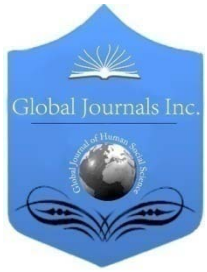
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Justice at Cross Roads – A Critical Analysis of the Functioning of the Indian Judicial System and the Need for an Alternative

By Bittoo Rani

Abstract- Though the founding fathers of the Indian Constitution accorded 'justice' the highest pedestal, higher than other notions of liberty, equality and fraternity but recent decades has raised serious concerns about the efficacy and accessibility of the Indian judicial system. The ability of the Indian judiciary to deliver speedy and affordable justice has come under scrutiny. Evidences suggest that the system has failed to stand the test of confidence, reliability and dependency that citizens' so heavily demand. Critics comment that judicial accountability and responsibility are on the wane. An active judiciary as one of the strongest pillars of Indian democracy, today, is beset with unfathomable problems. The most pestiferous and malignant malice range from mounting arrears, delay in disposal of cases, litigation boom, inaccessibility of courts and above all the rising cost of justice.

Through this article, I make a humble attempt to make sincere introspection into the functional distortions of the Indian judicial system and suggest remedial measures as espoused from time to time by legal luminaries, jurists and academics alike.

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This paper is divided into two sections; the first critically analyses the shortcomings of the Indian judicial system while in the second I have attempted to highlight the need for ADR (Alternative Dispute Resolution) mechanism and its popularity in the Indian context.

This piece of writing is an extract of the larger empirical work (during 2009-14), undertaken to complete Ph. D thesis.

Keywords: access to justice alternative dispute resolution, adjudication, arbitration, disputant, docket-explosion, indian judicial system, litigation, mediation.

Section I

I. The Nature of Indian Judicial System: Looking Back

The democratic Indian judicial system has been a home to four major legal traditions – Hindus, Muslims British and that of modern India. As an unmatched structure, the Indian judicial tradition has absorbed within itself traits of ancient village panchayats (village assembly), Islamic law and elements of British judicial system. Though each of these systems emerged as a result of political changes, but successive traditions have been unable to completely supplant the influences of its predecessor. Influences and elements of each system have always remained resulting in the present contemporary law.

The indigenous Indian legal tradition has been that of the Hindus. The English term closest to the Hindu term 'Dharma' has been 'law' closely referring to right conduct, embracing the notions of morality, duty and obligation in its largest sense of the term. In the absence of legal hierarchies, the Hindu legal tradition resolved disputes through autonomous groups of families, clans and guilds; each group having autonomy in applying laws amongst themselves. Ancient India resolved their disputes through *Kulas*, (assembly of members of extended family or clan) *Srenis* (guilds of particular occupations) and *Pugas* (neighbourhood assemblies). These bodies' resolved cases according to local traditions and customs which were not necessarily unchangeable or by those laws derived from the ancient texts as Dharmashastras. The ancient Hindu kings generally recognized the peoples' right or for that matter the right of specific groups (castes, clans and guilds) to 'change customs and create new obligations'. It was a common practice of kings to decide cases pertaining to specific groups with that group's particular traditions and practices.

The advent of the Muslims during the 12th century brought with them their own system of royal courts in cities and towns and administered general criminal law and also allowed civil disputes to be resolved through their personal laws. Though, in theory at-least, sharia law prevailed but the Hindu subjects were granted considerable freedom in deciding matter civil and if such issues emerged before the royal authority it was decided in accordance with the Hindu traditions. However, the justice system did not penetrate deep into the countryside which provided the Hindu subjects the freedom to proceed with their own system of adjudication of disputes. ''The Muslim rulers did not interfere with the law of the Hindus and the Hindus continued to be governed by their own law in personal matters. The core underlying idea of Muslim rulers was

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its own self-preservation and political domination over Hindus[1].

The institutions of ancient jurisprudence continued well under the Mughals [2] only to receive severe shocks during the British rule. The emergence of the British during the 17th century altered the judicial landscape of Indian jurisprudence. The foreigner's adversarial system eclipsed the traditional-indigenous practice. The traditional institutions of adjudication got displaced as the law applied in British Indian courts became increasingly anglicized. The people oriented dispute resolution system especially prevalent at the grass-root level, in vogue since ancient times displayed symptoms of decay[3]; they largely became moribund by the late19th and early 20th century.

The British style of administration of the villages by the agencies of central government together with adversarial system of adjudication and growing pursuit of individual interests lessened the community's influence over the members and gradually led to decay of the people's court. Extreme formalism, technical and procedural rigidities, legal jargons together with the hierarchy of appeals kept victims of injustice struggle through the labyrinths of courts and in the course lose all hopes of getting their disputes resolved. Having disastrous repercussions for the indigenous justice system the British initiated legal structure brought into existence a new class engaged in legal professions who made the system more difficult pushing the poor away from the portals of the courtroom.[4] Its immediate effect was dual in nature; first it detached the masses from their indigenous-traditional method of dispute resolution and secondly it created the institution of legal profession and along with it came the barristers and solicitors making the road to justice even more rugged.

Though the contemporary Indian judicial system is a unified hierarchical system, but the system is marked by retention of colonial elements with the exception of the Supreme Court at the apex instead of the Privy Council. The present system is partly a continuation of the British legal system based on the hybrid legal system –'Common Law System' in which customs and precedents are all components of law.

Since the aim of the judiciary is to 'unite parties', the Indian judiciary has an un-matched role to play in the lives of the citizens. Justice as an important element has rightly been identified by the founding fathers of the Indian Constitution; the Preamble to the Indian Constitution seeks 'to secure to all the citizens of India, Justice – Social, Economic and Political – Liberty, Equality and Fraternity'. Furthermore, Article 39(A) of the Indian Constitution states, "The State shall secure that the operation of the legal system promotes justice..; to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities".[5]This principle has been interpreted by the Supreme Court to mean that 'social justice' within its wider ambit also includes 'legal justice' and that it is the duty of the administration to provide citizens justice that is cheapand expeditious. The judiciary must serve as an effective instrument for realizing the justice needs of the Indian citizens irrespective of their social or economic standing.

