



Role of Alternative Dispute Resolution Methods in Development of Society: `Lok Adalat' in India

Anurag K Agarwal
akagarwal@iimahd.ernet.in
Tel: +91-79-2632 4916
Fax: +91-79-2630 6896

W.P. No. 2005-11-01
November 2005

The main objective of the working paper series of the IIMA is to help faculty members, Research Staff and Doctoral Students to speedily share their research findings with professional colleagues, and to test out their research findings at the pre-publication stage

**INDIAN INSTITUTE OF MANAGEMENT
AHMEDABAD-380 015
INDIA**

Role of Alternative Dispute Resolution Methods in Development of Society: `Lok Adalat' in India

by

Anurag K. Agarwal

Abstract

Peace is the *sine qua non* for development. Disputes and conflicts dissipate valuable time, effort and money of the society. It is of utmost importance that there should not be any conflict in the society. But, in a realistic sense, this is not possible. So, the next best solution is that any conflict which raises its head is nipped in the bud. With the judicial system in most of the countries being burdened with cases, any new case takes a long time to be decided. And, till the time the final decision comes, there is a state of uncertainty, which makes any activity almost impossible. Commerce, business, development work, administration, etc., all suffer because of long time taken in resolving disputes through litigation.

To get out of this maze of litigation, courts and lawyers' chambers; most of the countries encourage alternative methods of dispute resolution. India has a long tradition and history of such methods being practiced in the society at grass roots level. These are called *panchayat* and in the legal terminology, these are called arbitration. These are widely used in India for resolution of disputes – both commercial and non-commercial. Other alternative methods being used are *Lok Adalat* (People's Court), where justice is dispensed summarily without too much emphasis on legal technicalities. Methods like negotiation, mediation and conciliation are being increasingly used to resolve disputes instead of going for litigation. There have been recent amendments in the procedural law of India to incorporate these methods so that people get justice in a speedy manner and there is lesser conflict in the society.

This paper examines the role of methods of alternative dispute resolution, particularly *Lok Adalat* in making inexpensive, efficacious and speedy justice accessible to the public. The Constitution of India guarantees 'Right to Constitutional Remedies' as a fundamental right. The government provides free legal aid to the needy. However, in a country of continental dimensions and with population more than a billion, it becomes very difficult to provide free legal aid to everyone. The National Legal Services Authority (NALSA) is trying to spread 'legal literacy' which is a step more than 'literacy'. People care about their rights much more when they are aware and are 'legal literate'. Efforts are also being done at provincial level. The paper particularly examines the role of NALSA and other State Legal Services Authority which are the key institutions in bridging the gap between public and judicial system. The author has personal experiences regarding the same. All these efforts seem to be a small drop in the ocean, but small drops make mighty oceans. How can these be replicated in other parts of India and similar models developed and adopted in Asia-Pacific countries is a good research area. Such models shall curb conflicts and bring more peace in society – not only in domestic sense but also internationally.

Key-words

Arbitration, Conciliation, Dispute resolution, Legal Aid, *Lok Adalat* (People's Court)

Introduction

Mahatma Gandhi, the Father of the Nation, wrote in his autobiography about the role of law and lawyer,

"I had learnt the true practice of law. I had learnt to find out the better side of human nature, and to enter men's hearts. I realised that the true function of a lawyer was to unite parties riven asunder. The lesson was so indelibly burnt into me that the large part of my time during the twenty years of my practice as a lawyer was occupied in bringing about private compromises of hundreds of cases. I lost nothing thereby – not even money, certainly not my soul." (Gandhi)

Any conflict is like cancer. The sooner it is resolved the better for all the parties concerned in particular and the society in general. If it is not resolved at the earliest possible opportunity, it grows at a very fast pace and with time the effort required to resolve it increases exponentially as new issues emerge and conflicting situations galore. One dispute leads to another. Hence, it is essential to resolve the dispute the moment it raises its head. The method to achieve this goal must be agreeable to both the parties and it should achieve the goal of resolving the dispute speedily. This state of uncertainty and indecisiveness should be as brief as possible to avoid all psychological, physical and mental losses.

