



THE CONCEPT OF GRAMA NYAYALAYA (PART OF ALTERNATIVE DISPUTE RESOLUTION SYSTEM IN INDIA)

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Introduction

Justice delayed is justice denied. The pendency of cases showed how justice is delayed in India. The situation in subordinate court is particularly unfortunate. In India over 25 million cases were pending in district and subordinate courts at the end of 2006.¹ The Law Commission's 114th report submitted in 1986 focused on Gram Nyayalayas and cited the high backlog of cases an important factor leading to lack of access to justice. The government drafted a Bill in 2005 which was reviewed by the National Advisory Council (NAC). The Bill is based on the recommendations of the 114th Law Commission Report written in 1986. The pending caseload is over 1660 per judge in trial courts. Delayed justice incomprehensible procedure, high legal costs, are eroding confidence of ordinary citizens in our justice system and undermining rule of law. As a result many poor and innocent citizens are suffering injustice silently without recourse to formal mechanisms. In this background, creation of a mechanism to settle disputes and render justice with speed, efficiency, and economy has been engaging the attention of the government for quite some time.²

The village panchayats constitute very old and traditional/administrative institution in India. With the decline of Mughal Empire and advent of British power, this institution lost its prestige and importance. But, during the later part of the British period they made some effort to restore the condition of village panchayat with Village Court Acts of 1888. Which created panchayat courts for the administration of justice? The real effort, one can witness, was made only after independence, where a separate provision was made in Article 40 of the Constitution of India, which declares, "The State shall take steps to organize village panchayat and endow them with such power and authority as may be necessary to enable them to function as units of self-government."³

Gram Nyayalayas are mobile village courts in India established under Gram Nyayalayas Act, 2008 for speedy and easy access to justice system in the rural areas of India. They are aimed at providing inexpensive justice to people in rural areas at their doorsteps. The Act came into force on October 2, 2009 i.e. the birth anniversary of Mahatma Gandhi.⁴

Concept of Grama Nyayalaya

The Grama Nyayalaya is a Panchayat, which solves the dispute between two or more parties of the Village. Some elder person of the village sits together under big tree of the village, and proceeds with the suit or trial of the accused. In the Village, the minor disputes and criminal acts are settled by the intervention of some elderly wise man. The decision taken by such group of elder people has to be accepted by all. The traditional ways of punishment are still observed. Social boycott is still popular in the village and it has to be accepted.⁵

People have the Pradhan in awe in the village. He would settle the dispute in the village mostly by giving the right to conciliate and bringing about an arrangement. In olden time, very few disputes of the village reached the court of law. If somebody refused to listen to the Pradhan (Mukhiya or sarpanch) then only he would file a petition to

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1. Available at, PRE LEGISLATIVE RESEARCH, Legislative Brief The Grama Nyayalaya Bill, 2007
 2. Malik and Raval, Law and Social Transformation in India, Allahabad Law Agency, page no- 479
 3. Available at, <https://www.legalbites.in/gram-nyayalayas-act-nyaya-panchayat-lok-adalat-legal-aid-nyaya-panchayat/>, access on 17/8/2018, 1:17 pm
 4. Available at, http://www.arthapedia.in/index.php?title=Gram_Nyayalayas_or_Village_Courts, access on 17/8/2018, 1:27 pm
 5. Malik and Raval, Law and Social Transformation in India, Allahabad Law Agency, page no- 462



the court. Today you need money to engage an advocate, for court fee, and money other expenditures, if you seek justice through court of law.⁶

The famous novelist Munshi Prem Chandra has written a story “Panch Parmeshwar”. This novel states the qualities of successful punch. In the film “Dharm Adhikari”, panch is shown as an unfavorable person but when he found that his brother has committed the offence, he has given similar punishment to him.⁷

A Gram Nyayalaya is a mobile court and exercises the powers of both Criminal and Civil Courts. Gram Nyayalaya try criminal cases, civil suits, claims or disputes which are specified in the First Schedule and the Second Schedule to the Act. Each Gram Nyayalaya is a court of Judicial Magistrate of the first classed its presiding officer called as Nyayadhikari is appointed by the State Government in consultation with the High Court. A Gram Nyayalaya is established for every Panchayat at intermediate level or a group of contiguous Panchayats at intermediate level in a district. Seat of the Gram Nyayalaya is located at the headquarters of the intermediate Panchayat, they go to villages, work there and dispose of the cases. The judges who preside the Grama Nyayalaya are strictly judicial officers. They draw the same salary, deriving the same powers as First Class Magistrates working under High Courts.

