

## A COMPARISON BETWEEN THE LEGAL AID SYSTEMS IN FOREIGN COUNTRIES AND LOK ADALATS IN INDIA

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### INTRODUCTION

For many people, coming in contact with the justice system can be a challenging and overwhelming experience due to its complexity. Particularly for poor and marginalized groups, the justice system can be difficult to understand and navigate due to obstacles, such as lack of financial resources, lack of awareness on how to access the justice system, insufficient command of the local language and long travel distances to reach a legal service provider. As a result, legal aid is often the only means by which many people across the world can overcome such barriers. Legal aid service providers, such as lawyers, paralegals and law students, thus play a significant role by assisting people to secure their rights and entitlements, obtain redress for grievances, and ensure proper defence in criminal law proceedings. Providing legal aid to persons accused or suspected of a crime can protect their right to a fair trial, including by ensuring lawful and appropriate treatment towards them by criminal justice actors, which is a growing problem for many countries worldwide. Nonetheless, free legal aid should not only be provided in criminal matters, but also in civil matters when individuals do not have sufficient resources to pay for legal assistance and, without such assistance, they are prevented from asserting their rights. The concept of “legal aid” is inseparable from its function as a vital means of access to justice. Access to justice is defined as “the ability of people to seek and obtain a remedy through formal or informal institutions of justice, and in conformity with human rights standards,” and it is also seen as fundamental to the protection of human rights<sup>1</sup>.

Each and every country has evolved its own unique legal aid system, tailor-made to suit its population. Countries like USA and Singapore has a far more advanced legal aid system, which is made accessible to the entire population via software and online applications, whereas, countries like Sri Lanka and Tanzania still have a grass-root level legal aid system in order to make it accessible to even the remotest areas of the country. Despite of having their own legal aid system, each country is facing some or the other quandaries such as funds,

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1. United Nations Development Programme, Access to Justice Practice Note (2004). United Nations Office on Drugs and Crime, Access to Justice: Legal Defence and Legal Aid (2006).

participation, awareness and so on. India has also brought into force its own legal aid system to appease the requirements of the Indian population in need of legal aid. India has introduced the concept of “Lok Adalat” which proved to be not only accessible and reached the public at large but also observed the Indian customs and traditions. It is recognised and respected throughout the world and is now set as a model system for many developing and underdeveloped countries which respect their own customs and have incorporated them in their own legislations. However, the Indian legal aid system and “Lok Adalat” still faces many drawbacks and is not able to achieve goals it was set for.

In this paper the authors have tried to explain the legal aid system prevailing in countries like USA, Singapore, Netherlands, Sri Lanka, Tanzania and United Kingdom which have been well recognised by the judicial fraternity, internationally. Further, the legal aid system and the “Lok Adalat” existing in India is also explained along with its features and its drawbacks. And on the basis of legal aid systems existing in other countries, the authors have tried to point out few changes and improvements that can be incorporated in the prevalent legal aid systems in India in order to overcome its hindrances and make legal aid even more accessible to the Indian population.

## TANZANIA

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Tanzania is still undergoing a drastic change in their justice sector in order to establish “*a system of accessible and timely justice [for] all.*”<sup>2</sup> But here, we must understand what they mean by “access to justice”. Does it stand for “access to justice system” in the nous of access to the courts and legal services to ensure just procedures in conflict settlements, or does it stand for “justice quality” of norms and legal decisions.<sup>3</sup> The broad understanding of Galanter of the term says, justice is not primarily achieved in the official justice dispensing institution, just like knowledge is not fully achieved in schools.<sup>4</sup> Therefore, the word access here doesn’t mean bringing in the courtrooms, but by enhancing the justice quality of the relations and transactions in which people are engaged. Understanding this view, the main focus of this reform is to make availability and quality of justice institutions, called “paralegals” who are not only active within the courts in conflict resolution but outside as well. Paralegals are also

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<sup>2</sup> United Republic of Tanzania, Legal Sector Reform Programme Medium Term Strategy Fys 2005/06-2007 by Chief Justice Barnabas A. Samatta.

