by 8 respondents only.

So far as the degree of awareness of client about the functioning of Lok Adalat is concerned, 22 respondents out of 60 have stated that clients are totally ignorant and have no knowledge at all. 19 respondents have stated that clients have satisfactory awareness. 17 clients have expressed their views in favour of unsatisfactory knowledge of awareness. There are only 2 respondents who opine that their clients had highly satisfactory' knowledge so far as the working of the Lok Adalat is concerned.

(v) Responses To The Questionnaires For Beneficiaries (Disputants)[116]:

The researcher served 200 questionnaires on the beneficiaries of the Lok Adalat. The beneficiaries here have a reference to those persons who had his dispute in the regular Court and got it referred to the Lok Adalat for settlement. The researcher served the questionnaire on them with the purpose to have their views on the different aspects of the working of Lok Adalat in the Pradesh. There are 35 questions in the questionnaire which have been constructed to throw light on the aspect like awareness of the disputants with regard to the Himachal Pradesh Legal Aid Rules, 1984, mode of making reference of a case from regular Court to the Lok Adalat, role of advocate to encourage and persuade the disputant to refer his case to the Lok Adalat for disposal, satisfaction of the disputants in the working of Lok Adalat,

116. See Annexure-III

obstacles, if any, created by the advocate not to allow the parties to reach at compromise, the suggestions, if any, to be made by the disputant to improve the working of the Lok Adalat, efforts made by the Judges of the Lok Adalat to persuade the parties to reach an agreement, role of the Lok Adalat in improving the ties of friendship between the disputants, time generally taken by the Lok Adalat to dispose of cases, role of voluntary agencies to improve the working conditions of the Lok Adalat, satisfaction of the client with Judges behaviour, faith of the clients in the working of the Lok Adalat, impact of the functioning of Lok Adalats on the clients in general, and the degree of awareness about the working of Lok Adalat amongst the people of the areas where the clients reside. The researcher, while collecting responses with regard to these questions, has kept in mind the fact that equal weightage is given to the clients of all the districts of the State.

The study shows that 168 respondents have stated that they do not have any idea about Himachal Pradesh Legal Aid Rules, 1984. There are only 12 respondents out of 200 who have stated that they have the idea about the Lok Adalat scheme in the State. However, there are 20 respondents who have not responded to this question at all. While asking whether he has referred his case to the Lok Adalat on his own initiative, 35 respondents out of 200 have answered in affirmative. However, there are 165 respondents who have stated that they referred their cases to Lok Adalat on the advice of their advocates.

Further, they have bravely stated that their advocates took full interest in their cases and helped them in arriving at the compromise. But 35 respondents have stated that their advocates did not take any interest in their cases and they are of the view that their advocates rather created obstacles in arriving at the compromise. Contrary to this view, 165 respondents have expressed their full faith in the services of advocates engaged by them in the cases before the Lok Adalat. The respondents who are of the view that they referred their cases to the Lok Adalat on their own initiatives claim further that they know fully well the procedure of making a reference of the case from regular Court to n the Lok Adalat.

While inquiring about the nature of cases referred by the disputants to the Lok Adalat for amicable settlement, 79 respondents have stated that they referred Criminal cases, where 70 respondents have mentioned that the cases referred to by them were of miscellaneous nature, 32 respondents have given mentioning of compensation cases, matrimonial cases and maintenance cases and 19 respondents have mentioned that the cases referred to by them belonged to rent matters.

So far as the functioning of Lok Adalat is concerned, 177 respondents have expressed their satisfaction and faith in the Lok Adalat, whereas 23 respondents out of 200 are not satisfied with the functioning of Lok Adalat. 171 respondents have supported that the Judges of the Lok Adalat put special efforts to make the parties to understand the values of compromise and thereby enable the parties to come to the compromising term. But there are 29 respondents who have

stated that Judges of the Lok Adalat do not make much efforts, to bring the parties to the compromise. So far as the satisfaction of the disputant with the behaviour of the Judge of the Lok Adalat who conducted their cases is concerned, 187 respondents have shown their satisfaction in favour of the Judges of the Lok Adalat, whereas 13 respondents are not satisfied with the behaviour of the Judges of the Lok Adalat. While asking whether the disputants was encouraged by the Judge of the regular Court to go to the Lok Adalat for compromise, 64 respondents have answered in affirmative. Besides, 96 respondents have stated that they were encouraged by their advocates to refer their cases to Lok Adalat for compromise. Moreover, 35 respondents have reiterated their stand that they brought their cases to Lok Adalat because of their self-awareness. There are only 5 respondents who have mentioned in their response that they were encouraged by their friends to go to the Lok Adalat for compromise.

While asking that the what was the reason which helped the disputant and his opponent to arrive at the compromise and finally dispose of the case, 116 responsents have stated that quick disposal, cheap justice and frustration because of abnormal delay in the disposal of the cases by the regular Court and moreover, the possibility of quick disposal and cheap justice by the Lok Adalat collectively pursuaded them to compromise and settle the case in friendly spirit. Further, 52 respondents have simply mentioned quick disposal and 32 only frustration on account of delay by regular Court as the

reasons which helped them and their clients to enter into compromise and dispose of their cases finally. Further, 187 respondents have agreed that tension between them and their opponents have really lessened and relationship improved because of the settlement of their disputes amicably by the Lok Adalat. But 13 respondents do not agree with this view.

187 Respondents have supported the view point that the Lok Adalats are functioning on democratic lines and the decision-making process being followed by the Judges of the Lok Adalat is quite democratic one. There are only 13 respondents who have stated that the process of decision making is not democratic one. 190 respondents out of 200 have clearly stated that they did not come into compromise because the Judges of Lok Adalat exerted pressure on them. However, 10 respondents are of the view that the authorities of Lok Adalat exert pressure on the disputant and compell the parties in dispute to come to compromise and dispose of their cases in terms of the compromise. 175 respondents feel that the functioning of Lok Adalat has created a feeling of fearlessness amongst the parties to the dispute and truely raised a ray of strong hope amongst them to have expeditious and cheaper justice at the threshhold of the Lok Adalat. However, 25 respondents have expressed their opinion in the negative. While endeavouring to enquire whether the disputant has now sufficient courage to stand against any injustice because now there is every chance of getting early justice through Lok Adalat, 102 respondents have shown the courage to

fight against any injustice for the reason that Lok Adalat is there to give justice expeditiously and fearlessly. However, 98 respondents have still shown their helplessness in this regard. Further, 148 respondents out of 200 have bravely admitted that they prefer Lok Adalats more for the purpose of rendering justice in comparison to the regular Courts. But 52 respondents do not share their view. They have shown their preference in favour of the regular Courts. While asking whether the respondent has shown resentment in the law Court against the verdict of Lok Adalat, 19 respondents have stated that they did not show any resentment against the decision of Lok Adalat but there are 7 respondent who have stated that they had to go to the law Court against the decision of Lok Adalat because the Judges of the Lok Adalat did not decide their cases properly.

In order to improve the working of the Lok Adalat, 100 respondents have suggested that the working of Lok Adalat can be improved only if the people are made aware of the rules governing Lok Adalats. 38 respondents have stated that it is the active initiative of the Judge of the regular Court who can comfortably persuade more and more parties to suits to refer their cases to Lok Adalat for settlement. Further, 38 respondents opine that it is the regular and early holding of the Lok Adalat which can bring improvement in the early disposal of the cases. But 24 respondents have suggested that improvement in the working of Lok Adalat is possible only if the advocates take active initiative in the functioning of the

Lok Adalat. Surprisingly none of the respondents has suggested that participation of non - legal persons might be strengthen for bringing improvement in the working of Lok Adalat. Moreover, 138 respondents out of 200 are of the view that devoted and popular social worker's participation in the capacity of a Judge of Lok Adalat may play a significant role in the early settlement of disputes. But 62 respondents have expressed their opinion in the negative. While highlighting the role of voluntary agencies in persuading the respondent to refer his case to the Lok Adalat, 188 respondents have stated that they have not at all been persuaded by the voluntary agencies in this regard. However, 12 respondents have answered in affirmative. While asking the respondent whether the majority of the people in his area have any awareness about the working of Lok Adalat, 186 respondents have stated that the people are totally unaware of its working. But there are 14 respondents who are of the view that people of their areas have awareness about the working of Lok Adalat in the State. However, they have not stated the level of awareness which the people have.

(vi) Responses To Questionnaire For General Public[117]:

The researcher has served questionnaire on 180 respondents belonging to the general public of the State. The researcher has endeavoured to have responses from 20 persons with rural background, 20 from urban background, 20 government

117. See, Annexure-IV

servants, 20 students studying in different standards, 20 women with partially having urban and partially rural background, 20 scheduled castes and 60 politicians, both from ruling as well as opposite parties. The researcher has put earnest efforts as much as possible to cover people from all walks of life. The researcher served questionnaires on 120 persons covering students, women, scheduled castes and scheduled tribes, government servants and people from rural and urban background. However the politician were interviewed in person to ascertain their actions and reactions with regard to their working in the Pradesh. The former Chief Minister the present Chief Minister and the other Ministers of their cabinets were interviewed. Similarly, the researcher held many discussions with politicians of different shades to know their view points in this regard. Besides, the researcher also conducted interviews informal sittings with the M.L.As of the Pradesh. The majority of the politicians, both from ruling as well as opposite parties, were of the view that the concept of Lok Adalat is highly novel and useful to the people of the Pradesh. It was found that they were highly in favour of the Lok Adalat scheme in the State. Even the politicians from opposition have stated that Lok Adalats can play a vital role in the dispensation of justice if legal awareness camps are organised in different areas of the State. They have also stated while asking whether the Lok Adalats in the State have really lessened the burden of the regular Courts that to a great extent the Lok Adalats have been successful in sharing

the burden of distribution of justice with regular Court. The Hon'ble former Chief Minister supported his view point on the basis of the data available with the Government of Himachal Pradesh. Many of the Statesmen even putforth a few suggestions. The majority of the politicians were of the view that there is a need to create awareness amongst the ignorant people of the Pradesh with regard to the functioning of the Lok Adalat. They also suggested that participation of the members of the village Panchayats and women in the functioning of Lok Adalat may bring satisfactory results. Moreover, some of the politicians were highly enthusiastic to suggest that there is a need of revival of jury system on old lines to improve and provide a boost to the working of the Lok Adalats at the grassroot level. Further, they highlighted a view point that the Lok Adalat must not give very high significance to the legal formalities during the settlement of disputes. They also were highly active in suggesting that there must be created a monitoring cell to control and supervise the functioning of Lok Adalat. Majority of the politicians have suggested that the working of Lok Adalat must be reviewed by the High Court or the Legal Aid Board. Moreover, the majority of them were of the view that CILAS and the State Government must bear the expenses incurred in holding the Lok Adalats in the State. While asking whether the Lok Adalat scheme at present in the State has any legal sanction behind it, the majority of them stated that there is no such legal sanction behind the scheme. However, they mentioned that the Legal

Services Authorities Act, 1987 will remove this shortcoming and clothe the Lok Adalat with legal sanction very poor.

In addition to the informal interviews with the politicians of different shades, the researcher procured various responses from the general public of the Pradesh. On asking whether the respondent is aware that the rules framed by the State Government for holding Lok Adalat derive their authority from Himachal Pradesh Legal Aid Rules, 1984, 3 out of 20 with village background, 9 out of 20 with urban population, 11 out of 20 government and semi-government servants, 12 out of 20 students, 2 out of 20 scheduled castes and scheduled tribes and 5 out of 20 women respondents have answered the question in affirmative. However, 17 out of 20 respondents of village background, 11 out of 20 respondents of urban backgrounds, 9 out of government and semi-government servants, 8 out of 20 students, 18 out of scheduled castes and scheduled tribes and 15 women respondents have stated clearly that they do not have any knowledge about these rules. Further, 2 rural respondents, 5 urban respondents, 7 government/semi-government servants, 6 students, 2 scheduled castes and scheduled tribes respondents and 4 women respondents have stated that they know even the other legal source from where the Lok Adalat derive its authority to function as a legal machinery to decide the cases referred to it by the disputants. But 18 rural respondents, 15 urban respondents, 13 government/semi-government servants, 14 students respondents, 18 scheduled castes and scheduled

tribes, and 16 women respondents have answered the question in negative.

So far as the significance to accorded to the legal formalities during the settlement of dispute by the Judges of the Lok Adalat is concerned, 1 respondent with rural background, 3 respondents with urban background, 5 government servants, 4 students respondents, 2 each the scheduled castes and scheduled tribes and women respondents are of the view that very high significance must be given to the legal formalities. There are 16 rural respondents, 10 urban respondents, 11 government/semi-government respondents, 9 student respondents and 10 scheduled castes/scheduled tribes and 12 women respondents who favour that low significance should be accorded to the legal formalities during the settlement of disputes by the Lok Adalat. However, 3 rural respondents, 7 urban respondents, 4 government/semi-government respondents, 7 student respondents, 8 scheduled castes/scheduled tribes and 6 women respondents have expressed their opinion that no significance ought to be given to the legal formalities. While asking whether the advocate of the disputant should be allowed to argue case before the Lok Adalat, 15 rural respondents, 11 urban respondents, 5 government/semi-government respondents, 12 student respondents, 14 scheduled castes/scheduled tribes, and 11 women respondents have responded in affirmative. There are, however, 5 rural respondents, 9 urban respondents, 15 government/semi-government servants, 8 student respondents,

6 scheduled castes/scheduled tribes respondents, and 9 women respondents who have expressed their opinion in the negative.

Further, 4 rural respondents, 3 urban respondent, 5 government/semi-government respondents, 7 student respondents, 5 scheduled castes/scheduled tribes, and 7 women respondents have stated that Lok Adalat has developed its own procedure for the execution of its own order. While 16 rural respondents, 17 urban respondents, 15 government/semi-government respondents, 13 student respondents, 15 scheduled castes/scheduled tribes and 13 women respondents have stated that the Lok Adalat has developed no such procedure for the execution of its orders. The study further shows that majority of the respondents have admitted that Lok Adalat entertain Civil, Criminal (if compoundable) land, and compensation claims cases for the purpose of amicable settlement. So far as the category of cases in which Lok Adalat has shown more encouraging performance are concerned, the majority of the respondents have expressed their opinion in favour of the compensation as well as marriage cases. While asking whether the respondent agrees that the hands of the Lok Adalat are sometimes tightened by the limits of the law, 17 rural respondents, 14 urban respondents, 12 government/semi-government servants, 12 student respondents, 13 scheduled castes/scheduled tribes and 16 women respondents have answered in the affirmative. While the other respondents have stated that the hands of the Lok Adalat are not tightened by the limits of law.

It is also revealed from the study that there are 18 rural respondents, 15 urban respondents, 17 government/semi-government respondents, 13 students, 12 scheduled castes/ scheduled tribes, and 15 women respondents who favour the idea that the decision-making process being followed by the Lok Adalat in the State is democratic one. However, the minority view of the respondents in this regard appears in negative. But on asking whether the system of Lok Adalat has inculcated the spirit of self-rule amongst the people at Village, Block, District level, 3 rural respondents, 11 urban respondents, 11 government/semi-government servants, 8 student respondents, 6 scheduled castes/scheduled tribes, and 12 women respondents have shown that the Lok Adalat have imbibed the spirit of self-rule, while 17 rural respondents, 9 urban respondent, 9 government/semi-government servants, 12 student respondents, 14 scheduled castes/scheduled tribes and 8 women respondents do not show their view. Moreover, there are 3 rural respondents, 11 urban respondents, 16 government servants, 6 student respondents, 5 scheduled castes/scheduled tribes and 7 women respondents who have stated that Lok Adalat in the State has succeeded in bringing about an attitudinal change in the outlook of the people. But the view has not been supported by the rest of the respondents.

Further, there are 16 rural respondents, 13 urban respondents, 10 government/semi-government servants, 6 student respondents, 13 scheduled castes/scheduled tribes, and 15 women respondents who have admitted that they do not know

whether the Himachal Pradesh Legal Aid Board has organised Literacy Camps at Village, Block and District level. But, 4 rural respondents, 7 urban respondents, 10 government/semi-government servants, 14 student respondents, 7 scheduled castes/scheduled tribes and 5 women respondents have stated that Legal Aid Board in Himachal Pradesh has organised Literacy Camps at different levels to generate mass conciousness about the functioning of Lok Adalat. Similarly, 12 rural respondents, 13 urban respondents, 18 government/semi-government servants, 14 student respondents, 11 scheduled castes/scheduled tribes, and 13 women respondents think that the popular faith in Lok Adalat is the result of the fact that Nyaya Panchayats and regular Courts have badly failed to provide justice to the people within reasonable time and moreover, made it difficult to have justice at cheaper rate, while the other respondents do not agree with them on this point. So far as the role of Panchayat in promoting the functioning of Lok Adalat is concerned 15 rural respondents, 11 urban respondents, 11 government/semi-government servants, 16 student respondents, 13 scheduled castes/scheduled tribes and 14 women respondents are of the view that village Panchayat can play a vital role in this direction. But 5 rural respondents, 9 urban respondents, 9 government/semi-government servants, 4 student respondents, 7 scheduled castes/scheduled tribes and 6 women respondent do not give much importance to the role of Panchayat in this direction.

On asking whether the role of Lok Adalat is merely confined to a propaganda value rather than dispensation of justice, 4 rural respondents, 4 urban respondents, 3 government/semi-government servants, 8 student respondents, 7 scheduled castes/scheduled tribes, and 5 women respondents have admitted that Lok Adalat does not serve much purpose and it is merely confined to a propaganda value. However, 16 rural respondents, 16 urban respondents, 17 government servants, 12 student respondents, 13 scheduled castes/scheduled tribes respondents and 15 women respondents have shown their denial and moreover, they have admitted that the role of Lok Adalat is not confined to a propaganda value but it is a valuable machinery which always aims at the dispensation of justice to all, high or low.

Moreover, they who have popular faith in the Lok Adalat scheme are of the view that in order to create the awareness about the functioning of Lok Adalat and make it more popular at grass-root level there is a need to organise awareness camps, and use mass media to educate the ignorant people about the advantages of the Lok Adalat. Involvement of Law schools, holding of Lok Adalats at Panchayat level and active participation of the members of the Panchayat in the functioning of Lok Adalat, effective awareness compaign, participation of non-governmental agencies are also some of the suggestions putforth by the respondents for the purpose of making the Lok Adalat scheme more effective.

(vii) Research Findings:

A deep examination of the responses obtained from the respondents stated above, the interviews held with the politicians of different shades, data collected with regard to the functioning of the Lok Adalat, and deliberations held with the functionaries of Lok Adalat enable us to come to the following findings:

1. The Lok Adalat as dispute management institution has played a vital role in the dispensation of justice in the State. The working of Lok Adalat in the State of Himachal Pradesh clearly shows that the State of Himachal Pradesh for the first time endeavoured to make Himachal Pradesh Legal Aid Rules, 1984 and incorporated Rule 10(2 1) with a zeal to hold Lok Adalat in the State. It obligates Himachal Pradesh Legal Aid Board to organise Lok Adalats in the light of the spirit of justice contained in our National Charter. The record maintained by the Himachal Legal Aid Board shows that it arranged its first Lok Adalat on August 25, 1990. Since then the State has successfully organised 122 Lok Adalats, last being held at Sundernagar on November 21, 1993. The performance shown by these Lok Adalats is quite praise-worthy. Between August 25, 1990 and December 1993, the Lok Adalats have succeeded in disposing of 15,408 cases of various nature out of 27,452. Rs 2,71,67,351/- have been awarded as compensation to the aggrieved in 650 M.A.C.T. and other cases. Moreover, it is also apparent from the responses

analysed above that the State of Himachal Pradesh is putting strenous efforts to spread legal awareness amongst the ignorant people of the State. It is also established from the record of the government of Himachal Pradesh that the Himachal Pradesh Legal Aid Board has organised 282 literacy camps in various districts and sub-divisional headquarters of the State. More than 16,500 pamphlets have been distributed to various Panchayats and Mahila Mandals to bring awareness about the functioning of Lok Adalat in the State. Similarly, the data available with regard to the functioning of Lok Adalats in India shows that like Himachal Pradesh, all other States are organising Lok Adalats regularly. It is supported and established from the records of the different States as well as CILAS that 6,580 Lok Adalats have been organised throughout the length and breadth of the country and disposed of 34,77,107 cases and have the credit to award a sum of Rs 349,16,29,073/- as a matter of compensation in 1,64,876 M.A.C.T. cases till the year 1992.

2. The hypothesis whether the justice delivery system being adopted by the Lok Adalat is effective in the changing socio-economic milieu, the researcher has found an affirmative answer to this effect. The respondents have clearly expressed their opinion in favour of the justice delivery system to which our Lok Adalats have resorted to. The majority of the respondents are satisfied with the behaviour pattern of the Lok Adalat. Even the views expressed by the politicians while

his informal interviews with them reveal that they are highly in favour of the Lok Adalats. They also have admitted that they have to a great extent lessened the burden of the regular Courts. The respondents associated with the administration of Lok Adalats are also of the view that the Lok Adalat delivery system has proved itself to be quite effective in the changing socio-economic milieu and succeeded in giving cheap and early justice to the people of the State. Moreover, the data of disposal of cases by the Lok Adalat in India clearly establishes that the Lok Adalat scheme is suitable to the people especially when the arrear of the Himalayan height is pending before the regular Courts. The Lok Adalat has established itself as a forum of social change and has given a new direction to the people of the area with reference to their social life, social outlook, changing code of social behaviour and economic pattern. It has succeeded in generating a feeling of fearlessness and strength among the poor section of the society. They have come to realise that they can secure justice from the exploiters as well as government officials if the functioning of Lok Adalat is strengthened and made legally powerful. Moreover, the poor also realise that the law Courts have bias in favour of the exploiting section of the society and they can not obtain full justice there. The responses analysed above show that they very well understand the value, usefulness and importance of Lok Adalat, which has always helped them in achieving justice against them. The respondents have shown in their responses that there is the necessity of such justice-dispensing institutions as may be easily

accessible and approachable to them. They also have insisted upon prompt and inexpensive justice and have shown disfavour with regard to the legal procedure adhered to by the regular Courts. They have preferred their traditional open Court system institution with a slight improvement in its working method in the context of present day changing social and economic conditions, which are becoming more complex and complicated.

3. The study further establishes that Lok Adalat has the social and community acceptance in the State of Himachal Pradesh. The majority view of the respondents shows that Lok Adalat as a justice delivery system has been widely accepted by the disputants, politicians and even the general people of the State. If we go through the responses of general people, 81 out of 120, that is, more than 66% of the people respondents, have expressed their opinion in favour of the working of the Lok Adalat in the State. Moreover, 148 out of 200 disputant respondents, have even gone to the extent of stating that they prefer Lok Adalat system in comparison to the regular Court. There are only 52 out of 200 disputant respondents who have shown their preference to regular Court instead of Lok Adalat. The extent of satisfaction in the working of Lok Adalat is more clear from the fact that more than 75% general public respondents and 88.5% disputant respondents have shown their satisfaction in the functioning of the Lok Adalat in the State. Moreover, the majority view of the respondents explicitly make it clear that the Lok Adalats

in the State have inculcated the spirit of self-rule amongst the people. 75% of the general public respondents have stated that the justice delivery system of the Lok Adalat is highly democratic and it has succeeded to a great extent in giving justice to the people of the State. The majority view of the respondents, shows that the Lok Adalat scheme in the State is not confined to a mere propaganda value, rather it is an institution which aims at delivering cheap and speedy justice to the people at large. To sum up, the Lok Adalat in the State of Himachal Pradesh has caught the magination of the people as it has been the experience of the masses that it is better and more advantageous institution for solving their disputes. There is now a well-built belief amongst the people that the functioning of Lok Adalat is humane and rightly emphasises corrective process and the change of heart not only of the offender but also of the aggrieved party.

4. It is also found from the field investigation that the Lok Adalat in the State do not enjoy any legal sanctity. The majority view of the respondent is that the Lok Adalats do not have any legal powers to summon the parties to the suit compulsorily. Further, the respondents also have stated that the Lok Adalats do not at all have any legal source from where it can derive powers to decide cases of the parties in dispute. They have frankly stated that Lok Adalat can merely persuade the parties to arrive at a compromise and it is only on this basis that a decree is passed by the regular Court. The disputants are not bound to accept any invitation (summon)

of the Lok Adalat and present themselves before it on the date fixed for hearing. The decisions are also not enforceable under the threat of any legal action against the defaulting party which are general characteristics of the functioning of the law Courts. The Lok Adalat can simply put the parties under voluntary obligations of implementing the terms and conditions enumerated in the agreement deed (Karar-khat). Thus, the study shows that there is a high time to clothe the Lok Adalat with legal power of summoning the parties before it and give legal efficacy to its decisions. There has arisen a necessity to have a legislation which empowers the State to organise Lok Adalats and provide a definite shape and structure to it so as to strengthen the smooth functioning of Lok Adalat and enable it to render justice expeditiously.

CHAPTER-VI

APPRAISAL AND SUGGESTIONS

1. APPRAISAL

The foregoing study reflects that the concept of Lok Adalats in India is quite old. Its evolution goes back to Vedic times when the administration of justice did not form even a part of a State's duty. The references to the functioning of Lok Adalats repeatedly show that it was in existence during Vedic Period. It is certainly more than 3,000 years old. The study of Dharmasutra also makes it clear that justice was administered by the Sabha. Normally, it was the Sabha or popular village assembly rather than the King who tried to arbitrate when it was feasible to do so[1]. There is a substantial corroboration of the fact that in the later Vedic Samhitas and Brahamanas the old Vedic tribal Council called the 'Sabha' carried out the duty of administration of justice. We find numerous references to the fact that the judges were helped by the community in the administration of justice[2]. Gautama observes that the King shall ascertain the laws from those who have authority over these respective classes[3]. Similarly, Kautilya and Brihaspati indicate that dispute should not be decided by the King unaided, but he should always take help of the community in the administration of justice[4]. The Arthasastra of Kautilya is replete with descriptions where we find the existence of two types of Courts viz., (i) King Court, and (ii) People's Courts, popularly known as Lok Adalats[5].

