INTRODUCTION
"The 'Lok Adalat' is an old form of adjudicating system prevailed in ancient India and its validity has not been taken away even in the modern days too. The words ‘Lok Adalat’ mean 'People's Court'. This system is based on Gandhian principles. It is one of the components of Alternative Dispute Resolution (ADR) system. As the Indian courts are overburdened with the backlog of cases and the regular courts are to decide the cases involve a lengthy, expensive and tedious procedure, the court takes years together to settle even petty cases, Lok Adalat, therefore provides alternative resolution or devise for expeditious and inexpensive justice. In Lok Adalat proceedings there are no victors and vanquished and, thus, no rancour. Experiment of 'Lok Adalat' as an alternate mode of dispute settlement has come to be accepted in India, as a viable, economic, efficient and informal one.  

Lok Adalat is another alternative to Judicial Justice. This is a recent strategy for delivering informal, cheap and expeditious justice to the common man by way of settling disputes, which are pending in courts and also those, which have not yet reached courts by negotiation, conciliation and by adopting persuasive, common sense and human approach to the problems of the disputants with the assistance of specially trained and experienced members of a team of conciliators".

One of the most essential aspects of a legal system of a country, from its functional point of view, is "Administration of Justice". A sound system of administration of justice is required for the purposes of preventing injustice
in the society. The need for administration of justice has been felt by since the
dawn of civilization because man, by nature, is wicked and he needs the
Teaching and discipline for correction. Therefore laws and institutions have
been considered necessary in every political organization of human beings.
Accordingly the end of law is 'justice'. Law is meaningless if it remains on
Paper or it remain in the minds of men. Without institutionalized law
enforcement, men would tend to redress their grievances by their own hands.
This was common among men of the primitive practices, but a more civilized
substitute for such practices is provided by the modern system of
administration of justice.

The system of Administration of Justice is based on certain
theoretical principles, which may not be common to all systems of government
everywhere, but there are certain fundamental aims and objectives common
to almost all of them. The functional aspect of the system of justice is
discernible from the provisions of law as found in the Constitutional Law and
the Statute Law of the country.

THE CONCEPT OF JUSTICE

Justice is a moral value; it is the end which the law seeks to
achieve. It is the standard or the measure of goodness in the law and
conduct of society. The only standard for judging whether an act or a course
of conduct is just from the social, political or economic stand-point is its
consistency or otherwise with the social, political or economic philosophy of
the person judging the act or the conduct. The justice or otherwise of
expropriation of property without adequate compensation is judged differently
by persons holding a conservative or liberal philosophy. Similarly, the justice or injustice of the abolition of capital punishment is judged largely by a moral and religious standard. In modern democracies the idea of justice or injustice depends on its consistency with the views of the stronger who can have their views created and enforced.2

EVOLUTION OF THE CONCEPTS OF LAW AND JUSTICE

Social order and justice are the two substantive concepts of law. The social order implies a cohesiveness and unity in social process. The ultimate objective is to attain a state of harmonious co-existence.

In its broadest sense law is an instrument to create and organize a social order. Law sets up a body of norms which is intended to ensure a certainty in the social order. Those norms are expressed in the regulatory rules of conduct which require that the human-beings living in a society should behave in a certain ordained manner. They are designed to ensure fairness in the administration of justice.

The Attributes of Justice

From Plato and Aristotle, through St. Thomas Aquinas, down to the jurists, moralists and philosophers of our own days, one common notion about justice is the notion of equality. Clair Perelman, Professor of Philosophy at the University of Brussels, who has made a significant contribution to the logic of argument in law as well as to the concept of justice, has given the following few examples which may constitute the most current conception of justice:3

a. To each the same thing;
b. To each according to his merits;
c. To each according to his works;
d. To each according to his needs;
e. To each according to his rank; and
f. To each according to his legal entitlement;  

Kinds of Justice

In his Treatise on Justice, P. de Tourtoulon has described three kinds of justice:
Firstly, the Perfect Justice, which would consist in the complete equality of all mankind;
Secondly, the Distribute Justice, which takes account of individual capacities and efforts in conferring benefits;
Thirdly, Cumulative Justice, which seeks to establish equality in each and every judicial act, with a view to ensuring that a contract shall not ruin one party while enriching the other. With it we may associate compensatory justice, by means of which inequality prejudiced by the fault of others is re-dressed.  

THE CONCEPTS OF CIVIL JUSTICE AND CRIMINAL JUSTICE

In the early stages of the development of legal system in Europe it was felt that for an efficient legal system to function, civil wrongs and criminal wrongs should be distinguished, and justice dealt with accordingly. Criminal wrongs, that is, public wrongs were differentiated from civil wrongs, that is, private wrongs.

Public wrongs are a breach of public rights and duties, which affect the whole community considered as a community. Private wrongs, on
the other hand, are an infringement or privation of the private or civil rights belonging to individuals considered as individuals.

In the case of a civil wrong the individual affected by the wrong takes action against the wrong-doer, whereas in the case of public wrong the state initiates action on receipt of information about the commission of the offence.

**ADMINISTRATION OF JUSTICE**

An effective system of administration of justice is essential to every civilized society. In order that the rights of the people may not be violated by others and disruptive forces do not upset the peaceful state of life, every state seeks to establish an efficient and orderly system of justice.

The very existence of a civilized government depends upon making the machinery of justice accessible to all the citizens of the country. In a situation like this only people get necessary protection to their individual and constitutional rights. One of the important requisites of an efficient legal system therefore is that justice is available to all; every one connected with the legal system has to hold the operation of the system of justice with the necessary honour and reverence until the objective of justice has been attained by all.

