CHAPTER-VIII
PROBLEMS AND PERSPECTIVES OF LOK ADALAT

Whatever standards a man chooses to set for himself, be they religious, moral, social or purely rational in origin, it is the law which prescribes and governs his rights and duties towards the other members of the community. This somewhat arbitrary collection of principles he has very largely to take as he finds and in a modern society it tends to be so diverse and complex that the help of an expert is often essential not merely to enforce or defend legal rights but to recognize, identify and define them.¹

The Encyclopedia Britannica defines legal aid as phrase which is acquired by usage and court decisions, a specific meaning of giving to person of limited means grants or for nominal fees, advice or counsel to represent them in court in civil and criminal matters." Inability to consult or to be represented by a lawyer may amount to the same thing as being deprived of the security of law. "Rawls first principle of justice is that each person is to have an equal right to the most, extensive total system of equal basic liberties compatible with a similar system of liberties for all. Legal Aid is the method adopted to ensure that no one is debarred from professional advice and help because of lack of funds. Thus, the provisions of legal aid to the poor are based on humanitarian considerations and the main aim of these provisions is to help the poverty-stricken people who are socially and economically backward.

Lord Denning while observing that Legal Aid is a system of government funding for those who cannot afford to pay for advice, assistance and representation said: "The greatest revolution in the law since the post second World has been the evolution of the mechanism of the system for legal aid. It means that in many cases the lawyers' fees and expenses are paid for by the state: and not by the party concerned. It is a subject of such importance that I venture to look at the law about costs-as it was as such it is and as it should be.

Seven hundred years old clarion call of Magna Carta- "To no one will we sell, to no one will we refuse or delay the right to justice", very pertinently embodies the

¹ Mathews and Outton
principle of legal aid. But it was only when the colonial hangover of the Indian legal system was pointed by the committee for legal aid and was stated that the shadow of law created by the British to suit their convenience, has resulted in an insensitive system especially towards the socio-economic problems of the masses it set out to govern and regulate, that the Indian legislature incorporated the concept of legal aid in the form of Article 39A into our constitutional framework. Hence, legal aid is not a charity or bounty, but is a constitutional obligation of the state and right of the citizens. The problems of human law and justice, guided by the constitutional goals to the solutions of disparities, agonies, despairs, and handicaps of the weaker, yet larger brackets of Bharat's humanity is the prime object of the dogma of "equal justice for all". Thus, legal aid strives to ensure that the constitutional pledge is fulfilled in its letter and spirit and equal justice is made available to the downtrodden and weaker sections of the society. Justice Krishna Iyer regards it as a catalyst which would enable the aggrieved masses to re-assert state responsibility, whereas Justice P.N. Bhagwati simply calls it "equal justice in action". But, again, the constitution not being a mystic parchment but a pragmatic package of mandates, we have to decode its articles in the context of Indian life's tearful realities and it is here when the judiciary has to take centre stage. The judicature, which by its creative interpretations has given an encyclopedic meaning to the concept of legal aid. Time and again it has been reiterated by our courts that legal aid may be treated as a part of right created under Articles 21 and also under Article 14 and Article 22(1). The apex Court has held access to justice as a human right. Thus, imparting life and meaning to law.

8.1 International Status

Over seven centuries ago, the beginning of equal justice under the law was marked by the inscription in the 40th paragraph of the Magna Carta:

"To no one will we sell,
to no one will we deny
or delay right or justice."

"Thus on the green meadows of Runnymede was sown the constitutional seed of legal aid in the modern world which has travelled to all the continents as part of civilized jurisprudence."
The international concern for human rights found expression, after the First World War in covenants of the League of Nations and further in the Declaration of Human Rights, the Conventions which followed specifically incorporated the concept of legal aid.

8.2 India

Humanism, which is the source and strength of legality, is writ large in the theme of legal services to the poor in that part of our planet where backwardness and indigence have struck the hardest blows through the legal process itself on the lowly and the lost." "Pre-British India had practiced "Constitutional monarchy" and the days of the Hindu and Muslim rulers had witnessed unsophisticated methodology and immediately. In short, justice to the citizens-high and low-has been an Indian creed of long ago.

After Independence schemes of legal aid was developed under the aegis of Justice N.H. Bhagwati, then of Bombay High Court and Justice Trevore Harris of Calcutta High Court. The matter of legal aid was also referred to the Law Commission to make recommendations for making the legal aid program an effective instrument for rendering social justice. Coming up with recommendation in its XIV report, under the leadership of leading jurist M.C. Setalvad, the Commission opined that fee legal aid is a service which should be provided by the State to the poor. The state must, while accepting the obligation, make provision for funds to provide legal aid. The legal community must play a pivotal role in accepting the responsibility for the administration and working of the legal aid scheme. It owes a moral and social obligation and therefore, the Bar Association should take a step forward in rendering legal aid voluntarily. These would include representation by lawyers at government expenses to accused persons in criminal proceedings, in jails, and appeals. The Commission also recommended the substitution in order XXXII, Civil Procedure

Code of the word pauper with poor persons. Acting on the recommendations of the Law Commission, the Government of India in 1960 prepared a national scheme of legal aid providing for legal aid in all courts including tribunals. It envisaged the establishment of committees at the State, District and Tehsil level. However, due to
the inability of States to implement the scheme because of lack of finances the scheme did not survive.

Meanwhile the judicial attitude towards legal aid was not very progressive. In Janardhan Reddy V. State of Hyderabad 251 SQ 17 and Taa Singh V. State of Punjab AIR 1951 SC 411 the Court, while taking a very restrictive interpretation of statutory provisions giving a person the right to lawyer, opined that this was, privilege given to the accused and it is his duty to ask for a lawyer if he wants to engage one or get his relations to engage one for him. The only duty, cast on the Magistrate is to afford him the necessary opportunity (to do so)." Even in capital punishment cases the early Supreme Court seemed relentless when it declared that "it cannot be laid down in every capital case where the accused is unrepresented the trial is vitiated." Thus it can be pointed out that newly Independent India was not clear about the broad perspective of its legal aid programme. For again trying to receive the programme the Government of India formed an expert committee, the Krishna Iyer Committee, in 1973 to see as to how the states should go about devising and elaborating the legal aid scheme. The committee came out with the most systematic and elaborated statement regarding establishment of legal aid committees in each district, at state level and at the centre. It was also suggested that an autonomous corporation be set up, law clinics be established in Universities and lawyers be urged to help. The Government of India also appointed a committee on judicature under the chairmanship of Justice P.N. Bhagwati to effectively implement the legal aid scheme. It encouraged the concept of legal aid camps and Nyayalayas in rural areas. The committee in its report recommended the introduction of concept of legal aid in the constitution of India. Accepting this recommendation in the 1976, Article 39-A was introduced in the Directive Principles of State Policy by 42nd Amendment of the Constitution. With the object of providing free legal aid, the Government of India had, by a resolution dated 26th September, 1980 appointed a committee known as "Committee for Implementing Legal Aid Schemes" (CILAS) under the chairmanship of Chief Justice P.N. Bhagwati to monitor and implement legal aid programs on a uniform basis in all the States and Union Territories. 'CILAS' evolved a model scheme for legal aid programs applicable
throughout the country by which several legal aid and advice Boards were set up in the States and Union Territories.