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1 See, A.S.Altekar, State And Government In Ancient India (1977), p.246, M.N.Morje, "Lok Nyayalaya : A Place For Comman Man In Changing Society", A.I.R. 1984, Journal Section, p.68.

2. K.P.Jayaswal, Hindu Polity (1967), p.311.

3. See, U.N.Ghoshal, A History of Indian Republic Life (1966), Vol.II, p.216.

4. Supra note 2.

5. See, Parmatma Sharan, Ancient Indian Political Thought (1982), p.471.

The most pronounced feature of Hindu Polity was that it was the Sabha or the popular village assembly rather than the King who used to discharge the functions of administration of justice. It appears that there was complete decentralisation of administration of justice with a view to avoid delay and other complication connected with the investigation of cases. A sense of public responsibility in all aspects of village life was expected from the community itself[6]. Manu has given much importance to the popular Courts. According to his scheme, there was appointed a 'headman' over each villages consisting of 10, 20, 100 and 1000 respectively. These Courts were designated as popular Courts. The basic objective of creating People's Courts at village level was to bring justice within the easy reach of the people and enable them to receive proper justice without delay at cheaper rate.

It is also quite apparent from the foregoing study that there existed well defined relationship between the People's Courts and the Kings Courts. Though People's Courts, were essentially non-official, yet they enjoyed the Royal sanction and King had all sort of a support to this institution[7]. There is no denying the fact that administration of justice by People's Courts and concomitant people's participation in India is as old as the village itself and has remained a distinct feature of Indian judicial system since time immemorial[8]. Yajnavalkya also mentions three types of popular

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6. Brindera Nath, Judicial Administration in Ancient India (1979), p.65.
7. Ibid, p.72.
8. See Saptahik Bhaskar, April 6, 1986, p.2; also see Nomita Aggarwal, Handbook On Lok Adalat In India (1991), p.2.

Courts, viz., (a) Puga, (b) Sreni, and (c) Kula[9]. It also appears from the study of Narada Smriti that there existed people's Courts in ancient India[10]. Similarly, P.V.Kane opines that Kulani, Sreni and Puga were the arbitration tribunals like modern Panchayats or Lok Adalats of today[11]. He was of the view that they were the Courts in hierarchy, the highest being the Court of the King himself and lowest on the ladder was the People's Court. It may, thus, be ascertained that whatever was the nature of these popular Courts, almost all the Smritikaras share a common view to the extent that judicial power was confided with them which implies that in the epochs of Indian legal history the administration of justice was not the sole-concern of the King alone but the people also shared the burden of the State in administering justice[12]. U.C.Sarkar, while sharing his views with P.V.Kane, opines that the people were intimately and directly connected with the judicial matters, through these popular Courts[13]. The study of the work of Bhrigu also throws a flood of light on the fact that the administration of justice during ancient period in India was being carried out in direct participation with the people of the area where the dispute arose[14]. Smritichandrika also reveals that there existed popular Courts of different descriptions[15] in India and they were vested with the power to facilitate the speedy and earlier disposal of cases.

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9. A.S.Altekar, op.cit., p.251.
10. See, Narada, quoted in S.D.Sharma, Administration of Justice in Ancient India (1988), p.167.
11. P.V.Kane, History of Dharmasastra (1973), Vol.III, p.280.
12. S.D.Sharma, op.cit., p.167.
13. U.C.Sarkar, "The Socio-Legal Bearing on Expiation On The Conception of Karma, Hell and Transmigration", Law Review (1965), Vol.XII, No.1,p.119 (April Issue).
14. See, Brigu, quoted in S.D.Sharma, op.cit., p.169.
15. H.S.Bhatia, Origin And Development of Legal And Political System in India (1976), Vol.I, p.17.

Going back to the oldest literature of Indian legal system, we gather that it was the considered and long established policy of the governments in ancient India to encourage People's Courts and enforce their decisions. The reasons stated to have been given for their encouragement were that they reduced the burden of central administration and helped the cause of justice. Medhatithi and T.V.Mahaligam have also made a mentioning of popular Courts in India. According to them, People's Courts of various grades functioned in different parts of the country. T.V.Mahalingam justifies the existence of popular Courts on the ground that during old days there was lack of easy and quick communication in the country and therefore, it was not possible for all people to seek justice at the hands of regular Courts which were few and located at distant places. To sum up, the existence of popular Courts in India is attested by Rig-Veda and the Atharva-Veda, and later, by the Chandogya Upanishad which marks the end of later Vedic period. Moreover, we also find frequent mentioning of these Courts in the Budhist literature and Epic literature. It is also a well established fact that these Courts, continued to function down to the eighteenth century and can easily be claimed to have existed, though in the fading spirit even thereafter[16].

A careful study of Hindu scriptures entail a detailed information with regard to the composition, powers and functions of Lok Adalat that remained quite active in ancient

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16. A.S.Altekar, op.cit., p.25, also see Fourteen Report of Law Commission of India (1958), Vol.II, p.874.

India. It is revealed from the foregoing study that the People's Courts had the authority to entertain civil and criminal cases except those involving trials for offences committed with violence (Sahasna)[17]. There were functioning three types of People's Courts, namely, Kula, Sreni and Gana. Kula was the lowest court. It was vested with the powers to decide all social matters concerning a particular community. The Kula Court was the informal body who oftenly presided over the group of eight or ten villages[18]. It enjoyed judicial functions but was considered to be inferior in jurisdiction to officers appointed by the King. It could take cognizance of quarrels arising in family units of ten, twenty or forty villages[19]. All orders passed by the Kula Courts were subject to appeal to the Sreni Courts. The cardinal features of this Court was that it was vested with the powers to decide all disputes except those which fell under 'Sahsna'. It was an association or a corporation of merchant guilds. Its members belonged to the same caste as a rule but they could also come from different castes. The study of Mahabharta discloses that these Courts were vested with the powers to decide matters relating to their special callings or trade. It had its own executive committee of four or five members which functioned as Sreni Courts when efforts at the family arbitration failed[20]. The person aggrieved by the order of Sreni Court could go in appeal to Gana Court which was at the apex of the

17. For a detailed study see Chapter-II, supra.
18. M.K.Sharan, Court Procedure In Ancient India (1978), p.27.
19. Ibid.
20. See, Shraddhakar Supakar, Law of Procedure And Justice In Ancient India (1986),p.107

hierarchy of Lok Adalats. The Gana Court consisted of members belonging to different castes and profession[21]. The study reveals that the decisions made by the Gana Courts were enforced by the State. The jurisdictions of this Court were quite vast though it could not decide the disputes of litigants which fell under 'Sahsna'[22]. It is also equally evident from the foregoing study that the Gana Court enjoyed an appellate jurisdiction in all cases decided by the subordinate popular Courts known as Sreni and Kula.

The procedure followed by the People's Courts was quite simple. We do not find any reference with regard to the establishment of judicial procedure. Roth and Zimmer, MacDonall and Keith are of the view that the popular Courts had very little to do with judicial procedure. It is found that the cultivators, artisans, trade guilds, money-lenders, religious mendicants and even robbers were free to resolve their disputes according to the rules of their own profession[23]. These Courts used to take decisions on the strength of evidence both oral and documentary that the party may choose to adduce in support of their respective case. However, there were no special mode of trials, namely, trial by oaths, and trial by ordeals. It was for the judge to direct the parties to follow either of the mode on the basis of the circumstances of the case. It is also crystal clear from the foregoing study that there existed numerous[24] kinds of ordeals which were administered keeping in view the nature of

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21. A.S.Altekar, op.cit., p.251.
22. Supra note 11, p.281.
23. Supra note 6, p.145.
24. For detail, M.K.Sharan, op.cit., pp.153-165; P.V.Kane, op.cit., pp.361-378; H.S.Bhatia, op.cit., pp.33-45.

the case in dispute. The popular Courts also used to allow the parties to try their case by jury. They had a right to be tried by competent persons in all respects. It appears that the association of the people with the administration of justice was a mark of very high social order and every care was taken to ensure justice to the litigants tried by the popular Courts. The mode of trial by jury had always been looked upon as the basic unit of administration of justice and the popular Courts always encouraged the parties to be tried by the jury[25].

The study of judicial system which existed in India during Muslim rule shows that there was a well established hierarchy of Courts, the highest being the Court of Emperor himself and the lowest on the ladder was the village-Council, popularly known as Lok Adalat. It is also revealed that the people's Courts remained distinctive institution despite the fact that there were Royal Courts in administrative centres. The truth is that the Royal Courts could not produce a unified national legal system. The law made by the Muslim rulers failed to penetrate into the countryside with the result that Royal Courts could not displace the people's Courts which were functioning at the village level. Throughout most of the Muslim rule there was no direct or systematic State control of the administration of justice in the village where most Indian lived[26]. The disputes in villages and even in cities were not settled by the Royal Courts, but by the Lok Adalats,

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25. For detail see, Chapter II, supra.

26. See, Upendra Baxi and Mare Galantor, "Panchayat Justice: An Indian Experiment in Legal Access", in M.Cappelletti, edn. (1979), Vol.III, p.343.

of the caste within which the dispute arose, or of guilds and association of traders and artisans[27]. Though the Muslim rulers made substantial inroads into the existing judicial system by way of creating the Courts of judicature totally at variance with traditional system, yet these Courts mostly functioned at the district level or above, leaving lower village level functioning of people's Courts untouched[28]. The result was that people's Courts became important instruments in delivering justice at the village level and began to serve the legal purposes of Hindus almost exclusively, so far as civil side atleast was concerned[29]. It is further revealed that the people's Courts played a very conspicuous role during the Muslim rule because of the fact that the Hindus did not relish to approach the Muslim rulers or the Royal Courts; the conditions for the regular administration of justice also were not perfectly favourable and above all and the rulers themselves also were very much relieved when they saw that the administration of justice was being carried on by the popular Courts of the Hindus themselves[30].

The procedure followed by the people's Courts even during medieval period was the same as in ancient India. It is clear from the above study that the people's Courts had no hard and fast rules of judicial procedure. The decisions were quite quick. The lengthy and elaborate process through which a litigant has necessarily to pass was discouraged. There was no tedious briefs of cases, no methodized form, and no harangues

27. Ibid., p.344.
28. See, Legal Aid Newsletter, Vol. X , May-August, 1990, p.14.
29. See, U.C.Sarkar, Epochs in Hindu Legal History (1958), p.251.
30. Ibid.

to keep the parties longer in suspense[31]. The procedure followed by the people's Courts during this era was quite simple and they gave less importance to the technicalities and paid much stress upon the amicable settlement of disputes[32].

The foregoing study further shows that the advent of British rule gradually contributed towards the decay of people's Courts in India. Though the British rulers did not immediately dislocate the judicial system, but the establishment of adjudicatory Courts in course of time brought about heavy formalisation of the judicial system[33]. The result was that the adjucatory process in India became gradually more and more formal. Technicalities were introduced into the Indian judicial system. All this resulted in a gap between the people and the justice delivery system. The Britishers moulded the Indian legal system according to their vested interests with the result that the functioning of people's Courts withered away and became empty and suffocating with engulfing nothingness[34]. Though the community life in the village was not deliberately undermined by the ascendancy of British rule but it was gradually weakened by several factors. The administration of villages by the agencies of central government, extension of the jurisdiction of the civil and criminal Court, with their adversary system of adjudication which was unknown and new to the village population, increase in the means of communication, progress of English education, police organisation, migration of

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31. R.P.Khosla, Administrative Structure of The Great Mughals (1991), p.127.
32. See, T.S.Misra, "Alternative To The Present System of Settling Village Disputes of Civil Nature", J.I.L.I., April-June, 1980, Vol.22, No.2, p.213.
33. Legal Aid Newsletter, Vol.X, Part 1 & 2, May-August, 1990, p.14.
34. P.Parameswaran, "Dispensation of Justice - Problem of Cost, Quality and Delay", A.I.R. 1991, Journal Section, p.25 at 31.

persons from village to towns, growing spirit of individualism resulting from new English education, and consequent lessening of community's influence over the members gradually contributed towards the decay of people's Courts in India.

We find however, slight gestures with regard to the revival of the functioning of people's Courts in the early Nineteenth century. But it was nowhere intended to produce the characteristics of old-time people's Courts[35]. The introduction of adversary system of justice has really engulfed the Indian judiciary in external and internal difficulties. It has been going through a lot of problems and difficulties. The Courts are badly engulfed in arrears. More and more cases are being filed and the piles of arrears continue to mount. They seem like a tide-a tide of paper and dockets that cannot be stopped. The institution of cases in the Supreme Court of India arose from 1,602 in 1950 to 2,131 in 1955 and to 6,441 in 1960. Further, the institution of cases arose 5,351 in 1961 to 7,979 in 1965 to 15,106 in 1970 to 12,787 in 1975 to 14,501 in 1977 and to 28,382 in March 1978[36]. According to latest information, more than 2.6 million cases are reported to be pending in the Supreme Court[37]. The figure of arrear in different HIgh Courts at the end of December 31, 1991 had reached 19,76,776[38]. The position of pending cases in the subordinate Courts in our country is also equally alarming. It is feared that the number of cases pending in these Courts will touch the mark of 35 lacs by

35. Hugh Tinker, Foundations of Local Self-Government In India, Pakistan And Burma (1967), p.xii (Foreward).
36. See, R.Dhavan, The Supreme Court of India: A Socio-Legal Analysis of Its Juristic Techniques (1977), p.116.
37. The Tribune, Dec.5, 1993, p.1, Indian Express, Dec. 5, 1993, p.5.
38. For detail see Chapter IV, Table II, supra.

the end of 1993[39]. The conclusion is that the Courts in India can never clear the arrears unless it is radically altered in structure and style[40]. This is not all. If we examine the nature of pending cases in any kind of detail, it is evident that many of the cases before the Court have been pending for a long time. Civil Appeal Cases have not been heard for eleven years[41]. Writ Petitions are not heard for four or five years. Criminal Appeals are not heard for the same time or even longer[42]. The things are thus clear to the effect that until the mounting arrears are cleared, there is hardly any chance that the Courts in India will be able to discharge their constitutional duty to offer an efficient and stable adjudicatory justice to those that seek and rely on their help.

However, we should not forget that People's Justice is a national imparative. That is why it has been given a place of pride in our National Charter and one of the Directive Principles of State Policy[43] requires that the State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice social, economic and political, shall inform all the institutions of national life. It is in this context that the wise founding fathers of our Constitution had timely realised that the Anglo-Saxon judicial system must be reorganised as to make legal relief easily accessible to even the poorest of the

39. See, Chapter IV, supra.
40. Rajeev Dhavan, The Supreme Court Under Strain: The Challenge of Arrears (1978), p.59; also see P.C.Jain, "Need of Today: Crisis Management of Justice-Conciliation Courts", Lawtetter, June 1993, p.43.
41. Ibid., p.103.
42. Id.
43. See Constitution of India, Article 38.

poor[44]. They also badly felt that we in India need a new legal technology, new judicature models and a remedy oriented juridicare that is designed as a pervasive and potent delivery system of law and justice to the people in rural remoteness. The framers of our Constitution therefore, having given full weight to these thoughts, incorporated in our National Charter Article 40 which mandates the State to organise village Panchayats and invests them with necessary authority and power. Intention behind the incorporation of Article 40 is to ensure people's participation in the administration of justice at the lowest level which will ultimately help in delivering justice to all, high or low and bring it to their door-steps. Further, the Preamble of the Constitution makes it abundantly clear that justice social, economic and political is the final aim of the government and mandates that no one is unjustly treated in his several spiritual, social, economic and political relations. It envisages its firm and solemn resolve to draw up for her future governance a Constitution wherein shall be guaranteed and secured to all the people of India justice social, economic and political; equality of status, of opportunity, and before the law; freedom of thought, expression, belief; faith, worship, vocation, association and action. In short, the Indian Constitution promises the troika of justice to the community at large.

Moreover, the notion of justice is deeply engrained in Article 14 which enjoins that the equal protection shall be

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44. See, Mahatma Gandhi, quoted in Juridicare: Equal Justice-Social Justice Report (1978), p.32.

secured to all without favouritism. Though Article 14 does not explicitly talk of Lok Adalats, but it is implied from its spirit that State must create conditions whereby equality in its true perspective is established[45]. The fighting creed of equal justice, regardless of adversial legalistic is best spelt out in India's Founding Deed Article 39-A which obligates the State to secure that the operation of legal system promotes justice, on a basis of equal opportunity and ensure that opportunities for securing justice are not denied to any citizen by reason of economic and other disabilities.

Keeping in view the Constitutional commitment of rendering justice to all, the judiciary in India has been armed with the responsibility to carry out the mandate of justice strictly in consonance with the spirit of the framers of the Constitution. The founding fathers envisioned the Courts as the judicial arm of the social revolution whereby social justice, in its broader semantics was to be secured to every citizen, even the humblest and the most handicapped[46]. The New Justice Order is vibrantly implicit in Part-III and Part IV. The judiciary is no longer a mere adjudicatory umpire but is expected to be an activist engineer and curial catalyst of social justice[47]. New People's Tribunals are envisioned by Article 39-A to ensure a new legal system and procedure which are operationally geared to social justice. The judiciary is expected to be a paramount institute of national life and the dynamics of equal justice through the judicial process is a Constitutional fundamental.

45. N.M.Thomas V. State of Kerala, A.I.R. 1976, SC 490 at 503.
46. V.R.Krishna Iyer, Our Courts on Trial (1987), p.v. (My Alibi).
47. Ibid, p.38.

The foregoing study, however, discloses that Indian judiciary has failed miserably to give justice to the weak and the meek, the suppressed and the repressed who are the real consumers of social justice. Though Indian judiciary has left no stone unturned in its mission and has made bold attempts to provide meaningful interpretation to the Constitutional spirit of justice, yet it appears that justice to the poor has remained a cry in wilderness. The apex Court itself has admitted on many occasions that unless the huge arrear of cases is disposed off in a war manner, the system may crumble down in a few years time[48]. The surprising growth in the arrear of cases has bewildered the judiciary and made mockery of dispensation of justice. The study further reveals that the apex Court has clarified its stand to the effect that there is a dire need to revolutionise the judiciary system if it is to become an effective instrument for without it there is hardly any hope for its survival for long. Moreover, the Supreme Court of India has furnished in a number of recent cases a warning to the judicial system of the country that it must necessarily shed its character as upholder of established order and the status quo. The mounting arrear of cases shows that our judicial edifice is steadily deteriorating and it has almost become impossible to grapple with and render justice to the people at large. Perhaps it is quite clear from the fact that the arrear in the Supreme Court of India which stood at 1602 in 1950 has exploded through the roof as it has touched the mark of 2.6 million[49] cases by the end of 1993. Similarly,

48. For detail see Chapter III, supra.
49. The Tribune, December 5, 1993, p.1; also see Indian Express, December 5, 1993,p.5.

position of the arrear in the various High Courts and Subordinate Courts in India is also quite alarming. More than 19,76,776 and 35 lacs cases are stated to have piled up for decision till today.

In the light of the arrear of the Himalayan height, a gathering storm is bound to blow unless a creative judiciary, socially sensitive, operationally dynamic and remedially prompt and potent comes into being. We are really in the midst of rising revolution of equal justice expectations and it may burst as an angry explosion of frustration, if the judiciary by omission and commission and conservative tradition fail in its mission as redumptive instrumentality of the people[50]. It is in this background that we have been compelled by the urgencies of time to look forward for new means and methods as an alternative forum to the existing complexed Anglo-Saxon legal system.

To be frank, the modern version of Lok Adalat arose out of a deep concern expressed by the committees[51] set up to report on organising the legal aid to the needy and poor people and the alarm generated by judicial circles on mounting arrear of cases pending for long at different levels in the country system. The objective behind the introduction of Lok Adalats in India is that we need to prevent the institutional miscarriage of justice which has surfaced the whole legal system for a mere reason that we could not switch over to our indigenous legal system which at one time was serving the need of justice on a wider scale because of its simplicity. Almost

50. For detail see Chapter III, supra.

51. See, Report of the Gujarat - Legal Aid Committee, 1971; Report On The Processual Justice To The People, 1973; Juridicare: Equal Justice-Social Justice Report, 1977; Report Of The Committee For Implementing Legal Aid Scheme, 1980; Report Of G.V.K. Committee, 1985; and Law Commission of India: One Hundred And Fourteenth Report On Gram Nyayalaya, 1986.

all the committees constituted have strongly recommended for revamping the existing Anglo-Saxon model with a view to inter-link it with participatory model which may help in deprofessionalisation of administration of justice. The surprising growth in the arrear of cases has compelled the members of Law Commission to recommend the revival of People's Courts[52]. Nehru had rightly summed up the whole situation in the following words:[53].

> **"We must realise that the 19th Century system has passed away and has no application to present day needs.... It has to give away and be scrapped as obsolescent material".**

His observation, made long back, is a warning to Indian jurists not to be Corals-fossils of the law-but to be creative, to promote the goal of justice. It reminds us of the fact that there is a need of novel and activist approaches and overhauling of methodology being adopted by our Courts since long if the nation is to live upto the expectation of the Constitution. The Courts in India must, by negative as well as affirmative action, speedy decision and early finality, secure actual relief to the consumers of justice and not stop short of it. The Constitition obliges them compulsorily to weave a new legal culture, build a new justice jurisprudence and construct an effective egalitarian kingdom of justice[54]. In these circumstances, participation of the people in the process of justice is both a desirable value and functional necessity. We need decentralisation of justice and make each

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52. See, Law Commission of India: One Hundred & Fourteenth Report On Gram Nyayalaya, August, 1986, p.7.
53. Quoted in V.R.Krishna Iyer, "Judicial Perestroika", Illustrated Weekly Of India, Dec. 31, 1989-Jan.6, 1990, p.50 at 51.
54. For detail see Chapter IV, supra.

and every person living at the grass-root level accountable and be involved in justice disbursement process at the local level if the goal of justice is to be accomplished in the spirit contained in our National Charter[55]. To reiterate, Justice Krishna Iyer rightly remarked:[56]

> "Indian Judges must creatively strike an Indian path on the authority of their Constitution....There is an inoperative tone of urgency in my appeal for being change. Time is of the essence. Else chaos will blow away legal order and that may end the Court's promotive role for orderly change which is the finnest and the final hour. A cultural revolution, peaceful if possible, coersive if necessary, is on the cards".

Further, Justice D.A. Desai the then Chairman, Law Commission of India, while lamenting on the failure of early effort to rejuvenate the judicial system to the urgencies of time pointed out:[57]

> "The over rising graph of arrears, tinkering at the fringes far from yielding the desired results have further aggravated the situation. The consumers of justice have been patiently waiting for justice to become people-oriented. The problem of inexpensive and expeditious system of justice is torturing the minds of jurists and judges....Unless prompt and effective steps are taken to ensure that justice becomes inexpensive and expeditious, the entire system is likely to collapse underneath its weight....The system of prevailing administration of justice has thus been ruinous to those who evolved it also those who follow it. To a certain extent this is English, American and Australian heritage".

The accumulated frustration of the people is thus the biggest single reason for the people having responded with hope, excitement and zeal, to experiment in holding Lok Adalats. The main objective behind holding Lok Adalats is to root out on war footing the tripple vices of delay, cost and complexity from the existing Courts[58]. Though, Lok Adalats cannot serve as substitute for law Courts but they are

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55. N.R.Madhva Menon, "Law And Development Of Weaker Section: A NOte", Legal Aid Newsletter, Vol.IV, Part 1 & 2, May-August 1984, p.9.
56. V.R.Krishna Iyer, Equal Justice And Forensic Process: Truth And Myth (1986), p.52.
57. Quoted in P.C.Jain, "Time For Conciliatory Justice", The Tribune, April 15, 1993,p.6; Guman Mal Lodha, "Wanted Evolution Or Revolution In Judiciary", A.I.R. 1984 (Journal Section), p.20; K.C.Joshi, "Our Judicial System On Trial", A.I.R. 1983 (Journal Section), p.79.
58. Virendra Singh Barhat, "Judicial Courts V. Lok Adalats", A.I.R.1987,Journal Section ,p.6

expected, if properly and thoughtfully constituted to become a welcome additional arm of the existing judicial institutions[59] It is revealed from the foregoing study that the Lok Adalat is functioning as a para-judicial institution with an endeavour to find an appropriate structure and procedure in the struggle of common people for social justice. It may be called as the brain child of necessity. The rationale which speaks for the on-going of this institution is that an adversary adjudication ending up in one party declaring the victor and the other the vanquished does not remove the dispute from the society and may lead to further disputes or social tensions. Therefore, the Lok Adalats is a design to avoid all sorts of confrontation and adopt a peaceful method of conciliation with the hope to maintain peace and amity in the society[60]. The main objective of Lok Adalat is to settle the disputes which are pending in the Courts and also those which have not yet reached the Courts, by negotiation, conciliation and by adopting persuasive, commonsense and humane approach to the problems of the disputants with the assistance of specially trained and experienced members of a team of conciliators[61]. The basic principle and underlined idea of the Lok Adalat is to provide cheaper and quicker justice at the door-steps of the people so as to relieve the workload on the regular Courts[62]. It implies participatory justice in which people and judges participate and resolve disputes by discussions, counselling, persuation, conciliation and mutual consent.

59. Ibid.

60. I.P.Massey, "Conciliation Through Subordinate Courts In Himachal Pradesh", Legal Aid Newsletter, Vol.VIII, Part 1 & 2, May-August, 1987, pp.16-17.

61. P.C.Juneja, Equal Access To Justice (1993), pp.288-289; Nomita Aggarwal, Handbook On Lok Adalat In India (1991), p.2.

62. M.G.Chitkara, Lok Adalat And The Poor (1993), pp.100-101; Paras Divan, "Justice At The Door-Step Of People: The Lok Adalat System", A.I.R.1991 (Journal Section),p.86.

