



338en05



Notes

## NORMATIVE FUNCTIONS OF LAW AND SOCIAL CONTROL

In this lesson you will be introduced to various kinds of norms or standards which help in keeping society in order. In your day-to-day life you will find various such examples. These norms, rules or standards maintain discipline in the society. For example, in every game which you enjoy such as Cricket, Hockey, Football, Table-Tennis etc., there are rules which every player has to observe. Similarly, in your family and school, there must be rules of behaviour with elders and younger members such as, punctuality in attending classes etc. At larger level, there exist the rules of marriage, adoption and succession, rules regarding trade and commerce etc. These rules are based on morals, religion, customs, public opinion etc. In modern time, law plays a very important role in regulation of the various interactions amongst human beings. However, the majority of laws are based on morals, customs, public-opinions etc. The laws which are not based on them face lot of resistance from the public and cannot be enforced for a long time.



### OBJECTIVES

After studying this lesson you will be able to:

- define 'Norms';
- distinguish between Legal Norms and other Norms;
- appreciate the role of Norms in the maintenance of social order;
- explain the role of law in social control;
- define 'Alternative Dispute Resolution' (ADR);
- describe the various forms of Alternative Dispute Resolution (ADR);
- appreciate the role of Lok Adalats in resolving disputes; and
- explain the role of Supreme Court in bringing socio-economic changes in society.

**Notes**

## 5.1 CONCEPT OR MEANING OF NORMS

Social 'Norms' are the beliefs of society about how members should behave in a given context. Sociologists describe 'Norms' as informal understandings that govern society's behaviour.

In simple terms, a 'Norm' signifies a standard of behaviour to be followed by the society. These standards are considered to be necessary to maintain social order. There are a number of 'Norms' creating institutions. Some of them are: religion, ethical standard, customs and usages and law.

In ancient times, religion has played the most significant role in regulating society. Religion and Law were indistinguishable. Later, some other institutions came into existence to set 'Norms'.

All societies impose social control on their citizens to some degree. They monitor and regulate behaviour formally and informally. In large-scale societies, the most visible mechanisms are laws, courts, and police. However, Law is only one aspect of social control and is usually the least effective one. Small-scale societies maintain social control without the complex legal institutions with which we are familiar. However, this does not mean that they are without laws.

Key to understand a society's system of social control is understanding the social norms upon which it is based. These are the commonly held conceptions of appropriate and expected behaviour in a society. 'Norms' can and do change over time. In tradition-bound societies, 'Norms' generally change very slowly. In large, multi-ethnic societies, 'Norms' change rapidly.

Often a society's 'Norms' change but the laws relating to them have a long delay in catching up. The most effective form of social control is not laws, police, and jails. Rather, it is the realisation or acceptance of the moral codes by the members of society.



### INTEXT QUESTIONS 5.1

1. Define 'Norm'.
2. Name two 'Norms' which regulate social behaviour.

## 5.2 ROLE OF NORMS IN MAINTENANCE OF SOCIAL ORDER

'Norms' play a crucial role in the maintenance of social order. In every sphere of life we find some standards to regulate our behaviour. For example, there are moral norms or standards to regulate the interactions between individuals such as not to tell a lie, help one another in case of need etc. Similarly, there

are Social Norms prevalent in various societies with regard to marriage, adoption etc. Similarly, there are practices which act as 'Norms' to be followed in particular trade or business. Law also creates 'Norms'. In modern times, the role of Law in norm-creation is increasing day by day. However, you will notice that the majority of Legal Norms are based on the practices or standards followed in various fields in the society such as social, moral, trade, profession and business etc. It has been seen that Legal Norms which are supported by the above, are followed more often than the Norms which are against them. However, sometimes law has to intervene into the in moral social practices prevalent in the society and pass laws to curb these practices and create new norms. Laws to curb the evil of Dowry, Untouchability, *Sati* System are such examples.