Although legal aid was recognized by the Courts as a fundamental right under Article 21 reversing their earlier stance, the scope and ambit of the right was not clear till this time. The step was taken in Sunil Batra V. Delhi Administration (1978) 4 SCC 494, where the two situations in which a prisoner would be entitled for legal aid was given. First was to seek justice from the prison authorities and second, to challenge the decision of such authorities in the Court. Thus, the requirement of legal aid was brought about in not only judicial proceedings but also proceedings before the prison authorities which were administrative in nature. The Court has reiterated this again in Hussainara Khatoon V. State of Bihar (1980) ISCC 98 and said: "It is an essential ingredient of reasonable fair and just procedure to a prisoner who is to seek his liberation through the Court's process that he should have legal services available to him. Free legal service to the poor and the needy is an essential element of any reasonable fair and just procedure." The Court invoked Article39-A which provides for free legal aid and has interpreted Article 21 in the light of Article 39-A. The Court upheld the right to free legal aid to be provided to the poor accused persons not in the permissive sense of Article 22(1) and its wider amplitude but in the peremptory sense of Article 21 confined to prison situations

Two years thereafter, in the case of Khatri V. State of Bihar AIR 1981 S.C. at page 926 Justice P.N. Bhagwati while referring to the Supreme Court's mandate in the afore-said Hussainara Khatoon's case made the following comments in paragraph 4 of the said judgment:

It is unfortunate that though this Court declared the right to legal aid as a fundamental right of an accused person by a process of judicial construction of Article 21, most of the States in the country have not taken note of this decision and provided free legal services to a person accused of an offence. The State is under a constitutional mandate to provide free legal aid to, an accused person who is unable to secure legal services on account of indigence, and whatever is necessary for this purpose has to be done by the State.
In 1986 in another case of *Sukhdas v. Union Territory of Arunachal Pradesh* 195 Justice P.N. Bhagwati, while referring to the decision of Hussainara Khatun's case and some other cases had made the following observations in paragraph 6 of the said judgment: - Now, it is common knowledge that about 70% of the people living in rural areas are illiterate and even more that percentage of the people are not aware of the rights conferred upon them by law. It is this absence of legal awareness which is responsible for the deception, exploitation and deprivation of rights and benefits from which the poor suffer in this land. Their legal needs always stand to become crisis oriented because their ignorance prevents them from anticipating legal troubles and approaching a lawyer for consultation and advice in time and their poverty because magnifies the impact of the legal troubles and difficulties when they come. Moreover, of their ignorance and illiteracy, they cannot become self-reliant; they cannot even help themselves. The law ceases to be their protector because they do not know that they are entitled to the protection of the law and they can avail of the legal service programs for putting an end to their exploitation and winning their rights. The result is that poverty becomes with them. a condition of total helplessness. This miserable condition in which the poor find themselves can be alleviated to some extent by creating legal awareness amongst the poor. That is why it has always been recognized as one of the principal items of the program of the legal aid movement in the country to promote legal literacy. It would be in these circumstances made a mockery of legal aid if it were to be left to a poor, ignorant and illiterate accused to ask for free legal service, legal aid would become merely a paper promise and it would fail of its purpose."

It was in the above backdrop that the Parliament passed the Legal Services Authorities Act 1987, which was published in the Gazette of India Extraordinary Part II, Section 1 NO.5 5 dated 12th October 1987. Although the Act was passed in 1987, the provisions of the Act, except Chapter III, were enforced with effect from 9.11.95 by the Central Government Notification S0.893 (B) dated 9th November 1995. Chapter III, under the heading "State Legal Services Authorities" was enforced in different States under different Notifications in the years 1995-1998.
8.3 Legal Aid under Legal Services Authority Act, 1987

According to Section 2(1) (a) of the Act, legal aid can be provided to a person for a 'case' which includes a suit or any proceeding before a court. Section 2(1) (a) defines the 'court' as a civil, criminal or revenue court and includes any tribunal or any other authority constituted under any law for the time being in force to exercise judicial or quasi-judicial functions. As per Section 2(I)(c) 'legal service' includes the rendering of any service in the conduct of any case or other legal proceeding before any court or other authority or tribunal and the giving of advice on any legal matter. Legal Services Authorities after examining the eligibility criteria of an applicant and the existence of a prima fade case in his favor provide him counsel at State expense, pay the required court fee in the matter and bear all incidental expenses in connection with the case. The person to whom legal aid is provided is not called upon to spend anything on the litigation once it is supported by a Legal Services Authority.

Under The Legal Services Authorities Act, 1987 every citizen whose annual income does not exceed Rs.9000 is eligible for free legal aid in cases before Subordinate courts and High courts. In cases before the Supreme Court, the limit is Rs.12000. This limit can be increased by the State Governments. Limitation as to the income does not apply in the case of persons belonging to the scheduled castes, scheduled, tribes, women, children, handicapped, etc. Thus, by this the Indian Parliament took a step forward in making the legal aid possible in the country.

In India a large number of people live in villages in a state of poverty and lack of resources. Most of them are illiterate and ignorant about the voluminous and numerous laws applicable in India and the cumbersome procedures attached to them. Although the ignorance of law is considered not to be an excuse, but in case of these poor, illiterate and downtrodden masses, their ignorance lead to their own harm. They are ignorant about the laws which might support them and the rights and privileges which they can avail. They go on languishing in jail because they do not know what to do next. Some of whom who might be knowing some laws are so poor that they cannot even pursue their case, in the courts of law. Criminal justice is not free and comes at a cost; sometimes monetary and sometimes at the cost of oneself.
Free legal aid is the need of the hour to help these sections of the society. Although the Constitution of India under Article 39A, 14, 19 & 21 mandates for free legal aid but in reality a large number of poor and downtrodden people still remain without any legal assistance. Even in some of the decisions handed over by the Supreme Court in recent years, have demonstrated that the constitutional mandate and statutory guarantee of legal rights, remain non-existent for a large percentage of illiterate, ignorant and poor population of our country.

