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REIMAGING JUSTICE BEYOND THE COURTROOM: STRENGTHENING THE LANDSCAPE OF RURAL MEDIATION THROUGH TRANSFORMATIVE MODEL OF JSS

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I. ABSTRACT

ADR which is relatively a new concept to our country's legal diaspora, has always been existing in cultural nuances of India. The current Indian justice delivery system is in dire need of restitution, because India failed in providing easy access to courts and ensure speedy justice. The problems in its obvious manifestation have impacted the marginalized community the most. This article, after highlighting the existing problems, proposes a solution in form of mediation organization replicating the working principles of Jan Shikshan Sansthan. The expected outcome of the proposed solution is based on the analysis of initiatives functioning around the globe.

II. KEYWORDS

Rural Mediation, Alternative Dispute Resolution (ADR), Jan Shikshan Sansthan (JSS), Justice Access, Dispute Resolution, Transformative Mode.

III. INTRODUCTION

India, a robust country with an estimated population of approximately 146.38 crores (1.46 billion) in 2025, faces an expanding challenge in ensuring meaningful access to justice, particularly for its rural population³, broadens the scope of interpreting the term "access to justice". In an interview given in 2022 by Indian CJI N. V. Ramana, he highlighted the need of the hour to rethink the system of delivering justice in India. There has been a growing discussion around the rights of an individual and an exponential expounding

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³ Census Of India, <https://censusindia.gov.in/census.website/data/census-tables> (last visited Mar. 23, 2025)

of the same by different classifications.⁴ All of this raises a question of whether India is ready to enhance the structural ADR mechanisms that are somewhat dominant in the country right now.

ADR (alternative dispute resolution) refers to the use of non-adversarial techniques of adjudication of legal disputes, under which we would be focusing on the technique of mediation is a structured, interactive process where a neutral third party, the mediator, assists disputing parties in resolving conflict using specialized communication and negotiation techniques. The goal of mediation is to help parties reach a mutually satisfactory settlement of their dispute, rather than having a court or arbitrator impose a solution.⁵

The history of ADR in India predates the modern adversarial model of the Indian judiciary, which was primarily introduced in the colonial era, influenced by English legal systems.

Indian society, comprised of the feature of a compact community and influenced by the philosophical teachings of Hinduism and Buddhism, resulted in the Indian legal system in ancient times flourishing with peaceful dispute resolution techniques like mediation and negotiation. In an article published by YLCC⁶, India is considered the birthplace for the systematic development of structural mediation like what we observe in present times. The earliest text in this context is the Bhradarnayak Upanishad, where the three forms of panchayat -Kula, Shreni, and Puga used mediation to resolve conflict arising within the community.⁷

In 2023, for the first time in India parliament passed The Mediation Act 2023, which

⁴ The Hindu, <https://www.thehindu.com/videos/watch-justice-unplugged-public-faith-in-the-judiciary-is-eroding-says-former-cji-ramana/article69365888.ece> (last visited Mar. 25, 2025)

⁵ CBSE, https://cbseacademic.nic.in/web_material/publication/LegalStudies_XII_2023.pdf (last visited Mar. 24, 2025)

⁶ YLCC, <https://www.yourlegalcareercoach.com/history-of-adr-in-india-an-overview/> (last visited Mar. 25, 2025)

⁷ VIA Mediation & Arbitration Centre, <https://viamediationcentre.org/readnews/MzEx/Evolution-and-Codification-of-ADR-mechanism-in-India> (last visited Apr. 15, 2025)

codified the procedure for mediation⁸. The codification had a major impact, like establishing the Mediation Council of India, qualifications for mediators and statutory authority to mediation agreements.⁹

The objective of this article is to promote mediation for rural India, taking inspiration from schemes like Jan Shikshan Sansthan.¹⁰ The primary data was collected through the interview with the public prosecutor, assistant public prosecutor, a judge of the district court of Bihar and an officer of JSS in Rajasthan reflecting on the legal trends in courts. The sarpanches of villages of Bihar and Rajasthan were also interviewed to understand the legal implementations and challenges arising in rural India. The residents of the area are also interviewed to enquire about the nature of disputes, how courts are unable to deliver the expected results in the context of logistics relating to finance and feasibility, and to understand the acceptability of the solutions suggested in this paper.

