CHAPTER III
HISTORICAL PERSPECTIVE

1. Introduction

In the field of human institutions, the roots of the present lie deeply buried in the past. The same is true of law and legal institutions of a country emerging at a given time. They are not the creation of one man or of one day; it represents the cumulative fruit of endeavour, experience, thoughtful planning and patient labour of a large number of people through generations. To comprehend, understand and appreciate the present Lok Adalat system adequately, it is necessary, therefore, to acquire a background knowledge of the course of its growth and development.

In order to explain the history of the evolution of justice delivery system in India, we go back to the vedic period. There are many passages in ancient Hindu literature speaking about the origin of kingship and conditions of society without a king or ruler. At that time the aggrieved party had itself to take steps in order to get its wrongs redressed. As the Mahabharata discloses that in ancient days the people without a king were devouring each other like fishes. They, therefore, came together and made an agreement, that a bully, an adulterer and a thief should be deserted. After they had made this agreement, they abode by it, but were nevertheless soon overcome by distress, and on this account they came to the grandfather 'Brahma' and cried for a king, saying 'without a king we perish; show us a king whom we may honour, who may protect us'. He indicated Manu, but Manu did not give them a kind reception, and said, "I am afraid of the evil deed’ it is harsh work to govern men, specially when they are wicked". But the people answered, "fear not, the guilt shall rest on the criminals; we will agree to give
the one-tenth of our income in grain and one-fifteenth in cattle and gold, a maid to wed and escorts to accompany thee, like gods Indra and Kubera; thou shalt have one-forth of all the religious merit gained by people, when they are protected by thee". Manu, therefore, accepted the kingship. The Ramayana and Manu Samhita also expressed the same opinion that in a country where there is no king, nobody possess anything which is his own and there is a situation of exploitation of weaker by stronger one, so the God created a king. Not only in religious books, but in books of polity as well, the same idea is repeated. As Chanakya writes, "People afflicted with anarchy first elected Manu, son of Vivasvat, to be their king. They allotted one-sixth of their grains and one-tenth of their merchandise. Subsisting on their wages, kings become capable of giving safety and security to their subjects and removing their sins". The Sukraniti also echoes the same sentiment by observing, "though master in the form the king is the servant of the people getting pay in the form of taxes and that was paid for the protection under all circumstances". The king, in return for the taxes paid to him, performed the duty to dispense justice to the people.

In Vedic times, society was composed of patriarchal families. In these families, the Grhapati or Head of Family decided all disputes of members independently. Manu empowered a Grhapati to correct a wife, a son, a servant, a pupil and a younger brother with a rope or the small shoot of a cane, when they committed false. Similarly, Gautama empowered teachers to punish their pupils for ignorance or incapacity with a small rope or a shoot of a cane. So, in the field of contemporary judicature, the Grhapati was the smallest

2. *Id.*, 47.
court for judicious decisions in his family whereas the king of
the country happened to be the uppermost and supreme court
for all civil and criminal cases in his kingdom. The above
enumeration shows the order of authority commencing from the
lower to the highest. If one failed, the next in authority could
take up the matter and so on until the matter was taken up by
the king himself.

According to Brihaspati, a court of justice was of the
following four kinds: 4

1. Pratisthita (Stationary): One established in a fixed
place such as a town or village.

2. Apratisthita (Not stationary): Not fixed in one place
but moving from place to place as on a circuit.

3. Mudrita: The court of a judge appointed by the king
who is authorized to use the royal seal.

4. Sasita or Sastrita: The court presided over by the
king himself.

Thus, Brihaspati mentioned the four kinds of courts
whereas the study of Arthasastra of Kautilya reveals that there
were two types of judicial court viz., (i) Dharmasthiya or the
civil courts, and (ii) Kantakasodhana or the criminal court. 5 In
this judicial system, Vedic king not only performed the duty as
a protector but also acted as the highest authority and claimed
himself as the upholder of Dharma of law. For this purpose, he
appointed judges to assist him in the administration of justice.
He used to impart justice with the aid of ministers, legal
experts, chief justice, elders and representatives of the trading
community.

5. See Birendra Nath; Judicial Administration in Ancient India,
In this period, the King's court was the highest court of appeal as well as an original court in cases of vital importance of the state. The King's court was compared to the human body in which the king was the head, the chief judge was the mouth, and the assessors were the arms, etc. More accurately, the functions of the limbs or parts of a law court, which were ten in number, are thus defined by Brahaspati:

"The Chief Judge (Pradavivaka) passes the judgment, the king inflicts the punishments, the assessors (Sabhyas) or judges (Sabhasadas) investigate the merits of the case, the law-book furnishes the decree, gold and fire are used when ordeals are resorted to, the water is to refresh, the accountant (Ganaka) calculates the value of the disputed property, the scribe (Lekhaka-Kayastha) records the proceeding and the court servants (Purusa) have to summon the accused, the assessors and the witnesses and hold both the parties in custody if they have given no surety."  

At that time, in the process of dispensation of justice, the system of trial by jury was applied. The judges were always helped by the community in the administration of justice. Gautama observes that the king shall ascertain the law from those who have authority over their respective classes and shall give his decisions accordingly. Kautilya and Brihaspati indicate that disputes should not be decided by the king unaided, but

6. See Supra note 3, 15.  
with the help of those learned in the three vedas.⁹ Manu clearly says, “If due to the other works of administrative nature the king is unable to attend to the work of administration of justice, the king must appoint a learned Brahmana together with three Sabhyas to decide the disputes of the people”.¹⁰ Manu also defines ideal court as “that place, where three Brahmanas learned in the vedas sit, as also the learned Brahmana appointed by the king, they regard as the court of Brahman.”.¹¹ It is, thus, revealed from the study that while performing the judicial functions, the king took the help of legal experts to decide different matters.

Besides, official courts, a large number of local courts also functioned with a view to avoid delay and other complications connected with the cases. Lee examined the role of local courts in administration of justice in ancient India and said that:

“The villagers had a judicial system of their own at once familiar to and respected by them; the various traders and guilds had a similar system. The presiding officer of the popular courts or the guild courts had office either by election or inheritance according to local custom. Three or five men were associated with him. These apparently private courts settled the affairs of the every day life. In case of grave crimes or when the condemned party refused to obey the judgment of local Court, the court of the king was concerned with litigation”.¹²

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10. Id., 174.
11. Id., 166.
12. See supra note 3, 24-25.
These local courts were known as popular courts or people's courts. Yajnavalkya refers to three types of popular courts such as Puga (Narad calls it Gana), Sreni and Kula courts. These were within the easy reach of people. The idea behind these courts was to enable each and every person to receive proper justice without delay. The establishment of such popular courts had created a feeling of confidence and self-respect among the people. Judiciary as such had won the confidence of masses, which is so essential for a good system of administration of justice. Kane says that these were the arbitral tribunals like the modern Panchayats or the Lok Adalats of today. Though, these courts were essentially non-official and popular, they had the royal authority behind them. Yajnavalkya claims them as sanctioned by the court. Therefore, the people's courts, as integral parts of the judicial system, played a very important part not only in ancient and medieval India but they are still playing a significant role in modern India also.

We will discuss in this chapter the systematic growth of the Lok Adalats. The study of origin of Lok adalats in India has been divided into four parts such as Lok Adalats in Ancient period, Medieval period, British period and Post-Independence period. We will highlight the gradual development, structure and working of the Lok Adalats in India during the above mentioned periods.

14. Ibid.
15. Supra note 4, 280.
16. Supra note 5, 72.
2. Lok Adalats in Ancient Period

2.1 Importance of Lok Adalats

In ancient India, during the evolution of Hindu judicial system, there were two sets of courts available to the litigants:

(i) The courts which were directly under the authority of the State,

(ii) Courts which were of popular character constituted by the people themselves either through local sabhas or panchayat or village councils or even family or tribal councils.  

The different kinds of courts have been enumerated by various thinkers as Kautilya, Manu, Narad, Yajnavalkya and Brihaspati, etc. But, there was a fundamental distinction between the courts contemplated by Kautilya in his Arthasastra and those conceived by Manu in his Dharmasastra. According to scheme of Kautilya, for the administration of justice, king’s courts were to be appointed in the Samgrahana which meant a group of ten villages, the Dronamukha which meant a collection of 400 villages and the Sthaniya which meant the assemblage of 800 villages and also at the meeting places of the districts. The Courts were to consist of those Dharmasthas, i.e., men versed in the sacred law and three Amatyas, i.e. the ministers of the king. But, he did not give much importance to popular courts. Manu, on the other hand, continued the Sabha system which was found to have been in existence from the Rigvedic times. According to the Manu Smriti, the king appointed a Headman for each village and Headman for the groups of villages. He further provided that “the Governor or the Headman of the village shall try all cases of offences occurring therein, cases which he is not able to decide, he shall refer to the Governor or

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Headman of ten villages. In cases of doubt or incompetency, the head of the ten villages shall refer such cases to the head of twenty villages and the latter to the head of hundred villages, and he too under similar circumstances to the head of thousand villages”.

The later Dharmasastras of Narada, Yajnavalkya, Brihaspati and Katyayana also followed the scheme of Manu. Besides of this courts system, Brihaspati stated another classification of courts as Pratisthita, Apratisthita, Mudrita and Sasita as above stated.

Colebrooke also found that there existed two different sets of courts in ancient India, they were (i) State’s courts (ii) People’s courts. The State’s courts, where people could go for redress, were: (i) The court of the sovereign assisted by the learned Brahmins as assessors. This was known as King’s court or King-in-Council, (ii) The Tribunal of the Chief Justice or the pradvivaka appointed by the king and sitting with three or more assessors, not exceeding seven. It was the stationary court held at an appointed place, (iii) The subordinate judges appointed by the sovereign’s authority for local areas. From their decisions appeals used to lie to the court of chief justice and thereafter to the King-in-Council. Besides these State’s courts, the people’s courts were also functioning who used to deliver justice to the people with the help of respectable persons of the locality where the courts functioned.