### INTEXT QUESTIONS 5.2

#### Write True/False:

1. Norms play a crucial role in the maintenance of social order. (True or False)
2. Law also creates Norms. (True or False)
3. In modern times the role of Law in creating 'Norms' is increasing day by day. (True or False)

## 5.3 ROLE OF LAW IN SOCIAL CONTROL

**Socio-Economic Goal of the Constitution.** The independence of the country heralded a new era. The Constitution laid down the goals which the nation committed to achieve. The socio economic goal and the founding faiths of our Nation were incorporated in the Constitution. It enjoined the law the function to make environmental adaptations of the existing legal system, feeling the needs and the wants of the people, evolving principles of law and legislative formulations and statutory institutions which will harmonize with the urgencies of our times, and translating into action the mission of the Constitution. Thus, the goals set by the Constitution made it imperative to bring about socio-economic changes.

The driving force of social change in the Indian context is the re-discovery of the goals of our Freedom Struggle, the realization of our national identity, the reflection on our founding faiths and fighting creeds, the strengthening of our resolves and launching on our future with a flaming spirit, at once authentic, impatient and adventurous. A militant awareness that we are free people with commitment to social justice still running our affairs on a legal system, self-divided and caught in a spiritual crisis, is the beginning of the mission. The



Notes

**Notes**

political declaration of the independence is our incarnation to a nation; the economic declaration of independence is battling for self-expression, marching from the Constitution towards law-in-action. Frankly, the establishment is afflicted with the pathology of split personality and loss of identity and amnesia of our trust with destiny. A powerful, planned comprehensive legal Protestantism, radical enough to abandon the spell of five-star prosperity and to wage war on mass poverty and social disability is the demand on the Indian jurist.

**Socio-economic Changes and Legislative Reforms of Land Law** In pursuance of the declared objective of the Constitution, legislative process started for bringing about socio economic changes. The economy of the country being based in most part on land and it also governed the social structure, the land policy received priority. The excessive pressure on cultivable land, the concentration of land proprietorship, the miserable economic condition of the peasantry and their exploitation and urgent need to increase production and to modernise methods of agriculture and channels of credit – all these have had a cumulative effect on land tenure and land reform legislation. The attention of independent India was, therefore engaged immediately and primarily towards overhauling land legislation to meet the needs of the time. Consequently, all States have enacted land reforms legislations. Legislation has been enacted for the removal of the intermediaries between the tiller of the soil and the State, consolidation of holdings land ceiling, eradication of rural indebtedness and institutional sources for agricultural credit. Schemes, projects and programmes for the improvement of agriculture horticulture and animal husbandry have been launched. For all-round rural uplift Village-panchayats have been established, vigorous literary drives have taken place, village and cottage industries have been developed and numerous other similar programmes have been worked out and given effect to.

**5.3.1 Labour Law**

The second great concern of the Nation was to secure the welfare of the labour and industrial peace. In India, till the First World War there was almost absence of labour legislation. It was between the 1919 and 1939, that some essential legislation for the protection of labour was introduced. Some legislation was enacted after the Second World War and before the country achieved political independence. This was quite inadequate in view of the new socio-economic changes. After independence numerous labour legislations have been enacted to ameliorate the condition of the labour. The new labour laws are primarily concerned with the welfare of the working class and attempt to bring industrial peace which will in its turn accelerate productive activity of the country resulting in its prosperity.

Chief Justice Gajendragadkar emphasized the necessity of adjusting the labour law to the new social requirements when he wrote:

Industrial Disputes Act, 1947 is the pioneer and potential legislation on the subject. The Act goes to free the parties from the shackles of their contractual stipulations and throws open the issues relating to the wages, allowances, compensation for retrenchment, closure, bonus and other fringe benefits for determinate afresh on broad principles of fairness and equity and in a forum different from the ordinary civil court. Strikes, lockouts, closures, wages during strikes and lockouts and lay offs, unsettling or pre-empting disciplinary action taken or proposed by the employer-these and numerous matters lie within the ambit of this legislation. This has been followed by a host of legislations such as the Minimum wages Act, 1948, the Employees State Insurance Act, 1948, the Industrial Disputes (Banking and Insurance Companies) Act, 1949, the Apprentices Act 1961, the Maternity Benefits Act, 1961, etc.

The Labour Legislation in India has now become an important part of that social and economic legislation which derives its inspiration from the recognition of the wider responsibilities which the state has undertaken to protect the economically weaker sections of the community.

