Chapter V

Alternative Dispute Resolution Practices in Kerala with special focus on Kottayam District
People approached Krishnan Master to find solutions to most of the problems of the land. Tensions between the father and the son, the quarrel between the husband and wife, harassment by the mother in law, the conflict between the elder brother and younger, old feuds, accusation about sorcery, breach of promise, divorce and all such complaints and disputes were taken to him for a just judgment or an amicable settlement. The people visit his household Kunnipparambil for that. Krishnan Master is the symbol of truth, morality and peaceful resolution. There is no appeal over his verdict.

This is an excerpt from the famous Malayalam novel, Oru desathinte katha (Story of a land). In this story we can see an elder teacher of the area settling and resolving disputes of the locality. Through this we obviously understand the role of local leaders and persons of known integrity in local dispute resolution. These types of informal dispute resolution were the living and acceptable practices in Kerala across the state. Various instances similar to this are seen in the chronicles, short stories, biographies and proceedings of caste and church leaders in Kerala. But the cases of Chinnammalu, and Appuvetan are not ancient stories, but a few living examples of mediating disputes at local level.

In this chapter the researcher tries to give a short outline of alternative mechanisms of dispute resolution across the state with particular focus on Kottayam District. This chapter is organised into five different sections such as I) An overview of ADR and informal dispute resolution practices in Kerala II) ADR initiatives by formal agencies like KELSA, Family Court,
Janamaithri Project, Jagratha Samithi etc. III) Some NGO initiatives of ADR in the state, IV) A Profile of Kottayam District and V) ADR practices existing in the Kottayam District with a few statistics and case studies.

5.1. Alternative dispute resolution in Kerala: An Overview

5.1.1 Living legends of Dispute Resolution

In exploring the village life of Malabar, we can trace the story of an exemplary figure like K. K. Kunjananthan Nambiar, a communist leader in Mayyil Panchayat of Kasargode District. He was functioning as a mobile court as part of his political work. He showed how to solve disputes and how to intervene in them through his own life. He had been the president of Panchayat for three and half decades. He blended socio-political activism and dispute resolution. The case is same with A. K. Gopalan, a well known political leader of Kerala who started his career as a teacher in a local school (Gopalan, 2004). Constructing new roads is a tough task facing local governments in the state. But it was a regular practice of vazhi achen (priest of road), a Christian priest, in Kaduthuruthi. He negotiated with people for acquiring land for new roads or for widening the existing ones.

An incident in the Champakulam village of Travancore region reveals that local practices for dispute resolution had existed for long. Two documents are found about a dispute over maternal properties in a Syrian Christian family in 1797. The property of a father with only one daughter came to be in possession of his younger brother after his death. The panchayat settled the issue based on local customs through negotiation. It is noted that the panchayat had laid stress on two things; a) settlement was according to the local customs of the caste and context. b) Panchayat reached the agreement through negotiation and mutual consent. There are various testimonials and chronicles depicting these types of Panchayat decisions through mediation.
in Kerala. All the castes in Kerala had their own dispute resolution mechanisms in place.

*Kadal Kodathi* is a social institution (Sea Court of Malabar) that existing in fishing communities across the coastal area of northern part of the state. Fishing governance was separated from village governance, Caste based traditional institutions managed almost all affairs on the coast. Various traditional rules and regulations governed fisheries. However, most rules were related to conflict management rather than resource management.

The researcher had an opportunity to walk with Abdul khader popularly known as Kunjani, a member of Edakara Panchayat near Nilambur (Malappuram District). During the brief spell of being a part of his daily routine cases of cheating visa issue, threats from money lender, divorce case etc. were brought to his attention. He even found time in the second sitting to visit a disputants’ house. A local mediator in Malappuram district went to the extent of selling his land for honouring the agreement reached through mediation when one of the parties failed to fulfil his obligation. Disputes and dispute resolution are therefore playing a significant role in the socio-political spectrum of Kerala.

**5.1.2. Local Dispute Resolution in Kerala**

Before independence the three different regions in Kerala viz; Malabar, Kochi and Travancore had been under different administrative systems. But there has been a long tradition of local governance in these local provinces. Judicial administration was carried out by *Pothujanasabhas* (People’s council) in the ancient villages of Kerala. These were done on the basis of traditional customs and precedents in the community. Caste has played a significant role in determining the punishments. The term village as ordinarily understood to indicate compact dwelling places in the midst of cultivated fields all round, is invariably absent in Travancore-Cochin’ (Malaviya, 1956: 505). Village
organisation of Kerala in earlier days has the characteristics of a feudal society. The basic unit of local government in ancient and medieval Kerala was the Thara which had its own assembly known as Koottam, represented by the elders of the village (Karanavars or Pramanis). They acted as arbitrators or judges in matters of dispute arising between persons living within the limits of their local jurisdiction. The Koottam discussed all sorts of social disputes and such petty offences (as did not require the intervention of the superior authorities) were placed before the meeting and disposed of, according to the votes of the majority (Visalakshi, 1967:18-19). There was a dominance of upper caste in these councils. Eminent historians observed that the lower castes and tribes of Kerala had very little representation in the quasi-political institutions of the past at least after the dawn of the 8th century AD (Pillai, 1957; Menon, 1924).

Every caste and tribe had its own caste or tribal council. In all the tribal communities, headman presided over the assembly and settled all disputes connected with the tribe. In the case of Kanikars, they had a village assembly, which was presided over by headman called Muthukani, settled all disputes and was the final authority in all matters. In the case of Muthuvas, when a man committed an offence, a Panchayat was held in the village chavadi. If the offence was not of a serious nature, it was dealt with by the Kularam. But if it was not amenable to the discipline of the village chief, the Talayari was invited to preside over the assembly of the villagers and to inflict punishment on the guilty (after his/her guilt was proved). Visalakshi (1967) depicted about a Thandan in the southern parts of Kerala, which was appointed by the ruler of the state, for special localities and he was the headman of the cast in his village. Moreover, there were also elected men, two, four or six for each village or a number of villages, known as Kaikkars whose duty was to make preliminary enquiries about social disputes and convene meetings at which the Thandan arbitrates and settles such disputes.
The evolution of local bodies in northern Kerala was determined by legislation in the Madras Presidency. The central and the southern Kerala had not been under direct British rule. There existed two princely states, the State of Travancore in the southern part and the State of Cochin in the central region. Historical accounts show that justice was administered effectively and efficiently by many panchayats. The introduction of the British system of justice throws away the indigenous adjudicatory agencies including panchayat courts. Village court has been functioning fairly well for a considerably long period, even though they were differently organised under various laws in the three states. In the Malabar region Panchayat courts formed on the basis of the Madras village Courts Act of 1888 and they functioned in all villages having panchayats. The entire Panchayat sat as a court for settling minor civil disputes and trying petty criminal offences. The village courts were meant for resolving local disputes through mediation (*Malayala Manorama*, 21 July, 1917). In villages without panchayats, the village headman functioned as Village Munsiff in each in each village. In the beginning of 1920 government had ordered for an establishment of 679 village courts for handling local civil and criminal disputes (*Malayala Manorama*, 28 December, 1920).

The village courts in Travancore area came into being under the Travancore Village Courts Act of 1914. The members of these courts were nominated by the government and not elected dissimilar to Malabar. In Travancore, the system of Local Self Government was extended to rural areas by a regulation called *Village Panchayat Regulation VII* (1925). A special feature of this act was that it delegated certain judicial functions to the Panchayats in addition to the administrative functions related to the village (Biju, 2000). In Cochin State, a separate Department Village Courts was created and the Panchayat courts were reorganised by an act. The Panchayat courts already functioning in the state were renamed as Village Courts and the members of each court (five in number including the President
and a ‘senior’ judge) were appointed by the government. They tried suits up to the value of Rs. 100 and if the parties concerned agreed up to the value of Rs. 200. It is noted that there was a demand among people for the election of members and fixing tenure for the members (Malayala Manorama, 6 March, 1920). In 1956 after the state reorganisation, the modern State of Kerala came into existence by merging Thiru-Cochi with Malabar district of Madras State. In 1960 a uniform system of local governments was established covering the three regions as a consequence of the enactment of the Kerala Panchayat Act. The Village Courts Act, 1960 provides for the establishment of a village court for a village or a group of villages with 5 members to be appointed by government in consultation with the panchayats. Today the Gram Panchayat members are engaging in dispute resolution, though it is not mentioned as a duty in the Panchayat Act. They intervene in disputes as an extension of their socio-political activities which is the tradition of Kerala.

Political parties and caste organisations are active in settling the disputes in present Kerala. Political parties are the first option for the people in party villages of northern part of Kerala. Trade unions settled labour disputes among themselves. The auto court at Payyannur is the example this. Community leaders settled disputes in their communities (e.g. Panakkadu Thangals). There are tribal dispute settling mechanisms like oorukoottam, which are active even nowadays.

Many people give petitions before RDO for resolving some local disputes. The major local disputes dealing by the RDO court are related with village roads, boundary issues etc. The dispute over shadow of trees over other’s property is a common dispute in the RDO court. At present it is referred to Gram Panchayats by most of the RDOs. The experience of an RDO in the state points out the inadequacy of the Taluk forum in ensuring justice to the needy in these local disputes. Now Gram Panchayat has power to intervene in these disputes under the provision of Panchayat Raj act.
5.1.3 **ADR Initiatives by State sponsored Agencies**

As mentioned in chapter 3, quasi judicial agencies like State Legal Service Authority, Family Court and Consumer Court adopts alternative dispute resolution mechanisms in the state also. The researcher had participant observation with Lok Adalat of High court at Kochi, Lok Adalat and mediation centre at Kottayam.