The Constitution of India has defined and declared the common goal for its citizens as—"to secure to all the citizens of India, justice—social, economic and political; liberty; equality and fraternity". The eternal value of constitutionalism is the rule of law which has three facets i.e. rule by law, rule under law and rule according to law.

How to secure to all the citizens the justice which the Constitution talks about is a big question being faced by the judiciary. The courts dockets are over-loaded and new cases are being filed every day. It is becoming humanly impossible to decide all these cases by the regular courts in a speedy manner. And, this is not the situation in India alone. This, unfortunately, is the situation in a large number of jurisdictions.

Need for ADR (Alternative Dispute Resolution)

With the evolution of modern States and sophisticated legal mechanisms, the courts run on very formal processes and are presided over by trained adjudicators entrusted with the responsibilities of resolution of disputes on the part of the State. The seekers of justice approach the courts of justice with pain and anguish in their hearts on having faced legal problems and having suffered physically or psychologically. They do not take the law into their own hands as they believe that they would get justice from the courts at the end and on some day. It is the obligation of judiciary to deliver quick and inexpensive justice shorn of the complexities of procedure. However, the reality is that it takes a very long time to get justice through the established court system. Obviously, this leads to a search for an alternative complementary and supplementary mechanism to the process of the traditional civil court for inexpensive, expeditious and less cumbersome and, also, less stressful resolution of disputes. But, the elements of judiciousness, fairness, equality and compassion cannot be allowed to be sacrificed at the altar of expeditious disposal. The hackneyed saying is that 'justice delayed is justice denied'. But justice has to be imparted: 'justice cannot be hurried to be buried'. The cases have to be "decided" and not just "disposed of". This creates the dilemma of providing speedy and true justice. This is easier said than done.

The Indian judiciary is held in very high esteem in all the developing as well as the developed countries of the world. However, there is criticism that the Indian judiciary is unable to clear the backlog of cases. Available and relevant statistics would show that though the pendency of cases is always highlighted, what is never spoken of are the figures of annual filing and disposal.

During the years 2001 - 2004, on an average, the subordinate courts have disposed of 13 million cases every year while the High Courts have disposed of 1.5 million cases per year. The Fast Track Courts have disposed of 370,000 cases during the same period. The Supreme Court of India is disposing of about 50,000 cases per year.

The law courts are confronted with four main problems:

- a) the number of courts and judges in all grades are alarmingly inadequate
- b) increase in flow of cases in recent years due to multifarious Acts enacted by the Central and State Governments
- c) the high cost involved in prosecuting or defending a case in a court of law, due to heavy court fee, lawyer's fee and incidental charges
- d) delay in disposal of cases resulting in huge pendency in all the courts.

These problems do not have an instant solution. For each problem, there are a number of reasons which need to be tackled, however, it requires a lot of time and will power on the part of the leaders of the nation. Till the time it is done, the country has to move on. Disputes will keep emerging and if not resolved, they shall keep on piling making life difficult for everyone in the society.

In every kind of civilisation, and India is no exception, pursuit of justice is instinctive. It is an individual and societal instinct and every society strives to attain it through its legal system. The degree of perfection attained by legal system may be measured by the extent to which it exists in good instinct for justice system to express itself and to find its fulfilment. Not every legal system succeeds in this goal. Sometimes a legal system fails to achieve its purpose because of defects and deficiencies in its substantive laws and sometimes mainly because of its procedural rules' infirmities. Fortunately, the judicial system in India is well organised with high level of integrity, and has been able to develop a system of ADR.

ADR has become a global necessity. In recent times, methods of alternative dispute resolution have emerged as one of the most significant movements as a part of conflict management and judicial reform. The entire legal fraternity – lawyers, students, judges and legislators – all over the world have started viewing dispute resolution in a new perspective. Many more alternatives to the litigation have emerged. ADR is now an integral part of modern legal practice and jurisprudence.

Methods of ADR

Litigation does not always lead to a satisfactory result. It is expensive in terms of time and money. A case won or lost in a court of law does not change the mindset of the litigants who continue to be adversaries and go on fighting in appeals after appeals. Alternate dispute resolution systems enable the change in mental approach of the parties. When a person goes to court, he knows that he shall win all or lose all. Whereas, when he opts for any method of ADR or for informal settlement, he knows fully well that he may not get all that he wants, but he will not lose everything.