Administration of justice is of two kinds. One known as Administration of Civil Justice which is concerned with the enforcement of civil rights, and the other known as Administration of Criminal Justice which is concerned with the prevention and punishment of crimes. All matters pertaining to the system of justice belong to the domestic jurisdiction of a
sovereign state. In this sense, administration of justice is an aspect of national sovereignty. Of course, several matters pertaining to the system of justice are being debated at the international level to improve the system, but there being no international government as yet established administration of justice continues to be a matter of national jurisdiction.

Civil Justice

Civil justice is administered according to rules of Civil Law in contrast to Criminal Justice which is administered according to Criminal Law. Civil Justice is administered in one set of Courts while Criminal Justice in a somewhat different set of courts. Civil Justice is concerned with enforcement of civil rights. The civil proceedings in a judgment for damages or in a judgment for the payment of debt or in an order for the delivery of possession of property, or in a decree of divorce or in an order of Mandamus, Prohibition or Certiorari or any other forms of relief is known as civil. Briefly stated, the object of civil justice is enforcement of rights.

Criminal Justice

The most important aspect of Criminal Justice is punishment. The immediate object of punishment is to prevent the offender from committing further offence and the ultimate object is to turn him into a good citizen. This is evident from the theories followed in the system of criminal justice, such as, the Deterrent theory; the Preventive theory; the Retributive theory and the Reformative theory.

The criminal justice system of any country can be considered from atleast three perspectives. The first one is it is a normative system. The second is, it is considered as a social system. In this perspective there is a
response or reaction of a society in the form of a Penal Law enacted by competent legislature prescribing punishment for such injurious conduct. The third view of a criminal justice system is that of regarding it as an administrative system comprehending an official apparatus for enforcing the Penal Law.  

In the operative part of the Criminal Justice System there are three distinct components or constituent elements, namely; (i) the police, that is the investigative agency; (ii) the prosecution, that is the agency to pursue a case in a court of law on behalf of the society, and (iii) the courts, that is the judiciary to try and decide about the guilt or innocence of a certain person accused of an offence. Included in this apparatus are also the other law enforcement agencies, such as, the Prisons and correctional institutions.

Whatever be the type of administration of justice, whether civil or criminal, the component parts of the system have a very important role to play. One of the most important components of these two systems of justice is the courts, that is the judiciary to decide about the rights and interests, and the guilt or innocence of persons. Included in this apparatus are also the other law enforcement agencies. The organization and functioning of all these institutions is according to law. The jurisdiction to be exercised by them and the procedure to be observed also depend upon the provisions of law.

The administration of civil justice in its substantive form declares certain things to be legal rights and interests, and provides remedies for their enforcement. The administration of criminal justice in its substantive form declares certain things to be offences and provides punishment for the wrongs. In its procedural form the system contains the rules as to how the
rights have to be pursued for their enforcement and how the wrongs have to be investigated and dealt with for the prevention and punishment of offences.

**Meaning and Concept of Lok Adalat**

Lok Adalat or Lok Nyayalaya means a place of justice for a common man. In common parlance, a Lok Adalat means a “People’s Court”. However, strictly speaking a Lok Adalat is not a court in its accepted connotation; as understood by jurists. But the common people may find attributed of Court in Lok Adalat. It is a new system of dispensation of justice which has come into existence to grapple with the problem of giving cheap and speedy justice to the people. Generally speaking, Lok Adalat is a para-judicial institution being developed by the people themselves, still in its infancy, trying to find an appropriate structure and procedure in the struggle of the common people for justice. It is a forum where the parties to a dispute, by voluntary efforts, aim at bringing about settlement through convivial and persuasive efforts.

Frankly speaking, the Lok Adalat is not a substitute for a present judicial system but is constituted as a substitute to it with a view to curtail the mounting arrears and to reduce the speed of new institutions. The Lok Adalats cannot be dubbed as a substitute to the present judicial system because as a matter of fact, they do not decide cases, they merely resolve them by persuading parties by explaining to them advantage of compromising the case. It is a forum where the entire dilatory procedure of adverbial litigation is bypassed. The drive behind the Lok Adalat is to rouse the consciousness of the community to prevent disruption of mutual and local
unity and to secure equitable and substantial justice. The amicable settlements by the Lok Adalats are not necessarily according to the legal principles. They have their eyes always on social goals like ending feuds rather pending disputes, restoring peace in the family, community and the locality and ultimately providing for destitutes law or no law, and also inculcating a nature of amicable settlement of disputes among the people. It is really an institution to serve the poor by means of dispensing justice for the reason that the poor need not go out of his village, spend hard earned money and waste weeks and months in towns in litigation and be exploited by lawyers.  

The forum of Lok Adalat is contrived to enable the common people to ventilate their grievances against the state agencies or against other citizens and to seek a just settlement if possible. In order to ensure that the settlement is expedient, fair, just and according to good conscience and at the same time not violative of law, the Lok Adalat implies resolution of people's disputes by discussion, counseling, persuasion and conciliation. It precisely implies speedy and cheap justice to common man at his door-step. Mutually agreed settlements arrived at by the disputants in the Lok Adalats contribute to the greater social solidarity and better cohesion among litigants.

The Lok Adalat system may be visualized not as a substitute for the present law courts but can become the additional and complimentary arm for existing judicial system.  

Judiciary through the activist approach has tried to revive the old strategy of conciliation for amicable settlement of dispute. Lok Adalat can thus
be termed as conciliation courts and are basically judicial-aided and judge-guided strategies evolved to save time in obtaining justice and clear the backlog of arrears of cases.

The techniques of conciliation may be divided in terms of number of parties involved in the process of conflict resolution into Bipartite and Tripartite techniques. Whenever a conflict arises between the parties, they try to resolve the conflict and differences bilaterally through negotiations without the aid of third party. When this bipartite technique fails then the disputants resort to tripartite techniques. The tripartite techniques take different forum based upon the voluntary and statutory compulsion-persuasion to invite third party to help negotiations but with no compulsion to accept the solution offered by the third party. In other words, the third party's view will not be a binding as an award. The bipartite and tripartite techniques of dispute settlement include the collective bargaining conciliation, fact finding arbitration and adjudication.¹⁵

The basic objective of Lok Adalat is to friendly overcome the differences or hostility. They try to bring about a solution, which is acceptable to both the parties by intervention of the third party.