In the very Vedic period, the constitution of the Hindu society was organized on the basis of autonomous villages as its units. In this time, we come across some terms, such as Sabha, Samiti and Parisad which were conceived more or less on the units of villages. But, it was generally believed that the Sabha

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19. Id., 246.
20. See supra note 17, 440.
was a sort of village council consisting of the assemblage of learned and respectable persons who contributed to the national judicature. The judges were always helped by Sabha in the justice delivery process as in modern world, the jury helps the court.²¹ However, the Sabha was not an outcome of the king’s household but of the Vedic folk-assembly.²²

Similarly, when we study Dharamasutras and the Dharamasutrás, we find certain terms of tribunals such as, Gana, Kula, Sreni, Puga, Vrata, etc. as discharging some judicial functions along with the State Courts. The existence of these different kinds of judicial tribunals indicates that perhaps the country hardly had any central judicial structure. Altekar says that the governments in ancient India appreciated and encouraged the people’s courts and guilds courts. Because these courts encouraged the principle of self-government and reduced the burden of central administration. They also helped the cause of justice. The members of popular court or guild court had more or less reliable knowledge of the facts in disputes because the parties belonged to their guild or locality. It was difficult for a witness to come to a village court and tell a brand lie in the presence of his compeers whose respect he will be thereby forfeiting.²³ The people’s court knew about the disputants, the witnesses and the facts of the dispute, so, it was easy for them to decide the dispute speedily and effectively.

Bhrigu also emphasizes about the effective working of popular courts and states that there were ten tribunals common to all men, viz.,(i) the village people, (ii) the assembly of the citizens of the capital, (iii) gana, (iv) sreni, (v) men learned in the four vedas, (vi) vargins, (vii) kulas, (viii) kulikas,

²¹ Supra note 7.
²² Id., 317.
(ix) judges appointed by the king, and (x) the king himself. According to him, there was existing a peculiar judicial system for the dissolution of disputes amongst the people. The people living in forest used to get their disputes settled by foresters, members of caravans by other members, soldiers by a tribunal of soldiers and those who stayed in the village as well as in the forest could get their disputes settled either by villagers or foresters by mutual agreement and that five tribunals for foresters and other were kulikas (high officers or head of the families), sarthas (members of caravans), headmen, villagers and citizens. Similarly, it is also evident that the disputes about the boundaries of the villages and about fields in a village, four, eight or ten neighbours were to settle the boundaries.

The existence and working of popular courts in South India has been stated by T.V. Mahalingam. He says that various kinds of people's courts functioned in different parts of the country, in which Manram, Avai and Avaikalam were the popular courts in the Sangam age. During the Vijayanagar days, besides the regular courts, there were a number of irregular but popular courts, which were recognized by the government and allowed to dispense justice in cases, which arose within their jurisdiction. The reason behind the existence of these popular courts was lack of easy and quick communication in the country and therefore it was not possible for all people to seek justice through the regular courts which were few and located at distant places. Further, cases, which required a good or effective knowledge of the differing local customs and practices of the people could more easily be enquired into by men of the locality. Thus, these local courts

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24. See supra note 9, 169.
25. Ibid.
enjoyed all the judicial and magisterial authority of a regular court.\textsuperscript{26}

So, it is revealed from the study that peoples courts with different names had a significant place in ancient Indian culture and history, to dispense justice as a part of judicial administration.

2.2 Kinds of Lok Adalats

We have discussed that various grades of popular courts were working in ancient India. The different views were given by various thinkers about the kinds of these courts. Yajnavalkya and Brihaspati said that popular courts were of three types, viz: (a) Puga, (Narad Calls Gana) (b) Sreni, and (c) Kula.\textsuperscript{27}

On the other hand, in the Smriti Chandrica, there has enumerated fifteen different descriptions of sabhas, courts or assemblies. They are as follows:\textsuperscript{28} (i) Aranyakabha, an assembly of foresters; (ii) Sarthikasabha, that composed of merchants; (iii) Senikasabha, the members of which were appointed from among military men; (iv) Ubhayanumatasabha, that chosen by the parties themselves; (v) Gramavasisabha composed partly of the villagers and partly of strangers, or of civil and military persons together; (vi) Gramasabha a village court in which the Mahajenams, or heads of castes are assembled to settle disputes arising in the village; (vii) Purasabha, a town or city court; (viii) Ganasbha, an assembly composed of all the four classes indiscriminately; (ix) Srenisabha, an assembly composed of all the inferior classes, or castes such as washermen, barbers, etc and for deciding causes among their own tribes; (x) Chaturvidyasabha, that composed of persons learned in all the four sastras; (ix) Vargasabha, an assembly of

\textsuperscript{26} T.V. Mahalingam; \textit{South Indian Policy}, 213-215(1955).
\textsuperscript{27} \textit{Supra note} 23, 251 and \textit{supra note} 9, 167.
\textsuperscript{28} See \textit{supra note} 1, 16–17
irreligious men; (xii) Kulasabha, a meeting composed of persons of the same family; (xiii) Kulikasabha, in which the relatives of the plaintiff and defendant meet to discuss the matter; (xiv) Niyuktasabha, a court held by a deputy, or chief judge, regularly appointed by the king with the sabhasads, or assessors. This was sometimes called mudritasabha, as it was presided by the pradvivaka or the chief judge, in virtue of the king's mudra or seal with which he was entrusted; and sometimes also, pradvivakasabha, after the name of the presiding officer; (xv) Nripasabha, or kings court which was also called Sastrita, because the king was assisted by persons skilled in sastras, and all decisions passed here were final. Of these fifteen descriptions of courts, the first three are called apratishtita, unsettled because they were only occasionally held, and were liable to be removed from place to place; and all the rest except the two last, are called pratishtita, fixed or permanent. An appeal lies from an inferior to a superior court in regular succession, or directly to the king's court. The popular courts above described, from the number of persons of whom they were composed, and the facilities which they must have afforded in ascertaining the facts, they were called to judge, present something like a jury, and appear to have produced all the advantages peculiar to that mode of trial, without the delay and vexation attending the forms introduced in more regular courts.\(^{29}\)

The study of Sukra-Niti also says about the popular courts that Kula, Sreni and Gana formed the threefold hierarchy of bodies of self-adjudication and where these three bodies failed, the king along with his officer was entitled to interfere.\(^{30}\)

\(^{29}\).  Ibid.
\(^{30}\). See Vandana Nagar; *Kingship in the Sukra-Niti*, 51(1985).
Colebrooke also classified the popular courts into three categories, these were:31 (i) Puga, (ii) Sreni and (iii) Kula. Therefore, the prevailing popular courts of justice, in ancient India, were enumerated in the following order:

2.2.1 Puga
2.2.2 Sreni
2.2.3 Kula

2.2.1 Puga

The word ‘puga’ or ‘gana’ had denoted the local corporations of town and villages. The Pugas were of communities residing in villages or in towns. They comprised of persons dwelling in the same place irrespective of their castes or employments. They were competent to decide cases in which the local public was interested. Yajnavalkya mentions that the puga court consisted of members belonging to different castes and professions but staying in the same village or town.32

Altekar says with regard to the nature and composition of Puga courts that the members of puga court were of different tribes and profession but they inhabited in the same village or town. If the sabha or village assembly of Vedic period was occasionally settling the village disputes, such sabha court would be the earlier prototype of the Puga court. The Gramavriddha court of the Arthasastra would also be the forerunner of the Puga court. Puga court later became known as Gota court in Maharashtra and Dharamasasana in Karnataka. The Mahajananas (elder) of the village and twelve village servants were represented upon it and it used to decide private disputes.33

31. See R.C. Majumdar; Corporate Life in Ancient India, 128-129(1969).
32. Supra note 3, 26 and supra note 5, 76.
33. Supra note 23, 252.
The Puga courts enjoyed an appellate jurisdiction in all cases decided by the subordinate popular courts, viz. Sreni and Kula. It has been studied that the decisions of the Puga courts were enforced by the State and executed the decrees of the Puga courts with a view to encourage the principle of self-government to reduce the burden of central administration.³⁴ It is thus evident that Puga court as the highest people's court had played a prominent part almost throughout the country in the long course of the history.

2.2.2 Sreni

The term Sreni was used to denote the courts of guilds, which became a prominent feature of the commercial life in ancient India. Generally, the Sreni was represented by companies of traders or artisans or persons belonging to different tribes, but subsisting by the practice of the same merchant guilds. These appeared to be industrial courts or the courts of profession or courts of disciplinary bodies of different merchant guilds. Modern friendly societies and trade unions have analogous functions and bear almost a historic origin from the Srenis. The basic feature of the Sreni courts was that its members belonged to the same caste as a rule but they could also came from different castes who had same profession. Sreni courts were competent to decide matters relating to their special callings or trade.³⁵

These Courts had their own executive committee of four or five members and it was likely that these committees functioned as the Sreni courts for settling the disputes among their members, when the effort at family arbitration had failed.³⁶ Altekar states that the Sreni courts as the courts of guilds

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³⁴ Id., 254.
³⁵ Supra note 3, 26-27.
³⁶ Ibid.
continued to function down the eighteenth century and remained in existence through the length and breadth of India.\textsuperscript{37} The Sreni court had appellate jurisdiction and the appeal of litigants lied against the decision of Kula courts in the Sreni courts and Sreni courts decided those appellate matters.

2.2.3 Kula

The Kula court was the informal body of family elders. It was the lowest people's court, which was headed by Kinsmen.\textsuperscript{38} According to Mitaksara, Kula was a group of relatives of the parties to the dispute. All social matters concerning that particular community could be investigated and decided at this level.\textsuperscript{39} This was a meeting of persons collectively related by blood as of a family or tribe. They could also be related distantly by marriage. Kulas or joint families were often very extensive in ancient India; if there was a quarrel between two members, the elders used to attempt to settle it. These courts had power to take cognizance of quarrels arising in family units of ten, twenty or forty villages.\textsuperscript{40}

Medhatithi also says about the village council (Kulani) as group of relatives, which used to be the impartial persons comprising of agnatic and cognative of the litigants. They were paid salary to discharge their judicial functions.\textsuperscript{41} It discharged the judicial functions but was considered to be inferior in jurisdiction to officers appointed by the king.\textsuperscript{42}

So, it is revealed from the study of Hindu literature that Kula courts were used to attempt to settle family matters by family laws and customs. It was considered to be the lowest popular court in the entire strata of local courts.

\begin{itemize}
\item \textsuperscript{37} Supra note 23, 252.
\item \textsuperscript{38} M.G. Chitkara; Lok Adalat and The Poor, 22(1993).
\item \textsuperscript{39} Supra note 3, 27.
\item \textsuperscript{40} Ibid.
\item \textsuperscript{41} See supra note 4, 280-281.
\item \textsuperscript{42} Supra note 9, 167.
\end{itemize}
Thus, this was the hierarchy of the people's courts in which Kula was at lowest and the Puga was at highest level. These Courts were vested with judicial powers on the basis of the sovereignty of the people. The basic idea behind functioning of these courts was that the administration of justice was not the sole concern of the King alone but the people also shared the burden of the State in dispensing of justice. The relations subsisting between the different kinds of courts are thus described by Brhaspati: 43

"when a cause has not been duly investigated by meeting of kindred, it should be decided after due deliberation by companies of artisans; when it has not been duly examined by companies of artisans, it should be decided by assemblies of cohabitants; and when it has not been sufficiently made out by such assemblies then it should be tries by appointed judges".

