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INTRODUCTION

Most Indians cannot easily obtain justice through India's formal court system.[1] *Lok Adalats* ("LAs") are informal courts of first impression interspersed throughout India, which provide alternative dispute resolution ("ADR") services designed to

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1. *See* SARFARAZ AHMED KHAN, LOK ADALAT: AN EFFECTIVE ALTERNATIVE DISPUTE RESOLUTION MECHANISM 14 (2006) (noting that the issues with the formal adversarial system in India has made it inaccessible to seventy percent of the rural population); *id.* at 2 (noting that the formal system "failed to fulfil[l] the constitutional goal of access to justice and equal justice to all because of the docket of cases and on the other hand it becomes inaccessible because of the exorbitant costs of the proceedings . . . ."); *see also* Marc Galanter & Jayanth K. Krishnan, *Debased Informalism: Lok Adalats and Legal Rights in Modern India, in* BEYOND COMMON KNOWLEDGE: EMPIRICAL APPROACHES TO THE RULE OF LAW 96, 100–01 (Erik G. Jensen & Thomas C. Heller eds., 2003) (noting how formal courts in India provide very little "remedy, protection, and vindication" to the public).

address this problem by bringing justice to the public.[2] *Lok Adalat* means "people's court" in Hindi, one of the official languages of India.[3] LAs provide the only point of access to the justice system of India for many citizens that operate in rural and remote regions.[4] Additionally, LAs are one of India's principal means of providing ADR mechanisms to its citizens.[5] LAs allow parties to overcome economic, organizational, and procedural barriers that would otherwise prevent them from accessing justice.[6] As a result, the LA system is currently established throughout India.[7]

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2. *See* Marc Galanter & Jayanth K. Krishnan, *"Bread for the Poor": Access to Justice and the Rights of the Needy in India*, 55 HASTINGS L.J. 789, 790–91 (2004) (detailing how the *Lok Adalat* ("LA") system has improved access to justice for the public); *see also* Sarah Leah Whitson, *"Neither Fish, Nor Flesh, Nor Good Red Herring" Lok Adalats: An Experiment in Informal Dispute Resolution in India*, 15 HASTINGS INT'L & COMP. L. REV. 391, 391 (1992) (explaining how LAs became popularized as the country focused on the Indian Constitution's mandate to the national government to promote modern values of equality).

3. Hindi translation of "people's court," GOOGLE TRANSLATE, http://translate.google.com (translate "people's court" from English into Hindi, with the result of "जनता की अदालत," and then translate "जनता की अदालत" from Hindi back into English, with the result of "people's court"). *See* INDIA CONST. art. 343, § 1, cl. 1 (designating Hindi, in Devanagari script, as one of the official languages of India).

4. *See* Galanter & Krishnan, *supra* note 1, at 96 (contrasting the effectiveness of the formal courts versus the informal courts such as LAs and noting that although the high courts have been accessible, this means little if LAs and other forms of local justice cannot provide access to the people at the first instance); *see also* PRABHA BHARGAVA, LOK ADALAT: JUSTICE AT THE DOOR-STEPS 2–4 (1998) (describing how LAs allow people to stay in their village and not travel to a large town in order to get access to justice).

5. *See* Whitson, *supra* note 2, at 391 (explaining how LAs could "indigenize" legal proceedings); *see also* Galanter & Krishnan, *supra* note 2, at 798 (highlighting the non-adversarial nature of LAs and how they embrace informality and tradition).

6. NADJA ALEXANDER, *Global Trends in Mediation: Riding the Third Wave*, *in* GLOBAL TRENDS IN MEDIATION 10 (2nd ed. 2006) (noting that LAs "[empower] parties to overcome economic, organisational and procedural obstacles to justice"); *see also* Whitson, *supra* note 2, at 400 (noting the substantial benefits LAs can bring to participants).

7. *See Lok Adalats For Disposal of Accident Cases*, THE STATESMAN (Nov. 28, 2010), http://www.thestatesman.net/index.php?option=com_content&view=article&id=350166:lok-adalats-for-disposal-of-accident-cases&catid=72:bengal-plus&from_page=search (reporting the scheduling of two LAs in order to address accident claims); *see also* Sarabjit Jagirdar, *Supreme Court Judge Kabir Attends Legal Awareness, Inter Departmental Conference in Mizoram*, HINDUSTAN TIMES, June 16, 2010, *available at* ProQuest, Doc. No. 2059220371 (reporting that the justices of the Supreme Court of India continue to publicly support LAs).

The LA system is widespread and has the potential to settle many more millions of disputes.[8] As a means for dispute resolution, this system has the potential to relieve the overburdened dockets of more formal courts.[9] LAs also provide people with opportunities for justice that they might not otherwise have in the formal court system.[10]

However, Indian citizens have become increasingly dissatisfied with LAs.[11] LAs were originally established during the 1970s and 1980s as an informal and collaborative system.[12] Over the last two decades, however, the system has become more adversarial, as judges and lawyers have increasingly been unable to work together.[13] Currently, the LA system lacks necessary resources such as adequate facilities and sufficient personnel.[14]

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8. *See* Galanter & Krishnan, *supra* note 1, at 109 (noting that "[b]y November 30, 2001, 110,600 lok adalats had settled 13,141,938 cases"); *see also* KHAN, *supra* note 1, at 90 (noting that by the end of 2002, 1.7 million cases were settled in the state of Gujarat alone).

9. *See* Galanter & Krishnan, *supra* note 2, at 97 (describing a study by Professor Christian Wollschläger of per capita rates of civil cases filed from 1987 to 1996 in thirty-five jurisdictions globally, which found that India had a per capita annual filing rate of just 3.5 filings per 1000, compared to 123 per 1000 in Germany); *see also* Christian Wollschläger, *Exploring Global Landscapes of Litigation Rates*, 1998 SOZIOLOGIE DES RECHTS 582, 588 (noting that his dataset was limited to one state in India because other data was not available); *see also* Galanter & Krishnan, *supra* note 1, at 99 (noting that despite the small number of cases filed per capita, the courts are extremely congested. In 2002 there were twenty-three million pending court cases—twenty thousand in the Supreme Court, 3.2 million in the High Courts and twenty million in lower or subordinate courts).

10. *See* BHARGAVA, *supra* note 4, at 3, 107 (noting that the opportunity for justice with the LAs is greater than in the formal justice system); *see also* KHAN, *supra* note 1, at 15 ("[T]he alternative disputes [sic] resolution mechanism emerges not only because the adversarial dispute resolution mechanisms fail to provide justice to a large number of masses but also because the adversarial system is not a proper mechanism for certain classes of cases, for which the ADR is the best mode for dispute resolution."); *see also supra* notes 1, 4 and accompanying text (explaining that there are economic, organizational, and procedural barriers to justice).

11. *See infra* Part II.A (describing instances in which individuals were disappointed with their experience in the LAs).

12. *See* KHAN, *supra* note 1, at 1 (noting the establishment of LAs in the 1980s and the goal of amicable settlements by accommodating both parties); *see also* Galanter & Krishnan, *supra* note 2, at 797–98 (describing from the 1970s onward the drive to create LAs and make them a forum for conciliation and informal dispute resolution).

13. *See infra* Part I (describing the history of LAs); *see also infra* Part II.A (describing the discontent between judges and lawyers in LAs).

14. *See infra* note 98 and accompanying text (describing the lack of funding and staff resources currently experienced in the LA system).

It is important, therefore, to consider how this ADR system can be improved and how it can better achieve its original goals.[15]

This Note considers both Indian and international traditions in dispute resolution and attempts to formulate practical solutions to the problems of LAs. Ultimately, this Note concludes that a combination of lessons drawn from India and abroad, adapted to Indian customs, can improve LAs. Part I of this Note outlines the history of informal dispute resolution in India culminating in the creation of the LA system. Part II first describes the LA system's deficiencies, and then explores the alternative dispute resolution systems of Australia, the United Kingdom, and the United States. Part III considers how foreign lessons can be applied to India, and combines the foreign lessons with local lessons in order to formulate viable solutions to the problems plaguing the LA system.

I. LOK ADALATS *THROUGH THE AGES*

Reviewing the history of informal justice in India is essential to understanding the current LA system. This Part first looks at an influential predecessor to LAs, the ancient rural system of justice called *Nyaya Panchayats* ("NPs"). It then chronicles LAs over the past forty years—from their early history to modern times.

A. *Nyaya Panchayats*

India has a long tradition of resolving disputes through conciliation efforts outside of the formal legal system.[16]

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15. *See* Whitson, *supra* note 2, at 400 (noting that the original impetus behind experimentation with alternative methods of dispute resolution was to improve access to effective justice, reduce court waiting lists, provide necessary protections to the public, and increase consumer satisfaction with the justice system); *see also id.* at 394, (quoting N.H. BHAGWATI, REPORT BY THE COMMITTEE ON LEGAL AID AND LEGAL ADVICE IN BOMBAY 1949, at 25–26 (Ministry of Law, Justice & Co. Affairs)) (describing the goals of the LA system); BHARGAVA, *supra* note 4, at 8–9 (noting that the objectives of the LA system are to reduce the backlog in the formal courts, to deliver instantaneous and fair justice at the grassroots level, to provide local legal awareness and literacy, to utilize compromise and conciliation, and to secure substantive social justice).