However, quite unfortunately the present manifestation of the Indian judicial structure is such that it neither deserves to be called expeditious nor cheap. A deep introspection will reveal that the Indian judiciary is beset with deep crises. In this context I quote Prof. Upendra Baxi (1982) who states, "crises arise when the structure of a social system allows fewer possibilities for problem solving than are necessary for the continued existence of the system… there is not only a crisis in the substantive domains of Indian law, but also a more pervasive crisis of legitimation".[6] He believes that the Indians have not internalized the meaning and value of legalism. He specifically mentions that the Indian

[1] Sunil Deshta (1998), *Lok-Adalats in India: Genesis and functioning; People's Programme for Speedy Justice*, New Delhi, Deep & Deep Publications, p. 5.

[2] The unique characteristic of Mughal administration in India was that it did not concern nearly 3/4th of the total population because people of the rural areas had their own courts which enjoyed civil and criminal jurisdiction. The result of such non-penetration of Muslim rulers into the countryside was that the textual laws influenced but did not displace the local laws. The disputes in the villages and even in cities were not settled by Royal Court, but by the lok-adalat or popular courts … It appears that the process of getting justice under the Mughals was not such a long-drawn agony as it is at present. One of the reasons for effective functioning of mediation or conciliation proceeding during the Mughal period might be the guidelines of the Holy Quran, which prefer amicable settlement instead of adversarial system of dispute resolution." Sarfaraz Ahmed Khan (2006), *Lok Adalat*, New Delhi, APH Publishing Corporation, p. 7.

[3] Justice D. A. Desai highlighted the reason for induction of the alien system in India and said, 'let it not be forgotten that for Pax-Britannica the colonial masters inducted in India by and large, the judicial system vogue in their country … among various motivations, the one central to empire building is economic exploitation, this exploitation necessitates internal peace and external security. Internal peace may be guaranteed by first maintaining the foreign military, loyal police and legal justice system which would keep the parties continuously litigating in the law courts with hierarchy of appeals so that the Indian … lose all initiatives for settling the disputes. Sarfaraz Ahmed Khan (2006), *LokAdalat*, New Delhi, APH Publishing Corporation, p. 8

[4] The legal profession is a product of the British connection, part of the complex of British style legal institutions imposed on India in the 18th-19th centuries. Lawyers are oriented to litigation rather than advising, negotiating or planning. This is displayed in and reinforcedby the structure of remuneration … Lawyers are rule-minded and conceptualistic; they focus on legal argument rather than fact-gathering and investigation. Arnab Kumar Hazra (2003), *The Law and Economics of Dispute Resolution in India*, New Delhi, Bookwell Publishers, p. 185.

[5] Constitution of India.

[6] Frank Wooldridge (1983) (Reviewed Work), The International and Comparative Law Quarterly, Vol. 32, No. 2, Published by Cambridge University Press on behalf of the British Institute of International and Comparative Law, p. 550.

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political elites and middle class rarely cultivate respect for law.

Below I have highlighted some pestiferous malice of the Indian judicial system.

II. Judicial Backlog

The Indian judicial system is deeply mired in huge backlogs which is largely the result of lengthy procedures and automatic appeals. The courts are over-burdened with pending cases, the situation has become so alarming that Justice V.R. Krishna Iyer used the term 'Docket Terrorism' instead of 'Docket Explosion'; a crisis which plagues both the higher and lower courts. "The total number of cases pending in various High Courts multiplied from 324,000 in 1970 to 2,033,543 in 1990 to 3,198,547 in1998, an increase of nearly ten folds in less than 30 years.

As on December 31, 2004, the total number of civil cases pending before the subordinate judiciary had been 82,36,254 and criminal cases pending were 1,95,85,776. The total pendency thus figured around 2,78,22,030. Out of the total national pendency at the subordinate courts level, 70% were criminal cases and the remaining civil.[7]As on 31st December 2005, 34,481 cases were pending with the Supreme Court, 35, 21,283 cases with the High Courts and 2,56,54,251 cases with subordinate courts.[8]

According to data available with the apex court, around 64,919 cases are pending in the Supreme Court as on December 1st, 2014. Pending cases in High Courts as on December 2013 stood at 4.4 million, up from 4.3 million in 2011. Around 44.5 lakhs and 2.6 crores of cases lie pending in the 24 High Courts across the country and lower courts respectively till the year ending 2013.Of the over 44 lakh cases pending in the 24 High Courts' 34,32,493 were civil and 10,23,739 criminal cases. Data available suggests Allahabad High Court together with civil and criminal cases had a maximum pendency of 10, 43,398 cases while Sikkim High Court had a minimum pendency of just 120 cases till the year ending 2013. Around a total of 64, 652 cases had been pending before the Delhi High Court. Statistics reveal that the maximum number of pending cases in the criminal category around a total of 3,47,967 cases lie with the Allahabad High Court. Around 2.6 crores are pending in the different lower courts of the country; over 56 lakh cases have been pending in the Uttar Pradesh subordinate judiciary by the end of 2013. Out of these 51 lakh cases, 41,98,761 cases are criminal cases. A total of 5,22,167 cases have been pending in the Delhi District Courts, including 3,81,615 criminal cases.[9]

Such huge number of cases staggering in courts at various levels has always baffled the authorities concerned; hence the Government of India since long back has instituted committees to examine the question of arrears and delays. The Justice Rankin Committee (1924) set up to examine speeding up of judicial process in its Report (the famous Rankin Committee Report of 1925) almost nine decades ago had stated, "…the existence of mass arrears takes the heart out of a presiding judge. He can hardly be expected to take a strong interest in the preliminaries, when he knows that the hearing of the evidence and the decision will not be by him but by his successor after his transfer. So long as arrears exist, there is temptation, to which many presiding officers succumb, to hold back to the heavier contested suits and devote attention to lighter ones … while the real difficult work is pushed into the background."[10] Experts feel that if this report had to be written in the present decade, not a single word would change.

Since 1924 several committees had been instituted to bring about the desired reforms. While in 1949 Justice S. R. Das Committee was formed to examine arrears in High Courts, in 1972 Justice J. C. Shah Committee was set up to examine over-all arrears. In 1980, the Estimate Committee's Report also suggested about dispute resolution reform. Mention must also be made of the Satish Chandra Committee (1986) and the 1stMallimath Committee of 1990. Since 1955 several Law Commissions have been set up to effect legal reforms. The 14th, 79th, 80th, 120th, 121st& 124th reports of the Law Commission specifically touched on the question of arrears.

In its 14th Report the Indian law Commission categorically stated, "the delay results not from the procedure laid down by it but by reason of the non-observance of many of its important provisions particularly those intended to expedite the disposal of proceedings."[11]The Law Commissions time and again had emphasized that lack of clarity of procedural laws has not been the reason for judicial delay rather the real cause lay in imperfection execution or specially their non-observance.

