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"IDEA OF JUSTICE IN THE LIGHT OF PENDENCY OF CASES IN INDIA"

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ABSTRACT

The Constitution of India pledges to safeguard to all its citizens justice- social, economic and political. Article 39-A of the Indian Constitution imposes an obligation on the State to safeguard that the procedure of the lawful arrangement in the state promotes fairness, on the basis of equal opportunity and additionally provides for free lawful assistance by suitable legislation or schemes in each supplementary method to safeguard that opportunities for safeguarding fairness are not repudiated to each citizen by reason of commercial and supplementary disabilities. Firstly, the researcher would like to discuss about the justice delivery system of the country, as procedure in the courts is rigid, lengthy and extra formal. There are countless openings in the courts from the lower to the highest. As a result it has led to backlog of cases that has provoked docket explosion.

Secondly, the researcher would lay emphasis on, congestion in courts, so that the number of cases pending can be reduced. Thirdly, the researcher will discuss about the factors which have led to pendency of cases in India and the role played by Lok Adalats in relation to disposal of pending cases.

Fourthly, a secondary data methodology will be used in which I will be collecting all the data

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and statistics from the established news, magazine reports, journals, internet and libraries around India. Lastly critical analysis and suggestions will be presented by the researcher on how the backlog of cases can be solved and the condition of Indian Judiciary can be improved so that justice is provided to the people within reasonable time.

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➢ INTRODUCTION

Laws were like cobwebs; where the small flies were caught, and the great break through.

[**Francis Bacon**][2]

Justice is deed in accordance alongside the necessities of a little law. Whether these laws are based in human consensus or societal norms, they are hypothetical to safeguard that all associates of area according to fair treatment. Justice Krishna Iyer remarked, *our justice system even in grave cases, suffers from slow motion syndrome which is lethal to 'fair trial' whatever the ultimate decision*.

In the Indian democratic society, for protecting and enhancing the rights of the people, judiciary plays an important role besides legislative and executive body. For the enforcement of rights of

[2] Gavin Drewry, Law, Justice and Politics (London: Longman Group Limited, 1975), at 123.

citizens and remedies thereto in case of violation thereof, Courts have been established at all the level in the country. These courts by interpreting the law, enhances justice to the individual and society at large. The growth and development of society is therefore based on these judicial pronouncement made by the courts. With the rapid growth in the industrial, technological field and population, workloads have been increased on the judicial working system. With the increase of workload, the efficiency of the courts is hampered badly.[3]

Legal system exists for litigants. In reality, however, this does not appear to be true. On closer scrutiny of the legal system it appears that it is meant for lawyers and judges. People taking recourse to the legal system wait for number of years to get justice. Sometimes people die also without getting justice while their cases are pending in the court. However, agony of the litigants is hardly felt by anyone. The right of speedy justice, now considered to be a fundamental right, has proved itself to be a mirage .Number of seminars are being held, lectures are being delivered and committees after committees are being constituted to find out solutions to this malady. Despite all these efforts, there is no conspicuous change in the justice delivery system and it still walks at a snail's pace. The only reason for this state of affairs could be that there is no genuine desire to bring about change in the system. Root-causes for the delay in dispensation of justice are ignored and superfluous changes are discussed and suggested. The constitution of India under Article 21 has guaranteed speedy trial. But in practise we find it takes number of years sometimes even up to 30-35 years for the matters to be finally decided. Sometimes the Suit filed by the grandfather is finally decided when the grandson becomes major. If it is a property dispute, the grandson may reap the benefit of the judgment if it is given in his favour. Sometimes no justice is meted to the person during his life time, who instituted the suit. Some of the reasons put forward for delays are:

1) The population of India is very high so the number of suits/ case filed in a court is very high.

2) There is insufficient number of judges.

3) The Civil procedure Code which is to be followed prescribes the process of conducting the

[3] Article written by Justice Mohite S. Shah, Gujarat high court, Study of the American Legal System for Procedural Reforms in Civil Courts in India, Accessed online at www.lawcommissionofindia.nic.in, on 18th May, 2014.

cases which makes conduct of case time consuming.