The main methods of ADR are negotiation, mediation, conciliation and arbitration. *Lok Adalat* is a fine blend of all.

Conciliation is often held to be a constructive approach to disputes which are justiciable in nature. Though the term 'conciliator' is interchangeable with the term 'mediator', yet there are differences between these two positions. A mediator is usually taken to be a person accepted by the disputants themselves and his role is to help them reach a negotiated settlement of their disputes. He may see each party privately and listen to its viewpoint and impress upon each party to understand the view point of each party. His principal task is to bring the parties together so that they can arrive at an agreed solution to the dispute.

On the other hand, a conciliator himself draws up the terms of an agreement for settlement after having detailed discussion with the parties to the dispute. Generally conciliation is made through a conciliator or conciliation committee. Like a mediator the primary duty of a conciliator is also to help the parties to a dispute reach an amicable settlement. Each party is invited to a conciliation conference to place their view points before the conciliator who takes notes and gets clarified on any complicated issue. The conciliator after the conclusion of the conference may talk to each party separately and ascertain their “bottom line”, that is the figure at which each would be prepared to settle. The conciliator will thereafter propose a solution to the parties.

Conciliation and mediation differ from arbitration as the former two methods do not result in a binding or enforceable settlement without any statutory sanction.

History of ADR and “Lok Adalat” in India

ADR has been an integral part of our historical past. Like the zero, the concept of *Lok Adalat* (Peoples' Court) is an innovative Indian contribution to the world jurisprudence. The institution of *Lok Adalat* in India, as the very name suggests, means, People's Court. "Lok" stands for "people" and the vernacular meaning of the term "Adalat" is the court. India has a long tradition and history of such methods being practiced in the society at grass roots level. These are called *panchayat* and in the legal terminology, these are called arbitration. These are widely used in India for resolution of disputes – both commercial and non-commercial. Other alternative methods being used are *Lok Adalat* (People's Court), where justice is dispensed summarily without too much emphasis on legal technicalities. It has been proved to be a very effective alternative to litigation. *Lok Adalat* is one of the fine and familiar forums which has been playing an important role in settlement of disputes.

The ancient concept of settlement of dispute through mediation, negotiation or through arbitral process known as "*Peoples' Court verdict*" or decision of "*Nyaya-Panch*" is conceptualized and institutionalized in the philosophy of *Lok Adalat*. Some people equate *Lok Adalat* to conciliation or mediation, some treat it with negotiations and arbitration. Those who find it different from all these, call it "Peoples' Court". It involves people who are directly or indirectly affected by dispute resolution. The salient features of this form of dispute resolution are participation, accommodation, fairness, expectation, voluntariness, neighbourliness, transparency, efficiency and lack of animosity.

The concept of *Lok Adalat* was pushed back into oblivion in last few centuries before independence and particularly during the British regime. Now, this concept has, once again, been rejuvenated. It has, once again, become very popular and familiar amongst litigants. This is the system which has deep roots in Indian legal history and its close allegiance to the culture and perception of justice in Indian ethos. This concept is, now, again very popular and is gaining historical momentum. Experience has shown that it is one of the very efficient and important ADRs and most suited to the Indian environment, culture and societal interests.

Lok Adalats have worked very well and satisfactorily in our country. Camps of *Lok Adalat* were started initially in Gujarat in March 1982 and now it has been extended throughout the Country. The evolution of this movement was a part of the strategy to relieve heavy burden on the Courts with pending cases. The reason to create such camps were only the pending cases and to give relief to the litigants who were in a queue to get justice. The first *Lok Adalat* was held on March 14, 1982 at Junagarh in Gujarat—the land of Mahatma Gandhi. *Lok Adalats* have been very successful in settlement of motor accident claim cases, matrimonial/family disputes, labour disputes, disputes relating to public services such as telephone, electricity, bank recovery cases and so on.

Some statistics may give us a feeling of tremendous satisfaction and encouragement. Up to the middle of last year (2004), more than 200,000 *Lok Adalats* have been held and therein more than 16 million cases have been settled, half of which were motor accident claim cases. More than one billion US dollars were distributed by way of compensation to those who had suffered accidents. 6.7 million persons have benefited through legal aid and advice.