**5.1.3.1. Kerala State Legal Service Authority (KELSA)**

KELSA organised Lok Adalats at different levels - high court, districts and taluks. The bottom level of KELSA is at taluk level. KELSA has accredited agencies to organise Lok Adalats throughout the state. The following tables indicate the district wise statistics and category of cases regarding the Lok Adalats held in the state under the auspices of KELSA and accredited organisations. District Legal Services Authorities (DLSA) is working in all the districts of the state. Mediation centres are also started with District Legal Services Authorities. They are planning start legal service committees at Panchayat level. The researcher has found some mismatching in the statistics obtained from KELSA with data collected from district and taluk legal service committee office records. The offices of DLSA and Taluk Legal Service Committees (TLSC) are working with staff on deputation. This affects the efficacy of the activities and management of the office.
Table 5.1. Lok Adalats and Nature of cases Settled during the year 2005

<table>
<thead>
<tr>
<th>District</th>
<th>No. of Adalats</th>
<th>No. of Benches</th>
<th>No. of cases considered</th>
<th>No. of Cases settled</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Adalats</td>
<td>Benches</td>
<td>Civil</td>
<td>Criminal</td>
</tr>
<tr>
<td>Thiruvananthapuram</td>
<td>131</td>
<td>228</td>
<td>895</td>
<td>3728</td>
</tr>
<tr>
<td>Kollam</td>
<td>251</td>
<td>417</td>
<td>1068</td>
<td>2374</td>
</tr>
<tr>
<td>Pathanamthitta</td>
<td>172</td>
<td>251</td>
<td>1166</td>
<td>1924</td>
</tr>
<tr>
<td>Alappuzha</td>
<td>318</td>
<td>454</td>
<td>991</td>
<td>1642</td>
</tr>
<tr>
<td>Kottayam</td>
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<td>197</td>
<td>628</td>
<td>2710</td>
</tr>
<tr>
<td>Idukki</td>
<td>132</td>
<td>190</td>
<td>377</td>
<td>3415</td>
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<tr>
<td>Ernakulam</td>
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<td>248</td>
<td>667</td>
<td>3443</td>
</tr>
<tr>
<td>Thrissur</td>
<td>118</td>
<td>123</td>
<td>1312</td>
<td>815</td>
</tr>
<tr>
<td>Palakkad</td>
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<td>73</td>
<td>125</td>
<td>1120</td>
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<tr>
<td>Malapuram</td>
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<td>180</td>
<td>678</td>
<td>1566</td>
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<tr>
<td>Kozhikode</td>
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<td>167</td>
<td>599</td>
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<td>Wayanad</td>
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<td>112</td>
<td>361</td>
<td>1486</td>
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<tr>
<td>Kannur</td>
<td>97</td>
<td>147</td>
<td>610</td>
<td>1188</td>
</tr>
<tr>
<td>Kasargode</td>
<td>163</td>
<td>190</td>
<td>520</td>
<td>779</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>2153</td>
<td>2977</td>
<td>9995</td>
<td>26671</td>
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Table 5. 2. Lok Adalats and Nature of cases Settled during the year 2006

<table>
<thead>
<tr>
<th>District</th>
<th>No. of Adalats</th>
<th>No. of Benches</th>
<th>No. of Cases Considered</th>
<th>No. of Cases Settled</th>
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<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>Civil</td>
<td>Criminal</td>
</tr>
<tr>
<td>Thiruvananthapuram</td>
<td>140</td>
<td>221</td>
<td>1098</td>
<td>2451</td>
</tr>
<tr>
<td>Kollam</td>
<td>210</td>
<td>264</td>
<td>1011</td>
<td>2204</td>
</tr>
<tr>
<td>Pathanamthitta</td>
<td>164</td>
<td>236</td>
<td>388</td>
<td>1034</td>
</tr>
<tr>
<td>Alappuzha</td>
<td>229</td>
<td>304</td>
<td>1823</td>
<td>2028</td>
</tr>
<tr>
<td>Kollayam</td>
<td>117</td>
<td>134</td>
<td>3472</td>
<td>1063</td>
</tr>
<tr>
<td>Idukki</td>
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<td>143</td>
<td>158</td>
<td>982</td>
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<tr>
<td>Ernakulam</td>
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<td>146</td>
<td>797</td>
<td>912</td>
</tr>
<tr>
<td>Thrissur</td>
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<td>52</td>
<td>1002</td>
<td>94</td>
</tr>
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<td>Palakadu</td>
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<td>62</td>
<td>334</td>
<td>705</td>
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<tr>
<td>Malapuram</td>
<td>135</td>
<td>169</td>
<td>275</td>
<td>1372</td>
</tr>
<tr>
<td>Kozhikode</td>
<td>94</td>
<td>142</td>
<td>601</td>
<td>216</td>
</tr>
<tr>
<td>Wayanad</td>
<td>94</td>
<td>110</td>
<td>392</td>
<td>1611</td>
</tr>
<tr>
<td>Kannur</td>
<td>88</td>
<td>186</td>
<td>1338</td>
<td>1228</td>
</tr>
<tr>
<td>Kasargode</td>
<td>86</td>
<td>136</td>
<td>323</td>
<td>1303</td>
</tr>
<tr>
<td>Total</td>
<td>1683</td>
<td>2305</td>
<td>9882</td>
<td>17203</td>
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</table>
### Table 5.3  Lok Adalats and Nature of cases Settled during the year 2007

<table>
<thead>
<tr>
<th>District</th>
<th>No. of Adalats</th>
<th>No. of Benches</th>
<th>No. of Cases Considered</th>
<th>No. of Cases settled</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>Civil</td>
<td>Criminal</td>
</tr>
<tr>
<td>Thiruvananthapuram</td>
<td>126</td>
<td>236</td>
<td>1357</td>
<td>1784</td>
</tr>
<tr>
<td>Kollam</td>
<td>272</td>
<td>282</td>
<td>800</td>
<td>2455</td>
</tr>
<tr>
<td>Pathanamthitta</td>
<td>207</td>
<td>251</td>
<td>307</td>
<td>2209</td>
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<tr>
<td>Alappuzha</td>
<td>452</td>
<td>569</td>
<td>2736</td>
<td>5714</td>
</tr>
<tr>
<td>Kollam</td>
<td>230</td>
<td>240</td>
<td>251</td>
<td>1479</td>
</tr>
<tr>
<td>Idukki</td>
<td>1329</td>
<td>191</td>
<td>707</td>
<td>1998</td>
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<tr>
<td>Eranakulam</td>
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<td>212</td>
<td>942</td>
<td>2411</td>
</tr>
<tr>
<td>Thrissur</td>
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<td>352</td>
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<td>3062</td>
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<tr>
<td>Palakkadu</td>
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<td>135</td>
<td>462</td>
<td>1744</td>
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<tr>
<td>Malapuram</td>
<td>152</td>
<td>177</td>
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<td>1549</td>
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<tr>
<td>Kozhikode</td>
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<td>475</td>
<td>396</td>
</tr>
<tr>
<td>Wayanad</td>
<td>157</td>
<td>181</td>
<td>610</td>
<td>2014</td>
</tr>
<tr>
<td>Kannur</td>
<td>132</td>
<td>214</td>
<td>904</td>
<td>1645</td>
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<tr>
<td>Kasargode</td>
<td>100</td>
<td>125</td>
<td>386</td>
<td>496</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>2679</strong></td>
<td><strong>3321</strong></td>
<td><strong>12061</strong></td>
<td><strong>28976</strong></td>
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</table>
Above Tables shows that the intensity of family cases is very high in Kottayam District compared to other districts.

**Table 5.4** Lok Adalats and nature of cases settled during the year 2008

<table>
<thead>
<tr>
<th>Category</th>
<th>Number of Cases Settled</th>
<th>Pre-Litigation</th>
<th>Post Litigation</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bank Recovery Cases</td>
<td>2107</td>
<td>371</td>
<td>2478</td>
<td></td>
</tr>
<tr>
<td>Matrimonial Disputes</td>
<td>154</td>
<td>181</td>
<td>335</td>
<td></td>
</tr>
<tr>
<td>Criminal Cases (compoundable offence)</td>
<td>147</td>
<td>12897</td>
<td>13044</td>
<td></td>
</tr>
<tr>
<td>Labour Disputes</td>
<td>131</td>
<td>97</td>
<td>228</td>
<td></td>
</tr>
<tr>
<td>Civil Case</td>
<td>2076</td>
<td>3305</td>
<td>5381</td>
<td></td>
</tr>
<tr>
<td>Others (including MACT)</td>
<td>5095</td>
<td>5418</td>
<td>10513</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>9710</strong></td>
<td><strong>22269</strong></td>
<td><strong>31979</strong></td>
<td></td>
</tr>
</tbody>
</table>

**Table 5.5** Lok Adalats and nature of cases settled during the year 2009

<table>
<thead>
<tr>
<th>Category</th>
<th>Number of Cases Settled</th>
<th>Pre-Litigation</th>
<th>Post Litigation</th>
<th>Total</th>
</tr>
</thead>
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<tr>
<td>Bank Recovery Cases</td>
<td>1444</td>
<td>169</td>
<td>1613</td>
<td></td>
</tr>
<tr>
<td>Matrimonial Disputes</td>
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<td>748</td>
<td>886</td>
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</tr>
<tr>
<td>Criminal Cases (compoundable offence)</td>
<td>35</td>
<td>3903</td>
<td>3938</td>
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<tr>
<td>Labour Disputes</td>
<td>48</td>
<td>102</td>
<td>150</td>
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</tr>
<tr>
<td>Civil Case</td>
<td>1559</td>
<td>2150</td>
<td>3709</td>
<td></td>
</tr>
<tr>
<td>Others (including MACT)</td>
<td>3834</td>
<td>9408</td>
<td>13242</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>7058</strong></td>
<td><strong>16480</strong></td>
<td><strong>23538</strong></td>
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Table 5.6  Lok Adalats and nature of cases settled during the year 2010

<table>
<thead>
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<th>Category</th>
<th>Number of Cases Settled</th>
<th></th>
<th></th>
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</thead>
<tbody>
<tr>
<td></td>
<td>Pre-Litigation</td>
<td>Post Litigation</td>
<td>Total</td>
</tr>
<tr>
<td>Bank Recovery Cases</td>
<td>2284</td>
<td>137</td>
<td>2421</td>
</tr>
<tr>
<td>Matrimonial Disputes</td>
<td>163</td>
<td>533</td>
<td>696</td>
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<tr>
<td>Criminal Cases</td>
<td>111</td>
<td>3608</td>
<td>3719</td>
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<tr>
<td>(compoundable offence)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Labour Disputes</td>
<td>54</td>
<td>109</td>
<td>163</td>
</tr>
<tr>
<td>Civil Case</td>
<td>1097</td>
<td>2348</td>
<td>3445</td>
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<tr>
<td>Others (including MACT)</td>
<td>6001</td>
<td>8734</td>
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<tr>
<td><strong>Total</strong></td>
<td><strong>9710</strong></td>
<td><strong>15469</strong></td>
<td><strong>25179</strong></td>
</tr>
</tbody>
</table>

Above tables reveals that criminal cases (mainly compoundable offence), civil cases and MACT cases are major three components of cases settled by Lok Adalats. MACT cases are increasing year by year.