Even after these judicial pronouncements which not only articulated legal norms, but assessed the reality prevailing in society and administered at different stages, there still lays a vast gap existing between law in words and law in action. The solution to social injustice lies within us only. We should be aware of the expressions - the poor, the backwards, social justice which are being used to undermine standards, to flout norms and to put institutions to work. We should subject every claim whether it is made in the name of the poor, the backward, whosoever to rational examination. After it has been in effect for a while, subject every concession to empirical evidence. We should shift from equality of outcomes to equality of opportunities. And in striving towards that, nudge politicians to move away from the easy option of just decreeing some reservations, etc. to doing the detailed and continuous work that positive help requires, the assistance that the disadvantaged need for availing of equal opportunities. We must bear in mind that if the majority disregards smaller sections in the community, it drives them to rebellion. We should try to refashion the policies of state on truly secular and liberal principles. The individual and not the group should be the unit of state policy.

Since no society is static, and social processes are constantly changing, a good legal system is one which ensures that laws adapt to the changing situations and ensure social good. Any legal system aiming to ensure good should ensure the basic dignity of the human being and the inherent need of every individual to grow into the fullness of life. The hope of the Indian masses does not lie in the legal system alone, but in their conscious awakening and fight for social and economic justice. Knowledge of their legal rights however, can be an important motivating force in this. Many NGO's and, individuals are emerging in different parts of the country to take up
the cause of social change and change for a more just India, where justice will not merely be talked about in intellectual discussions on the intricacies of law or written about in books which the masses can't read or exchange for good old money, but actually lived and experienced by the majority of the people.

**8.4 State Initiatives**

A comprehensive programme of Legal Aid and Legal Services is launched in various states under the auspices of Legal Services Authorities Act. The Programme as launched has helped a large number of people but still the measures has helped a large number of people but still the measures taken are like drops of hope in an ocean of problems. Politicians have also acted as retardants in the growth of, Legal Aid programmes. They influence the appointment of law officers. Most of the officers so appointed are either corrupt or incompetent. Even those who try to do justice with their job are discouraged by the quantum of payments which are made to them.

Therefore these partisan practices should be avoided; otherwise it will bring discredit to the entire scheme of legal aid and frustrate its pious objectives of taking justice to the poor.

The motor accident cases that figure so prominently in the caseload at the Lok Adalats, governmental and voluntary, are not cases diverted from the rigidities of ordinary unreformed civil proceedings. Instead they are cases diverted from a "reformed" and "streamlined" sector of the court system, the Motor Accident Claims Tribunal, them established to provide expeditious proceedings with no court fees and some compensation available without a showing of fault. This accentuates the point that Lok Adalats do not provide additional access to justice: they do not provide new facilities for the vast portion of potential claims that are discouraged-paltry recoveries-from using the courts at all. More systematic data is needed before any firm conclusions can be drawn, but from the information presently available to us, it appears that Lok Adalats provide a truncated process for some of those few who do attempt to utilize the courts.

The disposal of legal disputes at pre-litigative stage by the permanent and continuous Lok Adalats provides expense-free justice to the citizens of this country. It also saves courts from additional and avoidable burden of petty cases, enabling them
to divert their court-time to more contentious and old matters. The philosophy of permanent and continuous Lok Adalats sprouts from the seeds of compassion and concern for the poor and downtrodden in the country and deserves support from all of us to make to grow as a tree giving fruit, fragrance and shade to all.

The Legal Services Authorities Act of 1987 (amended 1994) visualizes a regime of Lok Adalats with jurisdiction over "any matter" composed of judicial officers and other qualified members, authorized to proceed according to its own procedures, which need not be uniform and to be "guided by the principles of justice, equity, fair play and other legal principles." Rather than an award in accordance with the law the Lok Adalat is instructed to arrive at a compromise or settlement." The 1994 amendments to the Act mandate that the compromise "shall be final and binding on all the parties to the dispute and no appeal shall lie to any court against the award."

Lok Adalats differ sharply from the earlier nyaya panchayats. The jurisdiction of Lok Adalats is not confined to specified categories of minor matters, but can extend to "any matter."

Instead of the popularly responsive panches, Lok Adalat officials are nominees of the state administration. Where the panches could issue decisions, the Lok Adalat panelists can only "determine and arrive at a compromise or settlement." This campaign to institutionalize Lok Adalats comes in spite of (and perhaps because of) the fact that little is known about their performance. One serious issue that immediately comes to mind is whether this "informalism" disadvantages weaker parties. The few available accounts raise a host of serious questions. For example, how genuine is the "consent" by which the parties consign their cases to Lok Adalats.? Moog portrays pressures on officials to produce large numbers of cases for Lok Adalats, leading in some instance to the institution of criminal cases for the purpose of having them resolved there.

The concept of Lok adalat is no longer an experiment in India, but it is an effective and efficient, pioneering and palliative alternative mode of dispute settlement which is accepted as 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 amongst the disputants to the effect that their welfare and interest, really, lies in arriving, at amicable, immediate, consensual and peaceful settlement of the disputes.

Within the Indian legal world, the tide is running strongly toward a debased informalism that reflects a resigned pessimism about the liberative possibilities of the law and the abandonment of any aspiration to strategic action on behalf of the disadvantaged. With the embrace of Lok Adalats the Indian state seems to have abandoned the attempt to supply remedies and protections through accessible and effective lower courts. For important cases and important people, there are the higher courts with the full panoply of legal process, while others can make do with Lok Adalats. But not everyone acquiesces in writing off courts as an important service. In various parts of the country political groups have established rival courts that challenge both the legitimacy and efficacy of the official courts. In the state of Bihar, for example, the Maoist Communist Centre, a group of militant revolutionaries, have established their own courts (Jan Adalats) in several rural sectors of the state. The Jan Adalats deal with both civil and criminal matters and as one report notes overall "the extremist outfits run a parallel government" within the state. The courts function often in a brutal manner, lacking any sort of due process and levying punishments ranging from hefty fines to public floggings to the serving of limbs to beheadings. Yet recent accounts indicate that "these courts are gaining popularity among the villagers [in fact in Bihar] the number of cases in (official, government) district courts have dropped from about 2,400 a year to just, 1,600, presumably because local citizens are turning away from stage courts - which "entail huge amounts of money and time" - in favor of these Jan Adalats that are hearing both criminal and civil matters. In Andhra Pradesh another revolutionary group known as the Naxalites also has set up their own "People's Court". The Naxalites originated in state of West Bengal (in a village known as Naxalbari) in 1967, and since then there have been many splinter groups that have formed throughout the country. A recent report from the Federation of American Scientists, a private, U.S. based think tank that monitors issues of national security
and public policy, noted that summary justice is a key characteristic of the Naxalite courts in Andhra. Naxalite courts too lack due process and as part of their functioning those found to be police informants or enemies of the Movement are summarily executed. Operation of courts is not confined to revolutionary groups. It is also found in groups that are part of the political establishment. In Maharashtra, the ruling party, the Shiv Sena, runs its own courts out of various local party offices (shakhas). These courts handle mostly civil law matters and the judges who decide disputes are the local leaders with the shakhas who are known as shakhas pramukhs. The judges neither are without training in the law nor are they paid for their services. The police frequently work in tandem with the judges. Sparse records are kept of the cases, and judgments are delivered orally and not kept in writing. Litigants typically do not have representation and most decisions are rendered in a single sitting, with no provision for appeal and little choice but to follow the "court's" order. Notwithstanding such seemingly undemocratic features the Shiv Sena court system seems now to be part and parcel of the legal cultural in Maharashtra.