16. *See* KHAN, *supra* note 1, at 5 (explaining that even in ancient times the formal system was not considered when resolving disputes); *see also* Whitson, *supra* note 2, at

Accordingly, LAs evolved from and were influenced by village-based courts called NPs.[17] From ancient times to the twentieth century, NPs resolved disputes through informal tribunals headed by village elders.[18] This was advantageous because the elders intimately knew the disputants, the issues, and the traditions of the village.[19] A ruling by an elder was considered well-informed and highly respected based on the elder's position within the community.[20] In village life, informal resolutions like conciliation were emphasized.[21]

Popularity and use of the NPs declined as the British system of justice was established beginning in the mid-1800s.[22] However, after India's independence in 1947, members of the ruling party, the Indian National Congress, sought to replace the formal British adversarial system with a structure that promoted

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398 (contrasting the values of compromise and context in the NPs to the formalistic British system in India at the time).

17. *See* KHAN, *supra* note 1, at 10 (noting the influence of NPs on LAs); *see also* Galanter & Krishnan, *supra* note 1, at 105 (describing how the legacy of the NPs was instrumental in the creation of LAs).

18. *See* KHAN, *supra* note 1, at 6 (describing how the NPs were led by village elders who were either elected or had inherited the position); *see also* Catherine S. Meschievitz & Marc Galanter, *In Search of Nyaya Panchayats: The Politics of a Moribund Institution*, *in* 2 THE POLITICS OF INFORMAL JUSTICE: COMPARATIVE STUDIES 48–49 (Richard L. Abel ed., 1982) (describing the status of traditional village leaders who together formed the *panchayats*).

19. *See* Whitson, *supra* note 2, at 398, 421 (noting that deciding cases in the context of the dispute is the *panchayat* tradition); *see also* Meschievitz & Galanter, *supra* note 18, at 56–57 (describing how the knowledge, experience, and skill of village elders could be channeled into NPs).

20. *See, e.g.*, Whitson, *supra* note 2, at 398, 421 (stating not only the success of the NP practice of deciding cases based on the entire dispute, but also that LAs can be effective in facilitating negotiations between conflicting groups only if they include extensive involvement from judges or other respected community leaders); *see also* KHAN, *supra* note 1, at 7 (noting how people were satisfied with decisions made by NPs, which included respected village elders, in the pre-British era).

21. *See* R.S. Khare, *Indigenous Culture and Lawyer's Law in India*, 14 COMP. STUD. SOC'Y & HIST. 71, 80 (1972) (noting how village culture finds informal, out-of-court conciliations socially and morally desirable as compared to adversarial processes); *see also* Whitson, *supra* note 2, at 398 (noting that the village populations prefer informal settlements to court proceedings).

22. *See* KHAN, *supra* note 1, at 8 (stating that once the British began to fully establish their formal court system, the NPs declined); *see also* Meschievitz & Galanter, *supra* note 18, at 49 (describing how the NPs lost authority as the British system was established).

harmony and reconciliation.[23] They wanted formal courts replaced by the traditional NPs, which had been providing justice for hundreds of years.[24] Despite this support, lawyers, judges, and notably the Chair of the Constitution's drafting committee strongly opposed institutionalizing informal court systems.[25] Consequently, although NPs were included in the new constitution, they were not given much power and quickly became defunct.[26]

NPs, as envisioned by the new constitution, differed from their older and more traditional predecessors.[27] This new iteration of NPs brought unwanted formalism to the system, such as requiring that certain cases be heard only in the NPs, whereas before people had the option of going to the formal court system.[28] During this time, the NPs quickly receded in use

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23. *See* Galanter & Krishnan, *supra* note 2, at 793–94 (describing the desire to bring back the successful parts of the NPs while assimilating it into a more modern movement); *see also* KHAN, *supra* note 1, at 9–10 (describing the desire to make legal relief easily accessible to all).

24. *See* INDIA CONST. art. 40 (creating a constitutional directive providing for the re-establishment of an NP system); *see also* Galanter & Krishnan, *supra* note 2, at 792–93 (explaining that Ghandians, those whose political ideology is based on the ideals of truth and justice espoused by Mahatma Ghandi, and socialists in the Indian National Congress called for traditional NPs to replace the modern court system as a part of their vision for a reconstructed India).

25. *See* Galanter & Krishnan, *supra* note 2, at 791 ("[A] proposal that met with the nearly unanimous disdain of lawyers and judges and the vitriolic scorn of Dr. B.R. Ambedkar, chair of the Constitution's Drafting Committee, who sidetracked the push for panchayats into a [non-mandatory goal of the Indian Government]."); *see also* Marc Galanter, *The Aborted Restoration of 'Indigenous' Law in India*, *in* 14 COMP. STUD. SOC'Y & HIST. 53, 56–57 (1972) (describing the directive to officially establish the village NPs and the drive to de-legitimize it).

26. *See* Galanter & Krishnan, *supra* note 2, at 792 ("[NPs] were established with jurisdiction over specific categories of petty cases."); *see also* Meschievitz & Galanter, *supra* note 18, at 57 (describing the limited types of claims over which NPs have civil jurisdiction).

27. *See* Galanter & Krishnan, *supra* note 2, at 792 (describing the differences between the new NPs and the older less formal ones); *see also* KHAN, *supra* note 1, at 5–9, 29 (describing the differences between the newer and older NPs).

28. *See, e.g.*, Galanter & Krishnan, *supra* note 2, at 792 (describing how the new NPs made decisions based on statutory law, rather than using indigenous norms); *see also* KHAN, *supra* note 1, at 5–10, 29 (describing the procedure and formal nature of the NPs). The new NPs made decisions based on majority rule rather than unanimity, their membership no longer consisted of the leading men of a caste, but rather members were to be elected from territorial constituencies. *See* Galanter & Krishnan, *supra* note 2, at 792.

and popularity.[29] Caseloads of the NPs declined steadily while those of the formal courts continued to rise.[30] As legal scholars Marc Galanter and Jayanth Krishnan explain, "[I]n little more than a decade, nyaya panchayats were moribund . . . . They represented an unappetizing combination of the formality of official law with the political malleability of village tribunals."[31] Although the NPs did not follow any formal procedural rules, participants still perceived them as a formal system due to their explicit recognition in the Indian Constitution.[32]

Despite their lack of success, legal intellectuals still perceived the NPs as being rich with powerful historical and cultural traditions.[33] The idea of an informal court system was especially attractive to academics because of their interest in providing widespread access to the justice system, but their focus shifted from promoting an informal court system based on village traditions and spirituality, to promoting established law based on written legal authority.[34]

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29. *See* Galanter & Krishnan, *supra* note 2, at 791 (noting that, compared to "their traditional counterparts, these official [NPs] encountered severe problems of establishing their independence of personal ties with the parties, enforcing their decrees, and acting expeditiously"); *see also* Meschievitz & Galanter, *supra* note 18, at 62 (providing statistics on the decreasing workload of NPs in the Indian state of Uttar Pradesh between 1950 and 1972).

30. *See* Galanter & Krishnan, *supra* note 2, at 792 (citing Upendra Baxi & Marc Galanter, *Panchayat Justice: An Indian Experiment in Legal Access*, *in* ACCESS TO JUSTICE: EMERGING ISSUES AND PERSPECTIVES 369, tbl.1 (Mauro Cappelletti & Bryant Garth eds., 1978)) ("In Uttar Pradesh, civil filings in the NPs fell from 82,321 in 1960 to 22,912 in 1970. This averages to just over four cases per NP. During the same period, civil filings in the Subordinate Courts rose from 74,958 to 86,759.").

31. Galanter & Krishnan, *supra* note 2, at 793 (explaining problems that ultimately led to the downfall of the NPs).

32. *See* Meschievitz & Galanter, *supra* note 18, at 64 ("[T]he [NP] is thus a body of men . . . that handles disputes without regard to applicable rules and yet appears to villagers as formal and incomprehensible."); *see also* Galanter & Krishnan, *supra* note 2, at 792 ("We believe that [the decline in NPs] was most likely because they represented an unappetizing combination of the formality of official law with the political malleability of village tribunals.").

33. *See* Galanter & Krishnan, *supra* note 2, at 793 (noting how the idea of NPs, despite their many shortcomings, is still revered); *see also* KHAN, *supra* note 1, at 10 (noting how even in the creation of LAs, policy makers were considering what was successful about the NPs); *see also* Meschievitz & Galanter, *supra* note 18, at 56–57 (noting the power of the NP legacy).

34. *See* Galanter & Krishnan, *supra* note 2, at 793–94 (noting a report by the Expert Committee on Legal Aid, chaired by a Justice of the Indian Supreme Court, Krishna Iyer, that highly regards the NPs but recognizes legal justice as coming from the "law of the land" and promoting established notions of law).

B. *Early History of* Lok Adalats

The early history of LAs can be defined by the struggle to provide legal aid in India.[35] This movement was spurred by the concerns of legal scholars and the judiciary who believed that the general population would not have adequate legal representation without access to free legal services.[36]

Former Chief Justice of the Indian Supreme Court N.H. Bhagwati led the first formal and comprehensive inquiry into this dilemma.[37] In 1949, Bhagwati's Committee on Legal Aid and Legal Advice concluded that legal aid was a "governmental responsibility" and that equal protection of the laws placed a duty on the government to provide free legal aid as per Article 14 of the Indian Constitution.[38] In the three decades after the report's release, many more committees and official government reports studied the need for legal aid.[39]

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35. *See* Whitson, *supra* note 2, at 392–93 ("The history and development of the crusade to provide legal aid in India explain[s] the particular development, goals, and purposes of the L.A. courts."); *see also* BHARGAVA, *supra* note 4, at 7 (describing the LA system as an integral part of the access to justice movement in India).

