CHAPTER-II
GENESIS OF THE INSTITUTION OF LOK ADALAT IN INDIA

Lok-Adalat has symbolized a human sensitive forum to provide amicable, speedy, cheap justice by adopting informal procedure and avoiding technicalities. If we go to the genesis its very fascinating. The history of the evolution of courts in India goes back to Vedic times when the king in return for the taxes paid to him by the people performed the duty of a judge. ¹ It is well established fact that administration of justice did not form a part of a state's duties in early time. ² There are many passages in ancient Hindu literature pointing to a condition of a society without a king. ³ The study of Aitareya Brahman and Mahabharata discloses that in ancient days men were ruined in consequence of prevalence of anarchy. ⁴

Thus there was felt a dire need to create the office of kingship to avoid the situation of exploitation of weak by the stronger one. The Mahabharata stands as a testimony to the fact how a few men assembled together and agreed among themselves that the -babbler the cruel the voluptuous and the greedy men should be disowned on seeing that it was not satisfactory, they approached 'to Brahma with a prayer to grant them a king. Brahma thereupon induced Mani to take up the kingship. Thus the Vedic king wielded authority as a head of the judiciary. The study of Dharamasutras also discloses that with the passage of time king started delegating his judicial authority or at least the-supervision of punishment to a royal officer or a Rajanya who could act as an adhyaksha.⁵

The most pronounced feature of Hindu policy was that the law was administrated by the Sabha Normally. It was the Sabha or the popular village

¹Birendra Nath, Judicial administration in ancient India (1979), P. 27
⁴Id., p. 498, also see Vandana Nagar, Kingship in the Sukra-niti (1985), page no. 26. Thers is however given a different version of this incident by Bhishma. He opines that in the Krtyagya there was no sovereignty, no king, no punishment and no punisher and that all men used to protect one another actuated by the sense of righteousness.
⁵R. C. Majumdar, The History and Culture of the Indian Peep I e. The Vedic Age (1965). Vol. 1 ID. 494.
assembly rather than the king who tried to arbitrate when it was feasible to do so. He
was guided by Dharma. So far a judiciary was concerned, the king appointed judges to
help him in administering justice; he himself remained head of the administration of
civil law and penology.\textsuperscript{6} Kautilya and Mann have given two different systems of
gradation of courts. In the schemes of Kāutilya courts were instituted at sanghama
Dronainukha, sthaniya and were districts met.\textsuperscript{7}

According to Manu schemes, adopted by Yajna valkya, Narada, Brihaspati and
Katayana the Sabha system formed the basis of forming and grading courts. The
ideal behind these courts was to enable each and every person to receive proper justice
without delay. It is thus generally considered as a long established policy of the
government in ancient India to encourage the people courts and enforce their
decisions, to develop systematic growth of the Lok Adalats with the help of ancient
literature and modern treatise on this subject.

The discussion has been divided broadly into three parts dealing with the
genesis of the Lok Adalats in India during:-

1. Ancient Period,
2. British Period and

2.1 Lok Adalat in Ancient Period

Historical Literature clearly depicts that Justice through the people's court has
remained a distinct feature of our judicial system since time immemorial.\textsuperscript{8} There
foundation in India seems to have been imbibed in the Indian culture and civilization.\textsuperscript{9}
The beginning of administration of justice through popular courts goes back to the
vedic age. Popular courts are for the first time mentioned in Yajnavalkya smriti. They
are unknown to the Dharamsutra as well as to the Manusmriti.\textsuperscript{10}

Yajnavalkya mentions three types of popular courts which are: a) puga, b)
sreni, and c) kula.\textsuperscript{11}

\textsuperscript{6}Ibid., p. 7 1.
\textsuperscript{7}Saptahik Bhaskar, April 6, 1986, P. 2.
\textsuperscript{8}M.N. Marge, "Lok Nyayalaya: A place for common man in changing society: AIR 1984 Jour, p.68
\textsuperscript{9}Sunil IDeshta, Lok Adalats in India, 1998, p.12
\textsuperscript{10}Ibid.
\textsuperscript{11}Ibid, also see, D. Devahuti, harsha: A political study (1983), p. 211.
Kautilya's Arthasastra reveals that the court of Dharamasthas were located at the junction of two territories (Janapadas) and at the headquarters of 800, 400 and 10 villages called Sthaniya.\textsuperscript{12} It appears from the study of Kautilya that there was decentralization of judiciary to a great extent. With an exception that there was inherent right of appeal to the king's court. The court presided over by the king was the highest court and the decision of the king's court was considered the final verdict.\textsuperscript{13}