The Gram Nyayalaya will not be bound by the rules of evidence provided in the Indian Evidence Act, 1872 but shall be guided by the principles of natural justice and subject to any rule made by the High Court.

Gram Nyayalayas are only allowed to try cases that have a maximum punishment of imprisonment of one year. However, cases under section 125 of the Indian Penal Code, 1860, have been included in the First Schedule to be tried by Gram Nyayalayas. This section deals with Indians attacking Asiatic nations with whom India is at peace, and the offence carries a maximum punishment of life imprisonment.⁸

Salient Features of Local Court Bill 2005

1. Nyayalayas will be established in rural areas covering a population of about 25000 and in urban areas covering populations of 50000. Each Nyayalaya will be headed by a Nyayadhikari.
2. The Nyayadhikari shall be nominated by the district and sessions judge. In order to be eligible, he shall be a retired judicial officer; or must have held a Gazetted post in a government for three years; or must be a law graduate; or a person of a good reputation and integrity.
3. The office of Nyayadhikari will be an honorary one.
4. The Nyayadhikari on the civil side will try suit not exceeding a value of Rs 1,00,000 relating to non-payment of wages, disputes between landlord and lessee, suits relating to water right, boundary disputes, right of way, purchase and sell of lands, matrimonial dispute which can be resolved by conciliation maintenance disputes, etc.
5. The Nyayadhikari will try on the criminal side offence punishable mostly with imprisonment not exceeding one year or with fine, offence relating to theft of property not exceeding Rs. 10,000 in value, certain offences under prohibition laws, all offences under the Panchayat Raj Acts, Municipalities Acts, etc.
6. While trying both civil and criminal cases, the Nyayadhikari will follow a simple procedure and not the elaborate procedure either under the C.P.C, 1908 or under the Cr.P.C, 1973. Strick rule of evidence under the Indian Evidence Act 1872 are also not made applicable.
7. The Nyayadhikari shall have the power of Judicial Magistrate First Class in respect of all matters relating to summons security the presence of witnesses, attendance of persons confined or denied in prisons, procedure of any material evidence including any revenue records, title deeds, agreements, contracts, weapons and any other such relevant materials as he may deem fit.

6. *ibid*

7. *ibid*

8. Available at, http://www.prsindia.org/uploads/media/1180414050/bill117_20070906117_Legislative_Brief_Gram_Nyayalayas_2007.pdf, access on- 4/9/2018, 7:32pm



8. Provision is made for quick disposal of the cases.
9. An appeal will lie to the District Judges on the decision of the Nyayadhikari.
10. All Government officers including police officers will assist the Nyayadhikari in exercise of his responsibilities.⁹

Advantages of Grama Nyayalaya: - The Great advantages of the common man's court at the panchayat level is not merely that it promote accessibility to the institution of justice for the common man, the deprived and neglected classes who are priced out of the judicial market and forbidden by the logistics of the court centre justice from reaching the institution, but also because of the informality of the procedure. Following are the advantages of Grama Nyayalaya-

1. **It Provide Speedy Justice:** - There is no doubt that Grama Nyayalaya provide speedy trial. If any dispute taken place today, then this dispute may come before Grama Nyayalaya in a day or two. Every member of Grama Nyayalaya is aware about the character and financial condition of the accused. In its proceedings Grama Nyayalaya hear all the witnesses at that time only and finally gives their decision the same day in open coupled.
2. **Justice without Expense:** - The Grama Nyayalaya is providing justice without any cost. There is no need to hire any advocate and no need to go beyond the village, which saves the fare of the both the parties. In such proceedings, there is no expenditure on the part of the accused other than fine imposed to pay the victim.
3. **Reduce The Litigation of The Court:** -No doubt, Grama Nyayalaya reduces the number of cases in the regular courts. In those cases where the decisions of the panchayat are agreed to by both the parties, then there is no chance to go in the routine courts, but seems to be finally disposed.
4. **It Is A Bench of More Than Five Members:** - The decisions of the Grama Nyayalaya are the decision of the bench of minimum five persons who are elder and respected by the people of the village. The meaning of "panch" is the bench of five persons. Such decision is not a single man's decision but decision of the majority of the panches.
5. **No Chance to Fabricate the Evidence:** - The bench of panches is aware with the character of accused and known the actual position of the evidence. So there is no chance to fabricate the evidence. But if this case is delayed so there are chance to fabricate the evidence, which can be harmful to justice.
6. **Full Availability of Witnesses:** - The witnesses are also available in sufficient number on the same day. In such system you will have full witnesses and accused will also try to confess in the lack of such evidence. All witnesses are taking oath in the same of religion.
7. **Parties Are Happy With The Decision:** - When parties come to the village court they are enemy of each other, but while going after settlement or decision, they are friend each other. This is the most significance achievement of the nyaya panchayats. Whereas in the court decision, instead of friends they become hard enemy, one party wins the case and other loses it.¹⁰