Government has tried to find ways to deal effectively with disposal of pending case by establishing Fast Track courts. Secondly, alternative disputes redressal machinery has been established like the Lok adalat, but this has not had the effect of disposal of pending cases. A lot number of Appeals are pending in High Court and Supreme Courts. The common man cannot bear the burden of expenses of life time appointment of lawyers due to pendency of suits, appeals. This sometimes results in accepting an unfavourable judgment of a lower court which may have resulted in favourable judgment from the Appellate Court.

➢ CONGESTION IN COURTS

At present, more than 2.5 Crore convict cases and 72.6 lakh political cases are pending in examination courts. The main contributors to this pendency are the states of Uttar Pradesh, Maharashtra, Gujarat, Karnataka, Orissa, Bihar and Rajasthan, alongside above 10 lakh cases pending in every single of these states. There is presently a demand for 77,000 extra judges to clear the backlog, whereas the courts tolerate an opening of 111 judges and 2801 legal officers. So far so, that it is said that it would take 300 years to clear this backlog, if we continue at the present rate.[4] The intention of the area is to furnish fairness to its people. It is the frank human right of every single individual to get justice within reasonable time.. The usual shortcomings of this arrangement are its formalities and technicalities. Moreover, the arrangement is period consuming and costly.

Of the pending cases in high courts, 704,214 were criminal and 3.2 million were civil cases. In

[4] http://pib.nic.in/newsite/erelease.aspx?relid=73624. Last Accessed on 15th April, 2014.

subordinate courts, Uttar Pradesh again topped the number of pending cases (4.6 million), followed by Maharashtra (4.1 million), Gujarat (3.9 million), West Bengal (1.9 million), Bihar (1.2 million), Karnataka (1.06 million), Rajasthan (1.05 million), Orissa (1 million), Andhra Pradesh (900,000). In another query, the National Crime Records Bureau that functions under the home ministry told in a Right to Information Act reply that the number of under-trials in India was highest in Maharashtra (15,784) and Madhya Pradesh (15,777). Bihar (with 628 prisoners) topped the number of states with the maximum number of under-trials kept for over five years. Punjab also had 334 under-trials for over five years and Uttar Pradesh had 212. Delhi itself had 344 under-trials languishing in jails for over five years.[5]

At present, nearly 19,000 judges, including 18,000 in trial courts, are dealing with a pendency of 3 crore cases, resulting in a civil case lasting for nearly 15 years. The Supreme Court-supported National Court Management System (NCMS), devised months back, and has put the statistics in perspective. "India has one of the largest judicial systems in the world with over 3 crore of cases and sanctioned strength of some 18,871 judges," it said.

The system has expanded rapidly in the last three decades, reflecting India's social, economic and political developments in this period. It is estimated that the number of judges/courts expanded six-fold while the number of cases expanded by double that rate that is 12 fold, it said. The mismatch between the increases in court cases to the judge strength is going to continue. The judicial system is set to continue to expand significantly over the next three decades, rising, by most conservative estimate, to at least about 15 crore cases requiring at least 75,000 courts/judges," NCMS said.

The policy and action plan document has charted out an information technology integrated monitoring system to make the justice delivery system faster and for that purpose, has created a jumbo supervising process to detect and eliminate glitches in speedy disposal of cases. If the lack of matching increase in the number of judges has led to docket explosion, it is not going to ease in the next three decades.

The number of cases, as per the "most conservative estimate", will increase five-fold from the present level, but the judge strength would increase only four times from the current strength to 75,000. This means, the judges could expect to be burdened with more work than now, which

[5] http://www.rtiindia.org/forum/2385-nearly-30-million-cases-pending-courts.html. Last Accessed on May 28, 2014.

could extend the life span of cases. Giving reasons for the estimate, the NCMS said, "As India's literacy rate and per capita income increases, the number of new cases filed per thousand population is likely to increase from the current rate of about 15 (up from around three cases per thousand some three decades ago) to about 75 cases in the next three decades". The government on March 2013 said around 3.2 crore cases were pending in high courts and subordinate courts across the country while 56,383 cases were pending in the Supreme Court. It also said 74% of the total 3.2 crore cases were less than five years old. Similarly, 20,334 out of the 56,383 pending cases in the apex court were less than one year old.[6]