Frankly speaking, Lok Adalat is not a Court in its accepted connotation.¹⁶ It is a forum provided by the people themselves or by interested parties including social activists, legal aiders and public spirited people belonging to every walk of life. Here voluntary efforts are aimed at bringing about settlement of disputes between the parties through conciliatory and persuasive efforts.¹⁷ The function of Lok Adalat is only to enable the parties
who voluntarily seek the Adalat’s intervention to understand their respective rights and obligations with reference to the disputes brought before it and to help keep the dialogue going in a fair manner. It is just a forum provided by the people themselves with a view to contrive for enabling the common people to ventilate their grievances against the State agencies or against other citizens and to seek a just settlement, if possible. The role of the judges of the Lok Adalat is to clarify law and by gentle persuasion to convince the parties how they stand to gain by an agreed settlement.\textsuperscript{18}

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

Generally speaking, Lok Adalat is a para-judicial institution being developed by the people themselves with an endeavour to find an appropriate structure and procedure in the struggle of common people for social justice.\textsuperscript{19} In other words, Lok Adalat phenomenon, is an expression of disgust and disenchantment of the poor and the middle class people in respect of the Court system as it functions today. Moreover, the birth of Lok Adalats in India may be attributed to the cause of exposing the defects of the formal Court system and put it on defensive before the public. It is, moreover, the brain child of necessity.\textsuperscript{20} The alarming increase in the arrear of cases stand as a
testimony to the fact that present system of justice has become inadequate to
meet the need of the time. Moreover, the masses are losing faith in justice
delivery system itself, which developed in the last several hundred years in
British traditions and footprints. By the passage of time, it has really grown
more and more complex in terms of substance and procedure and
administration existing in present from has become awfully inadequate to
meet the needs of time. All this, therefore, has created a great need to look
forward for new methods, means and modes to settle the disputes. There
appears to be a deep-felt need to avoid all sorts of confrontation and adopt a
peaceful method of conciliation with the hope of maintain peace and amity in
the society. In the light of these circumstances the basic principle and
underlined idea of Lok Adalat is to provide cheaper and quicker justice at the
doorsteps of the people so as to relieve the workload on the regular Courts
and go along way in selling disputes outside the forum of the Court.

The emergence of the concept of Lok Adalat as a new system of
dispensation of justice is thus a result of social philosophy of judges, jurists
and eminent scholars who are always engrossed in the thought to provide a
new forum to grapple with the problem of giving cheap and speedy justice to
the people. They see in this system a strong ray of hope and visualize it not
as substitute for the present judicial system but as supplementary to it so that
the mounting arrears are reduced and the consumers of justice have a sign of
relief. The basic philosophy behind the Lok Adalat is to resolve the people's
disputes by discussions, counseling, persuasion and conciliation so that it
gives speedy and cheap justice with the mutual and free consent of the
parties. In short, it implies participatory justice in which people and judges
participate and resolve their disputes by discussion, persuasion and mutual consent.\(^\text{23}\)

J.C. Shah, Former Chief Justice, rightly observed:\(^\text{24}\)

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

Pandit Nehru, while addressing a Conference of State Law Ministers has already expressed a similar alarm at the slow pace of the wheels of Justice and pleaded for a change of attitude and a genuine effort to accelerate the judicial machine which according to him is rusty and outmoded.\(^\text{25}\)

There is a cry in India for holding the Lok Adalats to hear and address grievances of the people by solving their disputes amicably. There working will certainly help the Courts in reducing their workload to a substantial extent to their newly acquired jurisdiction.

**Characteristics of Lok Adalats**

The main characteristics at Lok Adalats by conciliation process are:\(^\text{26}\)

i. It is amicable and peaceful method of settlement of disputes;

ii. It is Bipartite, as well as, Tripartite technique for the resolution of the disputes;
iii. The third party to the dispute i.e., mediator or conciliator is either invited by one party or both the parties voluntarily or compulsorily to assist them to mutually arrive at an agreement or compromises;

iv. The third party conciliator is not arbitrator, whose award-decision may be binding;

v. The conciliator must establish himself as a neutral, experienced, intelligent, objective and benevolent participant in the efforts of the parties to negotiate settlement, knowing fully well, that he does not have a feeling of irritation and frustration in the event of no settlement;

vi. The method adopted by the third party is of persuasion, legal and factual guidance, advice, mutual give and take;

vii. The decision of the conciliator is of recommendatory nature; in some cases, when both the parties agree on the issue in the same sense, then the consent decree may be passed;

viii. Voluntary acceptance of the solution to the dispute is the essence of the conciliation. Nothing can be imposed on the parties to the dispute. Power and authority are the very anti-thesis of the spirit in which really effective conciliation is carried on;

ix. It is primarily the responsibility of the conciliator that he must keep negotiations/talks moving towards settlement. For this, he must encourage the parties to explore fresh avenues and choices, offer suggestions and alternative proposals, guide the discussions by feeding valuable information etc.