Table 5.7.  No. of Lok Adalats and cases settled in the state

<table>
<thead>
<tr>
<th>Year</th>
<th>No. of Adalats</th>
<th>No. of Cases Settled</th>
<th></th>
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</tr>
</thead>
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<td></td>
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<td>Pre-Litigation</td>
<td>Post-Litigation</td>
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<td>5217</td>
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<tr>
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<td>2679</td>
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<td>24332</td>
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<tr>
<td>2008</td>
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<td>9710</td>
<td>22269</td>
<td>31979</td>
</tr>
<tr>
<td>2009</td>
<td>1960</td>
<td>7058</td>
<td>16480</td>
<td>23538</td>
</tr>
<tr>
<td>2010</td>
<td>3005</td>
<td>9710</td>
<td>15469</td>
<td>25179</td>
</tr>
</tbody>
</table>
a) **Lok Adalat, High Court Kochi**

Kerala High Court Legal Services Committee was constituted in January 1999. The cases settled include Motor accident claims appeals, matrimonial appeals, land acquisition appeals, Writ petitions, Criminal appeals, Civil Revision petitions, regular first appeals and second appeals. Lok Adalat is being conducted daily in the Auditorium of the High Court since November 2006. Two retired High Court Judges are presiding over this Lok Adalat. Any Case pending before the High Court can be brought before this Adalat for settlement. Some advantages are realized by the researcher through the interaction with parties. The main advantages are 1) avoiding delay 2) case should be settled with humanitarian considerations 3) disputants can have direct interaction with judges 4) no possibility for appeal and 5) disputants get mental relief. The researcher had taken two case studies from the sitting of the Lok Adalat. High court Legal service Committee has conducted 273 Adalats in 2008. A total of only 117 cases were settled by them, of which half of them were MACT cases.
Table 5.8. No. of Cases settled by Kerala High Court Legal Services Committee

<table>
<thead>
<tr>
<th>Year</th>
<th>No. of Adalats</th>
<th>No. of cases Settled</th>
</tr>
</thead>
<tbody>
<tr>
<td>1999</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>2000</td>
<td>3</td>
<td>353</td>
</tr>
<tr>
<td>2001</td>
<td>3</td>
<td>203</td>
</tr>
<tr>
<td>2002</td>
<td>2</td>
<td>88</td>
</tr>
<tr>
<td>2003</td>
<td>5</td>
<td>233</td>
</tr>
<tr>
<td>2004</td>
<td>5</td>
<td>96</td>
</tr>
<tr>
<td>2005</td>
<td>10</td>
<td>120</td>
</tr>
<tr>
<td>2006</td>
<td>9</td>
<td>251</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>37</strong></td>
<td><strong>1344</strong></td>
</tr>
</tbody>
</table>

**Case study – Land Dispute**

The researcher has got following the case from the sitting of high Court Lok Adalat held on 2\textsuperscript{nd} April 2008. This is related with purchasing a house in Kozhikode District. Case study is prepared on the basis of interviews with disputants three times during the period 2008- 2011, Judges of Lok Adalat and people of the locality.
Achuthan and Sankaran were residing in a city in Kerala. They were neighbours and knew each other well. Achuthan was an employee of the LIC and Sankaran was a businessman. Achuthan has a land of 17 cents and a concrete roofed house. He decided to sell his property to another person, Murali. He got an amount of 4.75 lakhs as advance from Murali. The full amount would be paid only after the property is legally transferred from Achuthan to Murali. But it was later found that the property was actually a disputed one. It had been mortgaged as security for a loan with the Life Insurance Corporation. There was no road for accessing the property. So the deal did not come through. As Murali was cheated, he filed a case against Achuthan.

When Achuthan was sure of losing the case against Murali, he played another trick. He approached Sankaran. He persuaded him to exchange their properties. Sankaran was living in a house having tiled roof at that time. The innocent Sankaran didn’t have any idea that Achuthan’s property was a disputed one. He believed Achuthan’s words and agreed to the exchange of property. Sankaran and his family shifted to Achuthan’s property and started residing in the new house. Achuthan told Sankaran, that deal shall be registered only later. In the meantime, as directed by Achuthan, Sankaran had already sold his property to Murali. The amount was received by Achuthan.

It was only after a few years that Sankaran came to know the fact that they are now living in a disputed property, and it could not be legally registered in his name. To make matters worse, in 1994, Achuthan filed a case against Sankaran in the Sub Court Kozhikode to evict him from the present property. The verdict was against Sankaran. Sankaran went to High Court an appeal. Appeal was rejected. Achuthan gave execution petition in High Court. Then Sankaran submitted a criminal petition in High Court. High Court referred the case to Adalat. It was in the third sitting of the Adalat that the researcher met Sankaran. Achuthan had appeared for the Adalat the first two sittings. The documents show that Achuthan had got rupees six lakhs from Murali for the deal. Achuthan’s lawyer had once proposed to settle the case by giving rupees 9 lakhs to Sankaran. But it was not materialized due to the hard stand taken by Achuthan. Finally in 2008, the execution order was issued and Sankaran was ordered to be evicted from the present property. Before being evicted by the police, Sankaran, his wife and son left the property and started living in a rented house. Though complaint was given to the chief minister no action has yet been taken.

Now (August 2011) the people in the locality formed a civic forum to provide support to Sankaran. They put up a board in front of the disputed property. “One who sells or buys this will be joining hands cheating and injustice. When the researcher met him on April 2, 2008 he was very much depressed and lost faith in the judicial system. “The judiciary accepts only legal evidences but shut their eye towards humanitarian grievances. I had submitted 18 items of evidence but all were rejected on technical grounds. I am weak now. I lost all my money on this case. I even thought of committing suicide. I have been cheated, neglected by all. I could at least present this case in the Adalat, thereby venting out my pent up frustrations. I have been denied justice from court. My wife is ill. It is difficult to pay rent too. My son could not continue his education. Now we sustain our life by the meagre income earned by my son. The only relief is that I can share my grievances with you. Now my only hope is to search for a peaceful settlement, just to sustain our lives”.

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b) **Kerala Mediation centre**

KELSA started its Mediation Centre in 2007. The Centre is getting cases for mediation referred from the High Court of Kerala and the cases are allotted to the members in the panel of mediators. Mediation services of the centre can be availed of by parties directly or through reference by the court. Disputes referred to mediation upon directions of the court are called court-annexed mediations. Services of the centre are available for disputes pending in court as well as pre-litigation disputes. The centre has handled a variety of cases covering matters relating to business contracts, real estate and construction, consumer issues, employment and service issues, banking and insurance cases, accident related claims, family and matrimonial disputes, child custody and visitation rights etc.

The attitude of advocates towards mediation is increasing. Highly paid advocates also now refer cases to mediation centre. Now mediation centre considers cases of above Rs. 50,000. But majority of cases are coming from corporate companies\(^{17}\). A case about real estate business and issue of salaries of the crew of a drudging ship are the two success stories of the centre. In the first one, the German lady, cheated by the real estate business man in Kochi filed a case in the high court. The German lady had to settle the dispute as early as possible due to lack of time. Under the initiative of her advocate, she filed the petition before Lok Adalat. This case was settled in three sittings. Second case is related with pending salaries of the crew of a drudging ship near Kochi coast. The owner of the ship is a Mumbai settled businessman. Centre issued notice to him for settlement. The case was settled in 5 days and reached agreement to give all pending salaries and benefits.
5.1.3.2. Janamaithri– Community Policing in Kerala

Community policing seeks the responsible participation of the citizens in crime prevention at the level of the local community, conserving the resources, both of the community and of the police, in fighting against crimes which threaten the security of the community. Experience shows that by seeking the active co-operation of the public in performance of police duties, the process of Law Enforcement becomes far more effective. Justice K.T. Thomas Commission, appointed by the Government of Kerala to suggest Police Reforms submitted its report in 2006. The report recommended that the Government should implement Community Policing on an experimental basis. Accordingly the Government asked the Police Department to prepare and submit a draft scheme. The draft scheme submitted by the Department in 2007 was discussed elaborately at various levels and a final project was prepared on the basis of suggestions/recommendations from different levels.

The project is structured so as to facilitate closer community involvement in ensuring security and safety within communities. The project envisages strengthening the Police by achieving the support of the local community. It is a project to professionally strengthen the Police and increase its accessibility to the needy public through close interaction with and better understanding of the public. Through the Beat Officers, citizen living in the area will be known to the Police and every citizen will be acquainted with Beat Officers.

The community policing project of Kerala is known as Janamaithri Suraksha Project and it was launched its pilot project in 20 Police Stations in the State in 2008. The project centres on Beat Officers who are Police Constables/Head constables/Asst. Sub Inspectors, specially selected and trained. For each residential area forming one beat consisting of around 1000 houses within an area of 3 km there will be a Beat Officer. All the duties of the Police relating to patrolling, process service,
petition enquiry, verification, collection of public complaints, servicing of complaint boxes, etc. will be done, through such Beat Officer\textsuperscript{18}.

Janamaithri Suraksha Samithi\textsuperscript{19} is constituted in the police station level. The Samithi does not have any statutory powers. Several community initiatives were organized in each area jointly with the local organisations. Regular meetings between police personnel and local residents are conducted in each beat area, as well as at the Police Station-level.

5.1.3.3. Jagratha Samithi

Jagratha Samithis\textsuperscript{20} (Vigilance Committee) are committees formed at the level of every local self government in Kerala. It acts as a quasi-judicial mechanism from the Panchayat Ward level upwards, to protect the rights of women. They also facilitate mainstreaming of gender in the decentralisation process leading to qualitative improvement of the status of the women in society. Built on the principles of gender equity and justice, the Jagratha Samithi pro-actively, as well as by responding to complaints, takes steps to ensure the safety and security of women by addressing matters related to violation of women’s rights.

The Jagratha Samithi is functioning like a conflict resolution mechanism with the focus on protecting the rights of women and to prevent atrocities against them rather than as a semi judicial mechanism issuing punishments. One chairman of Panchayat Jagratha Samithi noted that\textsuperscript{21} “There is neither accused nor the complainant once the case is taken up by the Samithi. Nobody should win. Nobody should lose. It is a win-win situation – a joint decision, evolved through several sittings. People are made to understand and accept. This prevents them from moving away from the decision on a later date’.

Since 2004, under the aegis of the Women’s Commission, Programme on Capacity Development for Decentralisation in Kerala, supported the starting and functioning of Jagratha
Samithis. This was established through the initiatives of a few Gram Panchayats with the support of NGOs. Between 1996 and 2005 the Commission addressed more than 58,000 complaints, of which action was completed in more than 54,000 cases. About one-third of the complaints received by the Commission were cases of harassment by general public, for dowry or by husbands. The Commission also addressed complaints related to property rights, employment, alcohol-induced violence, divorces etc. There is a possibility for it to solve those matters that are beyond the scope of direct intervention by the police. Panchayat level Jagratha samithi are functioning in most of the panchayats in Kerala.

5.1.4. ADR Initiatives by NGOs

There are various Non Governmental agencies working in the area of dispute resolution across the state. PCSJ and Jananeethi are the major organisations in this field. A small account of these organisations is given in order to outline the nature of their ADR intervention in disputes in the state.