### 5.3.2 Family Law

Another important field where legislative activity was called for is family law. The law was lagging much behind the social advancement. The influence of the social reforms and emergence of new religious sects with progressive and reformative outlook, economic factors, rapid scientific and industrial development had necessitated the change in law. The British Government did not take any substantial legislative measures in this regard for political reasons. After the independence urgent need to change the law in this field was felt. However, there were conservative sections also for whom any change in the law amounted to inference in religious matters. Therefore some social preparedness was also necessary for the reform. Four major Acts i.e, Hindu Marriage Act, 1955, Hindu Succession Act, 1956, Hindu Adoptions and Maintenance Act, 1956 and Hindu Minority and Guardianship Act, 1956 were passed. The Special Marriage Act, 1954 also to some extent, covers the field. Hindu Marriage Act has been amended a number of times to meet the changing social outlook and requirements. These Acts while not making complete break from the past introduce radical changes conforming to new ideas and requirements. Now marriage tie is not voidable. New matrimonial reliefs have been provided. The rights of females in the matters of succession and proprietary rights have been made equal to that of males. Position of female has been improved in the matter of adoption and

**Notes**

**Notes**

guardianship also. Rights of adoptees and minors have been firmly secured. Dowry Prohibition Act, 1961 Amended by Dowry Prohibition (Amendment) Act, 1986 has been passed to deal with the social evil of dowry. Family Courts Act, 1984 has been enacted for the settlement of matrimonial disputes.

**Removal of social evils and disabilities.** Acts have been passed to eradicate many other social evils and disabilities like the U.P. Removal of Social Disabilities Act, 1947; the West Bengal Hindu Social Disabilities Removal Act, 1948; the Untouchability offences Act, 1955; renamed as the Protection of Civil Right Act have been passed to remove the evil of Untouchability. The evil practice of Devadasis, sacrifice of animals in religious places and prohibition of the entry to temples to certain section of the society have been removed or regulated by Madras Animal Sacrifices Act, 1950, Madras Prevention of Devadasis Act, 1947 Madras Temple Entry Act, 1947, Bombay Hindu Places of Public Worship (Entry Authorization) Act, 1956 and many other similar Acts have been passed for social reform and to reconstruct the Hindu Social order.

**5.3.3 Persons with Different Abilities**

The Parliament of India has enacted four legislations for Persons with Disabilities viz. (i) Persons with Disability. (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, which provides for education, employment, creation of barrier free environment, social security, etc. (ii) National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disability Act, 1999 has provisions for legal guardianship of the four categories and creation of enabling environment for as much independent living as possible. (iii) Rehabilitation Council of India Act, 1992 deals with the development of manpower for providing rehabilitation services.

The Mental Health Act, 1987 deals with mental health authorities, psychiatric hospitals and nursing homes admission and detention in psychiatric hospital or nursing homes inspection, discharge, leave of absence and removal of differently abled persons.

**5.3.4 Supreme Court and Socio Economic Changes**

Supreme Court of India, the apex Court of justice as guarantor and protector of the fundamental rights and interpreter of the Constitution, has a constitutional duty to secure socio-economic and political justice to all the citizens of the country. It is to be noted that the Constitution is not merely a legal but basically a political document. Therefore, interpretation of important constitutional questions involves policy formulation. Here lies the essence of judicial activism.

The Supreme Court with judicial activism has interpreted the law to further the cause of socio-economic reforms. It has not been slow to respond to the requirement of implementing the socio economic reforms and has been moulding its remedies to meet new interaction and has increasingly come to direct the method of implementing such reforms and to supervise the working of these programmes. In fact, in recent years the Supreme Court has brought about more far-reaching changes, in this lesson, it is not possible to mention all but only a very brief reference to such changes in some of the fields may be stated.

**Interpretation of the Constitution.** Under the Constitution, the meaning of other authorities' occurring under Article 12 has been considerably widened to cover more and more institutions and organisations within the term 'State' and to prevent them from acting in violation of Fundamental Rights. There has been a gradual broadening of the view of the Supreme Court in the matter of civil liberties. With *Menaka Gandhi v. Union of India* a new trend has emerged. After that the Court began to expand the frontiers of fundamental rights and of natural justice through a variety of creative interpretations inspired by judicial activism. In the process, the judges rewrote many parts of the Constitution. For example, the right to life and personal liberty in Article – 21, was converted 'de facto' and 'de jure' into a due process clause, contrary to the intention of the makers of the Constitution. This right has soon expanded to encompass many other rights. This has given rise to a new kind of prison jurisprudence by creating new rights to prisoners under Article – 21. In this new prison jurisprudence right to speedy trial, right to free legal service right to human dignity, right against torture have been made some of the components of the fundamental rights.