36. *See* Whitson, *supra* note 2, at 392–93 (describing the concern about the lack of legal defense for those charged with criminal offenses); *see also* Galanter & Krishnan, *supra* note 1, at 106–07 (noting how legal-aid programs could promote the interests of various constituencies).

37. *See* Whitson, *supra* note 2, at 393 (quoting N.H. BHAGWATI, REPORT BY THE COMMITTEE ON LEGAL AID AND LEGAL ADVICE IN BOMBAY 10 (1949) (Ministry of Law, Justice & Co. Affairs)) (concluding that access to justice for most Indians is impossible without a legal-aid scheme). *See generally* INDIA CONST. art. 39A, *amended by* The Constitution (Forty-Second Amendment) Act, 1976 ("The State shall secure that the operation of the legal system promotes justice, on a 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 disabilities.").

38. Whitson, *supra* note 2, at 393 (quoting N.H. BHAGWATI, REPORT BY THE COMMITTEE ON LEGAL AID AND LEGAL ADVICE IN BOMBAY 10 (1949) (Ministry of Law, Justice & Co. Affairs)) (explaining that Article 14 of the Constitution of India, providing for equal protection of the laws, includes the right for all citizens to have equal access to the justice system); *see also* INDIA CONST. art. 14, *amended by* The Constitution (Forty-Second Amendment) Act, 1976.

39. *See* Whitson, *supra* note 2, at 393–99 (noting the numerous reports that were released regarding access to legal aid). In 1958, the Law Commission of India presented a report entitled Reform of Judicial Administration. *Id.* at 393. In 1959, the International Commission of Jurists recognized the need for government-provided free legal aid. *Id.* In 1962, the Committee on Legal Aid at the Third All-India Law Conference outlined a comprehensive nationwide plan for free legal aid. *Id.* at 393–94. The National Conference on Legal Aid in 1970 sought to make provisions of legal aid a statutory requirement. *Id.* at 394. The first major state commission to provide legal aid

The Bhagwati Report of 1976 (officially titled The Report on National Juridicare) was the one of the most important instances in which a group of individuals envisioned a court system in the image of LAs.[40] The State of Gujarat was the first major state to acknowledge and establish legal aid because it commissioned the Bhagwati Report of 1976, written by a group of jurists including former Supreme Court Justice Prafullachandra Natwarlal Bhagwati.[41] The Bhagwati Report argued that poverty was intimately related to the lack of legal assistance and access to courts.[42] One way to improve socio-economic conditions through the law, the Report argued, was through public-interest litigation that promoted certain rights.[43] Advocates of using public-interest litigation in this way argue that the legal system should be a mechanism for providing social

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was in Gujarat and led by Justice P.N. Bhagwati. *Id.* The report produced by this commission, referred to later as the Bhagwati Report, was the most influential writing in articulating an "ideological framework in support of legal aid." *Id.* In 1976, the Government of India appointed a committee to study the implementation of legal aid. *Id.* at 395. *See* Galanter & Krishnan, *supra* note 2, at 793–95 (describing the progression of support for free legal aid).

40. *See* Galanter & Krishnan, *supra* note 2, at 794 (quoting P.N. BHAGWATI, REPORT ON NATIONAL JURIDICARE: EQUAL JUSTICE-SOCIAL JUSTICE 33–34 (1976) (Ministry of Law, Justice & Co. Affairs, 1976)) (noting how the court system, if used correctly, can improve the lives of the populace and provide social justice); *see also* N.R. Madhava Menon, *Legal Aid and Justice for the Poor*, *in* LAW AND POVERTY: CRITICAL ESSAYS 352–53 (Upendra Baxi ed., 1988) (describing the language of the report); *see also* Whitson, *supra* note 2, at 394–95 (suggesting the importance of the Bhagwati Report).

41. *See* Whitson, *supra* note 2, at 394–95 (describing the implementation of legal aid in Gujarat, as well as the impact and importance of the Bhagwati Report); *see also* Galanter & Krishnan, *supra* note 2, at 793–94 (explaining the Bhagwati Report in relation to the struggle for legal aid); *supra* note 39 (detailing the commissioning and production of the Bhagwati Report)

42. *See* Menon, *supra* note 40, at 352–53 (quoting P.N. BHAGWATI, REPORT ON NATIONAL JURIDICARE: EQUAL JUSTICE-SOCIAL JUSTICE 25–26 (1976) (Ministry of Law, Justice & Co. Affairs, 1976)) (describing the relationship between poverty and the legal system and how an increase in free access to the justice system can eradicate poverty).

43. *See* Menon, *supra* note 40, at 352–53 (quoting P.N. BHAGWATI, REPORT ON NATIONAL JURIDICARE: EQUAL JUSTICE-SOCIAL JUSTICE 25–26 (1976) (Ministry of Law, Justice & Co. Affairs, 1976)); *see, e.g.*, Galanter & Krishnan, *supra* note 2, at 795–97 (describing public interest litigation in India beginning in the early 1980s); Whitson, *supra* note 2, at 400 ("The state could realize the social and economic equality envisioned in the Constitution by promoting both legal aid and strategic public interest litigation . . . .").

justice.[44] Advocates also argue that the judiciary should play an active role in expanding the legal system.[45]

After the Bhagwati Committee report, the Government of India commissioned a report on legal services.[46] This report was the first to explicitly mention conciliation and informal dispute resolution as a factor in a national legal aid scheme.[47] The Report even invoked NPs as a way to provide dispute resolution and promote conciliation.[48]

Upendra Baxi, a prominent Indian legal scholar and researcher, was one player in promoting LAs.[49] She documented a guru's[50] private experiment with informal dispute resolution in the northern Indian village of Rangpur.[51] The founder of the ashram, Harivallabh Parikh, heard mainly intra-village disputes

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44. *See* Galanter & Krishnan, *supra* note 2, at 794 (quoting P.N. BHAGWATI, REPORT ON NATIONAL JURIDICARE: EQUAL JUSTICE-SOCIAL JUSTICE 33–34 (1976) (Ministry of Law, Justice & Co. Affairs, 1976)). See generally S. MURALIDHAR, LAW, POVERTY AND LEGAL AID: ACCESS TO CRIMINAL JUSTICE (2004) (discussing how the legal system can be a tool to fight discrimination).

45. *See* Galanter & Krishnan, *supra* note 2, at 794 (quoting P.N. BHAGWATI, REPORT ON NATIONAL JURIDICARE: EQUAL JUSTICE-SOCIAL JUSTICE 33–34 (1976) (Ministry of Law, Justice & Co. Affairs, 1976)); *see also* MURALIDHAR, *supra* note 44, at 3–4 (noting how important the judiciary is in expanding the legal system to important areas like prisoner rights).

46. *See* Galanter & Krishnan, *supra* note 2, at 793–94 (quoting MINISTRY OF LAW, JUSTICE & CO. AFFAIRS, REPORT OF THE EXPERT COMMITTEE ON LEGAL AID: PROCESSUAL JUSTICE TO THE PEOPLE 4 (1974)) (stating that informal justice systems are instrumental in improving legal aid and access to justice).

47. *See* Whitson, *supra* note 2, at 395 (quoting MINISTRY OF LAW, JUSTICE & CO. AFFAIRS, REPORT OF THE EXPERT COMMITTEE ON LEGAL AID: PROCESSUAL JUSTICE TO THE PEOPLE 17 (1974)) (noting that conciliation and dispute resolution outside of the formal legal system was an essential part of national legal aid in India).

48. *See id.* (quoting MINISTRY OF LAW, JUSTICE & CO. AFFAIRS, REPORT OF THE EXPERT COMMITTEE ON LEGAL AID: PROCESSUAL JUSTICE TO THE PEOPLE 1974, at 39–58).

49. *See* Galanter & Krishnan, *supra* note 2, at 794 (describing Baxi's scholarship and its importance in publicizing the successes of an LA system); *see also* Whitson, *supra* note 2, at 405 n.54 (speaking about the influence of Upendra Baxi's work highlighting the advantages of an LA in Rangpur).

50. A guru is a leader of a spiritual monastery. *E.g.*, *Guru*, Mirriam-Webster.com, http://www.merriam-webster.com/dictionary/guru (last visited Nov. 16, 2011) (defining guru as "a personal religious teacher and spiritual guide in Hinduism").

51. *See generally,* Upendra Baxi, *From* Takrar *to* Karar*: The Lok Adalat at Rangpur—A Preliminary Study*, 10 J. CONST. & PARLIAMENTARY STUD. 52 (1976). Rangpur is a village in the state of Gujarat in the northwest of India. *See id.* at 94.

where he and representatives of the disputants rendered a decision subject to the approval of the local assembly.[52]

News of the success of the ashram in Rangpur spread quickly and was a model for the first state-backed LA experiment, which took place in Gujarat.[53] In response to the influence of the Bhagwati Report and Upendra Baxi's study of the ashram in Rangpur, both of which had been released in the same year and about the same state in India, Gujarat began holding LAs in conjunction with legal aid conferences.[54] As news of the success of Gujarat LAs spread, other states began following its example.[55] Between 1986 and 1988, LAs were highly promoted by politicians, government officials, and the judiciary. [56] LAs were created with greater frequency and hundreds of thousands of cases were settled.[57]

At this point, LAs were at the height of their popularity and effectiveness as evidenced by this description:

> When a particular matter is called up for hearing, either the petitioner or the lawyer representing him can explain his problem. The case is discussed informally, and the mediators can intervene at any point in the proceedings, as can the opposite party. Issues are clarified, and it is aimed to arrive at a fair settlement. . . . [The judge's] task is merely to clarify the law, and by methods of persuasion, make each party realise how he stands to benefit from a particular

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52. *Id.* at 56–58.