5.1.4.1. People’s Council for Social Justice (PCSJ), Kochi

People’s Council for Social Justice, is the pioneer organisation of Kerala in settling the disputes out of court through mediation and conciliation. The out of court settlement of PCSJ is a twofold one. One is daily sittings at the PCSJ office and the other is through Neethimelas. They settled disputes through ADR methods of negotiation, conciliation and mediation. Daily dispute resolution sessions are going on in the PCSJ office, where disputants are invited for amicable settlement. PCSJ has dealt with more than 6500 cases and 55 % of them were settled. The second is Neethimelas, almost like mega Lok Adalat. This is a mass scale resolution process comprising of different benches according to the types of cases. The first Neethimela was inaugurated by Mr. Justice P. N. Bhagavathi, then Chief Justice of India, the mentor of the idea of Lok Adalat, at Ernakulam in
1986. So far they have conducted 255 Neethimelas in different parts of Kerala. 26136 Motor Accident Claim cases came before the forum, of which 17932 cases have been settled through mediation. As many as 64386 cases of other categories were also registered in the Neethimelas of which 52% cases have been settled.

Letter requests were also received by PCSJ to get redressal of grievances from various departments, local bodies, organisations and individuals etc. One of the major activities of PCSJ is their Family Counselling Centre where counselling and family dispute resolution is undertaken daily. Two family counsellors are rendering service in Family Counselling Centre. Family Counselling Centre has conducted 7102 counselling sessions and dealt with 958 family disputes and resolved 514 of them.

PCSJ in collaboration with KELSA and Ernakulam District Legal Services Authority and the Cheranalloor Gram Panchayat could make Edyakunnam Desom of the Panchayat as Litigation Free Zone which was declared in 2003. Informal and ADR methods are incorporated in settling the pending disputes in the court from that area for achieving the aim of the project.
Table 5.9. Relevant cases registered at PCSJ during 2006-07

<table>
<thead>
<tr>
<th>Nature of Cases</th>
<th>No. of Cases</th>
<th>No. Cases Settled/Closed</th>
<th>No. of Cases Pending</th>
</tr>
</thead>
<tbody>
<tr>
<td>Property/Pathway Dispute</td>
<td>24</td>
<td>4</td>
<td>7</td>
</tr>
<tr>
<td>Money Dispute</td>
<td>25</td>
<td>5</td>
<td>6</td>
</tr>
<tr>
<td>Related with Govt.</td>
<td>3</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Miscellaneous</td>
<td>11</td>
<td>3</td>
<td>2</td>
</tr>
<tr>
<td>Marital maladjustment</td>
<td>64</td>
<td>44</td>
<td>15</td>
</tr>
<tr>
<td>Adolescent Counselling</td>
<td>12</td>
<td>10</td>
<td>2</td>
</tr>
<tr>
<td>Lack of Confidence</td>
<td>5</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>Personal Counselling</td>
<td>6</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td>Behavioural Problem</td>
<td>3</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>Maladjustment with in-laws</td>
<td>9</td>
<td>1</td>
<td>3</td>
</tr>
<tr>
<td>Fear of School Environment</td>
<td>1</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Return of Ornaments pledged by sister</td>
<td>1</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Interpersonal Problem</td>
<td>3</td>
<td>3</td>
<td>0</td>
</tr>
<tr>
<td>Pupil’s problem with their studies</td>
<td>9</td>
<td>9</td>
<td>0</td>
</tr>
<tr>
<td>Unwed Mother</td>
<td>1</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Torture from Neighbour</td>
<td>1</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Mental Illness</td>
<td>2</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Homosexual</td>
<td>1</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Custody of Children by father</td>
<td>1</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Rehabilitation of the daughter of divorced mental person</td>
<td>1</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Physical assault</td>
<td>0</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>184</strong></td>
<td><strong>89</strong></td>
<td><strong>48</strong></td>
</tr>
</tbody>
</table>
Table 5.10. Relevant cases registered at PCSJ during 2007-08

<table>
<thead>
<tr>
<th>Nature of Cases</th>
<th>No. of Cases</th>
<th>No. of cases settled</th>
<th>No. of Cases closed</th>
<th>No. of cases pending</th>
</tr>
</thead>
<tbody>
<tr>
<td>Property/Pathway dispute</td>
<td>14</td>
<td>7</td>
<td>12</td>
<td>2</td>
</tr>
<tr>
<td>Money Dispute</td>
<td>7</td>
<td>3</td>
<td>7</td>
<td>0</td>
</tr>
<tr>
<td>Related with Govt.</td>
<td>7</td>
<td>1</td>
<td>5</td>
<td>2</td>
</tr>
<tr>
<td>Miscellaneous</td>
<td>8</td>
<td>4</td>
<td>6</td>
<td>2</td>
</tr>
<tr>
<td>Labour</td>
<td>2</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Marital maladjustment</td>
<td>59</td>
<td>20</td>
<td>47</td>
<td>12</td>
</tr>
<tr>
<td>Adolescent counselling</td>
<td>21</td>
<td>17</td>
<td>17</td>
<td>4</td>
</tr>
<tr>
<td>Personal counselling</td>
<td>14</td>
<td>14</td>
<td>14</td>
<td>0</td>
</tr>
<tr>
<td>Behavioural problem</td>
<td>2</td>
<td>1</td>
<td>2</td>
<td>0</td>
</tr>
<tr>
<td>Maladjustment with in-laws</td>
<td>16</td>
<td>8</td>
<td>13</td>
<td>3</td>
</tr>
<tr>
<td>Property disputes</td>
<td>6</td>
<td>2</td>
<td>4</td>
<td>2</td>
</tr>
<tr>
<td>Mental Illness</td>
<td>4</td>
<td>0</td>
<td>4</td>
<td>0</td>
</tr>
<tr>
<td>Inmate of govt. Old age home</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>0</td>
</tr>
<tr>
<td>Issue related Temple festival</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>163</strong></td>
<td><strong>80</strong></td>
<td><strong>134</strong></td>
<td><strong>29</strong></td>
</tr>
</tbody>
</table>

Table 5.11. Relevant Cases registered at PCSJ office during 2008-09

<table>
<thead>
<tr>
<th>Nature of Cases</th>
<th>No. of Cases</th>
<th>No. of cases settled</th>
<th>No. of Cases closed</th>
<th>No. of cases pending</th>
</tr>
</thead>
<tbody>
<tr>
<td>Property/Pathway dispute</td>
<td>23</td>
<td>4</td>
<td>15</td>
<td>8</td>
</tr>
<tr>
<td>Money Dispute</td>
<td>3</td>
<td>2</td>
<td>3</td>
<td>0</td>
</tr>
<tr>
<td>Marital maladjustment</td>
<td>54</td>
<td>23</td>
<td>52</td>
<td>2</td>
</tr>
<tr>
<td>Adolescent counselling</td>
<td>45</td>
<td>41</td>
<td>43</td>
<td>2</td>
</tr>
<tr>
<td>Personal counselling</td>
<td>13</td>
<td>11</td>
<td>12</td>
<td>1</td>
</tr>
<tr>
<td>Maladjustment with in-laws</td>
<td>11</td>
<td>4</td>
<td>10</td>
<td>1</td>
</tr>
<tr>
<td>Mental Illness</td>
<td>3</td>
<td>0</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>Unwed mother and Child</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Old age Pension</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Maintenance</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Love affair and register marriage</td>
<td>3</td>
<td>3</td>
<td>3</td>
<td>0</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>158</strong></td>
<td><strong>89</strong></td>
<td><strong>142</strong></td>
<td><strong>16</strong></td>
</tr>
</tbody>
</table>
Most of the disputes came to PCSJ were family disputes especially matrimonial disputes. During the year 2007-08 the Family Counselling Centre (FCC) of PCSJ has dealt with 134 family disputes. Reunion or reconciliation occurred in 16 cases and the parties are living happily according to the person in charge of FCC. They also dealt with cases of maintenance, return of dowry etc. During 2008-09 FCC has dealt with 156 family disputes of which reunion was done in 19 cases.

5.1.4.2. Jananeethi, Thrissur

Jananeethi was started in 1991 as a centre for legal aid and protection of the poor and the marginalised, helping them access justice and equity. Among the many achievements of Jananeethi, the most spectacular contribution it has made could be its psycho-legal therapeutic services. Jananeethi uses law and legal system as therapeutic agents. This is a right based, victim-centred approach for total healing of the person. Jananeethi started Public Interest Litigation to ventilate common cause to public arena and for remediation. Since 1995 a team of committed lawyers and paralegal activists got trained in Jananeethi to address gender-based violence and exploitation at home and in society.

Jananeethi had campaigned for the idea of a Litigation-free village since 1994 in the State of Kerala. In 2000 Jananeethi with the help and cooperation of community leaders, law students, district bar association and under guidance of the District Legal Services Authority in creating the first ever ‘Litigation free’ Village in India, at Thichoor in Thrissur district. There initiated a people’s court in the village to settle the pending cases. N Satheesan Thirumeni, an accepted social activist in the village took leadership and settled the cases in an informal way mainly through mediation and conciliation. The director of Jananeethi has told that they would not compromise on rights but on interests. They bring the parties together and facilitate the resolution process only.
Later it made another attempt in the Mullakkara village to change it to a Crime-free zone. On 24th August 2004 the Chief Justice of Kerala High Court declared Mullakkara as the first legally literate and litigation free zone. During the year 2009-10, there were twenty eight civil disputes effectively handled in Jananeethi. Besides, there were five more criminal cases and one each from corruption charges, medical negligence, service grievances, and eviction problems. In all these cases, Jananeethi has taken the role of legally approved mediator to settle the disputes. Jananeethi, started this service from the year 1991 and has been rendering it throughout and that has reduced the volume of cases pending before civil courts. Jananeethi promotes negotiated settlement of disputes through constructive engagement of all parties involved.

Table 5.12 Interventions in the cases by Jananeethi

<table>
<thead>
<tr>
<th></th>
<th>2003-04</th>
<th>2004-05</th>
<th>2005-06</th>
<th>Percent of growth</th>
</tr>
</thead>
<tbody>
<tr>
<td>No. of petitioners/complainants who sought help</td>
<td>5367</td>
<td>7832</td>
<td>8750</td>
<td>12</td>
</tr>
<tr>
<td>Considered legal opinion/advise given</td>
<td>4518</td>
<td>5313</td>
<td>6250</td>
<td>18</td>
</tr>
<tr>
<td>Urgent interventions made</td>
<td>378</td>
<td>510</td>
<td>608</td>
<td>19</td>
</tr>
<tr>
<td>Judicial procedures initiated</td>
<td>43</td>
<td>29</td>
<td>23</td>
<td>-21</td>
</tr>
<tr>
<td>Amicably settled</td>
<td>147</td>
<td>342</td>
<td>328</td>
<td>-4</td>
</tr>
</tbody>
</table>

More than ten thousand petitioners who had approached Jananeethi for various reasons were legally assisted and socially supported to resolve their problems. In 2010-11 period, 280 persons from various parts of the state visited Jananeethi office seeking help to access justice, while around one thousand
persons contacted their law officers over telephone for legal consultation and guidance. The following table indicates the extent of services rendered during the reporting period. Most of the petitions were of civil nature especially domestic disputes.