<sup>3</sup> Can paralegal enhance access to justice? The example of Morogoro Paralegal Centre in Tanzania by Eva Deihl in Law and Politics in Africa, Asia and Latin America, Vol. 42, No. 2 (2009). Pg. 191.

<sup>4</sup> Access to justice and the welfare state, Stuttgart, 1981 by Marc Galanter in Mauro Cappelletti. Pg. 161.

regarded as facilitators of Alternative Dispute Resolution (ADR), a type of conflict settlement which is normally preferred by development planners as it takes the local culture of dispute settlement into account.<sup>5</sup> The Tanzanian Law Reform Commission (LRC) have divided these paralegals into two groups, those who are educated by non-governmental organizations and those who have acquired legal knowledge in their profession. Paralegals are referred to as “wanaharakati” which literally mean legal helper.

There are many NGOs such as Morogoro Paralegal Centre (MPLC) which conducts legal trainings and spreading awareness by performances and plays. Here, the paralegals document each of their client’s visit in a casebook, where they note a short summary of the problem faces by the client, the advice given and any other relevant information they deem fit such a date of the next hearing.<sup>6</sup> In fact, MPLC also acts as a point of coordination as it delegates its clients to other institution and forums they can get any help. The cases can vary from damage of property over matrimonial issues, to a case where a school girl was thrown out of the house by her elder sister.<sup>7</sup>

Since the legal system of Tanzania is based on English common law, it follows legal pluralism in terms of norms, institutions and procedures<sup>8</sup>, which makes it difficult to separate the formal and informal legal spheres. Tanzanian laws include “customary laws” of many different ethnic groups.

## UNITED STATES OF AMERICA

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The Sixth Amendment in the United States’ Constitution guarantees legal counsel in all criminal prosecutions. Therefore, it is a now a mandate to appoint a counsel indigents in those cases where the punishment can be of imprisonment.<sup>9</sup> This legal aid is normally provided within a few basic models such as, *the staffed legal aid or the public defender model*, where the lawyers are a full-time employees; *the private contract model*, where the law firm or attorneys take up some or all of the jurisdictions’ indigent attorney work; *the NGOs model*, where attorneys are employed by non-profit corporation or non-profit

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<sup>5</sup> Infra Note 2, Pg. 189.

<sup>6</sup> Ibid Pg. 194.

<sup>7</sup> Ibid Pg. 207.

<sup>8</sup> Who’s afraid of legal pluralism? By Franz von Benda-Beckmann in Journal of Legal Pluralism 47 (2002), Pg. 37-82.

<sup>9</sup> Argersinger v. Hamlin, 401 U.S. 908 (1972).

organizations in order to provide public defence;<sup>10</sup> and *the appointed counsel model*, where the institutional justice provider appoints attorney to indigents and they are paid by the court or through county funds.<sup>11</sup>

In order provide legal aid to indigent's people, United States have formed a primary organization named *Legal Service Corporations*<sup>12</sup> and they have their branches via regional affiliations. There are many other organizations which are federally-funded legal aid system, such as the American Bar Association Division on IOLTA, the National Legal Aid and Defender Association, and also some state programs such as the Texas Equal Access to Justice Foundation. There are also many private volunteers under the bar associations who pro-bono provide their services via programs or by funding law school legal clinics. The states themselves take diverse programmes to manufacture local solutions to legal assistance challenges. For example, in the state of Rhode Island, the government have collaborated social services with legal services in order to develop alternatives solutions to incarceration<sup>13</sup> or the state of Indiana, where the state-wide commission reimburses county governments for round 40 percent of their legal aid expenses in non-capital punishments criminal cases.<sup>14</sup>

But even with this, the country faces many problems with their legal aids, such as lack of resources or awareness or the uneven distribution of funds into different departments. Since Legal Service Corporations is mainly focused in regulating the significant portion of civil legal aid services, the criminal legal aid suffers, not only from poor funding, but also from undesired control from the private attorney or lawyers.