Recently, the Law Commission has come out with its 245th Report titled "Arrears and Backlog: Creating Additional Judicial (Wo)manpower." The Report had the following to say, "Keeping in view that timely justice is

[7] Scott Schakelford, *In the Name of Efficency: The Role of Permanent Lok-Adalats in the Indian Justice System: The Role of Permanent Lok-Adalats in the Indian Justice System and Power Infrastructure*, available at www. works.bepress.com/scott_shackelford/4 accessed on 1/4/2015.

[8] SAARC- Human Development Report of 2006.

[9] These data have been collected from www.ndtv.com/india-news/more-than-3-crore-court-cases-pending-across-country-709595 accessed on 1/4/2015.

[10] Bibek Debroy (ed. 2005), 'Reforming the Legal System', in Raj Kapila and Uma Kapila, *Economic Developments in India*," Academic Foundation in association with Rajiv Gandhi Institute for Contemporary Studies (RGICS), pp. 24-25.

[11] *Law Commission of India, 77th Report*, para.4.1

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an important facet to access to justice, the immediate measures that need to be taken by way of creation of additional Courts and other allied matters … to help in elimination of delays, speedy clearance of arrears and reduction in costs. It is trite to add that the qualitative component of justice must not be lowered or compromised."[12]

III. Judicial Vacancies

Inadequate number of judges at every level is another important reason for delay. Till 6th September 2001, there were 470 judges as against the sanctioned strength of 647 judges in the High Courts of the country.[13] According to the 2004 year ending review of the Ministry of Law and Justice there were 143 vacancies in the 21 High Courts[14] out of a sanctioned strength of 719 judges leaving almost 20% of the judges' posts vacant."As of December 2005, there were 4 vacancies in the Supreme Court which rose to 7 in 2010 and as many as 21 in the High Courts in the country with Calcutta (21), Madras (20), Allahabad (14), Punjab and Haryana (11) topping the list.[15] Almost all courts have vacancies and a court of full strength at any point of time is an anathema[16]. The number of judge in the Indian context is on the low, a fact also endorsed by the World Bank.[17] Both Debroy (2005) and S. A. Khan (2006) have shown that judicial strength on the Indian side is poor when compared with its counterparts in other parts of the world. For instance for every million population, the United States has 107 judges, Canada 75.2, Britain 50.9 and Australia 41.6 whereas for India it is slightly over 10.26.

Records reveal that till 2014 in the Supreme Court there are currently 28 sitting judges, against a maximum possible strength of 31.

Against a sanctioned strength of 984 judges in 24 High Courts, there are only 636 judges, with almost 348 posts or nearly 35% vacant. The Allahabad High Court has the highest vacancies (75) against a sanctioned strength of 160 judges.[18] A total of 4,706 judicial positions were vacant as on August 2014 for Supreme Court and High Courts.[19]

As early as 1987 the Law Commission in its 120th Report submitted after examining the problem of understaffing had recommended 50 judges per million of the population. The successive reports of the Law Commissions and expert committees had always moved the government towards taking concrete steps.

Sensing the grave situation, the Government of India in 2008 set itself the target of having at least 50 judges per million by 2013. In 2014, again a five-year plan was adopted with the aim of doubling the number of 'sub-ordinate court' judges (excluding the Supreme Court and the High Courts). The current position stands at less than 15 judges per million and this figure too would be far less taking the rate of litigation boom.

IV. Judicial Delay

Until recently, SAARC-Human Development Report of 2006 reiterated the fact that Indian judiciary still continues to be plagued by judicial delay[20]. There are about a quarter million under trial prisoners languishing in jails for more than 5 years, even as their guilt is yet to be proved.[21]Institutional incapacity coupled with lack of professional will make the situation serious. Cases are not rare when the common man complain that their complaints are not heard by men in authority. The poor facilities conspicuously emerge as contributing to poor administration of justice added to which is the problem of poor supervision and monitoring. High

[12] *New Law Commission Report on Delays, Arrears, and Adequate Judge Strength*, available at www.lawandotherthings.-blogspot.in-/2014/08/new-law-commission-report-on-delays.html accessed on 1/4/2015.

[13] BathulaVenkateshwar Rao (2001), *Crisis in the Indian Judiciary*, Hyderabad, Legal Aid Centre, p. 158.

[14]The Centre has constituted three new High Courts in the northeast — Meghalaya, Manipur and Tripura — taking the total number of High Courts in the country from 21 to 24January 26, 2013. *Report of the National Judicial Commission, Judicial Appointments and Oversight*, p. 3.

[15] Anurag Sharma, *'Speedy, Fair and Affordable Justice to a Common Man: Present Challenges and Future Agenda for Reforms'*, available at http://www.lawyersclubindia.com accessed on 18/8/2010.

[16] The combined strength of all the High Courts in the country is 886 judges, but the actual working strength is 652 judges, leading to a deficit of 254 judges. Similarly, the combined sanctioned strength of the judicial posts in district and sub-ordinate courts is 16,721 judges, but the actual working strength is 13,723 judges, leading to a deficit of 2,998 judges. Anurag Sharma, '*Speedy, Fair and Affordable Justice to a Common Man: Present Challenges and Future Agenda for Reform*', available at www.lawyersclubindia.com accessed on 18/8/2010.

[17] It is indeed true that the number of judges per capita is low in India. For example, the World Bank database on 30 countries show that the number of judges per 100,000 inhabitants varies from 0.13 in Canada to 23.21 in the Slovak Republic; with an Indian figure of 2.77. BibekDebroy (ed. 2005), 'Reforming the Legal System', in Raj Kapila and Uma Kapila '*Economic developments in India'*; Academic Foundation in association with Rajiv Gandhi Institute for Contemporary Studies (RGICS), p. 28.

[18]Law Minister Blames Collegium System for Judges Vacancy in High Courts', The Times of India, 26th November 2014.

[19] Justice has a Mountain to Climb, of 31.3 Million Pending Cases', Hindustan Times, 4th September 2014.