Vedic literature gives us indications which lead us to believe that normally it was the Sabha who tried to arbitrate when it was feasible to do so. If the term 'Prasnin' and 'Abhiprasnin' really mean plaintiff and dependent, they must be referring to those litigants who submitted their disputes for settlement to the village Sabha either voluntarily or because they were too weak to help themselves.\textsuperscript{14}

Interestingly, Narada points out that there was a provision of appeal against the village courts decisions. Appeal against the order of the village court could go to the city court. The order passed by the city court could be challenged in appeal in the king's court which was the highest appellate court.\textsuperscript{15} The existence of People's court in ancient India finds mentioning in arada Smriti. To quote him; "law suits may be decided by the village councils (Kulani) corporations (sreni), assemblies (Puga) in Yajñavalkya Gana in Narada, the judges appointed by the King and the king himself, each later one being superior to each preceding One.\textsuperscript{16} P. V. Kane is at the opinion that Kulani, Sreni and Puga were the arbitration tribunals like modern Panchayats or the Lok Adalats of today.\textsuperscript{17} The study of Yajñavalkya also discloses that they were the courts in hierarchy, the highest being the court of the king himself and the lowest of the ladder was the village council.

We also find references about the functioning of people's court in the work of Bhrigu who remarks that there were ten tribunals common to all men, 1) the village

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\textsuperscript{13}A.S. Altekar, p. 246.
\textsuperscript{14}R.C. Majumdar, The History and culture if Indian People: The classic age (1970), Vol. 3, p.363.
\textsuperscript{15}Quoted in, Sunil Deshtia, p.13
\textsuperscript{16}S.P.V. Khane. History of Dharmsutra
\textsuperscript{17}Yajñavalkya quoted in S.D. Sharma, p. 167.
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people, 2) assembly of the citizens of the capital, 3) Gana, 4) Sreni, 5) men learned in the four Vedas, 6) vargins, 7) Kulas, 8) Kulikas, 9) judges appointed by the king and 10) the king himself. According to him there was existing peculiar judicial system for the dissolution of disputes amongst the trial people. Thus, it is quite evident that the administration, of justice was being carried out in direct participation with the people of the area where the disputes arose. The rule of appeal was that it could lay from an inferior court in regular succession to the king's court. These popular courts were assisted by injury to facilitate the speedy and earlier disposal of the pending cases. The members of the jury appear to have acted as mediators between the parties who could not proceed to higher tribunals without passing the lower.

From the study of Veda's we can fairly conclude that our national life and activities in the earliest times were being regulated by our popular assemblies known as the Samiti and Sabha. It is thus evident that the village formed on the basis of the constitution of the Samiti if not, originally certainly in later times. The Sabha acted as the judicature. In Vedic literature the expression Sabha is used in several senses, judicial function is being one of them.¹⁸ The judges were always helped by the people in the administration of justice. They made up the Sabha and were, to quote a modern world, the jury of the court.¹⁹ The law was always administrated by the people's council (popularly known as Sabha). However the sabha had not the same history as of the court.' It was not an outcome of the king's household but of the vedic folk-assembly. Altekar opines that it was the considered and long established policy of the government in ancient India to encourage the people's courts and to enforce their decisions. Though these courts were essentially non-official, yet they had the royal authority behind-them.²⁰ There were several reasons to appreciate and encourage the popular court. To quote him *Ancient India appreciated and encourages the popular courts and guild courts for several reasons.*

They encouraged the principle of self-government. They reduced the burden of central administration; and above all they helped the cause of justice. The members of a popular court or guild courts have more or less reliable knowledge of the facts in

¹⁸ Id. p. 3
¹⁹ Id p. 317
²⁰ Id p. 254
disputes as the parties belonged to their guild or locality. It is difficult for a witness to come to a village court and tell a brand lie in the presence of his compeers whose respect he will be there by forfeiting.

Analysis of Sukra-Niti discloses that kula, Sreni and Gana formed the three fold hierarchy of bodies of self- adjudication.\textsuperscript{21} Sukra mentions in the treaties that wherever these three bodies failed, the king along with his officer was entitled to interfere. During this period there were really two sets of courts available to the litigants:-(I) there were the courts directly under the authority of the states, (II) there were the courts of popular character constituted by the people themselves either through local Sabhas or Panchyats or village councils or even family or tribal councils. The three different types of popular courts mentioned by Colebrooke were: (I) Puga, (II) Sreni, (III) Kula.

