

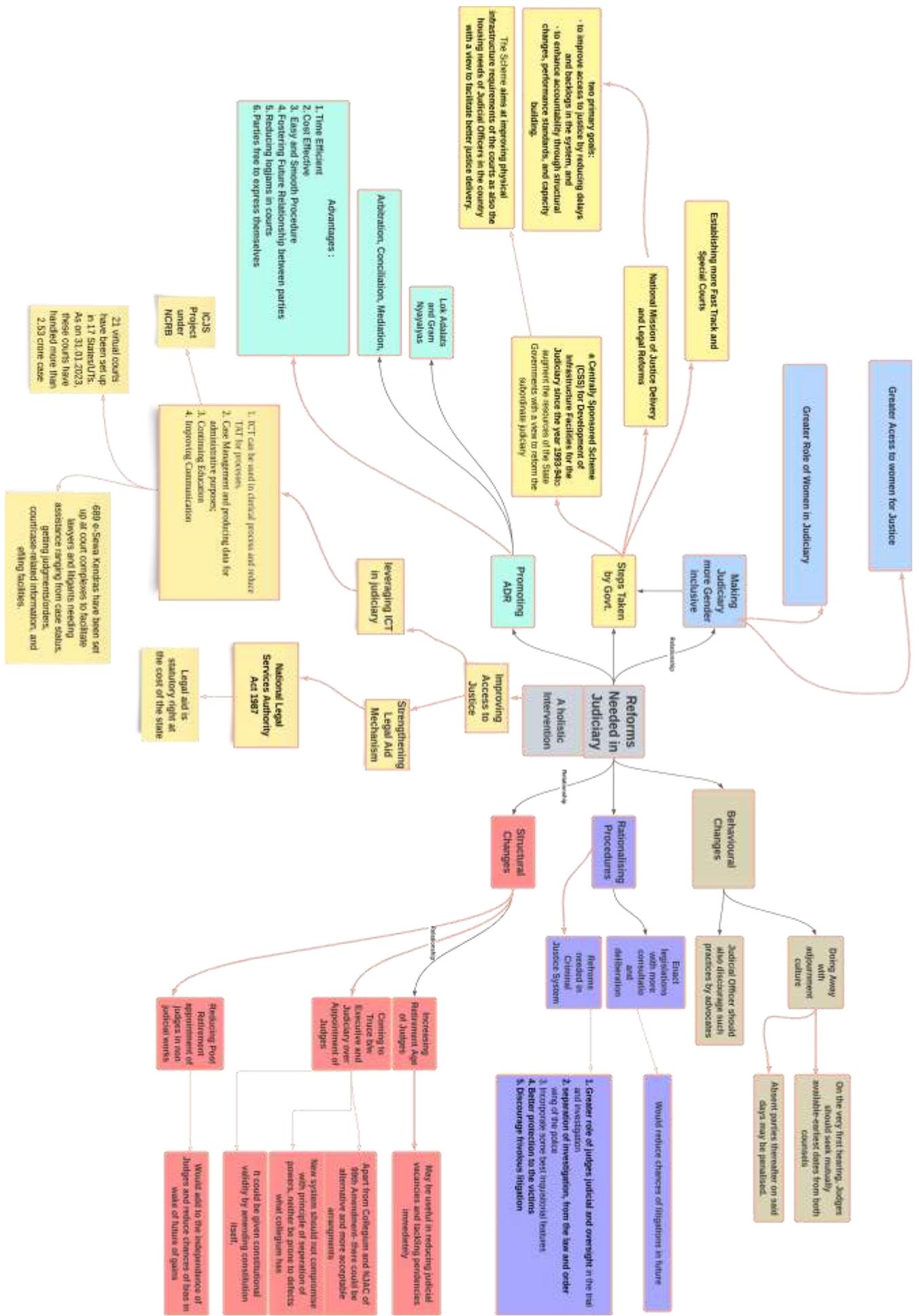
What is the Rule of Law Index and what is its importance?

Today, Rule of Law is an important tenet for fair and functioning societies; underpinning development, accountable government and respect for fundamental rights. It is a perpetual challenge of building and renewing structures, institutions and norms that sustain a rule of law culture.

The Rule of Law Index(ROLI) is developed and published by World Justice Project (WJP). It is based on the four principles of “Accountable Government”, “Good Laws”, “Good Process” and “Access to Justice”

ROLI quantitatively measures rule of law-in-practice by way of survey/polling of general public and sector experts.

Find out recent performance of India?



Key Areas of reforms:

- ★ **Case backlog reduction:** Addressing the substantial backlog of pending cases is a significant priority. Measures such as increasing the number of judges, optimizing case management systems, encouraging alternative dispute resolution mechanisms, and promoting fast-track courts can help expedite the disposal of cases.
 - ★ **Judicial infrastructure:** Enhancing the physical infrastructure of courts, including the construction of new court buildings, upgrading existing facilities, and providing adequate resources, is crucial for improving the efficiency of the judicial system.
 - ★ **Judicial appointments:** Establishing a transparent and accountable system for judicial appointments, including the appointment of judges to higher courts, can help ensure the selection of qualified and competent individuals based on merit and integrity.
 - ★ **Technology integration:** Embracing technology to streamline court processes, facilitate online filing of cases, digitalize records, and introduce e-courtrooms can significantly improve access to justice and reduce delays.
 - ★ **Legal aid and access to justice:** Strengthening legal aid services and mechanisms to ensure that disadvantaged and marginalized sections of society have equal access to justice, including awareness programs, simplifying legal procedures, and supporting legal aid clinics.
 - ★ **Judicial ethics and accountability:** Promoting judicial ethics, enforcing a code of conduct for judges, and establishing mechanisms for judicial accountability, including the investigation and discipline of errant judges, can enhance public trust and confidence in the judiciary.
 - ★ **Court management and case administration:** Implementing efficient case management systems, training judges and court staff on case administration, and adopting best practices in court management can contribute to better judicial efficiency.
 - ★ **Alternative dispute resolution (ADR):** Encouraging the use of ADR methods, such as mediation and arbitration, as viable alternatives to litigation can help reduce the burden on courts and expedite dispute resolution.
 - ★ **Legal reforms:** Continuously reviewing and updating laws to ensure they are in line with changing societal needs, promoting access to justice, and addressing emerging challenges can contribute to a more effective and relevant legal framework.

National Mission of Justice Delivery and Legal Reforms- Centrally Sponsored Scheme

Judicial reforms are an ongoing and collaborative process. In August 2011, the government established the National Mission for Justice Delivery and Legal Reforms with two primary goals:

- to improve access to justice by reducing delays and backlogs in the system, and
 - to enhance accountability through structural changes, performance standards, and capacity building.

The Mission has been implementing a coordinated approach to gradually eliminate backlogs and pending cases in the judicial system. This approach includes initiatives such as improving court infrastructure through computerization, increasing the number of judges in lower courts, implementing policies and legislation to address areas prone to excessive litigation, streamlining court procedures to expedite case disposal, and focusing on the development of human resources.

Further, The Department of Justice has been implementing a **Centrally Sponsored Scheme (CSS) for Development of Infrastructure Facilities for the Judiciary since the year 1993-94** to augment the resources of the State Governments with a view to reform the subordinate judiciary. The Development of subordinate judiciary has been primary responsibility of the states.

The Scheme aims at improving physical infrastructure requirements of the courts as also the housing needs of Judicial Officers in the country with a view to facilitate better justice delivery. The scheme has been extended from time to time. The Government has extended the above CSS for a period of 5 years i.e. from 2021-22 to 2025-26 with financial outlay of Rs.9000 Cr (including central share of Rs.5307 Cr) and besides construction of court halls and residential units, has also now introduced some new features like provision of Lawyers Halls, toilet complexes and digital computer rooms under the CSS.

- Infrastructure Development for the Subordinate Judiciary is a major programme under the National Mission of Justice Delivery and Legal Reforms. Presently, the fund sharing pattern of the Scheme is 90:10 (Centre: State) for the 8 North-Eastern and 3 Himalayan States and 60:40 for remaining States. There is 100% assistance for Union Territories. This scheme only covers subordinate judiciary, Central Assistance for High Court buildings is not covered under the CSS.

ICT under National Mission:

- Further under the e-Courts Mission Mode Project, information and communication technology (ICT) has been leveraged for IT enablement of district and subordinate courts. The number of computerised district & subordinate courts has increased to 18,735 so far. WAN connectivity has been provided to 99.4% of court complexes.
- Video conferencing facility has been enabled between 3,240 court complexes and 1,272 corresponding jails.
- 689 e-Sewa Kendras have been set up at court complexes to facilitate lawyers and litigants needing assistance ranging from case status, getting judgments/orders, court/case-related information, and efiling facilities.
- 21 virtual courts have been set up in 17 States/UTs. As on 31.01.2023, these courts have handled more than 2.53 crore cases and realized more than Rs. 359 crores in fines.
- E-courts Phase III is about to begin which intends to incorporate latest technology such Artificial Intelligence (AI) and Block chain to make justice delivery more robust, easy and accessible to all the stakeholders.

Tele-Law Initiative

- The Government launched the Tele-Law programme in 2017, which provided an effective and reliable e-interface platform connecting the needy and disadvantaged sections seeking legal advice and consultation with panel lawyers via video conferencing, telephone and chat facilities available at the Common Service Centres (CSCs) situated in Gram Panchayat and through Tele-Law mobile App.

Filling up vacancies:

Government has been regularly filling up the vacancies in higher judiciary. From 01.05.2014 to 07.03.2023, 54 Judges were appointed in Supreme Court. 887 new Judges were appointed and 646 Additional Judges were made permanent in the High Courts. Sanctioned strength of Judges of High Courts has been increased from 906 in May, 2014 to 1114 currently.

Procedural Changes:

The Process should not be a Hurdle - The court process should not be a hurdle for the people. A vision of equal, expeditious and inexpensive justice for India's millions, a passion for the effective delivery of social justice for the victims and a mission of constitutional fulfilment through a dynamic rule of law geared to democratic values.

Revenue courts are specifically dealing with matters related to land revenue where the sufferers are poor farmers. So, to regulate them, the state should provide these with proper resources and infrastructure so that they can work effectively and efficiently.

Retirement Ages:

High Court judges retire at the age of 62. This was fixed long ago when lifespans and working ages were shorter. Today, it is different. Men and women work productively into their 60s. Given the huge backlog, there is no reason why we should lose judges of quality and experience when they turn 62. The retirement age should be made 65 or even 67.