[20] An extreme case of judicial delay was highlighted in public when in July 2005; the Chief judicial Magistrate of Kamrup intervened and released MachungLalungLalung from the GB Regional Institute of Mental health on a personal bond of Rupee one. The tragedy of the entire episode was that Lalung who had been an under trial was that Lalung who had been an under trial prisoner for 54 years was never produced before any court. Similar were the fates of KhalilurRehman, an under trial prisoner for 35 years, Anil Kumar Burman, an under trial for 33 years and Sonamani Debi, an under trial prisoner for 32 years. These examples have been referred from *SAARC - Human Development Report,2006*. 'It has been observed that judicial delay in producing judgments ultimately results in huge arrears of cases.

[21] Figures revealed from the Home Ministry's department of justice, under Right to Information Act application placed by a citizen, available at http://www.rtindia.org accessed on 19/7/2010.

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expenses incurred in litigation have been one of the vices of our justice system. Inordinate delay and exorbitant cost have prevented the system from being appreciated[22]. These unwarranted loopholes has today become innate features of the judicial system creating an atmosphere repugnant for the legal minds who from time to time have expressed their concern over the faltering judicial edifice. To quote Justice Iyer, "the myth is that courts of law administer justice, the truth is that they are agents of injustice."[23]Since the citizens have a fundamental right to speedy trial which is reasonable, fair and just, denial or delay in such services amount to violations of their basic rights. Incarceration of those accused (real or potential) without trial is denying them justice.

V. Complexities of the System

Procedural technicality, complex legal jargons coupled with lethargy, repeated adjournments and frequent appeals have made the entire legal process suspicious and distrustful to the common man. Technical complexities often deny the poor litigating parties their rightful share of having justice done to them. Added to the existing cumbersome legal process, multiplicity of hastily enacted laws by the authorities (both central and state government) opens up new avenues for more appeals and litigations.[24]Regrettably crowding of legislative acts has left little space for human sensibilities. While Justice Hidayatullah believed that the maxim of '*Summus Jus, Summa Injuria'(meaning 'more the law, less the justice')*has no appeal in the Indian context, Justice A. K. Sen believed the need of the hour is not just enough good laws but their proper implementation with a human touch.[25]

'Interestingly, the Government is the largest litigant in the country[26]. According to estimates, the number of cases agitated by or appealed by the state rounds off to about 70% while the government officials neither allow the cases to get disposed nor withdraw the same since that would offend their vested interests'. Therefore, the state as the largest litigant directly or indirectly is responsible for delay. Parliament data reveal that increasing number of legislations, accumulation of first appeals; adjournments and lack of logistics are causes for cases pending.

In addition to backlogs and delays, the judicial infrastructure is poor. The courts are grossly underfunded. Though the authorities had repeatedly assured to overhaul the 'opaque' process of judicial appointment and functioning promising a system which is transparent and based on competence and integrity, but hopes are bleak. The prospects seem dim when a retired Supreme Court judge (Jagdish Verma) complained that even elementary measures as implementing long working hours and more working days are yet to be implemented.

VI. Colonial Legacy

Though rationalization and professionalization of the Indian legal system is said to be a British boon yet these have not been without a price. No doubt, the laws have been made universal with conformity to national standards; yet in doing so the Britishers' have removed laws 'remote from popular understanding'. The present legal system with its colonial heritage provides sufficient scope for manipulation and exaggeration of laws and legal precepts "so that uniformity in doctrine and unity in formal structure coexist with diverse practices that diverge from the prescriptions of formal law".[27]Inspite of holding a coveted position, jurists are constrained by rules (having a colonial hangover); they find themselves 'prisoners of the rhetoric of the adversary system.'

The Indian legal system still struggles with the yoke of colonial legacy which once prompted Justice V.R. Krishna Iyer to comment, "Indian justice system still has the tenor of the British band and lacks the notes of Bharat's Veena." [28] Similarly, Pandit Nehru remarked, "The defect really lies with the judicial structure that we have inherited from the British which entails inordinate delay and expenses."[29] Legal jargons and strict rules of evidence have turned the poor man into more than

[22] Our present Prime Minister Dr. Manmohan Singh said "the judicial system must make concerted efforts to wipe every tear of every waiting litigant, urging the judiciary and executive to work together as a seamless web and indivisible whole. He further accepted that despite its strength India had to suffer the scourge of the world's largest backlog of cases and time-lines which generate surprise globally and concern at home. Echoing similar sentiments (former) Chief Justice of India K G Balakrishnan accepted that the chronic shortage of judicial officers was hindering efforts to overcome the back log of cases."The PM and CJI were speaking at a conference of Chief Ministers and Chief Justices of High Courts, in New Delhi, in the midst of a 'National Debate of Judicial Corruption and Raging Controversy over Declaration of Assets by Judges of Higher Judiciary. This report occurred in The Statesman, on 17/8/2009.

[23] Justice Ashok A. Desai (2000), *Justice Versus Justice,* New Delhi,Taxmann Allied Services Pvt. Ltd., p. 4.

[24] A.K. Sen, M.C. Setalvad and G.S. Pathak (1964), *Justice for the Common Man*, Lucknow, Eastern Law Publishers and Book Sellers, p. 10.

[25] Justice Hidayatullah's speech is found in the introductory note in A.K. Sen, M.C. Setalvad and G.S. Pathak (1964), *Justice for the Common Man*, Lucknow, Eastern Law Publishers and Book Sellers, p.10

[26]Madabhushi Sridhar (2005), *ADR Negotiation and Mediation*, New Delhi, Lexis Butterworths Publisher, p. 57.

[27]Ainshee T Embree (1988),'Law, Judicial and Legal Systems of India' in *Encyclopeadia of Asian History*, Vol. 2, London/New York, Charles Scribner's Sons, Collier Macmillan Publishers, p. 414.

[28] Syed Ali Mujtaba (2009) '*Crisis of Governance - An Indian Experience'*, paper presented at the Asia Media Conclave in Bangkok on 25th-27th March, 2009.

[29] Justice Ashok A Desai (2000), *Justice Versus Justice*,New Delhi,Taxman Allied Services (P) Ltd., p. 2

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'God-fearing' into a 'court-fearing man.' Marc Galanter observed, 'contemporary Indian Law is for most part, palpably foreign in origin or inspiration and is notoriously incongruent with the attitudes and concerns of much of the population which lives under it'.[30]

VII. Judicial Corruption

The Transparency International ascribed rampant corruption in Indian Courts to factors as judicial delays, judicial vacancies, cumbersome procedures, and preponderance of new laws, (most of which are often hastily enacted).A study of the Transparency International in 2008 reported that about 40% of Indians had first-hand experience of paying bribes or using a contact to get a job done in public office.[31] While in 2013 India stood 94th out of 175 countries, it ranked 85th in 2014 in Transparency Perceptions Index when compared to its neighbouring countries as Bhutan (30th), Sri Lanka (85th), China (100th), Nepal (126th), Pakistan (126th), Bangladesh (145th) and Myanmar (156th).