In fact a large number of cases are pending in assorted courts at disparate levels. Long pendency frustrates the litigants. Although paying money and period, the cases seem nowhere adjacent end. In most of the cases, public people retain staying for fairness, countless a periods merely for the winding up of the case, not for justice.[7] Even if a person wins at the early instance, there is potential till they conclude of the limitation period that the antagonist should appeal in the subsequent higher court. Over once more there starts the like procedure of appeals, revision, reviews and the end result is whichever accomplishment or conquest of one of the parties, but not satisfactory and just resolution of the dispute. This shakes the belief in the efficiency of legal dispensation itself. Chief Justice of US Dominant Court John Marshall had after said, *"Power of Judiciary lies not in deciding cases, nor in imposing sentences nor in disciplining for contempt, but in the belief, faith and confidence of the public man."* Hence, everyone encompassed in dispensation of fairness needs to give serious attention for speedy disposal of cases at the minimum cost.

The Courts in India are overburdened which is one reason for the congestion in the courts. These reasons are increased association of cases, openings in courts, extended and proper procedure. Over 42 lakh cases are pending in India's 21 High Courts and appalling 2.7 crore cases are pending in lower courts across the country. The figures materialize to be quite alarming and surprisingly are producing day by day. The report below discloses pendency in cases up to December 31, 2013 for Dominant Court and up to September 30, 2010 for High Courts and

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[6] http://barandbench.com/content/pending-litigations-2010-32225535-pending-cases-30-vacancies-high-courts-government#.UaMV8tKnynI. Last Accessed on 26th May, 2014.

[7] http://barandbench.com/content/pending-litigations-2009-10-313-crore-cases-3054-judges-required#.UxYEqD-Syfo. Last accessed on 15thApril, 2014.

Lower Courts. The subsequent catalogue reports the state record of pending cases. [8]

- **Pending Cases:**

Courts		**2011**	**2012**	**2013**
Supreme Court	Admission Regular Total	34976 20815 55791	32565 21997 54562	33454 25065 58519
High Courts		4060709	4217903	
Lower Courts		27275953	279530790	
Total		31392453	32225535	

- **List of State wise Pending Cases:[9]**

Sr. No	State/Union Territory	High Courts	Lower Courts
1	Uttar Pradesh	9,73,599	56,31,993
2	Andhra Pradesh	1,94,691	9,56,448
3	Maharastra	3,47,618	40,57,973
4	Goa	BHC	29,721
5	Daman & Diu	BHC	2,034
6	Dadra & Nagar Haweli	BHC	3,950
7	West Bengal	3,33,763	27,47,170
8	A&N Islands	CHC	15,031
9	Chattisgarh	56,102	2,70,186

[8] http://www.indiastat.com/crimeandlaw/6/courts/72/highcourts/17696/stats.aspx.Last accessed on 15th April, 2014.

[9] Supreme Court news, bar and bench www.barandbench.com based on statistics as of February 1, 2011.

10	Delhi	60,375	9,39,850
11	Gujarat	98,128	22,01,244
12	Assam	53,400	2,51,020
13	Nagaland	GHC	12,889
14	Meghalaya	GHC	8,759
15	Manipur	GHC	57,467
16	Tripura	GHC	4,415
17	Mizoram	GHC	6,348
18	Arrunachal Pradesh	GHC	5,120
19	Himachal Pradesh	46,698	1,70,724
20	Jammu & Kashmir	65,905	1,84,656
21	Jharkhand	57,218	2,84,391
22	Karnataka	2,09,843	11,54,526
23	Kerala	1,20,764	9,72,995
24	Lakshadweep	KHC	215
25	Madhya Pradesh	2,13,028	11,59,421
26	Tamil Nadu	4,44,979	12,55,011
27	Puducherry	MHC	27,016
28	Orissa	2,75,052	11,13844
29	Bihar	1,28,293	15,23,142
30	Punjab	2,37,658	5,72,550
31	Haryana	-	5,65,591
32	Chandigarh	P&H HC	84,668
33	Rajasthan	2,82,826	15,09,066
34	Sikkim	50	1,304
35	Uttrakhand	17,911	1,72,374
	TOTAL	4,217903	27,953,070

Allahabad High Court has the maximum number of pending cases (9, 73,599 cases) followed by Madras High Court (4, 44,979 cases) and Bombay High Court (3, 47,618 cases). Sikkim High Court has the lowest number of pending cases (52 cases). At second number from bottom is Uttrakhand High Court having 11,911 pending cases. Uttar Pradesh also tops in the list of pending cases in lower courts at 56, 31,993, followed by Maharashtra at 40, 57,973.