The true basis of settlement of dispute by the Lok Adalat is the principle of mutual consent and voluntary acceptance of the solutions with the
help of a conciliator. The basic purpose of Lok Adalat is not merely to give justice based on evidence, law, and legal know-how but the approach is to the very human problem itself. The concept of Lok Adalat basically revolves around the principle of creating an awareness amongst the poor, innocent, illiterate and ignorant people to the effect that their welfare and interest really lies in arriving at immediate and peaceful settlement of their dispute. It is to make them conscious of the fact that the only suitable remedy with them is in getting rid of their case by a single decision through compromise which will save not only their hard-earned money, time, but multiplicity of litigation, by being involved in appeal, review, revision, remand, etc., the never ending chain. It is the basic philosophy of the Lok Adalat to see that the tension, enmity, disquietitude of the party are shunned away by resolution of their case. Lok Adalat is to generate an environment of friendship by making the people to understand that their relief lies not in enmity by winning the case but by resolution in mutual friendship and brotherhood. It will create an atmosphere of goodwill amongst the parties, which in ultimate analysis will bring peace in the society at large.²⁷

The main aim of Lok Adalat is humanitarian aspect and the basic purpose of the Lok Adalat is not to impose the justice but the people are awakened to their own rights and duties vis-a-vis the rights and duties of others. There is a rational thinking on the part of both the parties to a dispute, without going towards adversary system of proving or disproving a guilt. It is seen that both the parties accept a solution as agreed to by them or suggested by the third party i.e., mediator or conciliator, appointed by the Lok Adalat or by the parties themselves. Actually, none of the disputants is held...
totally guilty or totally innocent. When a dispute or conflict is resolved between the two parties through conciliation then a via-media is arrived at on the ‘give and take’ basis. The court acts as a middle agency in finding out a solution which is beneficial and agreeable to both the parties. The procedure and results are really determined in a significant manner by the attitude of the disputants.\textsuperscript{28}

Lok Adalat works on the equitable principle rather than legal and technical considerations. It is not purely judicial in character. Lok Adalat tries to inculcate the sense of reasoning in the minds of disputants by having deep insight into their minds after the study of their psychology, their leanings and prejudices. The Lok Adalat offers its services in the form of suggestions. It makes all possible alternative proposals for mutual settlement but would not impose its decision or will even on the disputants. However, when consent decree is passed then decision becomes almost binding as it becomes psychologically difficult to rebut the consent once given, but at such a stage, Lok adalt keeps its eyes wide open, that such a decision is not oppressive to one of the disputants and is not against the public policy.

**Need of Lok Adalat**

Lok Adalat is the brain child of necessity. The accumulated frustration of the people desirous of quick disposal of their cases, is the biggest single reason, for the people having responded with hope, excitement and zeal, in holding Lok Adalats, for dispute-ending for pending disputes.\textsuperscript{29} The mounting arrears of cases stand as a testimony that the present system of administration of justice has become inadequate to meet the needs of time. Failure of the courts to deliver justice within a time frame has brought about a
sense of frustration among the litigant public. The often statement that "Justice delayed is justice denied", amounts to injustice and as being pointed out from every nook and corner of the large country. The bitter truth, however, is that human hope has its limits and waiting too long is the present life style is not possible.\textsuperscript{30}

It is true that Parliament and State legislatures are passing day in and day out social legislation for the benefit of the poor and weaker sections of the society, but the real question is whether the poor and weaker section is really being benefited to the desired extent and have meaningful access to the judicial system. The access is foremost human right but the problems of access to justice has many dimensions. In the broader concept, access to justice has to cover more than bare court entry and is to include the access to law makers, lawyers, police, enforcement agencies, capability to pay court fees, the capacity to bear the cost and expenses of the witnesses and other incidental expenses and charges, time and energy consuming factor, as also access to legal information. But the reality is that poor can never reach the court because he does not have adequate economic means to meet the traveling expenses, engaging lawyers, paying court fees, spending for marshalling evidence and so on. Hence the poor and the downtrodden have in reality no access to justice, and at the very outset they are, therefore, denied access to legal system by the reason of their poverty.\textsuperscript{31} The net result is that the masses have no faith in justice delivery system itself, which developed in the last several hundred years, in British traditions and footprints. By the passage of time, it has really grown more and more complex both in terms of substance and procedure and the administration is

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\textsuperscript{31}
inadequate to meet the needs of the time with the result that the grievances like, access, delay, arrears expenses are only the tips of the iceberg. More so, hierarchy of the courts, with appeals, revisions, review petitions etc., put legal justice beyond the reach of the poor and weaker sections of the society. Professional services a monopoly of lawyers are too dear to be paid and satisfied by the poor. 32

The effective access to justice is the basic requirement—the most basic human right of the system which purports to guarantee legal rights. But rocketing costs of litigation hanging over the heads of teeming millions, sustaining themselves below the poverty line, has for them remained the justice far beyond the reach of their tiny hands, and has thrown them into the merciless jaws of tyranny, inequality, silent sufferance and unheard condemnation. Thus process to justice is luxuriously laminated and cushioned for those whose purchasing power or influence known no bounds. 33 In theory access to justice and court is available to all—just like the Sheraton Hotel. Anybody could enter, all he needs is money, the commodity which is rarely available to most of the people, to spare money for the luxury of litigation. It has to be made possible for economically weak to fight the economically strong in court, and that means the economically weak have to be enabled not just to get into court but to stay, if necessary, to bitter end—that would in the real sense amount to access to the court, and justice.

There are long delays in disposal of cases and difficulties in securing ready access to justice, since the litigation is expensive and tiring. The quality of justice dispensed becomes adversely affected. The elephantine backlog of cases and the enormous congestion in courts, result in inordinate
delays in the administration of justice. As the society has become more complex and impersonal, the citizens have increasingly turned to the legal system for the dissolution and solution of their disputes. The result has been unmanageable burden on the courts. Increased urbanization, broadening government involvement in everyday life of the people and waning away of non-judicial institutions traditionally engaged in dispute resolution have combined to provide an unprecedented explosion of formal litigation, resulting in congestion and delay reducing the effectiveness of the judicial system and the justice has become distant reality and remote dream.