In its Xth Plan Report the Planning Commission noted, 'Corruption is most endemic and entrenched manifestation of poor governance in Indian society, so much so that it has become an accepted reality and a way of life'. In its XIth Five Year Plan, the Planning Commission reiterated, 'good governance is not possible without addressing corruption in its various manifestations….' What has perturbed more is the fact that corruption has reached the highest echelons of the judiciary – the Supreme Court. The Rajya Sabha in 2011 impeached Soumitra Sen, a former judge at the Kolkata High Court for misappropriation of funds.

Ruma Pal, a former Supreme Court Justice in 2011 (November) took to task the higher judiciary for what she called the 'seven sins' -ignoring injudicious conduct of a colleague, hypocrisy, secrecy, plagiarism and prolixity, self-arrogance, professional arrogance and nepotism.Scandals have blighted the higher judiciary in the country. A former Chief Justice of India (CJI) KG Balakrishnan (Chairman of the National Human Rights Commission) was accused by his two colleagues of nepotism. There has also been similar allegation against YK Sabharwal, another former CJI. A virtual storm was created in June 2010 when Shanti Bhushan (former Law Minister) moved an application and accused 'eight former CJI's of corruption'.

The judiciary is in the throes of its worst ever moral crisis. Inefficiency, manipulation of truth, excesses of ineptitude and turpitude has eroded the dignity of the judicial edifice which till recently was seen by the people as the last bastion of institutional integrity. Personal misdemeanors of individual judges as those of PD Dinakaran, Soumitra Sen and V Ramaswami add to the cynicism of citizens. Needless to say, the magnitude of partisanship, lack of professional rectitude and personal integrity among those occupying highest judicial seat have a very pernicious effect on the entire Indian fabric making a mockery of the democratic dispensation and the sanctity of the Constitution.

Section II

I. The Need for Alternative

Under the prevailing circumstances, the justice system fails to meet the citizens' demand of confidence, reliability and dependability. The Judicial institution must embody within it the elements of judicial responsibility, accountability and independence, and must in every sense remain inseparable. The efficacy and ability of the judiciary to delivery has come under severe scrutiny; questions have been raised on its credibility. Vivek Upadhayay (2007) finds several reasons for which justice eludes the common man. He characterizes the legal process as being mystical, obscure and lacking in transparency added to which is the uncaring attitude of those in authority. Taking these to be blind spots, he comments that the Constitutional guarantee of justice[34] loses its sanctity in the face of such unwarranted hurdles. In spite of all the good works of the judiciary, the courts have largely been unsatisfactory institution. The failings of the Indian justice mechanism are so great that Oliver Mendelsohn prefers to describe it as "pathology of a legal system." [35] The adage 'justice delayed is justice denied' rather than remaining a mere cliché has become a working truth of the current state of Indian judiciary.

One more important fact must be pointed here. In this era of globalization as the commercial elements had overshadowed the importance of service character, the regular formal system has not lived up to meet

[30]Madabhushi Sridhar (2005), *ADR Negotiations and Mediation*, New Delhi, Lexis Butterworths, p. 88

[31]*India Corruption Study – 2008.Transparency International, 2008.*

[32] *India Corruption Study – 2008—With Special Focus of BPL Households.*Designed and Conducted by Centre for Media Studies, New Delhi. Preface, p. xviii.

[33]*Ibid*, Preface, p. xviii.

[34] The Constitution of India empathetically declares India to be a 'Sovereign, Socialist, Secular and Democratic Nation. The Preamble affirms a determination to secure economic, political and social justice for all citizens of India. It also speaks of equality of status and opportunity so as to ensure the dignity of people. The rights of the people and the obligations of the state in this regard were ensured by the Constitution framers by incorporating detailed and comprehensive chapters on the Fundamental Rights of the Citizens of India and Directive Principles of state policy. VidehUpadhyay (2007), 'Justice and the Poor: Does the Poverty of Law Explain Elusive Justice to Poor?' in Arnab Kumar Hazra and BibekDebroy(ed.)*Judicial Reforms in India: Issues and Aspects*, New Delhi, Academic Foundation in association with Rajiv Gandhi Institute for Contemporary Studies (RGICS), p. 86.

[35]Oliver Mendelsohn (1981), *The Pathology of the Indian legal System*, Modern Asian Studies, Vol. 15, No. 4, Cambridge University Press.

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growing demand for justice which has forced the quest for alternative methods of adjudication.

The growing concern over judicial dependency has compelled the government to initiate steps to reduce, if not overcome the problem. In a conference held 2005 (11th June) Justice K. Venkapathy, the Minister of State expressing concern over the ever-increasing arrears strongly recommended taking recourse to alternative methods of dispute resolution. Since the system bore the scourge of the huge backlog generating concerns at home and abroad, both the central as well as the state Governments at regular intervals has come forward with assurances to overcome high pendency of court cases.

The resolution adopted in the conference of chief ministers with chief justices of states held in New Delhi on 4th December 1993 endorsed the movement towards ADR. Taking note of the fact that it was humanly outside the competence of courts to deal with ever-increasing arrears, it was decided that those cases capable of resolution through alternative techniques of arbitration, conciliation, mediation and negotiation should be disposed of through these means. The meeting emphasised that disputants would be encouraged to resolve their disputes through informal forums rather than through conventional trials in regular courts. The conference stressed on the desirability of taking recourse to alternative methods of dispute resolution which provided procedural flexibility, save resources both in terms of time and money and avoided the harangues of legal trial.

II. Alternative Dispute Resolution Mechanisms

ADR or Alternative Dispute Resolution refers to those techniques and processes where disputes are resolved short of litigation. ADR is in fact, 'dispute management' process bearing the potential towards consensual resolution.

Alternative Dispute Resolution mechanisms encompass a variety of techniques as mediation, arbitration, conciliation and negotiation. The type of process that is adopted by disputants is decided by what the parties seek to achieve. For instance, if the goal of the disputing parties is to protect their relationship the method chosen is mediation. When the goal is to balance the power-relationship then the obvious choice is negotiation. ADR has proved to be useful in the sense that the procedures involved are simple and direct involvement of the parties as against the highly structured and legalistic procedures of courts where the parties are nothing more than evidences. The disputants do not have direct involvement in the decision-making process of courts unlike that of the informal processes where the parties are asked what they want or are encouraged to provide suggestions.