It is revealed from the above study that the modalities of the working of Lok Adalats are based on the guidelines given by the Committee for Implementing Legal Aid Schemes[63]. It appears that the Lok Adalats are not of uniform pattern all over the country[64]. There is no uniformity about the method of working of the Lok Adalats. Generally, the Lok Adalats are organised by the Legal Aid Boards and each High Court or State evolves its own methods and there is no interference about the use of methods adopted by Lok Adalats[65]. The working of the Lok Adalats in the different States shows that they are always flexible with regards to the rules and procedure because the parties come to their own term with little assistance here and there, and they are able to reach a particular decision they consider it to be just and acceptable, that can be given effect to without there being the difficulty which the law Court experiences due to the restricted parameters of the law[66]. Further, it is quite visible from the above study that the team of Lok Adalat consist of retired judges, senior local officers, members of the bars, spirited public men, experienced law teachers, active women social workers, elders of the locality and voluntary social organisations[67].

The process of negotiation starts between the parties when both the parties to the dispute make their presence before the judges of the Lok Adalat. They function purely on

63. Legal Aid Newsletter, Vols. IV-VI, Nov.1984-August, 1986, p.6.
64. Justice A.M.Ahmadi, "Workshop On Lok Adalat - An Appraisal", Legal Aid Newsletter, Vol.XII, Part 1, April-June, 1992, p.7.
65. Ibid.
66. Id.
67. N.R.Madhava Menon, "Lok Adalat: Peoples Programme For Speedy Justice", Indian Bar Review, Vol.13, No.2, 1986, p.132.

democratic basis as there is no compulsion to settle the dispute through Lok Adalats. In case the settlement is arrived between the parties, the Lok Adalat reduces it into black and white on the spot and the signatures of the parties are obtained. It is on the basis of this compromise that decree or orders are passed by the judge(s) of the law Court and accordingly the case is disposed of on friendly basis. The aim of the Lok Adalat is not only to restore the normal relations between the disputing individuals and families but also to provide a better and more lasting solution of the problem so that their future relations might not get strained and a tense situation in the immediate future might be avoided[68]. The mechanism of Lok Adalat is not just a dispute resolution forum or a contrivance introduced to reduce Court arrears, but a people's movement for orderly progress through rule of law and participate in self-government in the cause of social justice.

The simplicity and non-technicality in the functioning of Lok Adalat has raised a deep cry to hear and redress grievances of the people and settle their disputes amicably. The foregoing discussion shows that the popularity of the Lok Adalat has remained in existence since time immemorial and has been functioning since then on war footing to dispose of the numerous disputes amicably. It is imparative to mention here that the modern concept of Lok Adalat is relatively new merely in the sense that it has been accorded a legal sanction by the Forty-Second Amendement brought about in 1976[70]. Besides, the

68. Awadh Prasad and Gopi Nath Gupta, Lok Adalat - A Probe Into Its Orgnisation And Working Process (1976), p.43; Also see Upendra Baxi, "From Takrar To Karar: The Lok Adalat Rangpur", Journal Of Constitutional and Parliamentary Studies, Vol.X, No.1, Jan-March 1976, p.15.

69. Supra note 67, p.140.

70. See, Constitution of India, Article 39-A

Legal Services Authority Act has been enacted with the purpose to ensure its sound functioning and enforcement of its decision with the help of law.

The functioning of Lok Adalats programmes in India, as discussed above, reveals that First Lok Adalat was organised on March 14, 1982 at Una in Junagadh district of Gujarat State. It was inaugurated by Hon'ble Justice D.A.Desai, the then Judge of the Supreme Court. The study shows that a good work has been done by Lok Adalats in Gujarat. It is taking up cases with regard to civil matters, matrimonial matters and motor accident claims. It appears that a tremendous achievement has been shown by this institution in settling cases with regard to Motor Accident Claims. The Gujarat Government has so far organised 571 Lok Adalat Camps and successfully disposed of 83,640 cases which include 18,000 Motor Accident Claims and awarded an amount of compensation to the tune of Rs 42,80,00,000/-[71] to the aggrieved. The Permanent Conciliation Committees have also been established atleast one in each district to accelerate the rate of disposal of cases by way of amicable settlement. The Government of Gujarat has started holding competitions to promote the working efficiency of the Lok Adalat in the State. A Running Shied is denoted to a district who shows the highest performance in the settlement of disputes. Besides, the Government of Gujarat has instituted a Running Trophy popularly known as "Advocate Mr.Nalinkant Dave" since September, 1989 to be awarded to a district who settles the

71. For detail see, Chapter IV, supra.

highest number of cases during a calender year[72]. Pre-Litigation Conciliations Cells have been constituted to assist the functioning of Lok Adalat and are stated to have been doing good work.

Similarly, the study also shows that the State of Maharashtra started the experiment of Lok Nyayalaya in the year 1984. The Government, on the recommendation of Maharashtra Legal Aid Board, has framed rules for conducting Lok Adalats in the State[73]. Further, the State of Maharashtra has now framed "Maharashtra State Lok Nyayalaya Rules 1986" to improve the functioning of Lok Adalat. The working of Lok Nyayalaya in Maharashtra shows that streneous efforts are being put to organise Lok Adalats in the State. It is a matter of great satisfaction that the State of Maharashtra has organised 925 Lok Adalats till November, 1992 and settled 46,507 cases which included 7,340 Motor Accident Claim Tribunal Cases. The figures available in the record show that Rs 19,84,47,930/- have been awarded as compensation to the various claimants in the above stated 7,340 M.A.C.T. cases[74].

The Lok Adalat Programme in Uttar Pradesh has also done a praise-worthy work in settling the disputes on war-footing. It organised its first Lok Adalat in 1984. It is revealed that the State of Uttar Pradesh has organised 1,349 Lok Adalats till November 1992 and disposed of 13,66,869 cases which include 12,249 M.A.C.T. cases. It is quite interesting to note that Rs 37,77,57,917/- were awarded as compensation in the

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72. Ibid.
73. Legal Aid Newsletter, Vol.VI, Parts 3 & 4, Nov.1986-Feb.1987, p.6.
74. Legal Aid Newsletter, Vol.XII, Part 2, July-Sept., 1992, p.28.

above stated 12,249 M.C.A.T. claims. It is also evident from the study that Lok Adalats in Uttar Pradesh took keen interest to take up claims pending against Railways in respect of goods damaged or not delivered by it to the parties. The Lok Adalat seems to have made deep impact even on the tribal people living in the remote and hilly areas of the State. The success of the Legal Aid Programme in Uttar Pradesh is also substantiated by the fact that the Government, through the Lok Adalats made an experiment at Panchayat level to take up cases in entirety and dispose them of in a complete manner. It is a matter of great achievement that as a result of this experiment more than 90% of the cases pending in that area were disposed of by compromise with the efforts of the conciliators and declared the area as Litigation Free Zone. Thus, the study shows that Legal Aid Movement in Uttar Pradesh has really gained immense popularity during a short span of nine years[75].

The Lok Adalat Programme in Andhra Pradesh caught the attention of the people in the latter half of 1985 when the first Lok Adalat was organised in Vishakhapatnam on December 15, 1985. The history of 65th Lok Adalat in the State carries with a unique significance. It disposed of as many as 25,000 cases belonging to M.A.C.T. cases and awarded an amount of Rs 18.72 crores to the aggrieved. In this way, this Lok Adalat is stated to have secured first position in the country in respect of settlement of compensation claims under the Motor

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75. For detail see Chapter IV, supra.

Vehicle Act[76]. It has been stated to be a great event in the history of Lok Adalat Scheme in the country where thousands of persons were benefitted and huge volume of litigations were settled finally. The latest figures available and depicted in the foregoing study substantially support the view that the State of Andhra Pradesh has shown great interest in Lok Adalat Movement and organised successfully 128 Lok Adalats till the end of November, 1992 and settled 1,83,549 cases awarding Rs 33,68,34,444/- as compensation to the claimants in 12,014 M.A.C.T. cases[77].

The popularity acquired by the Lok Adalats in the State of Orissa is quite visible from the performance they have shown from time to time. Though the State of Orissa held its first Lok Adalat at Cuttack on November 24, 1985, yet it has been able to organise 1,327 Lok Adalats till November 1992 and succeeded in settling 3,79,993 cases which include 5,010 M.A.C.T. cases. The efficacy of the working of Lok Adalat is quite apparent from the fact that it quite successfully awarded Rs 11,97,66,044/- as compensation to the aggrieved parties in the above referred to 5,010 cases[78]. Similarly, the study shows that the State of Rajasthan has also made a great deal of efforts in organising Lok Adalats in the State at the regular interval. Though the history of the birth of Lok Adalat Programme in the State is of recent origin, yet an overall performance of Lok Adalat for the period November 1985 to November 1992 reveals that the State has organised 293 Lok Adalats and amicably settled 4,64,366 cases and awarded Rs

76. The Hindu, May 9, 1988, p.8.
77. Supra note 75.
78. Ibid.

24,78,31,812/- as compensation in 8,603 M.A.C.T. cases. In this way there is no doubt that Lok Adalat movement in the State of Rajasthan has really attracted the hearts of the millions of people and played a great role to reduce the workload of the law Courts by resolving 4,64,366 cases[79].

The study also makes it clear that Lok Adalat Movement in Assam has shown tremendous results in disposing of cases. The State of Assam appears to have taken vigorous steps for giving wide publicity to the functioning of Lok Adalats. The information available with CILAS reveals that the State of Assam has organised 43 Lok Adalats and settled 4,062 cases amicably awarding Rs 3,38,96,152/- as compensation in 923 Motor Accident Claims Tribunal[80]. Equally so, the State of Tamil Nadu has shown good results in holding Lok Adalats at different places of the State. The Lok Adalats in State aim at promoting the objective of Pre-Litigative Settlement and has projected schemes for opening Mediation Centres in the rural areas. The State has adopted the strategy of Lok Adalat as an alternative system of dispute resolution. It appears that the Lok Adalats, of Tamil Nadu are functioning on the Gujarat pattern evolved by Gujarat Legal Aid Board. It is a matter of great pride that Tamil Nadu Legal Aid Advice Board have quite successfully organised 131 Lok Adalats till November, 1992 and disposed of 15,025 cases awarding a sum of Rs 37,42,77,982/- as compensation in 14,971 cases[81].

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79. Id.
80. Id.
81. Id.

The State of Kerala may be said to be a late starter of Lok Adalat Movement in the country. The latest record available shows that the State of Kerala has so far organised 12 Lok Adalats and settled 7,840 cases which include 3,655 M.A.C.T. cases. A sum of Rs 1,58,00,000/- has been awarded as compensation to various claimants[82]. Similarly, the above study shows that the State of Karnataka has also given considerable publicity to the strategy of Lok Adalat. The Legal Aid Board is committed to hold Lok Nyayalayas in all districts of the State regularly. The State has also set up Marriage Counselling Centres at Bangalore and other places to settle the family disputes. It is further shown that the target of dispute resolution has gained special strength in the State from June 28, 1986 and consequently 965 Lok Nyayalayas have been conducted in the State settling 2,39,034 cases. A sum of Rs 38,37,55,527/- has been awarded as compensation in 23,879 M.A.C.T. cases[83].

The State of Bihar has also put earnest efforts to streamline the functioning of the Lok Adalats in the State and has provided quick disposal of cases. Reconciliation Committees have been established at Block levels to assist to a great degree in settling many pending litigations through compromise. Besides, Camp Courts are being organised in a chain to follow up the settlement and provide justice at the door-step. We gather from the above study that the State has started publishing magazine entitled "Lok Nyayalaya Sandesh". The record shows that the State of Bihar, has organised 22 Lok

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82. Id.
83. Id.

Adalats till November, 1992 and succeeded in disposing of 39,693 cases amicably and awarded Rs 32,27,569/- as compensation in 172 M.A.C.T. cases[84]. Similarly, the State of Madhya Pradesh is actively involved in organising Lok Adalats at different places regularly. The success of the programme in the State is visible from the fact that the Lok Adalats have even succeeded in resolving those typical 2,35,860 cases which were pending for a number of years in the regular Courts. As a whole, the State of Madhya Pradesh has organised 344 Lok Adalats disposing of 5,10,354 cases which include 43,909 M.A.C.T. cases. A sum of Rs 19,61,76,432/- has been awarded as a matter of compensation to the claimants within a short duration of about six years. A great degree of awareness is stated to have been created amongst the ignorant people of tribal areas where the poor litigants were not even in a position to vindicate their rights against the rich people[85].

The history of Lok Adalat in the State of Haryana is of recent origin. The study shows that the State held its first Lok Adalat in the District of Karnal at village Kunjpura and is showing a remarkable success in disposing of cases of various nature. It appears that the Lok Adalats could not perform well in the beginning because of the reason that the people of Haryana had very little awareness about the role of the Lok Adalats. The subsequent performance, as is evident from the above discussion, shows that the State of Haryana has held 330 Lok Adalats till November 1992 and settled 1,10,611 cases awarding Rs 19,64,93,497/- as compensation in 5,102

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84. Id.
85. Id.

M.A.C.T. cases[85a]. The remarkable aspect of the success of these Adalats is that they have intelligently handled Motor Vehicle Accident Claims and made the parties to agree to arrive at amicable settlement in friendly spirit. There are so many instances where the Lok Adalats have been able to persuade Insurance Companies even to agree at a higher compensation, that is to say, higher than what they had got at the determination by the Court[85b]. However, there are some cases where the Lok Adalats could not fair well and could hardly settle 30% of the cases referred to it for disposal. The overall performance is still quite appealing. The record shows that the Lok Adalats have shown great skill in dealing with cases which include such as civil, criminal, M.A.C.T., Matrimonial, Police Challans etc.

Further, the functioning of Lok Adalats in other States and Union Territories show that the Legal Aid Boards are working hard to hold Lok Adalats and determine the shape and form in which they are to function as an alternative device to the evils of law Courts. Table-VIII of Chapter-IV reveals that Lok Adalats in Delhi, Pondichery, Mizorum, Meghalaya, Jammu & Kashmire, Sikkim, West Bengal, Chandigarh, Punjab, Manipur, Goa and Tripura have benefitted a large number of people. Almost every State or Union Territory has constituted Legal Aid Boards and Legal Aid Committees, to organise Lok Adalats and enlighten the people about the utility of these Adalats in their day today life. The functioning of the Lok Adalats and

85a Id.
85b Paras Diwan, Legal Aid Programme: Aims And Sources (1991), pp.34-37.

their success can be betterly assessed from the fact that Delhi, Pondichery, Mizorum, Meghalaya, Jammu & Kashmir , Sikkim, West bengal, Chandigarh, Punjab, Manipur, Goa and Tripura have organised nineteen, sixteen, two, three, one, three, thirty, eight, thirty,one,four, eleven and three Lok Adalats respectively and have succeeded in settling a total number of 23,775 cases which include 8,989 M.A.C.T. cases and have awarded Rs 57,84,16,067/- as a matter of compensation to the various aggrieved parties in the above mentioned 8,989 M.A.C.T. cases[86]. So the success of Lok Adalats functioning in the above mentioned States and Union Territories make it abundantly clear that they have really reduced the workload of the regular Courts and have unquestionably commanded respect and confidence of people for their impartiality and objectivity. They are performing active role to bringing justice to the door-steps of the poor masses and have liberated themselves from the shackles of technicalities of law and its procedure.

Undoubtedly, glaring success shown by the Lok Adalats has persuaded the minds of our legislators to bring the Legal Services Authorities Act, 1987 into existence. It is a composite enactment which covers Legal Aid and Lok Adalat - the twin institutions and stands for three fold objectives, namely, (i) to provide free and competent legal service to the weaker section of the the society, (ii) to ensure security of justice to all despite their economic or other disabilities, and (iii) to organise Lok Adalats with a view to promote

86. For detail see Chapter IV, Table VIII, supra.

justice on a basis of equal opportunity. The remarkable feature of the Act is that, while giving statutory authority to Lok Adalat, it enlarges the scope in coverage alongwith the beneficial effects flowing from it. The intention of the legislators behind this Act is that they have intended to cloth Lok Adalat with wider jurisdiction so as to enable it to deal with any matter, whatever be its legal character and in whatever Court or Tribunal it might be pending[87]. The survey of the provisions of this Act shows that the legislators have brought it to accomplish the social objective of the Directive Principles of State Policy embodied in Article 38, Article 39-A and Article 40 of our National Charter. It is, however, unfortunate that though the Bill has received Presidential assent on October 11, 1987, yet it has not so far been enforced for the reason that a proposed Bill 1991[88] to amend the law with a view to making its implementation effective, was pending consideration by the Parliament[89]. The Amending Bill was passed by the Rajya Sabha on January 11, 1991 and was pending before the Lok Sabha, which was dissolved in March, 1991. Under the provision of Clause (5) of Article 107 read with Article 108(1) of the Constitution, the Bill lapses and will have to be brought again before the Parliament. The Amended Bill, 1991 contemplated important amendments in the provisions of the Act and was intended to remove the difficulties making its implementation effective one.

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87. For detail see The Legal Services Authorities Act, 1987, The Preamble.
88. See Annexure IX.
89. Legal Aid Newsletter, Vol.X, Part 3 & 4, Sept. 1990-March, 1991, p.23.

A deep examination of Chapter-V entitled "Lok Adalat At Work: A Socio-Legal Study of Himachal Pradesh" shows that the the State of Himachal Pradesh has made a sustained progress in organising Lok Adalats to achieve the twain aims of providing speedy justice to the litigants and also reduce the pending arrears of the regular Courts. The study shows that the need to organise Lok Adalats in the State of Himachal Pradesh has arisen because of the huge arrear pending in the law Courts. The record available reveals that more than 19,443[90] cases are pending at the High Court level and about 89,648 cases[91] at the level of Subordinate Courts in the State. Thus, in order to lessen the burden of the regular Courts and deliver justice at the door steps of the poor, the Government of Himachal Pradesh formulated a comprehensive legal aid scheme in the form of "The Himachal Pradesh State Legal Aid Rules, 1984". It appears that the State of Himachal Pradesh was deeply impressed by the performance of Lok Adalats in Rajasthan and made specific rules to arrange for holding Lok Adalats in different areas of the State. The study reveals that the Himachal Pradesh Legal Aid Rules, 1984 have made detailed provisions to constitute Legal Aid Board to give fillip to the Lok Adalat movement in the State. The survey of these rules show that Himachal Pradesh Legal Aid Board has been obligated to take steps to organise Lok Adalats for the purpose of bringing about voluntarily settlement of dispute.

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90. The figures have been collected by the researcher in person from the Office of the Registrar H.P.High Court Shimla on November 30, 1993.

91. Ibid.

The study further discloses that the State of Himachal Pradesh has also taken a lead to evolve a Pre-trial, In-trial and Post-trial conciliation projects under the leadership of the then Hon'ble Chief Justice of Himachal Pradesh High Court, Shri P.D.Desai. Under this scheme of dissolution of disputes on amicable basis the Senior Sub-Judge, Shimla was for the instance entrusted with the jobs of conciliation in respect of cases triable by the Sub-Judges. It is revealed that conciliation project came into existence on September, 1984 with a zeal to minimise the pendency of old cases and ensure that the litigation comes to an end by way of an amicable settlement of dispute. The functioning of these Courts reveal that they have shown encouraging results since 1984 when the conciliation project came into existence. During the period from September, 1984 to December 31, 1992, barely within eight years, they have successfully disposed of 46,345 cases[92] by way of amicable settlement. The remarkable feature of this scheme is that not a single case has so far come to the High Court in appeal or revision against the decree of conciliation Court[93].

It is, similarly, interesting to note that the Government of Himachal Pradesh organised its first Lok Adalat on August 25, 1990. It was inaugurated by the then Chief Justice of India, Hon'ble Mr.Justice R.N.Misra. This experiment was at first instance carried out in supplement to the Conciliation project already in existence in the State.

92. Fin(C)-A(2)-2/92, June 30, 1991. However the latest figures with regard to the arrear of cases pending in the High Courts and Subordinate Courts of the State have been collected in person by the researcher from the Registrar Office of H.P.Court Shimla on November 30, 1993.

93. For detail see Chapter V, supra.

It appears that Lok Adalat movement in the State of Himachal Pradesh has now become a people's movement and the State Government is putting concrete and earnest efforts to make this movement a grand success. It is also quite apparent from the fact that the State of Himachal Pradesh has organised 122 Lok Adalats between August 25, 1990 and December 21, 1993 and disposed of 15,408 cases out of 27,452 cases taken up for settlement[94]. A sum of Rs 2,71,67,351/- has been awarded as compensation in 650 M.A.C.T. and other cases[95]. Thus the lok Adalats have achieved 56.12% success in disposing of cases which were pending since long for decisions in the law Courts. Moreover, 52 Legal Aid Committees have been constituted at various levels to make this movement more effective.

The empirical survey of the functioning of the Lok Adalat shows that it has played a tremendous role in delivering cheap and expeditious justice to the people. The performance shown by the Lok Adalats in the State is quite impressive. It is this reason that the majority of the respondents have shown their preference in favour of the Lok Adalat scheme rather than the regular Court. Moreover, the views expressed by the politicians of different shades also lend support to the Lok Adalat scheme and have admitted that Lok Adalats in the State of Himachal Pradesh have to a great extent reduced the burden of the regular Courts. It is also established beyond a shadow of doubt that Lok Adalat scheme in the State of Himachal Pradesh has been accepted by the

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94. See Annexure-X; also see Chapter V, supra.
95. See Annexure XI; also see Chapter V, supra.

community at large which include the disputant, politicians, women, scheduled castes, scheduled tribes, students section, urban population, and the people with village background. To reiterate, more than 66% people respondents have expressed their opinion and satisfaction in the functioning of the Lok Adalat scheme. Similarly, 88.5% of the disputant respondents have admitted that they have a popular faith in the functioning of Lok Adalat and prefer it more in comparison to the regular Court. It is also equally clear from the study that the functioning of Lok Adalat in the State of Himachal Pradesh has virtually imbibed the spirit of self-rule amongst the people and even admitted that it is highly democratic and is not merely confined to propaganda value. The only thing which is stated by the respondents during the field investigation is that there is a need to clothe it with legal powers by bringing a legislation to this effect. The people have suggested that there is a need to bring legal awareness amongst the ignorant people of the State so that more and more cases are referred to Lok Adalat for amicable settlement. They feel that the functioning of Lok Adalat can be improved if the people of the village are associated with this scheme and the Lok Adalats are held at grass-root level. They have also suggested that the members of the village Panchayat should be afforded opportunity to be associated with the Lok Adalat scheme. More and more legal awareness camps should be organised to bring awareness about the functioning of Lok Adalat scheme amongst the ignorant people of the State.

To sum up, the foregoing discussion reveals that the Lok Adalat movement in our country is gaining fast momentum in delivering early justice to the people. The survey of the foregoing study shows that 6,580 Lok Adalats have been organised in our country till the end of 1992. It has succeeded in settling 34,77,107 cases and awarded Rs 349,16,29,073/- as a matter of compensation to various claimants in 1,64,876 M.A.C.T. and other claims.

II. SUGGESTIONS:

In order to promote the smooth functioning of the Lok Adalat and carry out the objective of justice enshrined in our National Charter, the following suggestions deserve immediate consideration:

1. The researcher is of the view that the Lok Adalat must have some statutory authority including powers to summon parties, witnesses and documents. For this purpose, the Parliament must bring The Legal Services Authorities Act, 1987 into existence as soon as possible with some desirable modifications as already incorporated in the Legal Services Authorities (Amendment) Bill, 1991. However, in view of the popularity gained by the Lok Adalat, it is felt necessary that some guidelines should be provided by the State for holding them till such time these Lok Adalats receive a statutory base.. The rules should cover the following matters: (i) complying with the preliminary matters required for organising

the Lok Adalats, (ii) kinds of cases to be brought before the Lok Adalats for amicable settlement; (iii) procedure for bringing the cases before the Lok Adalats; (iv) attendance of government officers in the Lok Adalats; (v) attendance of judicial officers in the Lok Adalats; (vi) procedure for organising Lok Adalats; (vii) financial control and supervision of Lok Adalats; (viii) composition, powers and functions of the panels of conciliators; (ix) procedure for effecting compromises; (x) special provisions for pending cases before the Motor Accident Claim Tribunals, and (xi) transport arrangements etc. In order to generate confidence of the people there is a need to determine the shape and form in which a Lok Adalat is to be brought into existence. So, we must pay great heed to this issue because it is one of the most important aspects for the proper functioning of the Lok Adalat Scheme.

2. The Lok Adalats which require some amount of legal and judicial expertise should only be organised under the sponsorship of a legal aid agency, a law college or a bar association or it may be co-sponsored by the social action groups and government agencies.

3. It is required in the interest of the Lok Adalats that they are manned by the experienced and talented persons. So the Judges of the Lok Adalats should be drawn from retired Judges, public spirited lawyers and law teachers, on the basis

of their repulation in the community, professional integrity and aptitude for social work. It is advisable for the Legal Aid Board to draw up panels for each districts in consultation with the High Court, District Court, Sub-Divisional Courts judges, Members of the Bar Associations and some reputed persons of the Panchayats. The required number of Judges for the Lok Adalat may be invited from amongst those included in the above mentioned panels. Apart from the Judges, the key personnel for the Lok Adalat should include the para-legal, the social activists, the local administration officials and members of the Bar and the Bench. There is a need to brief them on the objects and the methods of the Lok Adalat so that they get interested in its work and contribute to its success. Further, the key officials of the local administration and opinion leaders of the locality should be given importance and associated with the initial ceremonies and supervisory functions.

4. The role of law teachers and law students should be encouraged as they are eminently suited to undertake preparatory survey and research and to extend supportive services in its efficient execution. However, it is desirable to avoid the involvement of political parties and party leaders and a close watch should be maintained on anti-social elements so that the functioning of the Lok Adalat is not abused for political motives.