Directive Principles of States Policy have been growingly given importance by the Court. It has been held that there is no conflict between the Directive Principles and a Municipality to make arrangements for public sanitation under the supervision of the Court.

The various decisions of the Apex Court will go a long way to promote social justice in this country.

**Public Interest Litigation (PIL)** is another action of great importance on the part of the Supreme Court in its introduction. In view of its importance and growingly increasing ambit it has been discussed separately .

**Interpretation of Welfare Legislation.** Legislation meant for the rural economic uplift or for the welfare of the weaker sections of the society has been liberally interpreted in their favour. The Supreme Court has upheld the validity of land reform laws enacted by several States.



Notes

**Notes**

Sometimes legislature and judiciary have pulled in different directions. It is also to be noted that there have been occasions where the two agencies of social and economic development i.e. the Legislature and the Judiciary have pulled in different directions. One such important matter has been the right to property. Its interpretation by the Supreme Court was found by the Parliament to be standing in the way of economic development. Thus, Constitution Amendment Acts were passed from 1951 to 1964 clarifying that the right to compensation given by Article 31 of the Constitution was not justiciable in a court of law and that the quantum of compensation as fixed by legislature was final. Further, amendments have also been made to protect certain categories of law from the application of Article 31. Similarly, the legislative efforts have been on to restrict the definition of 'industry' as laid down in Bangalore Water Supply case. However, there have not been many such occasions. Full effect of legal changes are yet to be realised. By and large, Legislature and the Court both have enacted and moulded and shaped the law respectively to achieve the goal of social, economic and political justice enshrined in the Constitution. However, due to ignorance and illiteracy of the masses and lack of adequate and effective enforcing machinery full impact of the changes is still to be realised.

**INTEXT QUESTIONS 5.3**

1. Name any three Acts which helped in improving the condition of working labourer.
2. Name any two Acts in the area of Family Law which helped in improving the condition of women in the society.

**5.4 ALTERNATIVE DISPUTE RESOLUTION (ADR)**

Alternative Dispute Resolution (ADR) (also known as external dispute resolution in some countries, such as Australia) includes dispute resolution processes and techniques that act as means for disagreeing parties to come to an agreement short of litigation. It is a collective term for the ways that parties can settle disputes, with (or without) the help of a third party. Despite historic resistance to ADR by many popular parties and their advocates, ADR has gained widespread acceptance among both the general public and the legal profession in recent years. In fact, some courts now require some parties to resort to ADR of some type, usually mediation, before permitting the parties' cases to be tried (indeed the European Mediation Directive (2008) expressly contemplates so-called "compulsory" mediation. The rising popularity of ADR can be explained by the increasing case load of traditional courts, the perception that ADR imposes fewer



costs than litigation, a preference for confidentiality, and the desire of some parties to have greater control over the selection of the individual or individuals who will decide their dispute.

### 5.4.1 Arbitration and Conciliation Act, 1996

#### Arbitration

The process of arbitration can start only if there exist a valid Arbitration Agreement between the parties prior to the emergence of the dispute. As per Section 7, such an agreement must be in writing. The contract regarding which the dispute exists, must either contain an arbitration clause or must refer to a separate document signed by the parties containing the arbitration agreement. The existence of an arbitration agreement can also be inferred by written correspondence such as letters, telex, or telegrams which provide a record of the agreement. An exchange of statement of claim and defence in which existence of an arbitration agreement is alleged by one party and not denied by other is also considered as valid written arbitration agreement.

Any party to the dispute can start the process of appointing an arbitrator and if the other party does not cooperate, the party can approach the office of Chief Justice for appointment of an arbitrator.