## SRI LANKA

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The Sri Lankan Constitution clearly lays down under Article 13(3) that, "*Any person charged with an offence shall be entitled to be heard, in person or by an attorney-at-law, at a fair trial in a competent court.*" To provide the right of legal aid, which isn't expressly mentioned in the article, Sri Lankans have enacted Legal Aid Act of 1978 on recommendation made by the

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<sup>10</sup> *Gideon's Broken Promise: America's Continuing Quest for Equal Justice*, A Report on the ABA's Hearings on the Right to Counsel in Criminal Proceedings by ABA Standing Committee on Legal Aid and Indigent Defendants (December 2004), Pg. 2.

<sup>11</sup> Access to Justice, Costs, and Legal Aid by James P. George in *The American Journal of Comparative Law*, Vol. 54, American Law in the 21<sup>st</sup> Century: U.S. National Reports to the XVIIth International Congress of Comparative Law (Fall, 2006), Pg. 312.

<sup>12</sup> The Legal Service Corporation Act, 1974. See <http://lsc.gov>.

<sup>13</sup> Making the Case: Therapeutic Jurisprudence and Problem Solving Practices Positively Impact Clients, the Justice System and Communities They Serve, by Cait Clarke and James Neuhard in *17 St. Thomas Law Review* (Spring 2005), Pg. 781.

<sup>14</sup> Indigent Defendants System in United States by Robert L. Spangenberg and Marea L. Beeman in *58 Law and Contemporary Problems* (Winter 1995), Pg. 39.

Gratien Commission<sup>15</sup>, which suggested that there should be free legal aid for all persons, who cannot afford an attorney and semi contributions by the low-income individual, accused of offences.<sup>16</sup> The act also established a Legal Aid Commission (LAC) with the objective “to operate an effective legal aid scheme by providing legal advice and funds to conduct legal and other proceedings for and on behalf of deserving person.”<sup>17</sup> Further, they also have enacted International Covenant on Civil and Political Rights Act in 2007 which says, when a person is charged with a criminal offence, he should be entitled “to have legal assistance assigned to him in appropriate cases where the interest of justice so required and without any payment by him, where he does not have sufficient means to pay for such assistance.”<sup>18</sup> In order to determine who can fall within the ambit of deserving person, there are two tests laid down by Legal Aid Commission, the Means test and the Justice Test. Any individuals who is receiving a monthly income of less than Sri Lankan Rupees 8000 are eligible by Means Test, while in the Justice Test, those litigation which transcends beyond the ambit of personal disputes to a group or wider class of persons, then the litigation shall be eligible.<sup>19</sup> Owing to these two tests, there are some stern flaws in the laws regarding the rights to free legal aid by the accused.<sup>20</sup>

The Legal Aid Commission delivers aid for civil litigations; fundamental right cases; and other cases of maintenance, divorce, money, bail and appeals. They runs awareness programmes and training programmes for the judiciary and legal apprentices, extends legal services through paralegals to those justice deprived areas. They also promote dispute resolution outside the formal justice system via community organization and grassroots mechanism. In addition to that, the Sri Lankans have adopted many alternative methods for dispute resolutions in order to reduce the burden on the courts.

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<sup>15</sup> Gratien Commission of 1978.

<sup>16</sup> Legal Assistance and Aid: International Standards Applicable In Sri Lanka by Neol Dias in 15 Sri Lanka Journal of International Law (2003), Pg. 90.

<sup>17</sup> The Legal Aid Sector in Sri Lanka: Searching for Sustainable Solutions, Policy Brief, Published by The Asia Foundation, UNHCR, Ministry of Constitutional Affairs and National Integration, Ministry of Justice and Law Reform, in 2009.

<sup>18</sup> Section 4 of International Covenant on Civil and Political Rights Act, 2007.