Benefits of *Lok Adalat*

The benefits that litigants derive through the *Lok Adalat* are many.

First, there is no court fee and even if the case is already filed in the regular court, the fee paid will be refunded if the dispute is settled at the *Lok Adalat*.

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

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

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

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

Procedure at *Lok Adalat*

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

A *Lok Adalat* has the jurisdiction to settle, by way of effecting compromise between the parties, any matter which may be pending before any court, as well as matters at pre-litigative stage i.e. disputes which have not yet been formally instituted in any Court of Law. Such matters may be civil or criminal in nature, but any matter relating to an offence not compoundable under any law cannot be decided by the *Lok Adalat* even if the parties involved therein agree to settle the same. *Lok Adalats* can take cognizance of matters involving not only those persons who are entitled to avail free legal services but of all other persons also, be they women, men, or children and even institutions.

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

Legislation pertaining to *Lok Adalat*

Ever since 1987, *Lok Adalats* have been given statutory recognition. The Legal Services Authorities Act, 1987, pursuant to the constitutional mandate in Article 39-A of the Constitution of India, contains various provisions for settlement of disputes through *Lok Adalat*. Thus, the ancient concept of *Lok Adalat* has, now, statutory basis. It is an Act to constitute legal services authorities to provide free and competent legal services to the weaker sections of the society to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities, and to organise *Lok Adalats* to secure that the operation of the legal system promotes justice on a basis of equal opportunity. In 2002, Parliament of India amended the Legal Services Authorities Act, 1987 requiring establishment of permanent *Lok Adalats* for public utility services.

The Legal Services Authorities Act, 1987 (as amended vide Act No. 37 of 2002) provides for setting up of a “Permanent *Lok Adalat*” which can be approached by any party to a dispute involving “public utility services” which have been defined in the Act (as amended) to include transport services for the carriage of passengers or goods by air, road or water; postal, telegraph or telephone services; insurance service, as also services in hospital or dispensary, supply of power, light or water to the public, besides systems of public conservancy or sanitation. Any civil dispute with a public utility service and where the value of the property in dispute does not exceed Rupees one million (about US \$ 2200); or any criminal dispute which does not involve an offence not compoundable under any law, can be taken up in the “Permanent *Lok Adalat*”. An important feature of this amendment is that after an application is made to the Permanent *Lok Adalat*, no party to that application can invoke jurisdiction of any court in the same dispute. Such disputes involving public utility services shall be attempted to be settled by the Permanent *Lok Adalat* by way of conciliation and failing that, on merit, and in doing so the Permanent *Lok Adalat* shall be guided by the principles of natural justice, objectivity, fair play, equity and other principles of justice without being bound by the Code of Civil Procedure and the Indian Evidence Act.

Besides the Legal Services Authorities Act, there have been several other changes in the law in recent times and one of the most important being the amendment in Code of Civil Procedure. Section 89 of the Code of Civil Procedure as amended in 2002 has opened the scope for introduction of conciliation, mediation and pre-trial settlement methodologies. Once the model rules framed by the Committee headed by Justice Jagannadha Rao, Chairman, Law Commission of India under the directions of the Supreme Court of India have been adopted by all the High Courts, funds will need to be sanctioned to meet the need for providing the requisite infrastructure and for employment of mediators and conciliators as part of the justice-delivery system. This would drastically bring down the pendency of cases by accelerating disposal of such cases. In California, U.S., where the systems of mediation, conciliation and pretrial settlement have been introduced only two decades ago, it has been found that 94% of cases are referred for settlement through one or the other of the ADR systems and 46% of such cases are settled without contest. The result is that California has been able to achieve the goal of final decision of civil cases within a period of less than 2 years from the date of institution. The mediators and conciliators shall have to be trained so as to acquire professional expertise in the art of mediation and conciliation in India.

The constitutional validity of amendments made to section 89 of the Code of Civil Procedure incorporating Alternative Dispute Resolution methods have been upheld by the Supreme Court of India in a recently decided case. (Supreme Court 2005 a)

Some of the relevant sections from the Legal Services Authority Act, 1987 are quoted as under:

Section 19

1. Central, State, District and Taluk Legal Services Authority has been created who are responsible for organizing *Lok Adalats*.
2. Conciliators for *Lok Adalat* comprise the following:
 - A. A sitting or retired judicial officer.
 - B. other persons of repute as may be prescribed by the State Government in consultation with the Chief Justice of High Court.