Except for some interim measures, there is very little scope for judicial intervention in the arbitration process. The Arbitration Tribunal has jurisdiction over its own jurisdiction. Thus, if a party wants to challenge the jurisdiction of the arbitration tribunal, it can do so only before the Tribunal itself. If the Tribunal rejects the request, there is little the party can do except to approach a court after the Tribunal makes an award. Section 34 provides certain grounds upon which a party can appeal to the principal civil court of original jurisdiction for setting aside the 'award'.

The period for filing an appeal for setting aside an award is over, or if such an appeal is rejected, the award is binding on the parties and is considered as a decree of the court.

The Arbitration and Conciliation Act, 1996 has been enacted to accommodate the harmonisation mandates of UNCITRAL Model. To streamline the Indian legal system the traditional Civil Law known as Code of Civil Procedure, (CPC) 1908 has also been amended and Section 89 has been introduced. Section 89 (1) of CPC provides an option for the settlement of disputes outside the court. It provides that where it appears to the court that there exist elements, which may be acceptable to the parties, the court may formulate the terms of a possible



Notes

**Notes**

settlement and refer the same for Arbitration, Conciliation, Mediation or Judicial Settlement.

Due to extremely slow judicial process, there has been a big thrust on Alternate Dispute Resolution mechanisms in India. While Arbitration and Conciliation Act, 1996 is a fairly standard western approach towards ADR, the Lok Adalat system constituted under National Legal Services Authorities Act, 1987 is a uniquely Indian approach.

**Conciliation**

‘Conciliation’ is a less formal form of Arbitration. This process does not require existence of any prior agreement. Any party can request the other party to appoint a conciliator. One conciliator is preferred but two or three are also allowed. In case of multiple conciliators, all must act jointly. If a party rejects an offer to conciliate, there can be no conciliation.

Parties may submit statements to the conciliator describing the general nature of the dispute and the points at issue. Each party sends a copy of the statement to the other. The conciliator may request further details, may ask to meet the parties, or communicate with the parties orally or in writing. Parties may even submit suggestions for the settlement of the dispute to the conciliator.

When it appears to the conciliator that elements of settlement exist, he/she may draw up the terms of settlement and send it to the parties for their acceptance. If both the parties sign the settlement document, it shall be final and binding on both.

Note that in USA, this process is similar to Mediation. However, in India, Mediation is different from Conciliation and is a completely informal type of ADR mechanism.

**5.4.2 Lok Adalat**

Etymologically, Lok Adalat means “People’s Court”. India has had a long history of resolving disputes through the mediation of village elders. The current system of Lok Adalats is an improvement on that and is based on Gandhian principles. This is a non-adversarial system, whereby mock courts (called Lok Adalats) are held by the State Authority, District Authority, Supreme Court Legal Services Committee, High Court Legal Services Committee, or Taluk Legal Services Committee, periodically for exercising such jurisdiction as they think fit. These are usually presided by retired judge, social activists, or members of legal profession. It does not have jurisdiction on matters related to non-compoundable offences.

While in regular suits, the plaintiff is required to pay the prescribed court fee, in Lok Adalat, there is no court fee and no rigid procedural requirement (i.e. no need to follow process laid down by Indian Civil Procedure Code or Indian Evidence Act, which makes the process very fast. Parties can directly interact with the judge, which is not possible in regular courts.

Cases that are pending in regular courts can be transferred to a Lok Adalat if both the parties agree. A case can also be transferred to a Lok Adalat if one party applies to the court and the court sees some chance of settlement after giving an opportunity of being heard to the other party.

The focus in Lok Adalats is on compromise. When no compromise is reached, the matter goes back to the court. However, if a compromise is reached, an award is made and is binding on the parties. It is enforced as a decree of a civil court. An important aspect is that the award is final and cannot be appealed, not even under Article 226 of the Constitution of India [which empowers the litigants to file Writ Petition before High Courts] because it is a Judgement by consent.

All proceedings of a Lok Adalat are deemed to be judicial proceedings and every Lok Adalat is deemed to be a Civil Court.