**Table 5.13.** Number of cases handled by Jananeethi in 2010-11

<table>
<thead>
<tr>
<th>No. of Cases</th>
<th>2009-10</th>
<th>2008-09</th>
<th>2007-08</th>
<th>2006-07</th>
<th>2005-06</th>
</tr>
</thead>
<tbody>
<tr>
<td>Individuals who sought legal support</td>
<td>280</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Complaints received</td>
<td>53</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Admitted for psycho-legal counselling</td>
<td>41</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Negotiated settlements</td>
<td>25</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Initiated legal proceedings</td>
<td>8</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Complaints Pending settlement</td>
<td>12</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Proceedings dropped</td>
<td>8</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Table 5.14** Number of Cases handled by Jananeethi from 2005-06 to 2009-10

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Complaints /interventions in disputes</td>
<td>92</td>
<td>110</td>
<td>283</td>
<td>361</td>
<td>351</td>
</tr>
<tr>
<td>Negotiated settlements</td>
<td>24</td>
<td>19</td>
<td>217</td>
<td>341</td>
<td>328</td>
</tr>
<tr>
<td>Initiated legal proceedings</td>
<td>17</td>
<td>6</td>
<td>8</td>
<td>12</td>
<td>23</td>
</tr>
</tbody>
</table>
5.1.4.3. ADR Centre, Centre for Public Policy research (CPPR), Kochi

The Centre for Public Policy Research (CPPR) is an organisation formed in 2004 aiming for social change by creating awareness among the general public and providing better or alternative policy solutions for all relevant issues concerned with the daily lives of human beings. The ADR Centre is a new initiative of the Centre in taking up socio-legal issues before the government and get it resolved. The activities of the Centre involves taking up projects on livelihood issues affecting the masses, Right to Information, Elections, Traffic issues etc. It was started in 2009.

The ADR Centre works on the underlying philosophy of providing the benefits of Alternative Disputes Resolution (ADR) to the common man, who are largely, confined to the limits of the normal judicial process viz. the courts. ADR mechanisms are largely out of court settlements aimed at settling disputes in an amicable manner, which are free from strict procedural formalities and are cost effective. The CPPR Research Team through its research conducted in 2008 found out that in spite the state introducing various legislations and initiatives, the alternate mechanisms continued to be primarily commercial in

Figure 5.2 Extent of negotiated settlement of cases by Jananeethi

160
nature and have not penetrated into the underprivileged masses. The Centre therefore believes in networking with various organisations and individuals acting as a resource base involving sharing of information and ideas pertaining to the subject. The Centre’s vision bases its claim on the future possibility of such a system functioning which would support the objective of bringing justice to the common people. While their mission is to formulate a system, which uses the means of ADR within the reach of the common people and thereby enabling them to enjoy the benefits of ADR and to adopt practical strategies for the same. The Centre explores the possibility of resolving the disputes in the pre-litigation stage itself, i.e. even before they reach the courts, and institutionalising it with maximum public participation.

The Centre is based on a system which shall work with a structure comprising of a panel, members drawn from different fields with maximum public participation. The panel act as the backbone upon which the services of the Centre are rendered to the consenting parties. The Panel would be kept updated of the activities of the Centre and a Workshop would be held to discuss and looking the concerns and views of the members. The website of the centre thereby provides the option for registering cases from the persons who have a genuine dispute and are willing to get it settled by the centre. The consenting parties therefore submit their case before the panel members who shall use their skill, expertise and knowledge in settling the case through compromise to the satisfaction of both the parties. The panel act in the spirit of compromise and trust with the due involvement and active participation of both the parties. The centre binds itself to settle cases coming before it at the minimal possible time avoiding delays and inconveniences to both parties. The motto of the centre is ‘Come, Compromise and Settle’ and this would act as the underlying philosophy upon which the Centre functions.

An agreement shall be reached by the parties on settlement of the issue which is legally valid and binding. The centre provides
settlement to issues in various areas like Family disputes, Consumer disputes, Rent issues, Property disputes, Cheque issues, Motor Accident cases etc. The Centre also provides training and awareness to the people about the benefits of ADR through various awareness camps and classes. The following are the statistics related to the list of cases in ADR Centre during the year 2009 to 2011.

<table>
<thead>
<tr>
<th>Year</th>
<th>Type of Resolution</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009-2010</td>
<td>17 Mediation sittings</td>
</tr>
<tr>
<td>2010-2011</td>
<td>31 Mediation sittings and 1 Arbitration</td>
</tr>
<tr>
<td>2011- till date</td>
<td>68 Mediation sittings and 2 Arbitrations</td>
</tr>
</tbody>
</table>

The centre covers the cases include bank recovery cases, family problems and industrial disputes. The centre had tie up with various banks and agencies like Rajagiri Outreach, the professional service wing of Rajagiri College of Social Sciences, Kalamassery. Arbitration was done in the case of disputes between two companies.

5.1.4.4. Mediation India, Kochi

Mediation India is an example of modern day professional mediation in Kerala. Mediation India is one of the first out-of-court settlement houses in the state. The Mediation Centre was started in June 2005. Dispute Resolution is achieved here through mediation, conciliation and arbitration. The Mediation team comprises of a Chief Mediator and a panel of Mediators and Resource persons to assist the process. Kurian Mathew is the founder and chief mediator of Mediation India. He may be the first and the only, Supreme Court accredited non lawyer mediator in India. Mediation India has an effective panel of resource persons including, doctors, engineers, architects, lawyers, chartered accountants, retired revenue officer, Social worker,
Service expert, Management expert, expert in canonical law etc. These resource persons help the parties to evaluate the case and if needed assist the mediation discussions directly. Kurian does not charge for cases of Public Interest like the private medical college fee dispute in 2006, which he mediated with success. Mathew comes up with a solution to the recent Mullaperiar issue also. But the Mediation India is not like the above mentioned three organisations. This is working as a pure professional manner.

5.2. ADR in Kottayam District

In this section, the researcher tries out to outline the activities of formal and informal agencies practicing ADR in the district. The functions of District Legal Service Authority especially Lok Adalats and mediation centre, Family Court at Ettumanur, Janamaithri project at Vaikom and Panchayat Jagratha samithies in Ettumanur Block are within the purview of the study. The study is particularly focussing on dispute resolution by Panchayat members in the district

The main caste organisations in the district are Nair Service Society (NSS), Sree Narayana Dharma Paripalana yogam (SNDP), various factions of Kerala Pulaya Maha Sabha(KPMS) and other smaller organisations. No NGOs working on this arena are found in the district. Analysis of the nature of local conflicts in the district and the institutions engaged in conflict resolution are provided in the next chapter.

5.2.1. Kottayam District: A Profile

Kottayam District is on the southern side of Central Kerala bounded by Ernakulam District in the North, Idukki in the East, Pathanamthita in the south and Alappuzha in the West. It is located between 9°15' and 10° 21' North Latitudes and between 76° 22' and 77° 25' East Longitudes. It has a total population of 19, 53,646. Kottayam is situated in the middle of southern half of Kerala. It has an area of 2208 square kilometers, which
constitutes 5.7 percent of the total area of the state. It was a part of the erstwhile Travancore state. In 1860, an administrative division came into existence in the name of Kottayam as one of the four divisions Travancore.

According to the 2011 census, the district has a population of 1,979,384 and the population density is 896 inhabitants per square kilometre. Kottayam has a sex ratio of 1040 females for every 1000 males. The district has a literacy rate of 96.4 percent with the male literacy rate being 97.46 and the female literacy rate 94 percent. It has an average family size of 5.05 percents. The district has five Taluks and two revenue divisions. There are also four municipalities. The district is naturally divided into high land, midland and lowland, the bulk being constituted by the midland regions. Meenachil and Kanjirappally Taluks have high land and midland areas while Kottayam, Changanassery and Vaikom Taluks have midland and lowland areas. Kanjirappally and Meenachil Taluks have laterite soil, whereas Vaikom Taluk, part of Changanassery and Kottayam Taluks have aluvial soil.

The District has within it all kinds of geographical features – hills, valleys, plains and marshy regions. The marshy regions are places where paddy cultivation is widespread. These regions also are relatively poor and are known as strongholds of the leftist parties. These regions are situated adjacent to the backwaters.
Figure 5.3 District Map of Kottayam

The district had witnessed a number of political agitations in modern times. The Malayali Memorial agitation (1891), which had its origins in Kottayam, sought to secure better representation for Travancoreans in the state civil service. The famous Vaikom Satyagraha took place in this district. Kottayam was also one of the strongholds of the movement for responsible government in the princely state of Travancore.

Kottayam district is known as *Land of Letters, Lakes and Latex*. The town of Kottayam was the first town in the country to be declared as 100 percent literate (1989). English education in South India did actually start at the Old Seminary here at Kottayam in 1813. The Church Mission Society at Kottayam started the first English School in Kerala at the beginning of the 19th century. The first college and printing press in Kerala were also started in Kottayam. Kottayam occupies a prominent
position in the history of vernacular journalism. The first daily in Malayalam was started in Kottayam in 1887. The first and only Cooperative Society of writers and authors (SPCS) was set up in 1945. Kottayam is the hometown of a vast number of books and periodicals and is the centre of publishing business in the state. The district is also dotted with a number of ancient churches of Syrian Christians and temples. Kumarakom, one of the main tourist attractions of Kerala is situated in the district.

Hindus (48.76%), Christians (45.83%), and Muslims (5.35%) form population of the district (Census 2001). The head quarters of Malankara Orthodox Church and Nair Service Society are situated in the district. Majority of the population depends on agriculture. Paddy is the main food crop. Kottayam is a strong hold of Syrian Christians most of whom are relatively prosperous thanks to the early adoption of cash crops – based agricultural practices. Rubber, pepper, cardamom, ginger and cocoa, among others, are cultivated in the districts. Kottayam is also known as strong hold of the Kerala Congress, a breakaway wing of the Indian National Congress, which has survived as a regional party in spite of several splits.