53. *See* Whitson, *supra* note 2, at 405–06 (explaining how quickly LAs became popular after Upendra Baxi's article was published); *see also* Galanter & Krishnan, *supra* note 2, at 794–95 (describing the aftermath of Baxi's scholarship on LAs in Rangpur).

54. *See* Whitson, *supra* note 2, at 407–09 (noting that Legal Aid conferences had been happening during the weekend in India for a little while. They provided basic legal services to the public. Thus, even at this point, LAs were intimately connected to the legal aid movement); *see also* KHAN, *supra* note 1, at 29 (describing how the first well-known LAs were in the state of Gujarat).

55. *See* Whitson, *supra* note 2, at 406 (describing that once other states heard of Gujarat's success, they began holding their own LAs); *see also* KHAN, *supra* note 1, at 29 (describing how the LA in Gujarat was the impetus for growth in the LA system).

56. *See* Whitson, *supra* note 2, at 407–10 (describing how prevalent LAs became throughout India from 1986 to 1988); *see also* KHAN, *supra* note 1, at 64–67 (chronicling the many different roles the judiciary played in promoting LAs).

57. *See* Whitson, *supra* note 2, at 409–10 (noting that one report said 1500 LAs had been held nationally and over 860,000 cases were settled by August 1987 in these bodies); *see also* Galanter & Krishnan, *supra* note 2, at 799, 802 (noting that one report stated by the end of 1997, 349,710 motor vehicle accident claims alone had been resolved by LAs but also noting that LAs are usually conducted intermittently).

> settlement arrived at. . . . On some occasions, the compensation amount is made available to the parties on the same day, thereby making the lok adalats popular.[58]

During this period, LAs were conducted in an informal manner as compared to the formal court system.[59] LAs could hear any type of case because there were no jurisdictional limitations.[60] They addressed, inter alia, civil matters, minor criminal cases, and motor vehicle accident cases.[61] Disputes were resolved with speed and ease.[62]

C. *Legitimization and Modern Times*

The Government passed the National Legal Services Authorities Act in 1987.[63] The Act affected LAs in three important ways.

First, it conferred statutory authority to LAs.[64] It allowed the states to organize LAs as they saw fit.[65] It also gave LAs the jurisdiction to:

> [D]etermine and to arrive at a compromise or settlement between the parties to a dispute in the respect of (i) any pending case; or (ii) any matter which is falling within the

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58. Shiraz Sidhva, *Lok Adalats: Quick, Informal 'Nyaya*,' LEX ET JURIS, Dec. 1986, at 38, 40–41.

59. *See* Whitson, *supra* note 2, at 412 (describing how the lack of rules for LAs during this period made them very informal); *c.f.* KHAN, *supra* note 1, at 31 (noting how LAs were conducted after more formal rules were enacted in later years).

60. *See* Whitson, *supra* note 2, at 412 (noting the lack of jurisdictional or subject matter restrictions in LAs initially); *see also* KHAN, *supra* note 1, at 47–48 (describing the structural development of LAs under the statutory backing of the Legal Services Authority Act).

61. *See* Whitson, *supra* note 2, at 412 (stating the different types of cases that LAs heard); *see also* Galanter & Krishnan, *supra* note 2, at 800 (noting LAs generally heard cases involving the poor, which included family matters, auto accidents, and ordinance violations).

62. Whitson, *supra* note 2, at 412 (noting how quickly an injured party could collect their compensation claim); *see also* Sidhva, *supra* note 58, at 38 (noting the positive perception of LAs at the time).

63. The Legal Services Authorities Act, 1987, No. 37, Acts of Parliament, 1987 (India).

64. *See id.* § 20 (providing methods by which cases in the formal court system could move in LAs).

65. *See id.* § 19 (giving each State Authority the discretion to organize LAs).

> jurisdiction of, and is not brought before, any court for which the Lok Adalat is organized.[66]

Second, it permitted pending cases in the formal courts to be transferred to LAs by direct application of one or both parties.[67] If conciliation was not achieved, then the case could move back to the formal court from which it came.[68]

Third, the Act made awards given out by LAs enforceable.[69] Any awards issued were considered equivalent to decrees of a civil court.[70] Also significant was that the award issued was binding on both the parties and could not be appealed.[71]

Despite the demand for legislation on LAs, however, there was strong opposition to the Legal Services Act.[72] Critics of the Legal Services Act thought it defeated the informal and grass-roots nature of LAs, which resulted from the popular desire to settle disputes through conciliation.[73] Former Supreme Court Justice Krishna Iyer, a prominent Indian jurist who was instrumental in the LA movement, was disappointed with the Act's insistence that judicial officers and lawyers have ultimate responsibility for LA courts, and that decisions in those courts be made according to common law principles.[74]

In 1999, the Indian government further legitimized LAs by adding Section 89 to the Civil Procedure Code of India.[75]

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66. *Id.* § 20.

67. *See id.* § 20 (allowing any party to apply to the presiding court to transfer the case to a LA).

68. See *id.* § 20 (stating that once a case is referred to a LA and no award is made because there was no compromise or settlement, the case returns to the presiding court).

69. *Id.* § 21.

70. *Id.*

71. *Id.*

72. *See* Whitson, *supra* note 2, at 415–16 (noting that critics of the Legal Services Act felt that it detracted from the informality of the LAs); *see also* KHAN, *supra* note 1, at 48 ("[T]here is apprehension about the losing of [the] basic characteristic[s] of Lok-Adalat itself.").

73. *See* Whitson, *supra* note 2, at 415 (noting that the Legal Services Act "defeated the spirit and purpose of the [LA] courts as informal, grass-roots courts that existed almost apart from state authority, and pointed out that [LA] courts had evolved naturally as a result of popular desire to resolve disputes through conciliation, without intervention of official courts.").

74. *See id.* (quoting V.R. KRISHNA IYER, LEGAL SERVICES AUTHORITY ACT: A CRITIQUE 47 (1988)) (stating that the Legal Services Act made LAs no longer focused on social mobilization and speedy justice).

75. Sec. 89, No. 46 of 1908, CODE OF CIV. PROC. (1999) (India).

Section 89 allows a court, when it appears that there is the possibility of a settlement, to formulate the terms and submit them to the parties for their comments.[76] Most importantly, on receiving a response from the parties, the court may formulate a settlement and refer the case to ADR, including LAs.[77]

In 2002, there was an amendment to the Legal Services Authority Act that specifically affects LAs.[78] This amendment established permanent LAs for specific types of disputes.[79] For example, LAs were set up to resolve disputes concerning public utilities services.[80] This is an important transition because, previously, if two parties could not come to a resolution they would go back into the formal justice system.[81] This was seen as a delay in the dispensation of justice and was used to that end by many lawyers.[82] However, with permanent LAs, judges have the authority to make decisions based on the merits, as well as to compel conciliation.[83]

Today, although procedures of LAs vary by region in India, there are many overarching similarities.[84] Most LAs take place during the weekends, usually a Saturday, in a government

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76. *See id.* (allowing courts to create the terms of the settlement and give them to the parties for approval).

77. *See id.* (giving the court the power to reformulate a settlement or send the case to alternative dispute resolution ("ADR") after the parties have reviewed the initial settlement suggestion by the court).

78. The Legal Services Authorities (Amendment) Act, No. 37, Acts of Parliament, 2002 (India).

79. *Id.* § 22B.

80. *See id.* (creating the permanent LAs for disputes over public utilities services).

81. *See* KHAN, *supra* note 1, at 55–56 (noting the power LAs had to make decisions after the 2002 amendment); *see also* Galanter & Krishnan, *supra* note 2, at 811–12 (showing, through description of the permanent LAs, the more formal nature of LAs post-2002); Sec. 89, No. 46 of 1908, CODE OF CIV. PROC. (1999) (India) (noting the ability to go back into the formal justice system if there was no resolution).

82. *See* Galanter & Krishnan, *supra* note 2, at 818–19 (describing different ways in which lawyers "have begun to engage 'quietly' in tactics that they hope will eventually undermine the Lok Adalat process").

83. The Legal Services Authorities (Amendment) Act § 22C (noting that even if the parties cannot come to an agreement, permanent LAs can make a decision on the case); *see also* Galanter & Krishnan, *supra* note 2, at 831 (noting the 2002 amendment and the power it gives to the permanent LAs).

84. *See* Galanter & Krishnan, *supra* note 2, at 810–11 (accounting different anecdotes from interviews conducted at LAs); *see also* KHAN, *supra* note 1, at 119–121 (describing many of the procedural and other similarities of LAs before summarizing the state-by-state statistics); BHARGAVA, *supra* note 4, at 51 (breaking up all statistics into different states in India).

building.[85] Unfortunately, lines are usually long, resources are inadequate, and the presence of lawyers is inconsistent.[86] The panels are normally chaired by a High Court or District Court judge from that jurisdiction.[87] The Legal Services Authority Act requires that judicial panels have at least three people.[88] Adherence to these rules, however, varies.[89]

Modern LAs can be traced back to the advent of NPs in ancient India.[90] However, as the justice system and the country have evolved, LAs have become a very different mechanism of justice than the original NPs.[91]

II. *THE* LOK ADALAT *EXPERIENCE COMPARED TO MEDIATION INTERNATIONALLY*

In order to ultimately suggest improvements to the LA system, Part II considers the current state of the LA and foreign mediation systems. Section A examines how the LA system has been unsuccessful. Section B describes the most successful aspects of mediations systems in Australia, the United Kingdom, and the United States. These countries are all common law jurisdictions, like India, and have well-developed mediation

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85. *See* Galanter & Krishnan, *supra* note 2, at 810–11 (describing the general procedures and process of the LAs); *see also* KHAN, *supra* note 1, at 31–32 (describing the general composition, organization, and procedure of the LAs).