And again he says:

"Judges are superior in authority to meetings of kindred and the rest, the chief judge is placed above them; and the king is superior to all, because he passes just sentences."

Therefore, in ancient Hindu judicial system, there was a well established hierarchy of courts and appeals with well defined jurisdictions. These courts worked without any procedural technicalities and decided the matters on the basis of principles of natural justice, customs of locality, trade and castes, and commonsense. These popular courts not only helped to reduce the burden of the central administration of justice but also provided justice to the residents at their doorsteps.

43. See supra note 3, 30.
2.3 Structure and Powers

The main object of every judicial administration is to be just, honest and make available speedy remedy to the aggrieved persons who seek the assistance of the courts. The same was the aim of ancient Indian Judicial system. It has been pointed out that the legal life of small towns and villages was not under the direct control of the king and remained under the jurisdiction of its representatives as long as no appeal was made against the judgements given by them, to the king, who was the highest and supreme authority in the state. In ancient India, the village administration was self-contained. It functioned smoothly, whoever might be the king at the centre. The Central Government did not interfere with local administration but exercised only general control, being mainly concerned with the subject of the land revenue, security and defence. The village community functioned as miniature state having even the power of administering civil and criminal justice.44 But it is also necessary to mention here that the entire judicial administration functioned under the indirect control and supervision of the king and the courts derived their authority from him. The king was the dispenser of justice as a last resort, in case, justice was denied to a person by the king’s tribunals or people’s courts.

As it has been discussed that in order to provide speedy and proper justice to the aggrieved persons, there existed popular or people’s courts in the small towns and villages, which had a systematic and efficient judicial set up. In villages, the local village council or kulani, similar to modern panchayat, consisted of a board of five or more members to dispense justice

to villagers. Brihaspati said in respect of the constitution of popular courts that there were two to five persons selected as advisors and their advice was required to be followed by the villagers, the guilds, the corporations and others. He recommended that with the object to resolve the disputes, a court should be held in forest, for persons roaming in the forest, for warriors in the camp, and for merchants in the caravan.

Each village had its local court, which was composed of the headman and the elders of the village. Such courts decided minor criminal cases such as petty thefts, as well as civil suits of trifle nature, like disputes relating to the boundaries of lands situated within the village. Their powers, it seems, were limited to the transfer of the possession of property and inflicting of small fines. Decisions in the courts were given in accordance with the opinion of the majority of honest persons composing the courts. The Sukraniti says about the efficiency of these judges that they are the best judge of the merits of a case who live the place where the accused person resides and where the subject matter of the dispute has arisen. Dr. P.N. Sen says that popular courts had been in existence even from before the organization of the royal courts. They grew out gradually according to the needs and circumstances of the different people to be comprised by them. Hence, these institutions are quite congenial to the soil and atmosphere of the country. The principle underlying these lower and local courts is that in

45. V.D. Kulshreshtha; *Landmarks in Indian Legal History and Constitutional History*, 6(1968).
47. *Ibid*.
48. See *supra note* 18, 248.
cases of disputes the best men of the locality concerned can alone be the proper judge.  

Similarly, in order to deal with the disputes amongst members of various guilds or association of traders or artisans, various corporations, trade-guilds were authorized to exercise an effective jurisdiction over their members. These tribunals consisting of a president and three or five members were allowed to decide their civil cases regularly just like other courts. No doubt, it was possible to go to appeal from the tribunal of the guild to a local court, then to royal judges and then finally to the king but such a situation rarely arose. At that time, the joint family system was prevailing in the society, so family courts were also established. Puga assemblies made up of groups of families in the same village decided civil disputes amongst family members. Brihaspati points about justice delivery mechanism in these words:

"First come the family arbitrators: the judges are superior to the families; the chief justice is superior to the judges; the king is superior to all of them and his decision become law."  

It is revealed from the study of ancient literature that even in ancient India the decision of each higher court superseded that of the court below. Each lower court was bound to show full respect to the decision of each higher court. As such the king’s decision was supreme.  

It was also a significant rule of the administration of justice that justice should not be administered by a single individual. A bench of two or more judges was always preferred to administer justice. It is true that justice was administered in the name of the king, 

49. Ibid.  
50. See supra note 45.  
51. Id., 7.
who was the fountain of justice, but he could not dispense justice by himself alone. He had to do so with the help and guidance of others competent and learned in law.52

So, it is evident from Hindu texts that there were a number of popular courts which were mainly held by the village assemblies, trustees, guilds, soldiers, merchants and the caste elders. These were empowered to investigate and to dispense justice in cases that arose within their jurisdiction. These courts had jurisdiction to decide the civil disputes and minor criminal cases. These did not come under the direct control of the king and so, dispensed justice freely to disputants.

2.4 Judicial Procedure

The courts in ancient India were not bound by any technical procedure for rendering justice to the aggrieved persons. The basic consideration was upholding dharma and to avoid needless and vexatious litigation. The rules of these local bodies must mean the rules and principles as understood and acted upon by them.53 It is a general principle of law that a complaint must be made by the aggrieved person. But in these courts, it was not necessary in all cases that the complaint was to be filed by the actually aggrieved, the courts were also empowered to initiate judicial proceedings suo moto, if circumstances so warranted. Kautilya states, “where the interest affected pertained to God, to Brahmins, to ascetics, to women, to minors, to aged persons or to diseased or helpless person, the judges shall take cognizance and give redress even though not complained”.54 It is also pointed by Brihaspati that in the case of people, with immature minds, idiots, mad men, old and sick people, women, etc., the complaint could be made

52. Supra note 9, 172.
53. Supra note 18, 245.
on their behalf by any relative or well wisher of theirs’ whether authorized or not.\textsuperscript{55} This process of cognizance of matters by court itself and making of complaint by well wishers, is similar to concept of Public Interest Litigation in modern days. When a plaint was filed or cognizance taken by the courts, the courts were required to investigate the matter and satisfy themselves about the genuineness of the matter complained of before summoning the other party to answer the charges.\textsuperscript{56}

There was no limit to the jurisdiction of popular courts in civil matters. They could not, however, try criminal cases of serious nature. In general social interest, certain types of suits were not maintainable in the courts, namely, suits between teacher and pupils, husband and wife, father and son, and master and servant. The dispute, which arose between these persons, might be settled or corrected by their seniors or elders. But there was no absolute prohibition of litigation between such parties. The text of Gautama dealing with the power of a teacher, father, husband and master in the matter of correction, stated how such person was to be punished by the king if he exceeded his power. Then, a pupil, a son, a wife or a servant could not be prohibited from suing. But if the pupil or son violated his duty and the teacher or father being weak was not able to correct him, it was consistent with commonsense that he should then apply to the king.\textsuperscript{57} So, the son, wife or a student could initiate judicial proceeding against father, husband or teacher if they acted beyond their power. Similarly, in some circumstances, the father or husband or teacher was also authorised to move in the court against the son or wife or student respectively.

\textsuperscript{55} Ibid.

\textsuperscript{56} Ibid.

\textsuperscript{57} See supra note 3, 53.
In modern India, several technical procedural laws such as Civil Procedure Code, Criminal Procedure Code and the Evidence Act, etc., are followed by the courts but there were hardly any rigid and complex procedural laws dealing with the disputes in popular courts. The local courts of cultivators, artisans, money lenders, trade guilds, religious mendicants and even robbers were empowered to resolve their disputes according to the rules of their own profession. Similarly, families, craft guilds and local assemblies were authorized by the king to dispose law suits among their members except such as concerned violent crime.\(^{58}\) These people courts decided the dispute on the basis of principles of natural justice, equity and fairness.

2.4.1 Parts of Trial

It is necessary to discuss here about the parts of a suit and Brihaspati says the suit was divided into four parts which were: (i) the plaint (poorva-paksha); (ii) the reply (uttar); (iii) the trial and investigation of dispute by the court (Kriyaa); and (iv) the verdict or decision (Nirnayaya).\(^{59}\) In ancient legal system, generally a suit or trial consisted of four parts:\(^{60}\)

a) The plaint (Bhasa pada or Pratijna)

b) The reply (written statement or uttara pada)

c) The proof or evidence on behalf of the plaintiff and defendant

d) The decision or judgement.

The plaintiff who was called as Prasnin, started the suit by filing the plaint before the court and submitted himself to the jurisdiction of the court. The court was then entitled to issue an order to the defendant who was known as Abhi-

\(^{58}\) *Supra note 5*, 145.

\(^{59}\) *See Supra note 4*, 379-410 *See supra note 4, 379-410*.

\(^{60}\) Sunil Deshta; *Lok Adalats in India: Gensis and Functioning*, 25(1995).
Prasnin to submit his reply on the basis of allegations made in the plaint. If defendant admitted the allegations levelled against him in the plaint, the business of the court was only to decide the case on the basis of such admission. Where the defendant contested the case before the court, it was the duty of the court to provide full opportunity to both the parties to prove their claims. After examined the parties, final decision was given by the court. During the course of proceedings both parties were required to prove their case by producing evidence. Ordinarily, the evidence was based on any or all the three sources, namely, documents, witnesses and the possession of incriminating objects.\textsuperscript{61} Other means of proof consisted of reasoning (Yukti) and ordeals (Divyas).\textsuperscript{62} The documents, witness and possession fell under the head of human proof, while ordeals were included under the head of divine proof. The court delivered its judgement when both the parties had submitted their evidence.\textsuperscript{63}

The popular courts were empowered to decide civil matters and petty criminal offences only according to the procedure established by law and on the basis of principles of natural justice.\textsuperscript{64} In civil cases while examining the witness the social status and qualification of the witness was always enquired into by the court. In criminal cases, sometimes the circumstantial evidence was sufficient to punish the criminal or to acquit him. The accused was allowed to produce any witness in his defence before the court to prove his innocence. In some cases, no evidence or witness was adduced by the party and it became very difficult for the judge to ascertain the truth. In

\textsuperscript{61} Ibid.
\textsuperscript{62} Supra note 5, 47.
\textsuperscript{63} Ibid.
\textsuperscript{64} Supra note 45, 8 and Supra note 3, 144-145.
such cases, religious aid was taken by applying two special kinds of trials, namely, trial by oaths and trial by ordeals.