<sup>19</sup> See <http://www.legalaid.gov.lk/index.php/our-services/legal-aid-beneficiaries>

<sup>20</sup> Legal Assistance and Aid: International Standards Applicable In Sri Lanka by Neol Dias in 15 Sri Lanka Journal of International Law (2003), Pg. 91.

## NETHERLANDS

Just like all other European Constitutions, Netherlands also have enshrined the principle that all citizens should have access to justice and legal representatives.<sup>21</sup> Unlike the United States, the guarantee of legal representation is enforced even in cases of extradition or confinement to mental institution.<sup>22</sup> The entire legal aid system took a preventive methods by adopting the method under which the legal problems would be tackled as soon as possible in order to minimize the time and expenses. Therefore, a great emphasis was kept upon the initial consultation which was publicly funded and was provided for thirty minutes.<sup>23</sup> In this client consultation period, the clients are told about the odds of the winning the legal suit and the expenses the client would have to bear. If the problem is supposed to take longer, then the client who holds the legal aid certificate, are entitled to legal aid. The Legal Aid Board will grant this certificate when the application made by the lawyer, on behalf of his client, is assessed on the grounds of the client's means and the merit of the problem that would satisfy the statutory requirements.<sup>24</sup> But due to the siphoning off funds and interesting cases by some Legal Aid and Advice Centres for themselves, the Dutch legal system had to undergo reforms for a more accessible and transparent system. This led to introduction of Legal Service Counters and demand-driven control of legal aid system.<sup>25</sup> Legal Aid and Advice Centres were replaced by Legal Service Counters with extending the time for the brief initial consultations to one hour and with extended legal assistance handled by private sector who receives government funding for their pro bono assistance.<sup>26</sup> Even with this reform, doubts still exists about the quality of staffing of the Legal Aid Counters, as they are heavily relied upon the services of paralegals.<sup>27</sup>

The major inquires that comes to the Legal Service Counters are in the field of employment, family law and contract/consumers.<sup>28</sup>

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<sup>21</sup> Article 17 of the Dutch Constitution says, "No one may be prevented against his will from being heard by the courts to which he is entitled to apply under the law." While article 18 says, "(1) Everyone may be legally represented in legal and administrative proceedings. (2) Rules concerning the granting of legal aid to person of limited means shall be laid down by the Act of Parliament."

<sup>22</sup> Legal Aid in the Netherlands: With some comparisons to the German Legal Aid System by Erhard Blankenburg, Pg. 4.

<sup>23</sup> Legal Aid in the Netherlands by Peter van den Beggelaar.

<sup>24</sup> Legal Aid in the Netherlands (2009) by Susanne Peters, Lia Combrink and Peter van den Beggelaar, Pg. 3.

<sup>25</sup> Reforming Primary Legal Aids in the Netherlands by Frans Ohm (2003).

<sup>26</sup> International Legal Aid Model (Need to find).

<sup>27</sup> Infra Note 24.

<sup>28</sup> Legal Aid in the Netherlands (2009) by Susanne Peters, Lia Combrink and Peter van den Beggelaar Pg. 7.

## UNITED KINGDOM

The Legal Aid Act of 1988 has established a quasi-autonomous non-governmental organization called Legal Aid Board which centrally organizes the legal aids in Wales and England.<sup>29</sup> The Criminal legal aids schemes are handled locally by the magistrates' court while the civil legal aid, by the Legal Aid Board. To be entitled for legal aid for criminal cases, both the means test and the legal merit test should be cleared.<sup>30</sup> In case of being questioned at the police station, you have the right to free legal advice, while in civil cases, you will have to show that you cannot afford to pay for legal costs and the issue is quite serious.<sup>31</sup>