The common reasons for delays in disposal of cases are defective legislation, hasty and unjudicious action by the executive, apathy to solve the problems by negotiations, inadequacy of judges, lack of adequate training for Judicial Officers and meaningful co-operation from the legal profession and the litigants. The main challenge with which our judiciary is confronted, is huge arrears of cases pending at different levels, in different stages, in the courts. The adversary system, procedural wrangles and multiplicity of appeals, revisions, reviews and remands are some of the factors which leave a litigant as bitter frustrated person while waiting for justice for years. This adversary system of adjudication breeds a sort of animosity and bitter hatred, in the minds of the disputants. In this kind of approach, the litigation is considered as a battle and that too a battle of wits and not for truth between the parties to, somehow, won by the litigants. A judge merely sits as an umpire to enforce the rules of the battle. Consequently, one is necessarily victor and other a loser. Victor leaves the court with the sense of pride and vanquished with a sense of humiliation and bitterness. This kind of approach
to the litigation is certainly not fit for the changing needs and values of the society during fast approaching 21st century.

Objectives of the Lok Adalat

The Lok Adalat is a new system of dispensation of justice which has come into existence to grapple with the problem of giving cheap and speedy justice to people. The Lok Adalat system is visualized not as a substitute for the present judicial system reduced and fewer of new cases are instituted. Looked at closely, the Lok Adalat system is giving a practical shape to the twin concepts of Swaraj and Sarvodaya propounded by the Father of the Nation. The concept of Swaraj implies not merely liberation from the foreign yoke but also emancipation from backwardness, poverty and illiteracy. The concept of Sarvodaya means well being of all, of distinction between haves and have-nots. It enjoins us to work constructively and actively for the upliftment of the downtrodden from the deplorable condition of poverty and ignorance in which centuries of subjugation have immersed them. The Indian Constitution incorporates the basic concept of justice to all justice, social, economic and political and equality before law and equal protection of law.

The concept of Lok Adalat implies resolution of people’s duties by discussion, counseling persuasion and conciliation so that it gives speedy and cheap justice with the mutual and free consent of the parties. In short, the concept of Lok Adalat implies speedy and cheap justice to common man at his doorstep. It is participatory justice in which people and judges participate and resolve their disputes by discussion and mutual consent.

Benefits of Lok Adalat
The benefits that litigants derive through the Lok Adalat are many. They are;

First, there is no court fee and even if the case is already filed in the regular court, the fee paid will be refunded if the dispute is settled at the Lok Adalat.\(^{37}\)

Secondly, there is no strict application of the procedural laws and the Evidence Act while assessing the merits of the claims by the Lok Adalat. The parties to the disputes though represented by their advocate can interact with the Lok Adalat judge directly and explain their stand in the dispute and the reasons therefore, which is not possible in a regular court of law.

Thirdly, disputes can be brought before the Lok Adalat directly instead of going to a regular court first and then to the Lok Adalat.

Fourthly, the decision of the Lok Adalat is binding on the parties to the dispute and its order is capable to execution through legal process. No appeal lies against the order of the Lok Adalat whereas in the regular law courts there is always a scope to appeal to the high forum on the decision of the trial court, which causes delay in the settlement of the dispute finally. The reason being that in a regular court, decision is that of the court but in Lok Adalat it is mutual settlement and hence no case for appeal will arise. In every respect the scheme of Lok Adalat is a boon to the litigant public, where they can get their disputes settled fast and free of cost.\(^{38}\)

The system has received laurels from the parties involved in particular and the public and the legal functionaries, in general. It also helps in emergence of jurisprudence of peace in the larger interest of justice and
wider sections of society. Its process is voluntary and works on the principle that both parties to the disputes are willing to sort out their disputes by amicable solution. Through this mechanism, disputes can be settled in a simpler, quicker and cost-effective way at all the three stages i.e., pre-litigation, pending-litigation and post-litigation.

Procedure at Lok Adalat

The procedure followed at a Lok Adalat is very simple and shorn of almost all legal formalism and rituals. The Lok Adalat is presided over by a sitting or retired judicial officer as the chairman, with two other members, usually a lawyer and a social workers. It is revealed by experience that in Lok Adalat it is easier to settle money claims since in most such cases the quantum alone may be in dispute. Thus the motor accident compensation claim cases are brought before the Lok Adalat and a number of cases were disposed of in each Lok Adalat. One important condition is that both parties in dispute should agree for settlement through Lok Adalat and abide by its decision.39

A Lok Adalat has the jurisdiction to settle, by way of effecting compromise between the parties, any matter which may be pending before any court, as well as matters at pre-litigative stage i.e., disputes which have not yet been formally instituted in any Court of Law. Such matters may be civil or criminal in nature, but any matter relating to an offence nor compoundable under any law cannot be decided by the Lok Adalat even if the parties involved therein agree to settle the same. Lok Adalats can take cognizance of matters involving not only persons who are entitled to avail free
legal services but of all other persons also, be they women, men, or children and even institutions.

Anyone, or more of the parties to a dispute can move an application to the court where their matter may be pending, or even at pre-litigative stage, for such matter being taken up in the Lok Adalat whereupon the Lok Adalat constituted for the purpose shall attempt to resolve the dispute by helping the parties to arrive at an amicable solution and once it is successful in doing so, the award passed by it shall be final which has as much force as a decree of a Civil Court obtained after due contest.

LOK ADALATS AND THE ADMINISTRATION OF JUSTICE IN MODERN SOCIETIES

Simplification of procedures and enforcement has been found to improve judicial efficiency. Three main types of simplification or structural reform are considered. They are; (i) the creation of specialized courts, (ii) alternative dispute re-solution mechanisms, and (iii) the simplification of legal procedures.

Specialized Courts: The structure of adjudication can be changed by creating specialized courts. These courts may be specialized around the subject matter (such as bankruptcy and commercial courts) or around the size of the claim. Creating or extending small claims courts are among the most successful of all judicial reforms. There are many examples. In Brazil, for example, small claims courts have halved times to disposition and expanded access to justice. In Hong Kong, China, it takes only four weeks from filing a case to its first hearing in the Small Claims Tribunal. These courts are very popular in industrial countries too. Recently, the United
Kingdom, which has had a history of success with small claims courts, increased the threshold on disputes that can be brought to these courts to £5,000. Small claims courts are also popular in Australia, Japan, and the United States.