Section 20: Reference of Cases

Cases can be referred for consideration of *Lok Adalat* as under:

1. By consent of both the parties to the disputes.
2. One of the parties makes an application for reference.
3. Where the Court is satisfied that the matter is an appropriate one to be taken cognizance of by the *Lok Adalat*.
4. Compromise settlement shall be guided by the principles of justice, equity, fair play and other legal principles.
5. Where no compromise has been arrived at through conciliation, the matter shall be returned to the concerned court for disposal in accordance with Law.

Section 21

After the agreement is arrived by the consent of the parties, award is passed by the conciliators. The matter need not be referred to the concerned Court for consent decree.

The Act revisions envisages as under:

1. Every award of *Lok Adalat* shall be deemed as decree of Civil Court.
2. Every award made by the *Lok Adalat* shall be final and binding on all the parties to the dispute.
3. No appeal shall lie from the award of the *Lok Adalat*.

Section 22

Every proceedings of the *Lok Adalat* shall be deemed to be judicial proceedings for the purpose of:

1. Summoning of Witnesses.
2. Discovery of documents.
3. Reception of evidences.
4. Requisitioning of Public record.

Finality of *Lok Adalat* award

One issue which raises its head often is the finality of the award of the *Lok Adalat*. During the *Lok Adalat*, the parties agree to abide by the decision of the judge at the *Lok Adalat*. However, it is often seen that later, the same order is challenged on several grounds. In one of the recent decisions, the Supreme Court of India has once again laid to rest all such doubts. In unequivocal terms, the Court has held that award of the *Lok Adalat* is as good as the decree of a Court. The award of the *Lok Adalat* is fictionally deemed to be decrees of Court and therefore the courts have all the powers in relation thereto as it has in relation to a decree passed by itself. This, includes the powers to extend time in appropriate cases. The award passed by the *Lok Adalat* is the decision of

the court itself though arrived at by the simpler method of conciliation instead of the process of arguments in court. (Supreme Court 2005 b)

Consent of Parties

The most important factor to be considered while deciding the cases at the *Lok Adalat* is the consent of both the parties. It can not be forced on any party that the matter has to be decided by the *Lok Adalat*. However, once the parties agree that the matter has to be decided by the *Lok Adalat*, then any party cannot walk away from the decision of the *Lok Adalat*. In several instances, the Supreme Court has held that if there was no consent the award of the *Lok Adalat* is not executable and also if the parties fail to agree to get the dispute resolved through *Lok Adalat*, the regular litigation process remains open for the contesting parties. (Supreme Court 2004 a)

The Supreme Court has also held that "compromise" implies some element of accommodation on each side. It is not apt to describe it as "total surrender." (Supreme Court 2005 c)

A compromise is always bilateral and means mutual adjustment. "Settlement" is termination of legal proceedings by mutual consent. If no compromise or settlement is or could be arrived at, no order can be passed by the *Lok Adalat*. (Supreme Court 2004 b)

Legal Aid, National Legal Services Authority (NALSA) and state bodies

The poor find it difficult to prosecute or defend a case due to high costs involved. Eminent judges of the Supreme Court and High Courts have many a time emphasised the need for free legal aid to the poor. The Central Government, taking note of the need for legal aid for the poor and the needy, had introduced Article 39 (A) in the Constitution in February 1977.

Article 39A of the Constitution of India reads as under:

The State shall 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 disability.

Thus in the Directive Principles of the State Policy, it is now enshrined that the Central and State Governments should ensure that the operation of the legal system promotes justice on the basis of equal opportunity and shall in particular provide free legal aid for the poor and ensure that justice is not denied to them for economic reasons or other disabilities.

Articles 14 and 22(1) also make it obligatory for the State to ensure equality before law and a legal system which promotes justice on a basis of equal opportunity to all. 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.

Since 1952, the Government of India also started addressing to the question of legal aid for the poor in various conferences of Law Ministers and Law Commissions. In 1960, some guidelines were drawn by the Government for legal aid schemes. In different states, legal aid schemes were floated through Legal Aid Boards, Societies and Law Departments.