Problem of delays and luxurious litigation has enticed the attention and concern of countless lawful luminaries of the state, those related alongside the association of the legal arrangement and of assorted groups and commissions appointed for the purpose. Regulation Commission of India in its assorted reports, have believed this setback in all aspects and have counselled countless remedial measures.

Recently the ex Law Minister Ashwini Kumar reported that "*over three crore cases are pending in various courts across the country and this is a matter of deep concern and this situation needs to be addressed*". Further he admitted that the present process of appointment of judges has not proved to be adequate and there was a need to relook and revisit the entire judicial system.[10]

Various Diplomats have made certain statements regarding the need for providing justice to the common man and also more Judges to be added so that the cases are disposed without any delay. The Prime Minister Dr. Manmohan Singh in a conference stated that, *current judge to population ratio, "grossly inadequate"*. The judge to population ratio at the current level of 15.5 judges per million is indeed grossly inadequate. We need to alter this equation so as to address the problems of pendency and delays in disposal of cases. *Also he stated that over three crore cases were pending in various courts across the country of which 26 per cent were more than five years old*. Highlighting the need for more Lok Adalats, Union Law Minister Ashwani Kumar in a statement said more than three crore cases were pending before various courts in the country. In his statement he said that, *state is not lacking in delivering justice, the judges are not lacking, but the problem is so huge*. This clearly shows that the Indian Judiciary is not able to provide justice to the people as there are so many cases pending as a result people are losing faith in the concept of

[10] http://www.newindianexpress.com/nation/article1492140.ece Last Accessed on 20th May, 2014.

justice provided by the courts.

➢ FACTORS FOR PENDENCY OF THE CASES IN INDIA

There are certain factors which lead to pendency of cases in India as a result of which the innocent persons have to spend their time in prisons even though they have not committed any offence but they are kept in just because of lack of proper functioning of the judiciary. Further it can be discussed that there are two types of delay in cases:

- **Court system delay:**

The delay from the time the case is admitted to the time it is taken up in trail.

✓ ACCOUNTABILITY OF JUDGES:

In India, judiciary is a separate and independent system. Legislature and Executive are not allowed by the Constitution to interfere in the functioning of judiciary. There is a concept of doctrine of separation of power i.e., to deal with providing equal power to legislature, executive and judiciary. The courts on the other hand check the acts of these two bodies. The functioning of judiciary is independent but it doesn't mean that it is not accountable to anyone. In democracy the power lies with the people. The judiciary must concern with this fact during their functioning. Considering the judicial system independent and unaccountable by the courts, generally it gives leisure and comfort to the judges that ultimately lead to delay in deciding the matters. High Courts have the power of control over Subordinate Courts under Article 235 of Constitution of India.[11]

- ✓ **ADJOURNMENT**:

One of the main problems with judiciary is that providing repeated adjournment for many cases that is to be decided as earlier as possible. The main problem that resulted into pending cases is the adjournments granted by the court on flimsy grounds.Section 309 of Code of Criminal Procedure[12] and Rule 1 Order XVII of Code of Civil Procedure[13] deals with the adjournments and power of the court to postpone the hearing. These adjournments are granted only when the courts deems it necessary. It also gives discretion to the court to grant adjournment subject to payment of costs. However these conditions are not strictly followed and the bad practice continues not by litigants but by sitting judges also. It violates the right to speedy trial of the concerned litigants. By granting regular adjournments the value of the time and importance of the remedy sought for the cause of action also degraded with the time.

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[11] Article235:

Control over subordinate courts The control over district courts and courts subordinate thereto including the posting and promotion of, and the grant of leave to, persons belonging to the judicial service of a State and holding any post inferior to the post of district judge shall be vested in the High Court, but nothing in this article shall be construed as taking away from any such person any right of appeal which he may under the law regulating the conditions of his service or as authorizing the High Court to deal with him otherwise than in accordance with the conditions of his service prescribed under such law.