There are several ADR methods and as such a mediator or negotiator may employ any one of the processes or may follow a mix of one or two methods as per the demand of the situation.

Arbitration is the private determination of the dispute by a neutral third party. In arbitration the dispute is decided upon by persons chosen or agreed upon by the parties themselves. The aim is to obtain fair resolution with minimum delay and expense.

Mediation is a structured negotiation process. Instead of accepting any decision imposed by a third party, the parties themselves determine the conditions of settlement reached. The disputing parties may either be private individuals, communities, organizations or states. The mediators through the use of appropriate techniques or skills open and improve dialogue with the ultimate aim of reaching a consensual agreement.

Conciliation: Conciliation is the process of mediation used in agencies under law. In facilitating an amicable settlement there is no determination of a dispute unlike that of the arbitration process. There need not be a prior agreement and it cannot be forced on a party not intending for conciliation. The proceedings relating to Conciliation are dealt under sections 61 to 81 of Arbitration and Conciliation Act, 1996.

Mediation and conciliation are often used interchangeably; however a finer distinction exists between the two. The responsibility of the mediator, who is chosen by the disputing parties themselves, is to bring the parties together to help them reach a consensus decision. The mediator listens to the parties and impress upon them to reach an amicable solution. For justiciable disputes, conciliation is supposed to be a constructive approach. After listening to both the parties in a conciliation conference and if, need arise, listening to their views separately, the conciliator ascertaining the bottom line draws up the terms of possible settlement. The solution is then presented to the parties concerned.

While arbitration is less formal than litigation, conciliation is even less formal than arbitration. It is often said that conciliation is the precursor to arbitration. In arbitration the aggrieved parties have a say in deciding the arbitrators, venue and date of meetings but they have no control over the ultimate decision while in conciliation process the parties have the privilege of negotiating at a resolution in a less formal environment.

As per Section 80 of the Arbitration and Conciliation Act (1996) [36] the conciliator strives to generate options to find a solution acceptable to the

[36] The Arbitration and Conciliation Act 1996 lays down for the first time, a well structural law of conciliation. Based on United Nations Commissions on International Trade Law (UNCITRAL) Conciliation Rules 1980, the new law has the advantage of universal familiarity and can be used for settlement of domestic disputes as well as international commercial disputes. Madabhushi Sridhar (2005), *ADR Negotiation and Mediation*, New Delhi, Lexis Butterworths Publishers, p 92.

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disputants. This is in consonance with Section 67 of the said Act which states that conciliators should assist the parties in reaching an amicable solution. A settlement reached through conciliation enjoys the same status and effect as a decree of the court. In the conciliation process, the disputing parties remain free to withdraw from the process at any stage of the proceeding, without prejudice to their legal proceedings. The conciliation process avoiding the protracted process of litigation resolves the dispute at its threshold. Maintaining confidentiality is the bottom-line of the entire process.

Here it is important to make a distinction between binding and non-binding forms of ADR. While mediation, conciliation and negotiation as non-binding forms of ADR depends much upon the willingness of the disputants to reach an amicable resolution, decision reached through arbitration is binding upon the parties even if it conflicts with their interests. However, these ideal forms combine to form hybrid-types which are often used depending upon the type of dispute to be resolved and the interests of the stakeholders. Enveloping a wider connotation, ADR encompasses all actions from facilitated negotiated settlement where the parties are encouraged to opt for direct negotiation to arbitration process that looks much like a mini-trial or court process.

III. Alternative Dispute Resolution in India

Resolving disputes outside the threshold of legal courts has been a part of India's cultural heritage as panchayats, local peoples' court and extended family courts have nipped disputes in their buds. These traditional institutions were recognized systems of administration of justice and existed in parallel to the formal justice system established by the sovereign. These traditional-indigenous institutions akin to the ADR processes were informal, cheap and quick were based on the prevalent notions of societal behaviour. Though the colonial rule pushed these indigenous justice dispensing mechanisms to the brink of extinction, of late ADR these traditional institutions mechanisms have once again gained popularity both among the common people and members of legal profession.

ADR as practices in India can be broadly classified into two variants – court annexed mechanisms and community based techniques. Mediation and arbitration as the classic method of court annexed ADR methods is said to amicably resolve disputes with less time and expense. Such methods of resolution of disputes not only reduce the burden of the formal judiciary but make '*justice accessible'*.

Since conflict in any society is inevitable; it is urgent to resolve disputes before it harms its social fabric. As members of society it becomes the obligation of all individuals as well as the state to devise methods to nip disputes before it proves destructive to societal peace and harmony. ADR based on the twin foundation of natural justice in consonance with the rule of law is the need since it resolves disputes amicably in direct contrast to litigant where much heartburn and agony damages social relationships beyond repair. Today, ADR has become the cornerstone of dispute resolution as its growing importance is being acknowledged both in the field of law and commercial sector. It has gained ground because of its ability to provide justice which is cheap and quick, the proceedings are shorn of legal complexities and jargons, and decision is based on consensus without involving the winner-loser rhyme. In a country as India where culture and cultural practices are prioritized the citizens' prefer to settle their disputes amicably through community mediation instead of lawyers arguing out their case, pushing through adjournments and wasting scarce resources. The aggrieved parties desire relief as they want it both quickly and cheaply as possible. Since, 'there is no worse torture than the torture of law'[37]citizens' welfare becomes a far cry unless a system of order based on justice is brought into existence.

Since the heart of India lies in its villages and rural centres, it is extremely important that the people should be protected from the ravages of a system of justice which is expensive and entails hardships. Bearing this in mind, the Civil Justices Committee (1925) recommended a revival of the traditional system empowering the indigenous village or panchayat courts. Though the village traditional-indigenous courts do not function as courts in the ordinary sense of the term because they neither strictly follow laws nor pass judgments in legal lights but they are vital because they cater to justice needs of the people. These traditional justice institutions attempt resolution of local disputes keeping the prevalent norms and situations in mind. It must be remembered that what the people desire is justice not in purely legal terms but a fair resolution of disputes; that their disputes are resolved quickly and without cost.

