

Lok Adalat: A Catalyst for Change in the Indian Judicial Structure

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Abstract

There is a famous legal maxim of *“justice delayed is justice denied”* fits very aptly when it comes to the Indian legal system because even the most trivial matter sometimes takes years to get resolved. Going to Courts with a grievance is a tiring, costly and cumbersome process because of the amount of backlog the judiciary has. This is why the concept of alternate dispute resolution is considered to be an efficient manner of getting speedy justice. Alternate dispute resolution has caused a significant reduction in the burden of cases with the Courts. Lok Adalats can be called India’s take at alternate dispute resolution. They have known to be immensely efficient, flexible and quick. Lok Adalats have resulted in a positive response as many people have chosen to take their grievances to Lok Adalats as they are very cost-effective which results in an increase in accessibility to justice. However, many have critiqued this system resulting of speedy justice for being inefficient which brings us to the legal maxim of *“justice hurried is justice buried”*.

This paper attempts to critically analyze and answer the question whether while seeking quick disposal of cases and speedy justice, is the quality of justice being compromised or are Lok Adalats the need of the hour in order to make redressal more accessible and also reduce the burden on the Courts. Do the pros provided by Lok Adalats outweigh the cons?

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Introduction

A five-judge bench in the case of **Ajay Kumar Pander v. State of J&K**¹ opined that there is “no hesitation in holding that access to justice is indeed a facet of right to life guaranteed under Article 21 of the Constitution. The Citizen’s inability to access Courts or any other adjudicatory mechanism provided for determination of rights and obligations is bound to result in denial of the guarantee contained in Article 14 both in relation to equality before law as well as equal protection of laws... Article 21 of the Constitution apart, access to justice can be said to be part of the guarantee contained in Article 14 as well.”² This judgement reinforced that access to justice is a fundamental right guaranteed by the Indian Constitution. In theory it is rather easy to pass statements of this nature. However, when one looks at the real picture there is a stark disparity between the words and the truth. One of the biggest issues looming over the Indian judiciary is of the major backlog and pendency of cases. India is the second most populated country in the world which in turn leads to thousands of disputes arising on a daily basis. Which is one main contributing factor to the Indian judiciary being so overworked.

This pendency of cases and backlog causing the clogging of the legal system which is why cases go on for years at a stretch. This is where the legal maxim of “*justice delayed is justice denied*” comes into the picture. Isn’t the fact that a citizen has to wait for years to get justice a violation of her fundamental rights? Hence, the concept of Alternate Dispute Resolution (“ADR”) was introduced. As the name suggests, ADR focuses on providing the citizens with alternative routes to seeking justice. These modes of settlement outside Courts have been enshrined in **Section 89**³ of the **Code of Civil Procedure**⁴ (“CPC”). This section includes alternate modes of Arbitration, Conciliation, Lok Adalat and Mediation. The provision of ADR seeks to provide a more customized and flexible mode of redressal wherein the motive is of reaching a settlement through speedy justice.

Lok Adalat as a form of Alternate Dispute Resolution

Lok Adalats can be considered as India’s take at ADR. The term Lok Adalat literally translates to “People’s Court”. The usage of ADR to settle disputes has been a deeply rooted practice in Indian history. From ancient times, people have always had the mentality of settling the dispute among one another without having to approach the Court. In villages, disputes were always referred to Panchayats for them to adjudicate on disputes arising in the village. The members of the Panchayat (Panch) used to then put the principles of negotiation, mediation and arbitration to make the aggrieved parties come to a common consensus and settle. Hence, it can be said that the process of ADR has been practiced in India as an ancient practice even at the grassroot level.

¹ T.P (CRL) No. 116/2011

² Ibid

³ The Code of Civil Procedure, 1908

⁴ Ibid

The concept of Lok Adalat has originated following Gandhian Principles of Gram Swaraj and attempts to promote and fulfill the provision of **Article 39A**⁵ of the Constitution of India⁶ which aims at providing equal justice and free legal aid to everyone. Pursuing the motive of Article 39A, the **Legal Services Authority Act, 1987**⁷ (“Act”) was enacted which gave Lok Adalats a statutory status. Chapter VI⁸ of the Act covers various facets governing Lok Adalats. There have been several critiques stating that while chasing speedy justice, the quality of justice gets depleted. However, **Section 19(2)(a)**⁹ of the Act mandates Lok Adalats to consist of retired judicial officers which guarantees quality justice owing to the experience of these officers. The jurisdiction of Lok Adalats is mentioned under **Section 19(5)**¹⁰ stating that its jurisdiction runs parallel to whichever Court is organizing it. However, the jurisdiction does not permit Lok Adalats to adjudicate upon cases of non-compoundable nature. Some common categories of cases that Lok Adalats adjudicate on include family disputes like matrimonial disputes, cases pertaining to partition, motor accident claims, bonded labor cases even cases which are not sub-judice and the list goes on. Hence, one can conclude that the jurisdiction of Lok Adalats is quite wide but is limited to compoundable cases.

In order to approach a Lok Adalat to take cognizance of a case, **Section 20(1)(i)(b)**¹¹ of the Act mentions that the consent of even one of the parties involved is enough for Lok Adalat to adjudicate on the same. Lok Adalat's aim is more towards mediating between the aggrieved parties and assisting them in reaching a common ground in order to reach a solution and not to determine guilt or pass a conclusive verdict against the guilty. In a situation where a compromise has not been reached, the Lok Adalat can refer the parties to consider taking their matter up in Court. Another provision that empowers Lok Adalats is **Section 21**¹² of the Act “*every award of the Lok Adalat shall be deemed to be a decree of a civil Court*”¹³ and is also binding in nature. Provisions like these help in increasing one's confidence in approaching a Lok Adalat as it displays that this alternate mode of dispute resolution holds similar powers as a Court does and ensures that the award given by a Lok Adalat is conclusive in nature.