Even though it is the government who funds the legal aid expenditure, the lawyers are the main inflationary force which has pushed up the expenditure.<sup>32</sup> This could be deciphered from the fact that the expenditure in legal aid is much higher than the number of acts of assistance. To understand this, the 'supplier induced demand thesis'<sup>33</sup> was applied which argues that, since the legal environment is quite aggressive and complex, the cost of their services are quite high. Therefore, when the cases of legal aid are referred to them, they become dependent upon that funding for their livelihood, which eventually increase the legal aid fees and the number of lawyers wanting to engage themselves in it.<sup>34</sup> Thereafter, when demand of legal aid outstrips supply of trained lawyers in private sector, they get a poor quality work from the staffed lawyers which are the rejected by the private sector. In both Scotland and England, small groups of salaried staff are engaged directly by the respective Legal Aid board to take up small proportion of cases in order to curb the private practitioner dominance.<sup>35</sup> Under Scotland, there are three tests that are applied to check the eligibility of an applicant for civil legal aid. First, the means test, which is the financial calibre to pay for the expenses. Second, the merit test, where there must be a plausible cause for the case to be filed. Third, the reasonableness test, where the application is assessed the reasonable for the case to be given a public fund, such as the likelihood of success and recovery.<sup>36</sup>

<sup>29</sup> Section 3-7 of the Legal Aid Act of 1988.

<sup>30</sup> Section 22 of the Legal Aid Act of 1988.

<sup>31</sup> See <https://www.gov.uk/legal-aid/eligibility>

<sup>32</sup> Legal Aid, Social Policy, and the Architecture of Criminal Justice: The Supplier Induced Inflation Thesis and Legal Aid Policy by David S. Wall, in *Journal of Law and Society*, Vol. 23 No. 4 (1996), Pg. 551.

<sup>33</sup> Organising Cost Effective Justice by G. Bevan et al., in *Social Market Foundation* (1994) Memorandum 7.

<sup>34</sup> *Infra* Note 30, Pg. 552.

<sup>35</sup> Legal Aid: Models of Organisation by Roger Smith in *European Forum on Access to Justice in Budapest* (2002), Pg. 8.

<sup>36</sup> Independent Strategic Legal Aid Review: Response to the Independent Strategic Legal Aid Review call for evidence, by Law Society of Scotland in May 2017.

## SINGAPORE

The Legal Aid System in Singapore is not as extreme as the system in England and America, but has adopted a combined system which was practiced in the New South Wales in 1943.<sup>37</sup> This Legal Aid System was enacted by a Legal Aid and Advice Ordinance in 1956 to establish a Legal Aid Bureau, which was enacted in the year 1985. This act was repealed and re-enacted in the year 1995 and was finally revised in the year 2014.

The eligibility criteria in this system is three fold. First, unlike England Legal Aid System, only “citizens and permanent residents of Singapore in any civil proceeding” will be allowed to approach the Bureau for legal aid.<sup>38</sup> Second is the means test, which checks the financial eligibility of the applicant. They have laid down a fix ceilings for income and capital of the applicant.<sup>39</sup> Third is the merit test, which checks reasonability of the applicant for filing case. The assessment is done by the Director of the Bureau.<sup>40</sup> If a person is able to satisfy all the three criteria, he shall be eligible to seek legal aid from the Legal Aid Bureau. The bureau provides its professional help either by an oral advice on the law of the land, *Legal Advice*; or by drafting simple documents, *Legal Assistance*; or it cover everything from the basic to representation of the applicant in the civil court actions, *Legal Aid*. You must clear the merit test in order to get Legal Aid, while you must clear the means test for Legal Assistance and Legal Advice.<sup>41</sup>

There are mainly four sources who fund the legal aid scheme: the government, applicant’s contributions, successful parties’ costs and the legal professions.<sup>42</sup> The government has mainly focused their funding on the provisions of civil legal aid as the major funding in the criminal legal aid was provided by non-governmental sources. The low-income people get there legal expenses covered by the legal aid system, and the rich-income people have the money to pay, but the only the middle-class of people to suffer as those are the one who were rejected because of the rigid means test applied by the Bureau.<sup>43</sup>

<sup>37</sup> Assessing the State of Civil Legal Aid in Singapore by H. Y. Yeo in the International and Comparative Law Quarterly, Vol. 41, No. 4 (1992), Pg. 878.

