



AGRA COLLEGE - AGRA

(Affiliated- Dr. Bhimrao Ambedkar University, Agra)

(FACULTY OF LAW)

Session: 2024-2025

PUBLIC INTEREST LITIGATION

&

LEGAL AID, PARA-LEGAL SERVICES

SUBMITTED BY-

[REDACTED]



B.A.LLB - III

ROLL NO. - 2300 [REDACTED]



INDEX

TOPIC	Page No.
→ <u>PUBLIC INTEREST LITIGATION</u>	
(a) Introduction	1-2
(b) Genesis and Evolution of PIL in India.	3-5
(c) Objectives of PIL.	6
(d) Who can file PIL and Against whom?	7-8
(e) Procedure to file PIL.	9
(f) Significance of PIL	10
(g) PIL as instrument of social change.	11
(h) Certain Weaknesses of PIL.	12-13
(i) Conclusion	14
(j) Work shop on PIL	15
→ <u>Legal AID</u>	
(a) Introduction	16-19
(b) Eligibility	20-22
(c) Application Procedure	23-26
(d) Constitutional Provision related to LA.	26-A
→ <u>LOK ADALAT & PARA LEGAL SERVICES</u>	
(a) Lok Adalat	27
(b) Types of Lok Adalat	28-29
(c) Process of Lok Adalat	30
(d) Benefits of Lok Adalat	31
(e) Challenges of Lok Adalat	32-34
(f) Para-Legal Services	35-36
(g) Bibliography	37

INTRODUCTION

The expression 'Public Interest Litigation' has been borrowed from American jurisprudence, where it was designed to provide legal representation to previously unrepresented groups like the poor, the racial minorities, unorganised consumers, citizens, who were passionate about the environmental issues, etc.'

Public Interest Litigation (PIL) :-

It means litigation filed in a court of law, for the protection of 'Public Interest', such as pollution, Terrorism, Road Safety, constructional hazards, etc.

Any matter where the interest of public at large is affected can be redressed by filing a public interest litigation in a court of law.

Public interest litigation is not defined in any statute or in any act.

It has been interpreted by judges to consider the intent of public at large.

Public Interest litigation is the power given to the public by courts through judicial activism.

However, the person filing the petition must prove to the satisfaction of the court of law that the petition is being filed for public interest and not just as a frivolous litigation by a busy body.

Some of the matters which are entertained under PIL are:-

- Bonded Labour matters
- Neglected children.
- Non-payment of minimum wages to workers and exploitation of casual workers.
- Food adulteration.
- Maintenance of heritage and culture
- Environmental pollution and disturbance of ecological balance.

Genesis and Evolution of PIL in India:- Some Landmark Judgements.

- The seeds of concept of PIL were initially sown in India by Justice Krishna Iyer, in 1976 in *Mumbai Kamgar Sabha v. Abdul Thai*.

- The first reported case of PIL was *Hussainara Khatun v. State of Bihar (1979)* that was focused on the inhuman conditions of prisons and under trial prisoners that led to the release of more than 40,000 under trial prisoners.

→ Right to speedy justice emerged as basic fundamental right - which had been denied to these prisoners. The same set pattern was adopted in subsequent cases.

- A new era of PIL movement was heralded by Justice P.N. Bhagwati in the case of *S.P. Gupta v. Union of India*.

→ It was held that "any member of public or social action group acting bonafide, can invoke the writ Jurisdiction of High court (under article 226) or the Supreme court (under article 32) seeking redressal against violation of legal or constitutional right of person like to

social or economic or any other disability can't approach the court.

→ By this judgement PIL became a potent weapon for the enforcement of 'public duties' where executive action or inaction resulted in public injury and as a result any citizen of India or any consumer group or social action groups now approach the apex court of country seeking legal remedies in all cases where the interest of general public or a section of public are at stake.

→ Justice Bhagwati did a lot to ensure that the concept of PIL's was clearly uninitiated. He did not insist on the observance of procedural technicalities and even treated ordinary letters from public-minded individuals as writ-petitions.