The idea of peoples' participation and decentralized justice as envisioned by Mahatma Gandhi, 'the Father of the Nation' lay in a system of village panchayats as he stated, 'the government of the village will be conducted by the panchayat of five persons annually elected by the villagers … these will have all the authority and jurisdiction required …this panchayat will be the legislature, judiciary and executive combined …'[38]Though the government of Independent India has

[37]A.K Sen, M.C. Setalvad, G.S. Pathak (1946),*Justice for the Common Man*,Lucknow, Eastern Book Company, p.7.

[38]K. Ramaswamy (1997), 'Settlement of Disputes through Lok-Adalats is one of the Effective Alternative Dispute Resolution (ADR) on Statutory Basis', in P.C Roa and W. Sheffield (ed). *Alternative Dispute Resolution – What it is and How it Works*?, Delhi, Universal Law Publishing, p. 95

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passed legislations on Panchayati Raj but much remains to be done to make justice accessible.

IV. Government Initiatives

There have been initiatives on the part of the government to revitalize the ADR mechanisms to reduce the innate problem of docket overflow. Justice Malimath in its Report (1989-90) after a comprehensive review of the working of legal courts, particularly all aspects of arrears and delay and various useful recommendations for reducing litigation and making justice accessible to the people with the use of minimum resources, recommended the need for alternative dispute resolution mechanism such as mediation, conciliation, arbitration and lok-adalats as viable alternative to conventional litigation.

The Supreme Court in Guru Nanak Foundation Vs Rattan Singh & Sons observed, 'interminable, time-consuming, complex and expensive court procedures impelled jurists to search for an alternative forums, less formal, more effective and speedy for resolution of disputes avoiding claptraps…' [39] However, *alternative* does not imply taking recourse to alternative courts but it signifies adopting those methods and techniques for dispute resolution which are alternative to complex legal procedures or 'something which can operate as court annexed procedure'. [40] The underlying thrust is to channelize the scarce resources spent in legal wrangles towards constructive pursuits. By allowing disputants to resolve disputes consensually ADR mechanism employed through informal institutions save disputing parties from wasting time and resources. The ADR techniques through informal processes promise more conciliatory, less formal and more flexible procedures than litigation. What is more worthwhile is that the ADR mechanisms seek to provide the aggrieved parties the kind of remedy that is most appropriate under the existing circumstances.

Statutory recognition had been granted to ADR mechanisms through XXXIIA of CPC (Civil Procedure Code, 1908). Industrial disputes are referred for either arbitration or conciliation as per section 10 and section 12 of Industrial Disputes Act 1947. Family matters such as divorce and maintenance under the Hindu Marriage Act 1955 are settled through mediation. Disputes relating to dissolution of partnership, compoundable offences under section 145 of Cr PC, that is, disputes of possession which are of civil nature are referred for arbitration. The Family Courts Act of 1984 also recognized the need for ADR and insisted on conciliatory approach to settle family issues.

The Parliament has accorded its recognition and support to ADR and the enactment of Legal Services Act (1987) is a step towards it. Gearing itself to fulfil the obligations and needs of the democratic legal order in a plural society the government opted for providing free legal aid to its citizens. [41] The government's commitment in reforming the legal order reflected in its initiative of introducing legal service programme with the aim of bringing justice to the doorsteps of the people. Committed to overcoming frustrations caused by the dilatoriness and expensiveness of the formal legal system the government devised innovative form of voluntary effort for amicable settlement of disputes in the shape of lok-adalats[42]. The most important step in this direction was the incorporation of Article 39(A) in the Indian Constitution and by doing so the government acted in accordance with the letter and spirit of providing equal justice to all as enshrined in the Constitution.[43]

Taking note of the need for legal aid, the government through the 42nd amendment act inserted Article 39(A) (with effect from 3-1-1977). Article 39(A) in Part IV of the Indian Constitution reads, 'The state shall secure that the operation of the legal system promotes justice on the 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.' Though Article 39(A) recognizes free legal aid as a non-enforceable right, the higher judiciary interpreted the

[39] Avtar Singh (7th ed., 2005), *Law of Arbitration and Conciliation*, Lucknow, Eastern Book Company, p. 391

[40] Ibid, p. 301

[41] The right to legal aid owes its genesis to the UN Charter, when it declared its 'faith in fundamental human rights, in the dignity of human person, in the equal rights of men and women'. It also provides for promotion of 'universal respect for and observance of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion' (Article 55). It implies that equality is the yard-stick of all fundamental freedoms and human rights and it cannot be denied on any ground including poverty and if poverty comes in the way of enforcement of these human rights, legal aid is a condition precedent for the realization of human rights. '*Nyaya Deep'*, the official journal of NALSA, Vol. XII, Issue 4, January 2012, pp. 77-78; & Justice A. B. Srivastava and R. K. Sinha (2000), *The Legal Services Authorities Act (With Central and State Rules and Regulations)*, Allahabad, Universal publishers, p. xxxv.

[42] It is in this spirit that Late Rajiv Gandhi, the former Prime Minister of India, rightly concluded that lok-adalats are a major break-through in the judicial system of our country. Times have come when the Indian judiciary must be rationalized to the tune of time and accept the reality otherwise we are fast approaching a stage where the case-load is so heavy that it will crush the present judicial system. Unless this problem is tackled intelligently and cautiously, the litigants might be gripped with a sense of frustration and loss of confidence in the courts. Sunil Deshta (1998), *Lok-Adalats in India: Genesis and Functioning; People's Programme for Speedy Justice*, New Delhi, Deep & Deep Publication, p. 5.

[43] Articles 14 and 22 (1) Indian Constitution 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. Anurag K. Agarwal (2005), Role of Alternative Dispute Resolution Methods in Development of Society: Lok-Adalat in India, Series of Working Paper, Research and Publications, Ahmedabad, Indian Institute of Management, p. 9.

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right to life and liberty under Article 21 inclusive of right to legal aid at state expense and Article 39(A) is used to define the scope and content of this right.

Section 30 of the Arbitration and Conciliation Act, 1996 encourages disputants to seek the help of arbitrators to reach settlement through mediation, conciliation or other procedures at any time during the arbitration process. The Arbitration and Conciliation Act (1966) as the first comprehensive legislation in India ushered in an era of private arbitration and conciliation.

The Civil Procedure Code (Amendment) Act, 1999 through Section 89 encourages settlement through arbitration, conciliation and mediation or judicial settlement [44] through lok-adalats. The CPC has been amended which states that courts shall direct the parties to seek settlement of disputes outside the court as specified in section 89(1).