<sup>38</sup> Section 5(1) of the Singapore Legal Aid Act, 1995 (Revised in 2014).

<sup>39</sup> Section 8(2) of the Singapore Legal Aid Act, 1995 (Revised in 2014).

<sup>40</sup> Section 7(a) of the Singapore Legal Aid Act, 1995 (Revised in 2014).

<sup>41</sup> Guide to Legal Aid Scheme issued by Legal Aid Bureau in July, 2015. See, <https://www.mlaw.gov.sg/content/dam/minlaw/lab/About%20Us/Legal%20Aid%20Bureau%20-%20Flyer.pdf>

<sup>42</sup> Infra Note. 36, Pg. 888.

<sup>43</sup> The Reforms of Civil Procedural Law and Other Essays in Civil Procedure (1982) by Sir Jack Jacob, Pg. 89.

## INDIA

The Legal Aid is not a matter of charity but it can be claimed as a matter of right. In the Constitution of India, there is no express provision dealing with the concept of Legal Aid. The 42<sup>nd</sup> Amendment Act of 1976, inserted a new Article 39A in the Constitution of India. This was a significant step towards the direction of Constitutionalisation of Legal Aid. The relevant provisions in the Code of Criminal Procedure, 1978 and the Code of Civil Procedure, 1908 have also amended for securing equal and social Justice.

Article 39A of the Constitution of India provides the right to free legal aid to the poor and weaker sections of the society. Article 14 and 22(1) of the Constitution also make it obligatory for the State to ensure equality before law and provide a legal system which promotes justice on the basis of equal opportunity. Legal aid strives to ensure that constitutional pledge is fulfilled in its letter and spirit and equal justice is made available to the poor, downtrodden and weaker sections of the society. Sec. 304 of the Code of Criminal Procedure fulfills the Constitutional duty to provide legal aid, which arises from the time the accused is produced before the Magistrate for the first time and continues whenever he is produced for remand<sup>44</sup>.

In a report on Free Legal Aid in 1971, Justice P. N. Bhagwati observed, "even while retaining the adversary system, some changes may be effected whereby the judge is given greater participatory role in the trial so as to place the poor, as far as possible, on a footing of equality with the rich in the administration of justice." A similar report of the Committee on Legal Aid titled "Processional Justice to Poor" presided over by Krishna Iyer in 1973, dealt with the nexus between law and poverty, and spoke of Public Interest Litigation in this context. It emphasized the need for active and widespread legal aid system that enabled law to reach the people, rather than requiring people to reach the law. A final report made by these two Hon'ble Judges in August 1977 emphasized on the need for a new philosophy of legal service program, cautioned that it "must be framed in the light of socio-economic conditions prevailing in the country." It further noted that "the traditional legal service program which is essentially court or litigation oriented, cannot meet the specific needs and

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<sup>44</sup> Legal Aid in India and the Judicial Contribution by Dr. G. Mallikarjun in NALSAR Law Review, Vol. 7, No. 1 (2013).

the peculiar problems of the poor in the country.” The report also included draft legislation for legal services and referred to Social Action Litigation.<sup>45</sup>

Meanwhile, the Courts in India also started recognizing the right to legal aid in India and held that the poor shall not be priced out of the justice market by insistence on court-fee and refusal to apply the exemptive provisions of order XXXIII of the Code of Civil Procedure 1908<sup>46</sup>. In the case of *Khatri v. State of Bihar*<sup>47</sup>, the court discussed about the right to free legal aid to poor or indigent accused who are incapable of engaging lawyers. It was held that the state is constitutionally bound to provide such aid not only at the stage of trial but also when they are first produced before the magistrate or remanded from time to time and that such a right cannot be denied on the ground of financial constraints or administrative inability or that the accused did not ask for it.