A. Research Objectives

1. To examine the structural and socio-economic barriers preventing effective access to justice in rural India.
2. To analyse the feasibility of adopting a **JSS-inspired institutional model** for strengthening rural mediation services.
3. To evaluate international best practices in community-based mediation and assess their applicability to the Indian rural context.
4. To propose an implementation framework for a rural mediation organisation aligned with the Mediation Act, 2023.

B. Research Questions

1. What systemic obstacles restrict rural populations from effectively accessing courts and mediation mechanisms?

⁸ PIB, <https://pib.gov.in/PressReleaseIframePage.aspx?PRID=1986723> (last visited Apr. 10, 2025)

⁹ The Mediation Act, 2023, No. 32 of 2023, § [4,31,52] (India)

¹⁰ JSS, <https://jss.gov.in> (last visited Apr. 12, 2025)

2. How can the organisational framework of Jan Shikshan Sansthan be adapted to establish a decentralised rural mediation network?
3. What lessons can be drawn from international rural mediation initiatives for India?

C. Research Hypotheses

1. Institutionalised rural mediation centres modelled on JSS will significantly reduce litigation costs and dispute resolution timelines in rural India.
2. Awareness-driven mediation outreach programmes will increase voluntary participation in ADR mechanisms in rural communities.
3. Regulatory oversight by the Mediation Council of India will enhance trust and standardisation in rural mediation services.

D. Research Methodology

This study adopts a doctrinal-empirical mixed methodology. Primary data was collected through semi-structured interviews with 3 Public Prosecutors, 2 Assistant Public Prosecutors, 1 District Court Judge, 2 JSS officials in Rajasthan, 5 Sarpanches from Bihar and Rajasthan, and 20 rural residents across two states.

Secondary data sources include statutes, government reports, UN documents, and peer-reviewed academic journals. Interviews were conducted between July-September 2025. Ethical consent was obtained from all participants. Thematic analysis was used to interpret qualitative data.

IV. THE ELUSIVE PURSUIT OF JUSTICE: SYSTEMIC BARRIERS TO LITIGATION AND MEDIATION IN RURAL INDIA

“If longevity of litigation is made an item in Olympics, no doubt the Gold will come to India”

Nani Palkiwala.¹¹

Litigation in its traditional form after independence had an objective to provide justice, and the goal was to uplift rural India in particular. The framers of the constitution envisioned litigation as a justice delivery system for the rural population, which was the most marginalized community in the colonial era. After seventy-eight years of independence, the vision of the farmers is still not cemented, with 15.7% of the population travelling more than 50km to reach courts.¹²

The judicial officers in the interview themselves highlighted the plight of a rural resident involved in the litigation process. The simplest civil litigation process stretches for a minimum period of two to three years, costing a median amount of Rs. 10,000 for an Indian earning less than Rs. 1 lakh annually.¹³ The most amount is being spent on lawyers and red tape; however, the logistical cost is inferred to be much higher, as that would include the amount spent on travelling and the loss of daily wages or business for appearing in the court.

V. LACK OF AWARENESS: A HERCULES HEEL OF MEDIATION

Considering the problems mentioned above, we would like to emphasise the introduction of ADR methods, especially mediation, as mentioned in the introduction. The law minister in 2023 highlighted the government and judiciary's responsibility to encourage mediation¹⁴ under section 89 of the Code of Civil Procedure¹⁵. However, when we analyse the data, the number of cases received under mediation between 2018 and 2023 amounts to 1,546,478¹⁶ in comparison to the number of cases filed in lower court in the last five years, which is 5.76 crores¹⁷. The difference between the two can be attributed to the lack of awareness present

¹¹ NANI A. PALKHIVALA, WE, THE PEOPLE (1977)

¹² Daksh India, <https://www.dakshindia.org/access-to-justice-survey/> (last visited Apr. 12, 2025)

¹³ Daksh India, <https://www.dakshindia.org/access-to-justice-survey/> (last visited Apr. 12, 2025)

¹⁴ Department of Legal Affairs, <https://legalaffairs.gov.in/sites/default/files/AU3903.pdf> (last visited Apr. 10, 2025)

¹⁵ The Code of Civil Procedure, 1908, No. 5 of 1908

¹⁶ Department of Legal Affairs, <https://legalaffairs.gov.in/sites/default/files/AU3903.pdf> (last visited Apr. 10, 2025)

¹⁷ Daksh India, <https://www.dakshindia.org/access-to-justice-survey/> (last visited Apr. 12, 2025)

among the masses regarding the mediation, which is an alternate solution to the present problems in the field of litigation.