The courts of Puga were in assemblage of townsmen, or meeting of person belonging to various tribes and professions but inhabiting the same place. The Sreni was represented; by companies of traders or artisans or person belonging to different tribes, but subsisting by the practice of the same profession. The Kula court was connected by consanguinity, mainly confined to personal and family laws and customs. The rule with regard to appeals was that the decisions of Sreni courts by the Puga courts.\textsuperscript{22} From the decision of the Puga an appeal could be made to the Supreme Court and finally thereafter to the King's court, i.e. to the court of the sovereign.\textsuperscript{23}

Similarly, Madhatithi also gi'es us the picture of the hierarchy of courts in ancient India. Reffering Narada as his text he defines Kula as the body of relatives, Sreni as 'a body of traders and others following the same professions Ganas as person who always move about in groups', and unlike Srenis act collectively.\textsuperscript{24} Besides such regular courts there were number irregular but popular courts, which were recognized by the government and allowed to dispense justice in cases which arose within their jurisdiction. The existence of these popular courts was justified on the ground that in those days there was lack of easy and quick communication in the country and

\begin{footnotes}
\item[21] Ibid
\item[22] Sunil Deshta, p. 16; also see R.C. Majumdar, Corporate life in Ancient India (1969), pp 128-29.
\item[23] Ibid
\item[24] R.C. Majumdar, The History and Culture of Indian people: The age of Imperial kanuaj, 1955, Vol. 4pp. 249-50; also see Parmatma Sharan, pp. 480-482.
\end{footnotes}
therefore it was not possible for all people to seek justice at the hands of the regular courts which were few and located at distant places. Further, cases, which required a good knowledge of the differing local customs and practices of the people, could more easily be inquired into by men of the locality.

Thus these local courts enjoyed all the judicial and magisterial authority of regular courts. Even women served on the judicial committee of the village assemblies’ existence of popular courts is attested by the Rig-Ved and the Atharva-Veda. These popular courts have also been mentioned frequently in the Budhist literature and the Mahabharata gives glorious accounts of the functioning of these courts at village level. It is likely that the popular village courts played a prominent role almost throughout the long course of Indian History for the reason that these courts really reduced the burden of central judicial administration and paved a solid path towards the realisation of self-government.

2.1.1 Composition of Lok Adalats and its Powers and Functions

Historical Hindu scriptures give us detailed information relating to composition of popular courts that remained quite active in ancient India. The most important and authoritative source of legal literature in the regard is found in the Smritis. All the legal Principles here and there scattered in the Vedas and also those included in the Dharamsutras as well as the customs or usages which came to be practised and accepted by the society, have been collected together and arranged subject wise in systematic manner. A careful study of numerous Nibandhar (Commentaries and digests) have been accepted and followed by the society and quoted by the courts in the past whenever there arose the question of rules and regulations to be followed by the popular courts in their day to day business.

This view is also supported by R.C. Majumdar to quote them, The village administration was self-contained. It functioned smoothly, whoever became the king at the center. The central government did not interfere with local administration but exercised only general control, being mainly concerned with the subject of the land,

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26 For details see Manu Smriti, Yajnavalka Smriti; Narada Smriti, Brihspati Smriti and Katyäyana Smriti.
27 M.K. Sharan, op. cit, p. 25.
revenue and defence. The village community functioned as miniature state having even the power of administering civil and criminal justice.\textsuperscript{29}

The study of legal system prevalent in ancient India shows that the small towns and villages enjoyed a systematic and efficient judicial set up. An inscription of king Parantaka found at Uttaramerur discloses several categories of village communities like; i) annual committee, ii) garden committee, iii) tank committee, iv) gold committee, v) panchaware committee and vi) justice committee.\textsuperscript{30} The members of the justice committee were appointed by people's vote in accordance with the rules made for conducting their election.\textsuperscript{31} There were a number of popular courts which were recognized by the government and allowed to dispense justice in cases that arose within their jurisdiction. These popular courts were mainly held by the village assemblies, temples, trustees, guilds and the cast elders. A detailed survey of the Hindu judicial system and the historical evidence available concludes that there was highest court located at the capital city.

The apex court known as the king's court was presided over by the king. The judges of the lower court functioned under the supervision of the king.\textsuperscript{32} The people's courts had the authority to decide civil and criminal cases except those involving trial for an offence committed with violence. They had no authority to administer sentence of fines and corporal punishments. The matter had to go before the king, who alone had the power to execute such sentence if it met with the approval. For deciding cases both civil and detailed nature officers were appointed by the king. Similarly, in towns there were superintendents of all affairs who were entrusted with the responsibility of personally visiting and supervising the system of justice at these levels. They were assisted by the spies. The study of Hindu scriptures further shows that the Grahapati (head of the family) was vested with the enormous powers to decide all matters of dispute of household. Grahapati was the smallest court for judicious decisions in his family whereas the king of the country happened to be the uppermost and supreme court for all civil and criminal cases in his kingdom.