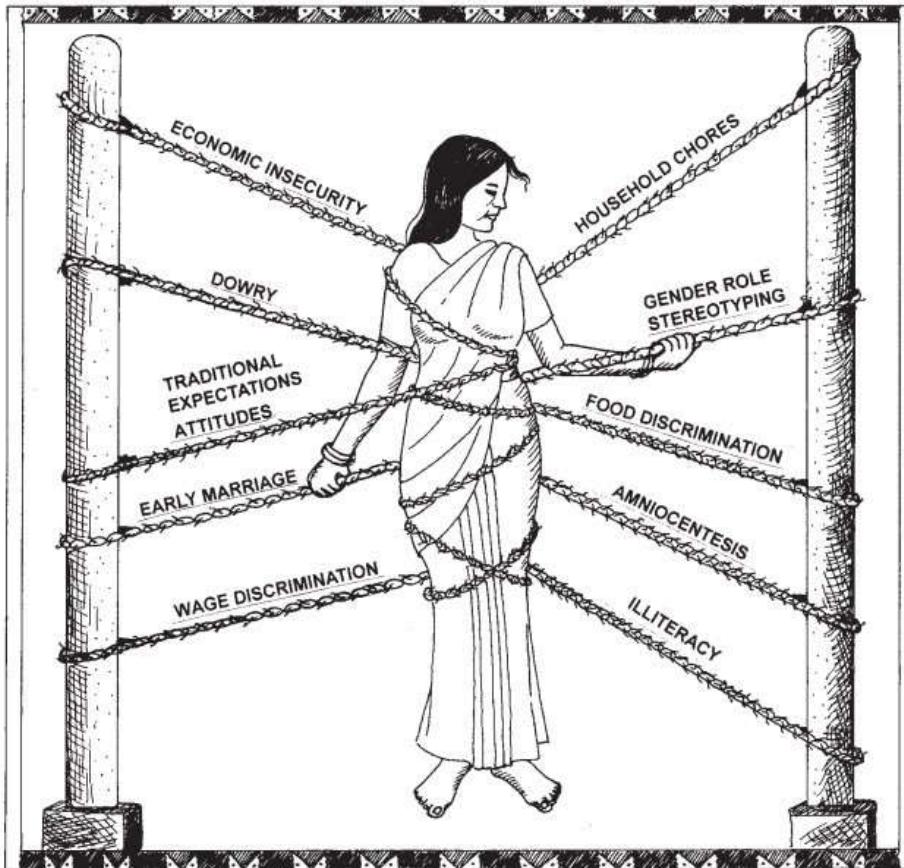
Secondly, the retirement age should be the same for the Supreme Court and the High Court. Today, Supreme Court Judges retire at 65 and that is why High Court Judges want to go to the Supreme Court even if at the fag end of their careers, serving as junior judges of not much consequence.

Access to Justice:

Efforts have been made to institutionalize pro bono culture and pro bono lawyering the country. A technological framework has been put in place where advocates volunteering to give their time and services for pro bono work can register as Pro Bono Advocates on NyayaBandhu (Android &iOS and Apps). NyayaBandhu Services also available on UMANG Platform. Pro Bono Panel of advocates have been initiated in 21 High Courts at the State level. Pro Bono Clubs have been started in 69 select Laws Schools to instill Pro Bono culture in budding lawyers.

Access to Justice and Women:

Women have always been glorified as goddesses to be adored and revered for all the virtues they possess. They have been clothed with divinity and felicitated as goodness and sacrifice personified. There has been a gradual degradation of status of women due to various socioeconomic reasons resulting in grave violations of their rights as human beings at all levels not only outside the household but more so in their own house.



Constitution and Protection to Women:

- Preamble: Preamble of the Constitution states that it intends to secure to all its citizens “equality of status and of opportunity”. Equality is the basis on which further progress in achieving rights of women is possible.
- Fundamental Rights: Article 14 of the Constitution provides that the State shall not deny to any person equality before law or the equal protection of the laws. Art. 15(1) restricts State from discriminating against any citizen on grounds only of sex among other things. The most important provision is Art. 15(3)(l) which enables the State to enact special laws to protect rights of women and give them special status. Even in cases of employment under State, there has to be equal opportunity as envisaged by Art. 16.
- Directive Principles: The Directive Principles of State Policy require the State to secure to men as well as women equal opportunities to acquire means of livelihood. It also directs the State to formulate policies for ensuring maternity benefits , etc.
- Fundamental Duty: To denounce practices which are derogatory to the dignity of women.

- 73rd and 74th Amendments to the Constitution provide reservation for women in Panchayats and Municipalities.

Women Specific Legislations: In order to provide safeguards to the women parliament has tried to enact several specific legislation concerning various aspects of women safety and **empowerment**:

- ★ **The Dowry Prohibition Act, 1961**
- ★ **The Protection of Women from Domestic Violence Act, 2005**
- ★ **The Immoral Traffic (Prevention) Act, 1956**
- ★ **The Indecent Representation of Women (Prohibition) Act, 1986**
- ★ **The Medical Termination of Pregnancy Act, 1971 (*Covered in Chapter on Fundamental Rights*)**
- ★ **National Commission for Women Act, 1990:**

The most important body in relation to protection of rights of women is the Commission for Protection of Women constituted under the Act of 1990. There is a National Commission at the Centre and State Commissions at the State level. These Commissions can take suo moto cognizance of offences against women. Complaints can be filed directly to the Commission which does the follow up of the matter with the appropriate authorities. The Commission has the power to investigate into such matters.