In 1987 Legal Services Authorities Act was enacted to give a statutory base to legal aid programmes throughout the country on a uniform pattern. This Act was finally enforced on 9th of November, 1995 after certain amendments were introduced therein by the Amendment Act of 1994. National Legal Services Authority was constituted on 5th December, 1995.

The National Legal Services Authority (NALSA), a statutory body constituted under the National Legal Services Authorities Act, 1987 as amended by the Act of 1994, is responsible for providing free legal assistance to poor and weaker sections of the society on the basis of equal opportunity. NALSA is engaged in providing legal services, legal aid and speedy justice through *Lok Adalats*. The Authority has its office at New Delhi and is headed by the Chief Justice of India, who is the *ex-officio* Patron-in-Chief.

Similarly, the State Legal Services Authorities have been constituted in every State Capital. Supreme Court Legal Services Committee, High Court Legal Services Committees, District Legal Services Authorities and Taluk Legal Services Committees have also been constituted in every State.

A nationwide network has been envisaged under the Act for providing legal aid and assistance. National Legal Services Authority (NALSA) is the apex body constituted to lay down policies and principles for making legal services available under the provisions of the Act and to frame most effective and economical schemes for legal services. It also disburses funds and grants to State Legal Services Authorities and NGOs for implementing legal aid schemes and programmes.

In every State a State Legal Services Authority is constituted to give effect to the policies and directions of the Central Authority (NALSA) and to give legal services to the people and conduct *Lok Adalats* in the State. State Legal Services Authority is headed by the Chief Justice of the State High Court who is its Patron-in-Chief. A serving or retired Judge of the High Court is nominated as its Executive Chairman.

District Legal Services Authority is constituted in every District to implement Legal Aid Programmes and Schemes in the District. The District Judge of the District is its *ex-officio* Chairman.

Taluk Legal Services Committees are also constituted for each of the Taluk or Mandal or for group of Taluk or Mandals to coordinate the activities of legal services in the Taluk and to organise *Lok Adalats*. Every Taluk Legal Services Committee is headed by a senior Civil Judge operating within the jurisdiction of the Committee who is its *ex-officio* Chairman.

9th of November is celebrated every year by all Legal Services Authorities as "Legal Services Day".

After the establishment of NALSA towards the beginning of 1998, following schemes and measures *inter alia* have been envisaged and implemented:

- a. Establishing Permanent and Continuous *Lok Adalats* in all the Districts in the country for disposal of pending matters as well as disputes at pre-litigative stage
- b. Establishing separate Permanent & Continuous *Lok Adalats* for Government Departments, Statutory Authorities and Public Sector Undertakings for disposal of pending cases as well as disputes at pre-litigative stage
- c. Accreditation of NGOs for Legal Literacy and Legal Awareness campaign
- d. Appointment of "Legal Aid Counsel" in all the Courts of Magistrates in the country
- e. Disposal of cases through *Lok Adalats* on old pattern
- f. Publicity to Legal Aid Schemes and programmes to make people aware about legal aid facilities

- g. Emphasis on competent and quality legal services to the aided persons
Legal aid facilities in jails
- h. Setting up of Counseling and Conciliation Centers in all the Districts in the country
- i. Sensitisation of Judicial Officers in regard to Legal Services Schemes and programmes
- j. Publication of "*Nyaya Deep*", the official newsletter of NALSA

Future and challenges

The success of *Lok Adalat* in India is tremendous. *Lok Adalat* has provided an important juristic technology and vital tool for easy and early settlement of disputes. It has been proved to be a successful and viable national imperative and incumbency, best suited for the larger and higher sections of the present society and Indian system. The concept of legal services which includes *Lok Adalat* is a "*revolutionary evolution of resolution of disputes*". (Bhatt 2002)

There is a need for improving the quality of legal aid that is being given by legal aid advocates. Teeming millions of this country who live below poverty line in tribal, backward and far flung areas look to Legal Services Authorities for help and support in resolving their legal problems. When involved in litigation they, very often, feel that they are fighting an unequal battle in which the party that has better financial resources can secure more able legal assistance. There is a need to revise the payment schedule for legal aid panel advocates and also compress the panels so that panel advocates get more work and better remuneration from legal services authorities and thus get encouraged to render effective legal assistance to aided persons. (Bharucha, 2000)

Legal aid and legal literacy programmes have to expand to take care of the poor and ignorant. Intertwining of ADR methodology with justice-dispensation process would succeed in delivering quicker and inexpensive quality justice and stand taller over all its counterparts elsewhere in the world. Besides *Lok Adalat*, India has to be a venue for international arbitrations.