### **Permanent Lok Adalt for public utility services**

In order to get over the major drawback in the existing scheme of organisation of Lok Adalats under Chapter VI of the National Legal Services Authorities Act, 1987, in which if the parties do not arrive at any compromise or settlement, the unsettled case is either returned back to the court or the parties are advised to seek remedy in a court of law, which causes unnecessary delay in dispensation of justice: Chapter VI A was introduced in the Legal Services Authorities Act, 1987, by Act No.37/2002 with effect from 11-06-2002 providing for a Permanent Lok Adalat to deal with pre-litigation, conciliation and settlement of disputes relating to Public Utility Services, as defined u/sec.22 A of the Legal Services Authorities Act, 1987, at pre-litigation stage itself, which would result in reducing the work load of the regular courts to a great extent.

The Lok Adalat is presided over by a sitting or retired judicial officer as the chairman, with two other members, usually a lawyer and a social worker. There is no court fee. If the case is already filed in the regular court, the fee paid will be refunded if the dispute is settled at the Lok Adalat. The procedural laws, and the Evidence Act are not strictly followed while assessing the merits of the claim by the Lok Adalat.

Main condition of the 'Lok Adalat' is that both parties in dispute should agree for settlement. The decision of the Lok Adalat is binding on the parties to the

**Notes**

**Notes**

dispute and its order is capable of execution through legal process. No appeal lies against the order of the 'Lok Adalat'.

'Lok Adalat' is very effective in settlement of money claims. Disputes like partition suits, damages and matrimonial cases can also be easily settled before Lok Adalat as the scope for compromise through an approach of give and take is high in these cases.

Lok Adalat is a boon to the litigant public, where they can get their disputes settled fast and free of cost.

**5.4.3 ADR for Grass Route level**

To combat the longstanding grievance of *Aam Aadmi* with respect to access to justice, we need to revitalize the ancient times practice of decentralized and participatory justice and resurrect '*Nyaya Panchayats*' in the villages of every state in India. The formulation of these village level dispute resolution forums will lead to the fulfilment of the constitutional goal under Article 39A of the Constitution. Nyaya Panchayats will empower more than 70% of the total India population, which resides in villages to exercise control over the nature of proceedings (to be conducted in local language thereby disrupting linguistic barriers) to amicably arrive at a mutually agreeable solution via the ADR methodology. The reinstatement of these village courts in every Panchayat area of the village will lead to doorstep access to low cost justice by the common man and positively impact the village economy in the long run. These Nyaya Panchayats will function as a "*Community Based ADR*" mechanism which is designed to be independent of a conventional court system that may be biased, expensive, distant or otherwise inaccessible to the economically disadvantaged rural population.

The Nyaya Panchayat Bill, 2006 reflects that the Panchayat should have five members, including one woman and one reserved post rotating between SC/ST and OBC, which are elected directly by the voters of a territorial constituency. Reservation for women and socially backward classes in the village court will pave the path for equal opportunity to every person regardless of their caste and fair dispensation of justice. There is no requirement for members to possess legal education as a prerequisite to contest for elections for the Nyaya Panchayat. Induction of one legally trained person would inspire confidence in the rural people and safeguard the application of substantive law.

Furthermore, to avoid partisan influences and undue political considerations from creeping into dispute resolution process, it must be ensured that no member is affiliated to any national or state political party. To ensure the accountability of Nyaya Panchayats to the state, the proposed legislative framework should

include a provision for documentation of disputes resolved by the Panchayat, and provide for submission of these reports to the State Government. Another significant advance towards instilling ADR at grass root level may be made by the establishment of 'Gram Nyayalayas' as the lowest tier of judiciary in the rural areas. The State Government is expected to establish one or more Gram Nyayalayas for every Panchayat or group of contiguous Panchayat at an intermediate level. Each 'Gram Nyayalaya' shall be headed by a Nyayaadhikari, who shall have the qualifications of a first class magistrate and possess exclusive and original jurisdiction over certain civil and criminal disputes. The key highlight of this Bill is that it seeks to introduce 'Court Annexed ADR' process at the village level by way of these Gram Nyayalayas. In civil disputes the Nyayaadhikari will be empowered to adjourn proceedings and allow for conciliation between parties, subject to the rules devised by High Court. Furthermore, petty disputes such as the disputes over agricultural land, the rights to cultivation and grazing on common pastures, disputes over cultivation, the right to draw water from canals or tube wells or incidental questions arising in villages are most suited to be determined by ADR procedure at village level. Even in the 73rd Constitution Amendment Act, which conferred constitutional sanctity to Panchayati Raj Institutions there was no specific mention of establishing a 'Nyaya Panchayat'. After the instant amendment, few States such as Bihar, Himachal Pradesh, Punjab, Uttar Pradesh and West Bengal inserted the provision for 'Nyaya Panchayats' in their new Panchayati Raj Acts.