5.2.2. Lok Adalats by Legal Service Authorities

Lok Adalats are conducted at district level and in each taluk of the district very effectively on all second Saturdays or a fixed day in a week. In some taluks special Adalats for criminal and MACT cases were conducted. Private finance and mobile companies also approach them for early disposal of their disputes with their clients. The data revealing the number of cases settled in the past six years are given below.
### Table 5.15.
No. of Lok Adalats and Cases settled in the Kottayam District

<table>
<thead>
<tr>
<th>Year</th>
<th>No. of Adalats</th>
<th>No. of Cases Settled</th>
<th>Pre-Litigation</th>
<th>Post Litigation</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2005</td>
<td>166</td>
<td>240</td>
<td>786</td>
<td>1026</td>
<td></td>
</tr>
<tr>
<td>2006</td>
<td>117</td>
<td>166</td>
<td>499</td>
<td>665</td>
<td></td>
</tr>
<tr>
<td>2007</td>
<td>230</td>
<td>280</td>
<td>1210</td>
<td>1490</td>
<td></td>
</tr>
<tr>
<td>2008*</td>
<td>No data</td>
<td>505+</td>
<td>1383+</td>
<td>1888+</td>
<td></td>
</tr>
<tr>
<td>2009</td>
<td>No data</td>
<td>353</td>
<td>1908</td>
<td>2261</td>
<td></td>
</tr>
<tr>
<td>2010</td>
<td>No data</td>
<td>518</td>
<td>1367</td>
<td>1885</td>
<td></td>
</tr>
</tbody>
</table>

*cases excluding the data of Meenachil, Kottayam and Changanachery TLSCs for the months of September-December

Take the statistics of family cases. The number of cases coming before Lok Adalat is increasing in the district. In 2005, the number of cases settled was 116, and in 2010, it increased to 696.

Kottayam Taluk Legal Services Authority conducts Lok Adalats on every Friday. During the period 2005-06 Kottayam TLSA considered 2076 cases and settled 576 of them. Of the settled cases 82 are pre-litigation and 244 are family disputes. TLSC conducts legal aid clinic at vadavathur weekly. In 2009, 107 cases were settled including 20 pre-litigation cases. Records show that 99 percent of the criminal cases were settled only if both the parties appeared in the sitting. Many litigants were not present due to the advice of their advocates (lawyers). In most of the cases (around 95%) parties come with their advocates. But the attitude of lawyers towards Lok Adalat changed during the course of time.

Private mobile companies are using the efficacy of Lok Adalats in the district. In Meenachil TLSC, 130 cases of Reliance mobile were settled in 2008. During the period 2008-09, 731 cases among 2795 were settled. Of which, 70 were pre-litigation cases. In pre-litigation cases, around only eighty percent of the parties responded to the notice issued. Many of the upper middle class
people had not responded to the notice or depute a lawyer. Number of pre-litigation cases is increasing in the experience of Meenachil TLSC. Pre-ligation cases include boundary disputes, public issues, common property issues, canopy of trees over other properties etc.

Changanacherry TLSC settled 182 cases out of the 1565 cases considered in 2009. The officials of TLSC approached public sector banks for conducting special Adalats to settle loan recovery disputes. Private mobile companies seek help of Lok Adalats to settle their bill payments.

It is observed that a dispute related to the transaction of money between two parties was settled in the Lok Adalat on 2nd November 2005. An excerpt of the settlement of the dispute in the register is read as: *matter settled between the parties for a total of Rs. 70,000. This shall be paid in monthly instalments of Rs. 1500 each*. This settlement is purely local in nature. Cases are coming to Lok Adalat on the initiative of lawyers’ also.

As far as Vaikom is concerned, all people, plaintiffs and defendants, irrespective of economic status, could be seen in the Lok Adalat. The figures of cases considered and settled by Vaikom TLSC for the three years is as follows.

**Table 5.16.** No. of Cases considered and settled in Vaikom TLSC

<table>
<thead>
<tr>
<th>Year</th>
<th>No. of Cases Considered</th>
<th>No. of Cases Settled</th>
</tr>
</thead>
<tbody>
<tr>
<td>2007</td>
<td>656</td>
<td>132</td>
</tr>
<tr>
<td>2008</td>
<td>2074</td>
<td>269</td>
</tr>
<tr>
<td>2009</td>
<td>1959</td>
<td>176</td>
</tr>
</tbody>
</table>

Kanjirappally TLSC conducted Lok Adalats in every midweek and second Saturdays. Ninety percent of the pre-litigation cases are filed by advocates themselves in this TLSC. Twenty five percent of
the cases are related to land property. The number of cases considered and settled in 2008 and 2009 is below.

**Table 5.17** No. of Cases considered and settled in Kanjirappally TLSC

<table>
<thead>
<tr>
<th>Year</th>
<th>No. of Cases</th>
<th>No. of Cases Settled</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Pre-Litigation cases</td>
</tr>
<tr>
<td>2008</td>
<td>1204</td>
<td>60</td>
</tr>
<tr>
<td>2009</td>
<td>1903</td>
<td>88</td>
</tr>
</tbody>
</table>

* cases excluding the data of Meenachil, Kottayam and Changanachery TLSCs for the months of September-December

**Figure 5.4** Number of Pre-Litigation Cases filed and settled during 2005-2010 by Kottayam DLSA
5.2.3. Moonnilavu - Litigation Controlled Panchayat in the District

Under the joint project of KELSA, Kottayam Legal Services Authority and Meenachil TLSC, Moonnilavu Gram Panchayat was declared as the first litigation-controlled tribal panchayat in the country. The then Chief Justice of India, K.G. Balakrishnan, declared this on 27th February 2010. The activities were started on March 2009. Legal aid clinic was conducted once in a week and special Adalats were organised in the panchayat. The existing cases were settled by the active involvement of people’s representatives including MLA and members of local self governments. There were 17 cases found pending at the time of declaration. That is why they declared it as litigation controlled village, otherwise it would have been declared as litigation free village. Earlier KELSA declared cherianadu as litigation free village in Alappuzha District.

The researcher had a remarkable experience in attending the declaration ceremony at Moonnilavu. The declaration ceremony was about to start, a middle aged man was trying to give a petition to judges presented in the stage. This reveals the unavoidability of disputes in a society. Some of the judges in the programme also mentioned that disputes were parts of the society, but settling them in a peaceful way other than litigation is a good practice. One High Court judge observed that problems were created by advocates and they would stand against the settlement through mediation. Further, he argued that mediation with the help of advocates after paying their remuneration would be desirable. The win-lose situation of the court judgements were criticised in the presidential address of the chief Justice of Kerala High Court.

5.2.4. DLSA-Mediation centre

The mediation centre at Kottayam DLSA started in September 2009 and its sittings started a year after. Ninety four cases were
considered and 12 cases were settled in the centre till October 2011. Cases relating to finance, land and family are usually being referred to mediation centre. The centre could settle 5 civil cases and 7 family related disputes except matrimonial disputes.

5.2.4.1. FGD with Mediators

The researcher had focus group discussion with members of mediators’ panel and advocates of the parties. One among them was a leading and aged lawyer. Another was a lady lawyer practising in district and family courts. The other two were advocates of the parties. Aged man in the panel was of the opinion that this process is same as that of mediation of the elders at local level. Further, they added that the group were trying to ‘settle cases applying common sense that is out of reference to legal ways’; ‘occasionally it would be based on laws, but on other occasions, based on interests, situations and viability.’ But it is valid and no possibility of appeal. The mediation centre got family cases only after two or three levels of mediation or conciliation. So the possibility of settlement is very poor according to the lady lawyer in the group. Advocates were present with the parties in 99 percent of the cases. They discouraged the parties for reaching settlement through mediation. On that day the investigator observed settlement a family case by allowing divorce. The parties settled the issue with the help of some dignitaries in their family and reached the agreement. The parties would put forward this proposal before the mediators and there might be a chance of agreement.

5.2.5. Family Court, Kottayam

The family court adopts ADR or informal mechanisms in the pre trial session of the dispute. The researcher visited Kottayam family court at Ettumanoor and interacted with the Judge, Principal Counsellor, advocates and parties in the case. Two trial cases are also observed in the court. The statistics about the type
of cases and number of filing and pending cases in the family court from 2005 to 2008 are given in the tables below.

**Table 5.18.** Filing and Pending of Cases in Kottayam Family Court -2005

<table>
<thead>
<tr>
<th>Nature of Cases</th>
<th>Pending 2004</th>
<th>Filing</th>
<th>Disposal</th>
<th>Conciliation</th>
<th>Contested</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hindu Marriage Act</td>
<td>307</td>
<td>166</td>
<td>238</td>
<td>70</td>
<td>168</td>
</tr>
<tr>
<td>Spl. Marriage Act</td>
<td>17</td>
<td>6</td>
<td>9</td>
<td>6</td>
<td>3</td>
</tr>
<tr>
<td>I.D. Act</td>
<td>377</td>
<td>175</td>
<td>174</td>
<td>125</td>
<td>49</td>
</tr>
<tr>
<td>O.P(G&amp;W)</td>
<td>51</td>
<td>20</td>
<td>17</td>
<td>7</td>
<td>10</td>
</tr>
<tr>
<td>O.P.M. Act</td>
<td>10</td>
<td>4</td>
<td>12</td>
<td>7</td>
<td>5</td>
</tr>
<tr>
<td>MC 125 Cr.Pc</td>
<td>297</td>
<td>211</td>
<td>244</td>
<td>66</td>
<td>178</td>
</tr>
<tr>
<td>E.P</td>
<td>47</td>
<td>38</td>
<td>17</td>
<td>10</td>
<td>7</td>
</tr>
<tr>
<td>C.M.P</td>
<td>300</td>
<td>745</td>
<td>738</td>
<td>28</td>
<td>710</td>
</tr>
<tr>
<td>O.P Others</td>
<td>414</td>
<td>315</td>
<td>260</td>
<td>62</td>
<td>198</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>1780</strong></td>
<td><strong>1680</strong></td>
<td><strong>1709</strong></td>
<td><strong>381</strong></td>
<td><strong>1328</strong></td>
</tr>
</tbody>
</table>