2.4.2 Trial by Oaths

In ancient Hindu law, it was a popular belief that no wise man must swear an oath falsely, even in a trifling matter for he who swore an oath falsely, he was lost in this world as well as in the next. It is revealed from the study of Hindu texts that sanction of trial by oaths acted as a deterrent for checking false statements in the court. The trial by oath was widely practiced in ancient India because the religious faith became intimately connected with oath and began to be regarded as charges with supernatural power and effective due to sanctity of God. Manu and Narad both had justified the method of trial by oath. Manu says with regard to trial by oath “If two disputants quarrel about matters for which no witnesses are available and real truth cannot be ascertain, the judge may discover it by oath”. Narad says that false witnesses were condemned to go to a horrible hell and stay there for a Kalpa. Therefore, the trial by oath was become the major method to decide the cases when no evidence was produced before the court. Then the court applied this method.

2.4.3 Trial by Ordeal

Trial by ordeal was also a significant method to determine the guilt of a person. The ancient Indian society, which was largely dominated by religious faith in God, considered the trial by ordeal as a valid method of proof. Ordeal was like an appeal to the immediate judgement of God. In such trials supernatural aid was invoked in the place of evidence. It was the basic idea of the ordeals that God helps the just and punishes the unjust.

65. Supra note 3, 145.
66. Supra note 5, 126.
67. See supra note 3, 144.
68. See supra note 45, 8.
The ordinary rule was that ordeals were to be administered to the defendants. But Yajnavalkya gives an option that anyone of the two litigants may by mutual agreement undergo an ordeal and the other should agree to pay on defeat. The practice to conduct trial by ordeals was based on the belief in personal God, who if fervently invoked with religious favour, would declare the innocence or guilt of a person charged with a grave crime. A detailed study of ordeals point out that only in cases of high treason or very serious offences the trial by ordeal was used. In other petty case, it was sufficient to prove the truth by taking an oath.

There were some limitations on the application of use of trials by ordeals as it could be resorted to only where any concrete evidence on either side was not available. However, no ordeals should be administered to persons observing vows, those performing austerities, distressed persons, ascetics, diseased, women, minors and aged. Narad discloses that no ordeals should be conducted unless the opponent of the party undergoing the ordeals declared himself ready to undergo punishment in case of being defeated by reason of the party coming out successful from the ordeal though this rule does not apply to cases of high treason. It was the greatest drawback of trial by ordeal that sometimes, a person proved his innocence by death as the ordeal was very painful and dangerous.

There were various kinds of ordeals, which were administered with regard to the nature of the case in dispute. Some important types of ordeals were: (a) ordeal by balance, (b) by fire, (c) by water, (d) by poison, (e) by the cosha, (f) by

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69. Supra note 3, 150.
70. Id., 147.
71. Id., 167.
72. Supra note 1, 33-35; Supra note 3, 156-165 and Supra note 4, 361-378.
rice, (g) by boiling oil, (h) by red hot iron, (i) by plough share, and (j) by images. Some of these were as follows:

(a) Ordeal by Balance: This type of ordeal was consisted of weighing the accused in balance. A large balance was set up on which the accused was weighed against weights placed in other pan. The height of the pan in which defendant or accused was set rose, then it was marked on the post setup beside it. After he was weighed, he got down and Pandits pronounced mantras and wrote the substance of the accusation on a piece of paper, bind it on head. Then he was placed on the balance once again. If he weigh more than first time weigh then he was held guilty; if less, innocent; if exactly the same, he would be weighed a third time; when as it has been written in Mitakshra, there will certainly be a difference in his weight. Guilt would be based upon such difference of weight of the person.

(b) Ordeal by Fire: In this process, nine hands long, two spans broad, and one span deep, is made in the ground, and filled with a fire of pippal wood; into this the accused must walk bare-footed; and, if his foot be unhurt, they hold him blameless; if burned, he is held guilty. It means in this process the guilt was depend upon the burning of feet of accused person.

(c) Ordeal by Water: Water ordeal is performed by causing the person accused to stand in a sufficient depth of water, and a brahman is then directed to go into the water, holding a staff in his hand; a soldier shoots three arrows on dry ground from a bow of cane; a man is next dispatched to bring the arrow which has been shot farthest; and after he has taken it up, another is ordered to run from the edge of water; at which instant the person
acused is told to grasp the foot or the staff of the Brahman, who stands near him in the water. The accused must remain under water till the two men, who went to fetch the arrows, are returned; for, if he raises his head or body above the surface, before the arrows are brought back, his guilt is considered as fully proved.

(d) Ordeal by Poison: In this ordeal after certain rituals, the poison is eaten by the accused and then the accused is kept in the shade and watched for the rest of the day. If by that time, the accused discloses no signs of the effect of poison, then he is innocent otherwise he is found guilty.

(e) Ordeal by Cosha: In this process, the accused is made to drink three draughts of the water, in which the images of the Sun, of Devi, and other deities, have been washed for that purpose; and if, within fourteen days, he has any sickness or indisposition, his crime is considered as proved.

(f) Ordeal by Hot Oil: In this kind of ordeal, the oil is heated sufficiently, then the accused thrusts his hands into it, and if he is not burned, then he is held innocent. Thus, it was very common to use the method of trial by ordeal in cases when no human means of proof were available.

2.5 Features of Judicial System

As we have discussed that the ancient judicial system was based on Vedas, Dharmasastras and Smrities, etc. The king, judges and people's courts performed their functions and dispensed justice in accordance with these Hindu texts. The judicial system had some significant features which were as follows:

1. Truth as basis of justice.
2. Justice within reasonable time
3. Independent judicial system
4. Free from corruption
5. Court fee

2.5.1 Truth as Basis of Justice

It is quite evident from the study of Hindu texts that the basic object of the trial was to ascertain truth at all cost and on the basis of such truth, dispense justice to the disputants. For this purpose, the procedure took every possible precaution, consistent with the conditions of knowledge of the time, to secure the discovery of the truth. In the earlier times, it was the duty of the parties concerned to produce the witnesses but later on the judges also could compel the party to make their appearance in the courts. Judges had power to put questions to the witnesses. They were directed to watch the behavior of the witnesses and decide on its reliability. The judgements given by the courts in the matters agitated before them were required to contain full facts of pleading and reasoning based on facts and evidence.\textsuperscript{73} The matters were decided on the basis of principles of natural justice and not on procedural laws as in modern legal system.

2.5.2 Justice within Reasonable Time

In Hindu legal system, it was necessary that the matter or dispute must be adjudicated within reasonable time because delayed justice was considered most dangerous to the state. As Kautiya discloses that the delay may cause the fall of the king and his kingdom.\textsuperscript{74} Therefore, “justice delayed is justice denied” is not a new legal principle but this was the maxim, which was well known to the jurists of ancient India. In order to avoid the delay in the administration of justice, Hindu jurists had laid down strict rules as to adjournments and prescribed the time

\textsuperscript{73} Supra note 54, 13.
\textsuperscript{74} See supra note 9, 191.
limits for deciding matters. In ancient Hindu judicial system, there was no existence of any separate institution of lawyers for representing a party and to place his case before the court. At that time, the litigant himself produced before the court and tried to prove his claim without the help of any legal representative. In this way, the matter was decided within reasonable time.

2.5.3 Independent Judiciary

The judiciary in ancient India was independent and impartial. The other organ of state i.e. executive never interfered in the administration of justice. Nobody is above the law, has been the governing principle of Indian jurisprudence since the Rigvedic period, and therefore, the kings and judges were equally liable for lapses made by them during the administration of justice. The chief judge and the sabhas were prohibited to hold conversation in private with any one of the litigants while the suit was pending. The Sukraniti says about the responsibility of the king and judges with regard to privacy of trials: “Neither the king nor the members of the judicial assembly should ever try cases in private”. Trials were always held in public.

2.5.4 Free from Corruption

An equal and even handed justice is a cherished ideal of administration of justice. In order to ensure fair and impartial justice to all, deterrent provisions were applied to make the administration of justice free from corruption. Kautilya prescribed fines and even corporal punishments for judges who corruptly gave wrong decisions. Yajnavalkya says if the

75. Id., 190-194.
76. Supra note 45, 7.
77. Supra note 9, 188.
78. Supra note 3, 30.
79. See supra note 9, 188.
sabhas give a decision which is opposed to Smriti and usage, through friendship, greed or fear, each member of sabha was liable to be fined twice as much as the fine to be paid by the defeated party.\textsuperscript{80} So, in ancient judicial system, various efforts had been made to prevent the judicial system from corruption at all levels. Cases were taken up for disposal either in the order of their respective applications, or of their urgency, or of the nature of the injury suffered, or of the relative importance of the castes of suitors. The royal officers were strictly forbidden to take any part either in the commencement or in the subsequent conduct of a suit. The judges were punished or fined if they found involve in corruption.

2.5.5 Court Fees

In ancient India, it appears that in disputes of a criminal nature, no court fees had to be paid. The person found guilty had to pay to king the fine declared in the Smritis for offences or awarded by the court. As regards civil disputes also nothing had to be paid at the inception of the suit. Certain rules were prescribed by Kautilya, Yajnavalkya, Vishnu, Narad and others with regard to payments to the king by the debtor and the creditors after the suit was decided. These payments in the form of fine or fee were regarded courts fees as well as a source of income to the kings and their judges.\textsuperscript{81} It has been disclosed by Dubey that the fee for hearing and deciding upon causes was, no doubt, charged and collected in cash, also, in ancient and medieval period in India, but not in advance. The judge then received his etlak, chauth or pachotra, a perquisite of his office, only after the amount decreed by him was recovered from the judgement debtor. But, this practice was abolished in India, at the close of 18th century, by Warren Hastings and replaced

\textsuperscript{80} Ibid.
\textsuperscript{81} Supra note 3, 31.
by the present system of court fee stamp by Sir John shore in 1797.\textsuperscript{82} So, there were court fees levied only after the decision of civil disputes.