[12] If the Court, after taking cognizance of an offence, or commencement of trial, finds it necessary or advisable to postpone the commencement of, or adjourn, any inquiry or trial, it may, from time to time, for reasons to be recorded, postpone or adjourn the same on such terms as it thinks fit, for such time as it considers reasonable, and may by a warrant remand the accused if in custody: Provided that no Magistrate shall remand an accused person to custody under this section for a term exceeding fifteen days at a time: Provided further that when witnesses are in attendance, no adjournment or postponement shall be granted, without examining them, except for special reasons to be recorded in writing: 1[Provided also that no adjournment shall be granted for the purpose only of enabling the accused person to show cause against the sentence proposed to be imposed on him.]

[13] (1) The court may, if sufficient cause is shown, at any stage of the suit grant time to the parties or to any of them, and may from time to time adjourn the hearing of the Suit for reasons to be recorded in writing: Provided that no such adjournment shall be granted more than three times to a party during hearing of the suit.

Further, a notorious problem particularly in the trial courts is the granting of frequent adjournments, many a times on flimsy grounds. This malady has considerably eroded the confidence of the people in the Judiciary. Code of Civil Procedure after its amendment, w.e.f. 01.07.2002, permits adjournment of not more than three times to a party during the hearing of the suit. Recording of reasons is mandatory for granting adjournment. The amendment further enjoins upon the court to make such order as to costs occasioned by the judgment or such higher costs as the courts deems fit thereby making awarding of costs mandatory and linking it to the actual cost suffered by the opposite party. Therefore, the legislature has already given ample power to the court to exercise full control on the hearing and not permit a party to delay the progress of the case.

- **Delay due to lawyers/ advocates and others:**

The delay which takes place due the actions of lawyers/ advocates such as adjournments given etc. However, the chief reasons for delays can be enumerated as follows:

- ✓ The first and the biggest problem of the delay in disposition of cases. Due to huge pendency, the cases take years for its final disposal, which would normally take few months time. The arrears cause delay and delay means negating the accessibility of justice in true terms to the common man.
- ✓ The judge population ratio presently taking into consideration the population of the country and pendency of the cases the number of judges available is very less.
- ✓ The infrastructure of the lower courts is very disappointing. Though, the Supreme Court and High Courts are having good infrastructure but this in not the same position with lower courts. The Courts have no convenient building or physical facilities due to which it takes more time to dispose off a case. Good library, requisite furniture, sufficient staff and reasonable space are the need of the qualitative justice and most of these facilities are not available in lower courts.

- ✓ Due to the Independence of Judiciary, some Judges think that they are not accountable to any one due to which many times this factor could drive judges toward comfort, ignorance etc. ultimately results in delay of the cases.

- ✓ Provision for adjournment: The main reason for the delay in the cases is the adjournment granted by the court on unreasonable grounds.

- ✓ Vacation of the court: The reason with providing courts with a vacation period also leads to further delay of the cases especially in country such as India where there are tremendous amount of pending cases. In most of the countries like U.S. and France there is no such provision.

- ✓ Investigative agencies generally delay: The Investigation agencies such as Police also play a role in Delay of cases. Many a times Investigation agencies take time to file up charge sheet in the court due to which delay occurs.

Moreover, in Subordinate Courts a practice has developed to fix many more cases than the Court can possibly hear on a day. The practice of fixing more work than can be finished in a day seems to have arisen from a desire to provide against a possible breakdown of the day's file by reason of unforeseen circumstances. It is also due to the Presiding Officer not giving his personal attention to the fixing of his daily list and leaving it to his bench clerk or other ministerial officer of the court to post cases for hearing. The question as to how many cases of various categories should be fixed on a day calls for a judicious appraisal of the capacity of a Judge to deal with the number of cases he can handle within the limited Court time available to him. An attempt should be made in consultation with Advocates to estimate the time, a particular case will take to hear.

In the case of *N.G. Dastane v. Srikant Shivde*[14], the Supreme Court was of the view that seeking unwarranted adjournment when witnesses are present in the court without making any other arrangements for their examination is a dereliction of advocate's duty to the court and such dereliction, if repeated, would amount to misconduct of the advocate concerned.