Now there shall be social workers at the village level with the required qualification prescribed by the High Court. Hence, this bill, if enacted, will decentralize the tiers of justice delivery and reduce the burden of cases on the lower judiciary thereby paving the path for speedier and inexpensive justice for the economically and socially underprivileged people in India.



#### INTEXT QUESTIONS 5.4

1. Explain the role of Lok Adalats in providing cheaper and speedy justice to the people.
2. Write the full form of ADR?
3. Define 'Conciliation'.



#### WHAT YOU HAVE LEARNT

- In this lesson you have studied the concept of 'Norms'. 'Norms' are the standards which regulate human activities in the society. They originate mainly from religion, customs and usages, moral standards and public



Notes

## MODULE - 2

Functions and  
Techniques of Law



Notes

### Normative Functions of Law and Social Control

opinion. Law is one of such source. In modern society, law plays the most significant role in regulating human interactions with one another. Law covers all the major activities of human beings. However, majority of them are based on morals, public opinions etc.

- In India, Law has played a crucial role in reforming the society. Labour law, Land Reform Laws, laws relating to Marriage, Guardianship, Succession, Adoption, Laws providing for equal opportunities to persons with disabilities, Laws relating to elderly persons are some such examples.
- To reduce the backlog of cases in Courts and to provide less expensive and speedy justice, Alternative Dispute Resolution (ADR) is now being encouraged. The Parliament of India has passed the Arbitration and Conciliation Act, 1996 and has amended the Civil Procedure Code, 1908 for this purpose. To provide speedy justice at the grass route level, the Legal Services Authorities Act, 1987 has been passed to establish Lok Adalats. To provide justice at the door steps of village people the Gram Nyayalaya Act, 2009 has also been passed.
- The Supreme Court of India, the apex Court of justice through a variety of creative interpretations inspired by judicial activism, has played a very important role in bringing socio-economic changes in the society and in improving the conditions of women and poor sections of society.



### TERMINAL QUESTIONS

1. Examine the significance of various types of 'Norms' in regulating the society.
2. Explain the various sources of Law.
3. Discuss the role of Law as an instrument of social control, also evaluate the inter-relationship between Law and other Norms.
4. Evaluate the role of Law in social reforms with suitable examples.
5. What is Alternative Dispute Resolution? Discuss its significance in providing speedy justice.
6. How Social Norms and Moral Norms influence Legal Norms?
7. What are different types of ADR mechanisms for solving disputes.
8. Write short note one: (a) Labour Law (b) Family law (c) Customs (d) Lok Adalat.



**ANSWER TO INTEXT QUESTIONS**

**5.1**

1. In simple terms, a 'Norm' signifies a standard of behaviour to be followed by the society.
2. Two examples of 'Norms' of social behaviour are:
  - (i) Norms related to marriage; and
  - (ii) Norms related to inheritance

**5.2**

1. True
2. True
3. True

**5.3**

1. The three Acts are:
  - (i) The Factory Act, 1948
  - (ii) The Industrial Disputes Act, 1947 and
  - (iii) The Workmen Compensation Act, 1923
2. The two Acts are:
  - (i) Hindu Marriage Act, 1955 and
  - (ii) Hindu Succession Act, 1956

**5.4**

1. In Lok Adalats, the technicalities of procedural law are not insisted upon. The matter or dispute is resolved through consensus instead of adversarial litigation. This helps in reducing the cost of litigation and in less amount of time as compared to regular Courts. In short, the justice delivered is speedy and cheaper.
2. Alternative Dispute Resolution.
3. 'Conciliation' is a less formal form of Arbitration. This process does not require existence of any prior agreement. Any party to a dispute can request the other party to appoint a conciliator. If a party rejects an offer to conciliate, there can be no conciliations.



Notes