V. ADR Processes as Practiced in India

Widely used in developed world as USA, UK and European countries, the use of mediation as an alternative dispute resolution mechanism is slowly, but surely gaining ground. Significant steps have been taken by the judiciary and law commissions to endorse the value of mediation as informal ADR process and the International Conference on ADR and Case Management (May 2003) is an important step in such a direction. On the directions of the Apex Court, in sequel to its judgement in 'Salem Bar Association Vs. Union of India' the committee under the chairmanship of Justice M. Jagannadha Rao prepared the 'Draft Mediation Rules, 2003'which regulates the mediation process initiated under Section 89 of CPC. Mediation as an ADR mechanism got a major boost when the Tamil Nadu Mediation and Conciliation Centre was inaugurated (9th April, 2005) in the premises of Madras High Court by Y.K. Sabharwal (the then judge of Supreme Court).

The Indian Institute of Arbitration and Mediation[i] (IIAM) provides ADR services which include mediation, conciliation, arbitration and settlement through conferences. Guided by an advisory board under the chairmanship of Hon'ble former Chief Justice of India Justice M. N. Venkatachalli, the IIAM has also launched its 'IIAM Community Mediation Service', a decentralized socially-oriented cheap dispute resolution mechanism providing justice at doorsteps as well as training individuals as community mediators. With a panel of arbitrators and mediators, the IIAM provides professional mediation services for both national and commercial business disputes. As part of corporate social responsibility, the IIAM provides facilities for mediation clinics; it assists in structuring and designing new or hybrid-clauses which would fit specific situations making the whole mediation process time bound and swift.

Established in 1965 on the initiatives of the Government of India and apex business organizations as FICCI, the Indian Council of Arbitration (ICA, based in New Delhi) resolves commercial disputes quickly in an inexpensive way. The aim is to promote amicable resolution of business disputes by means of arbitration and conciliation. As one of the most important arbitration centres in Asia-Pacific, the ICA arbitrates almost 400 disputes (both domestic and international) annually.

According to the Centre for Alternative Dispute Resolution[ii] (CARD)mediation works well in all case of family and matrimonial disputes, cases of personal injury, accidental claims, property claims and commercial disputes.

ADR thus offers an alternative route for resolution of disputes; the emphasis which is informal and flexible, is on "helping the parties to help themselves". The manifold advantages of mediation have made its practice popular. Some of its benefits includes;

- Cost reduction
- Quick and cheap
- Voluntary process
- Flexibility of procedure
- No legal complexities
- Maintaining Confidentiality
- Open participation of disputants; facilitating discussions and seeking suggestions
- Viewing the dispute informally
- facilitating a generic approach to an individual problem,
- The process is determined and controlled by the parties
- Direct negotiations with the help of neutral third party
- Holistic resolution in the spirit of 'give and take'
- Consensual decision
- Transparent, neutral and fair process
- Solutions tailored to meet the interests and needs of the disputants

[44] The term judicial settlement has not been defined in the CPC. Per the Supreme Court of India in Afcons Infrastructure Ltd Vs. Cherian Varkey Construction Co. Pvt Ltd (decided on 26th July 2010), judicial settlement is a reference made by a court to another courtor judge to assist the parties enter into a settlement. In such cases the court or judge to whom the dispute has been referred for judicial settlement shall not act in its/his capacity as a court of law or judge, and shall act in accordance with the provisions of the Legal Services Act, 1987. *Conciliation in India: An Overview*, available at psalegal.com/.../DisputeResolutionBulletin-IssueVII08092010070309PM... accessed on 25.5.2015.

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- Bearing the potential to save and maintain interpersonal/working relationships
- Durability of agreements
- Help parties bury the past, preserve the present and seek a better future
- Emphasis on restorative justice

The importance of resolving disputes amicably can be gauged from the quotes of two renowned personalities which I mention below;

Abraham Lincoln once said, 'Discourage litigation. Persuade your clients to compromise, whenever you can. Point out to them the nominal winner is often a real loser; in fees, expenses and waste of time. As a peace-maker, the lawyer has a superior opportunity of being a good person. There will always be enough business. Never stir up litigation. A worse man can scarcely be found than one who does this. Who can be more nearly a fiend than he who habitually overhauls the register of deeds in search of defects in titles, whereon to stir up strife and put money in his pocket? A moral tone ought to be infused into the profession which should drive such men out of it.'[45]

Mahatma Gandhi in his autobiography wrote, "…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 realized that the true function of a lawyer was to unite parties riven as under.

The lesson was so indelibly burnt into me that a 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."[46]

Inspite of government initiatives and attempt at institutionalization, the popularity and use of ADR is still on the low side. Much has to be done on the propaganda front to make the system more popular. The movement for ADR is in its infancy in India as the people still has to grasp the feasibility about alternative methods to litigation. In a developing and resource scarce country like India, alternative dispute resolution mechanisms bear the potential of scoring high on moral fronts because of its ability to resolve disputes without much heartburn and agony. With proper managerial and institutional support ADR mechanisms bear the real potential of constructing dispute adjudication system that is both more responsive and citizen-friendly.

There is still much want of spreading awareness of ADR through public mechanisms of direct people interaction and through intellectual methods of conducting seminars and workshops about its potential and real benefits. There is need to extend services and benefits of ADR mechanisms to those directly affected by the hassles of formal litigation. The advantages of ADR techniques must directly percolate to the grass-root since the uneducated and resource less people bears the scourge of the formal system. Since the rural masses remain ignorant about their basic rights, it is imperative that legal aid campaigns and awareness drives be organized to cognizance them of their rights to 'speedy justice'. They must be made aware of the fact that they have the right to 'accessible justice.'

[45] Frederick Trevor Hill (1906), *Lincoln, The Lawyer,* New York, Century Company, p. 102-103.

[46] Mahatma Gandhi, *An Autobiography or The Story of My Experiments with Truth*, (Translated by Mahadev Desai), Ahmedabad, Printed and Published by Navjivan Publishing House, pp. 133-134.

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End notes

[i]Indian Institute of Arbitration & Mediation is a non-profit organization registered under the TC Literary Scientific and Charitable Societies Registration Act, 1955. The institute was formed by a group of professionals and businessmen in the year 2001.
[ii] Centre for Alternative Dispute Resolution (CADR) is a Public Charitable Trust registered with the Charity Commissioner.

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