\textsuperscript{29}Annual reports of Archaeological Survey of India, 1904, p. 131.
\textsuperscript{30}Ibid pp 142-145.
\textsuperscript{31}Ibid
\textsuperscript{32}J.R. Gharpure, Manusamriti with the Bhagya of Bhatta Medhatithi, 1920, p. 37.
2.1.2 Lok Adalat's Hierarchy

The king appointed the judges and assessors who were empowered by him to decide all matter of litigation. The prevailing people's court, according to Brihaspati, were of the following three types which were Gana, Sreni, and Kula. A detailed explanation on the same is presented as following:

(a) Gana: The word "Gana" or "Puga" appear to have denoted the local corporation of town and villages during the post Vedic period. The study reveals that the decision of the Puga court with a view to encourage the principle of self-government to reduce the burden of the central administration. Though the Puga courts were non official, they had the royal authority behind them since they were sanctioned by the king with the result that government had been advised to execute their decrees because the state had delegated these powers to them.

(b) Sreni: It was an association of persons engaged in similar pursuits. It was an association or a corporation of merchant guides. The basic feature of the Sreni court was that its members belonged to the same caste as a rule but they could also come from different castes. The Sreni courts were vested with the power to decide all disputes except those falling under the title 'Sahare'. The Sreni court had appellate jurisdiction and the appeal lied against the decision of Kula courts in the Sreni courts.

(c) Kula: Kula was the lowest court, headed by Kinsmen Kula was a meeting of persons collectively related by blood as of a family or tribe. Mitaksara defines Kula as a group of relatives. It enjoys the judicial functions but was considered to be inferior in jurisdiction to officers appointed by the king. It was an arbitration tribunal or the Lok Adalat of today. Kula court was the informal body of family elders taking cognizance of quarrels arising in family units often, twenty or forty villages. However the matter was taken into the, Sreni court whenever the effort at family level failed.

33M.G. Chitkara, Lok Adalat and the Poor, 1993, p. 22
34Deshta, p. 22-23.
(d) Procedure of Popular courts: In the early Vedic time, we do not find any reference as regards the establishment of judicial procedure. Generally justice was administrated by the king judges. A class references to judicial procedure is available from the time of Brahmans. But justice was still to be done with the help of the mediator. The whole proceeding was divided into four main heads\(^{35}\) which were:

(i) Stage of Judicial proceedings.
(ii) Trial By oaths.
(iii) Trial by Ordeal.
(iv) Trial by Jury.

1. Stage of Judicial proceedings:

   (i) The Plaint.
   (ii) The Reply (or the written statement)
   (iii) The proof (or evidence on behalf of the plaintiff and defendant)
   (iv) The decision (or judgment)

   There is mention of three kinds of evidence, namely documents witness (Sakshi), possession (Bhukti) and (.likhita). Other mean of proof consisted of reasoning (Yukti) and or deals (Divyas). The documents witness and possession fell under the head of human proof, while ordeals- were included under the head of the divine proof. The court delivered its judgment when both the parties had submitted their evidence.\(^{36}\)

2. Trial by Oaths

   The method of trial by oaths has been justified by Manu and Narada both. To quote Manu of two disputants quarrel about matters for which no witnesses are available and real truth cannot bô ascertain .the judges may discover it by oath?"

3. Trial by Ordeals

   The trial by ordeals appears to have been very well recognized by Dharamastra. The use of ordeal could e resorted to only when no human means

\(^{35}\text{Ibid}\)
\(^{36}\text{Manu, quoted in M.K. Sharan, op cit. p. 144.}\)
of proof were available Ordeal was an appeal to the immediate judgment of rod. Even sections 8 of 10 of Indian Oaths Act, 1873 provided for making statement on oath in any form which was held sacred by those concerned subject to both parties agreeing for the adoption of such a course. The spirit of these sections has been upheld in a famous case of *Inder Prased v. Jagmohan Das*.37

4. Trial by Jury

The mode of trial by jury in ancient India had always been looked upon as the basic unit of the administration of justice since the early Vedic times and it is thus quite evident that the practice to select a jury to determine the facts of the case remain in vogue in Lok Adalts which functioned throughout the length and breadth of the country. It may also be submitted that there are a number of scriptures.38