We can say lastly about judicial proceedings of the popular courts that there were no strict technicalities and rigidity in procedural laws dealing with the disputes in these courts. The popular courts had jurisdiction in all civil matters and minor criminal cases. They were independent to decide matters on the basis of principles of natural justice and laid much stress upon the amicable settlement of dispute.

3. Lok Adalats in Medieval Period

In the Muslim world, law and political theory are considered to be as much derived from divine revelation, as is religious dogma. Islam did not recognize the institution of kingship to start with. It believed in the democracy of the people. Hence the absence of any particular rules in the holy Quran for the guidance of kings who are subject to the same laws as others. There is no distinction between the canon law and the law of state. Law being of divine origin demands as much the obedience of the king as of the peasants.\textsuperscript{83}

So, it is the duty of a king to uphold the authority of the Islamic law and to keep himself within the four walls of it. Holy law served as an effective check on the sovereign authority.\textsuperscript{84} On the basis of this idea, in India, the Muslim beginning was made by Mohammudbin-quasim in 712 A.D. He came to India as invader and returned thereafter. The real penetration into India was made by Qutub-uddin-aibek who, in reality established his supremacy in the whole of northern India. The Muslim, thereafter continued to rule over India for centuries till

\textsuperscript{82} Ibid.
\textsuperscript{83} H.S. Bhatia; Origin and Development of Legal and Political System in India, Vol. II, 184 (1976).
\textsuperscript{84} Ibid.
the year 1857 when the last Mughal King Bahadur Shah Jafar was dethroned by the Britishers and they established themselves as the next rulers of India.\textsuperscript{85}

The study emphasizes that Muslim rulers did not interfere with the laws of Hindus or its machinery of administration and the Hindus continued to be governed by their own law in personal matters.\textsuperscript{86} Because, the main purpose of Muslim rulers was to preserve themselves and political domination over India. In order to achieve this end, they established their judicial system to settle the disputes of parties with regard to civil as well as criminal matters.

3.1 Judicial Structure in Muslim Period

The judicial structure which existed in India during Muslim rule can be studied under two separate Periods' viz., the 'Sultanate Period' starting from 1206 A.D. to 1526 A.D. and the 'Mughal Period' starting from 1526 to 1680 A.D.\textsuperscript{87} In the Muslim period, the judicial structure was same in both dynasties. The king was the supreme authority and the entire executive, legislative, judicial and military powers were resided in him. In the administration of justice he was considered as the 'fountain of justice'.

The judicial system was organized on the basis of administrative divisions of the empire. There was a systematic classification and gradation of the courts existed at the seat of the Capital, in Provinces, Districts, Paraganahas and villages for deciding civil, criminal and revenue cases.\textsuperscript{88} The hierarchy of courts during Muslim period was as follows:

(a) Central Courts

\textsuperscript{85} Supra note 54, 21.
\textsuperscript{86} Supra note 60, 29.
\textsuperscript{87} Supra note 54, 18.
\textsuperscript{88} M.B. Ahmad, \textit{The Administration of Justice in Medieval India}, 104-105(1941); R.P. Khosla; Administrative Structure of the Great Mughals, 126(1991).
(b) Provincial Courts
(c) District Courts
(d) Parganah Courts
(e) Village Courts

The judicial structure also gave place to the then existing legal institutions in India, such as village panchayats which served an extremely useful purpose in settlement of disputes during ancient India.

3.2 Position of Lok Adalats in Muslim Rule

As it has been seen above that the Muslim rulers established their own courts system for providing justice to all. But the local courts or Gram Panchayats as dispute resolution institutions continued functioning with minor variations even in Muslim rule in the Medieval India. During Muslim rule, the royal courts existed in administrative centres, but these did not produce a unified national legal system of the kind that developed in the West.89 The law made by the Muslim rulers did not penetrate into the villages. Throughout the Muslim rule, there was no direct or systematic state control of the administration of justice in the villages where most of Indian lived.90 The link of the local courts with the king at the last resort was not to be found in the Muslim rule.91 Muslim rulers created courts of judicature totally at variance with traditional system. In government courts, Kazis, Muftis and Mir Adils were appointed to dispense justice. However, these courts mostly functioned at the district level or above, leaving lower village level functioning of people's courts mostly untouched. It means that the Muslims rulers had not shown interest to redesign the

90. N.Sen Gupta; Evolution of Ancient Indian Law, 112(1953).
91. Supra note 18, 250.
local courts or village panchayats as they designed their royal courts.

So, the disputes in villages and even in cities were not settled by the royal courts, but by the Lok Adalats of the caste, of guilds and of associations of traders and artisans within which the dispute arose.\footnote{92} These tribunals were empowered to adjudicate in accordance with the custom or usage of the locality, caste, trade, or family.\footnote{93} Therefore, the traditional dispute resolution system through Lok Adalats was not very much affected by the introduction of 'Qazi' as the social adjudicatory system. The Lok Adalats with the name panchayats were regularly performed their functions as they worked in ancient India. The village Panchayat was a body of five leading men who were called as panches, to look after the executive and judicial affairs in the villages.

It may also be noted that the people's courts became important instruments and began to serve the legal purpose of Hindus almost exclusively, so far as the civil side atleast was concerned. The Hindus would feel shy to approach the Muslim rulers or the royal courts presided over and assisted by Muslim officers; the conditions for the regular administration of justice also were not perfectly favourable and above all the rulers themselves also were very much relieved when they saw that the administration of civil justice was being carried on by the popular courts of the Hindus themselves.\footnote{94} Therefore, people's court played the important role for all specially for Hindus during Muslim rule. There were also many other factors to the survival of popular courts during this period. The royal courts and the kings could be hardly accessible by the ordinary

\footnote{92}{Supra note 89, 344.}
\footnote{93}{Ibid.}
\footnote{94}{Supra note 18, 250.}
litigants; the court-officers and employees were corrupt and they harassed the litigants. Moreover, there were not so many royal courts which could be within the easy reach of the people. Hence Sir Jadu Nath Sarkar observed that, "the Indian villagers in the Mughal empire had to settle their differences locally by appeal to the caste courts or the panchayats or the arbitration of an unpartial umpire (solis)."

It is revealed from the study that the Indian villagers settled their dispute through the panchayats which dispensed justice independently. These panchayats were not directly connected with the royal courts. However, the Muslim rulers traditionally enjoyed and occasionally exercised a general power of supervision over all these popular courts. In theory, only the Royal Courts were empowered to decide the criminal cases as well as to execute punishments. These popular courts could pronounce decrees in civil cases at village level and invoke Royal power in order to enforce them. But while some adjudications might be enforced by governmental power and most depended on boycott and ex-communication as the ultimate sanctions. So, the study shows that even in Muslim rule, the disputes at the lowest level were disposed of by the panchayat or the people’s courts. The people were satisfied by the decisions of these popular courts because the matters were decided by their own representative. In this way, these courts relieved the government to a very great extent of its judicial functions.

3.3 Judicial Procedure in Lok Adalats

In Muslim rule, the village (Dehat) was the smallest administrative unit, at this level, the Panchayat or the people’s

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95. Id., 250-251.
96. Ibid.
97. Jadhunath Sarkar; Mughal Administration, 29(1935).
court was authorized to administer justice in all petty civil and
criminal matters. The Panchayat held its sitting in public places
where they administered justice and maintained peace and
tranquility in the village. It was presided by five Panches who
were expected to give a patient hearing to both the parties and
deliver their judgment in the Panchayat meeting. The decision
of the Panchayat was final and binding. Village Panchayats or
people's courts while dispensing justice were governed by their
customary laws and were not strictly according to law of the
empire because there was no interference in the working of the
Panchayats.

The procedure followed by the people's court was quite
simple, systematic and primitive. There was no regular
administration of justice, no certain means of filing a suit and
fixed rules of proceeding after it had been filed. There were no
hard and fast technical procedural laws obeyed by these courts
for administering justice. There was also no regular and full
fledged legal profession. Nor was there any elaborate provisions
for the law of evidence. Hence, the justice could be delivered
speedily and effectively. Qazis as the authority of royal courts
were concerned more with ecclesiastical matters among the
Muslims. The Hindus were generally governed by their customs
and the provisions of Shastras. When the public trial of the
accused person was deemed necessary, the Amil could take the
assistance of the people's court for this purpose. Many factors
were taken into consideration for arriving at the truth after
setting every item of the evidence adduced. Civil and criminal
disputes were decided by castemen or village elders and popular
courts in the form of caste-courts, guild or religious heads.

98. Supra note 18, 252.
100. Id., 252; R.C. Majumdar; The History and Culture of the India
During Muslim period, there was very little interference by the Muslim rulers in the working of popular courts though from the popular courts, appeal could ultimately lie before the king. It is apparent from the study that the villagers had a judicial system of their own which was familiar to and respected by them. These courts settled the affairs of everyday life. In case of grave crime or when the condemned party refused to obey the judgment of local courts, the court of king was concerned with litigation. Pitama says about the order of appellate courts, "A suit should first tried in the village court; then it should be tried in town (in appeal) and last of all the King should give the final decision as the highest appellate tribunal. There is no retrial of any case once it has been decided by the King—rightly or wrongly, further, he remarks that between the parties of the same country, town, societies, cities or villages, the adjudication should be made by following their own convention and usages; but when the dispute is between these persons and strangers the law of the Dharmasastra should be applied."¹⁰¹

The decisions of the Panchayats or people's courts were almost invariably unanimous and the punishments inflicted were fines, public degradation or reprimand or excommunication. No sentence of imprisonment or death was awarded, because there was no proper authority to execute these sentences, and also because there was no jails in the villages. The fear of public opinion was one of the most potent factors responsible for the prevention of crimes and hardly did any case go out of the boundaries of a village. The law administered by the Panchayats or people's court was usually caste and tribal usage and the customary law of the land.¹⁰²

¹⁰¹. See supra note 18, 244-245.
¹⁰². Supra note 100, 545.
After studying the general outlook of the judicial structure of Muslim rulers in medieval period, we find that the establishment of peace and order was supposed to be the major aim of the rulers. Therefore, they developed a systematic structure of courts from central level to pargana level to provide justice to all. However, at village level, there were popular courts which decided all civil and petty criminal cases of local nature and maintained law and order in the villages. These courts dispensed justice on the basis of customary laws and principle of natural justice. They did not follow any technical procedural law for administering justice. These courts did not come under the direct supervision of the rulers. These courts were famous particularly among Hindus because they did not relish to approach the Muslim royal courts. Thus, the exclusive jurisdiction of these courts over the Hindus became much more prominent and was serving a useful purpose. The local courts in the form of Panchayat thus played a very significant part during the Muslim rule.