In many parts of India, local strongmen (dadas) sit as settlers’ disputes among rich people. In some places, senior police officers may be arbiters of disputes. The vernacular press refers too many of these phenomena as panchayats (pejoratively). Presumably such practices are not entirely new, have become more frequent, in some areas, particularly among lower, castes, caste panchayats, especially in family matters. Although the gram panchayats promoted as institutions of local self-government have no judicial authority, at least occasionally they arrogate such judicial power to themselves. It was reported from Haryana, the long arms of law are yet to reach Omi Devi of Karah Saheb, but the gram panchayat did not lose any time in taking action against her for the dowry death of her daughter-in-law, Rani. Unable to bear torture she had been subjected to for the past six months in an attempt to force her to bring more dowry, Rani committed suicide by taking poison on 3 July. The gram panchayat met on the same day and unanimously exiled her mother-in-law Omi Devi from the village for a period of six months. (Rani’s) husband, Devi Lal, was also barred from remarrying for one year. Omi’s family was directed to give a two-acre piece of land to Rani’s eight-month-old son and make a fixed deposit of Rs.50,000 in the name of her
Although earlier efforts to promote locality-based panchayats with judicial authority were unsuccessful, some states seem willing to try again. In 2001 the State of Madhya Pradesh inaugurated the first of what is expected to be a system of seven-member village courts to be known as gram nyayalyas. The jurisdiction of these village courts is somewhat unclear, although one observer notes that the Civil Codes of Procedure will not be applicable. What binds together is that collection of rivals to the court system is not only their departures from due process, but their success in attracting users. Surely some participants come to these rival courts under duress; but the costly, slow and frustrating character of the official judicial process makes it understandable that many voluntarily choose these rivals and acquiesce in their decisions. There is a market for courts that give prompt and enforceable judgments. Where the state fails to provide such courts, others who appreciate their potential for mobilizing political support and generating legitimacy will try to fill the vacuum. We submit that faux traditional Lok adalats will not be a robust contender in this competition. The discounting of everyday civil justice in the state courts, the official pessimism about reform, the "load shedding" into Lok Adalats, and the nourishing of alternative forums reflect a "hollowing out of the Indian state. By this we refer to a process by which there is a transfer of certain public policy functions to other institutions, resulting in a reduction of "government leverage over (those particular) public policy" areas. In India the penetration of governmentally-spoused norms into effective local practice is often partial or merely symbolic. Arun Shourie, commenting on the inability of the Supreme Court to effectuate its public interest decision about the quarry workers, observes; "The lesson is that reality is recalcitrant to the extreme, it is obstinate as can be: the countryside as well as aspects of urban life are in the grip of the counterparts of the mine owners. In many ways they are the real government of India. Institutions of State- the Labour Commissioners and the like-are in sense actors in a shadow play. They just go through the motions. Just imagine how much more the courts will have to do, even the highest Court will have to do, to actually register some difference on the problems that they take up."
8.5 Perspective of Lok Adalat and Permanent Lok Adalat (PLA):

During the last few years Lok Adalat has been found to be a successful tool of alternate dispute resolution of India. It is most popular and innovative nature and inexpensive style. The system received wide acceptance not only from the litigants, but from the public and legal functionaries in general. In India, during the last few years Lok Adalat has been functioning continuously and permanently in every district centre. In Taluk centers also sitting of Lok Adalats have been held successfully. Several thousands of pending cases and disputes which had not reached law courts have been settled through Lok Adalats.

The major defect of the mechanism of Lok Adalat is that it cannot take a decision, if one of the parties is not willing for a settlement, though the case involved an element of settlement. The adamant attitude shown by one among the parties will render the entire process futile. Even if all the members of the Lok Adalat are of the opinion that the case is a fit one for settlement, under the present set-up, they cannot take a decision unless all the parties consent. In his inaugural address at the second annual meet of the State Legal Services Authorities, 1999, the then Hon'ble Chief Justice Dr A.S. Anand airing him views stated thus: -

There will be no harm if Legal Service Authorities Act is suitably amended to provide that in case, in a matter before it, the Judges of the Lok Adalats are satisfied that one of the parties is unreasonably opposing a reasonable settlement and has no valid defence whatsoever against the claim of the opposite party, they may pass an award on the basis of the materials before them without the consent of one or more parties. It may also be provided that against such awards, there would be one appeal to the court to which the appeal would have gone if the matter had been decided by the court.... This course, I think, would give relief to a very large number of litigants coming to Lok Adalat at prelitigative stage as well as in pending matters

In 2002, Parliament brought about certain amendments to the Legal Services Authorities Act, 1987. The said amendment introduced Chapter with the caption prelitigation conciliation and settlement. Section 22-B envisages establishment of "PERMANENT LOK ADALATS (PLA)" at different places for considering the cases in respect of Public Utility Services (PUS).
If there is a dispute with respect to PUS, as per Section 22-C (1), any party to such a dispute can, before bringing it to a court of law for adjudication, make an application to PLA for the settlement of that dispute. The party making such application need not be a party who raises a claim against a public utility service. If a claim is made by one against a public utility service, the establishment carrying out the public utility service can also raise that dispute before PLA to resolve it. The only limitation is that PLA shall not have jurisdiction to consider a dispute relating to an offence not compoundable under any law or any matter where the value of the property in dispute exceeds Rs. 10 lakhs. But the Central Government can, by an appropriate notification, increase this limit. Once an application has been made to PLA by one party, no party to that application shall invoke the jurisdiction of any court in the same dispute.