**Table 5.19.** Filing and Pending of Cases Kottayam Family Court -2006

<table>
<thead>
<tr>
<th>Nature of Cases</th>
<th>Pending 2005</th>
<th>Filing</th>
<th>Disposal</th>
<th>Conciliation</th>
<th>Contested</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hindu Marriage Act</td>
<td>235</td>
<td>292</td>
<td>305</td>
<td>170</td>
<td>135</td>
</tr>
<tr>
<td>Spl. Marriage Act</td>
<td>14</td>
<td>11</td>
<td>13</td>
<td>7</td>
<td>6</td>
</tr>
<tr>
<td>O.P. Divorce Christian Marriage Act</td>
<td>338</td>
<td>347</td>
<td>439</td>
<td>227</td>
<td>212</td>
</tr>
<tr>
<td>O.P(G&amp;W)</td>
<td>54</td>
<td>47</td>
<td>66</td>
<td>27</td>
<td>39</td>
</tr>
<tr>
<td>O.P.M. Act</td>
<td>2</td>
<td>5</td>
<td>6</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>MC</td>
<td>264</td>
<td>236</td>
<td>304</td>
<td>191</td>
<td>173</td>
</tr>
<tr>
<td>E.P</td>
<td>68</td>
<td>57</td>
<td>68</td>
<td>32</td>
<td>36</td>
</tr>
<tr>
<td>C.M. P</td>
<td>307</td>
<td>323</td>
<td>339</td>
<td>194</td>
<td>145</td>
</tr>
<tr>
<td>O.P Others</td>
<td>469</td>
<td>287</td>
<td>360</td>
<td>197</td>
<td>163</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>1751</strong></td>
<td><strong>1605</strong></td>
<td><strong>1900</strong></td>
<td><strong>1048</strong></td>
<td><strong>912</strong></td>
</tr>
</tbody>
</table>
### Table 5.20. Filing and Pending of Cases Kottayam Family Court - 2007

<table>
<thead>
<tr>
<th>Nature of Cases</th>
<th>Pending 2006</th>
<th>Filing</th>
<th>Disposal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hindu Marriage Act</td>
<td>222</td>
<td>286</td>
<td>303</td>
</tr>
<tr>
<td>Spl. Marriage Act</td>
<td>12</td>
<td>13</td>
<td>15</td>
</tr>
<tr>
<td>O.P. Divorce</td>
<td>246</td>
<td>362</td>
<td>462</td>
</tr>
<tr>
<td>Christ. Marri. Act</td>
<td>35</td>
<td>87</td>
<td>80</td>
</tr>
<tr>
<td>O.P(G&amp;W)</td>
<td>1</td>
<td>7</td>
<td>6</td>
</tr>
<tr>
<td>MC</td>
<td>196</td>
<td>305</td>
<td>323</td>
</tr>
<tr>
<td>E.P</td>
<td>57</td>
<td>136</td>
<td>110</td>
</tr>
<tr>
<td>C.M.P</td>
<td>291</td>
<td>401</td>
<td>499</td>
</tr>
<tr>
<td>O.P Others</td>
<td>396</td>
<td>356</td>
<td>421</td>
</tr>
<tr>
<td>O.P</td>
<td>32</td>
<td>39</td>
<td>54</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>1488</strong></td>
<td><strong>1992</strong></td>
<td><strong>2273</strong></td>
</tr>
</tbody>
</table>

### Table 5.21. Filing and Pending of Cases Kottayam Family Court - 2008

<table>
<thead>
<tr>
<th>Nature of Cases</th>
<th>Pending 2007</th>
<th>Filing</th>
<th>Disposal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hindu Marriage Act</td>
<td>205</td>
<td>341</td>
<td>342</td>
</tr>
<tr>
<td>Spl. Marriage Act</td>
<td>10</td>
<td>23</td>
<td>26</td>
</tr>
<tr>
<td>O.P. Divorce Christian Marriage Act</td>
<td>746</td>
<td>388</td>
<td>388</td>
</tr>
<tr>
<td>O.P(G&amp;W)</td>
<td>42</td>
<td>103</td>
<td>112</td>
</tr>
<tr>
<td>O.P.M. Act</td>
<td>2</td>
<td>15</td>
<td>13</td>
</tr>
<tr>
<td>MC</td>
<td>178</td>
<td>324</td>
<td>375</td>
</tr>
<tr>
<td>E.P</td>
<td>87</td>
<td>185</td>
<td>149</td>
</tr>
<tr>
<td>C.M.P</td>
<td>193</td>
<td>716</td>
<td>721</td>
</tr>
<tr>
<td>O.P Others</td>
<td>331</td>
<td>404</td>
<td>432</td>
</tr>
<tr>
<td>O.P</td>
<td>17</td>
<td>31</td>
<td>39</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>1811</strong></td>
<td><strong>2530</strong></td>
<td><strong>2597</strong></td>
</tr>
</tbody>
</table>
The procedure adopted in the family court is a Counselling – Conciliation – Trial method. ‘Conciliation is impossible in many cases due to the adamant stance of the parties. Some cases were spoiled by the intervention of the advocates. Most of the cases coming before the court were earlier intervened by caste or church organisations. Panchayat level vigilance committees should become very effective and, they would decrease the backlog in the family court.”

5.2.5.1. Counselling and conciliation

It is the counsellors who take up the cases at the first stage. A good number of cases can be resolved by way of proper counselling. In about three-fourths of the cases, except of course in cases of rape, adultery, etc, the quarrel starts on very simple issues. The initial fault may either relate to the husband or the wife. Such disputes and differences can be worked out with proper and competent counselling. Competitive counsellors have been seen in District family court in all the visits.

The principal counsellor of Family court said that only two cases (5.88%) were returned as problematic among the 34 cases settled in 2005. Counsellor intervened in the cases without reading the petition filed in the court. The reason she pointed out, that was the actual situation and the prayer before court were contradictory in almost all cases. Counselling has benefitted lower and middle class families, who are more receptive to it. The upper middle class and upper class families have always preferred to go for divorce. They often found their future partner from the veranda of the very court itself. The counsellor followed up the cases settled by them. She admitted that the role played by third party in aggravating family disputes was significant and s/he becomes as an obstacle in settling the case. The counsellor had the opinion that it should be good to give training to women panchayat members in family laws and counselling.
The researcher had a talk with parties of two cases coming for counselling and sketches some excerpts of the case to know the nature of cases in the family court.

**Case 1**

The case of a husband and wife in a middle class family is briefed here. After marriage husband went to his working place in Saudi Arabia and he did contact his wife over phone frequently. His wife often paid visits to her family. Because of contract related problems the husband could not visit his home town for a span of five years. The family of his wife then filed a case against him for divorce. He returned home leaving his job.

When they appeared for counselling for the third time, the investigator interacted with the husband. He briefed that there was no problem in between them and they were ready to live together. But as far as his wife is concerned, her mindset would change when she joined their parents. The counsellor had sessions with relatives of both husband and wife and concluded that the husband and his family had no problem for living together, but his wife and her family had. This kept on moving and no progress could be made through counselling.

The parents of wife alleged that her husband had another wife and children at his working place. When cases are being fabricated by attributing false reason to strengthen the case, disintegration of family occurs.

**Case 2**

This case belongs to a lower middle class family. After marriage husband and wife stayed together for two months, after which the wife joined her parents as she was not interested in caring her in-laws. She was not a lady of her own thoughts but her mother’s. But the husband could settle the problem and brought her home after a visit to her family. Her mother’s frequent visits aggravated the situation and spoiled their family life.
They made a plaint in the SNDP branch of their locality about the case. Both the families turned up in gang for discussion in the SNDP branch. During the discussion the wife made a pat on her father-in-law’s face, which aggravated matters. When the wife was not ready to tender apology on the incident, the case came to the consideration of family court. The counsellor tried her level best and identified that the problem is with wife’s mother.

From these cases, the researcher could understand that glaring differences are there between real situations and the facts filed before the court prior to this. That will absolutely sabotage the counselling process in the family court.

Above tables shows that matrimonial disputes in Muslim community are very negligible. Either they have their own religious framework to settle the dispute or they do not turn up before family court. But as far as Christian and Hindu religious groups are concerned, a considerable number of marriage disputes turned up n the family court.

**Table 5.22** Rate of Disposal of cases in the Family Court, Kottayam

<table>
<thead>
<tr>
<th>Year</th>
<th>No. of cases settled</th>
<th>No. of cases in the court</th>
<th>Rate of Disposal</th>
</tr>
</thead>
<tbody>
<tr>
<td>2005</td>
<td>1709</td>
<td>3460</td>
<td>49.4</td>
</tr>
<tr>
<td>2006</td>
<td>1900</td>
<td>3356</td>
<td>56.6</td>
</tr>
<tr>
<td>2007</td>
<td>2273</td>
<td>3410</td>
<td>66.7</td>
</tr>
<tr>
<td>2008</td>
<td>2597</td>
<td>4341</td>
<td>59.8</td>
</tr>
</tbody>
</table>
Figure 5.5: Number of Cases in the Family court and disposed

The figure shows that the number of cases settled is increasing during the period. But the disposal rate of cases is not proportional with this increase.

5.2.6. Janamaithri Project, Vaikom

In Kottayam district, janamaithri project was launched in Pala, Kottayam East and Kottayam West police stations after Vaikom. The project was started in March 2008 at Vaikom police station limit. The police station area is divided into seven beats, each beat comprising of 500 – 1000 households. Vanitha Jagratha Samithi is organised in all beats. A 25 member Janamaithri Suraksha Samithi was formed; it includes various retired persons of known integrity and committed political activists. According to the Community Relation Officer of the project, cases of theft, illicit liquor trade, murder, exchange of intoxicants are controlled through this project\textsuperscript{30}. Four persons of severe drug addiction were sent for treatment to a nearby de addiction centre by the initiative of this project. Various people-friendly programmes are organised such as medical camps, first aid kit distribution to drivers, traffic safety awareness classes, classes on the impact of mobile phones, financial aid to poor patients etc.
The circle inspector (CI) of Vaikom said that the number of cases increased after the implementation of the project. Lot of boundary disputes also came before police and many of them were settled having regard to personal relations of the disputants. A 35 year long dispute over a fencing wall between two families was settled by the CI through conciliation. This case was detected by the beat officer in that area. They settled many of the cases through two or three sittings and recorded it in the petition register and closed the case. There are instances of settling minute cases by beat officers without registering it officially.

5.2.7. Police Vanitha Cell, Vaikom

A full-fledged vanitha cell of Kerala Police is functioning in the campus of vaikom police station. This cell is meant for the entire Vaikom taluk area. They intervene in the disputes dealing with women. In family cases they adopt a conciliatory approach to resolve the issue. It is interesting to note that they follow up the cases resolved. Only 10 percent of the cases go beyond them or take the form of a case file for litigation. Around 110 cases were reported in the year 2008 and around 210 cases were reported in the year 2009. They tried to solve the conflict through negotiation and counselling. But in serious offences, the cell registered cases and proceeded to take further action. In the case of conflicts arising due to drug consumption of the husband, they send them for counselling under the responsibility of the cell.