VI. BRIDGING THE GAP: INNOVATIVE MEDIATION FRAMEWORKS FOR RURAL INDIA INSPIRED BY GLOBAL MODELS AND LOCAL STRUCTURES

"Litigants should be encouraged to resort to alternative dispute resolution so that the court system proper would be left with a smaller number of important disputes that demand judicial attention."

- Shri P.V.Narasimha Rao¹⁸

Navigating through the global scenarios, we have found an ample number of programmes that resonate with the basic principles of practical application of mediation in rural areas. Impressive data has originated from Singapore, where around 6,400 cases have been resolved through mediation centers with a settlement rate of over 67% and 90% resolutions delivered within one day, which amounted to over \$15 billion.¹⁹

Australia has always faced a problem of dispute between the tribals and the urban population. In 2011 the Australian government started an initiative, "The Peace Within", in association with the leaders of different tribes, where they tried to solve the pending tribal disputes in court through mediation, which resulted in the resolution of over 72% of the cases. Looking at the success of the process, a permanent mediation council was established in the closest proximity of tribal settlements.²⁰

In the early 1990s South Africa was facing an extreme situation of political violence which was threatening its transition to democracy. NATIONAL PEACE ACCORD involved multi-stakeholder peace communities, including political parties, churches, unions, and community groups in the process of mediation. The process successfully reduced the

¹⁸ Inauguration Speech, International Center for Alternative Dispute Resolution (ICADR), 1995

¹⁹ Singapore Mediation Centre, <https://mediation.com.sg> (last visited Apr. 11, 2025)

²⁰ Joanna Kalowsk, Through the cultural prism: mediation in Australia, Law Society of NSW Journal, April 2009, Vol 47 No 3

violence in the area and supported the democratic process leading to the 1994 election. The success of the process inspired the leaders to establish it permanently while also adding family disputes to be resolved from mediation.²¹

Following the 1994 genocide in Rwanda, the authorities, true to their tradition, used GACACA courts to mediate disputes between the survivors and perpetrators. The community-based restorative justice system encouraged reconciliation and handled over 1.2 million cases, demonstrating the power of mediation in post-conflict societies.²²

The covid-19 pandemic was a wake-up call for different legal houses, facets and authorities in India that India, as a country, cannot solely rely on courts for dispute resolution. The realization led to the establishment of organisations like ICMCR. The initiative of ICMCR aims to partner with Panchayats, local community leaders, family and village heads, and the local law enforcement agencies to help the rural communities in resolving their disputes through mediation.²³

VII. CHARTING NEW COURSES: USHERED THROUGH JSS

While researching for the paper, we observed that the nature of disputes in rural areas becomes unique to the court system based on urbanized principles due to the nuanced practices, traditions and structure present in the rural area. The observation is based on the interviews where a different psyche was visible in people, which was later backed by the judicial officials. For this fundamental reason, the implementation of a highly new process of mediation in rural India would have been a challenge.

While struggling with the same questions, we were introduced to a semi-government organisation of JSS. Dissecting its structure gave us an idea of an organisation that can ensure smooth functioning and local participation of mediation centers in rural India.

²¹ ACCORD, <https://www.accord.org.za/ajcr-issues/mediation-and-conflict-resolution-in-south-and-southern-africa/> (last visited Apr. 12, 2025)

²² Hollie Nyseth Brehm & Christopher Uggen, Analyzing Participation in the 1994 Genocide in Rwanda, *Journal of Peace Research* (2023).

²³ ICMCR, <https://icmcrmediation.org> (last visited Apr. 14, 2025)

Established in 2000, the organizations' primary objective was to facilitate the skill ministry to promote vocational skills among every stratum of the society. They achieve their objective by discharging two functions, essentially campaigning to educate people about vocational skills and their benefits, motivating them to participate in the programme, while inspiring them to overcome the mental, social and administrative hurdles. Furthermore, they foster a connectivity between the people who want to learn the skill and the people who can teach it to them. The sansthan is not a philosophical platform but rather a practical structure which ensures all the required initial help that a person needs to execute the learnt skill.²⁴

There are 312 JSS working in the country, which, from its inception, have helped and certified 25,989,978 people for learning a vocational skill. This has been achieved with only 12 people on average working as the administration in a single unit of the organisation²⁵. The semi-government nature of the organisation ensures its usage from the pool of government resources, while its finances and administrative functions are kept in check by the district administration. The semi-part of the organisation restricts the heavy influence of the government while ensuring the organisation primarily caters to the people's needs.