Powers of the Commission:

- Recommend to the concerned Government or Authority to initiate proceedings for prosecution or action
- Recommend to the concerned Government or Authority for the grant of such immediate relief to the victim or the members the family
- Recommend to the concerned Government or Authority for the grant of such immediate relief to the victim or the members of his family as the Commission may consider necessary

★ Maternity Benefit Act, 1961:

The Maternity Benefit Act was originally passed by Parliament on December 12, 1961, to regulate the employment of women in “certain establishments” for the period before and after childbirth and “to provide for maternity benefit and certain other benefits.” Originally it applied to every establishment “being a factory, mine or plantation” and later in 1973, it was extended to “any such establishment belonging to Government” and “every establishment where persons are employed for the exhibition of equestrian, acrobatic and other performances.

What did the amendment in 2017 do?

Making It Easy For Mothers

The Maternity Benefit (Amendment) Act, 2017 amends the Maternity Benefit Act, 1961 to provide the following

26 weeks

maternity leave for the first two children

12 weeks

maternity leave for children beyond the first two

12 weeks

leave for mothers adopting a child below the age of three months



The Act makes it mandatory for employers in establishment with 30 women or 50 employees, whichever is less, to provide creche facilities either in office or in any place within 500-meters.

Working mothers will be permitted to make four visits

during working hours to the creche

The employer may permit a woman to work from home if it is possible to do so

Every establishment will have to make these benefits available from the time of appointment

- The amendment also inserted Section 5(4) which said that adoptive or surrogate mothers legally adopting a child below three months will be entitled to a maternity benefit period of 12 weeks from the date the child is handed over to the mother.
- Every establishment having fifty or more employees shall have the facility of creche within such distance as may be prescribed, either separately or along with common facilities.” It is also mandated that the employer allows four visits a day to the creche by the woman as well as rest intervals for her.

★ Protection of Women from Sexual Harassment at Workplace Act, 2013:

Key provisions of the POSH Act 2013 include:

- Every employer is required to display a notice in the organisation providing details of the protection given to female employees against sexual harassment.
- Employers must constitute an Internal Complaints Committee in their organisation to address complaints of sexual harassment.
- A woman must head the ICC; at least half of its members should be women.
- Employers must take steps to prevent sexual harassment and ensure that the victims are not victimised or discriminated against.
- Employers must provide necessary support and assistance to the complainant and make arrangements for her work in case she has to be transferred.

Legal Aid In India:

The origin of the concept of legal aid can be traced to the historic Magna Carta of 1215. The 40th paragraph of the Magna Carta provides, “**To no one will we sell, to no one will we deny or delay right or justice**”.

The international concern for human rights found expression, after First World War in Covenant of the League of Nations and further in the Universal Declaration of Human Rights. The Conventions which followed specifically incorporated the concept of legal aid.

Article 8 of the Universal Declaration of Human Rights 1948 provides that, “everyone has the right or an effective remedy by the competent national tribunals for acts violating the fundamental rights granted by the Constitution or by law.

In India, the need to have an active and widespread legal aid system that enables the law to reach the people, rather than requiring people to reach the law, was felt for long. Since 1952, the Government of India started addressing to the question of legal aid for the poor and indigent in various Law Conferences and by appointing Commissions and expert Committees to examine the feasibility of providing free legal aid to the needy.

In 1958, the Law Commission of India in its 14th Report on “Reform of Judicial Administration”, prepared under the leadership of leading jurist MC Setalvad, emphasized the need for setting up of legal aid agencies all over the country to redress the economic inequalities and provide assistance to indigent litigants

Acting on the recommendations of the Law Commission, the Government of India in 1960 prepared a national scheme of legal aid providing for legal aid in all courts including tribunals.

In 1973, the Government of India formed an expert committee under the Chairmanship of Justice VR Krishna Iyer to see as to how the States should go about devising and elaborating the legal aid scheme. The Committee recommended establishment of legal aid committees in each District, at State level and at the Centre. It was also suggested that an autonomous corporation be set up, law clinics be established in Universities and lawyers be urged to help.

Courts Judgement:

In *MH Hoskot v State of Maharashtra*, the Supreme Court laid down that right to free legal aid at the cost of the State to an accused, who cannot afford legal services for reasons of poverty or indigence is part of fair, just and reasonable procedure implicit in article 21. Free legal aid to the indigent has been declared to be “a State’s duty and not government charity”.

The Court has reiterated this view again in *Hussainara Khatoon v State of Bihar* by interpreting article 21 in the light of article 39A which provides for equal justice and free legal aid.

Again, in *Khatri v State of Bihar*, the Supreme Court again emphasised that the State Government cannot avoid their constitutional obligation to provide free legal service to poor accused by pleading financial or administrative inability. The Court laid down that the obligation to provide free legal aid to a poor accused arises not only when the trial begins but also when he is for the first time produced

before the Magistrate. That is the stage at which an accused needs competent legal advice and representation.