- The Supreme court on *Indian Bank Association, Bombay & Ors. v/s M/s Devkala Consultancy Service and Ors* held -

"In an appropriate case, where the petitioner might have moved a court in her private interest and for redressal of the personal grievances, the court in furtherance of public interest may treat it a necessity to enquire into the state of affairs of the subject of litigation in the interest of justice."

Thus, a private interest case can also be treated as public interest case.

- *M.C. Mehta v. Union of India* :-

In a public interest litigation brought against Ganga river water pollution so as to prevent any further pollution of Ganga water. Supreme Court held that "petitioner although not a riparian owner is entitled to move the court for the enforcement of statutory provisions, as he is the person interested in protecting lives of the people who make use of Ganga water."

Objectives of P.T.L.

- Restoring confidence in the law and the justice delivery system.
- Redress and compensation for victims and survivors.
- Monitoring human rights violations (the victims, the violation and the offender)
- Fighting lawlessness.
- Strengthening the constitution.
- Introducing personal accountability to state actors like policeman, war.
- Introducing institutional and collective accountability to police, army, state organs and ministers.
- Pursuing human rights violators or representative state organs to justice.

Who can file PIL and Against Whom?

Any citizen can file a public case by filing a petition -

- under Art 32 of Indian Constitution in the Supreme Court.
- under Art 226 of Indian Constitution in the High Court.

However, the court must be satisfied that the petition fulfils some basic needs for PIL as the letter is addressed by the aggrieved person, public spirited individual for enforcement of legal or constitutional rights to any person who are not able to approach the court for redress.

PIL can be filed only against a state/ central govt., Municipal authority and not any private party.

However, Private party can be included in PIL as Responent, after making concerned state authority, a party.

Can a letter explaining facts to Chief Justice be treated as P.T.L.?

In early 90's there have been instances where judges have treated a postcard containing facts as P.T.L.

Since, many people have tried to misuse the privilege of PIL, the court has required a detailed narration of facts and complaint and then decide whether to issue notice and call the opposite party.

What are various relief available by P.T.L.?

There are many kind of remedies which can be given in a PIL, to secure the public interest at large; they are:-

The court may appoint any early interim measures to protect the public interest.

The court may appoint a committee, or commission to look into the matter and the court may be also give final orders by way of direction to comply within a stipulated time.

Procedure to file PIL

A PIL is filed in same manner as writ petition is filed.

In High Court -

If PIL is filed in HC, then two copies of the petition have to be filed. Also, an advance copy of petition has to be served on each respondent, and this proof of service has to be affixed on the petition.

In Supreme Court -

If PIL is filed in SC, then five sets of petition has to be filed opposite party is served, the copy only when notice is issued.

Court fees -

A court fee of Rs. 50 per respondent has to be affixed on the petition.

Significance of PIL

- The aim of PIL is to give to the common people access to the courts to obtain legal redress.
- PIL is an important instrument of social change and for maintaining the rule of law and accelerating the balance b/w law and justice.
- The original purpose of PIL's have been to make justice accessible to the poor and the unorganised.
- It democratizes the access of justice to all. Any citizen or organization who is capable can file petition on behalf of those who can't or don't have the means to do so.
- It helps in judicial monitoring of state institutions like prison, asylums, protective homes, etc.

PIL as an Instrument of Social Change

PIL is working as an important instrument of social change. It is working for the welfare of every section of society. The innovation of this legitimate instrument proved beneficial for the developing country like India.

PIL has been used as strategy to combat the atrocities prevailing in society.

It is an institutional initiative towards the welfare of the needy class of the society. In *Bandhu Mukti Morcha v. Union of India*, court banned smoking in public places.

In *Vishaka v. State of Rajasthan*, Supreme court has laid down exhaustive guide-lines for preventing sexual harassment guide line of working women in place of their work.

In *Delhi Domestic Working Women's Forum v. Union of India (1995)*, supreme court issued guide-lines for rehabilitation and compensation for the rape on working women.