5. The researcher is also of the view that the procedure in the Lok Adalat should be informal, flexible and non-controversial and should have some degree of uniformity in approach and methods. To ensure improvement in the functioning of Lok Adalat, orientation programmes must be organised where the functionaries of the Lok Adalat should be given chance to express freely their views on the procedure which it must follow in the course of their decisions. However, in designing various steps it should be kept in mind that Lok Adalats are not intended to replace the existing adjudicatory system through Courts but to supplement it by providing an alternate cheap and expeditious forum of litigants to get their legitimate due. Before holding the Lok Adalats, there is a need to carry out the following preparatory work: (i) choice of location, (ii) selection of Adalat Judges; (iii) collection of data on problems in the community and cases pending in local Courts through survey and field visits; (iv) developing contacts with local administration, publicmen and social activists; (v) preparation of briefs on cases to be taken in Lok Adalats; (vi) publicity and mobilisation of parties and their advocates, (vii) assessment of claims and motivation of parties for reasonable adjustment; and (viii) settling organisational details, coordinating the work through committees and evolving the strategy for monitoring and follows up action.

6. The researcher is of the view that the duties and qualifications for the Conciliators (Judges) lawyers, retired

Judges or law teachers at the Lok Adalats must be prescribed. Moreover, there is a need to evolve a Code of Conduct to maintain professional integrity and privileged communications.

7. In order to ensure effective executions of the decisions made by the Lok Adalat, a definite procedure should be evolved for follow up action so that the decisions are executed immediately in accordance with the terms and conditions. Moreover, the decision made by the Lok Adalat should be executed by the Lok Adalat itself and there should be no need to refer it to the regular Courts to bear it legal stamp.

8. The expenditure to be incurred on the holding of the Lok Adalat should ordinarily come from the Legal Aid Schemes of the Central or State Governments. However, the Voluntary Agencies must put efforts to explore the possibility of raising funds from local sources. There is no harm if a nominal fee for registration of dispute with the Lok Adalat is prescribed. It will undoubtedly augument its finances.

9. There must be set-up a Monitoring Cell to ensure proper accounting and strict financial discipline of the Lok Adalat.

10. It is imparative that proper rewards are instituted for the successful working of Lok Adalats. If this practice is followed, there is every chance of improvement in the functioning of Lok Adalat. The mode of reward may be that: (a)

Lawyers are rewarded by way of recognition of Lok Adalat services in judicial appointments; (b) Judges may prompted for good work done to the higher rank; and (c) Social workers, law teachers, law students may be suitably honoured by the higher authorities and public organisations by awarding trophies of honours for their excellence performance.

11. The researcher is also of the view that as a part of legal aid programme, the H.P.Legal Aid Board must contemplate to establish Conciliation Committees at the Village/Tehsil/ District/High Court level for resolving dispute at pre-litigations stage. The parties can be relieved of large expenses and inconvenience in resolving the disputes, by exhausting all remedies of appeals and revisions. The Conciliation Committees must meet in routine at regular intervals and receive applications for compromises or Conciliations. The persons with socio-legal background must be included in these Conciliation Committees. More and efforts should be put to establish Mediation Centres/Conciliation Centres in rural areas with the objective of promoting settlement of disputes before they are taken to Courts. The Committees should function at the Conciliation Centres atleast once a week on a holiday so that the maximum of the poeple may avail opportunity of referring their cases at pre-litigative stage for amicable settlement.

12. There is a need to amend the Arbitration Act, incorporate chapters about Lok Adalat in it, add and enlarge

the scope of matters which can be resolved by and through a Lok Adalat. The other way to do it is to enact the "Lok Adalat Act" and make the provisions of the Arbitration Act applicable to it mutatis mutandis

13. Since the State is a party in maximum number of cases, it is imparative that the State co-operates in the successful functioning of the Lok Adalats and that Lok Adalat is empowered to decide the personal liability of the official concerned. The scope of the Lok Adalat should be enlarged so as to include within its fold cases relating to landlord tenant dispute, family disputes, compensation cases and other matters found suitable.

14. It is desirable to give wide publicity to the functioning of Lok Adalat so that more and more disputants are attracted to refer their cases before the Lok Adalat for amicable settlement. The mode of publicity may include: (i) calling of press conferences; (ii) issuance of press notes from time to time; (iii) use of radio, televisions and cinema slides; (iv) preparation and distribution of leaflets and pamphlets in the area/village surrounding the place of holding Lok Adalat; (v) displaying of boards and playcards containing the ideology of Lok Adalats and Keywards or watchwords at conspicuous places in the village where the Lok Adalat is to be held as well as in the surrounding villages. All these will certainly add to create awareness of great degree amongst the

people who are still ignorant about the fruits which they may reap with the help of the Lok Adalats.

15. The place of holding the Lok Adalat should be selected on the basis of number of cases to be settled. Every effort should be made to organise Lok Adalats at the village level. Further, the influential educated members of the village Panchayats must be associated with the functioning of the Lok Adalat. The participation of women, scheduled castes and scheduled tribes, persons with social commitments having oceanic heart to serve the people may really contribute a lot to make the ignorant people understand the values of compromise. The persuation made by these people can constribute in the early disposal of cases by the Lok Adalats.

16. We need to organise awareness camps at the grass-root level so that the ignorant people living in the far-flung areas of the State know the significance of Lok Adalat and reap the benefits of this scheme. It is of great importance if the non-governmental agencies participate in highlighting the role of the Lok Adalats amongst the people. The services of the law students may also be of great use if they participate in organising Legal Awareness Camps at the grass-root level.

17. The Lok Adalat Movement can be successful only if the people participate on voluntary basis in the functioning of

Lok Adalat. The mobilization of the people can usually be done through voluntary organisations and with the help of people who are fair minded persons committed to the cause of justice to the poor.

ANNEXURES

ANNEXURE - I

Questionnaire For Persons Associated with Administration of LOK ADALAT SCHEME

1. The rules framed by State Government for holding Lok Adalat derive their authority from Himachal Pradesh Legal Aid Rules, 1984. Do you agree ?

   a) Yes
   b) No

2. Do you know the other legal source from where Lok Adalats derive their authority to function as a legal machinery to decide the cases referred to it by the disputants ?

   a) Yes
   b) No

. What criteria is kept in mind to prepare a panel of judges for Lok Adalat ?
   a) Person Conversant with the court procedure.
   b) Person with social legal background.
   c) Retired Judges and Government Officers having judicial experience.
   d) Seniority of the Advocates.
   e) Professors of Law.
   f) Any other criteria.

4. How is the place of holding Lok Adalat selected by the competent authority ?

   a) Convenience of the Chief Guest.
   b) Availability of the persons associated with Lok Adalats.
   c) Political consideration.
   d) Concentration of cases in the area concerned.
   e) Any other.

5 What requirements if any are to be complied with to refer the dispute to the Lok Adalat ?

   a) Consent of the party
   b) Initiative of the Judge.
   c) Initiative of the Advocates.
   d) Any other.

6 Whether the benches of judges of Lok Adalats are constituted with reference to the different nature of cases ?

   a) Yes
   b) No

7 What is the criteria followed to constitute the benches of Lok Adalat ?

a) Field of specialisation of the members of Lok Adalat
b) Choice of the members of Lok Adalat
c) Consent of the party
d) Any other.

8 What significance is given to the legal formalities if any during the settlement of dispute by the judges of Lok Adalat ?

a) Very high significance
b) Low significance
c) No significance

9 Are the Advocates of the disputants allowed to argue case before Lok Adalat ?

a) Yes
b) No

10 What opportunity is provided to the clients to establish their case before the compromise is arrived at ?
a) Arguments of the Advocates
b) Arguments of the parties.
c) Persuation by the judges
d) witnesses.

11 Is the date sometimes postponed in case of the possibi lity of future compromise ?

a) Yes
b) No

12 Is the regular Court intimated officially about the postponement of the case ?

a) Yes
b) No

13 Do you feel that advocates of the respective parties created obstacles with the result that the Lok Adalat failed to persuade the parties for the settlement of dispute ?

a) Yes
b) No

14 What are the reasons for less reference of cases to the Lok Adalat ?
a) Parties unawareness about the Lok Adalat
b) Lack of initiative by the Advocates
c) Lack of initiative by the Judge
d) Disbelief in the working of Lok Adalat.
e) Any other

15 What steps would you like to suggest to increase the number reference of the disputes to the Lok Adalat ?

a) Generate awareness about Lok Adalat
b) Development of confidence building measures in the working of Lok Adalat
c) Personal initiative of the Judge.
d) Initiative of the lawyer
e) Any other.

16 What mechanism if any, have you evolved for monitoring the implementation aspect of Lok Adalat Scheme ?

a) Review by the Supreme Court
b) Review by the High Court.
c) Review by the Legal Aid Board
d) Review by the Independent Agency if any.

17 Whether the Legal Aid Board in Himachal Pradesh has made attempts to organise the literacy camps at the sub-division/District/State level to generate mass concious ness amongst the people about the functioning of Lok Adalats ?

a) Yes
b) No

18 Have you ever received any encouragement from the Senior Advocates to work as the members of Lok Adalats and keep their name on the panel of judges of the Lok Adalats ?

a) Yes
b) No

19 Who bears the expenses incurred in holding Lok Adalats ?

a) CILAS
b) Government Aid
c) Contributions by voluntary organisations.
d) Non-Governmental Organisations (N.G.O's).

20. Do you think that the village panchayats can play a vital role in promoting the functioning of Lok Adalats by way of creating an awareness of existence of Lok Adalats Schemes in rural area ? If yes, whether panchayat ever been associated with the Lok Adalat ?

a) yes
b) No

21. Has the system of Lok Adalat inculcated the spirit of self rule amongst the people at Village/Block/District level ?

a) Yes
b) No

22. What is the primary objective of holding Lok Adalats ?

a) Speedy disposal of cases
b) Less expenditure on litigation.
c) To develop harmony and peace amongst the disputants
d) To develop a democratic attitude towards dispute resolutions.

23. Whether Lok Adalats have brought about any attitudenal change in outlook of the people ?

a) Yes
b) No

24. Do you favour the idea that the process of decision-making adopted by the Lok Adalat is democratic ?

a) Yes
b) No

25. Is the popular faith in Lok Adalat result of the fact that Nyaya-Panchayats at village level and regular courts at different levels have badly failed to provide justice within reasonable time and made it difficult to have justice at cheaper rate ?

a) Yes.
b) No

26. Whether the Lok Adalats has developed its own procedure for the execution of its own orders.

a) Yes
b) No

27. What are the categories of cases entertained by the Lok Adalat for that settlement of the disputes ?

a) Civil
b) Criminal
c) Land
d) Compensation
e) All of the above.

28. Has the disputants shown the behaviour of encouragement during the settlement of dispute by the Lok Adalat ?

a) Yes
b) No

29. Have the lawyers shown the behaviour of encouragement during the settlement of dispute by the Lok Adalat ?

a) Yes
b) No

30. In which category of cases the Lok Adalat has shown more encouraging performance ?

a) Compensation cases
b) Marriage cases
c) Land cases
d) All of them

31. Can the participation of women in the functioning of Lok Adalat assist in the early settlement of disputes ?

a) Yes
b) No

32 It is true that the hands of Lok Adalat are sometimes tightened by the limits of law ?

a) Yes
b) No

33. Will the revival of jury system and its association in functioning of Lok Adalat provide a boost to dispose of cases expeditiously ?

a) Yes
b) No

34. Do you agree with the fact that Lok Adalats in Himachal Pradesh lacks persuation and the result is that they have not fairly succeeded in the disposal of large number of cases referred to them by regular courts ?

a) Yes
bn) No

35. Have the judge of the Lok Adalat any legal authority to compulsorily summon the parties in dispute to Lok Adalats ?

a) Yes
b) No

36. Do you think that the role of Lok Adalat is merely confined to a propaganda value rather than dispensation of judges ?

a) Yes
b) No

37. Do you agree with the view that the members of the Lok Adalat have failed to exercise influence on the disputants they are unknown (stranger) to the parties in disputes ?

a) Yes
b) No

38. What steps do you suggest to make the Lok Adalat popular the Village level ?

a) Effective awareness compaign.
b) Active participation of Panchayat members in the process of Lok Adalats
c) Holding of Lok Adalat at Panchayat level.

39. Have you ever involved the members of the village Panchayat (of the area where Lok Adalat if any were held) to persuade the parties to come to the compromising term ?

a) Yes
b) No

40. What do you suggest to create awareness about the functioning of Lok Adalat at village level ?

a) Awareness camps.
b) Use of Mass-Media
c) Persons to person contact by the Legal Aid Members
d) Active participation of non-governmental agencies.
e) Involvement of Law Schools.
f) All of them.

41. Have you ever come across cases where though once decided by the Lok Adalat were again brought before it and the Lok Adalat reconsidered such cases in a new context and gave decision different from the one decided earlier ?

a) Yes
b) No

42. Do you agree that the functioning of Lok Adalats in Himachal Pradesh has really lessened the burden of regular courts and saved them too crumble because of massive pendency of cases before them ?

a) Yes
b) No

43. Whether after the case is decided by the Lok Adalat the compromise is challenged before the regular court ?

a) Very often
b) Rarely
c) Not at all

44. What view is preferred by the Judges of the Lok Adalat about the nature of punishment ?

a) Remedial view
b) Preventive view
c) Deterrant view
d) Remedial and preventive view
e) None of the above.

45. At what stages cases is referred from the regular court to the Lok Adalat ?

a) At the Filing stage
b) At the stage of initial hearing
c) When the case is ready for final disposal after arguments

Signature.....

Name.....

Designation.....

Address.....

.....

ANNEXURE-II

QUESTIONNAIRE FOR THE ADVOCATES WHO PARTICIPATED AS COUNSELLORS TO THE DISPUTANTS

1. Are you aware of the steps taken by the Government of Himachal Pradesh to hold the Lok Adalats ?

   a) Yes
   b) No

2. Do you have any awareness about The Legal Services Authority Act, 1987 ?

   a) Yes
   b) No

3. What factors are taken into account by the competent authorities for referring the cases to the Lok Adalat ?

   a) Nature of the case e.g. Civil, Compensation claims, Challans, Rental disputes, Family disputes, Petty cases of criminal nature etc.
   b) State at which the case is pending
   c) Consent of the parties
   d) Any other factor

4. Have you a popular faith in the functioning of the Lok Adalat ?

   a) Yes
   b) No

5. Do you favour referring of all types of cases to the Lok Adalat in the light of the composition and procedure followed by the Lok Adalat ?

   a) Yes
   b) No

6. Do you think that the Lok Adalat can deliver better justice than the Regular Court ?

   a) Yes
   b) No

7. What role can an Advocate play in getting a matter referred to the Lok Adalat ?

   a) Very significant role
   b) Less significant role
   c) Insignificant role

8. What role can a Judge of the Regular Court play to refer the cases to the Lok Adalat ?

a) Very significant role
b) Less significant role
c) Insignificant role

9. How many cases have been referred by you so far as an Advocate of the party (parties) to the Lok Adalat ?

a) 0-5
b) 5-10
c) 10-20
d) 20-50
e) 50-100
f) above 100
g) Nil

10. How many cases out of the said referred to cases have been disposed of by the Lok Adalat ?

a) All the cases
b) Between 5-10
c) Between 10-20
d) Between 20-50
e) Between 50-100
f) Above 100
g) Nil

11. Are you satisfied of the manner in which the said cases were decided by the Lok Adalat ?

a) Yes
b) No

12. Are you really satisfied with the functioning of the Lok Adalat in Himachal Pradesh ?

a) Yes
b) No

13. If the answer to question No.12 is in the negative than in our opinion what are the reasons for insatisfactory functioning of Lok Adalat ?

a) Inproper selection of Presiding Officer
b) Extra-legal procedure
c) Absence of legal sanction
d) Lack of awareness on the part of general public
e) Non-Cooperation by the Advocate
f) Non-cooperation of the Government Legal Agencies and Autonomous bodies who are parties to the case.
g) Absence of the power to summon the parties of the case by the Lok Adalat ?
h) All of the above.

14. What steps will you suggest to improve the unsatisfactory functioning of Lok Adalats ?

a) Proper selection of the Presiding Officer
b) Induction of lawyers with social commitments to function as the member of the Lok Adalat
c) Awareness of the parties
d) Initiative of the Advocate
e) To claim Lok Adalats with legal powers
f) Cooperation from the Government Agencies
g) All of the above.

15. Are you satisfied with the mode of preparation of a panel of Judges for the Lok Adalat ?

a) Yes
b) No

16. Do you think that Lok Adalats in Himachal Pradesh have really succeeded in providing speedy and less expensive justice ?

a) Yes
b) No

17. Do you feel that the functioning of Lok Adalat have reduced the Courts arrear in Himachal Pradesh ?

a) Yes
b) No

18. Do you consider that the process of decision-making adopted by the Lok Adalat is democratic ?

a) Yes
b) No

19 Is the practice of framing issues followed by the Lok Adalat ?

a) Yes
b) No

20. What time is generally taken by the Lok Adalat to settle the dispute referred to it by the Regular Courts ?

a) One sitting
b) Two sittings
c) More than two sittings

21. The degree of knowledge of awareness of your client about the functioning of Lok Adalat was:

a) Highly satisfactory
b) Satisfactory
c) Unsatisfactory
d) No knowledge at all

22. Can a man of eminence working as the Judge of Lok Adalat influency the disputants and help in the speedy disposal of cases referred to Lok Adalat ?

a) Yes
b) No

23 How many time did you participate in the functioning of Lok Adalats as a Judge ?

a) Once
b) Twice
c) Thrice
d) More than three times

24. What steps would you suggest for the preparation of a panel of Judges to ensure effective working of Lok Adalat ?

a) Judges of the Lok Adalat should be taken from amongst the senior working judicial officers.
b) From the Senior Advocates of the Bar.
c) Women Section with socio-legal background.
d) Experienced Law Teachers.
e) Committed social workers.
f) Retired Judges.
g) All of the above
h) Any other suggestion, if any (please specifically mention):

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25. Do you think that the Presiding Officer of the Lok Adalat exerts pressure on the parties to come to negotiated settlement.

a) Yes
b) No

26. Do you think that the role of Lok Adalat is merely confined to a propaganda value rather than dispensation of justice ?

a) Yes
b) No

Signature----------

Name----------

Address----------

ANNEXURE-III

QUESTIONNAIRE FOR BENEFICIARIES (DISPUTANTS)

1. The Government of Himachal Pradesh has taken initiative to hold Lok Adalats in consonance with the spirit contained in the Himachal Pradesh Legal Aid Rules, 1984 to dispose of cases without delay. Do you have any idea about this strategy initiated by the State?

   a) Yes
   b) No

2. Have you ever referred your case to the Lok Adalat ?

   a) Yes
   b) No

3. Do you know the procedure to refer the case to Lok Adalat ?

   a) Yes
   b) No

4. Did your Advocate ever encourage you to refer your case to Lok Adalat ?

   a) Yes
   b) No

5. Has your Advocate taken full interest in the case referred by him to Lok Adalat ?

   a) Yes
   b) No

6. Did you feel the need of services of your Advocate to get your case disposed of by the Lok Adalat ?

   a) Yes
   b) No

7. Do you remember the date of holding the Lok Adalat in your case ? In case yes, mention the date

   a) Yes (Date----------)
   b) No

8. What was the nature of the case referred to the Lok Adalat ?

a) Criminal suit
b) Panchayat Act cases
c) Criminal cases
d) Rent cases
e) Misc. nature
f) Any other

9. Was the decision given by Lok Adalat in your favour ?

a) Yes
b) No

10. Are you satisfied with the functioning of the Lok Adalat ?

a) Yes
b) No

11. What were the reasons which finally created obstacles in no arriving at the compromise in your case ?

a) Attitude of the Advocate
b) Attitude of the Opponent
c) Attitude of the Judges of the Lok Adalat
d) Legal intricases/Nature of the case
e) Any other reason

12. What were the reasons which helped you and your Opponent to arrive at a compromise and finally dispose of the case ?

a) Quick disposal
b) Saving of Money
c) Frustration of delay in the Regular Court
d) All of the above
e) Any other reason, if any

13. With which of the follosing suggestion do you agree to improve the working of the Lok Adalat ?

a) Active initiatives of the Judge to persuade the parties to the suit to refer their case to the Lok Adalat

b) Participation of non-legal persons may be strengthened.

c) Regular and early holding of Lok Adalat
d) Generation of Legal Awareness
e) Initiative of the Advocates
f) All of the above

14. Did the Judge of Lok Adalat make special efforts to bring you and your Opponent to the compromise and resolve the dispute ?

a) Yes
b) No

15. What amount has been awarded to you by the Lok Adalat as a matter of compensation, if any ?

a) 0 - 25,000
b) 25,000 - 50,000
c) 50,001 - 1,00,000
d) Above 1,00,000.

16. How many instalments were fixed for the realization of the amount of compensation by the Lok Adalat ?

a) One
b) Two
c) Three
d) More than three

17. Do you favour the idea that the process of decision-making adopted by the Lok Adalat is democratic ?

a) Yes
b) No

18. Has the tension between you and your Opponent lessened and relationship improved after the settlement by Lok Adalat ?

a) Yes
b) No

19. How much time was taken by the Lok Adalat to settle your dispute ?

a) One sitting
b) Two sttings
c) More than two sittings

20. Have you ever been persuaded by the voluntary agency, if any, to refer your case pending in the regular Court, to the Lok Adalat ?

a) Yes
b) No

21. Are you satisfied with the behaviour of judge of the Lok Adalat who conducted you case ?

a) Yes
b) No

22. Have you a popular faith in the working of Lok Adalat ?

a) Yes
b) No

23. Do you have faith in the services of Advocate(s) engaged by you in case of award of compensation by the Lok Adalats ?

a) Yes
b) No

24. Do you think that devoted and popular social workers participation in the Lok Adalat in the capacity of a Judge may be of great value for the settlement of disputes between the parties ?

a) Yes
b) No

25. Did you agree to come into compromise because the authorities of the Lok Adalat exerted pressure on you.

a) Yes
b) No

26. Which do you prefer most for rendering justice ?

a) Regular Court
b) Lok Adalat

27. Do you feel that the functioning of Lok Adalat has created a feeling of fearlessness and raised a ray of strong hope to render justice expeditiously at the cheaper rate ?

a) Yes
b) No

28. Who encouraged you to go to the Lok Adalat from the Regular Court ?

a) Your self-awareness
b) Advocate engaged by you
c) Voluntary Agency
d) Your friend
e) The Judge of a Regular Court
f) Any other reason

29. What method is applied by the Lok Adalat after the settlement of dispute between the parties to rebuild and improve the relationship between the disputants ?

a) Shaking of hands
b) Distribution of sweets
c) Any other mode

30. Do you feel that the working of Lok Adalat is more democratic and more helping than the Regular Court ?

a) Yes
b) No

31. Are you satisfied with the behaviour of the members of Lok Adalat ?

a) Yes
b) No

32. Did you show your resentment in the Law Court against the Lok Adalat verdict because it did not favour you properly ?

a) Yes
b) No

33. Have you ever requested the Judges of Lok Adalat to allow you to produce witnesses in your favour to support your claim ?, If yes, what sort of reliance was placed on the statement of your witnesses to benefit you in arriving at the settlement in your favour

a) Yes (i. Very high)
(ii. Low)
b) No

34. Do you think that you have now enough courage to stand against any injustice because you can now get early justice through Lok Adalat ?

a) Yes
b) No

35. Do you agree that the majority of the people in your area have knowledge/awareness about the working of Lok Adalats ?

a) Yes
b) No

Signature----------

Name----------

Address----------

ANNEXURE-IV

QUESTIONNAIRE FOR THE GENERAL PUBLIC

1. Are you aware that the rules framed by State Government for holding Lok Adalats derive their authority from Himachal Pradesh Legal Aid Rules, 1984 ?

   a) Yes
   b) No

2. Do you know the other legal source from where Lok Adalats derive their authority to function as a legal machinery to decide the cases referred to it by the disputants ?

   a) Yes
   b) No

3. In your opinion what criteria, ought to be kept in mind to prepare a panel of judges for Lok Adalat ?
   a) Person conversant with the Court procedure
   b) Person with social-legal background
   c) Retired Judges and Government Officers having judicial experience
   d) Seniority of the Advocates
   e) Professors of Law
   f) Any other criteria.

4. How the place of holding Lok Adalat ought to be selected by the competent authority ?

   a) Convenience of the Chief-Guest
   b) Availability of the persons associated with Lok Adalat.
   c) Political consideration
   d) Concentration of cases in the area concerned.
   e) Any other

5. What requirements, if any, ought to be complied with to refer dispute to the Lok Adalat ?

   a) Consent of the party
   b) Initiative of the Judge
   c) Initiative of the Advocate
   d) Any other

6. Whether the Benches of Judges of Lok Adalats should be constituted with reference to the different nature of cases ?

   a) Yes
   b) No

7. What criteria ought to be followed to constitute the Benches of the Lok Adalat ?

a) Field of specialisation of the members of Lok Adalat.
b) Choice of the members of Lok Adalat.
c) Consent of the party.
d) Any nother

8. What significance ought to be given to the legal formalities, if any, during the settlement of dispute by the Judges of Lok Adalat ?

a) Very high significance
b) Low significance
c) No significance

9. Should the Advocates of the disputants be allowed to argue case before the Lok Adalat ?

a) Yes
b) No

10. What opportunity ought to be provided to the clients to establish their case before the compromise is arrived at ?

a)Arguments of the Advocate
b) Arguments of the parties.
c) Persuation by the Judges
d) Witnesses

11. Should the date be sometimes postponed in case of the possibility of future compromise ?

a) Yes
b) No

12. Should the Regular Court be intimate by the Lok Adalat officially about the postponement of the case ?

a) Yes
b) No

13. Do you feel that Advocates of the respective parties create obstacles with the result that the Lok Adalat failed to persuade the parties for the settlement of dispute ?

a) Yes
b) No

14. In your opinion what are the reasons for less reference of cases to the Lok Adalat ?

a) Parties unawareness about the Lok Adalat
b) Lack of initiative by the Advocates
c) Lack of initiative by the Judge
d) Disbelief in the working of Lok Adalat
e) Any other

15. What steps would you like to suggest to increase the number reference of the disputes to the Lok Adalat ?

a) Generate awareness about Lok Adalats
b) Development of confidence building measures in the working of Lok Adalat
c) Personal initiative of the Judge
d) Initiative of the lawyer
e) Any nother.