Specialized courts with a particular subject-matter jurisdiction can also increase efficiency. Such courts have been set up for streamlined debt collection in several countries, including Germany, Japan, and the Netherlands. Many of these specialized courts emphasize arbitration and conciliation, so some of the positive results for specialized courts may be the result of their emphasis on alternative dispute resolution methods. Specialized courts also introduce simplified steps if they cut some of the general civil court procedures. For example, the recently established specialized commercial court in Tanzania cut the average time to disposition from 22 months to 3 months. The creation of the Tanzanian commercial court was the result of the combined efforts of the government, private business, and international donors.

Alternative dispute resolution: In developing countries where judicial systems are ineffective, alternative dispute resolution (ADR) mechanisms can substitute for ineffective formal legal procedures. ADR mechanisms range from informal norm-based mediation to formal arbitration courts based on a simplified legal process. These systems may be run by communities or by the state. As formal systems develop, use of formal courts increases, so proportionately more disputes are resolved in these courts. Finally, as courts become very efficient and their judgments sufficiently predictable, the use of out-of-court settlements may increase relative to the
number of court filings. The experience on ADR mechanisms is generally positive. Many successful specialized courts and indigenous justice courts incorporate a strong element of arbitration and conciliation-including the Dutch kort geding, Ecuadorian labor mediation, justices of the peace in Peru, mediation centers in Latin America, the Russian treteiskie courts and Indian Lok Adalats.41

The presence of alternative dispute resolution may reduce opportunities for corruption in developing economies. A judicial system in competition with other institutions is less able to extract rents from litigants. The poorest members of society and firms unaffiliated with large business groups are most likely to be affected adversely by inaccessible, corrupt, or inefficient courts. The experience with establishing a mediation facility in Bangladesh illustrates that transparent, swift, and accessible adjudication is possible with a relatively low budget. The evidence indicates that enforcement works best when all parties understand how the decisions are reached. The legitimacy of mediation depends in large part on incentives for agents to abide by the decisions of the forum. In most countries, this incentive is provided by societal norms, the prospect of repeat dealings, or the threat of court actions. As the Bangladesh example shows, transparency in the mediation process is important.

The main criticism of alternative dispute resolution methods, voluntary or otherwise, is that such mechanisms generally work better when the courts are efficient. In other words, parties to a dispute have incentives to settle when they know what court judgments they will get; courts complement ADR systems. However this is clearly not the case in many developing
countries, where ADR systems function as substitutes. But to function in this manner, they need to effectively represent the community for whom they adjudicate. The Lok Adalats in India, for example, are not very popular since they do not offer adequate compensation for victims, who face high costs in the courts to enforce their rights. These are more likely to be the poor people.

While few question the value of voluntary ADR mechanisms, mandatory systems have a mixed record and may have unintended consequences. This is partly due to the fact that litigants are bound by arbitration decisions. For example, they may go to the courts after mandatory arbitration. Voluntary arbitration systems may be set up by private parties or the government. In the United States, for example, the courts with the most intensive civil settlement efforts tend to have the slowest disposition times. Neither processing time nor judicial productivity is improved by extensive settlement programs. Referring cases to mandatory arbitration has no major effect on time to disposition, Lawyer work hours, or lawyer satisfaction and has inconclusive effect on attorneys' views of fairness. In some mediation programmes—for instance in Japan and in some countries in Latin America—the mediator is also the judge. This situation may be procedurally unfair, as the judge may pressure the parties into a settlement. Parties will fear being frank before the same official who will pass judgment on them later.

Procedural law: Case studies also show that simplifying procedural law can increase judicial efficiency. A factor commonly associated with inefficiency in civil law countries is the predominance of written over oral procedures. This is particularly important in Latin America. A move toward oral procedures has produced positive results in Italy, Paraguay, and

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Uruguay. In the Netherlands the kort geding—technically, the procedure for a preliminary injunction—has developed informally into a type of summary proceeding on matters of substantive law. A kort geding rarely requires more than one oral hearing. Each party presents its case and replies immediately. The president of the court indicates the parties' chances of success in a full action, and the oral hearing often ends in settlement. On average, kort geding cases take six weeks. Oral procedures are a dominant characteristic of small claims courts and specialized tribunals.

Simplification of procedures tends to have a positive impact on efficiency because greater procedural complexity reduces transparency and accountability, increasing corrupt officials' ability to obtain bribes. Procedural simplification tends to decrease time and costs and increase litigant satisfaction (for instance, the streamlined procedure of British small claims courts, or justices of the peace in Peru). The efficiency of small claims courts seems to be driven by the simplicity of procedures. Indeed, English small claims courts are not a separate institution. County court procedures have merely been modified over the years to accommodate small claims.

The overall impact of procedural simplification depends on how burdensome the procedures were previously. Reforms in clogged systems may bring about a large increase in filings in the short run but in the long run will be associated with improved service, greater litigant satisfaction, and improvements in access.

Streamlining the system by which judicial procedure itself is determined can be beneficial. If every procedural change must go through the
legislature, experimentation and innovation become difficult. Powers of the legislature to determine the organization and procedural rules of courts could be partially delegated to the judiciary; such a step has proved beneficial in Uruguay. Or the legislature could partially delegate these powers to individual courts to encourage more flexibility, as has been done in the United Kingdom, where small claims judges have the ability to adopt any procedure they believe will be just and efficient. Many procedures have been adopted because they were believed to serve fairness, protect the accused, and improve access of the poor. But the judiciary itself needs checks and balances. Such authority is best devolved to judges when there are also measures established to enhance accountability.