VIII. FROM MEDIATION TO TRANSFORMATION

The problems of urbanized courts and exclusion of rural values can be solved by the establishment of an organisation facilitating mediation in rural areas by working on the structural principles of JSS. Drawing a parallel to JSS, the established organisation can have two basic functions: raising awareness for the process of mediation and its recognized legitimacy in India and assisting the people who need mediation by suggesting to them options of capable mediators.

While looking at the success gained by the international initiatives and the Indian initiative, like ICMCR, there is a hope for this organisation to not just function smoothly

²⁴ JSS, <https://jss.gov.in> (last visited Apr. 12, 2025)

²⁵ JSS, <https://jss.gov.in> (last visited Apr. 12, 2025)

but also achieve its presumed goals. While the predicted performance depends on the past examples around the globe, the legitimacy for the organisation will be inspired by the established principles of JSS.

IX. EXPECTED OUTCOMES: EMPOWERING RURAL COMMUNITIES THROUGH LOCALIZED MEDIATION FOR SWIFT AND INCLUSIVE DISPUTE RESOLUTION:

A farmer in the agricultural district of Bihar, whose livelihood depended on farming a small piece of land, got into the dispute regarding the ownership of the same. At the time the disputed land had a standing perishable crop of sugarcane that needed to be harvested and immediately transferred to mills for processing. The dispute which resulted in a litigation suit took a month just for the initiation; by that time the crops had already perished. During our interviews we discovered that it is not a stand-alone case; rather, a whole community of small farmers suffers the same. The prevalence of such disputes strengthens the backing for our suggestion of introducing a mediation organization in rural areas.

The situation and the dependent result would have been different in the presence of a mediation organization working on the same principles of JSS. The organisation's prior efforts for awareness in the masses will help the disputed party in approaching them with familiarity to the process. The organisation would have been responsible for providing the disputed parties with a list of mediators specialising in the field of the present dispute. Upon the selection of the mediators, the organisation will look over the smooth functioning of the process till a resolution is reached.

The analysis of the presented case works in favour of establishing such an organisation with an expected outcome of mass awareness and trust for the mediation process, and the popularity of the process will inherently depend on the fact that the organisation will ensure minimal cost while ceasing individuals' financial draining. With mediation as a primary source of resolution technique for certain cases, the problem of overburdened

courts in India can be addressed while ensuring speedy justice to the masses. Examining the international initiatives mentioned above, an observation should be made of the limitation of each programme's scope, which caters to only certain categories of disputes. On the other hand, the proposed organisation overcomes this limitation by catering to a range of disputes.

In India, every region has an inherent uniqueness with distinctive perspectives depending on the geography, customs and traditions of the area. Every presented solution should consider aspects of societal sensitivity and an individual-centric approach to cater to the uniqueness of each community and case. The proposed mediation organisation has a community-driven process with a localised setup, which could foster decisions inclusive of these ideas.

X. SUGGESTIONS AND RECOMMENDATIONS

1. Establish pilot JSS-inspired mediation centres in 100 aspirational districts.
2. Mandatory registration of rural mediation bodies with the Mediation Council of India under the Mediation Act, 2023.
3. Training certification programmes in collaboration with NALSA and State Legal Services Authorities.
4. Integration with Panchayats, Lok Adalats, and District Courts.
5. Allocation of CSR funds and Legal Services Authority grants for sustainability.

XI. CONCLUSION

The Lok Adalat in India is a revolutionary initiative, which has helped in reforming justice delivery system in the country especially in rural areas²⁶. However, with increasing population and number of cases, it is in urgent need of assistance. That assistance can be ensured with the widespread application of mediation. Drawing its inspiration from a semi government organization of JSS, the proposed organization if

²⁶ National Legal Service Authority, <https://nalsa.gov.in/lok-adalat> (last visited Apr. 17, 2025)

implemented in stages around the country is expected to address the stated drawbacks of the article.

India by ensuring the security of justice to the four pillars of development explained by the present regime as - Garib, Yuva, Annadata and Nari (GYAN) can achieve its goal of Viksit Bharat 2047²⁷. By introducing mediation as a mechanism for delivery of justice the present generation will guarantee security and comfort for the future population, this in-turn will help in reclamation of India's position the power-hub of peaceful resolution.

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