

An International Journal Since 2000

Sajosps

South Asian Journal of Socio-Political Studies

VOL. XIX NO. 2 JANUARY-JUNE 2019



THIS JOURNAL IS BEING
CATALOGUED, INDEXED
AND ABSTRACTED BY



Social Sciences | Management | Tourism | Biotechnology | IT



ISSN 0972-4613
ISSN 0000-0094
04613
9 770000 009723



Editorial Office: 'Jayam', 399-A, Vaidyasala Nagar, Asramom (Post), Kollam, Kerala, India. Pin- 691 002
Phone: +91-474-2765171 (O), +91 8281032062 / 9847432062 (Editor), +91 9447094790 (Exe. Editor). Helpline: +91 9447094790
E-mail: mrbijueditor@yahoo.com, Web: www.sajospsglobal.com



Delivering Justice at the Grassroots: The Case of Gram Nyayalayas in India

Dr. M.R. Biju, Dean, School of Social Sciences and Head, Dept. of Public Administration and Policy Studies, Central University of Kerala, Kasargod.
and M.R.B. Anantha Padmanabha, Deputy Editor, South Asian Journal of Socio-Political Studies (SAJOSPS)

The preamble of the Gram Nyayalaya Act envisages access to justice to the citizens at their doorsteps with the assurance that opportunities for securing justice are not devised to any citizen by reason of any disability whatsoever. Hence, the success of these institutions should not only be measured by the number of courts in the whole nation but in terms of the extent and depth of reaching out to deprived sections and its role in the overall reduction in the number of pending cases. Over 72 years after independence, the search for acceptable and accessible legal institution for those living in rural India is still a far away dream. However, whatever things which are available at our hands should be used and utilized with a new professional legal touch, which may give a new light to the Indian Judicial System in the days to come.

Introduction

Justice and Equality are two key concepts which constitute the foundation of any civilized society and polity. Both these principles are realised by the State apparatus through the business of administration of justice.

Article 39A of the Indian Constitution, mandates justice for all on the basis of equal opportunity. Over the years successive Governments have tried in their own ways to strengthen the judicial system. As a result, procedural laws have been simplified, Lok Adalats and Fast Track Courts were introduced at the national and state level. Similarly an alternative dispute resolution mechanisms such as arbitration, conciliation and mediation have been incorporated into the legal system. However, despite these initiatives, a large percentage of population, mostly of the rural and the disadvantaged sections, has been excluded from the ambit of justice delivery.

In order to dispense justice in the rural and the remotest of areas in the country, the Gram Nyayalaya Act was enacted in 2008. The Act was designed to bring speedy, affordable and substantial justice for these citizens who are denied access to

justice in the formal system (This Act has added the lowest tier of courts of subordinate judiciary in addition to the regular civil and criminal courts). One of the objectives was also to reduce pendency in courts and to improve India's dismal judge to population ratio. In this write up we will try to make sense of the Act, its principal features and provisions, some of which had also been recommended by the Law Commission (114th Report, 1986), and suggest steps to plug in the leakages/loopholes in the Gram Nyayalaya setup.

The Preamble to the Gram Nyayalaya Act envisages access to justice to the citizens at their doorstep with the assurance that opportunities for securing justice are not denied to any citizen by reason of any disability whatsoever. Hence, the success of these institutions should not only be measured by the number of courts established in different states, but also in terms of reaching out to deprived sections of the society and its role in the overall reduction in the pendency of cases. However, as described in the earlier section, data analysed for Gram Nyayalayas in MP and Rajasthan indicate a not so positive outcome in re-

spect of the latter.

When we begin to analyse the reasons for this failure, we see that there are a number of fault-lines in the functioning of these institutions in these two states. These range from procedural aspects such as ambiguity about its jurisdiction, absence of alternative methods of dispute resolution like conciliation or plea, etc, to substantive issues like part-time nature of Gram Nyayalayas, absence of a separate cadre of Gram Nyayadhikari, inadequate infrastructure and security, lack of seriousness and lukewarm response of the Public Prosecutors and lawyers, reluctance of police officials and other State functionaries to invoke the jurisdiction of Gram Nyayalayas, etc.

Also, the state wise responses detailed above, reveal that many of the states have been procrastinating, citing reasons such as absence of sufficient work for Gram Nyayalayas and some even expressing their apprehensions about increased work load in the District and Session Courts. Most of the states have expressed their dissatisfaction at the inadequate amount of funds and land allocation for the establishment of Gram Nyayalayas. Other issues include the non-availability of notaries and stamp vendors and problem of concurrent jurisdiction of regular courts. Further, majority of States have now set up regular courts at Taluk level, thus reducing the demand for Gram Nyayalayas.

Interestingly, a recurring question during various discussions prior to the passing of the Act was that whether speedy disposal meant speedy and effective justice for the poorer litigant. An emphasis on speedy disposal alone raised concerns about the objective of these institutions- whether to manage the arrears of the cases or to en-