[14] AIR 2001 SC 2028

Also it is believed that delays lead to mental anguish in the people. In *Hussainara Khatoon v. State of Bihar* [15]which formed the basis of the concept of the Speedy Trial, it was held that where under trial prisoners have been in jail for duration longer than prescribed, if convicted, their detention in jail is totally unjustified and in violation to fundamental rights under article 21. Inordinate delays violates article 21 of the constitution: for more than 11 yrs the trial is pending without any progress for no faults of the accused-petitioner. Expeditious right is a basic right to everybody and cannot be trampled upon unless any of the parties can be accused of the delay. Delay in trial unnecessarily confers a right upon the accused to apply for bail. Under sec. 482 read with 483, Cr. P.C lays that every possible measure to be taken to dispose off the case within 6months from today. No adjournments to be granted until n unless circumstances are beyond the control of judiciary. It is the responsibility of the judiciary to keep a check on under trial prisoners and bring them to trial. Overcrowded courts, inadequate resources, fiscal deficiency cannot be the reasons for deprivation of a person.

Furthermore, the capacity and efficiency of a Judicial System is judged by the time taken for the disposal of a case. In an efficient Judicial system a case is judged and disposed off very quickly. Though this is not an easy job, but to achieve proper social justice it is necessary. In Harshad Mehta Scam[16] relating to securities market, the court finally punished Harshad Mehta after seven years of trial, but this order was appealed. The final decision was arrived after the death of Harshad Mehta. Whereas around the same time in the early nineties, in Singapore occurred the scandal involving Nick Leeson of the Barings Company. Under the Singapore system of justice, within two years, Leeson was punished. In fact, he had also undergone the punishment before the first decision could be arrived at under the Indian judicial system in the Harshad Mehta case. This reveals that in India, due to delay in justice the accused person using this loophole for his unfair advantages and generally gets the benefits. For rectifying these defects many committees, reports and boards had formed and all of them have suggested number of measures. Some of these measures are already implemented but due to lack of mechanism and potential these are not fully utilized to get rid of the arrears. The problem of pendency is not restricted up to India but many other countries like USA, Australia had also suffered the same in the past but by proper

[15] 1979 AIR 1369, 1979 SCR (3) 532

[16] http://www.legalserviceindia.com/articles/err222.htm, Last Accessed on May 28, 2014

implementation of policies regarding reformation of judicial system they capitulated the situation. Now it is high time and absolutely necessary to consider these policies in the Indian context.

The Supreme Court in *Kadra Pehadiya vs. State of Bihar*[17] , it was held `It is a crying shame upon our adjudicatory system which keeps men in jail for years on end without a trial." The court in a compassionate expression observed ` and no one shall be allowed to be confined in jail for more than a reasonable period of time, which we think cannot and should not exceed one year for a session trial, we fail to understand why our justice system has become so dehumanized that lawyers and judges do not feel a sense of revolt at caging people in jail for years without trial."

Another question that arises for consideration is whether it is legally permissible to dispose of the appeal on merits on perusal of the available part of records. The procedure contemplated under sections 385(2) and 386, Cr.P.C makes it obligatory for the court to peruse the records and hear the parties before deciding the appeal. But the appellate court has inherent power to reconstruct the record of the court from which an appeal lies to it. The felt necessities in the branch of criminal law are (a) avoidance of delay, (b) simplicity of procedure, (c) fair deal to the poorer sections of society and of course a fair trial in every case according to the principles of natural justice.

➢ LOK ADALATS

The term Lok Adalat is made up of two words, "LOK" which means people or public and "ADALAT" means a place to get justice. Combined the term Lok Adalat means people's court. In simple words, Lok Adalat refers to an organization which works using Alternate Dispute Resolution techniques for settlement of disputes for disagreeing parties to come to an agreement short of litigation. It is a collective term for the ways that parties can settle disputes, with or