PLA has to be established by the National legal Services Authority or the State Legal Services Authorities. It shall have three members; the Chairman, who is or has been a District Judge or an Additional District Judge or has held a judicial office higher in rank than that of a District Judge and two other members having adequate experience in public utility service. Such persons shall be appointed by the State or the Central Authority, as the case may be, upon nomination by the respective Governments. But at the same time, such nomination shall be on the recommendation of the Central or the State authority. Section 22-C (3) provides that when an application is filed written statements with appropriate proof, including documents and other evidence. Copies of documents produced and statements made by the parties shall be given to each other. Therefore, PLA shall conduct conciliation proceedings between the parties to bring about an amicable settlement to the dispute. It is the primary duty of PLA as per Section 22-C (4). While conducting such conciliation proceedings, it is incumbent on the members of PLA to assist the parties to reach an amicable settlement.

But the award of Permanent Lok Adalat (PLA) envisaged in the newly introduced Chapter VI-A is different. If it is an award upon consent of parties and is as a result of compromise, necessarily, nobody will think of an appeal. When there is a decision by PLA, as the parties did not agree for a compromise, it is possible that the
aggrieved party may think of an appeal. Every award of the Permanent Lok Adalat, whether it is based on consent of the parties, or on compromise or upon the decision, shall be deemed to be a decree of a civil court”. Thus the decision taken by PLA will have all the attributes of a decree of a civil court. It will be taken and considered in all respects, as a decree of a civil court. Every decree, unless it is appealed against and so long as it is allowed to continue, will be final and binding on the parties. Same is the case of an award of PLA. It is true that there is no provision for appeal. But appeal is not expressly excluded, in the case of award of PLAs. It is not stated anywhere in the Act that an award of PLA shall not be called in question in any appeal, as is done in the case of the award of an ordinary Lok Adalat (LA) in Section 21(2) of the Act.

Certainly, appeal will lie only if it is provided somewhere by law. Otherwise, one cannot file an appeal. It seems that the provision of Section 96(1) CFC could be relied on to establish that an appeal is not excluded as already mentioned above. The award of PLA has all the attributes of a civil court decree and it is deemed as a decree of a civil court.

Section 96(1) provides:

Save where otherwise expressly provided in the body of this Code or by any other law for the time being in force, an appeal shall lie from every decree passed by any court exercising original jurisdiction to the court authorized to hear appeals from the decisions of such court.

When the award of PLA is treated as a decree of civil court and as it is not otherwise provided in the Legal Services Authorities Act that no appeal shall lie from such award, necessarily, that being deemed a civil court decree, an appeal shall lie from that decree.

An award of PLA shall be executed by a civil court "having local jurisdiction" depending upon the amount of the decree. Necessarily, an appeal shall also lie to a court depending upon the quantum of the amount involved in the decree or to the High Court being a decision of a body consisting of three persons of which a District Judge or a retired District Judge is the Chairman. So there is possibility for a judicial review in an appeal.
In the case of the awards of ordinary Lok Adalat (LA), the statute specifically provides that it shall not be challenged in an appeal. But the very same legislature did not legislate such a provision when it dealt with the award of PLA. The manifest difference in the provisions relating to the award of PLA and LA is not accidental, qualifications, so that the litigations will have confidence that the persons deciding their disputes are sufficiently qualified and able.

As already mentioned above, it is possible, if somebody raises a claim against public utility services, the latter can bring that dispute before PLA. PLA may take some time to render a decision. In case no compromise is arrived at, and if the case involves no element of settlement what will happen, if in the meantime the period of limitation is over, so far as the claimant, party is concerned can it be taken that he has been "prosecuting with due diligence in civil proceedings" in a court. Because, so far as PLA is concerned, he was not the party initiating the dispute. The Lok Adalat is not treated as a court, but only vested with certain powers of a civil court or shall be deemed to be a civil court for the purpose of Section 195 and Chapter XXVI of the code of criminal procedure. These aspects require consideration.

With regard to the functioning of PLA in so far as it is given the power to decide a dispute when the parties do not agree for a settlement. While deciding the dispute, it is made that the provisions of the Code of Civil Procedure and the Indian Evidence Act will not have application. In other words, the determination or decisions will be in a summary manner. As already mentioned above, PLA is given ample power in the matter of reception of evidence, examination of witnesses etc. the power that a civil court has. A decision is possible only in those cases where in a opinion of the Permanent Lok Adalat "there exist elements of settlement". In such cases, PLA formulates the terms of a possible settlement and gives such terms to the parties concerned for their observations. These observations will be considered on the basis of evidence produced by the parties. If they do not come to a settlement, PLA shall decide the dispute. That means PLA is not given the power to decide every dispute coming before it. Only those disputes where there exist elements of settlement can be decided by the Permanent Lok Adalat. The decision or the opinion of the Permanent Lok Adalat as to whether there exist elements of settlement is also a mater which can
be subjected to judicial review under Article 226 of the Constitution of India. Therefore, there shall be a check in that respect as well. It is further ensured in the Act that while deciding the dispute on merit, PLA shall be guided by the "principles of natural justice, objectivity, fair play, equity and other principles of justice". Thus, a fair procedure is always envisaged. Therefore, there is no reason for any criticism on the power granted to PLA to decide the dispute in the event of a settlement not being arrived at despite the existence of an element of settlement.

It cannot be said that there is no appeal against the decision of PLA. So far as the ordinary Lok Adalat (LA) are concerned which is in existence even prior to the amendment is still being continued no appeal will lie against an award of that Lok Adalat. The ordinary LA adopts only a conciliatory method and does not decide a dispute. Therefore, disputes are settled on consent of the parties. When a dispute is settled based on consent, no appeal lies from any such order or award even if there is a settlement in court. Under the civil procedure law also no appeal shall lie from a decree passed on consent of the parties. This is the reason the Act declares that "no appeal shall lie to any court against the award" of ordinary Lok Adalat (LA) envisaged in chapter I of the Act.