Certain Weaknesses of PIL

- PIL actions may sometimes give rise to the problem of competing rights. For instances, when court order the closure of a polluting industry, the interest of the workmen and their families who are deprived of their livelihood may not be taken into account by the court.
- It could led to overburdening of courts with frivolous PIL's by parties with vested interests. PIL's today had been appropriated for corporate, political and personal gains. Today, the PIL's are no more limited to problems of poor and the oppressed.
- PIL matters concerning the exploited and disadvantaged groups are pending for many years. Inordinate delays in the disposal of PIL cases may render many leading judgements merely of academic value.

P.I.L. Results Study

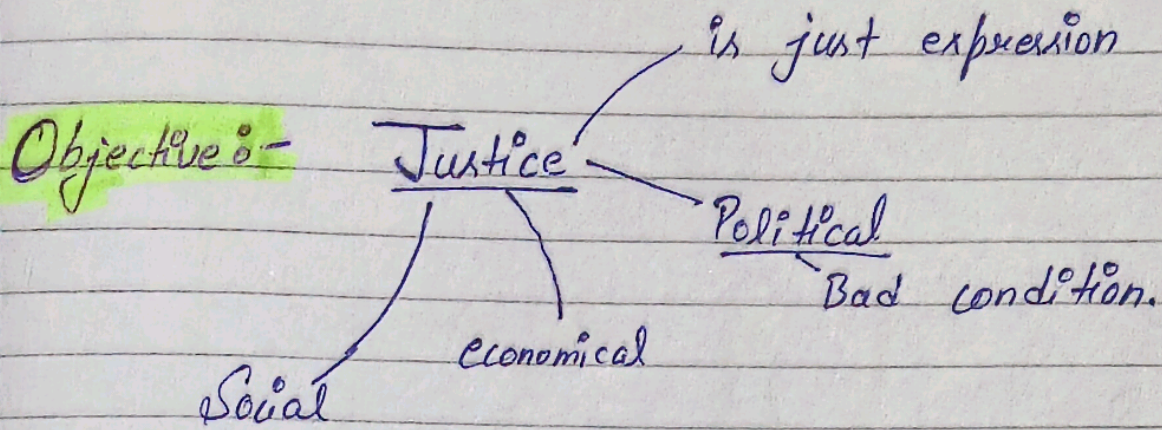
According to controversial study by social scientist Hans Dembowiski, PIL has been successful in making official authorities accountable to NGOs. While Dembowiski also found, some effort at the grassroots level, PIL cases dealing with major environmental grievances in the Kolkata Urban agglomeration did not tackle underlying problems (such as inadequate town planning).

Dembowiski's book 'Talking the state to court' - Public Interest Litigation and the Public Sphere in Metropolitan India was originally published by Oxford University Press in 2001. The publication however, discontinued distribution because of contempt of court proceedings initiated by the Calcutta High Court. The author (who claimed he was never officially notified by the court) has republished the book online with German NGO Asia House.

Conclusion :-

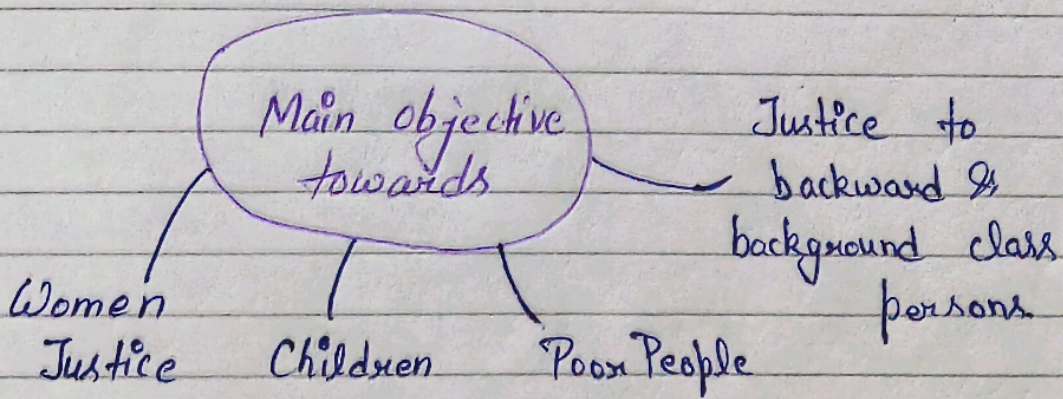
- PIL has produced astonishing results which were unthinkable three decades ago. Degraded bonded labourers, tortured under trials and women prisoners, humiliated inmates of protective women's house, blinded prisoners, exploited children, beggars and many others have been given relief through judicial intervention.
- The greatest contribution of PIL has been to enhance the accountability of the government towards the human rights of poor.
- However, the judiciary should be cautious enough in the applications of PIL's to avoid Judicial overreach that are violative of the principle of separation of power.
- The frivolous PIL's with vested interests must be discouraged to keep its workload manageable.