[17] 1981 CR.L.J.481

without the help of a third party. The techniques used are negotiation, mediation etc. It is an organization which basically focuses on providing speedy justice to the underprivileged and poor. It enables speedy disposal of cases through settlement between parties, supervised by a body of legally competent personalities. In a conference held in New Delhi on 4th December 1993 under the chairmanship of Prime Minister of India and presided over by the Chief Justice of India, the following resolution was adopted by the Chief Ministers and Chief Justice of States in India: "The Chief Ministers and Chief Justices were of the opinion that courts were not in a position to bear the entire burden of justice system and that a number of disputes lent themselves to resolution by alternative modes such as arbitration, mediation and negotiation. They emphasized the desirability of disputants taking advantage of alternative dispute resolution which provided procedural flexibility, saved valuable time and money and avoided the stress of a conventional trial". [18]

It includes dispute resolution processes and techniques that fall outside of the government judicial process. Despite historic resistance to ADR by both parties and their advocates, ADR has gained widespread acceptance among both the general public and the legal profession in recent years. In fact, some courts now require some parties to resort to ADR of some type, usually mediation, before permitting the parties' cases to be tried. The rising popularity of ADR can be explained by the increasing caseload of traditional courts, the perception is that while comparing with other arbitration involves low cost and easily accessible to people, a preference for confidentiality, and the desire of some parties to have greater control over the selection of the individual or individuals who will decide their dispute. ADR is generally classified into at least four subtypes: negotiation, mediation, collaborative law, and arbitration**.** The salient features of each type are as follows:

• In negotiation, participation is voluntary and there is no third party who facilitates the resolution process or imposes a resolution.

[18] http://www.indiatogether.org/2007/dec/hrt-adalat.htm Last Accessed on 30th May, 2014.

• In mediation, there is a third party, a mediator, who facilitates the resolution process (and may even suggest a resolution, typically known as a "mediator's proposal"), but does not impose a resolution on the parties. In some countries (for39example, the United Kingdom), ADR is synonymous with what is generally referred to as mediation in other countries.

• In collaborative law or collaborative divorce, each party has an attorney who facilitates the resolution process within specifically contracted terms. The parties reach agreement with support of the attorneys (who are trained in the process) and mutually agreed experts. No one imposes a resolution on the parties.

• In arbitration, participation is typically voluntary, and there is a third party who, as a private judge, imposes a resolution. Arbitrations often occur because parties to contracts agree that any future dispute concerning the agreement will be resolved by arbitration. This is known as a '**Scott Avery Clause**'. In recent years, the enforceability of arbitration clauses, particularly in the context of consumer agreements (e.g., credit card agreements), has drawn scrutiny from courts. Although parties may appeal arbitration outcomes to courts, such appeals face an exacting standard of review.

Alternative dispute resolution is usually considered to be alternative to litigation. It also can be used as a colloquialism for allowing a dispute to drop or as an alternative to violence. ADR can increasingly be conducted online or by using technology. This branch of dispute resolution is known as online dispute resolution (ODR). Justice Kabir said[19], *Piles of pending cases have reduced our courts into pressure cookers. Thus, there needs to be a safety valve to ensure that it does not burst. An alternative dispute redressal mechanism will serve as a safety valve and let some steam off the courts"*

As India is a nation known for its diversities that is to say people following different traditions, culture and life styles exist so occurring of conflicts is very common. As we believe in Unity in Diversity, so the best way to resolve these disputes is to reach to a common pint of agreement. Since early times in India we have had gram panchayats and gram panchs who were the elderly people of the village who used to settle the disputes of the village by reaching to a mutual understanding between the parties. The system of Lok Adalats is an improvement on that and is based on Gandhian principles.

The Lok Adalats have come into existence due to inefficiency and flaws of the conventional

[19] http://www.deccanherald.com/content/326030/arbitration-centre-release-pressure-courts.htmlBangalore, Last Accessed on 20th April , 2014