Disadvantages of Grama Nyayalaya: - Just like a coin there are two faces of each things and Grama Nyayalaya is not an exceptions to this rule. We have seen the advantages of Grama Nyayalaya, but still there are some disadvantages. Sometime these disadvantages miscarry the justice at high level. To see in the depth of it, it is found that upper caste and financially strong persons are influential in the Grama Nyayalaya. It is heard from elders that "gareeb ki bahoo sab ki Bhabhi and ameer ki bahoo sab ki dadi", it means that, wife of the poor is sister-in-law of the whole village and wife of a rich person is grandmother of each villager. It stated that you can chit-chat with the wife of poor but you have to respect the wife of rich. Still, the Grama Nyayalaya are more beneficial that the regular courts. Some disadvantages may be discussed as follows:-

1. **Problem Is Unknown:** -What is the procedure to be adopted by this panchayat tribunals? Should they be bound by any formal prescription or procedure or be left to comply with the rule of conscience, fairness and naturel justice, with an amount of flexibility, depending on the circumstances of the case.

9. Ibid (page no 480)

10. ibid



2. **Verdicts Are Not Swayed:** -While care should certainly be taken to see that verdicts are not swayed by prejudices and polluted by irrelevance, surrender to technicalities of proof and artificial canons may prove counter-productive to the cause of truth.
3. **Non-Applicability of Rule of Evidence:** -The rule of evidence is not follow according to the evidence Act, but, according to the common sense appreciation and reasonable sense of relevance. When it is necessary, the punches can inquire at the place of property in dispute. There is no need of recording of the evidence, which is produced to the panchayat tribunal. All evidences are oral and produced in front of all the people of the village.
4. **Misuse of Grama Nyayalaya:** -The decisions of the village court are based on the moral rather than the laws. Some examples may be discussed follows: -
 1. In one village of UP, some years back, one person from Bihar, a field worker raped on schedule caste lady, who was pregnant, killed her and informed the villager without any fear on his face. The panchayat took a decision to kill him in brutal manner. So they brunt him alive. No one reported the incident.
 2. In another instance, in one village of muzaffarnagar UP, it was heard that one real uncle eloped with his niece and married her, when they returned to the village, the panchayat hanged them on the basis of morality, but, panchayat was charge-sheeted and finally convicted 14 members for murder.
 3. One incident heard two decades ago from district Bagpat (UP), where one 42 year old person, raped his own mother of 62 year. Mother himself made FIR. As accused came after three days in village, all the persons of village joined together and brunt him alive in a temple.¹¹

First Grama Nyayalaya in Country: -The Union Law Ministry is giving final touches to set up the country's first gram Nyayalaya or village court in a Rajasthan village. It is learnt that Union Law and Justice Minister M Veerappa Moily has already requested Rajasthan Chief Minister Ashok Gehlot to identify the site for setting up the gram Nyayalaya.¹²

Chief Minister B.S. Yeddyurappa inaugurated the State's first Gram Nyayalaya (Rural Court) in Chickballapur on Saturday. Mr. Yeddyurappa said that the State Government had released Rs. 24.5 lakh for the establishment of the two new courts, which would come up at Hossur in Gauribidanur taluk and Mandikal in Chickballapur taluk.¹³ "Independent notifications for Gram Nyayalayas at Sewagram (Wardha), Haveli (Pune), Sakhri (Dhule), Mahad (Raigad), Korpana (Chandrapur), Parner (Ahmednagar), Jawahar (Thane), Ratnagiri and Nanded were issued on September 29 and the same have been conveyed to the concerned district courts."¹⁴

Revenue for Grama Nyayalaya

Central Government has decided expenditure on the establishment of the Grama Nyayalaya of 18 lakh.