Work-Shop on Public Interest Litigation



- It is introduced by Justice Krishna Iyer.
- Justice P.N. Bhagwati has been called father of Public Interest Litigation.

2003 :- P.I.L.



Penalty [Extra-ordinary PIL] :- To determine misuse of judicial process and protect against abuse.

//
LEGAL

AID //

INTRODUCTION

What are legal services?

Legal Services includes providing free legal aid to those weaker sections of the society who fall within the preview of section 12 of the legal Services Authority Act, 1987. It also entails creating legal awareness by spreading legal literacy through legal awareness camps, print media, digital media and organising Lok adalats for the amicable settlement of disputes which are either pending or which are yet to be filed by way of compromise.

NALSA also undertakes necessary steps by way of social action litigation with regards to any matter of special concern to the weaker sections of the society.

Legal services also encompasses facilitating the beneficiaries to get their entitlements under various government schemes, policies and legislations.

What is included in free legal services/aid provided by legal services authorities? / what is nature of free legal services?

Free legal aid is the provision of free legal services in civil and criminal matters for those poor and marginalized people who can't afford the services of a lawyer for the conduct of a case or a legal proceeding in any court, Tribunal or Authority.

These services are governed by legal services authorities Act, 1987 and headed by the National legal services Authority (NALSA)

Provisions of free legal aid may include -

- (a) Representation by an Advocate in legal proceedings.
- (b) Payment of process fees, expenses of witnesses and all other charges payable or incurred in connection with any legal proceedings in appropriate cases.
- (c) Preparation of pleadings, memo of appeal, paper book including printing and translation of documents in legal proceedings.

(d) Drafting of legal documents, special leave petition, etc.

(e) Supply of certified copies of Judgements, orders, notes of evidence and other documents in legal proceedings.

A/c Sec 2(c) of Legal Services Act, 1987, "Legal services" include any service in the conduct of any case or other legal proceedings before any court to other authority or tribunal and the giving of advise on any legal matter.

→ Is free legal Aid confined to the cases before the subordinate courts?

No, free legal aid is not confined to the cases before the subordinate courts.

Legal aid is provided to the needy from the lowest court to the Supreme court of India.

Legal aid Counsel represent such needy persons before the lower courts, High Courts and also before the supreme court of India.

⇒ What kind of cases can I apply free legal aid for?

A/c Section 13(1) of Act, any individual who satisfies any criteria under section 12 is entitled to receive legal services, provided that the concerned legal services provide is satisfied that such person has genuine case to prosecute or defend the matter.

There is no bar as to which kind of cases one can apply and not apply for.

⇒ Can I get free legal aid lawyer at any stage of case? Can I get free legal aid at the time of appeal even though I had my personal lawyer before the appellate stage?

Yes, you can apply to get free legal aid at any stage of case as long as you are eligible to attain free legal services as per section 12 of the act.

ELIGIBILITY

→ Who are entitled to free legal services?

The sections of society are enlisted under section 12 of the Legal Services Authorities Act are entitled for free legal services. They are -

(a) A member of a Scheduled Caste or Scheduled Tribe.

(b) A victim of trafficking in human beings or beggar as referred to in the Article 23 of the Constitution.