New trends in litigation, such as those related to intellectual property rights, cyber crimes, environment, money-laundering, competition, telecom, taxation, international arbitration and so on need expertise. The judges need to be trained and updated for achieving and maintaining professional excellence. A dialogue has already been initiated to remodel the imparting of instructions in law tailored in such a way that, after initial education, different levels of legal education are available to those who aspire to enter the legal profession, to those who aim at joining judicial services and to those who wish to just acquire a degree in law for academic purposes only or wish to remain confined to academics and research. There is a need to make the masses legal literate and for this the NLSA is doing a yeomen service alongwith the state Legal Services Authority. (Lahoti 2004)

Conclusion

The large population of India and the illiterate masses have found the regular dispensation of justice through regular courts very cumbersome and ineffective. The special conditions prevailing in the Indian society and due to the economic structure, highly sensitised legal service is required which is efficacious for the poor and ignorant masses. The *Lok Adalat* movement is no more an experiment in India. It is now a success and needs to be replicated in matters which have not yet been under the domain of *Lok Adalat*. May be some brainstorming on the part of law makers, judges, lawyers and teachers would result in some modifications so that the same model can be

used effectively in business disputes. At present there is an urgent need to have an alternative dispute resolution for business disputes which is as good as the model of *Lok Adalats*. Moreover, there is a need to use the techniques used in *Lok Adalat* in conflicts related to public issues where the number of players is quite large and in most of the matters the government is also involved in one way or the other.

Lok Adalats have to reinvent after almost six months to meet the challenges faced by the judiciary. The new branches of law will require newer tools to have decisions acceptable to the litigants. As new branches emerge aspirations are very high. Only time will tell how far *Lok Adalat* movement shall go in India and elsewhere in curbing conflicts and disputes and in spreading harmony.

References:

Bharucha, S.P. (Justice), Executive Chairman, NALSA while writing in '*Nyaya Deep*' and in the course of his keynote address in the meeting of the Member Secretaries held in NALSA office on February 19, 2000

Bhatt, Jitendra N., Judge, High Court of Gujarat, and, Executive Chairman, Gujarat State Legal Services Authority, Ahmedabad, "*A Round Table Justice Through Lok-Adalat (Peoples' Court)—A Vibrant-ADR-In India*", (2002) 1 SCC (Jour) 11

Gandhi, M.K., *The Law and the Lawyers*, Navjivan Trust, Ahmedabad, India, 1962, Reprint 2001, page 258

Lahoti, R. C. (Chief Justice of India) "*Envisioning justice in the 21st century*", Keynote address delivered at the Conference of the Chief Ministers of States and the Chief Justices of High Courts, Vigyan Bhavan, New Delhi on September 18, 2004; (2004) 7 SCC (J) 13

Supreme Court 2004 a, *Jagtar Singh and another v. State of Punjab and others*, Decided on September 17, 2004; Criminal Appeal Nos. 1030-1031 of 2004; 2004 Indlaw SC 784

Supreme Court 2004 b, *State of Punjab and others v. Phulan Rani and another*, Decided on August 3, 2004, Civil Appeal No. 4718 of 2004; 2004 (7) SCC 555

Supreme Court 2005 a, *Salem Advocate Bar Association, Tamil Nadu v. Union of India*, decided on August 2, 2005; Writ Petition (C) No. 496 of 2002 (with W.P. (C) No. 570 of 2002); (2005) 6 SCC 344

Supreme Court 2005 b, *P. T. Thomas v. Thomas Job*, Decided on August 4, 2005, Appeal (Civil) 4677 of 2005, (Arising Out of S.L.P (C) No..20179/2003); (2005) 6 SCC 478

Supreme Court 2005 c, *State of Punjab and Others v. Mohinderjit Kaur*, Decided on January 18, 2005, Civil Appeal No.563 of 2005; 2005 (2) SCC 743