2.2 Lok Adalat in Muslim Period

2.2.1 Historical background

The study of history of India reveals that the glorious Hindu period was subjected to intermittent invasions by the Muslims and the beginning was made by Mahanimed Bin over India for centuries till the year 1857 when the last Mughal king Bahadur Shah Zafar was dethroned by the Britishers and the English established themselves as the next rulers of India. The main underlying idea of Muslim rule was its own self-preservation and politics domination over Hindus. The unique characteristic of Mughal administration of justice was that it did not concern nearly three-fourth of the total population because the people of the rural areas had their own courts which enjoyed civil and criminal powers.39

2.2.2 Gradation of courts

The judicial structure which existed in India during Muslim rule can be conveniently studied under two different periods, viz, the Sultanate period and the Muslim period. The characteristic of the sultanate period was that the Sultan was the

38For details see U.C. Sarkar, Epochs in Hindu Legal History, 1956, p 202-03, also see J.L. Mehta Advanced study of the History of Medieval India, Medieval Indian society and culture, 1983, vol. III.
39H. Beveridge, History of India, 1914. p.102.
supreme authority to administer justice in the Kingdom. The justice was administered in the name of the Sultan in three capacities:

a) As arbitrator in the disputes of his subjects. He dispensed justice through the Diwan-e-Qaza.

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

c) As the commander-in-chief of forces through his military commander who constituted Diwan-e-Siyasat to try the rebels and these charged with high reason.

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

(i) Central Courts.
(ii) Provincial Courts.
(iii) Districts Courts.
(iv) Parganah Court.
(v) Village Court.

The central courts were 'six in number' viz.; the king's court, Diwan-e-Muzalim, Diwan-e-Risalat, Sadre Jahans's court, chief justice court, Diwan-e-Siyasat.

Five courts namely, Adalat Nazim Sabha, Adalat Qazi-e-Subah, Governors, Benchidiwane-Subah, and Sadre Subah were established at the provincial headquarters in each province.

Qazi, Dadbaks or Mir Adils, Faujdaris Sadre Amirs, and Kotwals were the courts functioning at the District Headquarter of each District.

At each parganah headquarters two courts were established, namely, Qazi-e-Parganah, and Kotwal. During the Muslim period, the emperor was the sole fountain of justice. There existed a systematic gradation of courts with well-defined powers of the presiding judges. The villages were empowered to administer justice in all petty civil and criminal matters. The Emperors court presided over by the Emperor, was the highest court of the empire. It is thus quite evident from the foregoing study of

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40 R.P. Khosla, op. cit, p. 146.
Muslim lowest on the ladder was the Village-council popularly known as Lok adalat of today.\textsuperscript{41} 

To quote him, "The main defect of the department of law and justice was that there was no system, no organization of courts in a regular gradation from the highest to the lowest or any proper distribution of courts in proportion to the area to be served by them."

**2.2.3 Framework of Lok Adalats**

The local courts remained distinctive institutions even in Muslim rule in the medieval India. The law made by the Muslim rules did not penetrate into the countryside with the result that textual law influenced but did not displace the local law. Throughout most of the Muslim rule, there was no direct or systematic state control of the administration of law in the village where most Indians lived.

The disputes in village and even in cities were not settled by royal courts, but by the Lok Adalatas of the caste within which the dispute arose, or of guilds and association of traders and artisans. Muslim rules traditionally enjoyed and occasionally exercised a general power of supervision over all these popular courts. In theory only the Royal Courts could execute punishment. Sri Jadunath Sarkar opens that Indian Villages in the Mugal empire was denied the greatest pleasure of his life, viz., facility for civil litigation with government courts of first instance close at his door and an abundance of courts of appeal rising up to the High Court at the capital.

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

The traditional dispute-resolution system through Lok Adalats was not very much affected by the introduction of 'Qazi' as the social adjudicatory system. With the consolidation of Muslim rule in India, the character of popular courts underwent a tremendous change. Their link with the king at the last resort was not to be found in

\textsuperscript{41}Sir Jadunath Sarkar, Mughal Administration, 1935, p. 72
the Muslim rule. The people's court thus played a very conspicuous role during Muslim rule. It may be mentioned here that there were many factors that contributed to the survival and even strengthening of popular courts during the Muslim rule.

2.2.4 Judicial Procedure

The procedure followed by the people's Courts was quite simple and primitive. There was no regular administration of justice; no certain means of filing a suit and no fixed rule of proceeding after it had been filled. It is apparent from the study that there were no hard and fast rules meant for administering justice. The Muslim law of procedure was far from elaborate, there was' also no regular and full-fledged legal profession. Hence the justice could be delivered speedily and effectively. The length had elaborate process through which a litigant had necessarily to pass was discouraged. There were no tedious briefs of cases, no methodized forms and no harangues to keep the parties longer in suspense.