Since 1952, the Government of India had started addressing to the question of legal aid for the poor in various conferences of Law Ministers and Law Commissions, and in 1987, the Legal Services Authorities Act was enacted by the Parliament which came into force on 9th November, 1995 with an objective to establish a nationwide uniform network for providing free and competent legal services to the weaker sections of the society on the basis of equal opportunity. The National Legal Services Authority (NALSA) has been constituted under the Legal Services Authorities Act, 1987 to monitor and evaluate implementation of legal services available under the Act. The NALSA has been constituted under the Legal Services Authorities Act, 1987 in order to provide free Legal Services to the weaker sections of the society and to organize Lok Adalats for amicable settlement of disputes. In every State, State Legal Services Authority has been constituted to give effect to the policies and directions of the NALSA and to give free legal services to the people and conduct Lok Adalats in the State. Hon’ble Chief Justice of the respective High Courts who is the Patron-in-Chief of the State Legal Services Authority heads the State Legal Services Authority. In every District, District Legal Services Authority has been constituted to implement Legal Services Programmes in the District. The District Legal Services Authority is situated in the District Courts Complex in every District and chaired by the District Judge of the respective district.

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<sup>45</sup> Jain, Shubham. “Free Legal Aid”. Retrieved from <http://www.lawyersclubindia.com/articles/Free-Legal-Aid-5166.asp#.UWPj4JMZsk> on 2<sup>nd</sup> April, 2013.

<sup>46</sup> State of Haryana v. Darshana Devi, AIR 1972 SC 855.

<sup>47</sup> AIR 1986 SC 991.

## LOK ADALATS

“Lok Adalat” is defined as a “forum where voluntary effort aimed at bringing about settlement of disputes between the parties is made through conciliatory and pervasive efforts”. These forums seek to promote the informal resolution of disputes by way of conciliation and compromise, and are presided over by a sitting or retired judicial officer who acts as a chairperson, together with two other members, usually a lawyer and a social worker.<sup>48</sup> Matters that are pending or are at pre-trial stage in formal courts may be referred to a Lok Adalat which has been modeled on the ancient cultural system of *Panchayats* known in the rural areas of India and the Legal Services Authorities Act has incorporated those concepts.<sup>49</sup> Though initially, Lok Adalat camps were started at Junagarh District in Gujarat by 1982, the first Lok Adalat was held in Chennai in 1986.

The Legal Services Authorities Act, 1987 makes provision for free legal aid which can be availed both before the Courts and Lok Adalat so constituted. The Lok Adalat has been given statutory status<sup>50</sup> under the Legal Services Authorities Act, 1987. Under the said Act, the award made by the Lok Adalat is deemed to be the decree of a civil court and is final and binding on all parties and no appeal lies before any court against its award.

Statistics up to the year of 2005 have held that more than 200,000 Lok Adalats have been held and therein around 16 million cases have been settled, half of which were motor accident claim cases. Further, more than one billion US dollars were distributed by way of compensation to those who had suffered accidents. 6.7 million People have been benefited through legal aid and advice. The Second National Lok Adalat was held across the country in 2016, which amicably settled about 1.25 crore pending and pre- litigation cases and brought financial relief of over Rs. 3,000 crore to ordinary litigants in a single day.<sup>51</sup> The Lok Adalats have proved to be an efficient mechanism by reducing the backlog of cases to a certain extent and is on its path to achieve its goals by providing access to justice to the downtrodden.

However, the mechanism is still not able to meet the targets which it is set to achieve and there are quite a few reasons for its failure. One of the reasons for the failure of Lok Adalat courts in India has been the critical lack of personnel to handle the workload and a refusal by

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<sup>48</sup> Access To Justice: To Dream The Impossible Dream? by Estelle Hurter in The Comparative and International Law Journal of Southern Africa, Volume 44 No. 3, November 2011, pp. 408-427.

<sup>49</sup> A Round Table Justice through Lok Adalat in India by Bhatt, (2002) 1 SCC Journal 11.