86. *See* Galanter & Krishnan, *supra* note 2, at 810–11 ("The Electricity, Pension, High Court, and General Lok Adalats each had long lines of claimants who often waited hours before having their cases heard . . . . The rooms holding the sessions were stuffy, crowded, and lacked air conditioning. Claimants typically sat and listened for their names to be called by a government-employed Lok Adalat clerk before approaching the judicial panel. Standing next to the panel would be a court stenographer who, upon direction of the presiding judge, would write down for the record what the judge believed to be the pertinent information regarding the case. The presence of lawyers representing claimants varied depending on the Lok Adalat. In the General, High Court, and Women's Lok Adalats most claimants came accompanied by lawyers.").

87. *See id.* (describing the composition of the panel of judges); *see also* KHAN, *supra* note 1, at 31–32 (describing the general composition of the panel of judges and noting the differences between states).

88. The Legal Services Authorities (Amendment) Act § 19.

89. *See* Galanter & Krishnan, *supra* note 2, at 810–11 (describing LA's reluctance to follow the rules of who can be on a judicial panel).

90. *See supra* note 17 and accompanying text (noting the link between NPs and LAs).

91. *See supra* Part I (showing the development and growth of LAs into the modern LA system).

schemes in place.[92] As a result, a comparative study among these countries is particularly instructive.

A. *Problems with Lok Adalats*

Even though LAs continue to be accepted today, they have not met many of their initial goals.[93] The decline of LAs started in the late 1980s.[94] For example, the state of Rajasthan, a leader in the LA movement, only reported holding seven sessions in 1987, compared to a peak of 154 sessions the year before.[95]

The LA system evolved to encompass characteristics of both the informal and formal justice systems. Initially, people supported the LA system because of popular dissatisfaction with the time and cost of litigation in the formal court system.[96] Participants approved of LAs because they provided quick resolutions and a sense of collaboration.[97] However, over time, fewer LAs were held because of a severe lack of resources, which prevented adequate administration of LAs despite their growing demand.[98] Once legislation was passed to provide additional resources, such as conferring greater power to LAs and allowing for more referrals to the LA system, the very reasons that initially attracted people to the system, dissipated as LAs were

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92. *See infra* Part II.B (describing different common law countries with well-developed ADR systems).

93. *See supra* notes 8, 15 and accompanying text (explaining the initial popularity of the LAs and the goals of LAs when they were first established); *see also* Whitson, *supra* note 2, at 391 (describing the shortcomings of LAs compared to their initial goals).

94. *See* Whitson, *supra* note 2, at 416 (using numbers on LAs in the state of Rajasthan to show a decrease in LAs held starting in 1987). *Cf.* Galanter & Krishnan, *supra* note 2, at 799, 825 (providing data that shows an increase in LAs held between 1991 and 2001, after which their numbers decreased); *see also* KHAN, *supra* note 1, at 69–76 (showing LA data from various regions confirming a decrease in number of LAs held after 2001)

95. Whitson, *supra* note 2, at 416 (noting the decline in the number of LAs held in Rajasthan, despite official reports).

96. *See id.* (describing the consensus among interviewees that using the formal courts was a burden); *see also* KHAN, *supra* note 1, at 14–16 (noting the need for a non-adjudicative process).

97. Whitson, *supra* note 2, at 419 (recounting responses in interviews conducted at LAs).

98. *See id.* ("In an interview, the Chairman of the State Legal Aid Board, Mr. Nathawat, explained that part of the reason for the decline was a critical shortage of staff."); *see also* Galanter & Krishnan, *supra* note 2, at 810–11 (noting the lack of resources and general poor condition of the LAs).

increasingly viewed as just another arm of the formal justice system.[99] As a result, not only have people had negative experiences with LAs, but the LA system has struggled to provide justice to the public in five ways.

First, disputants have provided numerous examples of dissatisfaction with LAs as a result of the conduct of judges and lawyers.[100] Legal scholars Marc Galanter and Jayanth Krishnan, who conducted a series of interviews on LAs, found that the forum no longer provides the swift and fair justice upon which people had come to rely.[101] Some of the issues that affected disputants include: poor relationship between judges and lawyers, unpreparedness, and pressure to settle.[102]

Further, judges may be hostile toward the presence of lawyers in these forums because they may negatively impact settlement agreements.[103] According to one judge interviewed by Galanter and Krishnan, "lawyers are famous . . . for dragging on cases."[104] Such a strained relationship can lead to undesirable outcomes.[105] In one situation, Galanter and Krishnan observed a well-prepared lawyer representing a set of grandparents seeking to obtain custody rights over their grandson.[106] When the lawyer attempted to present his clients' case, however, the judge

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99. *See supra* notes 69–77 and accompanying text (explaining that legislation such as the Legal Services Authority Act of 1987 provided the LAs with greater jurisdiction, greater power, and greater abilities of referral)*; see also* Whitson, *supra* note 2, at 433 ("[LAs] thus serve as conduits for the extension of rules which are often very foreign to local ways and customs.").

100. *See* Galanter & Krishnan, *supra* note 2, at 813–15, 820 (listing examples of disputant dissatisfaction gathered from hundreds of interviews with all parties involved in LAs).

101. *See id.* at 791 ("[T]he claim that this forum offers participants speedy, fair, and deliberative justice needs serious reconsideration.").

102. *See id.* at 811–12 (summing up the problems through examples of the electricity and pension LAs).

103. *See id.* at 811–12, 815 (noting that at least one judge disapproves of the presence of lawyers in LAs where claims are initiated by current civil service workers who are disputing their pension or compensation); *see also* BHARGAVA, *supra* note 4, at 114 (noting that some participants even think it is inappropriate to have a lawyer present).

104. Galanter & Krishnan, *supra* note 2, at 811 (relaying an interview with the presiding judge of a pension LA). The authors also note that on the day they observed proceedings, a lawyer was present in only three out of twenty-three cases. *See id.* at 811.

105. *See id.* at 815–16 (noting the tension between lawyers and judges).

106. *Id.* at 814–16 (describing an encounter the authors observed at a general LA).

immediately interrupted him and then continued to be hostile toward the lawyer for the rest of the proceeding.[107]

In many instances, judges and lawyers do not work together to facilitate settlements in the best interest of their clients, resulting in unfair outcomes for disputants.[108] In one case observed by Galanter and Krishnan, a bus driver allegedly caused an accident harming many people.[109] The judge and both attorneys only spent between fifteen seconds to two minutes to resolve each injured person's case.[110] The judge would look at the x-rays himself and make a decision based on his own judgment.[111] Lawyers say that judges infrequently review important evidence and hand down unsupported decisions.[112]

Further, disputants are frequently dissatisfied because one party's attorney is unprepared or not present, which subsequently prohibits the parties from being able to reach a settlement.[113] Galanter and Krishnan observed that often the government is absent or must ask for a postponement because they are unprepared.[114] A judge often must reluctantly grant the motion to postpone.[115]

Additionally, LA judges are pressured to improperly force reconciliation on parties out of a desire to achieve high

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107. *Id.* at 815–16.

108. *Id.* (noting a custody dispute in which the judge and lawyers were at odds).

109. *Id.* at 815 ("[A] case involving twenty-six claimants who were seeking compensation from a state-owned bus company for injuries they sustained during a violent traffic accident.").

110. *Id.* ("[E]ach individual case took anywhere between 15 seconds to two minutes to resolve.").

111. *Id.* at 816 ("[T]he chief district judge held each x-ray up to the light and attempted to decipher the seriousness of the injuries. When Krishnan asked if he had medical training to read the x-rays, the judge noted that since he had been involved in many of these types of cases in the past, he had developed a 'knack' for this skill.").

112. *Id.* at 818 (noting that lawyers have commented that "judges refused to take the time to study what often were complex issues, examining, for example, important evidence in a very cursory manner or simply not at all.").

113. *See id.* at 812 (observing that in the electricity and pension LAs, the government agencies are notorious for upsetting judges and disputants for lack of preparedness); *but see* BHARGAVA, *supra* note 4, at 91 (observing that people generally think there is a possibility of a quick decision).

114. *See* Galanter & Krishnan, *supra* note 2, at 812 (noting that the government was not ready in over half of the observed electricity LA cases).

115. *See id.* at 819 ("Yet without the lawyers present . . . the panel and the parties are reluctant to finalize a settlement . . . .").

settlement rates.[116] There is perceived political power in positive statistics and, therefore, members of LA systems strive for high settlement numbers.[117] Galanter and Krishnan observed that this may lead to cases being sent to LAs even though they should be tried in a formal court.[118] In a typical example, a judge, instead of issuing a ruling, ordered parties to reach an agreement by themselves.[119]

Aside from the issues caused by people's experiences with judges and lawyers, a second issue is the adversarial nature of LAs.[120] Rural villagers prefer settlement through an informal medium.[121] To most, it is socially and morally desirable to reach a compromise outside of court, created in an informal atmosphere where there is no winner or loser.[122] Consequently, the adversarial process is considered too formal and is therefore used as a last resort.[123] However, when LAs incorporate parts of the formal justice system, as legislation like the Legal Services Authorization Acts sought to do, parties make poorly-informed decisions because of their preference for conciliation.[124] Just

116. *Id.* at 807 (noting the pressure to settle cases); *see also* Whitson, *supra* note 2, at 440 (commenting on how certain situations call for decisions by formal courts).

