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**PERMANENT LOK ADALATS: A HYBRID MECHANISM OF
RECONCILIATION AND ADJUDICATION**- Kartik Joshi¹**ABSTRACT**

The Indian judicial system has for decades been backtracked by its exceptional caseload as a result of overdue, unenforced processes and automatic appeals and systematic court vacancies, among other issues. Due to a large number of outstanding cases, the systemic inability to regulate and manually control the judicial institutions has become exceedingly difficult. The Government's Report on a Strategic Plan for ICT Implementation in Indian Judiciary says that this has led to "disappointment and dissatisfaction among justice-seekers[1]."

The majority of the countries choose to find alternate solutions or supplementary conflict settlement techniques to escape out of the maze of litigation, courts and legal chambers. India has a long history and tradition of these approaches at the grassroots level in society. They are termed Panchayat and are referred to as arbitration in the legal sense. In today's time, however, one such effective supplementary body for mediation is the Permanent Lok Adalat. The recent data on the functioning of PLAs accessible on the NALSA website indicate that 298 PLAs across the country have now jointly settled cases with a collective valuation of Rs. 3, 870,578,815[2]. This data is derived from the 102,625 cases settled out of 143,061 from April 2018 to March 2019. In addition, the PLA's pecuniary jurisdiction was enhanced to Rupees One Crore from Rupees Ten lakhs.

For all the heaps and praises that are being thrown around the PLAs, there are a fair number of criticisms that follow. The PLA officers are known to lack the expertise of a court judge at times due to its selection criteria, or being arbitrary at times. The purpose of this paper is to carry out a critical analysis of the real function of the PLAs. The author would put the notion of Lok Adalats being ADR mechanisms to a test as well. The true purpose of ADR is to

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mediate and reconcile, to reach an amicable settlement. PLAs have been set up with somewhat the same mindset but they often digress towards adjudication rather than providing a middle ground or a reconciling environment. The author would compare all such conflicting notions regarding PLAs and attempt to provide a conclusive statement to these arguments. Potential measures to fill the gaps and uplift the system would also be looked into in this paper.

INTRODUCTION

The system of Lok Adalats in India has turned into an indispensable justice process that gives everyone an equal opportunity at getting their case heard while keeping people's relationships intact, solving conflicts cost-effectively, working promptly, and minimizing the pressure on courts. One challenge, however, is that Lok Adalats cannot make binding decisions[3]. A Lok Adalat is a traditional Indian arbitration, in which only the parties can appear before the arbitrators. To solve any dispute brought before it, a Lok Adalat can only suggest innovative ideas that the parties can negotiate, not enforce. If it becomes apparent that the parties involved in a dispute cannot keep to a settlement agreement, the matter will go back to the court, adding to the already lengthy workload of the judiciary.

The inability to reach binding decisions without the assent of both parties was regarded as a serious problem, resulting in delayed justice. As a result, the Legal Services Authorities Act, 1987 was modified in 2002, and Chapter VI A, which details the Permanent Lok Adalat, was introduced. The implementation of Permanent Lok Adalat to handle pre-litigation, conciliation, and the resolution of disputes that involve Public Utility Services is required to mitigate the burden of courts' workload. Section 22 A describes where the PLA, or Permanent Lok Adalat, works. The Legal Services Authority Act, 1987 gives PLA jurisdiction with public utility services defined in Section 22 A(b), which includes transport services for passengers or goods, postal, telegraph, or telephone services, water, power or light services, hospital and medical care, insurance services, and the similar ones regarding public utility. While settling a case under PLA, the bench pays attention to some of the basic principles of justice, such as objectivity, fairness, equity, and so on. In other words, the PLAs have been given the ability to resolve cases and create settlements, which will be binding on both parties and will count as a Civil Court's judgement. The parties can no longer appeal a settlement. The power is stated in Section 22-E of the Act, which grants PLA the ability to do this.

ASYMMETRICAL NATURE OF PERMANENT LOK ADALATS: A FORUM FOR RECONCILIATION OR ANOTHER ADJUDICATOR?

One of the most successful ADR methods in India is Permanent Lok Adalats. According to the figures published by the National Legal Services Authority, over the last year, of the 143,061 cases that had been handled, little over 102,625 were brought to an end by 296 PLAs across the country, with a total settlement value close to Rs 3.8 crores. Separate legislation also raised the PLA's financial authority from 10 lakh rupees to 1 crore rupees. While Lok Adalats are inconsistent and temporary, PLAs are the opposite: set up to last indefinitely. The method that the PLA uses is entirely consistent with the approach that should be used in any ADR mechanism. The PLA procedures should be governed by “the principles of natural justice, objectivity, fair play, equity, and other principles of justice” at both the conciliation and adjudication stages. While conciliating between the parties, the PLA should keep above the fray to seek an amicable outcome. In addition, the PLA is not held to the Code of Civil Procedure, 1908, or the Evidence Act, 1872, in terms of their use of procedures. While a matter is being tried, the PLA has the same authority as civil courts under the 1908 Code of Civil Procedure. The PLAs are bodies that were inherently meant for conciliation between the parties without putting a strain on their relationship, which the court system inevitably does. In the case of *Interglobe Aviation Ltd v. N. Satchidanand*[4], the Honourable Supreme Court of India has held that the basic procedural feature of PLA is CON-ARB that is “conciliation-cum- arbitration”. Therefore, PLA wields the power of two different magnitudes. Firstly, it has the power and the competence to begin conciliation proceedings among the parties, who are involved in a dispute, taking into account the unique characteristics of the case, to help them achieve a quick, amicable, and unbiased solution. Also, if during the process of mediation, it becomes clear that one of the parties is being stubborn and refusing to resolve the case, even though there is a viable resolution option for the parties to sign a settlement agreement for the disagreement, then the PLA has the right to issue a ruling on the case, so long as the matter at hand does not deal with any non-compoundable offence.