<sup>50</sup> Section 19 of Legal Services Authority Act, 1987.

<sup>51</sup> Krishnadas Rajagopal, Lok Adalat Settles 1.25 Crore Cases In a Day, THE HINDU, 21/1/2017.

the government to make additional funds available.<sup>52</sup> The Lok Adalat community courts in India do not provide for the settlement reached by the parties to be taken on appeal or review to a higher forum, due to which the dissatisfied party would take it to the courts for adjudication again as there is no control over the appeal. As observed by the Courts, the parties that do not arrive at any settlement, then the dispute is either returned to the court of law or the parties are advised to seek remedy in a court of law.<sup>53</sup> Since the local government leaders also influence the Lok Adalats and the presiding bodies, there is absence of fair trial and denial of justice.<sup>54</sup> In the case of the Nyaya Panchayats judicial officers had no legal training, and in the case of the Lok Adalats, certain judicial officers have a measure of training. Both these courses eventually fell into disuse. One of the reasons given for the failure of the Lok Adalat courts was also that a number of judicial officers did not have the training required for effective administration of justice.<sup>55</sup> It has also been observed that Lok Adalats are presided by professionals from the judiciary, who assume the role of Lok-Adalat as a judicial forum and tend to deviate from the basic objectives for which it has been formed. Nonetheless, the mechanism can still be improved by declaring the settlements and negotiations decided by these Courts as legally binding. In order to increase its utility, the concerned Legal services Authority or Committee should disseminate information to the public about the holdings of various Lok Adalats and success can be achieved thereby in providing speedy, equitable and inexpensive justice. There is need for improvement in quality of legal aid provided by lawyers and advocates. The remunerations offered from legal services authorities to lawyers should be revised and thus encouraged to render effective legal assistance to needy persons.<sup>56</sup>

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<sup>52</sup> "Neither Fish, Nor Flesh, Nor Good Herring" LokAdalats: an experiment in informal dispute resolution in India by Whitson in *Hastings International and Comparative Law Review* (1992), Pg.391-421.

<sup>53</sup> *Manju Gupta v. National Insurance Company*, (1994) ACC 242, 1994 ACJ 1036.

<sup>54</sup> *Community Courts: Official Recognition and Criminal Jurisdiction — a Comparative Analysis*, by Sanette Nel in the *Comparative and International Law Journal of Southern Africa*, Vol. 34, No. 1 (2001), pp. 87-108.

<sup>55</sup> *Ibid.*

<sup>56</sup> *A Critical Analysis on Lok Adalats in India* by Dr. Deepa Patil, *Research Front* ISSN 2320-8341, Vol. 3, No. 2, Apr. – Jun., 2015.

## CONCLUSION

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Every country has one or the other model of legal aid system by which they make sure that the indigent people are not deprived of any rights due to lack of funds. But what lacks in every country is the awareness of existence of such a right and the accessibility of justice. Indian system needs to improve on a lot of fronts as far as the legal aid systems of other countries are considered. Like USA, India needs to introduce the concept of online portals which would provide assistance and advice virtually and involve law schools and colleges as a part of pro bono to help in serving the society and spread awareness regarding the same. Like UK, India needs to relax its means test and make the legal aid system approachable by the people who are hand to mouth and are in need of legal help. Like Tanzania, India needs to incorporate dispute resolution mechanisms which would resolve the disputes amicably, and introduce law which would govern the 'khat panchayats' and ensure the existence of rule of law. Like Singapore, even private attorneys need to be made part of legal aid centers that could satisfy the needs of experienced personnel and increase the participation as well. And like Netherlands, not only criminal aid, but civil aid should also be provided to the ones in need and before approaching the courts amicable settlement of issues should be made possible. India has much to learn and improve upon from other countries as much as they need to from the Indian legal aid system. India has initiated an excellent legal aid mechanism in the country, and if a few curbs are taken care of then its outcome can surely be improved upon.