

Round table on Gram Nyayalaya Act

The Round Table was attended by about eighty lawyers practicing in Rangareddy, Warangal and Nalgonda courts. Broadly speaking the discussion veered around the following issues:

The Gram Nyayalaya is the latest in the trend of reforms coming up in the structure of the judiciary. In the context of reduction of arrears Fast track Courts and Lok Adalats were introduced. Fast track Courts, entirely funded by the Central government, were instituted in the first phase from 2000 to 2005 and in the second phase from 2005-2010. These courts were set-up with the significant objective of reducing the pendency of criminal cases. Speedy disposal was the key term in their institution. Similarly Lok Adalats were instituted in order to provide for non-adversarial ways of resolving disputes. What began as temporary Lok Adalats in 1982 are now permanent institutions in very district court in Andhra Pradesh. It is noted that several matrimonial cases and motor accident claims are taken to these courts for resolution. In the same context one can also discuss the Family Courts which again espouse speedy disposal, sensitive approach and relaxation of strict rules of evidence and procedure. The character and features of the Gram Nyayalaya is a combination of these three courts. Speedy disposal, flexibility of procedure and mediation in contrast to the full trial emphasized in adversarial process are the key concepts animating judicial reforms in contemporary legal institutions.

Village litigation is a complex issue. For a foot of land there are instances where people have initiated cumbersome litigations. The proximity of these courts may lead to more litigation among family members or among neighbors too. What could be resolved with the help of local and customary mechanisms may end up being trapped in these courts. In a way these courts, with its judges and conciliators, will invalidate existing mechanisms of managing disputes in the villages. The new Act says that all suits irrespective of the value of property may be registered with just 100 rupees. While standardizing court fees is indeed enables access to the poorer litigant, it may also lead to excessive litigation. A rich farmer may find it cheaper to trap a poorer farmer into litigation about a boundary dispute .

The relaxation of rules of evidence is a troubling feature, especially the rule about admission of documents, even if they are not considered relevant by the Law of Evidence. It is well known that the parties to a dispute are drawn from unequal powers and resources. A more powerful man may be able to play the rules of the law much more to his advantage. His ability to introduce various documentary evidence to counter check the opponent is also well known. It is not that the strict relevancy of documents as stipulated by the Evidence Code has helped the poorer litigant. But at least there has been a standard regarding admission of documents in a trial. However in the Gram Nyayalaya Act this departure from the standard may work either way.

The flexibility about procedures and evidence also depends on the Judge presiding in these courts. The discretion which Judges exercise in the courts is something unique to each judge. Much depends upon how she would deploy these new aspects of procedure and evidence in the courts. It is common knowledge that some Judges are extremely rule bound while some are not. Some tend to use discretion quite freely which may also tend to become arbitrary. In whose defense and in whose cause will this discretion be used, remains a prickly issue.

All proceedings in criminal cases have been made into a summary one. Two important aspects of a summary trial are that charges are not framed and only the gist of evidence is recorded. It was felt that that making summary trial mandatory for all offences tried by the Gram Nyayalaya could be a serious limitation in view of the expanded jurisdiction of these courts. It was queried about what could be gained if full recording of the evidence is given up in favor of the summary recording. What constitutes the 'gist of evidence' is something that gets decided by the judge. Assessing the 'gist of evidence' clearly involves the decision and discretion of the judge. As it is there is plenty of discretion in how the Judge hears the witness and what he deems important to record. The recording of evidence is often a contested issue leading to many a confrontation between the Bar and the Bench.

Plea Bargaining and Conciliation: Some apprehension was expressed about the provision of these two aspects in criminal and civil cases. K Balagopal in his note about the Gram Nyayalaya Act commented that the provision of plea bargaining for all the offences triable in this court is harmful. He pointed that for cases filed by workers under the Minimum Wages Act or women under Domestic Violence Act, plea bargaining would wield lot of pressure on the victims to close the case, which may be detrimental to the interests of the victims. He opined that that law reformers are especially enamoured by provisions such as plea bargaining and conciliation which are shortcuts to the procedures of real justice.

On a more hopeful note, some of the lawyers expressed that the Gram Nyayalayas would be helpful for those people living in remote Mandals of a district. Bheemarjun Reddy, practicing lawyer from Nalgonda gave instances of how, sometimes the rural litigant travels long distances and even sleeps overnight in the court complex to attend her case the following day. He also contradicted the general opinion that such courts would invalidate the existing local mechanisms of solving disputes. He felt that much of the local dispute redressal has been made over into the hands of the goondas, party leaders and police stations. Despite being local and customary, these forums have become expensive and time consuming for the common man. More importantly he pointed out that the interventions of the local mechanisms were not firm enough in concluding the dispute. A similar opinion was also expressed by women from Mahila Samata Programme who welcomed a legal sanctity to the conclusion of disputes in women's cases.

On the proximity of the court to the cause of action and the litigant the following issues were raised. Apart from making it easier for the litigant to reach the court it was opined that the litigant will be able to mobilize her community and impact the procedure in the court. The presence of the litigant's community in the court provides the much required show of strength as well as enabling negotiations. A court which is at a closer distance allows the poorer litigant to mobilize her supporters. Here, it was also distinguished that not all petitions to the court are

individual claims alone. Some petitions to the court arise from an injury or a violation which affects a community as a whole. K Sajaya cited the example of Chundururu wherein the Special Court tried the batch of offences under the SC/ST Atrocities Act in the village where the massacre had taken place. The Special Court was instituted in response to the specific demand from the Dalit community of Chundururu that the court should adjudicate in their village. On the other hand it was also argued that the proximity of the court may allow for the more powerful litigants to influence the judge.

At the end of the Round Table which lasted for more than four hours, one could not arrive at a fixed assessment about how these new courts will function. There was a dominant reaction that these courts are being set-up with an ulterior motive of 'managing litigation' and that it had the single purpose of reducing the pendency of cases. Whether speedy disposal meant speedy justice for the poorer litigant was a recurring question. One was also not sure about what to draw from the other new courts such as fast track courts or the Lok Adalats. About family courts it was clearly the case that the provisions which promised a new definition of court for the issues of the family have not been functioning anywhere near its ideal. To do away with lawyers' representation or the flexibility of procedure always depended on the particular judge who presided in the court room.