1. Rs. 10 lakh for the construction of Court.
2. Rs. 5 lakh for vehicle and
3. Rs. 3 lakh for office equipment.¹⁵

5000 Grama Nyayalaya are expected to be set up under the Act for which the central government would provide about Rs. 1400 carors by way of assistance to the concerned state/union territories.¹⁶

11. ibid

12. Available at, <http://archive.indianexpress.com/news/first-gram-nyayalaya-to-be-opened-on-october-2/517681/>, access on 17/8/2018, 5:33.

13. Available,at,<https://www.thehindu.com/news/national/kerala/First-gram-nyayalaya-in-Kottayam/article14505269.ece> ,access on 17/8/2018, 5:32 pm .

14. ¹⁴ Available at, <https://timesofindia.indiatimes.com/city/pune/Nine-rural-courts-in-state-from-Oct-2/articleshow/5073858.cms>, access on 17/8/2018, 5:01pm.

15. ¹⁵ Available at, <https://www.youtube.com/watch?v=NL6BVPzul2E>, access on 3/9/2018, 8:03pm.

16. Available at, L-135- ग्रामन्यायालय- Gram Nyayalayas Act 2008 (Polity, Constitution, Laxmikanth)-UPSC- By VeeR, access on 3/9/2018, 8:06pm.



Z. A. Khan directed to convey the sanction of the president of India for the payment of Rs. 1,00,80,000/- (Rs. One crore eighty thousand only) toward central assistance for establishing and operating 8 Grama Nyayalaya at different places in the State of Maharashtra.¹⁷

Issues and Problems Related To Grama Nyayalaya: -The Gram Nyayalayas Act has not been implemented properly, as there have been only 291 functional Gram Nyayalayas in the country against a set target of 5000 courts.

A major reason behind this non-enforcement of includes financial constraints, reluctance of lawyers, police and different government officials. With lukewarm response of the bar, non-availability of notaries and stamp vendors, along with problem of concurrent jurisdiction of regular courts are major issues indicated by the States. These issues are coming in the way of operations of the Gram Nyayalayas.

There are 29 states in India, among them 10 states have established 291 Grama Nyayalaya but among them only 175 are currently working and remaining state never thought to establish Grama Nyayalaya.

By March 2015, a Total of 291 Gram Nyayalayas Have Been Notified In 10 States of India As Follows¹⁸

Sr.No	State	Grama Nyayalaya Notified	Grama Nyayalaya Working
1	Madhya Pradesh	89	89
2	Rajasthan	45	45
3	Karnataka	2	0
4	Orissa	16	13
5	Maharashtra	23	23
6	Jharkhand	6	0
7	Goa	2	0
8	Punjab	2	1
9	Haryana	2	2
10	Uttar Pradesh	104	2
	Total	291	175

Suggestions In Favour of Grama Nyayalaya

1. Training of Nyayadhikari and other staff.
2. Separate Building for Grama Nyayalaya and accommodation facility of Judges.
3. Create awareness among people about Grama Nyayalaya.
4. Establish Permanent Grama Nyayalaya in ruler area.
5. Establish Grama Nyayalaya on Taluka level.

Conclusion

The role of Grama Nyayalaya in the Indian Judicial system is not a forgettable thing, but it is the best illustration for giving speedy justice to the victim and that is without any expenditure. The concept of Grama Nyayalaya is not a recent creation it is as old as the existence of society. Grama Nyayalaya provides speedy and inexpensive justice and resolved minor dispute. In India 70% population staying in village; so development start from village. The Grama Nyayalaya is a panchayat which solves the dispute between two or more parties of village. Some elder persons of the village sit together under some big tree of the village, and proceed with the suit or trial of the accused. 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. They are aimed at providing inexpensive justice to people in rural areas at their doorsteps.

17. No.J-12021/08/2009-JR Government of India, Ministry of Law and Justice Department of Justice.

18. Available at, <https://www.gktoday.in/gk/gram-nyayalayas/>, access on 17/8/2018, 5:20pm.