4. Lok Adalats in British Period

It is quite evident from the historical facts that the Britishers entered in India with the purpose to establish their trade and business. But, gradually, they started to interfering in the governance and administration of the country and developed their own administrative and judicial system. So, the philosophy of the administration of justice during British period has initially a different history. In the beginning the Magestrial functions were delegated to the native people due to reason that Britishers were not acquainted with local languages and the local laws. Besides, there was a lurking fear in the mind of the Britishers that the act of punishment of the members of the native population could lead to agitation at any time. The result, therefore, was that they inducted Indians to discharge
the judicial functions in the early days of company rule. There is ample evidence to show that an Indian in the service of company since 1614 exercised the powers of the Magistrate in the earliest days of Madras settlement.\textsuperscript{103} However, it was only after the court reorganization in 1861 that justice was administered at higher level by judges trained in common law. The result of the induction of British judges in the Indian judicial system shaped the entire working of the local courts. The people’s courts thus entered into an era of lessening importance, until, it went into eclipse, as a result of British policy of feudalistic control of the countryside.\textsuperscript{104}

4.1 Position of Lok Adalats in British Rule

It is true that the Britishers applied their own justice system through which they established formal courts in India. But the study shows that in beginning in the rule of East India Company some local courts were also found which functioning almost on the line of village Panchayats. These courts were remodelled from time to time by the company as according to its interest. The company also sometimes established new courts of minor jurisdiction on the model of village tribunal or panchayats for administering justice. These courts were necessarily of minor jurisdiction which followed the simple and speedy procedure unattended by any rigid formality or technicality. Reference may be made in this connection to the Choultry Court at Madras, the Court of Conscience in Bombay and the Court of Requests at each of the Presidency towns of Calcutta, Madras and Bombay.\textsuperscript{105}

\textsuperscript{103} V.N.S. Rao, \textit{A Sketch of Three Centuries of Courts in Madras (1640-1947)}, 16(8) Lawyer, 81 at 82 (1984).
\textsuperscript{104} R.C. Majumdar; \textit{An Advanced History of India}, 553(1977).
\textsuperscript{105} \textit{Supra note} 18, 253-254.
4.1.1 Choultry Court

In the village of Madras Patnam, a choultry court was established by the Hindu ruler on the basis of the village administrative unit and the court was entrusted with judicial functions. The Village Headman who also called as Adigar was presided over the court. This was the only court for the residents of the Black Town at Madras Patnam. Adigar decided both civil and criminal cases in petty matters of the natives. For serious offences the reference had to be made to the native Raja. The Choultry court was re-organized in 1678 by the company. Formerly, an Indian officer was to preside over this court, but after the re-organization it came to be presided over by the English servant of the company. There was no regular procedure followed by the court in civil and criminal matters and punishment executed differed from case to case. This court had jurisdiction to decide civil cases upto the value of 50 pagodas and criminal offences of minor nature. After the creation of Mayor's court at Madras, the jurisdiction of choultry court was much diminished. Its civil jurisdiction was limited to only two pagodas and the appeals from the choultry court would lie to the court of governor and council which came to be known as the High Court.  

4.1.2 Court of Conscience

The court of conscience was created at Bombay under the judicial system of 1672. The court had jurisdiction to decide petty civil cases upto 20 Xeraphins summarily and without a jury. The court sat once a week, charged no fees, and provided a forum to dispense justice to poor litigants expeditiously and

106. M.P. Jain; Outlines of Indian Legal History, 14-26(1972).
without any cost.\textsuperscript{107} The court also performed its functions on the pattern of village panchyat.

4.1.3 Court of Requests

The charter of 1753 created a new court, called the court of requests, at each presidency town of Calcutta, Bombay and Madras to decide, cheaply, summarily and quickly, cases up to the value of 5 pagodas or fifteen rupees. The idea underlying the creation of the court was to help the poor litigants with small claims who could not defray the expenses of litigation at the Mayor’s court. The court was to sit once a week, and was to be manned by commissioners, between 8 to 24 in numbers. Three commissioners were to sit by rotation on every court day. The court of requests in each town did much useful work. The court was of great help to poor litigants mostly, Indians, who used to be involved in petty disputes.\textsuperscript{108}

The creation, working and the functions of the above courts of petty jurisdictions were directly or indirectly influenced by the conceptions of the Popular Courts or the Panchayats. These courts were established with the purpose to provide justice to the poor litigants without much delay and cost.

4.2 Impact of British Rule on Lok Adalats

It is quite evident that the British rulers did not, initially, interfere in the Panchayat system but the establishment of adjudicatory courts in the course of time brought about the formalization of the justice system. There were also several factors weakened the working of people courts and affected the faith of people upon these courts. The administration of villages by the agencies of the central government, extension of the jurisdiction of the civil and criminal courts with their adversary

\textsuperscript{107} Supra note 54, 37.
\textsuperscript{108} Supra note 106, 56.
system of adjudication which was unknown and new to village population, increase in the means of communication, progress of English education, police organization, migration of people from village to towns, growing spirit of individualism resulting from new education system, growing pursuits of individual interests and consequently lessening of community's influence over the members may be said to be some of the main factors which gradually contributed towards the decay of the people's courts in India.\textsuperscript{109}

It is necessary to disclose that the English men brought with them the concept of ruler and the ruled and the sense of superiority over the local men. Therefore, they were not bound to follow the local laws and the local system of justice which bound only the local people. Gradually, they established the adjudicatory process which became more and more formal with the introduction of Anglo-Saxon system of jurisprudence and when India came to be a part of the British Empire under the direct suzerainty of the crown, a full-fledged adjudicatory setup on the basis of British judicial system with the development of new courts system the legal formalities and technicalities were introduced into the Indian justice system. Due to this reason the legal system became so complicated and it could not be approached without the services of trained personnel i.e. the lawyer. So, it became highly profession-oriented. The cost of litigation and lawyers fees gave rise sharply making access to justice even more difficult.\textsuperscript{110} The net effect was that the poor man found it difficult to enter into the portals of the court and the rich man was able to use the legal process as an instrument


of harassment of his poor adversary. Moreover, it became time consuming because of technical procedural laws.

Consequently, the judicial administration during British period became more complexed, both in terms of substance and procedure.\textsuperscript{111} Our law administration shaped by the Britishers and enshrining values not wholly indigenous or agreeable to Indian conditions, scaring away or victimizing the weak through slow motion justice, high priced legal service, by distant delivery centres, mystiques to legalise and lacunose laws and processual pyramid made up of teetering tiers and sophisticated rules and tools.\textsuperscript{112} The result of these weakness was that the judicial administration at the lower level turned to be an instrument of exploitation of common man who was at the victim end. In this way the British rulers moulded the Indian legal system according to their vested interest and gradually led to the decline of people's court.

However, it is revealed from the study that some efforts were made by the British rulers to revive the functioning of people's court, as for example, in Madras in 1816, on the initiative of Munro, the panchayats were used to dispose of some petty cases. He tried to restore the everyday administration of civil justice into the hands of people. He tried to legalise the panchayat system.\textsuperscript{113} The other important steps in this direction were the landmark decisions such as Mayo resolution of 1870 on decentralization, Lord Ripon’s Resolution of 1882 emphasized for decentralization of administration through the establishment of a large network of local self-government, the Report of Royal Commission upon

\textsuperscript{113} Supra note 18, 277.
decentralization in India which recommended the constitution and development of village panchayats with certain administrative and judicial powers, the Government of India Resolution of 1915 and the Montague Chelmsford Report of 1918. However, the spirit of these landmarks decisions reflects that these were actually not intended to reproduce the true characteristics of the old time people's courts or panchayats.

On the basis of recommendations of above stated Reports and Resolutions, the village administration as it developed from 1920 to 1947 consisted primarily of panchayat bodies performing municipal, administrative and judicial functions. However, in actual practice the functioning of this institution remained extremely unsatisfactory for several reasons. Prof. Tinker has highly indicated in his survey that the people's courts could not fulfil the expectations in most of the provinces, because of the indifference shown by the officials and the people of the villages as well. But, these courts did not function effectively throughout the country because they were not developed on the basis of Indian culture and heritage but only established as the lowest administrative units.

Thus, it can be said that the people's court had played a significant role in administration of justice in ancient India as well as in medieval India under Muslim rule. Muslim rulers were the foreigners but they did not destroy the people's court system. But the Britishers not only developed their formal court system on the basis of English jurisprudence but also shattered the structure of people's courts. From the ancient period, these courts decided the matters at local level, speedily, cheapily,

without the help of lawyers and in accordance with the principles of natural justice. These courts provided justice to the litigants at their door steps. But in British era this people oriented justice system had been damaged and there came to an end of a glorious chapter of panchayats in the Indian history.

5. Lok Adalats in Post-Independence Period

After a long struggle, India got freedom on August 15, 1947. It was the dream of freedom fighters that the dawn of independence will bring many golden things to the people of India. The right to access to justice by restructuring of the judicial system at grass-root level may be said to be one of them. It was, therefore, realized by the wise founding fathers of the Constitution that the Anglo-Saxon judicial system must be reorganised so as to make legal relief easily accessible to the poor, downtrodden and backward in our villages. Similarly, Mahatma Gandhi also emphasised for the need of changing of Indian judicial system because according to him:117

"India lives in her villages and most of the countryside is smeared with poverty and social squalor. Today the poor and disadvantaged are cut-off from the legal system-they are functional out laws not only because they are priced out of judicial system by a reason of its expansiveness and dilatoriness but also because of the nature of the legal and judicial system. They have distrust and suspicion of the law, the law courts and the lawyers for several reasons. There is an air of excessive formalism in law courts which overowes them and sometimes scares them. They are

completely mystified by the court proceedings and this to a large extent alienates them from the legal and judicial process. The result is that it has failed to inspire confidence in the poor and they have little faith in its capacity to do justice”.