117. *See* Galanter & Krishnan, *supra* note 2, at 807, 820 (noting how politicians think it advantageous have the highest amounts of settlements in LAs in their district); *see also* Whitson, *supra* note 2, at 440 (noting how success is measured on the number of settlements and not on the impact on the community or achievement of substantive goals).

118. *See* Galanter & Krishnan, *supra* note 2, at 813–16 (describing several examples of judges forcing settlement upon parties).

119. *See id.* at 814 (providing an example of a LA-mandated reconciliation between parties outside of the justice system).

120. *See infra* notes 121–125 and accompanying text (describing how LAs were meant to be a process of conciliation and settlement, which is more suitable for the rural population when compared to the adversarial process).

121. *See* Khare, *supra* note 21, at 78–79 (describing the cultural significance of conciliation over adversarial processes); *see also* Whitson, *supra* note 2, at 398 (finding that the village population finds settlement socially and morally preferable to resolutions by the adversarial system).

122. *See* Khare, *supra* note 21, at 78–79 (describing how conciliation is associated with patience and legal fighting is shortsighted); *see also* Whitson, *supra* note 2, at 398 (noting that compromise is considered more efficient and fair).

123. *See* Khare, *supra* note 21, at 85 (noting how it is considered culturally unnatural to go to a lawyer); *see also* Whitson, *supra* note 2, at 398 (echoing the idea that going to a lawyer is an unfavorable action).

124. Roselle L. Wissler, *Representation in Mediation: What We Know from Empirical Research*, 37 FORDHAM URB. L.J. 419, 424 (2010) (explaining that data shows parties need the proper type of forum and information in order to make fully informed

after India's independence, the promotion of the formal legal system over the values, traditions, and methods associated with the dispute resolution systems of rural and native populations was a major obstacle in the country's ability to promote the guarantees of the new constitution.[125]

The third reason the LA system has failed to provide justice to the public is that, of the LA mediations that did succeed, such success was due to one or two judges who made a special effort to completely understand the issue, the parties, and devise a proper resolution.[126] In many situations, it was this judicial dedication that enabled conciliation rather than the informal structure of the LAs.[127] Consequently, without motivated judges and lawyers, conciliation is unlikely.[128]

Fourth, in rural LAs, there are numerous unsuccessful attempts at conciliations because judges and lawyers fail to understand the relationship between disputants.[129] Often, the parties have a long history of caste or tribal conflict.[130] In some

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decisions regarding disputes); *see also* Jacqueline Nolan-Haley, *Informed Consent in Mediation: A Guiding Principle for Truly Educated Decision-Making*, 74 NOTRE DAME L. REV. 775, 778 (1999) (noting the importance of informed decision-making during the mediation process).

125. *See* Whitson, *supra* note 2, at 399 (noting noting that the absence of the state judicial system in rural areas prevented the Constitution and its protections from reaching villagers).

126. *See* Galanter & Krishnan, *supra* note 2, at 821–22 (noting that the few success stories Krishnan and Galanter heard involved a judge going above and beyond the norm); *see also* Whitson, *supra* note 2, at 405 (talking about how Harivallabh Parikh, the leader of the original Rangpur LA, and not the LA itself, was probably the reason why the LA was so successful); *see also* Baxi, *supra* note 51, at 62 (describing Harivallabh as the driving factor behind the success of the Rangpur LA).

127. *See* Whitson, *supra* note 2, at 420 ("The 'conciliation' seems to have been more the result of the dedication and authority of the three judges than of anything inherently unique in the structure of [LA] courts.").

128. *See* ALEXANDER, *supra* note 6, at 21 ("These programs have enjoyed limited success as they have been dependent on individuals to drive them and frequently do not have the resources to promote and support them.").

129. *See* Whitson, *supra* note 2, at 436 (noting that limited success of LAs can partially be explained by the ignorance of the judges to the true nature of the conflict between the parties); *see also* Galanter & Krishnan, *supra* note 2, at 817–19 (describing how lawyers and judges think the other actor does not properly understand the issue between the parties).

130. *See* Whitson, *supra* note 2, at 436 (explaining that often parties in LAs have a long history of conflict stemming from their caste or tribe).

examples, the source of issues between parties, even if known, is simply ignored when a resolution is suggested.[131]

Fifth, even if the parties decide against mediation and go to court, they might have to wait up to ten years before their case is heard.[132] This makes the option of going to court unfeasible and causes the LA system to appear as an involuntary process.[133]

Due to the forgoing issues, the amount of cases brought before LAs and successfully resolved per LA has declined.[134] From 1996 to 2002, there was a steady continuous drop of cases resolved per LA.[135]

B. *Alternative Dispute Resolution in Common Law Countries*

Like India, many countries, intending to grant their citizens equal access to justice, have developed alternative dispute resolution systems.[136] Nations such as Australia, Canada, the

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131 . *See* JOHN PAUL LEDERACH, PREPARING FOR PEACE: CONFLICT TRANSFORMATION ACROSS CULTURES 18 (1995) (explaining that understanding each party and the conflict between parties is crucial when trying to come to a settlement or a conciliation); *see also* Galanter & Krishnan, *supra* note 2, at 818 (noting the sentiment of several lawyers that judges often fail to look deeply enough into the issues).

132. *See* Galanter & Krishnan, *supra* note 2, at 808, 828–29 (contrasting the quickness of a LA decision with bringing the case in regular courts); *see also* Whitson, *supra* note 2, at 400 (noting how disputants experience frustration with the often crowded and slow-moving dockets of the regular courts).

133. *See* Galanter & Krishnan, *supra* note 2, at 828–29 (noting that the problems with the regular court system prevent many people from using it); *see also* Whitson, *supra* note 2, at 400 (noting that the overcrowded nature of the court system causes people to lose their sense of control in the process).

134. *See* Whitson, *supra* note 2, at 416, 422 (noting that reports and observations show a decline in LAs held starting in 1987); KHAN, *supra* note 1, at 71 (describing the decline of the LAs in the state of Gujarat).

135. *See* Galanter & Krishnan, *supra* note 2, at 799 ("As of March 1996, some 13,061 had been organized nationwide and some 5,738,000 cases were resolved there (about 440 per [LA]). Twenty-one months later the total had risen to some 17,633 [LAs] and 6,886,000 cases settled. That means [that] in the twenty-one-month period, 4,572 [LA]s were held—some 218 per month or 2600 per year and that approximately 1.148 million cases were resolved (about 251 per [LA]). Unpublished data from the National Legal Services Authority shows that as of the end of 1999, 49,415 [LAs] were held with 9,720,289 cases being settled (about 197 per [LA]). By November 30, 2001, there were 110,600 [LAs] that had settled 13,141,938 cases (about 119 settled per [LA])." (citations omitted)); *see also* KHAN, *supra* note 1, at 71 (stating that in Gujarat, the number of cases dealt with and disposed of by LAs increased from 1998–2000 and then dropped dramatically through 2001 and 2002).

136. *See* ALEXANDER, *supra* note 6, at 5 (describing how ADR processes developed in many countries in order to facilitate access to justice).

United Kingdom, and the United States have gone through three waves of growth in this "Access to Justice" movement.[137] In the first wave, starting in the 1960s, these countries developed ways to counter economic barriers to justice such as limited access to information and representation.[138] The start of the 1970s marked the beginning of the second wave, during which time countries fought for collective rights and interests through selective class actions.[139] Finally, during the third wave in the late 1970s, countries brought parties access to justice through ADR processes.[140] One of the ADR processes that developed was a community mediation movement.[141] To clarify, community mediation occurs at community centers and other forums outside of the courtroom, which can then lead to mediation systems run by the formal court system.[142]

Mediation in the United States is a well-established practice. Alongside the wave theory chronicling access to justice discussed above, the mediation movement also had three phases. First, from the mid 1970s to early 1980s mediation was initially promulgated through pilot programs and experimental projects.[143] The second phase, beginning in the early 1990s, was

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137. *See id.* (describing the wave theory of growth for certain common law countries and ADR). *See generally* Mauro Cappelletti & Bryant Garth, *Access to Justice: The Newest Wave in the Worldwide Movement to Make Rights Effective*, 27 BUFF. L. REV. 181 (1978) (describing the wave theory of growth for the access to justice movement).

138. Cappelletti & Garth, *supra* note 137, at 197–98 (explaining the first wave of growth in ADR).

139. *Id.* at 209–10 (describing the second wave of growth in ADR and the timeframe).

140. *Id.* at 222–23 (explaining the third wave and its relation to the access to justice movement).

141. *Id.* at 226 (noting the different types of mediation that are part of the third wave); *see also* ALEXANDER, *supra* note 6, at 11 (noting that community mediation is part of the third wave).

142. *See* Cappelletti & Garth, *supra* note 137, at 226 (describing mediation as a part of the third wave); *see also* ALEXANDER, *supra* note 6, at 11 (describing how community mediation movement is the forerunner to court related mediation).