The speedy decision of cases and absence of long and intricate legal proceedings was admired by the rulers. Quazis were concerned more with the ecclesiastical matters among the Muslims. The Hindus were generally governed by their customs and the provisions of shastras. When any accused person was apprehended and when a public trial of that accused person was deemed necessary, the Aml could order the people's court to be assembled. There was one very significant rule of evidence/Civil and criminal disputes were decided by caste men village elders and popular courts in the form of caste- courts, guild or religious heads. There was very little interference by Muslim rulers though from the popular courts appeal could ultimately lie before the king. Hence they became only people courts unconnected with the Muslim royal courts. The existence of these courts reveals that perhaps the country had hardly any central judicial structure. These courts settled the affair of everyday life. In case of grave crime or when the condemned party refused to obey the judgment of local courts, the' court of the king was concerned with litigation.

The decision of the Panchayats or people's court was almost invariably unanimous and the punishment inflicted were fines, public degradation. No sentence of imprisonment or death was awarded, because there was no proper authority to execute these sentences and also because there was no jails in the villages. The law
administered by the Panchayats or peoples courts was usually caste and tribal usage and the customary law of the land.⁴²

2.3 Lok Adalats in British period

The administration of justice during British period has initially a different history. The study shows that magisterial functions in the beginning were delegated to the native people for the reason that Britishers were unaware of the local languages and the local laws. They included therefore Indians to discharge the judicial functions in the early days of company rule. It is only after the court recognition in 1861 that 'justice was administrated at higher level by judges trained in common law. The people's court thus entered into an era of lessening importance.⁴³

The administration of villages by the agencies of the central government, extension of the jurisdiction of the civil and criminal courts with their adversary system of adjudication which was unknown and new to village population, increase in the means of communication, progress of English education, police organization, migration of persons from village to towns and growing pursuits of individual interests may be laid to be some of the main factors which gradually contributed towards the decay of the people's courts in India.⁴⁴

The hard reality is that the English men brought with them the concept of ruler and the ruled and the sense of superiority over the local men. The Englishman was, therefore, not subjected to the local laws and the system of justice kept him out of the purview of law that bound the local people. Technicalities were introduced into the Indian justice system.

The net effect was that the poor man found it difficult to enter into the portals of the court and the rich man was able to use the legal process as an instrument of harassment of his poor adversary. This ultimately gave rise to two-fold difficulty:

(i) the system could not be approached without the services of the trained personnel; and

⁴⁴Ibid
(ii) it became highly expensive. All this resulted in a gap between the people and the justice delivery system which could be bridged at considerable cost by engaging a person qualified to practice law.

The British legal system became highly profession-oriented. The cost of litigation and lawyers’ fees made access to justice even more difficult. The administration of justice during British period became more complex; both in terms of substance and procedure with the result that the judicial administration at the lower level turned to be an instrument of exploitation for the obvious reason that the common man was at the victim's end. It is revealed that the British rulers molded the Indian legal system according to their vested interest with the result that the functioning of peoples Court.

In this way the advent of British rule gradually led to the decline of people's court in India. It is disclosed from the study that the British rulers tried to revive the functioning of people’s court in the early Nineteenth Century. But it was nowhere intended to produce the characteristics of old time people's Court.

To sum up, Gandhi ji had rightly to caution the people of India that it was dangerous for them, merely to copy the British Judicial model making the judicial machinery cumbersome and slow moving. He reminded the people to resort to the home-spun judicial system or Lok Adalat so that the poor litigants need not to go out of his village spend hard earned money and waste weeks and month in towns 'on litigation. Such a judicial system will not only be simple and cheap but also just' because the details of civil and criminal cases will be more or less, open secrets in the village and there shall be hardly any scope for fraud and legal juggleries.

The post-independence period brought many golden things to the people of India. The restructuring of the judicial system at grass root level may be said to be one of them.

It was realized by the wise founding fathers of the constitution that the Anglo Saxon judicial system must be reorganized as to make legal relief easy. In these

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45 V. R. Krishna Iyer, Judicial System has it a functional Future in our Constitutional Order? 3 SCC Section Journal, pp. 10 to 11
circumstances it was thought proper by the makers of the constitution that the judicial process must be reorganized with a view to bring it nearer to the people. The question therefore, arose as to how we can redeem this tryst with justice on behalf of our teeming millions in rags and tatters.

The main problem that haunted the minds of our makers of the constitution was:

- Who are our people?
- Where is their habitat?
- What in human terms, does justice mean to them?
- How can law and its administration, through conventional court processes fulfill the hunger of the common man for simple and quick justice which assures to him a fair share of good things of life?
- Why cannot we abolish the causes of litigation and build a new way to life or legal orders?
- How can the gap between the lawyer's law and the rule of law be abridged?
- These were the basic radical issue for which the founding fathers of the constitution wanted answers.