For enhancing the faith of people in the judicial administration it was properly thought by the makers of the Constitution that the judicial process must be reconstituted for providing justice to all without any inequality. Therefore, they highlighted in the Preamble of Constitution, justice in its triple aspects, namely, political, social and economic. In order to dispense justice effectively, we required a new legal process, legal technology, judicature models and a new remedy oriented delivery system of law and justice. For the purpose of decentralization of legal system, the Article 40 of the Constitution authorizes the State governments to organize village Panchayats and invests them with necessary authority and power as may be necessary to enable them to function as units of self government. The aim of reorganization of ancient judicial system in the form of people's court, was to ensure people's participation in the administration of justice at the lowest level. It had been intended by the framers of the Constitution that the revival of the system will bring justice to the door-steps of the poor and made it cheaply, easily, informal and expeditiously available to them. The new system was also expected to remove many of the loopholes of the justice delivery system developed by Britishers. Drastically low cost, informal atmosphere, absence of legal technicalities, participation of people in both way geographically and mentally and a great scope for compromise had been expected as some of the definite advantages of the local judicial institutions or panchayats.
Professor N.G. Ranga laid emphasis on the aspect that “without this foundation stone of village Panchayats it would be impossible for our masses to play their rightful part in our democracy.” Generally, Gandhiji compared Gram-Rajya to Ram Rajya. So, he strongly supported the development of Panchayat justice system and wished that the Panchayats will be the legislatures, judiciary and executive combined. Similarly, D.S. Seth wanted that the Government system should be based on the Panchayati institution because he viewed that too much concentration of powers makes that power totalitarian and takes in towards fascist ideals. H.V. Kamath said about the people's participation in legal system that our polity in ancient times was securely built on village communities which were autonomous and self-contained; that is why our civilization has survived through all these ages. Similarly, Jayaprakash Narayan, also agreed with Gandhian philosophy related to the concept of Panchayati Raj and emphasized that “Administration of justice by Panchayats in villages would be speedy, efficient and quick, would discourage litigation and help settlement of disputes out of the Court by agreement among the parties. It will also lay foundation of non-violent democracy fostering love of justice away the people”. He opined that Centre would automatically become strong if we can build the whole structure on the village Panchayats, on the willing co-operation of the people. Therefore, there was a demand from the all corners of the country to reconstitute the nyaya panchayat system for the purpose of providing quicker, cheaper and qualitative justice to all at on the basis of traditional

119. Id., 247.
120. Supra note 60, 66-67.
121. Id., 67.
122. Id., 69.
principles and values and to implement the aspirations of the freedom fighters to establish the philosophy of equality and justice.

5.1 Revival of Nyaya Panchayat

Towards the revival of nyaya panchayats in the villages, definite steps were, however, taken only when India had attained independence. With the establishment of panchayat-raj institutions in the States, almost, all the states enacted separate legislations establishing Nyay Panchayats. In this way, nyaya panchayats represented the judicial wing of Panchayati Raj and operated as per principle of separation of power. Besides, the ideology of separation of powers and efficient division of labour, two considerations supported the creation of nyaya panchayat as it provide easy legal access to villagers and helps the State to displace the existing dispute processing institution in village areas – be they caste panchayats, territorially based secular institutions or special dispute processing institutions established by social reformers or political leaders.\(^{123}\)

In beginning of post independence era, nyaya panchayats worked effectively in most of the States of the country and incorporated several distinctive features. First, these were established by the government, and had jurisdiction over both civil and criminal cases arising in the villages. Secondly, they functioned on the broad principle of natural justice and tended to remain procedurally as simple as possible. Thirdly, they were separate from other rural institutions such as village panchayats, vikas parisads, sahakari samitis and the like. This was so in order to ensure a degree of non-partisan approach in their working and implement the principle of separation of

\(^{123}\) Supra note 114, 307.
executive from judiciary. Fourthly, nyaya panchayats were not required to follow, in toto, the provisions of the Criminal Procedure Code, the Civil Procedure Code, the Evidence Act and other procedural laws. Similarly in order to retain simplicity, legal practitioners found no place in the proceedings of nyaya panchayats. Fifthly, nyaya panchayats dispensed justice to the villagers with speed, economy and effectiveness. Therefore, the nyaya panchayat retained the some of the features of the traditional panchayats.124

Nyaya panchayats decided both type of cases civil and criminal. But a wide divergence in the jurisdiction and powers of nyaya panchayats had been reported over different states in the country. However, taking a general view, these had been vested with criminal jurisdiction over (a) offences affecting public tranquillity; (b) offences affecting public health, safety, convenience, decency and morals; (c) minor offences against the human body; (d) offences affecting property, particularly under the subheads—theft, receiving stolen property and cattle-theft; (e) offences relating to mischief and criminal trespass; (f) criminal intimidation, insult and annoyance; (g) possession or use of false weights or measures and (h) sundry minor offences.125 Besides, nyaya panchayats were empowered to try civil cases of small magnitude which included the suits for compensation for wrongfully taking or injuring movable property, and suits for specific movable property the value of which does not exceed the ceiling prescribed by the statute.126 Nyaya panchayats had powers to dismiss a plaint or application if there was no prima facie case against the defendant or accused. They might issue summons, cause appropriate

125. M.Z. Khan and K. Sharma; Profile of A Nyaya Panchayat, 6 (1982).
126. Id., 77.
documents to be produced and require the presence of a person for evidence. They were empowered to impose a fine upon the persons convicted for committing offences, but no imprisonment was awarded for the conviction. Similarly, a nyaya panchayat was not competent to inflict a sentence of imprisonment in default of payment of fine. They had powers to pass a decree with or without interest or installments. In certain areas they were also empowered to exercise magisterial powers to the end of maintaining law and order within their jurisdiction. Thus, while the village panchayats had been commissioned to discharge selected executive functions of administration at the village level, the purpose of this interlinked institution of nyaya panchayats was to allow people’s participation in the administration of justice, and to serve as village tribunals with the object to try and adjudicate the disputes of the villagers.

There were several advantages of allowing people’s participation in the administration of justice at the grass-roots through the institution of nyaya panchayats. As knowledge of local conditions and the prestige of the members of nyaya panchayats helped for dispensing effective justice. Likewise, the decisions of nyaya panchayats enjoyed a fair degree of trust and acceptance among the litigants and the villagers.

Nyaya panchayats had been endowed with a character relatively simple and free from the complex technicalities ordinarily associated with the traditional British-oriented courts. Besides, the overriding emphasis in their working was upon conciliation rather than on adjudication. Moreover, they held proceedings at the very place where the dispute had arisen and where the parties to the dispute ordinarily lived. This allowed for economy in time, effort and money. In addition, this helped to curb the disputes right in the beginning before they

127. Id., 78.
could assume any serious proportions. This was no meagre contribution, on the one hand, towards the maintenance of peace and order in village communities and, on the other, towards keeping the amount of litigation in villages to a minimum.

Therefore, it could be stated that the institution of nyaya panchayat enlarged the common man’s involvement in the affairs of the community and in the mainstream of national life. As a mode of participation in self-governance, it engendered confidence among the villagers who served for various periods of time as members. This process could be expected to render the villagers into more conscious and active citizens. Thus, these minuscules made a small but significant contribution towards nation-building. Therefore, it was necessary to strengthen the position of Nyaya Panchayats in India. For the improvement of working of Nyaya Panchayat System, the Mehta Committee Report recommended that judicial panchayats should have much larger jurisdiction.\(^{128}\) The Committee also suggested that the village panchayats should suggest panels of names from which sub-divisional Magistrate or the District Magistrate should select persons who would form judicial panchayat, having jurisdiction to adjudicate upon the matters of both civil and criminal nature.\(^{129}\) The Committee laid emphasis on the use of local knowledge in adjudicating the disputes by the Gram Panchayats. It was also suggested that Nayaya-Punchas should exercise some caution and should have a degree of humility in the discharge of their functions. At the same time they should be fearless and must administer justice in such a way that respect for law is maintained.\(^{130}\)

\(^{128}\) See supra note 60, 71.

\(^{129}\) Ibid.

\(^{130}\) Ibid.
Similarly, the significant role of panchayats courts in administration of justice was highlighted by the Law Commission in its fourteenth report. The Commission supported the view point that these village Courts are capable of doing a good deal of useful work by relieving the regular Courts of petty civil and criminal litigation. The statement made by the Law Minister in the Parliament in 1959 also emphasizes that small disputes must necessarily be left to be decided by the system of Panchayat justice i.e. the People’s Court. The statement of the Law Minister runs as follows:131

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

Further, the Legal Aid Committee constituted by Gujarat Government, recommended in its report that revival and reorganization of Nyaya Panchayats was necessitated by the circumstances to have easy access of the rural population to the lower Courts and provide cheap and expeditious justice to them in small cases arising out of their dife.132

131. Id., 71-72.
Keeping in view the increasing importance of the settlement of disputes through people’s participation at grassroot level, P.N. Bhagwati and V.R. Krishna Iyer, JJ. emphasized to modernize the existing judicial administration and for the establishment of the Lok Nyayalayas at the village level.\textsuperscript{133} The Ashoka Committee (1978) merely reiterated\textsuperscript{134} the recommendations made by Balwantrai Mehta Committee (1957) and agreed to proposals for extensive of Nyaya Panchayats jurisdictions. The Committee found that Panchayati Raj Institutions had performed a magnificent role and expressed the hope that these institutions can do a promising role in the administration of justice.