143. *See* Kimberlee K. Kovach, *The Evolution of Mediation in the United States: Issues Ripe for Regulation May Shape the Future of Practice, in* GLOBAL TRENDS IN MEDIATION 390 (Nadja Alexander ed., 2nd ed., 2006) ("From the mid 1970s through to the early 1980s mediation was initiated in experimental projects and pilot programs. Most of these were community-based, rather than court-annexed, programs. Use of mediation in small claims courts, however, was occurring in conjunction with the creation and expansion of many community mediation centres."); *see also* Timothy Hedeen, *Institutionalizing Community Mediation: Can Dispute Resolution "of, by, and for the People"*

characterized by rapid expansion and implementation of court and community mediation schemes.[144] More recently, the third phase has been a period of regulation.[145]

Mediation in the United States has been addressed on a national level, making it more formal than many other mediation systems.[146] One example of what makes the mediation system more formal is the use of established model rules, such as ethical standards for mediators.[147] One aspect, confidentiality in mediation, is formally addressed in the Uniform Mediation Act of 2003.[148] Additionally, there are several prominent national mediation associations.[149]

Today, in the United States, both community and court-annexed mediation enjoy statutory, academic, and practitioner support.[150] Empirical studies have shown that time and money are saved, settlement is hastened, parties are increasingly

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Long Endure?, 108 PENN ST. L. REV. 265, 267 (2003) (describing how the Pound Conference led to establishment of neighborhood justice center pilot programs).

144. *See* Kovach, *supra* note 143, at 390 ("These programs were generally implemented without consideration of the numerous legal, ethical, and practical issues that mediation practice is currently facing. Significant variation in development existed, dependent in part upon prior experience with mediation, the type of matter mediated and how the jurisdiction embraced the process.").

145. *See id.* ("Regulation covers a wide range of issues and includes such matters as the management of mediated cases, how the mediation process is conducted, the conduct of the participants in mediation and mediator quality control.").

146. *See id.* at 389–91 (describing how mediation systems in the United States have a reputation of sophistication).

147. *See, e.g.*, MODEL STANDARDS OF CONDUCT FOR MEDIATORS (Am. Arbitration Ass'n, Am. Bar Ass'n & Ass'n Conflict Resol. 2005), *available at* http://www.abanet.org/dispute/documents/model_standards_conduct_april2007.pdf.

148. UNIFORM MEDIATION ACT §§ 4–6 (2003), *available at* http://www.law.upenn.edu/bll/archives/ulc/mediat/2003finaldraft.pdf (setting out confidentiality rules for mediation proceedings).

149. *See, e.g.*, *Section of Dispute Resolution*, AM. BAR ASS'N, Sep. 27, 2011, http://www.abanet.org/dispute/; ASS'N CONFLICT RESOL, Sep. 27, 2011, http://www.acrnet.org/.

150. *See* Civil Justice Reform Act of 1990, 28 U.S.C. § 471 (2006) (supporting community mediation); Alternative Dispute Resolution Act 1998, 28 U.S.C. § 651 (2006) (supporting court-annexed mediation); *see also* Dorcas Quek, *Mandatory Mediation: An Oxymoron? Examining the Feasibility of Implementing a Court-Mandated Mediation Program*, 11 CARDOZO J. CONFLICT RESOL. 479, 483 (2010) (noting the prevalence and benefits of mandatory mediation); Kovach, *supra* note 143, at 393 (referring to both community mediation centers and court annexed mediation systems); John T. Blankenship, *The Vitality of the Opening Statement in Mediation: A Jumping-Off Point to Consider the Process of Mediation*, 9 APPALACHIAN J.L. 165, 171 (describing the rise in popularity of mediation in the US).

satisfied and they have continued relationships post-mediation.[151]

In the United States, legal scholars have fostered inquiries into heightened cultural sensitivity in the courtroom.[152] For example, John Paul Lederach, a prominent scholar of conflict resolution and mediation, has looked not only at the types of interactions different groups have with the government but also how the government can best accommodate these differences in cultural expectations.[153]

Lederach advances four principles.[154] First, communities should be informed about ADR methods from people that are respected in their community.[155] Second, there should be a conscious acknowledgement, by decision makers, of the dominant culture of the courts and justice system.[156] In this vein, the third principle suggests that culturally relevant information about the dispute and the parties should be gathered before making a decision.[157] Finally, judges should work within the disputants' culture, not the dominant culture, to create a socially acceptable solution.[158]

In the United Kingdom, the development of ADR has been the result of civil justice reforms,[159] increased incorporation of

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151. *See* Kovach, *supra* note 143, at 395 (describing results of some empirical research on the advantages of mediation). *See generally* T.J. Stipanowich, *ADR and the "Vanishing Trial": The Growth and Impact of "Alternative Dispute Resolution,"* 1 J. EMPIRICAL LEGAL STUD. 843 (2004) (summarizing empirical research on mediation).

152. *See* LEDERACH, *supra* note 131, at 200–01 (analyzing, among other things, how important training can be in the cultural aspect of mediation); *see also* John Paul Lederach et al., *Fostering Culturally Responsive Courts*, 39 FAM. CT. REV. 185, 200–201 (2001) (considering the best way to be more culturally sensitive to people of different ethnicities and traditions).

153. *See* Lederach et al., *supra* note 152, at 185 (examining specifically the impact of ADR in Latino populations and how cultural sensitivity by the government can substantially improve the experience Latino's have in the justice system).

154. *Id.* at 195–200 (describing the four principles that would improve mediation systems).

155. *Id.* at 200 (noting that respected members of the Latino community would be instrumental in providing information about ADR).

156. *Id.* (noting that the dominant culture is usually the culture most prevalent within the court system).

157. *Id.* (explaining that culturally relevant information will help to understand the nature of the conflict and shape more appropriate rulings).

158. *Id.* (explaining that a culturally sensitive solution is more appropriate).

159. *See* Harry Woolf, *Access to Justice—Interim Report to the Lord Chancellor on the Civil Justice System in England and Wales*, THE NATIONAL ARCHIVES (June 1995),

ADR in the formal court system, increased professionalization of ADR providers, and an attitudinal shift toward supporting ADR. [160] Both court-annexed programs and community mediation centers are well-established.[161] ADR in the United Kingdom has been described as a public-private partnership because certain public services are now performed by private providers.[162]

In Australia, mandatory referral to mediation processes is prevalent.[163] There is a lack of a clear legislative definition of mediation in Australia, which results in the use of different definitions in different states and areas of jurisdiction.[164] As a result, the process and characteristics of mediation resemble the most common practices in each jurisdiction.[165] Mediation forms such as process-oriented mediation, substance-oriented

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http://www.dca.gov.uk/civil/interim/contents.htm (reporting, in part, on alternative dispute resolution). In the 1990s, Lord Woolf was the impetus for a major push toward ADR. *See generally id.* Reports published by Lord Woolf led to the enactment of the Civil Procedure Rules, which required courts to encourage parties to use ADR processes when appropriate. *See generally* Civil Procedure Rules, 1999, S.I. 1998/3132, Part 1.4 (U.K.) (requiring courts to encourage parties to utilize mediation); Jacqueline Nolan-Haley, *Consent in Mediation*, 14 DISP. RESOL. MAG. 4, 6 (2008) (describing how Lord Woolf was instrumental in developing ADR in England).

160. *See, e.g.*, ADR GROUP, Sept. 27, 2011, http://www.adrgroup.co.uk (providing commercial mediation services and training); CENTRE FOR DISP. RESOL., Sept. 27, 2011, http://www/cedr.com (providing commercial mediation services, training, and accreditation); *see* Loukas Mistelis, *ADR in England and Wales: A Successful Case of Public Private Partnership, in* GLOBAL TRENDS IN MEDIATION 164, 172 (Nadja Alexander ed., 2d ed. 2006) (describing how professionals quickly changed their attitudes toward alternative dispute resolution); *see also Attitudes to Mediation*, at 12, CENTRE FOR DISP. RESOL., (June 2001), http://www.cedr.com/library/articles/CEDR_PCB_survey.pdf (confirming that Lord Woolf's reforms were successful in implementing ADR systems in England).

161. *See* Mistelis, *supra* note 160, at 177 (concluding that "mediation is here to stay").

162. *Id.* at 161 (noting that "a traditionally public service is now offered and performed by private providers").

163. *See* Tania Sourdin, *Mediation in Australia: Impacts on Litigation*, *in* GLOBAL TRENDS IN MEDIATION 37, 39 (Nadja Alexander ed., 2d ed. 2006) (noting that Australia's courts have implemented mandatory referral to mediation for almost two decades).

164. *See id.* at 40–41 (Noting that it is impossible to define mediation in Australia and as a result "[i]n practice, very different forms of mediation processes are used in different jurisdictions and subject areas").

165. *Id.* at 41 (noting that "there is a tendency to adopt the process characteristics that are most used in practice in that State or jurisdiction").

mediation, transformative mediation, impasse model of mediation, and shuttle mediation are all commonly used.[166]

The ADR systems in common law jurisdictions have been successful.[167] Studies conclude that matters are being settled earlier and in a more structured way, leading to reduced costs and time involved in case management, which has relieved overburdened court dockets.[168] Additionally, studies have shown that both parties and attorneys endorse mediation, found the process fair, and would recommend it to others.[169]

III. *BRINGING PROPER JUSTICE TO ALL*

This Part evaluates lessons learned from dispute resolution systems in foreign countries and in India, and then provides viable solutions to the current problems facing the LA system. This Part considers both structural and cultural improvements that can facilitate an effective local mediation scheme in India.