The intention behind the reorganization of the indigenous judicial system is to ensure people's participation in the administration of justice at the lowest level which will ultimately help in delivering justice to the poor and the backward in rural areas without any delay and at practically no cost. It would certainly assist them in asserting their legal rights against those who are inclined to violate them. They are also expected to remove many of the defects of the British System of administration of justice.

However, the modern version of Lok Adalat arose out of the fact that the present judicial system as forum for resolving conflicts, civil, criminal and revenue resulted in monumental wastage of time in deciding cases. Litigants have often found themselves impaled on this unholy trident of delay, cost and complexity- with the result that the accumulated frustration of the people desirous of quick decision has responded them with hope, excitement, and zeal to experiment in “holding Lok-
Adalat's for dispute ending for dispute pending.” Thus the idea for the need of a Lok-Adalat as a different kind of forum for expeditious settlement of disputes is currently sweeping the nation. Moreover, the modern version of Lok-Adalat has arisen out of the concern expressed by the committee set up to resort on organizing legal aid to the needy and poor people and alarm generated by judicial circle on mounting arrears of cases, pending for long at different levels in the court systems.

P.N. Bhagwati and V.R. Krishna lyer, J.J. laid emphasis on the need for revival of informal system of disputes resolution including the Nyay Panchayats. They mobilized social action groups, public spirited citizens and a section of lawyers to experiment settlement of disputes outside the courts. Hence the introduction of Lok Adalat in 1982 as part of the strategy of legal aid movement has virtually raised a fond hope to the millions of poor people who are denied equal justice under the present existing system. It may thus be summed up that there is a considerable unanimity on the point that the people's court in India, popularly known as Lok Adalat, as an agency for settling local disputes has remained in existence since time immemorial. The Vedic period throws a flood of light on the aspect that these courts were in existence in ancient India. There are numbers of scriptures and historical accounts.

These courts are for the first time mentioned in Yajnavalka courts of adjudicature, viz. Puga, Sreni and Kulla. Though the king was an overall guardian of these institutions the king seldom intervened in their working.47

The important aspect of these courts was that they gave less importance to the technicalities and paid much stress upon the amicable settlement of disputes. The adjudicators were adored as 'Punch and Parmeshwar' and their verdicts were honored. The study of post-independence period discloses that the wise founding father of our national charter quickly realized the drawbacks of Anglo Saxon judicial system and endeavored to recognize it on the lines of indigenous legal system that remained in existence in India since the dawn of its civilization. They knew it well that the British judicial system would certainly price out the poverty ridden clients and the access

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47T.S. Mishra, Alternative to the presebt system of settling village disputes of civil nature, 111.1 April-June
formalism in law courts would overthrow and mystify them and ultimately fail badly to inspire confidence in them to beget justice in their favor. They therefore committed themselves to the goal to redesign a pervasive and potential delivery system of law and justice to the people residing in the rural remoteness. The incorporation of article 40 in our national charter is itself a testimony to the fact that these constitution makers while making a firm commitment to revive indigenous judicial system which could ensure people's participation in the administration of justice and make it possible to have easy access to the doors of justice.

These are usually presided by retired judge, social activists, or members of legal profession. It does not have jurisdiction on matters related to non-compoundable offences. There is no court fee and no rigid procedural requirement (i.e. no need to follow process given by Civil Procedure Code or Evidence Act), which makes the process very fast. Parties can directly interact with the judge, which is not possible in regular courts. Cases that are pending in regular courts can be transferred to a Lok Adalat if both the parties agree. A case can also be transferred to a Lok Adalat if one party applies to the court and the court sees some chance of settlement after giving an opportunity of being heard to the other party.

The focus in Lok Adalats is on compromise. When no compromise is reached, the matter goes back to the court. However, if a compromise is reached, an award is made and is binding on the parties. It is enforced as a decree of a civil court. An important aspect is that the award is final and cannot be appealed, not even under Article 226 because it is a judgment by consent. All proceedings of a Lok Adalat are deemed to be judicial proceedings and every Lok Adalat is deemed to be a Civil Court. Lok Adalat (people's courts), established by the government, settles dispute through conciliation and compromise.