In *Suk Das v Union Territory of Arunachal Pradesh*, the Court held that the right to free legal aid is available to the accused even if he had made no request for it. The Court observed that it is common knowledge that about 70% of the people living in rural areas are illiterate and even more than that percentage of the people are not aware of the rights conferred upon them by law. Even literate people do not know what are their rights and entitlements under the law. In these circumstances, it would be made a mockery of legal aid if it were to be left to a poor, ignorant and illiterate accused to ask for free legal service.

Later, in 1976 by the way of 42nd Amendment act, article 39A was inserted in the constitution of India casting an obligation upon the state to provide the free legal aid.

To implement this directive **Legal Services Authority Act was enacted in 1987.** Legal Services Authorities Act was enacted to constitute legal services authorities **for providing free and competent legal services to the weaker sections of the society to ensure that opportunities for securing justice were not denied to any citizen by reason of economic or other disabilities and to organize Lok Adalats to ensure that the operation of the legal system promoted justice on a basis of equal opportunity.**

Legal Aid as Statutory Right: Section 304 of the Code of Criminal Procedure, 1973 provides that where in a trial before the Court of Session, the accused is not represented by a pleader and where it appears to the Court that the accused has not sufficient means to engage a pleader, the Court shall assign a pleader for his defence at the expense of the State.

National Legal Services Authority

National Legal Services Authority is the apex authority for providing legal services under the
Legal Services Authorities Act, 1987.

Composition:

- The Chief Justice of India who shall be the Patron-in-Chief;
- A serving or retired Judge of the Supreme Court to be nominated by the President, in consultation with the Chief Justice of India, who shall be the Executive Chairman;
- Such number of other members, possessing such experience and qualifications, as may be prescribed by the Central Government, to be nominated by that Government in consultation with the Chief Justice of India.

Functions:

- To lay down policies and principles for making legal services available under the provisions of the Act;

- To frame the most effective and economical schemes for the purpose of making legal services available under the provisions of this Act;
- To utilize the funds at its disposal and make appropriate allocations of funds to the State Authorities and District Authorities;
- To take necessary steps by way of social justice litigation with regard to consumer protection, environmental protection or any other matter of special concern to the weaker sections of the society and for this purpose, give training to social workers in legal skills;
- To organize legal aid camps, especially in rural area, slums or labour colonies with the dual propose of educating the weaker sections of the society as to their rights as well as encouraging the settlement of disputes through Lok Adalats,
- To encourage the settlement of disputes by way of negotiations, arbitration and conciliation;
- To undertake and promote research in the field of legal services with special reference to the need for such services among the poor;
- To do all things necessary for the purpose of ensuring commitment to the fundamental duties of citizens under Part IV-A of the Constitution;
- To monitor and evaluate implementation of the legal aid programmes at periodic intervals
- To provide grants-in-aid for specific schemes to various voluntary social service Institutions
- To take appropriate measures for spreading legal literacy and legal awareness amongst the people and, in particular, to educate weaker sections of the society.
- To make special efforts to enlist the support of voluntary social welfare institutions working at the grass-root level,
- Monitor the functioning of State Authorities, District Authorities, Supreme Court Legal Services Committee, High Court Legal Services Committees, Taluk Legal Services Committees and voluntary social services institutions and other legal services organizations
- To give general directions for the proper implementation of the legal services programmes

Entitlement to Free Legal Aid

Inadequate representation of case before the court due to lack of legal assistance is a very big reason for injustice and delayed justice. Providing free legal aid to those people who can't afford the legal assistance in the eyes of the law as mentioned under section 12 of the Act is a positive step towards imparting of justice on equitable basis.

People entitled to free legal services:

- A member of a Scheduled Caste or Scheduled Tribe
- A victim of trafficking in human beings or beggar as referred in article 23 of the Constitution;
- A woman or a child;
- A person with disability as defined in clause (i) of section 2 of the Persons with

- Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996)
- A person under circumstances of undeserved want such as being a victim of a mass disaster, ethnic violence, caste atrocity, flood, drought, earthquake or industrial disaster;
- An industrial workman; or in custody, including custody in a protective home within the meaning of clause (g) of section 2 of the Immoral Traffic (Prevention) Act, 1956, or in a Juvenile home within the meaning of clause (j) of section 2 of the Juvenile Justice Act, 1986, or in a psychiatric hospital or psychiatric nursing home within the meaning of clause (g) of section 2 of the Mental Health Act, 1987;
- In receipt of annual income less than rupees nine thousand or such other higher amount as may be prescribed by the State Government, If the case is before a court other than the Supreme Court, and less than rupees twelve thousand or such other higher amount as may be prescribed by the Central Government, if the case is before the Supreme Court.

To further enhance the effectiveness of legal aid and ensure its impact is realized, several concrete measures can be taken:

- **Increased Awareness and Outreach**
- **Strengthening Legal Aid Infrastructure:** Adequate infrastructure is essential for effective legal aid delivery. This includes establishing **well-equipped legal aid offices, increasing the number of legal aid centers, and ensuring availability of trained legal aid lawyers** in remote and rural areas. Investment in technology can also play a role in improving access to legal aid services, such as through online platforms or helplines.
- **Capacity Building of Legal Aid Providers:** Training and capacity building programs should be provided to **legal aid lawyers, para-legal volunteers, and support staff**. This would enhance their skills in providing legal aid services and improve the quality of assistance rendered. Specialized training can be provided in areas such as gender-based violence, child rights, and other relevant legal issues.
- **Collaboration with NGOs and Civil Society Organizations:**
- **Simplification of Legal Procedures and Documentation:**
- **Monitoring and Evaluation:** Regular monitoring and evaluation of legal aid services are crucial to identify gaps, measure effectiveness, and ensure accountability. This can involve collecting feedback from beneficiaries, tracking case outcomes, and conducting periodic evaluations of legal aid programs.