16. What mechanism, if any, would you like to suggest for monitoring the implementation aspect of Lok Adalat Scheme ?

a) Review by the Supreme Court
b) Review by the High Court
c) Review by the Legal Aid Board
d) Review by the Independent Agency, if any

17. Whether the Legal Aid Board in Himachal Pradesh has made attempts to organise the literacy camps at the sub-division/District/State level to generate mass conciousness amongst the people about the functioning of Lok Adalats ?

a) Yes
b) No

18. Who in your opinion should bear the expenses incurred in holding Lok Adalat ?

a) CILAS
b)Government Aid
c) Contributions by voluntary organisations
d) Non-Governmental Organisations (N.G.O's).

19. Do you think that the village panchayats can play a vital role in promoting the functioning of Lok Adalats by way of creating an awareness of experience of Lok Adalats schemes in rural area ? If yes, whether Panchayat ever been associated with the Lok Adalat ?

a) Yes
b) No

20. Has the system of Lok Adalat inculcated the spirit of self-rule amongst the people at Village/Block/District level ?

a) Yes
b) No

21. What in your opinion is the primary objective of holding Lok Adalat ?

a) Speedy disposal of cases
b) Less expenditure on litigation
c) To develop harmony and peace amongst the disputants
d) To develop a democratic attitude towards dispute resolutions.

22. Do you agree that Lok Adalats have brought about attitudenal change in out-look of the people ?

a) Yes
b) No

23. Do you favour the idea that the process of decision-making adopted by the Lok Adalat is democratic ?

a) Yes
b) No

24. Do you think that the popular faith in Lok Adalat is a result of the fact that Nyaya Panchayats at village level and Regular Court at different levels have badly failed to provide justice within reasonable time and made it difficult to have justice at cheaper rate ?

a) Yes
b) No

25. Whether the Lok Adalat has developed its own procedure for the execution of its own orders ?

a) Yes
b) No

26. What are the categories of cases entertained by the Lok Adalat for the settlement of the disputes ?

a) Civil
b) Criminal
c) Land
d) Compensation
e) All of the above

27. In which category of cases the Lok Adalat has shown more encouraging performance ?

a) Compensation cases
b) Marriage cases
c) Land cases
d) All of them

28. Do you think that the participation of women in the functioning of Lok Adalat will assist in the early settlement of dispute

a) Yes
b) No

29. Do you agree that the hands of Lok Adalat are sometimes tightened by the limits of law ?

a) Yes
b) No

30. Do you think that the revival of jury system and its association in functioning of Lok Adalat will provide a boost to dispose of cases expe-ditiously ?

a) Yes
b) No
c) No opinion

31. Do you think that Lok Adalats in Himachal Pradesh lack persuation and the result is that they have not fairly succeeded in the disposal of large number of cases referred to them by Regular Courts ?

a) Yes
b) No

32. Do you know that the Judges of the Lok Adalat is clothed with the legal authority to compulsorily summon the parties in dispute to Lok Adalats ?

a) Yes
b) No

33. Do you think that the role of Lok Adalat is merely confined a propoganda value rather than dispensation of justice ?

a) Yes
b) No

34. Do you agree with the view that the members of the Lok Adalat have failed to exercise influence on the disputants because they are unknown (stranger) to the parties in disputes ?

a) Yes
b) No

35. What steps do you suggest to make the Lok Adalat popular at the village level ?

a) Effective awareness compaign
b) Active participation of Panchayat members in the process of Lok Adalats
c) Holding of Lok Adalat at Panchayat level.

36. What do you suggest to create awareness about the functioning of Lok Adalat at village level ?

a) Awareness Camps
b) Use of Mass-Media
c) Persons to person contact by the Legal Aid Members
d) Active participation of non-Governmental Agencies
e) Involvement of Law Schools
f) All of them

37. Do you agree that the functioning of Lok Adalats in Himachal Pradesh has really lessened the burden of Regular Courts and saved them to crumble down because of massive pendency of cases before them ?

a) Yes
b) No

38. Are you aware, of any cases(s) where the parties have gone again to the Regular Court after the case(s) was decided by the Lok Adalat ?

a) Yes
b) No

39. What view do you think should be preferred by the Judges of the Lok Adalat about the nature of punishment ?

a) Remedial view
b) Preventive view
c) Deterrant view
d) Remedial and preventive view
e) None of the above

40. At what stage a case is referred from the Regular Court to the Lok Adalat ?

a) At the filing stage
b) At the stage of initial hearing
c) When the case is ready for final disposal after argument

Signature----------
Name----------
Educational Qualification----

Occupation----------
Address----------
Town----------
Village----------
Tehsil----------
Distt.----------
State----------

ANNEXURE-V

THE LEGAL SERVICES AUTHORITIES ACT, 1987

(ACT NO.39 OF 1987)

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THE LEGAL SERVICES AUTHORITIES ACT, 1987

[ACT NO.39 OF 1987] *

11th October,1987

An Act to constitute legal services authorities to provide free and competent legal services to the weaker sections of the society to ensure that opportunity for securing justice are not denied to any citizen by reason of economic or other disabilities, and to organise Lok Adalats to secure that the operation of the legal system promotes justice on a basis of equal opportunity.

Be it enacted by Parliament in the Thirty-eighth Year of the Republic of India as follows:

CHAPTER I
PRELIMINARY

1. Short title, extent and commencement - (1) This Act may be called the Legal Services Authorities Act, 1987.

(2) It extends to the whole of India, except the State of Jammu & Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification appoint; and different dates may be appointed for different provisions of this Act and for different States, and any reference to commencement in any provisions of this Act in relation to any State shall be construed as a reference to the commencement of that provisions in that State.

2. Definitions - (1) In this Act, unless the context otherwise requires: -

(a) "Central Authority" means the National Legal Services Authority constituted under section 3:

(b) "District Authority" means a District Legal Services Authority constituted under section 9;

(c) "legal service" includes the rendering of any service in the conduct of any case or other legal proceeding before any court or other authority or tribunal and the giving of advice on any legal matter;

(d) "Lok Adalat" means a Lok Adalat organised under Chapter VI;

(e) "notification" means a notification published in the Office Gazette;

(f) "prescribed" means prescribed by rules made under this Act;

(g) "scheme" means any scheme framed by the Central Authority, a State Authority or a District Authority for the purpose of giving effect to any of the provisions of this Act;

(h) "State Authority" means a State Legal Services Authority constituted under section 6;

(i) "State Government" includes the administrator of a Union territory appointed by the President under article 239 of the Constitution.

(2) Any reference in this Act to any other enactment or any provision thereof shall in relation to an area in which such enactment or provision is not in force be construed as a reference to the corresponding law or the relevant provision of the corresponding law, if any, in force in that area.

CHAPTER II
THE NATIONAL LEGAL SERVICES AUTHORITY

3. Constitution of the National Legal Services Authority - (1) The Central Government shall constitute a body called the National Legal Services Authority to excise the powers and perform the functions conferred on a Central Authority under this Act.

(2) The Central Authority shall consist of -

(a) the Chief Justice of India who shall be the Patron-in-Chief;

(b) a serving or retired Judge of the Supreme Court, nominated by the President, in consultation with the Chief Justice of India who shall be the Executive Chairman; and

(c) such other members, possessing such experience and qualifications as may be prescribed and nominated by the Central Government.

(3) The Central Government shall appoint an officer of the Department of Legal Affairs of the Ministry of Law and Justice of the Government of India, not lower in rank than that of a Special Secretary to that Government as the Member-Secretary of the Central Authority.

(4) The terms and conditions of service of the members of the central Authority shall be such as may be prescribed by the Central Government.

(5) The Central Government shall provide the Central Authority with such other officers and employees as it considers necessary for carrying out the functions of that Authority under this Act.

(6) The administrative expenses of the Central Authority, including the salaries, allowances and pensions payable to the Officers and staff of the central Authority shall be defrayed out of the Consolidated Fund of India.

(7) All orders and decisions of the central Authority shall be authenticated by the Member-Secretary or any other officer of the central Authority duly authorised by him in this behalf.

(8) No act or proceeding of the central Authority shall be invalid merely on the ground of the existence of any vacancy in any defect in the constitution of the central Authority.

4. **Functions of the Central Authority** - The Central Authority shall, subject to the general directions of the Central Government, perform all or any of the following functions, namely: -

(a) lay down policies and principles for making legal services available under the provisions of this Act;

(b) frame the most effective and economical schemes for the purpose of making legal services available under the provisions of this Act;

(c) utilise the funds at its disposal and make appropriate allocations of funds to the State Authorities and District Authorities;

(d) take necessary steps by way of social justice litigation with regard to consumer protection, environmental protection or any other matter of special concern to the weaker sections of the society and for this purpose, give training to social workers in legal skills;

(e) organise legal aid camps, especially in rural areas, slums or labour colonies with the dual purpose of educating the weaker sections of the society as to their rights as well as encouraging the settlement of disputes through Lok Adalats;

(f) encourage the settlement of disputes by way of negotiations, arbitration and conciliation;

(g) undertake and promote research in the field of legal services with special reference to the need for such services among the poor;

(h) to do all things necessary for the purpose of ensuring commitment to the fundamental duties of citizens under Part IVA of the Constitution;

(i) monitor and evaluate implementation of the legal aid programmes at periodic intervals and provide for independent evaluation of programmes and schemes implemented in whole or in part by funds provided under this Act;

(j) recommend to the central Government grants-in-aid for specific schemes to various voluntary social welfare institutions and the State and District Authorities, from out of the amounts placed at its disposal for the implementation of the legal services schemes under the provisions of this Act;

(k) develop in consultation with the Bar Council of India, programmes for clinical legal education and promote guidance and supervise the establishment and working of legal services clinics in universities, law colleges and other institutions;

(l) take appropriate measures for spreading legal literacy and legal awareness amongst the people and in particular to educate weaker sections of the society about the rights, benefits and privileges guaranteed by social welfare legislations and other enactments as well as administrative programmes and measures;

(m) make special efforts to enlist the support of voluntary social welfare institutions working at the grass-root level, particularly among the Scheduled Castes and the Scheduled Tribes, women and rural and urban labour; and

(n) co-ordinate and monitor the functioning of State and District Authorities and other voluntary social welfare institutions and other legal services organisations and give general directions for the proper implementation of the legal services programmes.

5. Central Authority to work in co-ordination with other agencies - In the discharge of its functions under this Act, the Central Authority shall wherever appropriate, act in co-ordination with other governmental and non-governmental agencies, universities and other engaged in the work of promoting the cause of legal services to the poor.

CHAPTER III

STATE LEGAL SERVICES AUTHORITY

6. Constitution of State Legal Services Authority - (1) Every State Government shall constitute a Legal Services Authority for the State to exercise the powers and perform the functions conferred on a State Authority under this Act.

(2) A State Authority shall consist of-

(a) the Chief Justice of the High Court or any other serving or retired Judge of the HIgh Court nominated by the Governor in consultation with the Chief Justice, who shall be the Chairman of the State Authority; and

(b) such other members possessing such experience and qualifications as may be prescribed and nominated by the State Government.

(3) The State Government shall appoint the Law Secretary or the Judicial Secretary of the State as the Member-Secretary of the State Authority.

(4) The terms and conditions of service of the members of the State Authority shall be such as may be prescribed by the State Government.

(5) The State Government shall provide to the State Authority with such officers and employees as it considers necessary for carrying out the functions of that Authority under this Act.

(6) The administrative expenses of the State Authority including the salaries, allowances and pensions payable to the Member-Secretary and other officers and staff shall be defrayed out of the Consolidated Fund of the State.

(7) All orders and decisions of the State Authority shall be authenticated by the Member-Secretary or any other officer of the State Authority duly authorised by him in this behalf.

(8) No act or proceeding of a State Authority shall be invalid merely on the ground of the existence of any vacancy, or any defect in the constitution of the State Authority.

7. **Functions of the State Authority** - (1) It shall be the duty of the State Authority to give effect to the policy and directions of the Central Authority

(2) Without prejudice to the generality of the functions referred to in sub-section (1) the State Authority shall perform all or any of the following functions, namely:-

(a) give legal service to persons who satisfy the criteria laid down under this Act;

(b) conduct Lok Adalats;

(c) undertake preventive and strategic legal aid programmes; and

(d) perform such other functions as the State Authority may, in consultation with the central Government, fix by regulations.

8. State Authority to act in co-ordination with other agencies and be subject to directions given by the central Government, etc. - In the discharging of its functions under this Act, the State Authority shall, wherever appropriate, act in co-ordinations with other governmental agencies, non-governmental voluntary social welfare institutions, universities and other engaged in the work of promoting the cause of legal services to the poor and shall be guided by such directions as the central Government, the State Government or the central Authority may give to it in writing.

9. Constitution of District Authorities - (1) Every State Government shall constitute a Legal Services Authority for every District in the State to exercise the powers and perform the functions conferred on the District Authority under this Act.

(2) A District Authority shall consist of - (a) the District Judge, who shall be its Chairman; and

(b) such other members possessing such qualifications and experience as may be prescribed and nominated by that Government.

(3) The State Government shall also appoint one of the members of the District Authority as the Secretary of that Authority.

(4) The terms and conditions of service of the members of the District Authority shall be such as may be prescribed by the State Government.

(5) The State Government shall provide every District Authority with such staff as it considers necessary for carrying out the functions assigned to the District Authorities under this Act.

(6) The administrative expenses of every District Authority including the salaries allowances and pensions payable to the Secretary of every District Authority and the other staff shall be defrayed out of the Consolidated Fund of the State.

(7) All orders and decisions of a District Authority shall be authenticated by the Secretary or any other officer of the Authority duly authorised by him in this behalf.

(8) No act or proceeding of a District Authority shall be invalid merely on the ground of the existence of any vacancy in, or any defect in the constitution of the District Authority.

10. Functions of District Authority - (1) It shall be the duty of every District Authority to perform such of the functions of the State Authority in the District as may be delegated to it from time to time by the State Authority.

(2) Without prejudice to the generality of the functions referred to in sub-section (1), the District Authority may perform all or any of the following functions, namely: -

(a) co-ordinate the activities of legal services in the District;

(b) organise Lok Adalats within the District; and

(c) perform such other functions as the State Authority may, in consultation with the State Government fix by regulations.

11. District Authority to act in co-ordination with other agencies and be subject to directions given by the Central Authority, etc. - In the discharge of its functions under this Act, the District Authority shall, wherever appropriate act in co-ordination with other governmental and non-governmental institutions, universities and other engaged in the work of promoting the cause of legal services to the poor and shall also be guided by such directions as the central Authority or the State Authority may give to it in writing.

CHAPTER IV
ENTITLEMENT TO LEGAL SERVICES

12. Criteria for giving legal services - Every person who has to file or defend a case shall be entitled to legal services under this Act if that person is -

(a) a member of a Scheduled Caste or Scheduled Tribe;
(b) a Victim of trafficking in human beings or begar as referred to in article 23 of the Constitution;
(c) a women or a child;
(d) a mentally ill or otherwise disabled person;
(e) a person under circumstances of underserved want such as being a victim of a mass disaster, ethnic violence, caste atrocity, flood, drought, earthquake or industrial disaster; or
(f) an industrial workman; or
(g) in custody, including custody in a protective home within the meaning of clause (g) of section 2 of the Immoral traffic (Prevention) Act, 1956 or in a juvenile home within the meanings of clause (j) of section 2 of the Juvenile Justice Act, 1986, or in a psychiatric hospital or psychiatric nursing home within the meaning of clause (g) of section 2 of the Mental Health Act, 1987; or
(h) in receipt of annual income less than nine thousand rupees if the case is before a court other than the Supreme Court and less than twelve thousand rupees or such other amount as may be prescribed by the Central Government if the case is before the Supreme Court.

13. Entitlement to legal services - (1) Persons who satisfy all or any of the criteria specified in section 12 shall be entitled to receive legal services provided that the concerned Authority is satisfied that such person has prima facie case to prosecute or to defend
(2) An affidavit made by a person as to his income may be regarded as sufficient for making him eligible to the entitlement of legal services under this Act unless the concerned Authority has reason to disbelieve such affidavit.

CHAPTER V
FINANCE ACCOUNTS AND AUDIT

14. Grants by the Central Government - The Central Government shall, after due appropriation made by Parliament by law in this behlf, pay to the central Authority, by way of grants, such sums of money as the Central Government may think fit for being utilised for the purposes of this Act.

15. National Legal Aid Fund - (1) The Central Authority shall establish a Fund to be called the National Legal Aid Fund and there shall be credited thereto -

(a) all sums of money given as grants by the Central Government under section 14;

(b) any grants or donations that may be made to the Central Authority by any other person for the purposes of this Act;

(c) any amount received by the Central Authority under the orders of any court or from any other source.

(2) The National Legal Aid Fund shall be applied for meeting-

(a) the cost of legal services provided under this Act, including grants made to State Authorities.

(b) any other expenses which are required to be met by the Central Authority;

16. State Legal Aid Fund - (1) A State Authority shall establish a fund to be called the State Legal Aid Fund and there shall be credited thereto -

(a) all sums of money paid to it or any grants made by the Central Authority for the purposes of this Act;

(b) any grants or donations that may be made to the State Authority by the State Government or by any person for the purposes of this Act;

(c) any other amount received by the State Authority under the orders of any court or from any other source.

(2) A State Legal Aid Fund shall be applied for meeting -

(a) the cost of functions referred to in section 7;

(b) any other expenses which are required to be met by the State Authority.

17. District Legal Aid Fund - (1) Every District Authority shall establish a fund to be called the District Legal Aid Fund and there shall be credit thereto -

(a) all sums of money paid or any grants made by the State Authority to the District Authority for the purposes of this Act;

(b) any grants or donations that may be made to the District Authority by any person for the purposes of this Act;

(c) any other amount received by the District Authority under the orders of any court or from any other source.

(2) A District Legal Aid Fund shall be applied for meeting,-

(a) the cost of functions referred to in section 10;

(b) any other expenses which are required to be met by the District Authority.

18. Accounts and audit - (1) The Central Authority, State Authority or the District Authority (hereinafter referred to in this section as 'the Authority' as the case may be, shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the income and expenditure account and the balance-sheet in such form and in such manner as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Authorities shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Authority concerned to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the auditing of the accounts of an Authority under this Act shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the auditing of the Government accounts and in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Authorities

under this Act.

(4) The accounts of the Authorities, as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon, shall be forwarded annually by the Authorities to the central Government or the State Governments, as the case may be.

CHAPTER - VI
LOK ADALATS

19. Organisation of Lok Adalats - (1) The State or District Authorities may organise Lok Adalats at such intervals and places and for exercising such jurisdiction and for such areas, as they think fit.

(2) Every Lok Adalat organised for an area shall consist of such judicial officers of the area as may be specified by the State or District Authorities organising the Lok Adalat and such other members possessing such qualifications and experience as may be prescribed by the State Government.

(3) A Lok Adalat shall have jurisdiction to determine and arrive at a compromise or settlement between the parties to a dispute in respect of any matter falling within the jurisdiction of any civil, criminal or revenue court or any tribunal constituted under any law for the time being in force in the area for which the Lok Adalat is organised.

20. Cognizance of cases by Lok Adalats - (1) Where, in any suit or other proceeding which is capable of being taken cognizance of by a Lok Adalat under the provisions of this Act and pending before any court or tribunal, if the parties thereof make a joint applications to the court or tribunal indicating their intention to compromise the matter or to arrive at a settlement, the presiding officer of the court or tribunal, as the case may be may, instead of proceeding to effect a compromise between the parties or to arrive at a settlement himself, and notwithstanding any thing contained in

any other way for the time being in force, pass an order that the suit or proceeding shall stand transferred to the Lok Adalat for arriving at a compromise or settlement.

(2) Notwithstanding anything contained in any other law for the time being in force, the District Authority may, on receipt of an application from any person that any dispute or matter pending, for a compromise or settlement needs to be determined by a Lok Adalat, refer such dispute or matter to the Lok Adalat for determination.

(3) Where any suit or proceeding is transferred to a Lok Adalat sub-section (1) or where a reference has been made to it under sub-section (2), the Lok Adalat shall proceed to dispose of the suit, proceeding, dispute or matter and arrive at a compromise or settlement between the parties.

(4) Every Lok Adalat shall, while determining any proceeding before it under this Act, with utmost expedition to arrive at a compromise or settlement between the parties and shall be guided by legal principles and the principles of justice, equity and fair play.

(5) Where no award is made by the Lok Adalat on the ground that no compromise or settlement could be arrived at between the parties, it shall be open to the parties to a suit or proceeding transferred from a court or tribunal under sub-section (1) to continue such suit or proceeding before such court or tribunal, or if it is a dispute or matter referred to a Lok Adalat under sub-section (1), any of the person may institute a proceeding in an appropriate court.

(6) Where, under sub-section (5), the parties to a suit or proceeding intend to continue the proceeding in such suit or proceeding before the court or tribunal from which it was transferred, such court or tribunal shall proceed to deal with with such suit or proceeding from the stage at which it was before the suit or proceeding was transferred to the Lok Adalat.

21. Award of Lok Adalat - (1) Every award of the Lok Adalat shall be deemed to be a decree of a civil court or order of

any other court or tribunal and where a compromise or settlement has been arrived at, by a Lok Adalat in a suit or proceeding transferred to it under sub-section (1) of section 20 the court fee paid in such suit or proceeding shall be refunded in the manner provided under the Court-fees Act,1870.
(2) Every award made by a Lok Adalat shall be final and binding on all the parties to the dispute, and no appeal shall lie to any court against the award.

22. Powers of Lok Adalats - (1) The Lok Adalat shall, of the purposes of holding any determination under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 while trying a suit in respect of the following matters, namely: -
(a) the summoning and enforcing the attendance of any witness and examining him on oath;
(b) the discovery and production of any document;
(c) the reception of evidence of any public record or documents or copy of such record or document from any court or office; and
(e) such other matters as may be prescribed.

(2) Without prejudice to the generality of the powers contained in sub-section (1), every Lok Adalat shall have the requisite powers to specify its own procedure for the determination of any dispute coming before it.
(3) All proceedings before a Lok Adalat shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code and every Lok Adalat shall be deemed to be a civil court for the purpose of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

CHAPTER VII
MISCELLANEOUS

23. Members and staff of Authorities and Lok Adalats to be public servants - The members of the Central Authority, the

State Authorities and the District Authorities and officers and other employees provided to such Authorities and the members of the Lok Adalats shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

24. Protection of action taken in good faith - No suit, prosecution or other legal proceeding shall lie against the central Government or State Government or against the Chairman or any other member of any Central, State or District Authority or any other person authorised by such Chairman or other member, for anything which is in good faith done or intended to be done under the provisions of this Act or any rule, regulations or order made thereunder.

25. Act to have overriding effect - The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

26. Power to remove difficulties - (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty.

Provided that no such order shall be made after the expiry of a period of two years from the date on which this Act receives the assent of the President.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

27. Power of the Central Government to make rules - (1) The Central Government may, by notification, make rules to carry out the provisions of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for all matters in respect of which rules are required to be made by the Central Government under this Act.

28. Power of the State Government to make rules - A State Government may, by notification, make rules to provide for any matter, not being a matter specified in section 27 in respect of which rules are required to be made by the State Government under this Act.

29. Power to make regulations - The Central Authority and every State Authority may, by notification, make regulations not inconsistent with the provisions of this Act and the rules made thereunder, to provide for all matters in respect of which regulations are required to be made by the Central or State Authorities under this Act.

30. Laying of rules and regulations - (1) Every rule made under this Act by the Central Government and every regulation made by the Central Authority thereunder shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation, or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice

to the validity of anything previously done under that rule or regulation.

(2) Every rule made under this Act by a State Government and every regulation made by a State Authority thereunder shall be laid. as soon as may be after it is made, before the State Legislature.

ANNEXURE-VI

THE HIMACHAL PRADESH STATE LEGAL AID TO THE POOR RULES, 1980

CHAPTER - I

PRELIMINARY

1. **Short title, extent and commencement** - (1) These rules may be called the Himachal Pradesh State Legal Aid to the Poor Rules, 1980.

(2) These rules shall extend to the whole of the State of Himachal Pradesh

(3) These rules shall come into force from such date as the State Government may, by notification in the Official Gazette, appoint in this behalf and different dates may be appointed for different areas.

2. **Definitions** - In these rules unless the context otherwise requires, -

(a) "aided person" means a person to whom the legal aid is provided under these rules;

(b) "board" means the Himachal Pradesh State Legal Aid Board constituted under rule 3;

(c) "Legal aid" means the legal aid provided in Chapter VII and it includes legal advice;

(d) the expression "legal pract-itioner" shall have the same meanings as have been assigned to it under the Advocate Act, 1961 (25 of 1961);

(e) "Legal proceedings" means the proceedings in any court in any civil, criminal or revenue matter, from its institution till its final disposal,and includes the preparatory steps, taken for the institution of such proceedings;

(f) "eligible person" means a person who is eligible to free legal aid under rule 23 of these rules; and

(g) "Chairman" means the Chairman of the Board constituted under rule 3 of these rules.

CHAPTER - II
CONSTITUTION OF THE BOARD

3. Constitution of the Board - (1) For carrying out the purposes of these rules, a Board shall be constituted by the State Government, and it shall be known as "the Himachal Pradesh State Legal Aid Board".

(2) The Himachal Pradesh State Legal Aid Board shall consist of the following:

(i) Patron ..the Chief Minister.

(ii) Chairman ..the Law Minister.

Members

(iii) the Chief Secretary to the Government of Himachal Pradesh;

(iv) the Secretary (Law) to the Government of Himachal Pradesh;Convenor

(v) the Secretary (Finance) to the Government of Himachal Pradesh;

(vi) the Secretary (Welfare) to the Government of Himachal Pradesh;

(vii) the Advocate General, Himachal Pradesh

(viii) an Advocate of Himachal Pradesh High Court, nominated by the Himachal Pradesh Government; and

(ix) two persons representing the scheduled castes, scheduled tribes or women, nominated by the Himachal Pradesh Government.