5.2.8. Jagratha Samithi

Under the initiative of Centre for Rural Management, jagratha samithies were started at Kumaranalloor, Ettumanur, Neendoor, Athirampuzha, Arpoolkara and Aymanam panchayats in 2005-06. By 2010, most of the panchayats have constituted jagratha samithies in the district. The samithi has been found active in Melukau Panchayat where it settled four of the five cases filed in 2009-10. All the four cases were settled by Aymanam Panchayat Jagratha samithi in 2009-10. The researcher had observed two
The first case was related with quarrel between two neighbours in a colony. Firstly the convenor of the samithi read the petition. Both the disputants were present there at that time. Two ladies were on one side and a husband and wife on the other side. The disputants explained their own version about the dispute. After some deliberations president asked one of the parties to go for a cup of tea. Samithi discussed the issue and questioned the disputants separately. Then the samithi discussed the matter without disputants and came with a settlement formula. The president tried to convince the disputants about the problems of litigation through many examples and stressed the need for a settlement and how it can ensure better personal relations between them. Finally they agreed to live without further quarrel. The president declared that the panchayat will stand against the party who violates the settlement. They decided to send a team to visit the families next week to check the progress.

The second case started with president’s introductory remarks about the need of conciliation. The case was read out and it was related with the boundary dispute in a colony. An old aged woman had three sons. The dispute was between a son and the mother about the boundary of the land. The son took away the boundary stones erected on the border. They abused each other and used foul language every day. This became a social problem in the colony. President of the Kudumbasree in that colony approached the caste organisation and they were reluctant to intervene due to the influence of her sons. Then she filed a petition before Circle Inspector of Police. The police gave warning to them. The boundary stone was replaced with the involvement of Panchayat member and people in the colony. Some problem arose with the kudumbasree president. One of the sons abused her regularly after consuming alcohol. She approached police again and warning was given to him. This did not stop the
problem. The other families gave a mass petition to the district collector. The petition was handed over to local police. Again warning was given to him. Finally kudumbasree president gave a complaint to the samithi. This was how the case came for consideration by the Jagratha samithi.

The samithi discussed the problem with the defendant and local people separately. The samithi traced some underlying issues behind the problem. Panchayat president used pressure tactics in the dispute resolution process. Finally the president convinced the people and the trouble-maker on the necessity of a harmonious life in the colony. Four hours were taken for the dispute resolution process.

5.3. Conclusion

The chapter outlined various court annexed and other ADR practices existing in the state, especially in Kottayam district. Some of the NGOs are also conducting Lok Adalats as part of their social service programmes. The researcher has not gone into the details of practices of caste organisations. The informal settlement of disputes has been seen across the length and breadth of the state.

Ettumanur Panchayat office and Kottayam family court are situated in adjacent buildings. Panchayat conference hall which stages jagratha samithi sittings and counselling centre of family court are separated by a single wall. It is interesting that mediation by local leaders in an informal way and court annexed mediation promoted by the judicial system are co existing in the same place.
Notes

1 (Pottackad, S. K, 1991:385)

2 Chinamalum resolves the family conflicts very effectively. She inherited this from her father. (Vanitha, 2005 July 1-14). The researcher has observed the process at her house at Kakkaparatha, near Nilambur.

3 Appuvettan is engaged in dispute resolution for the past fifty years in Cheruvathur in Kasargode district. He also mediated disputes from Karshakasamgham at Kayyur and Cheemeni areas. (Malayala Manorama, 24 July 2005)

4 Biographers of K. K. Kunjananthan Nambiar described him as a moving office with bulged pockets and diary. He followed up the cases settled by him (Balakrishnan and Venugopalan, 2007:107).

5 Two documents are seen in the history of Kaniathra Kudumbayogam about a family dispute in Champakulam village (Alexander, 1991). Chandy Kunju thommi tharakan has right over his maternal property in the Porukara family. But it was detained by the brother of his mother's father. He filed a suit against him. Also he gave a complaint to the local methran (bishop) of the caste/church. The bishop affirmed that all children have the right of ownership of their father's property whether it is son or daughter. Along with the order (kalpana) of Malankara Metropolitan Tharakan approached the Panchayat of that Angadi. The Panchayat people called on all the parties and relatives concerned and settled the issue through negotiation considering the interests of all the parties. The Panchayat prepared an agreement which clearly explains the decisions of them with signatures of five mediators (Panchayat members (Alexander, 1991:127-129).

6 Also called as Kora or Muri in some parts of Kerala.

7 Prior to the 8th century AD, it is believed that there was much communal and religious harmony as well as some kind of social equality prevailing in Kerala. Buddhism and Jainism lived side by side with Hinduism, Judaism, Christianity and Islam became easily assimilated in to land of Kerala and the believers of these faiths enjoyed the same rights and privileges as the rest of the inhabitants did (Menon, 1924).

8 After the enactment of the Madras Village Courts Act of 1888, it is estimated that 1, 30,000 cases were settled by Village Munsiff and 7000 cases were settled by Village Courts per year (Malayala Manorama, 21 July 1917).

In 1917, 11776 cases were settled by the village courts in Malabar. The news report says about the feasibility of village courts than Munsiff courts. There were 39 village courts working in the state of Malabar in 1917. In addition to this, Amsam Adhikaris were in charge of civil disputes in 500 villages (Malayala Manorama, 11 August 1918).

9 The Travancore Village Courts Act, 1914-15 (1090 M. E.)

10 M. N. Govindan Nair describes an experience about Village Court as a Magistrate (Nair, 1985).

11 The Cochin Village Courts Act, 1943 (Cochin Act XII of 1118 M. E.)
There is a provision for reservation of a seat for SCs and STs (if their population is not less than 10 % of the total population of that area). Also a seat reserved for women. The village Courts has the power to try civil suits up to the value of Rs. 200 and to award imprisonment for a period not exceeding one month and also fine up to Rs. 100. [The Kerala Village Courts Act, 1960 (Act 6 of 1961)]

The Autoriksha drivers of Payyannur town formed an auto court to settle their disputes irrespective of trade unions. The Drivers assembled every Saturday for hearing the case and make amicable settlement. Travellers can file the complaints against drivers and auto fare (Manorama Sree, 2007 December 2).

Lalithambika IAS depicts an experience of one case in Palakkad RDO Court. The dispute was between an old aged widow and a top level officer in Tamlilnadu Police over an old Jackfruit tree. The widow was living from the year-long meagre income from the tree. But the police officer pleaded that it causes damage to his house. All the reports were in favour of Police officer. The sub collector visited the disputed place and realised the facts and gave an order in favour of that widow. (Samakalika Malayalam Varika, 2010 May 28: 50-53).

Procedure for bringing a Case before the Lok Adalat: 1. By the order of Court, referring the matter for settlement in Lok Adalat. 2. As per the request from either of the parties or their Counsel and after obtaining necessary Orders from the court.

Personal interview with Member Secretary, KELSA on 4th December 2009.

Within two or three months of becoming the beat officer, he should personally know at least one member of family living in his beat, all the roads and by-lanes in his area, working habits of local people and their special on a house to house basis. At least three days a week, the beat officer should be available at a pre-announced place in the beat anybody in the beat area who wants to communicate anything to him. The Beat Officer shall also maintain a Beat Register showing the daily activities and daily transactions with respect to the beat. A Woman Police Constable is designated as Assistant Beat Officer, so that the problems of women could be addressed properly. The Beat Officers shall also attend the Janamaithri Suraksha Samithi Meeting every month. It is expected that the Beat Officer shall spend at least 20 hours a week in the beat area.

The Janamaithri Suraksha Samithi shall consist of members of local self government, representatives of each active Residents Association, NGOs, local representatives, nominees of every High School Head Master / College Principal, reputed persons of the locality, retired police personnel and ex-service personnel. The Samithi should have 10 % senior citizens 30 % ladies and 20 % SC/ST members. Political party members in that capacity are not included in the Samiti. The number of members is 10-25. The Samithi shall meet at least once in a month at a previously notified place and any one of the public, residing within the local area of the police station, may also attend the meeting to give suggestions or complaints. Criminal cases under investigation should not be discussed in the Samithi. No discussion is made of any statutory functions of the Police.
Jagratha Samithis, along the lines of the three-tier decentralised governance system were constituted on the initiative of the Kerala Women’s Commission to benefit a larger number of women in all parts of the State. They were intended to help in reducing the distance between women in the villages and the services provided by the Commission. Of the 58,000 cases reported to the Commission between 1996 and 2005, about one-third came from Thiruvananthapuram district alone, where the Commission headquarters is located. The northern half of the State, comprising districts north of Thrissur together accounted for about 15,000 complaints – less than what came from Thiruvananthapuram district alone. This clearly indicates how the distance from the Commission affected its effectiveness in the delivery of services to the women in widespread places. It was in 1997 that the Government of Kerala issued orders on setting up district level committees for redressal of atrocities against women and to protect women’s rights. These Committees were to be headed by the District Collectors and were to have Presidents of the District Panchayats, District Police heads, the Revenue Divisional Officer in his/her capacity as Dowry Prohibition Officer, Representative of Municipal Chairpersons from the district, a lady lawyer, a lady doctor and three representatives of grass root NGOs as members. These Committees were to be headed by the Presidents of the respective Panchayats. There should be 6 members. 1) President of the Panchayat (Chairperson) 2) Circle Inspector/Sub Inspector of Police 3) One woman Panchayat member 4) One lady lawyer nominated by the Panchayat 5) One lady social worker or counsellor from the SC/ST community 6) Integrated Child Development Scheme (ICDS) Supervisor (Convenor).


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PCSJ was established in 1985 on the initiative of Mr. Justice V R Krishna Iyer, eminent jurist and former Judge of the Supreme Court of India. It was started with a vision of litigation free Kerala.

Personal interview with George Pulikuthiyil, Director, Jananeethi Thrissur on 3rd February 2006.

Legal aid and assistance have been the main services of Jananeethi. During 2009-10 Jananeethi was visited by more than five hundred persons with variety of reasons seeking redress. After initial consultation and legal counseling, ninety two complaints were taken on file in Jananeethi for further action. Jananeethi is not to encourage people to litigation, and litigation is considered as the last resort. Thus seventeen petitions were directed to litigation. They resolved twenty four disputes amicably with the participation of disputants, while twenty six cases were dropped either the problem was resolved by the parties concerned or petitioner did not cooperate with Jananeethi. There are twenty five disputes pending disposal.

27 Personal Interview with Secretary, Meenachil Legal Services Committee on 2009 December 18

28 Personal Interview with Judge of the Kottayam Family Court at Ettumanur on 2006 April 29.

29 Personal Interview with Principal Counsellor, Family Court at Ettumanur, on 2006 April 29.

30 Personal Interview with Community Relation Officer, Janamaithri suraksha project, Vaikom on 26th May 2010.

31 Personal interview with Sub Inspector, Vanitha Cell, Vaikom on 26th December 2009.