Other Steps Taken in this regard:

With the inception and focus on the alternative modes of dispute resolution, and by taking recourse to the ancient forums of dispute resolution such as Panchayats, **Lok Adalats and Gram Nyayalayas**, a serious attempt has been made to eradicate the system of court pendency and backlog of cases.

With countless awareness programs being introduced through telephonic, electronic and print media, the people are being made aware about their Rights, and how to enforce a remedy in case there is any threat to those rights. The Ministry of law and Justice has organized various campaigns through Street Plays,

simulations, radio channels, etc. to bring about awareness of the problem, so that the people can have better access to the instruments of justice. Furthermore, the Government has also taken steps to educate people about the informal modes of dispute resolution such as pre – trial mediation, negotiation, or judicial settlement. For petty trifles, reference to Lok Adalats and Gram Nyayalaya has been made the order of the day.

Lok Adalats

One of the objects of the Legal Services Authorities Act is to settle the disputes speedily through Lok Adalat. Indian Courts are overburdened with work and it takes years to settle the disputes before the formal courts. As we know that justice delayed is justice denied so need was felt for the constitution of alternate dispute mechanism to settle the disputes speedily without following the technicality of formal procedure. The Lok Adalat is recognized as one of the alternate dispute resolution mechanism capable of settling the dispute speedily, cheaply and amicably. All the legal services authorities can organize Lok Adalats at such intervals and places and for exercising such jurisdiction and for such areas as it thinks fit.

The scope of Lok Adalat is very wide to include most of the cases pending in the court and about to come before the court for settlement. **The Lok Adalat have no jurisdiction in respect of any case or matter relating to an offence not compoundable under any law.** The Authority or Committee organizing the Lok Adalat may on receipt of an application from any one of the parties to matter referred above refer such matter to the Lok Adalat for determination. No matter is referred to the Lok Adalat except after giving a reasonable opportunity of being heard to the other party. When any case is referred to a Lok Adalat, the Lok Adalat proceeds to dispose of the case or matter and arrive at a compromise or settlement between the parties.

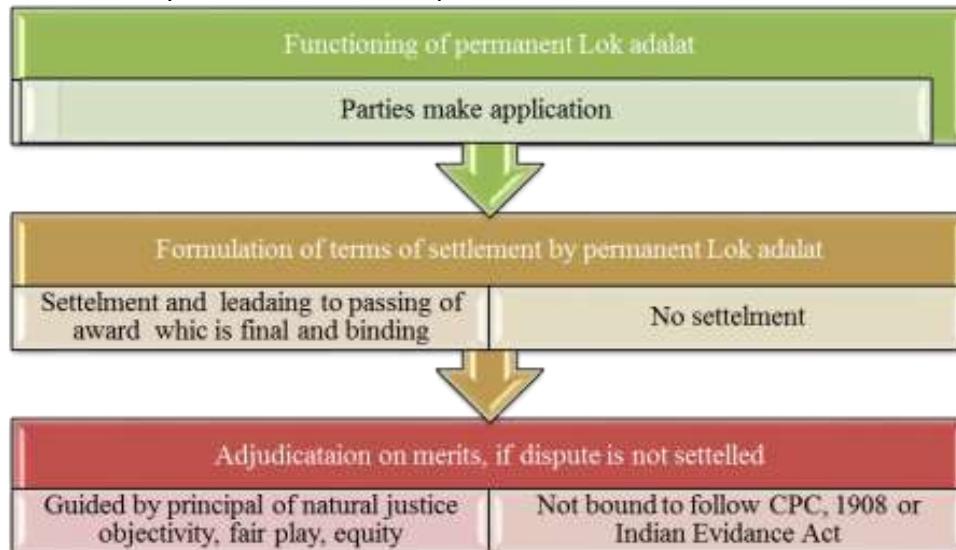
The hon'ble supreme court in the case of P.T. Thomas v. Thomas Job (2005) elaborately explained the meaning and benefits of Lok Adalat as follows:

- The "Lok Adalat" is an old form of adjudicating system prevailed in ancient India
- Its validity has not been taken away even in the modern days too.
- The word 'Lok Adalat' means 'People Court'.
- This system is based on Gandhian Principles.
- It is one of the components of Alternative Dispute Resolution System.
- As the Indian Courts are overburdened with the backlog of cases and involve a lengthy, expensive and tedious procedure.
- The Court takes years together to settle even petty cases.
- Lok Adalat, therefore, provides alternative device for expeditious and inexpensive justice.
- In lok adalat proceedings there are no victors and losers and thus no enmity.
- Experiment of 'Lok Adalat' as an alternate mode of dispute settlement has come to be accepted in India, as a viable, economic, efficient and informal one.
- There is no court fee and if court fee is already paid the amount will be refunded if the dispute is settled at Lok Adalat according to the rules.