4. **Executive Committee of the Board:** - The Executive Committee of the Board shall consist of as under:

(i) the Secretary (Law) to the Government of Himachal Pradesh... Convenor;
(ii) the Secretary (Finance) to the Government of Himachal Pradesh;
(iii) the Deputy Secretary (Home) to the Government of Himachal Pradesh;
(iv) the Secretary (Welfare) to the Government of Himachal Pradesh;
(v) a person representating the scheduled castes and scheduled tribes; nominated by the Government.

5. **Remuneration and allowances payable to the members of the Board and its committee** - (1) The members of the Board and its committee shall not be entitled to any remuneration for any work connected with the functions of the Board or its committee.

(2) The non-official members of the Board and its committee, who are nominated either from amongst the members of the State Legislature or from amongst the members of the Parliament, shall be paid travelling and daily allowances as may be admissible to them as such member of the State Legislature or the Parliament, as the case may be.

(3) The other non-official members of the Board and its committee shall be paid travelling and daily allowances are admissible to Grade I officers of the State Government.

6. **Members to hold office at the pleasure of the Government** - (1) All members of the Board and its Committee, other than the ex-officio members, shall hold office at the pleasure of the State Government.

(2) Wherever any person is nominated or appointed as a member of the Board or its committee by virtue of the post of office held by him, he shall forthwith cease to be such a member if he ceases to hold such post or office.

7. **Resignation by members** - A member of the Board or its Executive Committee, nominated or appointed may resign his office by submitting a letter of resignation, addressed to the Chairman.

8. **Filling up the casual vacancies** - (1) Any vacancy of a member of the Board or its Executive Committee caused by resignation, death or otherwise, shall be filled up as early as may be practicable.

(2) The mere existence of any vacancy shall not render any action or proceedings of the Board or its Executive Committee to be invalid.

9. **Officers and servants of the Board** - The Board may appoint as many officers and servants as it may consider necessary for the efficient performance of its functions under these rules and such officers and servants of the Board shall be governed by such rules and conditions of service, as may be from time to time, laid down by the Board.

CHAPTER - III

FUNCTIONS OF THE BOARD AND ITS EXECUTIVE COMMITTEE

10. **Functions of Board** - The functions of the Board shall be as under: -

(a) (i) to ensure the functioning of the committees;
(ii) to supervise, direct and control the administration and management of legal aid throughout the State;

(b) to sanction the expenditure of and allocate the funds for the legal aid;

(c) to initiate action for the recovery of the costs of litigation awarded to aided persons;

(d) to call for periodical reports from various committees;

(e) to recommend measures to the State Government for the purpose of improving the administration of legal aid and advice and to suggest the reforms in the working and procedure of courts to minimise the litigation, and the expenses and delay thereof;

(f) to give general or special directions to the committees for the proper discharge of their duties and responsibilities;

(g) to submit the annual report of its working to the State Government;

(h) to scrutinise the cases for the grant of legal aid in matters to be filed or pending before the Supreme Court

(i) to encourage conciliation and settlement in legal proceedings;

(j) to educate and enlighten the people, especially the weaker sections of the society through the agency of the Welfare Department about their civil rights and other rights available to them under various enactments;

(k) to perform such other duties and to discharge such other functions, for the purposes of implementation of these rules, as the Board may determine or the State Government may direct.

CHAPTER - IV

CONDUCT OF THE BUSINESS OF THE BOARD AND ITS EXECUTIVE COMMITTEE

11. Conduct of business - Subject to the provisions of these rules, the procedure for the conduct of meetings of the Board and its Executive Committee shall be such as may be determined by the Board.

12. Minutes of the meetings - (1) The record of the names of the members present in each meeting of the Board and its

Executive Committee and proceedings thereof shall be maintained. The record shall be open for inspection, free of any charge, during all reasonable hours to the members of the Board, or, as the case may be, to its executive committee.

(2) The record will be maintained in Hindi in Devnagri script.

13. Quorum - The quorum for the meeting of the Board or its Executive Committee shall be one-third of the total membership of the Board or the Executive Committee at the relevant time.

CHAPTER - V

CONSTITUTION OF LEGAL AID COMMITTEE

14. Constitution, duration and functions of the High Court Legal Aid Committee - (1) The State Government shall constitute a legal aid committee for the High Court, which shall be known as "the High Court Legal Aid Committee". The said Committee may consist of the following members: -

(a) a Judge of the High Court to be nominated by the Chief Justice of the High Court of Himachal Pradesh, or a retired Judge of the High Court to be nominated by the State Government .. Chairman;

Members

(b) the Secretary (Law) to the Government of Himachal Pradesh;

(c) the Advocate General, Himachal Pradesh .. Convenor

(d) the President Bar Council;

(e) two representatives of the scheduled castes, scheduled tribes or women, nominated by the Himachal Pradesh Government:

Provided that were the Chairman of the Committee is a retired Judge nominated by the State Government, the Registrar of the High Court of Himachal Pradesh shall also be a member of the Committee.

(2) The High Court Legal Aid Committee shal appoint such whole time or part-time employees, as may be approved by the State Government.

(3) The Committee shall follow such procedure for the conduct of its business as it may deem fit, or as may be prescribed by State Legal Aid Board from time to time.

(4) If any person ceases to be the Chairman or the member of the committee for any reason, the vacancy shall be filled up in the same manner as the original appointment:

Provided that where the State Government is satisfied that some time is likely to be consumed in filling up the vacancy in accordance with the rules and the circumstances are such as may render it necessary to take immediate action, the State Government may appoint any person to discharge the functions and exercise the powers of the Chairman or to act as the member of the committee till the vacancy is filled up in accordance with the rules.

(5) The term of office of a non-official member of the committee shall, from the date of its constitution, be three years:

Provided that the State Government, if it thinks it necessary, may earlier -

(a) dissolve or reconstitute the committee;

(b) fill up the vacancy of any non-official member or may extend his term, as it may deem fit.

(6) The High Court Legal Aid Committee shall provide the legal aid to the eligible persons to enable them to meet the expenditure in full or in part, of the proceedings which are pending, instituted or proposed to be instituted before the High Court.

15. Meetings - The rules 11,12 and 13 with necessary modifications, shall apply to the meetings of the High Court Legal Aid Committee:

Provided that where the language of the Court is different from Hindi, the record of the High Court Legal Aid Committee shall at its discretion be maintained either in the language of the Court or in Hindi in Devnagari script.

16. Constitution, term and functions of the District and Sub-Divisional Legal Aid Committees - (1) For providing legal aid to eligible persons, the State Government shall constitute the legal aid committees at the District and Sub-Divisional headquarters. Every such committee shall be called by the name of the place where its headquarters may be located.

(2) The District Legal Aid Committee and the Sub-Divisional Legal Aid Committee shall consist of seven and five members respectively duly nominated by the State Government.

Without prejudice to the right of the Board to make any alteration from time to time, the District Legal Aid Committee and the Sub-Divisional Legal Aid Committee may be constituted as under:

District Legal Aid Committee

(a)	the District Magistrate	..Chairman.
(b)	the Chief Judicial Magistrate	..Member.
(c)	the President District Bar Association	..Member.
(d)	the District Attorney-cum-Public Prosecutor or, as the case may be, the Assistant District Attorney-cum-Public Prosecutor	..Member-Secy.
(e)	the District Welfare Officer	..Member.
(f)	two representatives of the Scheduled castes, scheduled tribes or women nominated by the Himachal Pradesh Government	..Member.

Sub-Divisional Legal Aid Committee

(a)	the Sub-Divisional Magistrate	..Chairman.
(b)	the Judicial Magistrate of the Sub-Division	..Member.
(c)	the Assistant Public Prosecutor	..Member-Secretary.
(d)	a representative of the scheduled castes and scheduled tribes, nominated by the State Government	..Member.
(e)	a social worker nominated by the State Government	..Member.

(3) The term of the non-official members of the committee be three years from the date of its constitution:

Provided that the State Government, if it thinks necessary, may—

(a) dissolve or reconstitute the committee

(b) fill up vacancy of chairman or a member; and

(c) remove a Chairman or a member.

(4) If any person ceases to be the Chairman or the member of the committee for any reason, the vacancy so caused shall be filled up in the same manner as the original appointment:

Provided that where the State Government is satisfied that some time is likely to be consumed in filling up the vacancy in accordance with the rules and the circumstances are such as may render it necessary to take immediate action, the State Government may appoint any person to discharge the functions and exercise the powers of the Chairman;or to act as the member of the committee till the vacancy is filled up in accordance with the rules.

17. Remuneration and daily allowances payable to members of the committee - (1) No member of any committee shall be entitled to any remuneration for any work connected with the functions of the committee.

(2) The non-official members of the committee, who are nominated either from amongst the Members of the State Legislative Assembly or from amongst the Members of the Parliament, shall be paid the travelling and daily allowances as may be admissible to them as such member of the State Legislative Assembly or the Member of the Parliament, as the case may be.

(3) The other non-official members of the committee not being the members of the Sub-Divisional Legal Aid Committee shall be paid travelling and daily allowances as are admissible to Grade-I officers of the State Government and the non-official members of Sub-Divisional Legal Aid Committee shall be paid travelling and daily allowances as are admissible to Government Officers of Grade-II of the State Government.

CHAPTER - VI
FUNDS OF BOARD

18. Funds of the Board - (1) The Board shall have and maintain its own fund and all its receipts shall be carried to it and all the payments be made out of it by the Board.

(2) The Board may, for all or any of the purposes of the rules, accept grants, donations or gifts from the Central or the State Governments or the local authority or any individual or the body of persons, whether incorporated or not.

(3) The funds of the Board shall be applied by it for carrying out the purposes of these rules, for which the funds have been allocated hereunder.

(4) The funds of the Board shall be deposited in such a manner as the State Government may direct by special or general order.

(5) The accounts shall be operated jointly or individually by such an officer as may be authorised by the Board.

19. Budget of the Board - (1) The Board shall prepare and submit to the State Government, every year before such say as may fix, the budget for the next financial year giving an estimate of income and expenditure.

(2) The Board shall submit to the State Government for its approval the supplementary budget in such form and by such date, as may be prescribed.

20. Annual Report - The Board shall within three months after the expiry of each financial year, prepare and forward to the State Government an annual report in such a manner as may be laid down giving the full details of its activities during the preceding financial year.

21. Maintenance of account books and ledgers - (1) The Board shall maintain proper account books and such other ledgers may be required and shall cause to prepare an annual statement of accounts.

(2) The Board shall cause its accounts audited annually by such a person as may be directed by the State Government.

(3) Immediately after its accounts are audited, the Board, shall forward the audit report together with its comments thereon to the State Government.

(4) After scrutiny of the audit report together with its comments thereon, the Board shall comply with such directions as the State Government may deem fit to give.

22. Statistics returns and reports - The Board shall, from time to time, furnish to the State Government such statistics, returns particulars or statements at such time, in such form and manner as may be directed by the State Government.

CHAPTER - VII

LEGAL AID AND ADVICE

23. Persons eligible for aid - These rules shall apply to all persons whose total income from all known sources does not exceed Rs 300/- per month.

24. Cases in which legal aid can be given - (1) Subject to the provisions contained in the preceding rule, the legal aid for any legal proceedings can only be granted, if -

(a) the following conditions are fulfilled, namely -
   (i) the case is of original jurisdiction; and
   (ii) the case appears to be genuine and in the absence of legal aid, the claimant is unable to claim his legal rights;

(b) the party to the proceedings had acted upon the legal advice, if any, given to it under these rules.

(2) Subject to sub-rule (1), the District Legal Aid Committee may either on its own motion or on any information received by it or on an application made by any concerned person, grant legal aid at any stage of the legal proceedings.

(3) The legal aid will be inadmissible in those legal proceedings in which the Legal Practitioners are not allowed to appear.

25. Modes of legal aid - The legal aid under these rules may be given by any or all of the following modes, namely: -

(a) payment of court fees, process free, expenses of witnesses and all other charges payable or paid in connection with any legal proceedings;

(b) representation by a legal practitioner in legal proceedings;

(c) payment of fees, wherever necessary, payable for legal advice before institution of legal proceedings;

(d) charges for the supply of certified copies of judgements and others made in any legal proceedings.

(e) charges for preparation of books, including the charges for printing and translation of documents;

(f) any other kind of expenditure as may be deemed fit.

26. The cases in which legal aid can be denied - No legal aid or legal advice shall be granted or given in the following cases:

(a) defamation;

(b) breach of contract for marriage;

(c) demages for malacious prosecution;

(d) matters relating to elections;

(e) where a person is alleged to have committed an economic offence or an offence against social laws such as the Civil Rights Protection Act, 1955 (Act No.22 of 1955), the Suppression nof Immoral Traffic in Women and Girls Act, 1956 (Act No.104 of 1956) the Essential Commodities Act, 1955 (Act No. 10 of 1955) or the dowry prohibition and child marriage restraint laws;

(f) such other cases which in the opinion of the committee, for reasons to be recorded, do not need legal assistance or

(g) such other matters as may be specified.

27. Application for legal aid - (1) Application in the form, prescribed at Annexure 'A' to these rules, shall be received under a receipt in the office of the Secretary of the concerned Legal Aid Committee.

(2) Subject to the provisions of these rules, the Legal Aid Committee to which applications under sub-rule (1) are made, shall issue the orders sanctioning the legal aid in such form as may be prescribed.

(3) The Legal Aid Committee shall forward a copy of the sanction order regarding the legal aid to the court in which legal proceedings is to be initiated or is pending.

28. Proceedings by the Chairman in most urgent cases - (1) In case the Chairman of any committee constituted under the different provisions of these rules, is of the opinion that such a situation has arisen wherein immediate action is required to be taken, then he will , in anticipation of the approval of the committee concerned, take such action as he may deem fit and thereafter he shall, as soon as possible, send a report of his action so taken to the committee concerned.

(2) If on the receipt of a report under sub-rule (1), the committee concerned does not approve of the action of the Chairman then it will refer the matter to the following whose decision whereupon would be final:

(i) in case of action taken by the Chairman of either the High Court Legal Aid Committee or the District Aid Committee, to the Board;

(ii) in case of action taken by the Chairman of the Sub-divisional Legal Aid Committee, to the District Legal Aid Committee.

29. Execution of agreement and power of attorney by the applicant - (1) In all cases in which the legal aid is granted to any person in a proceeding, other than a criminal proceedings, the applicant shall have to execute an agreement in the form prescribed at Annexure "B" to these rules.

(2) Such person shall also execute an irrevocable power of attorney as in Form "C" empowering the State Government to executes the decree or order passed in his/her favour in a proceeding referred to in sub-rule (1) and to appropriate from out of realisations such amount as is necessary to reimburse the State Government the amount spent by it for giving legal aid.

(3) All amounts paid or recovered under sub-rule (1) or sub-rule(2) shall credited to the State Government.

30. **Engagement of lawyers** - As soon as the committee decides to grant legal aid to the applicant and the applicant executes the agreement and the power of attorney referred to as in the preceding rule, the legal aid committee shall engage a suitable lawyer out of the panel of lawyers maintained by the State Government for engagement, and he shall render his services to the applicant and will represent him in the legal proceedings without charging, any fee from the applicant. He shall be paid such fee as may be laid down in rule 45 of these rules.

31. **Payment of charges out of the legal aid** - The charges for copying out the necessary documents and charges payable in respect of witnesses in the concerned proceedings shall be met out of the legal aid.

32. **Maintenance of accounts by the committee** - The committee shall maintain a separate account of the income and expenditure in respect of the legal aid granted under these rules.

33. **Cancellation of legal aid** - (1) The committee either on its own motion or on the request made by such authority who has the sanctioned the grant, may, after giving at least seven days' notice to the aided person of its intention to do so and affording him the opportunity of being heard, cancel the legal aid already given, if the person to whom it is granted -

(i) is found guilty of an vexatious or improper conduct in the course of the proceedings concerned; or

(ii) if it appears that his annual income has increased to the extent that it is no longer desirable to provide the legal aid to him; or

(iii) if he has engaged a lawyer other than the one engaged under rule 30; or

(iv) if for any other sufficient reason the committee is of opinion that it would not be proper to continue legal aid to him.

(2) Subject to the decision of the High Court Legal Aid Committee the decision of the Legal Aid Committee under sub-rule (1) shall be final.

34. Reimbursement of incurred expenditure - In any legal proceedings to which the aided person is a party, if the court makes a decree/order with costs in favour of the aided person then he would be liable to reimburse all expenditure incurred by the ccmmittee and in case he fails to do so, the amount due from him shall become recoverable from him in the same manner as if it were an arrear of land revenue.

35. Legal Practitioner not to accept any fee from the aided person - No legal practitioner, whose fees are payable or have been paid under these rules, shall be entitled to claim any fees or charge any remuneration from the aided person.

CHAPTER - VIII
VOLUNTARY LEGAL AID AGENCIES

36. Voluntary legal aid agency - (1) The Board, with a view to encourage the voluntary legal aid, shall accord recognition to voluntary legal aid centres or clinics on such terms and conditions as it may deem fit. Each such centre or clinic shall be under the charge of an Advocate. Several Advocates may jointly open a common centre or a clinic.

(2) Voluntary legal aid centres or clinics may provide free legal aid to the people in accordance with the guiding principles laid down by the Board from time to time.

CHAPTER - IX
MISCELLANEOUS

37. Application for legal aid and scrutiny thereof - (1) The application for the legal aid shall be accompanied by an affidavit, giving the details of immovable property of the

applicant and that his monthly income from all known sources is not more than Rs 300/- per month sworn before a magistrate:

Provided that if the legal aid has been granted in any proceedings before the lower court, no such affidavit will be necessary for making an application to the High Court Legal Aid Committee for grant of legal aid in the same proceedings, which may be pending or contemplated to be pending before the High Court in the same case.

(2) In case of doubt the committee may, in order to confirm the sources of income of the applicant, cause inquiry to be made through the Block Development authorities, or as it may consider fit through any other administrative agency.

(3) In case of urgency or any such like circumstances, the committee may, pending final decision, grant interim legal aid.

38. Determination of merits of the case - Before the legal aid is granted to the applicant the committee shall consider the nature of the evidence available as well as the veracity of the claim of the applicant for which the legal aid has been applied for.

39. Dispensing with the enquiry in case of paupers - Subject to the provisions contained in these rules, the person who has been provided the facilities of a pauper under Order 33 of Schedule I of the Code of Civil Procedure, 1908 (5 of 1908) shall be eligible to claim the legal aid under these rules and in that event the production of affidavit and enquiry under rule 37 will not be necessary.

40. Power to discontinue the legal aid - The committee after having considered the conduct of the applicant as well as the relevant circumstances may, at any time, withdraw the legal aid already granted to him.

41. Power of the Board of grant legal aid in exceptional circumstances - Notwithstanding anything to the contrary contained in these rules, the Board in case of exceptional circumstances, may, after holding such enquiry as it may deem fit, direct the legal aid committee to grant legal aid in any case or other proceedings to a person, who in the opinion of the Board deserves to be aided under these rules, even though he is not otherwise eligible for it.

42 Conciliations - The committee shall, in legal proceedings, in which a person desirous of having legal aid is a party endeavour to bring about conciliation or settlement.

43. Pre-litigation legal advice - The committee shall maintain a panel of such advocates to be engaged by the State Government who are willing to give free legal aid to the poor. Such an aid shall be limited only to the extent of giving pre-litigation legal advice in general cases and before agitating them in a court, tribunal or before an authority but the committee may require any legal practitioner in the panel to accept the briefs of a person having no sources of income for procedding the matter in any court or tribunal or before any authority.

44. Appointment of Advocates from the panel - (1) The State Government shall, to provide legal aid to the poor, appoint in legal proceedings, panel advocates and brief-holders. The number of panel advocates and brief-holders to be appointed in any District, Sub-Division or the High Court, shall be determined by the State Government.

(2) The panel advocates as referred to in the preceding sub-rule and who may be included therein shall, subject to the supervision, control and directions of the State Government, discharge such functions may be required by the committee concerned.

45. **Fees payable to the Advocates** - The panel advocates, referred to in the preceding sub-rule, shall be paid fees at such rates as are paid in any civil or criminal cases under the Law Department Mannual to: -

(a) the Government Advocates in the High Court;

(b) the Government Advocates or Public Prosecutors in any District or Subordinate Court

46. **Engagement of Panel Advocate** - The committee shall entrust the briefs to the panel advocates of brief holders in such a manner as it may deem fit. So long as the committee is not satisfied that there is a clash of interests between different applicants involved in a case, it shall not engage different counsels for different applicants.

47. **Other kinds of legal aid** - The applicants who may have been granted legal aid, shall also be granted free legal aid for causing the decrees, passed in their favour, executed or satisfied. In exceptional circumstances where the committee is satisfied that the applicant does not have the means even to pay the process fee, road and diet money payable to witness or copying charges it may also provide for such expenses.

48. **Facilities to prisoners** - Prisoners including those under trial shall, while in custody, be afforded every facility for applying for and obtaining legal aid or legal advice, if they intend to seek the same.

49. **Removal of difficulties** - (1) If any difficulty arises in giving effect to the provisions of these rules, the State Government may, by an order published in the Official Gazette, make such provisions, or may give such directions to the Board and the committees, constituted under these rules, as are not inconsistent with the purposes of these rules and appear to it to be necessary or expedient for removing the difficulty.

(2) The Board and the committees shall follow all such directions as may be given under sub-rule (1), from time to time.

50. Repeal - (1) The Legal Aid for Poor (Himachal Pradesh) Rules, 1973 and the Himachal Pradesh Scheduled Castes and Scheduled Tribes Legal Aid Rules, 1974 are hereby repealed.

(2) Anything done or any action taken under the said rules (including the orders and directions given thereunder) shall be deemed to have been done or taken under these rules as if these rules were in force on the day on which such thing was done or action was taken.

By order of the Governor of
Himachal Pradesh

J.C.MALHOTRA
Secretary (Law)

ANNEXURE-VII

THE HIMACHAL PRADESH LEGAL AID RULES 1984*

1. **Short title**, extent and commencement - (1) These rules may be called the Himachal Pradesh Legal Aid Rules, 1984.

(2) These rules shall extend to the whole of the State of Himachal Pradesh.

(3) These rules shall come into force at once.

2. **Constitution of the Board** (1) For carrying out the purposes of these rules, a Board shall be constituted by the State Government, and it shall be known as "The Himachal Pradesh Legal Aid Board".

(2) The Himachal Pradesh Legal Aid Board shall consist of the following: -

(i)	The Chief Minister	..Chairman (Ex-officio).
(ii)	The Chief Justice	..Co-Chairman (Ex-Officio).
(iii)	A sitting or retired judge of the High Court (to be nominated by the Chairman *[in consultation with the Co-Chairman]	..Executive Chairman.
(iv)	Chairman of the Committee for Implementation of the Legal Aid Schemes constituted by the Government of India	..Ex-officio Member.
(v)	The Law Minister	..Ex-officio Member.
(vi)	The Advocate-General	..Ex-officio Member.
(vii)	The Chief Secretary	..Ex-officio Member.
(viii)	The Secretary (Law) to the Government of Himachal Pradesh	..Ex-officio Member.

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(ix)	The Secretary(Finance) to the Government of Himachal Pradesh	..Ex-officio Member.
(x)	Chairman of the Bar Council of Himachal Pradesh	..Ex-officio Member.
(xi)	One member of State Legislature (to be nominated by the State Government)	..Ex-officio Member.
(xii)	Two representatives of the Legal profession (to be nominated by the State Government in consultation with the Co-Chairman)	..Member.
(xiii)	One representative of women (to be nominated by the State Government)	..Member.
(xiv)	One representative of Scheduled Castes (to be nominated by the State Government)	..Member.
(xv)	One representative of Scheduled Tribe (to be nominated by the State Government)	..Member.
(xvi)	One representative of the Industrial Labour (to be nominated by the State Government)	..Member.
(xvii)	Special Secretary (Law) to the Government of Himachal Pradesh	..Member Secretary.

3. **Executive Committee**: - (1) There shall be an Executive Committee of the Board consisting of the Chairman, Co-Chairman Executive Chairman, the Advocate-General, the Secretary (Law), the representatives of women, scheduled castes and the scheduled tribes on the Board one of the persons co-opted by the Committee for Implementation of the Legal Aid Schemes (hereinafter referred to as the Central Committee) for the State and the Member Secretary. The Chairman of the Central Committee will be ex-officio member of the Executive Committee.

(2) The Executive Committee shall have power to co-opt not more than two members.

4. **Members to hold office at the pleasure of the Government:** - (1) All members of the Board and its Committee, other than the ex-officio members, shall hold office at the pleasure of the State Government.

(2) Wherever any person is nominated or appointed as a member of the Board or its Committee by virtue of any post or office held by him, he shall forthwith cease to be such a member if he ceases to hold such post or office.

5. **Resignation by members** - A member of the Board or its Executive Committee nominated or appointed, may resign his office by submitting a letter of resignation, addressed to the Chairman.

6. **Filling up the casual vacancies** - (1) Any vacancy of the member of the Board or its Executive Committee caused by resignation, death or otherwise, shall be filled up as early as may be practicable in the same manner as the original appointment.

(2) The mere existence of any vacancy shall not render any action or proceedings of the Board of its Executive Committee to be invalid.

7. **Honorarium and other allowances** - (1) If the Executive Chairman is not a sitting Judge of the High Court, he shall be paid a fixed honorarium of Rs 1000/- per month.

(2) The members of the Board, other than the Executive Chairman and the Member Secretary, shall not be entitled to any remuneration.

(3) The members of the Board who are nominated from amongst the members of the State Legislature shall be travelling and daily allwances as may be admissible to them as such members. The ex-officio members shall be entitled to travelling and

daily allowances according to the rules applicable to them. The other members shall be entitled to travelling and daily allowances as admissible to Grade-I officers in the highest pay range under the normal rules of the State Government.