Critical Analysis

Over the years Lok Adalats have proved to be one of the most efficient and speedy mode of dispensing justice and has received acclamations from members of the judiciary as well as members of the parliament. Justice Ramaswami once said “*Resolving disputes through Lok Adalat not only minimizes litigation expenditure, it saves valuable time of the parties and their witnesses and also facilitates inexpensive and prompt remedy appropriately to the satisfaction of both the parties*”. Lok Adalats not only act as an efficient alternative to seek redressal, but they have also significantly helped in reducing the burden of the Courts

⁵ The Constitution of India

⁶ Ibid

⁷ Legal Services Authority Act, 1987

⁸ Ibid

⁹ Ibid

¹⁰ Ibid

¹¹ Supra 7

¹² Ibid

¹³ Ibid

pertaining to backlog and pendency of cases. Professor Menon also opined that “*Lok Adalat has the potential for social reconstruction and legal mobilization for social change. It can influence the style of administration of justice and the role of the lawyer and judge in it. It can take law closer to the life of the people and reduce disparity between law in books and law in action.*”¹⁴

The merits of Lok Adalats are not just limited to efficiency. One major disadvantage in opting for the traditional litigation in Courts is that it tends to be available to individuals who can afford to pay Court and lawyer fees for a long time. This problem has been completely resolved by Lok Adalats as they dispense justice without making the parties bear any costs. In fact, if a case gets transferred from Court to a Lok Adalat and the Lok Adalat is able to dispense an award, the previously paid Court fees are refunded under the **Section 16¹⁵** of the **Court Fees Act¹⁶**.

Lok Adalats also function in a more flexible manner. The Courts are very particular about attention to the procedural details, however, in a Lok Adalat a more customized approach is followed as each case is different and needs to be handled according to its needs. Also, the procedures laid down in the CPC and the Indian Evidence Act¹⁷ are not strictly implemented which also results in speedy justice.

As mentioned above, one of the biggest advantages of having Lok Adalats is how it has significantly reduced the backlog on the Courts. Further, it is not that if one opts for Lok Adalats then they are compromising on the quality of justice. An award given by a Lok Adalat is given the same stature as a decree laid down by a Civil Court. This award by Lok Adalats is also final and binding and cannot be appealed against even under Article 226 of the Constitution¹⁸. Hence, seeking redressal from a Lok Adalat does not mean that one is compromising on the effectiveness of justice.

Another advantage of Lok Adalats is that since it adjudicates upon civil matters, they are between two parties unlike in criminal cases where the matter is against the state. When a case is presented before a Lok Adalat, the motive of the institution is to resolve the matter by conciliating on the same in order to make the parties reach a common compromise. In case no compromise is made, the case returns to the Court. Hence, when the role of the Lok Adalat is only to ensure a compromise and not to give a verdict for or against either part, it ensures the journey to justice is done in a cordial manner.

Just as there are two sides of a coin, even though Lok Adalats come with a lot of merits, there are areas where improvements and amends can be made. Firstly, given the success of Lok Adalats in compoundable civil offences, its role in criminal cases is rather limited. It goes without saying that ADR is not a suitable alternative for cases regarding heinous offences like rape, murder etc. However, there are still many petty crimes which are non-compoundable and hence do not come under the purview of Lok Adalats. I am of the

¹⁴ Page 134, N.R.Madhava Menon, *Lok Adalat: People Program for Speedy Justice*, Indian Bar Review, Vol 132 (2), 1996

¹⁵ The Court Fees Act, 1870

¹⁶ Ibid

¹⁷ Indian Evidence Act, 1882

¹⁸ Supra 5

opinion that this jurisdiction of Lok Adalats in criminal offences should be reviewed in order to further reduce the burden on regular courts.

Another drawback of Lok Adalats is that in a situation where a compromise is not arrived at, the case is referred back to the court which in turn limits the powers of Lok Adalats. I am of the opinion that if from an administrative end more lawyers and judges are engaged in Lok Adalats, its efficiency will only increase. Therefore, gradually the Lok Adalats can be given the power to analyze the merits of the case and conclusively dispense a decision.

Lastly, the lack of judicial literacy has been a major contributor behind why many people do not seek redressal in Lok Adalats. Many people are not aware that such a concept called Lok Adalat even exists which is why they end up following the traditional method of approaching the Courts for justice. Another group of people exists where they are aware of the existence of Lok Adalats but do not have confidence in the process and the quality of justice dispensed by the same. I believe that legal literacy is capable of solving both these issues. When people are made aware of the existence, efficiency and advantages of Lok Adalats, they are ought to develop a positive attitude and more confidence towards this mode of dispute resolution. This can be done by organizing legal awareness camps and by using print and electronic media to its benefit. In the 21st century everything takes place on social media, which can act like a great catalyst in spreading awareness about ADR and especially Lok Adalats.

Conclusion

Lok Adalats have acted as a great catalyst for change not just in the Indian Legal System but also in the society over the past decades. They have not only reduced the burden on the Courts but have also truly made access to justice easy for everyone irrespective of their financial status. Seeking justice is no longer a luxury, it is one's fundamental right and this change has been brought by the introduction of Lok Adalats. In order to answer the question raised in the beginning regarding whether the pros outweigh the cons or not, my answer would be the pros outnumber and outweigh the cons by an immense margin. This is also because the cons are such that they can be worked upon and resolved, they are not permanent or detrimental. However, even though there are multiple benefits of Lok Adalats, there is always scope for improvement which can be done by more administrative reforms by paying more attention on Lok Adalats and ADR as a whole on the executive/ administrative front.