Even while the PLA has a few procedural parallels to international arbitration organisations, it has a completely different structure. PLA sets itself apart from other ADR institutions with its model that serves justice to the common man[5]. Disputes will be resolved for free by the PLA. They also get to speak for themselves, so they save money on legal fees. Resolving a

disagreement in court, as opposed to using any kind of ADR, is much more expensive. In other forms of ADR too, fees, including the costly administration, legal advice, and arbitration fees, and so on are also levied.

Despite all the heaps and praises being showered upon the PLAs, this reform, like many others imposed by the government, attracted heavy criticism, and not from the public or the courts but attorneys and lawyers. The amendment was met with criticism on three fronts: its constitution, its process, and its appeal procedure.

The Supreme Court had to interpret several aspects of the Legal Services Authorities Act in the case of *State of Punjab v. Jalour Singh*[6]. One such interpretation was what defines a Lok Adalat under the act. The legislation explicitly delegates adjudicatory authority to the Permanent Lok Adalats, which is separate from the Lok Adalats which are called upon from time to time. Disputes that cannot be resolved by conciliation must be decided by the Permanent Lok Adalat under statute by the merits. It has been questioned that the PLAs settle their disputes through adjudication instead of conciliation. Chapter VI-A, Section A, mentions pre-litigation conciliation and settlement in the chapter's title, however, the PLA can settle the issue even if the parties don't agree to it. Thus, following conciliation, if parties fail to find a resolution, PLA has the right to rule on the issue without either party's permission. The notion being criticised here is that binding arbitration is how the PLA handle disputes, rather than via conciliation. Next, in addition to that, under section 22-D of the PLA, it is stated that the Code of Civil Procedure and the Indian Evidence Act are not to be applied while considering an issue. As a result, the PLA has unfortunately chosen arbitrary or summary methods in arriving at their determinations and judgments.[7] What adds to the grief of the people criticising the act is that there is no room for an appeal against an award of the PLA. Every award of PLA is final and binding and "shall not be called into question in any original suit, application or execution proceeding". The Bar Council of India[8] case dealt with an argument made by the petitioner, who asked to reject the modification since the right to appeal the Permanent Lok Adalat's decision had been taken away from the parties involved in the dispute. In this instance, the court decided that legislation could not be invalidated simply because a victim in the law did not have an option to appeal by the statute. It was added that: (i) legislation that doesn't specifically preclude an award from being contested doesn't automatically make it appealable, specifically when the wording of the statute implies contrary; (ii) PLAs are special tribunals that strive to resolve public utility issues as quickly as possible and therefore need to avoid unnecessarily prolonging the case.

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The composition of the PLA has been criticized and the focus of this criticism is directed mainly towards the competence of the members of the PLA. This argument has again backtracked itself to the arbitration notion, where the concern is that the lack of legal knowledge of a member may make the outcome of a case arbitrary in nature. The following are three members of the Permanent Lok Adalat — a chairman (retired or current judge, a ranking ADJ or judicial officer of higher rank than a district judge), and two experts in the public utility service industry, who are selected by the respective State or Central Governments on the advice of the State Legal Service Authority or National Legal Service Authority respectively[9]. It has been argued that this set-up allows for bureaucratic control and centralization of power, although the amount of this is diminished because individuals' nominations come from a service authority who relies on regional input to choose participants. This, however, does not provide an airtight shield to the composition. There might be instances where the appointed members do not have a legal background and present arbitrary or summary judgements. This would further aggravate the parties rather than provide the conciliation they were originally seeking[10]. The problem therefore could be pinpointed to the execution part, rather than criticizing the legislation. Even though the Lok Adalat is mandated to have a judge and social workers on the panel, this practice is hardly followed. When it comes to deciding the cases, it is a single High Court judge who is generally involved. The idea is to involve people from the grassroots level who understand the problems of public utility services, if this mandate is not properly put into practice, the whole concept of PLA could become fallible.

CONCLUSION

It can therefore be said that the Permanent Lok Adalats' method of dispute resolution is a system that's hybrid, combining adjudicatory and non-adjudicatory features to provide an alternative to traditional litigation, making the public free from complexity and rigidity. Decisions made by the Permanent Lok Adalat cannot be challenged by appeals. A person submitting to a Permanent Lok Adalat is aware that the non-amicable resolution of a dispute might lead to an adjudicatory function being taken on by the Permanent Lok Adalat. The notion of it being arbitrary is somewhat exaggerated by the people. The Supreme Court has recognized that there have to be some adjudicatory functions to the PLA for its efficient functioning. PLAs only adjudicate if neither party can conclude even after going through the reconciliation phase, this aspect is important if the matters are to be dealt with speedily. If the parties have the option of going back to the court even after going through the PLA

procedure, this would render the whole exercise pointless. The fact that the PLA only deals with public utility matters means that there is very little chance of gross injustice to any parties. Tortious claims or crimes against society are not dealt with by the PLAs, therefore it is very unlikely that a person has been wronged in a manner that deeply impacts him/her if at all he is wronged by the decision of the PLA. Having said this, the cases are adjudicated based on their merits, therefore the concern of not having the CPC or the evidence act might not be too problematic after all. The last criticism that says the composition is faulty has to do with execution rather than the composition given by the legislation. The concern that there might be a governmental influence on the appointed non-judicial members can only be dealt with, with better transparency. Changing the composition would invalidate the idea of having a person belonging amidst the common man serve in the PLA.

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