8. **Member Secretary** - (1) The Board shall have a whole time Member-Secretary, who shall be a serving Judicial Officer belonging to the cadre of Higher Judicial Service. He shall be appointed by the State Government in consultation with the Co-Chairman.

(2) He shall be paid a special pay of Rs 250/- per mensum in addition to the pay and allowances he is entitled to in his own pay-scale. The Member-Secretary shall be responsible for the custody and management of the properties and funds of the Board and for the maintenance of true and proper accounts of the Board and he shall get them audited and checked periodically.

() The Member-Secretary shall discharge such other duties and functions as the Board or the Executive Committee may, from time to time, assign to him.

9. **Officers and servants of the Board** - The Board may appoint as many officers and servants as it may consider necessary for the efficient performance of its functions under these rules and such officers and servants of the Board shall be governed by such rules and conditions of service, as may be, from time to time, laid down by the Board.

10. **Powers and functions of the Board** - (1) Subject to the general control of the State Government, it shall be the duty of the Board to take steps to establish a legal aid programme in the State for providing free legal services to the weaker sections of the community in the State. The State Board shall endeavour to arrange for provision of free legal services,

including legal aid in any proceedings in any court or before any public authority, subject to the provisions of any scheme or rules framed by the Board.

(2) The Board shall be in overall charge of the administration and implementation of the legal services programme in the State, and shall, in particular, exercise the following powers and perform the following functions, namely:

(a) allot funds to the various Committees from/out of the amount placed at its disposal by the State Government;
(b) control, regulate and supervise the working of the various Committees;
(c) lay down policies and give general or special directions to the various Committees for the proper administration and implementation of the legal service programme and for proper and adequate discharge of their duties and functions;
(d) call for and receive from the various Committees from time to time such reports and information as may be considered necessary in regard to the administration and implementation of the legal services programme;
(e) prepare, consolidate and submit to the State Government by the first week of May every year a general report regarding the administration and working of the legal services programme during the previous financial year;
(f) encourage and promote conciliation and settlement in legal proceedings;
(g) promote legal literacy and create awareness amongst the weaker sections of the community in regard to the rights, benefits and privileges conferred upon them by social welfare legislation and other enactments;
(h) enlighten the people in rural areas about agrarian reforms and facilities made available to them by the Central Government or the State Government from time to time and render legal services where necessary;

(i) arrange for publicity of important legislation concerning women, bonded labour, industrial workers, agricultural labour, tenants, agriculturists, scheduled castes and scheduled tribes and other weaker sections of the community, as also legislation dealing with social and economic reforms;

(j) render assistance to the members of the weaker sections of the society in complying with necessary legal requirements in order to secure the benefits under the various schemes sponsored by the Central or the State Government for the welfare of the public in general, or of any section thereof;

(k) organise legal aid camps for the purpose of reaching legal services to the weaker sections of the community in rural areas and in slums;

(l) arrange for holding Lok Nyayalayas in different areas for the purpose of bringing about voluntary settlement of disputes;

(m) prepare a cadre of social workers for para-legal services;

(n) help the various Committees to set up legal service centres within their respective jurisdictions;

(o) encourage law colleges and law faculties of Universities to set up projects for giving free legal service to the weaker sections of the community and to help them in running such projects;

(p) hold and conduct seminars, conferences and campaigns for promotion of the legal services programmes in all its aspects, including creation of public awareness and participate in all activities connected with the same;

(q) undertake and promote research, experiment and innovation in the areas of law affecting the poor with the object of removing the injustices from which the poor suffer, bringing about fundamental institutions changes and affectuating reforms in the law with a view to making it to serve the interest of the weaker sections of the community;

(r) submit recommendations to the State Government regarding improvements in practice and procedure of the courts so as to reduce the costs and delays in litigation;

(s) suggest and recommend to the State Government such measures of law reforms as it considers necessary for the purpose of improving the socio-economic conditions of the weaker sections of the community and making social welfare legislation effective for them and draw the attention of the administrative bodies or authorities to their grievances and press for redress of such grievances;

(t) undertake socio-legal survey and research into the life, conditions of the weaker sections of the community with a view to ascertaining their problems and difficulties and determining how far and to what extent social legislation has been able to achieve the object and purpose for which it was enacted and to utilise social working and the student force for the purpose;

(u) appoint expert committees for the purpose of assessment and evaluation of the legal services programme undertaken by the Board and its various Committees;

(v) carry on such other activities as are incidential and conducive to the objects of the legal services programme; and

(w) perform such other duties and discharge such other functions, for the purpose of effectively implementing the legal services programme, as the State Government may direct.

11. Powers and the functions of the Executive Committee - The Executive Committee shall be the executive arm of the Board and shall exercise all the powers and perform all the functions of the Board subject to any directions which may be given by the Board from time to time in that behalf.

12. Conduct of business - Subject to the provisions of these rules, the procedure for the conduct of meetings of the

Board and its Executive Committee shall be such as may be determined by the Board.

13. **Minutes of the meetings** - The record of the names of the members present in each meeting of the Board and its Executive Committee and proceedings thereof shall be maintained. The record shall be open for inspection, free of any charge, during all reasonable hours to the members of the Board or, as the case may be, to its Executive Committee.

14. **Quorum** - The quorum for the meetings of the Board or its Executive Committee shall be one-third of the total membership of the Board or the Executive Committee at the relevant time.

15. **Constitution of Committees** - The Board shall constitute Legal Aid Committees including High Court, District and Sub-Divisional Legal Aid Committees, in accordance with such scheme or schemes as may be framed by the Board in that behalf with the approval of the State Government.

16. **Eligibility for free legal aid** - (1) Every citizen whose income from all sources does not exceed Rs 7,200/- per annum shall be eligible for free legal services:

Provided that the Chairman of the concerned Legal Aid Committee may, with the approval of the Co-Chairman of the Board, grant legal aid in any other suitable case.

(2) This limitation as to income shall not apply to any socially and educationally backward classes of citizens.

(3) The Board and the Committee constituted by it may suo motu or on an application made in this behalf by opposite party, withdraw the grant of free legal services to an aided person, if it is found that such person has adequate financial resources to meet the cost of such legal services.

(4) Notwithstanding anything contained herein, the Board may itself initiate proceedings or grant aid -,

(a) in cases of great public importance, or

(b) in a test case the decision of which is likely to effect cases of numerous other persons belonging to weaker sections or the community;

(c) In a special case which, for reasons to be recorded in writing, is considered otherwise deserving of legal aid.

17. Funds of the Board - (1) The State Government shall, under appropriation duly made by law in this behalf place at the disposal of the Board from time to time, the necessary amounts for implementation of the legal aid programme. Initially, a grant of Rs. four lacs per year may placed at the disposal of the Board.

(2) The Board shall also be entitled to receive and accept donations and grants to its legal aid programme.

(3) The costs, charges and expenses which may be recovered as a result of legally aided litigation and all other amounts received by it shall be credited to the funds of the Board:

Provided that the funds so credited shall be utilised only for providing free legal services and no part thereof shall be spent on account of administrative expenses connected with the Board, Executive Committee or Legal Aid Committee.

18. Maintenance of account books and ledgers - (1) The Board shall maintain proper account books and such other ledgers as may be required and shall cause to prepare an annual statement of accounts.

(2) The Board shall cause its accounts audited annually by such a person as may be directed by the State Government.

(3) Immediately after its accounts are audited, the Board shall forward the audit report together with its comments thereon to the State Government.

(4) After scrutiny of the audit report together with its comments thereon, the Board shall comply with such directions as the State Government may deem fit to give.

19. Laying of annual and audit reports - The annual administration report referred to in clause (e) of sub-rule (2) of rule 10, alongwith the annual statement of accounts prepared under sub-rule (1) of rule 18. and the audit report submitted by the Board under sub-rule (3) of rule 18 shall be laid on the Table of the Legislative Assembly as soon as may be after it is received by the State Government from the Board.

20. Removal of difficulties - (1) If any difficulty arises in giving effect to the provisions of these rules, the State Government may, by an order published in the Official Gazette, make such provisions, or may give such directions to the Board and the committees, constituted under these rules, as are not inconsistent with the purposes of these rules and appear to it to be necessary or expedient for removing the difficulty.

(2) The Board and the Committees shall follow all such directions as may be given under sub-rule (1), from time to time.

***21. Transitory Provisions** - Notwithstanding anything contained in these rules, the existing Legal Aid Board and Committees constituted under the Himachal Pradesh State Legal Aid to the Poor Rules, 1980 shall continue to function till the constitution of new Board, or as the case may be the committees, under the Himachal Pradesh Legal Aid Rules, 1984.

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*Substituted vide Govt.Notification No.LLR-I-(9)41/82 dated 19th July, 1984, published in the official Gazette (Weekly) dated 11-8-1984.

22. Repeal and savings - (1) Subject to the provisions of rule 21, the Himachal Pradesh State Legal Aid, to the Poor Rules, 1980 are hereby repealed.

(2) Anything done or any action taken under the said rules (including the orders and directions given thereunder) shall be deemed to have been done or taken under these rules as if these rules were in force on the day on which such thing was done or action was taken.

ANNEXURE-VIII

LEGAL AID AMBULANCE (LOK ADALAT) SCHEME OF THE PONDICHERRY LEGAL AID AND ADVICE BOARD*

1. Objective

The object of the Scheme is to resolve the legal disputes between the parties by negotiations and conciliation and by adopting persuasive, common sense and humane approach to their problems, with the assistance of socially oriented and experienced members of a team of Conciliators.

The Scheme aims at resolving the disputes -

(i) which have not yet gone to the court of law (pre-litigation matters); and
(ii) which are pending in the court of law (pending cases).

2. Composition of Team

The team of Conciliators will be selected from amongst retired judicial officers, service oriented advocates, academicians and non-political social workers. The team will include women lawyers and women social workers.

The team of Conciliators will bear in mind that the main objective is dispute resolution by negotiations and settlement and will make efforts at conciliation without being unduly concerned about disposal. In other words, the parties in any case should not feel that any coercion or pressure is brought to bear upon them for settlement. No remuneration will be paid to the Conciliators. However, all expenses of lodging and bording for the Conciliators will be borne by the Board.

3. Selection of Place

Lok Adalat will be held as far as practicable one in a month, on a non-working Saturday or Sunday in different parts of the Union territory preferably in a place in which the Commune Panchayats Office is situate in Pondicherry and Karaikal regions. In Mahe and Yanam regions, the Lok Adalat will be held only at the regional headquarters. Selection of

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*Issued in Gazette Notification by the Pondicherry Government.

the place and date for holding the Lok Adalat is fixed at least about a month in advance by the Member-Secretary of the Board in consultation with the Chairman of the Regional Legal Aid Committee, who in turn will consult the members of the local Bar and ascertain the feasibility.

4. Convenor

As soon as the place and date for holding the Lok Adalat are fixed, the Member-Secretary of the Board shall appoint one or more service oriented persons either from amongst the members of the local Bar or from the teaching staff of the Government Law College, as Convenor of the Lok Adalat. Subject to the overall supervision and under the general guidance of the Member-Secretary of the Board and the Chairman of the Regional Legal Aid Committee, the Convenor will be put in charge of the Adalat right from the initial stage.

The Convenor will arrange for the premises for holding the Lok Adalat giving adequate publicity, invite and receive application, prepare dockets of the matter to be placed before the Lok Adalat and remain in-charge of the conduct of the Lok Adalat till its conclusion.

The Member-Secretary of the Board and the Chairman of the Regional Legal Aid Committee will contact non-political social organisations in the regions to ascertain as to whether they would arrange for distribution of food packets free of charge to the public who attend the Lok Adalat for disputes resolution.

The Convenor renders voluntary services and no remuneration is paid to him, except an allowance of Rs 50/- per day for the actual days on which the Lok Adalat is held.

5. Advance Preparations

(a) Selection of site: The Convenor will procure a school or college building or such other public place near the court building for holding the Lok Adalat. The court premises should not be used for that purpose.

(b) Publicity: In order to attract more people for resolution of their disputes before the Lok Adalat, wide publicity will be given to the holding of Lok Adalat, as shown below:

i) Calling of press conferences/briefing sessions for requesting the press to give wide publicity and to generate public opinion and to attract more persons to approach the Lok Adalat.

ii) Issuance of press notes from time to time.

iii) Approaching Radio and Television authorities and showing cinema slides.

iv) Preparation and distribution of leaflets and pamphlets in the area/villages surrounding the place of holding the Lok Adalat.

v) Contacting the Revenue Officers and the Officers of the Social Welfare Department in order to seek their co-operation in the holding of Lok Adalat and giving wide publicity to the project.

vi) Requesting the Special Officers and the Commissioners of the Commune Panchayats to call meetings of the village people and requesting them and the social workers to place before the Lok Adalat the problems of the village people and their disputes or pending court cases for amicable settlement.

vii) Displaying of Boards and Placards containing the ideology of the Lok Adalat and key words or watch-words at conspicuous places in the village where the Lok Adalat is to be held as well as in the surrounding villages.

(c) Receipt of applications and preparation of dockets

i) Proforma of the application forms will be printed or cyclostyled well in advance and will be made available to the parties for being filled in.

ii) Arrangement will be made to get the application forms filled in at least ten days in advance. The Convenor will procure from the parties the copies of the relevant documents.

The parties will be requested to make original documents available at the time of conciliation.

iii) As regards the matters which are pending in the court of law, the Convenor will procure from the parties or their advocates copies of the plaint, written statement and notice of such other documents, which appear necessary for the resolution of the disputes. The parties will be requested to make the original documents available at the time of conciliation proceedings.

iv) If the original documents have already been produced in the courts, and in the opinion of the Convenor, consideration of those original documents may be necessary, the Convenor with the prior permission of the Chairman of the Regional Legal Aid Committee will apply to the court for the grant of certified xerox copy of the documents on payment of usual charges to be borne by the Regional Legal Aid Committee.

v) A separate docket will be prepared for each case containing all the documents so procured.

vi) Whenever both the parties have approached the Lok Adalat, the Convenor will inform them to remain present at the Lok Adalat on the day fixed. If only one of the parties approached the Lok Adalat, the Convenor will write letters of request to the other side mentioning therein the name of the complaining party and nature of the dispute and requesting him to remain present with all the relevant documents at the Lok Adalat for amicable settlement.

vii) So far as the pending court cases are concerned, the Convenor will prepare a separate list and send it to the concerned court. The Chairman of the Regional Legal Aid Committee in his capacity as the Principal Judicial Officer of the region, will direct the concerned court to identify these and keep them separate. The regional record of the court cases should not be taken to the Lok Adalat, except under some special circumstances.

viii) The Lok Adalat will be divided into separate units, each unit dealing with a specific subject. A separate unit, is also kept, for imparting advice, in such matters where only advice

or guidance is sought. Normally, each unit will be vested with about ten matters, and in case of necessity, more than one unit will be constituted for a subject.

ix) Separate list of cases will be prepared for each unit of Lok Adalat and each Adalat shall be given a copy of the same along with the dockets of the cases which are placed before the Lok Adalat. A copy of the list shall also be kept at the enquiry counter of the Lok Adalat.

(d) Display of name boards: Name boards displaying the description of various units of Lok Adalat, such as Civil, Criminal, Matrimonial, Revenue, Labour Advice etc., will be prepared and affixed. Boards having key-words or watch-words shall also be affixed at the Lok Adalat premises.

(e) Attendance by parties: Parties are expected to come to the Lok Adalat at their own costs. However, in deserving cases, the Convenor shall arrange for the payment of the to and fro bus fare to the needy persons, in consultation with the Member-Secretary of the Board.

6. Requisition of Services of Retired Members of the Judicial Department/Junior Advocates/Students of Law, for Ministerial Work

i) In preparing the docket and other preliminary work, the Convenor may take the assistance of locally settled retired members of the ministerial staff of the Judicial Department or Junior Advocates or students of law. In case of utilisation of their services, such amount as the Chairman of the Regional Legal Aid Committee deems proper, but not exceeding Rs 20/- will be paid to each of them.

ii) Similarly for the purpose of assisting the Lok Adalat Conciliators in ministerial work, the Convenor will select such locally settled retired members of the ministerial staff

of the Judicial Department or Junior Advocates or students of law who are willing to be associated in the project. They will work as co-ordinators, and call out the matters and maintain the record of the proceedings at the Lok Adalat. For the services rendered, they will also be paid such amount as deemed proper but not exceeding Rs 50/- each of the Chairman of the Regional Legal Aid Committee.

iii) Similarly, the Convenor will requisition the services of the locally settled retired bailiffs and peons/sitting members of Group 'D' staff for the purpose of calling out the names of the parties and for other miscellaneous work. They wil be paid such amount as deemed proper, but not exceeding Rs 10/- by the Chairman of the Regional Legal Aid Committee.

7. Working of the Lok Adalat

i) The Lok Adalat is open to the public.

ii) At least one hour prior to the commencement of the Adalat, boards mentioning the members and names of the Lok Adalat and the subject to be dealt with in that Lok Adalat will be displayed.

iii) An equiry counter will also be kept, at the entrance of the Lok Adalat, from where the parties would be directed to go to a particular Lok Adalat where their case is placed for conciliation.

iv) Team of Conciliators at each Lok Adalat will comprise of not less than three and not more than five members.

v) The Lok Adalat will commence its work at 9.30 AM and with a recess at 1.00 PM continue its working till at the matters are dealt with.

vi) The matters will be called out one by one in the presence of members of the public and each matter will be

discussed with respective parties by the Conciliator, free and frank discussions would take place. The Conciliators would get to the heart of the problem by patiently listening to the parties and would persuade them to resolve the disputes by taking a common sense approach and by suggesting one or more viable formula for settlement.

vii) There is no involvement of any judicial officer in the working of the Lok Adalat. Only the Chairman of the Regional Legal Aid Committee will associate and look after the preliminary organisational work and also attend the Lok Adalat to supervise the arrangements and smooth working of the Adalat.

viii) Original record of the pending court cases is not normally brought before the Lok Adalat. If the Chairman of the Regional Legal Aid Committee is of the opinion that it is essential for the purpose of finding out amicable solution that the original documents may be seen, he would call for the original case papers and without parting with its custody would show them to the Conciliators and forth-with send the records back to the court.

ix) When the matter referred to the Lok Adalat is compromised or settled, then, the compromise so arrived at is reduced into writing and got signed by both the sides. As regards the matters which have not yet gone to the court of law, one copy of the compromise deed so executed is retained in the file. Simultaneously, the copies of signed compromise deeds are got exchanged between the parties. The parties are then advised to act accordingly. If the Conciliators feel that some type of legal authentication is necessary, then the matter is referred to the concerned Legal Aid Committee for doing the needful in the matter.

x) In respect of cases which are already pending in the court, after the parties reduce the compromise in writing and

signed the same, the parties are taken to the concerned court for filing a Memo. of Compromise according to law. For this purpose, the Chairman of the Regional Legal Aid Committee would request the judges or magistrates of the concerned courts, to make themselves available at the court premises on the date of holding of Lok Adalat even though it is a non-working day for the courts, and receive the compromise as and when submitted before them, during the course of the day. After undergoing the formalities, the concerned courts records the compromise according to law and permit the parties to go away. The final order in the case, however, will be passed on the next working day.

xi) As regards matters in which advice and appropriate guidance are only sought for by the parties, then the Adalat would give an appropriate advice and guidance to the extent possible. In such of those matters in which the parties are entitled to get free legal aid under the scheme, they will be referred to the concerned Legal Aid Committee.

xii) In case where the compromise is duly arrived at but some of the parties whose signatures are essential are not present at the Lok Adalat the parties will be instructed to appear in the court on the next working day and complete the formalities and present the compromise before the court. The Convenor would remain in charge of the matter till that stage.

8. Statistical data

The Co-ordinators will be supplied with the proformae, where they enter the subjectwise figures of total cases placed in each Lok Adalat, number of cases where both the parties were present and matters dealt with by the Lok Adalat, number of matters compromised and disposed off, and number of matters where appropriate advice are given. A permanent register will be maintained by the Board in this regard.

9. Follow up Action

i) With regard to cases pending in the court after their compromise, the Chairman of the Regional Legal Aid Committee will be required to furnish within one month from the holding of the Camp a return indicating whether any decree or order was passed in terms of the settlement, and if not stating the reasons therefor. He shall also be required to ascertain and state the reasons therefor, if any party has backed out from the settlement.

ii) With regard to pre-litigation matters, the Chairman of the Legal Aid and Advice Committee shall try to know through the Convenor, whether any party has backed out. If he comes to know of any backing out by any of the parties, he would take follow up action, with the assistance of the Convenor under intimation to the Board. In appropriate cases even the Board shall take appropriate action.

10. Distribution of Food Packets

i) No donations or contributions are received or collected to meet the expenditure at the Camp.

ii) The Member-Secretary of the Board and the Chairman of the Regional Legal Aid Committee would contact non-political social organisations, like the Rotary Club, the Lions, Jaycees, Giants or such other social organisations to ascertain whether they would volunteer to arrange for free distribution of food packets to the public gathered at the Lok Adalat. If any such organisation volunteers to make provision for the same, they will be requested to make their independent arrangement in that regard. All required facilities however will be made available to them.

iii) Lunch to the Conciliators would be provided by the Board or by the local Bar.

ANNEXURE-IX

Bill No.XXII.C of 1990

THE LEGAL SERVICES AUTHORITIES (AMENDMENT, BILL, 1991)

A BILL

to amend the Legal Services Authorities Act, 1987

BE it enacted by Parliament in the Forty-first Year of the Republic of India as follows:

Short title: 1. This Act may be called the Legal Services Authorities (Amendment) Act, 1991.

39 of 1987: 2. In section 2 of the Legal Services Authorities Act, 1987 (hereinafter referred to as the principal, Act) in sub-section (1):

Amendment of section 2: (i) for clause (a), the following clauses shall be substituted namely:

(a) "case" includes a suit or any proceeding before a court;

(aa) "Central Authority" means the National Legal Services Authority constituted under section 3;

(aaa) "court" means a civil, criminal or revenue court and includes any tribunal or any other authority constituted under any law for the time being in force, to exercise judicial or quasi-judicial functions";

(ii) after clause (b), the following clause shal be inserted, namely:-

(bb) "High Court Legal Services Committee" means a High Court Legal Services Committee constituted under section 8A;

(iii) after clause (f), the following clause shall be inserted, namely:-

(ff) "regulations" means regulations made under this Act;

(iv) after clause (i), the following clause shall be inserted, namely:-

(i) "Supreme Court Legal Services Committee" means the Supreme Court Legal Services Committee constituted under section 3A;

(k) "Taluk Legal Services Committee" means a Taluk Legal Services Committee constituted under section 11A'.

Substitution of new sections for section 3

3. For section 3 of the principal Act, the following sections shall be substituted, namely:-

Constitution of National Legal Services Authority

"3(1) The Central Government shall constitute a body to be called the National Legal Services Authority to exercise the power and perform the functions conferred on, or assigned to the Central Authority under this Act.

(2) The Central Authority shall consist of -

(a) the Chief Justice of India who shall be the Patron-in-Chief;

(b) a serving or retired Judge of the Supreme Court, to be nominated by the President in consultation with the Chief Justice of India, who shall be the Executive Chairman; and

(c) such number of other members, possessing such experience and qualifications, as may be prescribed by the Central Government, to be nominated by that Government in consultation with the Chief Justice of India.

(3) The Central Government shall, in consultation with the Chief Justice of India, appoint a person to be the Member-Secretary of the Central Authority possessing such experience and qualifications as may be prescribed by that Government to exercise such powers and perform such duties under the Executive Chairman of the central Authority as may be prescribed by that Government or as may be assigned to him by the Executive Chairman of that Authority.

(4) The terms of office and other conditions relating thereto, of members and the Member-Secretary of the Central Authority shall be such as may be prescribed by the central Government in consultation with the Chief Justice of India.

(5) The Central Authority may appoint such number of officers and other employees as may be prescribed by the Central Government in consultation with the Chief Justice of India, for the efficient discharge of its functions under this Act.

(6) The officers and other employees of the Central Authority shall be entitled to such salary and allowances and shall be subject to such other conditions nof services as may be prescribed by the Central Government in consultation with the Chief Justice of India.

(7) The administrative expense of the Central Authority, including the salaries, allowances and pensions payable to the Member-Secretary officers and other employees of the Central Authority shall be defrayed out of the Consolidated Fund of India.

(8) All orders and decisions of the Central Authority shall be authenticated by the Member-Secretary or any other officer of the Central Authority duly authorised by the Executive Chairman of that Authority.

(9) No act or proceeding of the central Authority shall be invalid on the ground of the existence of any vacancy in, or any defect in the constitution of, the central Authority.

Supreme Court Legal Services Committee

3A(1) The Central Authority shall constitute a Committee to be called the Supreme Court Legal Services Committee for the purpose of exercising such powers and performing such functions as may be determined by regulations made by the Central Authority.

(2) The Committee shall consist of -

(a) a siting Judge of the Supreme Court who shall be the Chairman; and

(b) such number of other members possessing such experience and qualifications as may be prescribed by the Central Government.

to be nominated by theChief Justice of India.

(3) The Chief Justice of India shall appoint a person to be the Secretary to the Committee possessing such experience and qualifications as may be prescribed by the Central Government.

(4) The terms of office and other conditions relating thereto, of the members and Secretary of the Committee shall be such as may be determined by regulations made by the Central Authority.

(5) The Committee may appoint such number of officers and other employees as may be prescribed by the Central Government in consultation with the Chief Justice of India, for the efficient discharge of its functions.

(6) The officers and other employees of the Committee shall be entitled to such salary and allowances and shall be subject to such other conditions to service as may be prescribed by the Central Government in consultation with the Chief Justice of India".

4. In Section 4 of the Principal Act, -

Amendment of section

(i) in the opening portion, the words "subject to the general directions of the Central Government", shall be omitted;

(ii) for clause (j), the following clause shall be substituted, namely:-

"(j) provide grants-in-aid for specific schemes to various voluntary social service institutions and the State and District Authorities, from out of the amounts placed at disposal for the implementation of legal services schemes under the provisions of this Act".