(c) A women or a child,

(d) A mentally ill or otherwise disabled person

(e) A person under circumstances of underserved want such as being a victim of a mass disaster, ethnic violence, caste atrocity, flood, drought, earthquake or industrial disaster; or

(f) An industrial workmen; or

(g) In custody, including custody of protective home within the meaning of clause (g) of section 2 of the Immoral Traffic (Prevention) Act, 1956; or in a juvenile home within the meaning of clause (j) of section (2) of the Juvenile Justice Act 1986, or a psychiatric hospital or psychiatric nursing home within the meaning of a clause (g) of section 2 of the Mental Health Act, 1987; or

(h) A person in receipt of annual income less than an amount mentioned in the following schedule, if the case is before a court other than the Supreme court, and less than Rs. 5 lakh, if the case is before the Supreme court.

Is women irrespective of her income / financial status eligible for free legal aid?

Yes, a women is entitled for legal aid irrespective of her income / financial status

Till what age can a child apply for free legal aid?

A child is eligible for free legal aid till the age of majority - i.e. 18 years.

Are senior citizen eligible for free legal aid?

Senior citizen eligibility for free legal aid depends on the Rules framed by the respective State Governments in this regard.

APPLICATION PROCEDURE

Where should I approach in order to seek free legal services/aid?

Depending upon the territorial and subject matter jurisdiction of the case, an individual should approach the following appropriate authority:-

(a) Taluk legal services committee which is in the premises of the court in that taluk; or

(b) District legal services Authority which is in the premises of District court in the district headquarters; or

(c) The concerned state legal services Authority (for particular cases, panels of which are maintained at state level).

(d) The High court legal services committee which is in the premises of the concerned High court; or

(e) The Supreme Court legal services Committee for cases before the Honorable Supreme Court.

Each district legal services authority, High court legal services committee and state level services authority has a front office where an application can be placed

One can even access and apply on the online portal of NALSA (<https://nalsa.gov.in/>) or the website of the state Legal Services Authorities.

Do I have to pay any charges/fees for acquiring and submitting an application form for legal aid?

No, there is absolutely no charge for getting an application form for free legal aid. You are not required to spend any money for both getting and submission of the application.

For obtaining legal advise you can call or visit the office of the concerned legal services authority.

➤ Is there any other information that I need to furnish along with my application?

You have to submit the completed application form to the authority along with full documentation which includes identity proofs, requisite certificates / affidavit as proof by belonging to a particular category for being entitled for free legal services.

For application through online procedure details regarding all the relevant documents required are provided in the website.

➤ Do I have to incur expenses at any stage?

No, expenses like process fees, Drafting fees, typing fees, clerkage, as well as fees of panel lawyers (during or after the case is completed) are borne by the legal service institutions.

There is absolutely no charges at any stage of case. you are not required to spend any money.

What is procedure if I am unhappy with the conduct of lawyer assigned to me by a legal services authority? Can I complain against him/her? Can he be replaced?

You can make a formal complaint (to the authority that assigned you the lawyer) by:-

(a) writing a simple paper application and submitting the same to legal services authority.

(b) writing an email to the "Grievance appropriate authority or NALSA (at nalsa-dal@nic.in);

(c) Accessing the "Grievance Redressal" option on NALSA website (<https://nalsa.gov.in/>) or the respective website of the authority that assigned the lawyer.

• However, you must ensure that your complaint describes the problem that you are facing with your lawyer.

• The legal services Institution is at liberty to withdraw any case from a panel lawyer during any stage of the proceedings.

Constitutional Provisions Related to Legal Aid

Legal aid a constitutional right - Article 21 and 39-A of Constitution are as under -

Article 21 is a fundamental right conferred under Part III of Constitution. Whereas Article 31-A is an of directive principles of State Policy under Part IV of Constitution.

It has been held by the Constitutional Bench of Supreme Court in Chandra Bhawan Boarding and Lodging, the Bangalore V. State of Mysore, that -

"While rights conferred under Part-III are fundamental, directives given under part-IV are fundamental in governance of the country.