But the award, of Permanent Lok Adalat (PLA) envisaged in the newly introduced Chapter VI-A is different. If it is an award upon consent of parties and is as a result of compromise, necessarily, nobody will think of an appeal. When there is a decision by PLA, as the parties did not agree for a compromise, it is possible that the aggrieved party may think of an appeal. Every award of the Permanent Lok Adalat, whether it is based on consent of the parties, or on compromise of upon the decision, "shall be deemed to be a decree of a civil court". Thus the decision taken by PLA will have all the attributes of a decree of a civil court. It will be taken and considered in all respects, as a decree of a civil court. Every decree, unless it is appealed against and so long as it is allowed to continue, will be final and binding on the parties. Same is the case of an award of PLA. It is true that there is no provision for appeal. But appeal is not expressly excluded, in the case of award of PLAs. It is not stated anywhere in the Act that an award of PLA shall not be called in question in any appeal, as is done in the case of award of an ordinary Lok Adalat (LA) in Section 21 (2) of the Act.
Certainly, appeal will lie only if it is provided somewhere by law. Otherwise, one cannot file an appeal. It seems that the provision of Section 96(1) CPC should be relied on to establish that an appeal is not excluded. As already mentioned above, the award of PLA has all the attributes of a civil court decree and it is deemed as a decree of a civil court. Section 96(1) of the Code of Civil Procedure, 1908 provides:

*Save where otherwise expressly provided in the body of this Code or by any other law for the time being in force, an appeal shall lie from every decree passed by any court exercising original jurisdiction to the court authorized to hear appeals from the decisions of such court.*

When the award of PLA is treated as a decree of civil court and as it is not otherwise provided in the Legal Services Authorities Act that no appeal shall lie from such award, necessarily, that being deemed a civil court decree, an appeal shall lie from that decree.

An award of PLA shall be executed by a civil court "having local jurisdiction" depending upon the amount of the decree. Necessarily, an appeal shall also lie to a court depending upon the quantum of the amount involved in the decree or to the High Court being a decision of a body consisting of three persons of which a District Judge or a retired District Judge is the Chairman. So there is possibility for a judicial review in an appeal.

What is remarkable is how modest these are. Proponents of Lok Adalat, like earlier reformers, claim to draw on the legacy of panchayats. But they are distinct from traditional panchayats in virtually every respect: they operate in the shadow of the official courts; they are staffed by official appointments rather than communal leaders; they apply some diluted version of state law rather than local or caste custom; they arrange compromises instead, of imposing fines and penances backed up by the sanction of excommunication. Nor can Lok Adalat be viewed as a continuation of the push for nyaya panchayats that peaked in the 1950s.

The proponents of nyaya panchayats sought to provide a convenient, accessible, understandable forum that would encourage popular participation, express popular norms, and promote harmonious interaction. They were unable to deliver on this, but the aim was to provide a system of justice superior to that of India's
British-style courts. In contrast, the virtues claimed for Lok Adalats are their expeditiousness and lower processing cost. What commends them is not that they deliver a superior form of justice, but that they represent deliverance from the agony of litigation in a system conceded to be terrible.

The Lok Adalats' achievement, then, is to provide an official process for claimants to secure a portion of their entitlements without the aggravation, extortionate expense, inordinate delay and tormenting uncertainty of the court process. To secure this, they yield up discounts. Assume, for example, a motor accident claimant who would secure Rs.50,000 compensation [and accumulated interest from date of filing] after an expensive ten-year struggle in the courts. Imagine that this same claimant might be able to get half that amount at a Lok Adalat in just a few months. This is clearly a preferable outcome for the claimant, given the legal costs avoided and given the appropriate discount for the futurity and uncertainty of the court recovery. Thus the establishment of Lok Adalat can be thought of as providing a significant benefit for a claimant in this situation.

But, of course, this claimant is entitled not to the discounted future value of his claim, but to the full resent value. What makes the delivery of the discounted amount a "benefit" is simply that the full entitlement can be vindicated only by resources to a disastrously flawed judicial system that at best can deliver it in ten years. Thus the "benefit" conferred by the availability of the Lok Adalat is a benefit only by virtue of the enormous transaction costs imposed by the judicial system. And these transaction costs impact differentially on different kinds of parties. Those who are risk averse and unable to finance protracted litigation are the ones who have to give the discounts in order to escape these costs; those who occupy the strategic heights in the litigation battle are able to command steep discounts.

Since the sums awarded by the courts fall far short of fully compensating the injured, the injured are triply under-compensated: first, by the inadequate level of compensation delivered by the courts; second, by the high transaction costs; and finally by the discounts they must yield to avoid the infliction of these costs. And, as the injured are under-compensated, injuries are under-assessed for the costs they
impose on society for their risk-creating behavior and under-deterred from persisting in injurious conduct.

The establishment of Lok Adalats represents the use of scarce reform energies to create alternatives that are "better" than the courts; but as we have seen it is not necessary to be very good to be better than the ordinary judicial system. The flaws of the system serve not as a stimulus to reform it, but as a reason for setting up institutions to bypass it. Reformers take 'pride in delivering needed compensation more expeditiously to some of the victims. But the features of the system that make this discounted result appear to be an advance go unexamined and unattacked. Lok Adalats are then an instance of a debased informalism debased because it is commended not by the virtues of the alternative process but by avoidance of the torments of the formal institutional process.

8.6 Parivarik Mahila Lok Adalat (PMLA):

The National Commission for Women (NCW) has evolved the concept of Parivarik Mahila Lok Adalat, which in turn supplements the efforts of the District Legal Service Authority (DLSA) for redressal and speedy disposal of the matters pending in various courts related to marriage and family affairs. Objectives of Parivarik Mahila Lok Adalat:

- To provide speedy and cost free dispensation of justice to women.
- To generate awareness among the public regarding conciliatory mode of dispute settlement.
- To gear up the process of organizing the Lok Adalats and to encourage the public to settle their dispute outside the formal set-up.
- To empower public especially women to participate in justice delivery mechanism.

8.7 Benefits of Lok Adalat:

The benefits that litigants derive through the Lok Adalats are many.

- 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.
Secondly, there is no strict application of the procedural laws and the Evidence Act while assessing the merits of the claim by the Lok Adalat. The parties to the disputes though represented by their advocate can interest 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, dispute 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 of execution through legal process. No appeal lies against, the order of Lok Adalat whereas in the regular law courts there is always a scope to appeal to the higher forum on the decision of the trial court, which causes delay in the settlement of the dispute finally. The reason being that in a regular court, decision is that of the court but in Lok Adalat it is mutual settlement and hence no case for appeal will arise. 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.

Last but not the least, faster and inexpensive remedy with legal status.

8.8 Compulsory Pre-Trial Conciliation:

For Civil matters; Section 89 of CPC deals with the alternative disputes resolution for settlement. But it is not fruitful until some circumstances are laid down which guides that the particular matter must be first go for settlement outside the court. It is necessary to draft the rules or guidelines by Central government, which clearly lays down the circumstances.

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 solutions. 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. Overall effect of the scheme of the Lok Adalat is that the parties to the disputes sit across the table and sort out their disputes by way of conciliation in presence of the Lok Adalat judges, who would be guiding them on technical legal aspects of the controversies.