Not every attempt at simplification is successful, however. Design needs to be adapted to country circumstances. Hence the need for some experimentation, as Romania’s experience shows, issues such as the limit on the amount of the claim to be settled in small claims courts or the relationship between small claims courts and other parts of the judicial system can be important in determining the impact of reforms. In October 2000 the Romanian government passed a decree aimed at reducing the caseload burden of the commercial courts and shortening delays. However, the evidence suggests that certain features of the reforms have removed an element of competition within the court system that was provided by the ability to choose in some instances between the judecatorii, the small claims court for firms, and the Tribunale, the general-jurisdiction court. Previously, choice among courts enabled firms to avoid costly delay.
Another constraint on the ability of procedural reform to deliver greater judicial efficiency is the law itself. When the substantive rules are unclear and other institutions are weak, there may be a limit as to how much judicial efficiency can be improved through procedural reform. For instance, when most land is untitled, land tenure is insecure because no one is sure how courts will rule on a contested claim. A land-titling program, as Peru's experience shows, may increase judicial efficiency. In the Dominican Republic substantive changes in family and commercial law-reducing gender bias in custody cases, modernizing the commercial code, and implementing more effective sanctions against debtor-were necessary conditions for successful judicial reform. At present the legal aid to poor is functioning in all the States either by State Legislation or by a scheme or by an executive rule. The legal aid system is in the existence in United Kingdom, United States and other countries of the world.

England

The system of Legal Aid in 1495 which took in the form of a Statute in the reign of Henry VII came to be known as the procedure "In forma pauperis" in England.

After the Second World War (1939-45), the United Kingdom passed an Act "The Legal Aid and Advice 1949" for the benefit of the poor and needy. The U.K. Parliament set apart huge amounts to be spent for the purpose of Free Legal Aid and Advice to the needy persons.

United States of America

The object of providing Legal Aid and Advice in United States of America (USA) is one of the fundamental and primary objects enunciated in
the Legal Aid Programmes. In USA the Scheme of Legal Aid got statutory recognition with the enactment of the Legal Services Corporation Act 1974 which was amended in 1977 and its head office at Washington with branches in the State Capitals and other places to implement the scheme. Apart from Legal services Corporation, some of the States in USA have people's court.  

Section 13 of the Bye-laws of the America Bar Association reads "Duty of the Committee on Legal Aid work is-

1. to maintain a continuing study of the Administration of justice as it affects the poorer citizens and immigrants throughout the country.
2. to promote remedial measures to assist poor persons in the protection of their legal right.
3. to encourage the establishment and efficient maintenance of the Legal Aid Organisation and co-operate with the other agencies both public and private.

The provisions in the Civil Procedure Code of filling suits "In forma pauperis" is in vogue and also a similar provision is provided in Criminal Procedure Code. However, it is not so effective and it does not serve the purpose of providing Legal Aid to the Poor.

Russia

The judicial system in Russia is structured according to two basic principles, implying that decisions and sentences which did not come into force can be appealed only once and only at the immediately superior court. Higher courts' decisions and sentences cannot be appealed or protested. In civil and criminal cases there are courts of primary jurisdiction, courts of
appeal and higher courts, which arbitrate lower courts sentences and decisions already in force.46

Germany

The judiciary's independence and extensive responsibilities reflect the importance of the rule of law in the German system of government. A core concept is that of the Rechtsstaat, a government based on law, in which citizens are guaranteed equality and in which government decisions may be challenged in court. Federal law delineates the structure of the judiciary, but the administration of most courts is regulated by Land law. The judicial system comprises three types of courts. Ordinary courts, dealing with criminal and most civil cases, are the most numerous by far. Specialized courts hear cases related to administrative, labour, social, fiscal, and patent law. Constitutional courts focus on judicial review and constitutional interpretation. The Federal Constitutional Court (Bundesverfassungsgericht) is the highest court and has played a vital role through its interpretative rulings on the Basic Law.47

France

France appears to be the first country in the world which recognized its responsibility to the poor, who because of poverty could not exercise their legal rights, and provided for legal aid by a law of January 22, 1851.48 The French courts are divided into three levels: the Tribunaux de Premiere Instance, the Cour d'Appel, and the Cour de Cassation. These three correlate closely to the United States' Trial courts, Appeals courts, and Supreme Court.
Article 39A of Indian Constitution provides for free legal aid to the poor and the weaker sections of the society. The Legal Services Authorities Act, 1987 as amended by the Act of 1994, which came into force on 9 November 1995, aims at establishing a nation-wide network for providing free and competent legal services to the weaker sections. National Legal Services Authority (NALSA) has been set up for implementing and monitoring legal aid programmes in the country. The Supreme Court Legal Services Committee has been constituted under the Act. In every High Court also, the High Court Legal Services Committees are being established to provide free legal aid to the eligible persons in legal matters coming before the High Courts. The Act also provides for Constitution of the State Legal Services Authorities, High Court Legal Services Committees, District Legal Services Authorities and Taluk Legal Services Committees. A detailed study of Lok Adalat and free Aid in India is made in the successive chapters.