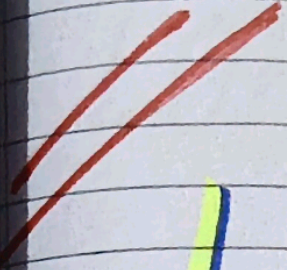
There is no conflict on the whole between the provisions contained in Part III and Part IV. They are complementary and supplementary to each other.

Article 21 (Part-III)

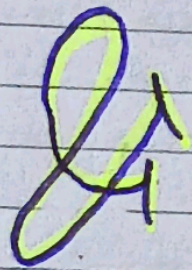
↳ Protection of life and Personal Liberty.

Article 31-A (Part-IV)

↳ Equal Justice and free legal aid.

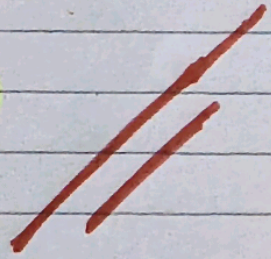


LOK ADALAT



PARA LEGAL

SERVICES



LOK - ADALAT

The idea of Lok Adalat came into practice legally in India in the Legal Service Authorities Act of 1987.

The statutory framework that attempted to make people justice at their doorstep envisaged justice, especially for such people who found it financially inaccessible to litigate through the ordinary process.

However, the roots of the Lok Adalat concept go back to ancient India, when village councils or 'panchayats' settled disputes in an extrajudicial way.

The same extrajudicial process of settling disputes effectively was revived in the contemporary legal system under the banner of Lok Adalats.

It aims to offer an easier, faster and voluntary option compared to conventional court procedures.

Types of Lok Adalat

There are various kinds of Lok Adalats depending on their jurisdiction and nature of cases:-

1) Permanent Lok Adalat (PLA)

- The order of a PLA is binding if no settlement is made, except in criminal cases.
- Handles public utility services like -
 - Transport services (railways, buses)
 - Postal and telegraph services
 - electricity, water, and sanitation
 - healthcare.

2) National Lok Adalat

- Organized at regular intervals throughout India on a single day.
- Organized at all levels (Supreme court, High Courts, District courts and Taluka Courts).
- Cases pertaining to civil disputes, motor accident claims, and cheque bounce cases (section 138 of NI Act) are resolved.

3) State Lok Adalat

- Arranged by State Legal Services Authorities (SLSA) at state levels.
- Disposes cases referred by lower courts and High Courts.

4) District Lok Adalat

- Organised at district levels by District Legal Services Authorities (DLSA).
- Majorly settles small civil cases, family cases, and pre-litigation cases.

5) Taluk (Tehsil) Lok Adalat.

- Organised at sub-district by Taluka Legal Service Committees.
- Tackle disputes at grass roots level, where rural areas access justice.

6) Mobile Lok Adalat

- It is wandering court that resolves disputes where there is limited availability of legal services.
- Frequently deals with land disputes, labour cases, and family cases.

7) Mega Lok Adalat

- Has target to settle a maximum number of cases on a single day.
- Generally emphasize pending and pre-litigation cases.
- Mass scale lok adalat across numerous courts within a state.

PROCESS OF LOK ADALAT

1- Referral to Lok Adalat :- The Lok Adalat receives cases from both judicial court referrals and parties choose to initiate their own Settlement Process.

2- Preliminary Hearing :- During the presentation, each party details their positions in an informal manner for the dispute.

3- Mediation and Negotiation. The Lok Adalat bench function as a mediator. A consensus b/w all parties becomes the central goal of negotiations at this phase.

4- Settlement Parties sign a written settlement together with both the bench members of Lok Adalat after reaching a mutual agreement during the hearing.

5- Non-Settlement The hearing reveals unsuccessful settlement attempts, thus, the case will return to court for additional activities.

Benefits of Lok Adalat

Lok Adalat provides many favourable advantages to help people obtain quick, affordable legal resolutions.

• Speedy Justice -
Cases are resolved quickly, often in single sitting.

• Cost Effective -
No court fee. If case is already in court, the fee is refunded.