The scheme also helps the overburdened Court to alleviate the burden of arrears of cases and as the award becomes final and binding on both the parties, no appeal is filed in the Appellate Court and, as such, the burden of the Appellate Court in hierarchy is also reduced. The scheme is not only helpful to the parties, but also to the overburdened courts to achieve the constitutional goal of speedy disposal of the cases. About 90% of the cases filed in the developed countries are settled mutually by conciliation, mediation etc. and, as such, only 10% of the cases are decided by the Courts there. In our country, which is developing, has unlike the developed countries, number of judges disproportionate to the cases filed and, hence, to alleviate the accumulation of cases, the Lok Adalat is the need of the day.

8.9 Lok Adalat for Speedy Justice:

In recent times the concept of Lok Adalat has gained popularity. Prison Lok Adalat, Provident Found Lok Adalat, Labour Law Adalat, etc. are organized to settle disputes, and naturally many may be curious to know what is Lok Adalat. Lok Adalat means people's court, in contrast to the regular law courts established by the government. Despite the fact that the judicial system in India is well organized with high level of integrity, the law courts are confronted with four main problems: (1) the number of courts and judges in all grades are alarmingly inadequate; (2) increase in no. of cases in recent years due to multifarious Acts enacted by the Central and State Governments; (3) the high Cost involved in prosecuting or defending a case in a court of law, due to heavy court fee, lawyer's fee and including charges and (4) delay in disposal of cases resulting in huge pendency in all the courts.

In the Municipal Council, Ratlam, a bench of this court observed: It is procedural rules as this appeal proves, 'which infuse life into substantive rights, which activate them to make them effective. . . the truth is that a few profound issue of processual jurisprudence of great strategic significance to our legal system face us and we must zero-in on them as they involve problems of access to justice for the people
beyond the bunker rules of 'standing of British Indian vintage', if the Centre of gravity of justice is to shift, as a preamble to the constitution mandates, from the tradition of public interest litigation, these issues must be considered. In that sense the case before us between the Ratlam municipality and the citizens of the Ward is a pathfinder in the field of peoples involvement in the judicious process, sans which as Prof. Sikes points the system may crumble under the burden of its own insensitivity. In the Fertilizer Corporation, Kamagar Union Case the Supreme Court has made the following meaningful observations: "We have no doubt that in competition between Courts and streets as dispensers of justice, the rule of law must be with the aggrieved person. In simple terms the locus standi must be liberalized to meet the challenges f the times. Ubi jus ibi remedium must be enlarged to embrace all interest of public minded citizens or organizations with serious concern for conservation of public resources and directions and correction of public power so as. to promote justice in its triune facets'.

The United States, through Chief justice Warren Burger and the American Bar Association, has been experimenting with and discussing non-judicial route like arbitration and negotiation as well as simpler judicial alternatives to make justice a poor man's pragmatic hope. India, like America, suffers from 'litigation neuroses' the poor are the worst victims because the rich can afford forensic mountaineering while the needy freeze to death mind-way. It is therefore integral to any Statute under 39A to discover imaginatively and innovatively all methodologies of getting inexpensive, early and easy justice. In the United States, small claims Courts have been tried with success to resolve minor disputes fairly and more swiftly than any present judicial mechanisms make possible.

There are some other areas of litigation also which mainly concern the common man and where a real helping hand can, and requires to, be extended through the Lok Adalats. The U.P. Public Services Tribunal Act, 1975 was enacted with the hope and expectation that it will not only relieve the burden of regular civil courts but will help in quicker disposal of service matters of government servants/other public servants with Public Sector Undertakings of the U.P. govt. as a step conducive to better and more efficient management of the 'public services. The situation, however,
unfortunately is that the arrears are steadily going up and pendency at present exceeds 15,000 on the suggestion of this Board, the State govt. has accepted that simple categories of pending cases before the services Tribunals may be handled at the Lok Adalats. These categories include cases in which facts are undisputed and relief is confined to payment of pensionary benefits, fixation of pay and payment of arrears, where impugned order is based on uncommunicated or expunged adverse entries or against which representations made remained indisposed of and in cases in which points involved are simple and clear. Lists of such cases are under preparation and spadework is in progress for organizing special Lok Adalats at the Boards level for disposal of these cases.

At the present, this Board and for that purpose the District Legal Aid Committees are concentrating on the disposal of Motor Accident Compensation claims, Matrimonial cases, petty criminal cases and certain categories of Revenue cases. Once old heavy pendency in the courts is effectively contained, efforts will be directed in other areas of litigation also in the service of common man, the backward and poor sections of the society.

Lok Adalat not only provides relief to the common man by way of early disposal of his matter but also saves his time and heavy expense involved in litigation. There is no question of execution, appeal or revision proceedings or any other incidental offshoot of the litigation when the matter is settled through compromise at the Lok Adalat. Disposal through compromise brings an end to the old subsisting tension and bitterness and promotes amity, goodwill and welfare amongst the litigating parties, also to the benefit of the society as a whole.

The programme of Legal Aid and Lok Adalat is a means of great social service particularly to the poor, backward, ignorant and exploited sections of the society. It requires to be taken up and implemented with missionary zeal and in a spirit of service and commitment. In one way or the other I am associated with this work for quite some years and, I think, it has not only taken off but has taken strong roots in this State; with some more cooperation, help and support of all the concerned, it can gather further momentum.
At initial stages, the Bar expressed strong reactions against the programme of Lok Adalat. Impression generally formed was that settlements at the Lok Adalats would adversely affect the purse of the members of the Bar. For that reason there was, overall, lack of cooperation from the Bar in this work. Over the years, however, position has vastly changed. There is realization that work in the courts is progressively increasing and there is no dearth of briefs for the lawyers, who inspire confidence by their contacts, sincerity, ability and hard work. Furthermore, functional area of the Lok Adalat is limited mainly to the specified categories of cases and the lawyers in one way or the other remain associated with this work also. Members of the Bar are usually the leaders of the society and there is obvious realization on the part of larger sections of the Bar that their cooperation in this work of service to the needy-most litigants should come forward unhesitatingly. No doubt there are difficulties in this regard in a few districts of the State but when the matter is put across in the right perspective and a little more persuasively by the District Judge, the programme will receive cooperation and, I think, would be carried forward smoothly and successfully.