But, it is also necessary to state here that the working of nyaya panchayats in the late seventies has not been praise worthy due to some drawbacks in the system. Firstly, the members of nyaya panchayats had inadequate understanding of procedure and no previous experience in field of judicial work. Secondly, most of the nyaya panchayats did not have adequate secretarial staff. This hampered the regular maintenance of records and files. Thirdly, they were suffered from another drawback in respect of financial resources. The panchayats in majority of cases failed to make the required contribution with the result that they were unable to manage the office efficiently. The main drawback of the system was concerned with the impartiality of the members in the discharge of their judicial duties. Villages were generally ridden with factions and this state of affairs had been further accentuated by the sweeping process of politicization and periodical elections. These elements entered into the making of village panchayats and subsequently got reflected in the composition of nyaya

\textsuperscript{133} Supra note 117, 35.  
\textsuperscript{134} Supra note 114, 320.
panchayats. Thus, it became difficult for a common villager to repose confidence in the panches and to expect an independent and impersonal decision from a nyaya panchayat.\textsuperscript{135} The consequence of these drawbacks was that there was a drastic gradual decline in the number of cases filed before the nyaya panchayats in the country. The decline alternatively resulted into heavy increase in the workload of regular courts. This critical position of working of nyaya panchayats had been discussed in the reports of Maharashtra and Rajasthan committees on Panchayati Raj. The Maharashtra Committee Report (1971) showed that out of 3,446 Nyaya Panchayats in the State only 703 were reported to be actively functioning and 2,743 of the Nyaya Panchayats had gone out of functions and were moribund and ineffective.\textsuperscript{136} Similarly, Rajasthan Committee also concluded that the Nyaya Panchayats were, "neither functioning properly nor had they been able to inspire confidence in the people."\textsuperscript{137} The committee reported that wants of funds, secretarial assistance, co-operation from other official agencies, adequate powers and people's faith were the contributory factors to come to a stand still point.\textsuperscript{138} Consequently, both Maharashtra and Rajasthan subsequently abolished Nyaya Panchayats.

Though, the state of Maharashtra and Rajasthan had abolished the nyaya panchayats but some persuasive efforts were taken to encourage and strengthen the justice system through Panchayati Raj Institutions. As the Rao Committee, 1985 observed that the administration of justice depends heavily upon the effective steps to be taken for decentralization of powers and involvement and participation of people in the

\textsuperscript{135} Supra note 125, 8-9.
\textsuperscript{136} Report of Maharashtra Committee on Panchayati Raj, 202(1971).
\textsuperscript{138} Ibid.
dispensation of justice through elected grass root level institutions.\textsuperscript{139} The Committee also laid emphasis that there was no better instrument to realise the goal of justice than Panchayati Raj Institutions. Therefore, the committee viewed that this inevitable need to transfer power of the State to democratic bodies like Panchayats at local level had to be recognized.\textsuperscript{140}

Similarly, Law commission of India also visualized the problem of administration of justice in the light of the spirit contained in the Article 39A\textsuperscript{141} which directs that the state shall secure that the operation of the legal system promotes justice on the basis of equal opportunity and shall, in particular, provide free legal aid, by suitable legislation or schemes, or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities. The Report of Law Commission reveals that the Commission was not agreed with the idea of abolition of Nyaya Panchayats while stressed that they should be strengthen by adopting the proper safeguards.\textsuperscript{142} It also advocated the introduction of conciliation as the method of resolution of disputes to be undertaken at the discretion of Nyaya Panchayats.\textsuperscript{143} The commission was also inspired by the working of Lok Adalat which were effectively dispensing justice in Gujarat under the guidelines of a voluntary organization named Anand Niketan Ashram.

Therefore, there was a great need to look forward for new methods, means and modes to settle the disputes. There appeared to be deep felt need to avoid all sorts of confrontations.

\textsuperscript{139} P. Satyanarayana; \textit{Towards New Panchayati Raj}, 197(1990).
\textsuperscript{140} \textit{Ibid}.
\textsuperscript{141} Art. 39A added in Constitution (42nd Amendment), 1976.
\textsuperscript{142} One hundred and Fourteenth Report of Law Commission of India on Gram Nyayalalaya, 18 (1986).
\textsuperscript{143} \textit{Id.}, 54.
and adopt peaceful and amicable methods of conciliation with the hope to maintain harmony in the society. Keeping in view these requirements, the Lok Adalat system was introduced as an alternative forum to resolve the disputes at various level.

The experiment of this new kind of Lok Adalat in India, was for the first time made in State of Gujarat by Shri Harivallabh Pareek, one of the disciples of Mahatma Gandhi. He was very much disturbed by the miserable conditions of the tribal adivasis of Rangpur (Baroda) on account of their involvement in various types of litigation which seriously affected their life style and financial position. In order to provide relief to these adivasis he started the alternative mode of Lok Adalat for dispensing justice in the year 1949 in Rangpur and continued the same for number of years. The system was very effective and was acclaimed by all concerned.\textsuperscript{144} Shri Pareek undertook the 'Padyatra' from village to village and spread this movement as a result it came into existence as an institution of Anand Niketan Asharam.\textsuperscript{145} This form of Lok Adalat was people oriented and participated forum which dispense to the poor litigants at their door-steps without any cost.

The modern version of Lok Adalat has arisen out of the concern expressed by the various committees setup to resort on organizing legal aid to the needy and poor people and alarm generated by judicial circle on mounting arrears of cases pending for long time at different levels in the court system.\textsuperscript{146} Justice P.N. Bhagwati and Justice Krishna Iyer, laid emphasis on need for revival of the informal system of dispute resolutions

\textsuperscript{144} S.S. Sharma, Legal Services, \textit{Public Internet Litigation and Para-Legal Services}, 184 (2003).
\textsuperscript{145} \textit{Ibid.}
including the Nyaya Panchayats. They mobilized social action groups, public spirited citizens and a section of lawyers to experiment settlement of disputes outside the courts.\textsuperscript{147} They were of the opinion that to have an effective system it must be informal, least expensive, generally deprofessionalized, expeditious and justice oriented. Justice Desai, to encourage participation of people in the system, circulated a paper to all the Bar Associations in the country in which he cautioned, "If we fail in this endeavour, history is not going to pardon us, the time is running out for all of us."\textsuperscript{148}

The setting up of the Committee for Implementing Legal Aid Schemes (CILAS) by the Union Government in 1980 under the Chairmanship of Justice P.N. Bhagwati and later on under the Chairmanship of Justice R.N. Mishra gave a further impetus to the legal aid movement in general and the concept of legal Aid camps and Lok Adalat in particular.\textsuperscript{149} Hence, the Lok Adalat movement as a part of the strategy of Legal Aid Movement was started in Gujarat in March, 1982. The first Lok Adalat was held at village "Una" in Junagarh District and inaugurated by Justice D.A. Desai, the then judge of the Supreme Court of India. Keeping in view the successful working of Lok Adalats, the Lok Adalat programme was adopted by other states, such as Andhra Pradesh, Bihar, Haryana, Karnataka, Madhya Pradesh, Maharashtra, Orissa, Rajasthan, Uttar Pradesh, and the Union Territories of Delhi, Pondicherry, etc.\textsuperscript{150}

The Lok Adalats, which were functioning on an informal basis, had got statutory recognition under the Legal Services Authorities Act, 1987 (for brevity 'the Act'). The Act came into force on account of several amendments on November 9, 1995.

\textsuperscript{147} P. Bhargava; \textit{Lok Adalat : Justice at the Door Steps}, 16-17 (1998).
\textsuperscript{148} Id., p. 17.
\textsuperscript{149} Ibid.
\textsuperscript{150} Id., 18.
The Act contains the detailed provisions about the set-up of Lok Adalats, their jurisdiction, powers, procedure and functioning, etc. The Act has been again amended by the Parliament, with the intention to constitute 'Permanent Lok Adalats' for deciding the disputes concerning 'Public Utility Services'. The objective of bringing this Act into existence was to devise more ways of reaching the poor man and evolving speedy and less expansive system of administration of justice. Now, the Lok Adalat system is working in accordance with the provisions of the Act.

6. Conclusion

At last, it may be summed up that Lok Adalats are not of recent origin in India. The administration of justice by village panchayats through concomitant people's participation is as old as the Indian village itself.\textsuperscript{151} The system of Lok Adalats, by whatever name, has been called for dispensation of justice from time to time. This system by panches or elders of village or mediators had been popular and prevalent even from Vedic times. At that time, the people's court decided the matters of the villagers, guilds, soldiers or artisans. These courts were consisted of their own representatives or elders. The members of these courts knew about the disputants, witnesses and facts of the dispute and so it was not difficult for them to provide justice speedily to the parties. The courts were not bound to follow the rigid technical procedural laws such as Civil Procedure Code, Criminal Procedure Code and the Evidence Act, etc. The procedure adopted by these courts was simple, informal, systematic and based on the traditions, usages and customary laws of land. The courts were not required to have any type of legal or technical qualification. They decided both civil and criminal matters except serious crimes on the basis of common sense. The basic feature of these courts was that the

\textsuperscript{151} S.Sahai; \textit{Panchayati Raj in India}, 95 (1968).
people relied on the courts for the resolution of their disputes. These people's courts or village panchayats were appreciated because they encouraged the principle of self government, reduced the burden of the central administration and helped the cause of justice.

The people's courts or village panchayats had also functioned during the period of Muslim rule. The Muslim rulers established their own royal courts system but they did not interfere in the working of the people's courts at the lowest level. These courts did not directly come under the supervision of the Muslim rulers. They continued adjudicating the disputes with minor variations in accordance with the customs or usages of the locality, family, caste or trade. These people's court dispensed justice for a long time and existed even at the time of the commencement of British rule in India. In beginning, the Britishers inducted Indians to discharge the judicial functions through their people's courts or village panchayats but after 1861, they moulded the Indian legal system according to their vested interests and established the hierarchy of courts on the basis of British Judicial system.

After Independence the reports of Law Commission and various committees emphasized on the revival of the traditional form of dispute resolution system at the village level, with the object to bring justice to the door-steps of the poor and make it cheaply, easily, informal and expeditiously available to them. The people's courts with the name of Nyaya panchayats had also decided the cases in various states. But these nyaya panchayats did not function effectively therefore these were abolished. Thereafter, the modern type of Lok Adalat system came into existence in the year of 1982, which got the statutory status with the enforcement of the Legal Services Authorities Act, 1987, on November 9, 1995. The basic objectives of the Act
is to evolve a mechanism in order to provide free and competent legal services to the weaker sections of the society and to organise Lok Adalat so that operation of legal system promotes justice on the basis of equal opportunities. The Lok Adalats or Nyaya Panchayats which were disappeared due to the establishment of formal court system on the basis of British jurisprudence but now the Lok Adalats are working effectively under the legal umbrella of Legal Services Authorities Act, 1987.