The First Lok Adalat was held in Chennai in 1986. Lok Adalat accepts the cases which could be settled by conciliation and compromise and pending in the regular courts within their jurisdiction. 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 worker. There is no court fee. 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. The procedural
laws and the Evidence Act are not strictly followed while assessing the merits of the claim by the Lok Adalat. Main condition of the Lok Adalat is that both parties in dispute should agree for settlement. 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 appear lies against the order of the Lok Adalat. Lok Adalat is very effective in settlement of money claims. Disputes like partition suits, damages and matrimonial cases can also be easily settled before Lok Adalat as the scope for compromise through an approach of give and take is high in these cases.

2.4 Constitutional Mandate of Justice Article 39-A

The Constitution of India inserted through the 42nd amendment in 1976 requires the State to secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities. The entire mechanism of Lok Adalats designed and evolved with the object of promoting justice. Justice has three connotations namely social, economic and political. The first two connotations are handled by the said mechanism. They not only give an opportunity to the parties to resolve disputes but such resolution is at lowest possible cost, achieved amicably with consent of parties concerned.

Access to justice' means an ability to participate in the judicial process. It is that human right which covers not only bare court entry but has many dimensions including time consuming factor. For we the People, the vision of justice as embodied in the constitution entails delivering quality of justice (impartial and steadfast) which is speedy, accessible and distributive in nature. Both pre-litigation and post-litigation efforts are invited by Lok Adalats to enable the entire society to create peace and harmony. The Legal Services Authorities Act, 1987 makes provision for free legal aid which can be availed both before the Courts and Lok Adalats so constituted.

The Court has to give guidance to parties (when parties are opting for any mode of ADR) by drawing their attention to the relevant factors which parties will
have to take into account, before they exercise their opinion as to the particular mode of settlement.\textsuperscript{48}

Mandate under CPC Section 89 of the Code of Civil Procedure as amended in 2002 has introduced conciliation, mediation and pre-trial settlement methodologies for effective resolution of Judgment to be ordinarily pronounced within 30 days subject to a maximum time limit of 60 days (for extraordinary reasons) is one of the amendments introduced for speedy disposal. Similarly time-limit for filing documents has been fixed and Judge is not allowed to give more than three amendments in a civil suit.

\textbf{2.5 Policies of Indian Government}

The expenditure on the judiciary in terms of gross national product (GNP) is only 0.2 per cent, and that half of it was recovered by the States through court fees and fines. (As observed by former Chief Justice of India, S.P. Bharucha)

\textbf{2.5.1 Gram Nyayalay as Act, 2008}

It came into effect from October 2, 2009 has been enacted to provide for the establishment of the Gram Nyayalayas at the grass roots level for the purpose of providing access to justice to the citizens at their door steps. The Gram Nyayalaya shall be be established for every Panchayat at intermediate level or a group of contiguous Panchayats at intermediate level in a district or where there is no - Panchayat at intermediate level, in any State, for a group of contiguous Panchayats. It shall be a mobile court and where the Gram Nyayalaya decides to hold mobile court.\textsuperscript{49}

The Gram Nyayalayas Act, 2008; Section 3(1) says that outside its headquarters, it shall give wide publicity as to the date and, place where it proposes to hold mobile court.

It shall exercise the powers of both Criminal and Civil Courts. Its seat will be located at the headquarters of the intermediate Panchayat; they will go to villages, work there and dispose of the cases, it shall try to settle the disputes as far as possible by bringing about conciliation between the parties and for this purpose. It shall make use of the conciliators to be appointed for this purpose.

\textsuperscript{48}Dhcls.org/topics.aspx?mici=867

\textsuperscript{49} (2005) SCC 6 (344) The Frontline, Volume 19-Issue 05, Mar 02-15, 2002
2.5.2 National Grid

The Law Minister has made a proposal in October 2009 of establishing a National Arrears Grid, whose task would be to ascertain the exact number of arrears in every court on a scientific basis and to oversee continued reduction of arrears, increase in efficiency and optimal utilization of infrastructure.

2.5.3 National Litigation Policy

A proposal of framing National Litigation Policy has also been made to transform the Government from a compulsive litigant to a responsible and reluctant litigant. The policy will entrust the task of weeding out the senseless litigation from the government's docket to the office, of the country's top law officers - the Attorney General of India and the solicitor general, which will be established as a full-fledged office, assisted by a total of 52 lawyers and 26 law researchers.

The Legal Services Authorities Act, 1987 has been amended by The Legal Services Authorities (Amendment) Act, 2002. The concept of Lok Adalat is no longer an experiment in India, but it is an effective and efficient alternative mode of dispute settlement. 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 counselors and conciliators. It is participative, promising and has potential. Gujarat was the first state to organize Lok Adalats in India in 1982. At Una in Junagarh district of Gujrat, the first Lok Adalat was organized on 14th March 1982.