(iii) in clause (n), for the words" State and District Authorities and other voluntary social welfare institutions", the words "State Authorities, District Authorities, Supreme Court Legal Services Committee, High Court Legal Services Committees, Taluk Legal Services Committees and voluntary social service institutions" shall be substituted.

Substitution of new section for section 6

5. For Section 6 of the principal Act, the following section shall be substituted, namely:-

Constitution of State Legal Services Authority

"6(1) Every State Government shall constitute a body to be called the Legal Services Authority for the State to exercise the powers and perform the functions conferred on, or assigned to, a State Authority under this Act.

(2) A State Authority shall consist of-

(a) the Chief Justice of the High Court who shall be the Patron-in-Chief.

(b) a serving or retired Judge of the High Court, to be nominated by the Governor in Consultation with the Chief Justice of the High Court, who shall be the Executive Chairman; and

(c) such number of other members, possessing such experience and qualifications as may be prescribed by the State Government, to be nominated by that Government in consultation with the Chief Justice of the High Court.

(3) The State Government shall, in consultation with the Chief Justice of the High Court, appoint a person belonging to the State Higher Judicial Service, not lower in rank than that of a District Judge, as the Member-Secretary of the State Authority, to execise such powers and perform such duties under the Executive Chairman of the State Authority as may be prescribed by that Government or as may be assigned to him by the Executive Chairman of that Authority.

(6) The officers and other employees of the Committee shall be entitled to such salary and allowances and shall be subject to such other conditions of service as may be prescribed by the State Government in consultation with Chief Justice of the High Court.

District Legal Services Authority

9(1) The State Government shall, in consultation with the Chief Justice of the High Court constitute a body to be called the District Legal Services Authority for every District in the State to exercise the powers and perform the functions conferred on, or assigned to, the District Authority under this Act.

(2) A District Authority shall consist of-

(a) the District Judge who shall be its Chairman; and

(b) such number of other members, possessing such experience and qualifications, as may be prescribed by the State Government to be nominated by that Government in consultation with the Chief Justice of the High Court.

(3) The State Authority shall, in consultation with the Chairman of the District Authority, appoint a person belonging to the State Judicial Service not lower in rank than that of Subordinate Judge or Civil Judge posted at the seat of the District Judiciary as Secretary of the District Authority to exercise such powers and perform such duties under the Chairman of that Committee as may be assigned to him by such Chairman.

(4) The terms of office and other conditions relating thereto, of members and Secretary of the District Authority shall be such as may be determined by regulations made by the State Authority in consultation with the Chief Justice of the

(5) The District Authority may appoint such number of officers and other employees as may be prescribed by the State Government in consultation with the Chief Justice of the High Court for the efficient discharge of its functions.

(6) The officers and other employees of the District Authority shall be entitled to such salary and allowances and shall be subject to such other conditions of service as may be prescribed by the State Government in consultation with the Chief Justice of the High Court.

(7) The administrative expenses of every District Authority, including the salaries, allowances and pensions payable to the Secretary, officers and other employees of the District Authority shall be defrayed of the Consolidated Fund of the State.

(8) All orders and decisions of the District Authority shall be authenticated by the Secretary or by any other officer of the District Authority duly authorised by the Chairman of that Authority.

(9) No act or proceeding of a District Authority shall be invalid merely on the ground nof existence of any vacancy in, or any defect in the constitution of, the District Authority".

Amendment of section 10

8. IN section 10 of the principal Act, in sub-section (2)-

(i) for clause (a), the following clause, shall be substituted namely:-

"(a) for clause (a), the following clause shall be substituted namely:-

(ii) in clause (c), the words "in consultation with the State Government" shall be omitted.

Insertion of new sections 11A and 11B

9. After section 11 of the principal Act, the following sections shall be inserted, namely:-

Taluk Legal Services Committee

"11A(1) The State Authority may constitute a Committee, to be called the Taluk Legal Services Committee, for each taluk or mandal or for group of taluks or mandals.

(2) The Committee shall consist of -

(a) the senior Civil Judge operating within the jurisdiction of the Committee who shall be ex officio Chairman; and

(b) Such number of other members, possessing such experience and qualifications, as may be prescribed by the State Government, to be nominated by that Government in consultation with the Chief Justice of the High Court.

(3) The Committee may appoint such number of officers and other employees as may be prescribed by the State Government in consultation with the Chief Justice of the High Court for the efficient discharge of its functions.

(4) The officers and other employees of the Committee shall be entitled to such salary and allowances and shall be subject to such other conditions of service as may be prescribed by the State Government in consultation with the Chief Justice of the High Court.

(5) The administrative expenses of the Committee shall be defrayed out of the District Legal Aid Fund by the District Authority.

Functions of Taluk Legal Services Committee

11B. The Taluk Legal Services Committee may perform all or any of the following functions, namely:-

(a) coordinate the activities of legal services in the taluk

(b) organise Lok Adalats within the taluk, and

(c) perform such other functions as the District Authority may assign to it.

Amendment of section 12

10. IN section 12 of the principal Act, for clause (h), the following clause shall be substituted, namely:-

(h) in receipt of annual income less than rupees nine thousand or such other higher amount as may be prescribed by the State Government, if the case is before a court, other than the Supreme Court, and less than rupees twelve thousand or such other higher amount as may be prescribed by the Central Government, if the case is before the Supreme Court".

Amendment of section 15

11. In section 15 of the principal Act, in sub-section (2) for clause (b), the following clauses shall be substituted, namely:-

(b) the cost of legal services provided by the Supreme Court Legal Services Committee;

(c) any other expenses which are required to be met by the Central Authority".

Amendment of section 16

12. In section 16 of the principal Act, in sub-section (2) for clause (b) the following clauses shall be substituted namely:-

"(b) the cost of legal services provided by the High Court Legal Services Committees;

(c) any other expenses which are required to be met by the State Authority".

Amendment of section 17

13. In section 17 of the principal Act,-

(i) in sub-section (1) for clause (b), the following clause shall be substituted namely:-

"(b) any grants or donations that may be made to the District Authority by any person, with the prior approval of the State Authority for the purposes of this Act";

(ii) in sub-section (2) in clause (a), after figures "1", the word, figures and letter "and 11B" shall be inserted.

Amendment of section 18

14. In section 18 of the principal Act, after sub-section (4), the following sub-sections shall be inserted, namely:-

"(5) The Central Government shall cause the accounts and the audit report received by it under sub-section (4) to be laid, as soon as may be after they are received, before each House of Parliament.

(6) The State Government shall cause the accounts and the audit report received by it under sub-section (4) to be laid, as soon as may be after thay are received, before the State Legislature".

Substitution of new sections for sections 19 and 20.

15. For sections 19 and 20 of the principal Act, the following sections shall be substituted, namely:-

Organisation of Lok Adalats

"19.(1) Every State Authority or District Authority or the Supreme Court Legal Services Committee or every High Court Legal Services Committee or, as the case may be Taluk Legal Services Committee may organise Lok Adalats at such intervals

and places and for exercising such jurisdiction and for such areas as it thinks fit.

(2) Every Lok Adalat organised for an area shall consist of such number of-

(a) serving or retired judicial officers; and

(b) other persons.

of the area as may be specified by the State Authority or the District Authority or the Supreme Court Legal Services Committee or the High Court Legal Services Committee, or as the case may be, the Taluk Legal Services Committee, organising such Lok Adalat.

(3) The experience and qualifications of other persons referred to in clause (b) of sub-section (2) for Lok Adalats organised by the Supreme Court Legal Services Committee shall be such as may be prescribed by the Central Government in consultation with the Chief Justice of India.

(4) The experience and qualifications of other persons referred to in clause (b) of subsection (2) for Lok Adalats organised by the Supreme Court Legal Services Committee shall be such as may be prescribed by the Central Government in consultation with the Chief Justice of the High Court.

(5) A Lok Adalat shall have jurisdiction to determine and to arrive at a compromise or settlement between the parties to a dispute in respect of

(i) any case pending before; and

(ii) any matter which is falling within the jurisdiction of and is not brought before.

any court for which the Lok Adalat is organised:

Provided that the Lok Adalat shall have no jurisdiction in respect of any case or matter relating to an offence and compoundable under any law.

Cognizance of cases of Lok Adalats

20(1) Where in any case referred to in clause (i) of sub-section (5) of section 19,-

(i)(a) the parties thereof agree; or
(b)one of the parties thereof makes an application to the court,

for referring the case to the Lok Adalat for settlement and if such court is prima facie satisfied that there are chances of such settlement; or

(ii) the court is satisfied that the matter is an appropriate one to be taken cognizance of by the Lok Adalat,

the court shall refer the case to the Lok Adalat:

Provided that no case shall be referred to the Lok Adalat under sub-clause (b) of clause (i) or clause (ii) by such court except after giving a reasonable opportunity of being heard to the parties.

(2) Notwithstanding anything contained in any other law for the time being in force, the Authority or Committee organising the Lok Adalat under sub-section (1) of section 19 may, on receipt of an application from any one of the parties to any matter referred to in clause (ii) of sub-section (5) of section 19 that such matter needs to be determined by a Lok Adalat, refer such matter to the Lok Adalat, for determination:

Provided that no matter shall be referred to the Lok Adalat except after giving a reasonable opportunity of being heard to the other party.

(3) Where any case is referred to a Lok Adalat under sub-section (1) or where a reference has been made to it under

sub-section (2), the Lok Adalat shall proceed to dispose of the case or matter and arrive at a compromise or settlement between the parties.

(4) Every Lok Adalat shall, while determining any reference before it under this Act, with utmost expedition to arrive at a compromose or settlement between the parties and shall be guided by the principles of justice, equity, fair play and other legal principles.

(5) Where no award is made by the Lok Adalat on the ground that no compromise or settlement could be arrived at between the parties, the record of the case shall be returned by it to the court, from which the reference has been received under sub-section (1) for disposal in accordance with law.

(6) Where no award is made by the Lok Adalat on the ground that no compromise or settlement could be arrived at between the parties, in a matter referred to in sub-section (2), that Lok Adalat shall advice the parties to seek remedy in a court.

(7) Where the record of the case is returned under sub-section (5) of the court, such court shall proceed to deal such case from the stage which was reached before such reference under sub-section (1)".

Amendment of section 21

16. In section 21 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:-

"(1) Every award of the Lok Adalat shall be deemed to be a decree of a civil court or as the case may be, an order of any other court and where a compromise or settlement has been arrived at, by a Lok Adalat in a case referred to it under sub-section (1) of section 20, the court-fee paid in such case shall be refunded in the manner provided under the Court-fees Act, 1870.

Substitution of new sections for sections 23 and 24.

17. For sections 23 and 24 of the principal Act, the following sections shall be substituted, namely:-

Members and staff of Authorities, Committees and Lok Adalats to be public servants

"23. The members including Member-Secretary or, as the case may be, Secretary of the Central Authority, the State Authorities, the District Authorities, the Supreme Court Legal Services Committee, High Court Legal Services Committees, Taluk Legal Services Committees and officers and other employees of such Authgorities, Committees and the members of the Lok Adalats shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Protection of action taken in good faith

24. No suit, prosecution or other legal proceeding shall lie against-

(a) the Central Government or the State Government.

(b) the Patron-in-Chief, Executive Chairman, members or Member-Secretary or officers or other employees or the Central Authority;

(c) Patron-in-Chief, Executive Chairman, member, Member-Secretary or officers or other employees of the State Authority;

(d) Chairman, Secretary, members or officers or other employees of the Supreme Court Legal Services Committee, High Court Legal Services Committees, Taluk Legal Services Committees or the District Authority; or

(e) any other person authorised by any of the Patron-in-Chief, Executive Chairman, Chairman, Member, Member-Secretary referred to in sub-clauses (b) to (d).

For anything which in good faith done or intended to be done under the provisions of this Act or any rule or regulation made thereunder".

Substitution of new sections for section 27, 28 and 29 Power of central Government to make rules

18. For sections 27, 28 and 29 of the principal Act, the following sections shall be substituted namely:-

"27(1) The Central Government in consultation with the Chief Justice of India may, by notification, make rules to carry out the provisions of this Act.

(2) In Particular, and without prejudice to the generality of the foregoing power, such rules provide for all or any of the following matters, namely:-

(a) the number, experience and qualifications of other members of the Central Authority under clause (c) of sub-section (2) of section 3;

(b) the experience and qualifications of the Member-Secretary of the Central Authority and his power and functions under sub-section (3) of section 3;

(c) the terms of office and other conditions relating thereto of members and Member-Secretary of the Central Authority under sub-section (4) of section 3;

(d) the number of officers and other employees of the central Authority under sub-section (5) of section 3;

(e) the conditions of service and the salary and allowances of officers and other employees of the Central Authority under sub-section (6) of section 3;

(f) the number, experience and qualifications of members of the Supreme Court Legal Services Committee under clause (b) of sub-section (2) of section 3A;

(g) the experience and qualifications of Secretary of the Supreme Court Legal Services Committee under sub-section (3) of section 3A;

(h) the number of officers and other employees of the Supreme Court Legal Services Committee under sub-section (5) of section 3A and the conditions of service and the salary and allowances payable to them under sub-section (6) of that section;

(i) the upper limit of annual income of a person entitling him to legal services under clause (h) of section 12, if the case is before the Supreme Court;

(j) the manner in which the accounts of the Central Authority, the State Authority or the District Authority shall be maintained under section 18;

(k) the experience and qualifications of other persons of the Lok Adalats organised by the Supreme Court Legal Services Committee specified in sub-section (3) of section 19;

(l) other matters under clause (e) of sub-section (1) of section 22;

(m) any other matter which is to be, or may be, prescribed.

Power of State Government to make rules

28(1) The State Government in consultation with the Chief justice of the High Court may, by notification, make rules to carry out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(a) the number, experience and qualifications of other members of the State Authority under clause (c) of sub-section (2) of section 6;

(b) the powers and functions of the Member-Secretary of the State Authority under sub-section (3) of section 6;

(c) the terms of office and other conditions relating thereto, of members and Member-Secretary of the State Authority under sub-section (4) of section 6;

(d) the number of officers and other employees of the State Authority under section (5) of section 6;

(e) the conditions of service and the salary and allowances of officers and other employees of the State Authority under sub-section (6) of section 6;

(f) the experience and qualifications of Secretary of the High Court Legal Services Committee under sub-section (3) of section 8A;

(g) the number of officers and other employees of the High Court Legal Services Committee under sub-section (5) of section 8A and the conditions of service and the salary and allowances payable to them under sub-section (6) of that section;

(h) the number, experience and qualifications of members of the District Authority under clause (b) of sub-section (2) of section 9;

(i) the number of officers and other employees of the District Authority under sub-section (5) of section 9;

(j) the conditions of service and the salary and allowances of the officers and other employees of the District Authority under sub-section (6) of section 9;

(k) the number, experience and qualifications of members of the Taluk Legal Services Committee under clause (b) of sub-section (2) of section 11A;

(l) the number of officers and other employees of the Taluk Legal Services Committee under sub-section (3) of section 11A;

(m) the conditions of service and the salary and allowances of officers and other employees of the Taluk Legal Services Committee under sub-section (4) of section 11A;

(n) the upper limit of annual income of a person entitling him to legal services under clause (h) of section 12, if the case is before a court, other than the Supreme Court;

(o) the experience and qualifications of other persons of the Lok Adalats other than referred in sub-section (4) of section 19;

(p) any other matter which is to be, or may be prescribed.

Power of Central Authority to make regulations

29(1) The Central Authority may, by notification, make regulations not inconsistent with the provisions of this Act and the rules made thereunder, to provide for all matters for which provision is necessary or expedient for the purposes of giving effect to the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:-

(a) the powers and functions of the Supreme Court Legal Services Committee under sub-section (1) of section 3A;

(b) the terms of office and other conditions relating thereto, of the members and Secretary of the Supreme Court Legal Services Committee under sub-section (4) section 3A;

State Authority to make regulation

29A.(1) The State Authority may, by notification, make regulations not inconsistent with the provisions of this Act And the rules made thereunder, to provide for all matters for which provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power such regulations may provide for all or any of the following matters, namely:

(a) the other functions to be performed by the State Authority under clause (d) of sub-section (2) of section 7;
(b) the power and functions of the High Court Legal services Committee under sub-section (1) of section 8A;
(c) the number, experience and qualifications of members of the High Court Legal Services Committee under clause (b) of sub-section (2) of section 8A;
(d) the terms of office and other conditions relating thereto, of the members and Secretary of the High Court Legal Services Comittee under sub-section (4) of section 8A;
(e) the terms of office and other conditions relating thereto, of the members and Secretary of the District Authority under sub-section (4) of section 9;
(f) the number, experience and qualifications of members of the High Court Legal Services Committee under clause (b) of sub-section (2) of section 8A;
(g) other functions to be performed by the District Authority under clause (c) of sub-section (2) of section 10;
(h) the terms of office and other conditions relating thereto, of members and Secretary of the Taluk Legal Services Committee under sub-section (3) of section 11A".

ANNEXURE-X

Year-wise Break-up Of The Cases Disposed of By Lok Adalats in Himachal Pradesh

Sr.No.	Lok Adalat Place Date	No. of cases Dealt with	No. of cases disposed of	Awarded Amount	Percentage of success in disposed of cases
1	2	3	4	5	6
1	Shimla 25.8.1990	406	181	1,77,000	44%
2	Solan 5.5.1991	506	173	14,34,185	34%
3	Shimla 4.6.1991	1455	511	34,05,985	35.35%
4.	Mandi 30.6.1991	939	564	26,69,200	60%
5.	Keylong 21.7.1991	91	60	7,48,000	65.93%
6.	Paonta Sahib 4.8.1991	541	277	10,82,974	51%
7.	Chamba 15.9.1991	263	124	7,36,304	47%
8.	Rekong-Peo 3.10.1991	53	20	-	38%
9.	Una 9.11.1991	390	232	2,60,000	59%
10.	Hamirpur 10.11.1991	455	271	2,13,000	60%
11.	Dharamsala 8.12.1991	581	394	12,24,800	68%
12.	Bilaspur 23.1.1992	227	111	3,60,000	50%
13.	Nurpur 23.2.1992	157	30	-	20%
14.	Amb 23.2.1992	80	14	-	18%
15,.	Sarkaghat 23.2.1992	77	54	-	78%
16.	Hamirpur 8.3.1992	145	126	3,500	87%
17.	Nalagarh 15.3.1992	229	119	90,980	52%
18.	Paonta Sahib 8.3.1992	136	63	17,000	46%
19.	Dehra 14.3.1992	254	133	-	52%
20.	Ghumarwin 14.3.1992	852	554	7,000	65%
21.	Sundernagar 14.3.1992	100	79	-	79%
22.	Shimla 22.3.1992	879	528	2,76,000	60%
23.	Una 22.3.1992	118	45	21,900	38%
24.	Nahan 22.3.1992	192	90	1,99,842	47%
25.	Kullu 22.3.1992	235	154	4,37,000	66%
26.	Kangra 22.3.1992	98	68	-	69%
27.	Solan 29.3.1992	318	115	5,33,000	36%
28.	Mandi 29.3.1992	482	290	14,04,100	60%
29.	Chamba 29.3.1992	80	59	2,10,000	74%
30.	Rampur 29.3.1992	290	185	-	64%
31.	Palampur 29.3.1992	363	261	-	72%
32.	Rohru 21.6.1992	319	120	-	38%
33.	Jogindernagar 28.6.1992	111	93	-	84%
34.	Chopal 5.7.1992	50	25	-	50%
35.	Theog 11.7.1992	528	275	1,75,960	52%
36.	Rajgarh 11.7.1992	65	46	-	71%
37.	Arki 11.7.1992	141	101	-	75%
38.	Karsog 11. 7.1992	33	25	-	76%
39.	Dalhousie 11.7.1992	138	80	16,947	58%
40.	Dharamsala 8.8.1992	202	89	2,74,000	44%
41.	Rekong Peon 9.8.1992	30	17	-	57%
42.	Keylong 23.8.1992	20	6	-	30%
43	Kullu 8.8.1992	107	62	-	58%
44	Nurpur 30.8.1992	82	14	-	17%
45.	Amb 30.8.1992	79	72	-	91%
46.	Bilaspur 30.8.1992	463	313	9,30,500	68%
47.	Chamba 27.9.1992	192	104	-	54%
48.	Paonta Sahib 6.9.1992	217	179	67,840	82%
49.	Palampur 6.9.1992	139	85	-	61%
50.	Sundernagar 6.9.1992	61	34	-	56%

51.	Kangra 12.9.1992	117	60	-	51%
52	Hamirpur 12.9.1992	609	593	1,00,000	97%
53	Ghumarwin 12.9.1992	418	246	-	59%
54	Sarkaghat 12.9.1992	83	76	-	92%
55	Nalagarh 12.9.1992	162	74	62,900	46%
56.	Una 20.9.1992	209	176	3,37,000	84%
57.	Dehra 20.9.1992	105	55	-	52%
58.	Rampur 20.9.1992	282	209	-	74%
59.	Solan 27.9.1992	224	78	1,73,540	35%
60.	Mandi 27.9.1992	362	279	13,17,800	77%
61.	Shimla 18.10.1992	556	259	10,90,222	47%
62.	Nahan 1.11.1992	146	74	-	51%
63.	Rohru 14.11.1992	212	75	-	35%
64	Theog 22.11.1992	345	78	-	23%
65.	Chopal 29.11.1992	60	25	-	42%
66.	Amb 28.2.1993	107	74	-	69%
67.	Sarkaghat 28.2.1993	133	110	-	83%
68	Nurpur 28.2.1993	153	64	-	42%
69.	Bilaspur 28.2.1993	225	167	14,40,000	74%
70.	Hamirpur 13.3.1993	243	207	-	85.18%
71.	Dehra 13.3.1993	147	101	-	69%
72.	Ghumarwin 13.3.1993	262	108	-	41%
73.	Mandi 14.3.1993	235	178	4,71,158	76%
74.	Nalagarh 14.3.1993	93	25	-	27%
75.	Una 21.3.1993	254	175	1,35,500	69%
76.	Solan 21.3.1993	134	108	-	81%
77.	Kangra 21.3.1993	121	59	-	49%
78.	Kullu 21.3.1993	104	45	60,000	43%
79.	Paonta Sahib 28.3.1993	272	197	-	72%
80.	Dharamsala 28.3.1993	183	78	4,42,000	43%
81.	Sundernagar 28.3.1993	96	43	-	45%
82.	Rampur 28.3.1993	138	90	-	65%
83.	Chamba 4.4.1993	151	86	30,500	57%
84.	Shimla 4.4.1993	382	139	7,89,742	36%
85.	Palampur 4.4.1993	225	120	-	53%
86.	Nahan 18.4.1993	229	149	7,53,824	65%
87.	Rohru 18.4.1993	262	111	-	42%
88.	Jogindernagar 18.4.1993	81	64	-	79%
89.	Dalhousie 8.5.1993	62	39	-	63%
90.	Chopal 16.5.1993	60	32	-	53%
91.	Rajgarh 16.5.1993	55	24	1,77,476	44%
92.	Theog 23.5.1993	159	47	-	30%
93.	Arki 23.5.1993	51	48	-.	94%
94.	Karsog 6.6.1993	41	37	-	80%
95.	Rekong Peo 12.6.1993	41	17		41%
96.	Bilaspur 22.8.1993	237	182	4,55,740	77%
97.	Amb 22.8.1993	85	45	-	53%
98.	Nurpur 22.8.1993	298	154	-	52%
99.	Keylong .10.1993	Lok Adalat could not held			
100.	Hamirpur 5.9.1993	266	235	1,05,000	88%
101.	Sundernagar 11.9.1993	83	6	-	7%
102.	Kangra 11.9.1993	225	115	-	51%
103.	Ghumarwin 11.9.1993	184	112	-	61%
104.	Sarkaghat 19.9.1993	99	64	-	65%
105.	Nalagarh 19.9.1993	73	39	1,94,548	53%

106	Una 19.9.1993	163	132	-	81%
107	Dehra 19.9.1993	343	285	-	83%
108	Solan 26.9.1993	205	124	-	60%
109	Mandi 26.9.1993	470	317	7,47,000	67%
110	Dharamsala 3.10.1993	226	84	1,07,500	37%
111.	Rampur 3.10.1993	51	31	-	61%
112.	Shimla 9.10.1993	236	85	42,000	36%
113.	Palampur 9.10.1993	210	79	-	38%
114.	Paonta Sahib 9.10.1993	329	89	-	27%
115.	Kullu 17.10.1993	154	74	5,56,500	48%
116.	Chamba 17.10.1993	173	118	1,46,384	68%
117.	Rohru 7.11.1993	98	24	-	24%
118.	Jogindernagar 7.11.1993	9	74	-	80%
119.	Nahan 21.11.1993	270	120	4,56,000	44.4%
120.	Theog 21.11.1993	160	36	-	25%
121.	Chopal 21.11.1993	40	20	-	50%
122.	Sundernagar 21.11.1993	128	40	-	31.25%
Total	Aug.25,1990 to Dec.1993	27,452	15,408	2,71,67,351	56,12%

ANNEXURE-XI

Overall Performance Of Lok Adalats In Himachal Pradesh

Sr.No.	Year	Total No. Lok Adalats	No.of cases taken up	No.of cases disposed of	M.A.C.T. cases decided	Compensation paid	Percentage of disposal of cases
1	Aug.25,1990 to Dec.31,1993	1		181	6	1,77,000	44,58%
2	Jan.1991 to Dec.1991	10	5,274	2,626	252	1,13,33,465	49.79%
3	Jan.1992 to Dec.1992	54	12 179	7,157	219	72,39,822	58.91%
4	Jan 1993 to Dec.1993	57	9,593	5,426	173	84,17,064	56.56%
	Aug.25,1990 to Dec.1993	122	27,452	15,408	650	2,71,67,351	56.12%

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