The LA system is significant, regardless of its declining popularity.[170] It has the potential to considerably transform India and its legal system by providing millions of people a forum for resolving important disputes in meaningful ways.[171] Ideally, more resources could be dedicated to LAs allowing for LAs to be held more regularly.[172] Culturally, the ideal balance

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166. *See id.* at 38–40 (stating that process-oriented mediation is where the parties, not the mediator, provide the solution). In substance-oriented mediation, the mediator is an authority figure who evaluates the issue based on their experience and offers possible resolutions. *Id.* at 42–43. In a transformative mediation, the mediator's role is to "foster empowerment and recognition of the parties." *Id.* at 43. An impasse model is used in divorce proceedings when parties reach an impasse; it uses short term intervention that incorporates the whole family. *Id.* The shuttle model is "where the mediator shuttles between parties conveying options and ideas." *Id.*

167. *See* ALEXANDER, *supra* note 6, at 16–17 (referring to empirical data showing the success of ADR in common law jurisdictions).

168. *See id.* (noting the numerous ways in which ADR has been successful in common law countries, such as Australia, Canada, England, and the United States).

169. *See* Roselle L. Wissler, *Court-Connected Mediation in General Civil Cases: What We Know from Empirical Research*, 17 OHIO ST. J. ON DISP. RESOL. 641, 690 (aggregating empirical data that revealed parties and attorneys support mediation).

170. *See supra* notes 4–10 and accompanying text (describing how powerful LAs can be).

171. *See supra* notes 8–9 and accompanying text (describing how many people LAs can reach).

172. *See supra* note 98 and accompanying text (describing the lack of resources available to LAs); *see also supra* notes 103, 123, 129, 131, 133 and accompanying text

between a formal and informal forum would encourage people to seek redress from LAs.[173] This would fit into and contribute to the ongoing effort of bringing social justice to the public.[174] LAs can defeat many social injustices in the rural culture by "indigenizing" some protections of the official judicial system.[175] As such, finding solutions to the current shortcomings of LAs is imperative.

The goal ought to be to strike the proper balance between a national vision of rights based on equality and justice and a local vision of decentralized judicial administration, local self-rule, and popular justice free from the artifice and deceit associated with formal courts.[176] India can do this in many ways.

First, India should devote a proportionally comparable amount of resources to ADR to countries such as Australia, the United Kingdom, the United States.[177] There is currently a severe lack of resources in the LA system, which can limit the number of cases heard and lead to understaffing, inefficient dispensation of remedies, and general disorganization.[178] An influx of staff, funding, and facilities would allow LAs to run more effectively, make them structurally sound, and increase public confidence in them. Technology could also be utilized in all aspects of the process to improve access and efficiency.

Second, LAs should use Australia as an example and better incorporate the characteristics of conciliation specific to each locality.[179] Indians speak hundreds of languages, and culture and

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(describing structural flaws of LAs that have caused access to the system to be intermittent and difficult for the public).

173. *See supra* Part II.A (describing how the conflict between formalism and informalism in LAs is one problem plaguing them).

174. *See supra* note 136–42 and accompanying text (describing the "Access to Justice" movement and wave theory). Although LAs were not considered part of this movement initially, providing a forum for dispute resolution is an essential element of the first wave. *See supra* notes 136–42 and accompanying text.

175. *See supra* notes 1–6 and accompanying text (noting the importance of indigenizing the LAs).

176. *See supra* notes 40, 43–45 and accompanying text (detailing the original lofty goals of the LAs).

177. *See supra* Part II.B (describing the ADR systems in place in common law countries).

178. *See supra* note 98 and accompanying text (describing the lack of resources in LAs).

179. *See supra* notes 163–66 and accompanying text (describing how ADR in Australia is flexible in order to best deal with local cultures and issues).

tradition vary widely from village to village. A legal system that imposes insensitive rulings by not adjusting to the particularities of each region is ineffective.[180] Therefore, LAs should incorporate the processes and characteristics of conciliation most used in each locality in order to compel parties to use LAs so that they have a more positive and permanent effect.

India should take lessons from the success of its traditional NPs.[181] Today, LAs rarely consider indigenous practices and customs.[182] This can seriously inhibit conciliation because the resolution is often inappropriate and so the parties do not accept it. The NPs were successful in the past because of the involvement of the community and the participative character of the proceedings.[183] Village elders incorporated the parties into their decision making process and ultimately made well-informed decisions that were permanent and sensitive to local customs.[184] LAs would be far more effective if they incorporated the parties and village elders into the process in the way the NPs did.

Third, using specialists other than judges ensures that all interests and concerns of the parties can be addressed, which was one of the original goals of LAs.[185] There is a better chance of appropriate and long-lasting conciliation if panel members such as presiding judges, social workers, and community leaders, know as much information about the dispute, the parties, and the local culture as possible before making a collective decision on each case.[186] Therefore, a well-rounded panel of judges is the most suitable format for LAs.

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180. *See supra* notes 129–30 and accompanying text (describing the effect of culturally insensitive rulings).

181. *See supra* notes 16–21 and accompany text (describing the history and successes of the NPs).

182. *See supra* notes 120–25, 129–31 and accompanying text (noting various examples and effects of cultural insensitivity in the LA system).

183. *See supra* notes 16–23 and accompany text (describing the prior successes of the NPs).

184. *See supra* notes 16–23 and accompany text (describing the reception of rulings by the parties involved).

185. *See supra* notes 42–48 and accompanying text (describing the original goals of the LAs).

186. *See supra* notes 120–25, 129–31 and accompanying text (describing the importance of cultural understanding in making an appropriate ruling in LAs).

Fourth, in order to re-introduce the LA system and show how effective it can be, the Indian courts should encourage mandatory referral to LAs. India has already tried to make a mediation system work but has not been as successful as it could be.[187] Therefore, participants in LAs in many cases already have a negative perception of them.[188] Mandatory referrals can help parties overcome their prejudices or lack of understanding of the process. [189] Initially, in order to combat the negative perception of LAs, mandatory referrals would bring more parties into the system without sacrificing the possibility of resolution. Subsequently, once LA popularity is restored, mandatory referrals would no longer be necessary because parties would use them voluntarily.

Fifth, there needs to be requirements for attendance and good faith participation by the parties. Currently, lawyers and judges impact LAs to the detriment of the parties involved.[190] Appropriate penalties for bad faith could be reduced access to the community, chastisement by the elders, or, more legitimately, entry of a default judgment for the other party. This would result in a single focus on reaching an appropriate conciliation between the parties without ulterior motives distorting the process.

Sixth, Indians need to be better informed about the LA system and resolution possibilities. Uninformed parties do not understand how mediation operates and its advantages and disadvantages when deciding whether or not to use mediation.[191] As a result, parties often do not achieve appropriate resolutions to their disputes.[192] Instead, they agree to any offer believing it is

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187. *See supra* Part II.A (describing the problems with the LAs).

188. *See supra* notes 100–03, 105–06, 113–19, and accompanying text (describing examples of dissatisfaction with LAs and adverse impacts on participants because of problems in the system).

189. *See supra* notes 98–103 and accompanying text (noting people's concerns with the LA system).

190. *See supra* notes 100–19 and accompanying text (noting the ineffectiveness of lawyers and judges in the LAs).

191. *See supra* notes 124–28 and accompanying text (describing the power of information in disputants' ability to make informed decisions).

192. *See supra* notes 100–19 and accompanying text (noting poor outcomes for disputants in LAs and inefficiencies and obstacles in the system).

their only choice.[193] Parties that are represented or unrepresented must also be provided with knowledge during the mediation process in order to make informed decisions regarding negotiations and the outcome. Since attorneys should not be required in LAs, the judges and legal aid systems must be involved.

Ultimately, the LA system should look much different than it currently does.[194] LAs should be held on a consistent basis. LAs should use the Internet and cellular technology to inform people of when they will be held, to facilitate payment of settlements, and for other necessary communications.[195] A judge, a social worker, and local community member should sit on the panel.[196] During the decision-making process, the local community member would be able to provide the panel with information on local customs, and background on the parties and the dispute.[197] The social worker would be able to provide information on emotional and societal issues that are part of the dispute and make recommendations that would benefit both parties.[198] Finally, the judge's training would ensure that the protections of the Constitution are extended even at the local level.[199] All parties would work together to come up with a socially desirable solution, in which everyone would have contributed and all important evidence would be considered.[200]

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193. *See supra* notes 107–16 and accompanying text (noting the lack of power participants in the LAs have).

194. *Compare supra* notes 100–19 and accompanying text (noting the problems with the LA system), *with supra* note 98 and accompanying text (noting how the lack of resources prevents LAs from being held more often and in accordance with demand).

195. *See supra* note 98 and accompanying text (describing the lack of resources in the LA system).

196. *See supra* notes 100–12 and accompanying text (noting the discordant relationship between judges and lawyers in the LA system currently), *see also supra* notes 154–61 and accompanying text (noting how cultural sensitivity is instrumental in fostering conciliation).

197. *See supra* notes 16–23 and accompanying text (describing the prior successes of the NPs); *see also supra* notes 25–40 and accompanying text (discussing the importance of cultural recognition and understanding on the part of judges in the LA process).

198. *See supra* notes 124–28 and accompanying text (describing how important relevant information is to issue a proper ruling).

199. *See supra* note 127 (describing the lack of constitutional protection in rural areas).

200. *See supra* note 15 and accompanying text (describing the desire for conciliation and settlement in rural India).

CONCLUSION

The LA system has the opportunity to live up to the goals of providing the public with an effective and informal dispute resolution mechanism as it had originally set out to accomplish. It can simultaneously relieve the burdens of the formal legal system and bring informal legal remedies to those that do not believe strongly in the justice system. To achieve these objectives, LAs should take lessons from ADR experiments abroad, along with lessons from Indian experiments, and adapt them to the culture and traditions of the rural Indian population.