Permanent Lok Adalat

There are many reasons for overburdening of Indian Courts. One reason is lack of personal interest of party in settlement of public utility services disputes, which reach to the Indian Courts in large number. Government officials involved in public utility services disputes hardly give any attention to settlement of disputes quickly. So the need was felt for the establishment of the permanent alternate dispute resolution mechanism especially for the settlement of public utility services disputes. This led to the establishment of Permanent Lok Adalat.

The main aim of Permanent Lok Adalat is to settle the public utility disputes quickly and finally. So it has one additional power of deciding the dispute on merit if parties fail to arrive at the settlement or compromise. This way it avoids the chances of delay in settlement of disputes.



"Public Utility Service" means and includes:

- Transport service for the carriage of passengers or goods by air, road or water; or postal, telegraph or telephone service; or
- Supply of power, light or water to the public by any establishment; or
- System of public conservancy or sanitation; or service in hospital or dispensary; or Insurance service
- Includes any service which the Central Government or the State Government, as the case may be, may, in the public interest, by notification, declare to be a public utility service for the purposes of this chapter

Composition:

- A person who is, or has been, a district judge or additional district judge or has held judicial office higher in rank than that of a district judge, shall be the Chairman of the Permanent Lok Adalat;
- Two other persons having adequate experience in public utility service.
- Any party to a dispute may, before the dispute is brought before any court, can make an application to the Permanent Lok Adalat for the settlement of dispute.
- It does not has jurisdiction in respect of any matter relating to an offence not compoundable under any law.

- It also has no jurisdiction in the matter where the value of the property in dispute exceeds ten lakh rupees.
- The Central Government, may, by notification, increase the limit of ten lakh rupees specified in the second proviso in consultation with the Central Authority.

Provisions like appointment of members from the legal and non-legal background make the board of adjudicators more efficient for understanding the disputes of parties and settling their disputes quickly and amicably. It has conciliatory as well as adjudicatory power but there are enough provisions under the Act to put the check of the arbitrary exercise of power.

To save the time in settlement of disputes it need not to follow the formal procedure but it is bound to follow the principle of natural justice. If the arbitrary act or misconduct is proved on the part of the board of settlement, then they can be removed from the board and the award passed by such persons will not enjoy the status of finality.

Therefore, it can be said that the establishment of the Permanent Lok Adalat is a very useful mechanism for settlement of the public utility services disputes amicably and quickly.

Every award of the Permanent Lok Adalat under this Act made either on merit or in terms of a settlement agreement is final and binding. It shall not be called in question in any original suit, application or execution proceeding. It is deemed to be a decree of a civil court. It is always by a majority of the persons constituting the Permanent Lok Adalat. The Permanent Lok Adalat may transmit any award made by it to a civil court having local jurisdiction and such civil court shall execute the order as if it were a decree made by that court.

Gram Nyayalaya:

Directive Principles of State Policy in the Constitution of India 1950, casts a duty upon the state to take steps to organize village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government.

To fulfil the said objective **Gram Nyayalayas Act 2008**, was passed by the parliament for establishment of **Gram Nyayalayas or village courts for speedy and easy access to justice in the rural India**.

Salient Features of the Act:

- According to section 3 the **state government may establish one or more Gram Nyayalayas for every Gram Panchayat or a group of contiguous Panchayats after consultation with the High Court.**
- The Gram Nyayalaya established under the Act is **in addition to any other court established by any law.**
- The Presiding Officer of Gram Nyayalaya is a **Nya Adhikari**, appointed for every Gram Nyayalaya. **Only a person who is eligible to be appointed as a judicial magistrate of first class can be a Nya Adhikari.**
- Though, the headquarter of every Gram Nyayalaya is to be at the headquarter of the Panchayat at intermediate level, a Nya Adhikari can hold mobile courts.

- Gram Nyayalaya shall exercise **both civil and criminal jurisdiction**. As per section 12 the Gram Nyayalaya may take cognizance of an offence or a complaint or on a police report and try all offences specified in Part I of the First Schedule. E.g.
 - offences not punishable with death, imprisonment for life or imprisonment for a term exceeding two years;
 - theft, where the value of the property stolen does not exceed rupees twenty thousand;
- The Gram Nyayalaya has the power to effect Plea Bargaining on an application filed by an accused before it.

Other ADR forms:

- ★ **Arbitration:** Disputes are presented to an arbitral tribunal, which issues a binding decision known as an award. Arbitration is less formal than a trial, with relaxed rules of evidence. Generally, there is limited scope for judicial intervention or appeal in the arbitration process.
- ★ **Conciliation:** A non-binding process facilitated by an impartial third party called a conciliator. The conciliator assists the parties in reaching a mutually satisfactory settlement. Recommendations made by the conciliator can be accepted or rejected by the parties. If both parties accept a settlement document prepared by the conciliator, it becomes final and binding.
- ★ **Mediation:** In mediation, an impartial mediator helps the parties communicate and strive for a mutually acceptable resolution. The mediator does not make decisions but facilitates the settlement process. Mediation puts control of the outcome in the hands of the parties. Mediators require specific training and experience to be eligible.
- ★ **Negotiation:** This non-binding procedure involves direct discussions between the parties to reach a negotiated settlement without third-party intervention. Negotiation is the most common form of ADR and can be employed in various contexts, including business, government, legal proceedings, and personal situations.