legal system which fails to provide effective, fast, and inexpensive justice. Late Justice Thakkar could not see the sight of waiting and begging workers, widows, land less labourers, Dalits or Adivasis cherishing hope for justice howsoever faint it could be. The first Lok Adalat was held in Junagadh with great preparation and remarkable simplicity. It was a great success and the idea picked up and led to a number of Lok Adalats with the help of a select and sensitized group of advocates and at different places.[20] Constitutional 42nd Amendment Act of 1976, incorporated Article 39-A in the Constitution of India for providing free legal aid. In the light of this amendment the Government of India by a resolution dated September 26, 1980 constituted a committee known as Committee for Implementing Legal Aid Scheme under the Chairmanship of Mr. Justice P. N. Bhagwati to monitor and implement legal aid programmers on a uniform basis in all the States and Union Territories throughout the country and pursuant thereto several Legal Aid and Advice Boards were set up in all the States and UTs of India. The constitution of the Committee for the Implementation of Legal Aid Schemes in 1980 was a major step in institutionalizing legal aid.[21] Legal Aid is not confined to representation before court but also includes Legal Literacy and mechanism for providing justice at pre-litigation stage also by giving advice, providing a forum for Conciliation and Mediation and also by approaching the authorities concerned. One of the strategic legal aid programmers adopted by the Committee pertains to holding of Lok Adalats for settlement of disputes through conciliation. The Lok Adalats are an innovative form of voluntary efforts for amicable settlement of disputes between the parties. The first Lok Adalat was held on March 14, 1982 at Junagarh in Gujarat and now it has been extended throughout the country.

As Justice Ramaswamy 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*"

Law Courts in India face mainly four problems:

- ✓ The number of courts and judges in all grades are alarmingly inadequate;
- ✓ Increase in flow of cases in recent years due to multifarious Acts enacted by the Central and State Governments;

[20] Experience of India in Decongesting Courts through Lok Adalats- Ms Nareshlata Singla*

[21] The Statement of Objects and Reasons of Legal Services Authorities Act, 1987

- ✓ 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;
- ✓ Delay in disposal of cases resulting in huge pendency in all the courts.

Lok Adalats now days have proved to be very beneficial for the speedy justice. It has many benefits which are as under:

- ✓ Lok Adalat is known for its speedy and costless justice.
- ✓ The decision given by Lok Adalat is final and no further appeals could be made in any other court.
- ✓ There are no fees for the proceedings in Lok Adalat, and if fee is paid in civil court the fee paid will be refunded if the dispute is settled at the Lok Adalat.
- ✓ The most significant benefit of Lok Adalat is the easy access to the judges of Lok Adalat.

➢ CONCLUSION AND SUGGESTIONS

The present study reveals that over a period of time Lok Adalat has become a time-tested method of alternative dispute resolution mechanism, adapting the essence of the Panchayati system of

dispute resolution, which prevailed in the Indian villages. This concept is, now, very popular and is gaining historical momentum. Experience has shown that it is one of the very efficient and important ADR and most suited to the Indian environment, culture and societal interests.

Also there should be Outsourcing of cases be done by the judiciary which will ease the pressure on the courts. Matters which are not very important or say essential should be transferred to some other country. For example, a country like Singapore were the cases can be transferred because Singapore is a crime free country, then also it is economically stable, the population is not that much so they can handle the cases from India easily. At the present position outsourcing is the only method through which India can reduce the work load on the judiciary.

The Law Commission's report, which is under consideration of Chief Justice of India and all the respective Chief Justices of High Courts, also highlighted the need of ensuring speedy justice. It noted that Speedy justice is the right of every litigating person. There is no denying the fact that delay frustrates justice. In the present set-up it often takes 10, 20, 30 or even more years before a matter is finally decided. Last year, the Delhi High Court had calculated that 464 years would be required to clear the arrears with the present strength of the judges in the high court. As per the Supreme Court's calendar for 2014, of the 365 days, the court will work for nearly 200 days whereas in 2013, the court worked for nearly 176 days and 189 days were holidays which included roughly 104 Saturdays and Sundays, and nearly two-and-a-half months of summer vacations. So for better working and providing quick justice to people without any delay it is necessary for regular functioning of the Courts.

Moreover, ADR may be summed up as a speedy, cheaper, effective and a convenient mode of justice. The popularity of ADR can be very well measured through large number of arbitration cases coming up these days. However the success of this in no way is to be taken as a failure of litigation. The relation between ADR and litigation may be compared with two different branches of the same tree where both these branches are meant for the same purpose i.e. for producing the flowers of justice. Thus it is only an alternative way other than litigation to dispose the cases due to large number of pending cases still alive in the court. It even helps the judiciary to reduce the burden by disposing all those old cases without further pendency.