



LOK SATTA

People Power

Access to Speedy Justice - Local Courts

14th Nov, 2003, AP High Court Bar Association, Hyd

Law's Delays - Cases Pending (2002)

- Supreme Court : 23,012 (1,04,936 in 1991)
 - High Courts : 3.62 million (2.65m in 1993)
 - Allahabad : 0.87 m
 - Kerala : 0.41 m
 - Madras : 0.35 m
 - Bombay : 0.30 m
 - Delhi : 0.18 m
 - Andhra Pradesh : 0.15 m
 - Gujarat : 0.14 m
 - Rajasthan : 0.13 m
 - Average : 5600 cases / Judge
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Law's Delays - Cases Pending

- District and Subordinate Courts : 20 million (2002)
 - Civil : Less than 1 year : 2.52 m (1998)
 - 1 - 3 Yrs : 2.2 m ,,
 - 3 - 10 yrs : 1.73 m ,,
 - Over 10 years : 0.34 m ,,
 - Criminal : Less than 1 year : 5.56 m ,,
 - 1 - 3 Yrs : 4.52 m ,,
 - 3 - 10 yrs : 2.85 m ,,
 - Over 10 years : 4.84 m ,,
 - Average : 1660 cases / judge
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Judge – Population Ratios

- UK : 50.09 / million
 - Australia : 57.07 / „
 - US : 107 / „
 - OECD countries : 113 / „
 - **India : 11 / million**
 - Total sanctioned strength : 13,000
 - Requirement : 75,000
 - Vacancies : 1,874
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Justice Denied

- 2 Cases
 - The case of the Dog Bite
 - The case of the Police Van Accident

Recent Efforts

- Supreme Court pendency declining
 - Use of Information Technology
 - Bunching of similar cases
 - Faster disposals
 - Lok Adalats
 - Legal Services Authorities Act-1987
 - Claims under Rs 10 lakhs
 - Matters relating to public utilities
 - LA and MV Act compensation cases
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Recent Efforts

- Fast Track Courts (Tenth Finance Commission)
 - 1,734 proposed – total cost : Rs. 5.03 million (5 years)
 - 980 established
 - 295 notified
 - Only sessions criminal cases
 - 1,88,271 cases transferred
 - 77,000 disposed of
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Access to Justice - Factors

- Number of Judges
 - Physical proximity
 - Procedures
 - Written submissions
 - Need for legal language
 - Need for skilled lawyer
 - Complexity in service of summons
 - Immediate mechanism for enforcement of decree
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Access to Justice - Factors

- Language
 - Speed
 - Singapore : 35 days
 - Norway : 90 „
 - Japan : 60 „
 - Costs
 - Perjury
 - Perception of fairness
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Speedy Justice – US Experience

- Small Claims Courts (people's courts)
 - Municipal, city or regional
 - Civil suits – \$1000 to \$5000
 - Minor violations of law – eg: traffic cases
 - Simple procedures
 - Lawyer allowed (except in California, Nebraska & Michigan)
 - 100 million cases tried annually
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Speedy Justice –UK Experience

- Lay and Unpaid Justices of the Peace (JPs)
 - 30,500 in number
 - Ranked above local MP
 - Date back to 1361 AD
 - Handle over 90% of all criminal and many civil cases
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Speedy Justice –UK Experience

- Small claims procedures in formal courts
 - Limit:
 - £1000 in 1990s
 - £5000 now
 - Informal procedures
 - Speed of disposal
 - Costs not awarded
 - Popular and effective
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Historical Perspective

- Ancient India – dispensation of justice was decentralized
 - Colonial rule stifled people's participation
 - The Indian Police Commission, 1902 – “it is expedient to relegate the trial of petty offences to the village headmen and the Panchayats”
 - Ashok Mehta Committee 1978 suggested Nyaya Panchayats presided by qualified judge
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114th Law Commission Report

- Panchayat courts are capable of dealing with petty civil litigation and criminal cases
- Panchayat courts can dispose of cases more cheaply and expeditiously
- Grama Nyayalayas suggested to distinguish from elected or traditional Nyaya Panchayats and from voluntary or optional Lok Adalats
- Grama Nyayalaya proposed with one professional judge and two lay judges

Need for Local Courts

- Justice accessible to the people
 - Geographical
 - Psychological
 - Financial
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Need for Local Courts

- Excessive formalism and alien language
 - Poor getting alienated
 - Losing faith in the judicial process
 - Perjury has become endemic
 - Costs of litigation prohibitive
 - People resorting to rough and ready justice through muscle power
 - Rule of law vitiated
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Difficulties of Nyaya Panchayat Concept

- Appointment by government/district magistrate makes it partisan
 - Politicization inevitable
 - Factions and caste vitiating society
 - Three or five member court cumbersome
 - Legal representation denied
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Requirements of Local Courts

- For a limited population (25,000 to 50,000)
 - Physical proximity – no more than 10 kms
 - Integral part of judiciary
 - Independent
 - Low costs
 - No burden of establishment or infrastructure
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Requirements of Local Courts

- Simple procedures
 - Local language
 - Lawyer, or agent, or self-representation
 - Exclusive jurisdiction – civil and criminal
 - Provision for appeal
 - Regular inspections
 - Accountability to formal judiciary
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A Model of Local Courts

- Honorary magistrate:
 - Lawyer or retired official or reputed person
 - 3 – year tenure
 - One per 25,000 for rural; one per 50,000 for urban
 - Appointment and removal by District Judge
 - Honorarium + fixed travel and secretarial allowance
– total not to exceed Rs 15,000 per month
 - Existing infrastructure
 - Representation through lawyer or agent or parties themselves
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A Model of Local Courts

- Exclusive jurisdiction
 - Rs 100,000 civil
 - 1 year's imprisonment: criminal
 - Court in area of cause of action / offence
 - 90 days for disposal – day-to-day hearings
 - Appeal to Senior Civil Judge / Asst. Sessions Judge
 - Inspection by JMFC
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Advantages of Local Courts

- 30,000 courts in short span
 - Low cost
 - Under Rs 600 cr / yr – India
 - Under Rs 50 cr / yr – major states
 - Under Rs 2 lakh / yr / court
 - No permanent establishment
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Advantages of Local Courts

- Integral to independent judiciary
 - No political role
 - No elective component
 - Local language
 - Time-bound justice
 - Appeal provision
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“The litmus test of any civil justice system is whether it provides the average citizen, facing simple, everyday legal disputes with mechanisms through which he or she is able to secure redress.....

For most lay litigants, the alternative to cut-price solutions is not Rolls Royce justice: it is no access to justice at all”