At the district level, District Judges as Chairman of the District Legal Aid Committee and the other judicial officers are the persons responsible for carrying out and promoting this work. Being already heavily busy, they have to snatch tie with difficulty for mediatory work at the Lok Adalats and in organizing and working Lok Adalats on Sundays etc. For achieving better results from this programme, it would, I think, be useful to think of some motivational techniques. Human nature as it is, incentives carry great motivating force. Reward and punishment is an old accepted management technique. Success depends on genuine cooperation and efforts of those who actually carry forward the programme. The Honble High Court is accordingly requested to consider this aspect; some monetary advantage or in the form of compensatory leave may be allowed in one way or the other to the District Judges and other judicial officers for the Lok Adalats work done on Sunday and other days. Active cooperation, and performance in Legal Aid and Lok Adalat programmes may usefully be included to form part of annual character roll entries.

In a good number of districts of the State, the members of the Bar are abstaining from work in the courts on Saturdays. The working days can be utilized by
the courts to promote and step up the progress and speed of the Legal Aid and Lok Adalats work.

However after a few successful Lok Adalats, the process of distortion started. The very same vested legal interests, both among judges and the lawyers, started smelling something threatening the system they had created for themselves and their careers. They did not openly oppose it but, toyed with the idea of using it to their advantages.

Firstly, the Lok Adalats were found useful for reducing the burden of the arrears of cases with great ease and without additional burden upon them.

Secondly, to show the good performance and success of Lok Adalats, pending cases which were likely to be settled or compromised were kept pending and assigned to be placed before the Lok Adalat. Thus, a game of numbers was set off.

Thirdly, Lok Adalats came to be used by judges at all levels for self-image-boosting and career advancement by extravagant publicity and fanfare. The simple puri-subji or khichdi-chhash gave way to multi-cuisine dishes.

Fourthly, the lawyers who have already received their fees fully looked upon Lok Adalats as a method of disposing of cases no longer useful for them.

Fifthly, the Lok Adalats that were meant to bring about resolution of dispute on the basis of equality, fairness, justice and give-and-take deteriorated in course of time into some kind of invisible, coercive agencies for bringing undue public pressure, particularly pressure from the lawyers, judges, and the social workers present in the Lok Adalats for settlement despite its being unfair, unjust and calling for one sided sacrifice.

Sixthly, the same unjust, unequal, authoritarian and hierarchical socioeconomic structure of our society which was responsible for distorting the established justice delivery system engulfed the new system of Lok Adalats with the result that the poor, weak, needy and deserving side started losing their just fight to the advantage of rich, affluent, powerful and well off sections. Thus, the haves could have their way over have-nots. The former could purchase injustice at a low cost and with impunity. Thus, Lok Adalats also met the same fate as had happened to many other well-meaning institutions. Many times, good institutions die before their actual arrival and others die.
on arrival as they slowly undergo a decaying process of metamorphosis and grow into something totally different with different and opposite functions.

8.10 Present Day Position:

The notion of legal aid conceived wisely by the pioneers of legal world certainly needed vigorous execution by meticulous planning. The word of caution being very clear that the traditional legal service programme, which is essentially court or litigation, oriented cannot meet the specific needs and the peculiar problems of the poor demanded a unique approach to this socio economic philosophy. As observed by the Supreme Court "We do not think it is possible to reach the benefits of the legal process to the poor, to protect them against injustice and secure them against injustice and secure them their constitutional and statutory rights unless there is a nation-wide legal service programme to provide free legal services to them." Under such influence the Legal Service Authority Act, 1987 was enacted to accomplish the vision of providing legal aid to the exploited masses of this country, whose need till now was echoed either in the golden words of UDHR or The International Covenant on civil and Political Rights or discussed in board rooms of law commission or deliberated by socio legally concerned groups only. The date provided is a reflection of the realities of the legal aid scheme on which much of paper and ink has been used.

8.11 Stabilizing the Scales for Poor-Suggestive Measures

As contemplated by Justice lyer and Bhagwati that the vast millions of Indians, steeped in ancient injustice and modern misery have little to hope for from the law, they have much to shoot against it. In such state of affairs it is imperative for state to take steps to keep the confidence of masses in the justice system breathing. Though the execution of the legal aid programme has been yielding favorable results but much more is needed to be reformed. Our compilations of the suggestive measures in this area are:

8.12 Exploring ADRs

Using the various forms of ADRs like Arbitration, conciliation, Negotiation and Mediation in the settling of disputes especially those involving matrimonial problems can prove to be an effective legal aid tool providing quick and inexpensive justice to the masses Focus on Lok Adalats in its true spirit: Lok Adalats, a permanent
feature of the functioning of legal services authorities is largely being used as a tool of case management to help the overburdened judiciary and not so much as an instrument of the justice delivery to the litigant. If the success of the lok adalat stems from negative reasons attributable to be failures of the formal legal system, the utility of this mechanism may also be short-lived.

8.13 Adequate Financial Support

A master plan for judiccare cannot succeed without sufficient financial resource. An annual amount of Rs.6 crore is being allocated to NALSA for the execution of its policies. The Committee is of the opinion that this amount is inadequate for such an important scheme and strongly recommends that substantial allocation should be made at Revised Estimate stage to make the functioning of NALSA more effective.

8.14 No compromise on quality

Free legal aid must not be read to imply poor or inferior legal services. The lawyers in the panel should be experienced. The law ministry should ensure the senior lawyers do at least ten cases a year free of charge in the Courts.

8.15 Inform people

Lack of awareness is the main impendent in effective 'legal aid'. Efforts should be made to inform the public of the existence of these services by using electronic media and aggressive campaigns.

8.16 Sensitization of the Judiciary

Awareness of schemes and programs to be able to guide the poor litigants in this regard. Thus we can find a paradigm shift in the approach of the Supreme Court towards the concept of legal aid from a 'duty of the accused to ask for a lawyer' to a 'fundamental right of an accused to seek free legal aid'. But in spite of the fact that free legal aid has been held to be necessary adjunct of the rule of law, the legal aid movement has not achieved its goal. There is a wide gap between the goals set and met. The major obstacle to the legal aid movement in India is the lack of legal awareness. People are still not aware of their basic rights due to which the legal aid movement has not achieved its goal yet. It is absence of legal awareness which leads to exploitation and deprivation of rights and benefits of the poor. Thus it is the need of

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2 196 Khatri v State of Bihar AIR 1981 SC 928
the hour that the poor illiterate people should be imparted with legal knowledge and should be educated on their basic rights which should be done from the grass root level of the country. Because if the poor persons fails to enforce their rights etc. because of poverty administration of justice and instead of knocking the door of law and courts to seek justice, they may try to settle their disputes on the streets or to protect their rights through muscle power and in such condition there will be anarchy and complete death of the rule of law. Thus legal aid to the poor and weak person is necessary for the preservation of rule of law.