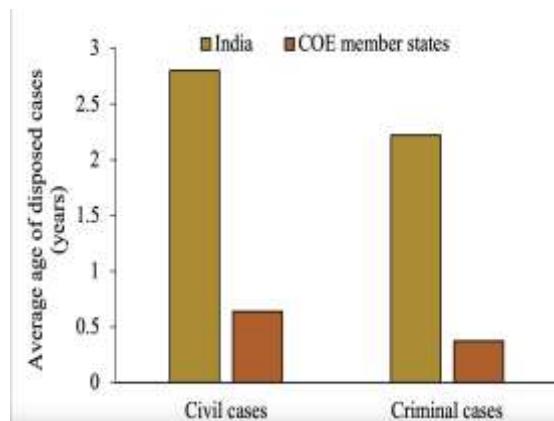
Advantages of Alternative Dispute Resolution

- ★ **Less Time Consuming:** people resolve their dispute in short period as compared to courts
- ★ **Cost effective method:** it saves lot of money if one undergoes in litigation process.
- ★ It is **free from technicalities of courts**; here informal ways are applied in resolving dispute.
- ★ People are **free to express themselves** without any fear of court of law. They can reveal the true facts without disclosing it to any court.
- ★ Efficient way: there are always chances of restoring relationship back as parties discuss their issues together on the same platform.
- ★ It prevents **further conflict and maintains good relationship between the parties**.
- ★ It **preserves the best interest of the parties**.

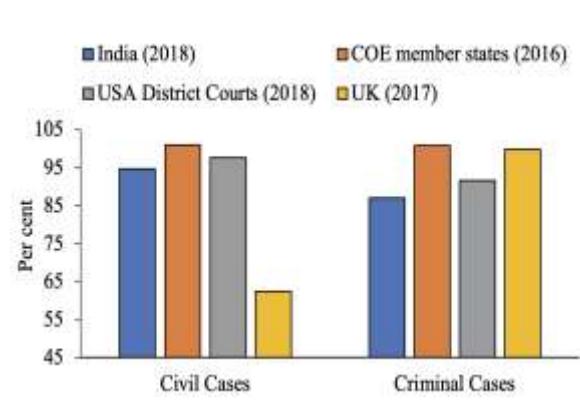
Both the economic prosperity and rule of law are arguably linked to each other and the same has been emphasised by the ancient Indian thinkers as well. In a chapter to Economic Survey of 2019, it was highlighted that rule of law (Dandaniti) is the bulwark of prosperity and end of Matsyaniti (law of fish/jungle). It shall be the duty of any state to secure the rule of law and it is in this context that preamble to the constitution of India has ascertained the role of state in securing to its citizens, Justice- Social, Economic and Political.

Key Terms:

Disposal time is measured as the time span between the date of filing and the date when the decision is passed.



The Case Clearance Rate (CCR) is the ratio of the number of cases disposed of in a given year to the number of cases instituted in that year, expressed as a percentage.



How to Clear the Logjam?

Need a two pronged strategy:

1. to achieve a 100 per cent clearance rate must be achieved so that there is zero accumulation to the existing pendency.
 2. the backlog of cases already present in the system must be removed.

★ Targeted Approach to clear the logjams:

Not only the backlog of criminal cases is about 2.5 fold higher than civil cases, criminal case type also has lower CCR (even lower than the national CCR of 88.7 per cent).

This means that the situation for criminal cases is distinctly worsening. The problem is especially acute for criminal original suits such as summons, warrants etc. These contribute 64 per cent of the total pendency as of May 31, 2019 with a clearance rate of 85.3 per cent. This implies that the additional judges need to specialize in these case types so as to speed up the disposal of such cases.

★ **Making Indian courts more productive:** Besides increasing the number of judges we further need to rationalise the working of courts in India. Over the years, many suggestions have been put forward by researchers and official committees for enhancing productivity in the judiciary. Some of the suggestions are discussed below:

- I. **Increase number of working days:** On avg. supreme court works for 190 days in year, high courts 232 for High Courts and 244 days for subordinate courts.
- II. **Establishment of Indian Courts and Tribunal Services:** Most judicial reforms tend to focus only on the quality and quantity of judges, but a major problem lies with the quality of the administration of the courts system, particularly backend functions and processes. This is critical to reducing the process delays. A report by the National Institute of Public Finance and Policy put it, “For effective functioning, courts require competent administration to ensure that processes are followed, documents are submitted and stored, facilities are maintained and human resources are managed. Court administration must support the judges in performing their core judicial function efficiently.

In this context, it has been proposed to create a specialized service called Indian Courts and Tribunal Services (ICTS) that focuses on the administrative aspects of the legal system. The major roles to be played by ICTS would be (i) provide administrative support functions needed by the judiciary (ii) identify process inefficiencies and advise the judiciary on legal reforms (iii) implement the process re-engineering.

Similar, court management services exist in other countries: Her Majesty's Court and Tribunals Services (UK), Administrative Office of US Courts (US), Court Administration Service (Canada).

- III. **Use of Technology:** (*Discussed in detail as above*)

Question 30. What is quasi-judicial body? Explain with the help of concrete examples.



Question 31. Explain the phenomenon of tribulation of justice in India. Has it been impacting the freedom of judicial institutions? In view of the above, discuss the constitutional validity and competency of the tribunals in India?



Question 32. The horizon of legal aid has been widened at best. Still, the impact is totally missing. Suggest some concrete measures to make it more effective.