LOK ADALATS – ROLE OF SOCIAL AND PUBLIC ORGANIZATIONS

Women Associations

The Legal Aid Committee setting up the Lok Adalats should give more preference to women and help them in solving their problems with the assistance of the Women Associations and so doing should bear in mind their position and also think of providing, financial assistance to them and if their problems cannot be solved, they should be provided with some assistance to enable them to stand on their own legs. The Women Associations should come forward and give a helping hand, listen to their grievances create self-confidence in them and also provide legal aid to them.
in times of necessity and settle their disputes by referring to Lok Adatats. By so referring much time and expenditure can be avoided and also women can solve their problems without any publicity and they can be helped out of court.51

Advocates

It is the duty of all the lawyers and also the judiciary to find out a way for speedy, quick and easy rendering of justice. Therefore at this juncture, the system of Lok Adalat has been introduced throughout the country. It is said that history repeals itself. In ancient times, Village Panchayats have been functioning as fundamental legal machinery. The administration of justice in those days was purely based on principles of natural justice and was much easier and popular than it is today. There may be certain inherent defects in the ancient administration of justice, but the defects are bound to be common in any system.52

The system of Lok Adalat has been introduced parallel to the existing system of judiciary. It has yet to get statutory recognition. Since it is a new system of judiciary for the present population, the role of an advocate in this is more complex in educating the public about the benefits of solving the problems in the Lok Adalat. By referring the disputes to the Lok Adalat, all the litigant public can be benefited in several ways as it saves time, expenditure and avoid appeals and this will create healthy and friendly atmosphere between the parties. A class of people is thinking that by settling the matters before the Lok Adalat, the legal profession will lose its importance and therefore the lawyers will come in the way of smooth functioning of Lok Adalats.
Trade Unions

The trade unions representing the workers cannot compete with the managements who are backed by money power: whereas the worker cannot bear the expenses he has to meet for the litigation and the delay that is caused in settling the labour cases. The battles in the courts between the Trade Unions and Managements or the Trade Unions and the Governments are battles of unequals: one is a giant and the other is a dwarf. Therefore the third party mediating between the two for bringing out a compromise is necessary and the 'Lok Adalat being a such third party better intervene in the Labour disputes and save the and cost of litigation.53

If the parties agree to refer their cases before Lok Adalat, the Lok Adalat as a third party will convince both the workers' representatives and the representatives of the Managements after seeing the facts of the case. And this settlement being a final settlement with no appeals the workers are benefited with such settlements with whatever achievements they have won in the case. Thus the Lok Adalat is helping the poor worker in settling his case. There are hundreds and thousands of cases pending before the Labour Courts/ Tribunals on minimum wages, payment of wages and on bonus, etc.

Judicial Officers

The role of the Judicial Officers as promoters of Lok Adalats is two-folded; one is clearing the backlogs and the other is preventing the mounting of cases in future by conciliatory methods or though other legal means. The judicial officers can promote Lok Adalats by:

i) forming Lok Adalat Committees

ii) making the parties agree to seek reconciliation with the Lok Adalats
iii) by adjourning the matters for a reasonable period and

iv) finally in recording the compromise

Coming to the part to be played by the Judicial Officers in the working of this system, though the judicial officer is not directly involved, he is not a helpless spectator in the process. The Judge shall dynamise the process and infuse confidence and courage in the litigant public to see that litigant public takes this institutions not simply as a contrivance to dispose cases, but as an institution to create confidence in the judicial process.\textsuperscript{54}

Academic Institutions

The success of Lok Adalats also depends upon the Academic Institutions. For instance the Law Schools can perform the following three functions.

(1) Process the cases of the poor approaching the Legal Aid Cell and take them to Court;

(2) Conduct Surveys on implementation of Social Welfare legislation; and

(3) Eradicate legal illiteracy in collaboration with the Department of Adult Education.

In the movement of 'justice to the poor', it is obvious that the academicians have to perform a variety of roles which they are expected to play in our society. The need for legal aid arises from the way legal system operates today where 'access to justice' is dependent on ones' status and power to influence. The directive of providing legal aid to the poor and needy is addressed to the State by the Constitution has a special significance to the
legal community including law teachers and students through whom only the Directive can find realization in practice.\textsuperscript{55}

Legal aid clinic is the best strategy for an educational institution to serve the community and elicit its support. Education, particularly higher education, cannot merely be any more an intellectual exercise aloof from community problems around. More so in a poor country like India, universities have obligations to their immediate neighbourhood which supports and nourishes it. There is no better way for the Law College to discharge this obligation than to join the effort of reaching justice to the poor.

An Overview

This concept of Lok Adalat has become very popular and is gaining historical momentum. Experience has shown that it is one of the very efficient and important ADRs and most suited to the Indian environment, culture and societal interests. The finest hour of justice is the hour of compromise when parties after burying their hatchet reunite by a reasonable and justice compromise. This Indian-institutionalized, indigenized and now, legalized concept for settlement of dispute promotes the goals of our Constitution. Equal justice and free legal aid are hand in glove. It is, rightly said, since the second world war, the greatest revolution in the law has been the mechanism of evolution of system of legal aid which includes an ADRM. The statutory mechanism of legal services includes concept of Lok Adalat in the Legal Services Authorities Act. The legal aid, in fact, is a fundamental human right.
Indian socio-economic conditions warrant highly motivated and sensitized legal service programmes as large population of consumers of justice (heart of the judicial anatomy) are either poor or ignorant or illiterate or backward, and, as such, at a disadvantaged position. This State, therefore, has a duty to secure that the operation of legal system promotes justice on the basis of equal opportunity. Alternative dispute resolution is, neatly, worked out in the concept of Lok Adalat. It has provided an important juristic technology and vital tool for ease and early settlement of disputes. It has again been proved to be a successful and viable national imperative and incumbency, best suited for the larger and higher sections of the present society and Indian system. The concept of legal services which includes Lok Adalat is a "revolutionary evaluation of resolution of disputes".

The concept of Lok Adalat is no longer an experiment in India, but it is an effective, efficient, pioneering and palliative alternative mode of dispute settlement which is accepted an a viable, economic, efficient, informal, expeditious form of resolution of disputes. It is a hybrid, or admixture of mediation, negotiation, arbitration and participation. The true basis of settlement of disputes by the Lok Adalat is the principle of mutual consent, voluntary acceptance of conciliation with the help of counsellors and conciliators. It is a participative promising and potential ADRM. It revolves round the principle of creating awareness among the disputants to the effect that their welfare and interest, really, lies in arriving at amicable immediate, consensual and peaceful settlement of the disputes. The administration of justice in India from a historical perspective is discussed in the next chapter.
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