• Simple procedure -
No formalities or technical legal process.

• Binding decision -
Award is final and enforceable like a civil court decree.

• Reduce Burden on Courts -
Helps clear pending cases from the regular courts.

• People - friendly -
Especially useful for poor or illiterate people who fear formal courts.

Challenges of Lok Adalat

Even though Lok Adalats achieve successful outcomes in many situations, a few ongoing challenges stand in the way of reaching their full potential.

- Only Mutual Cases Accepted -
If even one party disagrees, the case can't be resolved.

- No appeal -
The decision is final, no appeal even if one party is unsatisfied.

- Quality of Justice -
Focus is more on settlement than legal accuracy or fairness.

- Pressure to settle - Sometimes parties are pressured to compromise even if they don't want to.

- Lack of Awareness -
Many citizens don't even know this option exists.

- Limited jurisdiction -
Can't deal with serious criminal offences or complex civil cases.

Powers of Lok Adalat

• The Lok Adalat shall have the same powers as are vested in civil court under the code of civil procedure 1908 while trying a suit in respect of following matters namely -

(a) The summoning and enforcing the attendance of any witness and examining him on oath.

(b) The discovery and production of any document.

(c) The reception of evidence on affidavits.

(d) The requisitioning of any public record or document or copy of such record or document from any court of office and

(e) Such other matters as may be prescribed.

• Without prejudice to the generality of the powers contained in sub sec (1), every Lok Adalat shall have requisite powers to specify, its own procedure for the determination of any dispute coming before it.

All proceedings before the Lok Adalat shall be deemed to be judicial proceedings within the meaning of sec 193, 219, 228 of IPC, and every Lok-Adalat shall be deemed to be civil for the purpose of sec 195 of CPC.

Other forms of Lok Adalat

→ Village Courts -

These are units of self government they are like village Panchayats administration in a state subject.

→ Mediation Centres -

These mediating centres were started in year 1983 in Tamil Nadu legal aid and advice Board.

→ Centres for Women -

To give special status to women and their exclusive problems Tamil Nadu state gave thrust and expansion to women mediation centres.

They promote rights of women family matters get special attention of :-

- a) - Voluntary agencies.
- b) - Professionals.

PARALEGAL SERVICES

A paralegal is someone who works with the law. The word para means next to and law means related to. A paralegal is someone who works with lawyer but doesn't have law degree.

A paralegal is a legal profession who support lawyers in delivering legal services. They are not lawyers but have specialized knowledge of the law and legal procedures. Their main job is to help lawyers prepare for cases, manage documents and assist clients.

Paralegal make legal work more efficient and help lawyers focus on important tasks.

They help lawyers by doing work that needs legal knowledge, but they can't go to court with clients or give legal advice. By handling routine legal tasks paralegal help the legal process go more smoothly and quickly.

Pros of Working as a Paralegal

As a job, being a paralegal can be satisfying. Without having to attend law schools, paralegals enjoy working in legal field. They are able to work in different places and different kind of cases. They usually have stable jobs as more law firms and organisations need legal help, the need of paralegals keep going.

Cons of Working as a Paralegal

There are many good things about being a paralegal, but there are also some bad things. When due dates are approaching, paralegals frequently work under pressure. Its possible that they will have to deal with lot of paperwork and tricky legal issues. It can be stressful, but a lot of paralegals like the challenge and think the work is worth it.

Another problem is that paralegal's don't have a lot of power. For some people, this can be frustrating because they can't protect/represent clients in court or give legal advice. A lawyer must always be in charge of them while they work.

BIBLIOGRAPHY

Basic Acts/Books:-

- Constitution of India, 1949.
- Legal Services Authority Act, 1987
- Arbitration, Conciliation and Act, 1996
- OUP India, Alternative Dispute Resolution.

Websites:-

- <https://thelegalschool.in/>
- <https://nalsa.gov.in/>
- <https://lawmonitor.in/>
- <https://drishitias.com/>
- <https://advocatekhaj.com/>

and with help of our teachers, of the faculty.