

ANALYSIS OF THE PRINCIPLES AND PROCEDURES FOLLOWED BY
TWO NGOS NAMEDLY CONSUMERS' FORUM, BASRUR(CFB) AND HUMAN
RIGHTS PROTECTION FOUNDATION (HRPF), UDUPI, AS AN
ALTERNATIVE METHOD TO REDRESS DISPUTES

A MINOR RESEARCH PROJECT
SUBMITTED TO KARNATAKA STATE LAW UNIVERSITY, HUBBALLI

BY

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A STUDY TO SPOT, AND EVALUATE THE NON-STATE JUSTICE SYSTEMS
(NSJS), PREVALENT IN VARIOUS PARTS OF KARNATAKA

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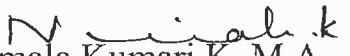
Foremost, I would like to express my sincere gratitude to my **Prof. Dr.P Ishwar Bhat**, Vice Chancellor of the University, for giving me an opportunity to study the services rendered by the Consumers' Forum, Basrur and Human Rights Protection Foundation, Udupi in my own place Udupi. I also thank him for the encouragement, and valuable suggestions which helped me to enrich my work.

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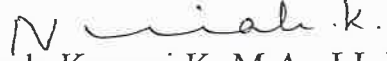

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DECLARATION

I, Nirmala Kumari.K, declare that this thesis is the result of research work done by me with the help and advise from Dr Ravindranatha Shanubhog, President, Human Rights Protection Foundation, I am submitting this Minor Research Project to Karnataka State Law University, Hubballi, and this is not in part or in full has been submitted or published anywhere.

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Preface

During February 2019, the Karnataka State Law University announced a cluster of minor research projects wherein proposals were invited from faculty members of various law colleges of Karnataka to spot, study and evaluate the Non-State Justice Systems (NSJS), if any, prevalent in various parts of Karnataka. We could spot two organizations namely Consumers' Forum, Basrur(CFB) and Human Rights Protection Foundation(HRPF), Udupi. Both these organizations have been guiding the citizens, not only to fight for their rights, but also encouraging the litigants to go for out of Court settlements through a novel ADR technique.

The NGOs with difference:

Consumers' Forum, Basrur and Human Rights Protection Foundation, Udupi (herein after both these NGOs are referred to as 'The Forum') are two NGOs, which over a period of four decades, have shown how efficiency can be increased in Government offices in providing services to the citizens. While the Consumers' Forum, Basrur came into existence on 5th May 1980, the Human Rights Protection Foundation was established after 12 years on 12th August 1992. Both these organizations are operating from their office situated in Kunjibettu, Udupi. The cases related to deficiency in services as well as unfair trade practices are dealt with by Consumers' Forum, Basrur. All other cases received by the Forum are handled by Human Rights Protection Foundation, Udupi.

The methods used by the Forum are democratic, a political, and nonviolent with appropriate self-help strategies. After initial correspondence with Service providers/Government officials, if injustice is proved, the aggrieved will be guided to defend his case. The activists passionately believe that educating the common man and empowering him to solve his own problem is the most effective method for long-term results. Both these organizations guide and support the victims in their fight through media publicity and legal battles. The activists' step in only when victims are either illiterate or helpless and have exhausted all their efforts to get justice.

A modus operandi was developed over the years towards systematic correspondence in the ascending order of bureaucratic/ political hierarchy. Every officer in the department concerned, right up to the Chief Minister has been given enough opportunity to set right their mistakes or to solve the citizens' problem. Despite all the efforts, if the complainants failed to get justice, newspaper columns were used to create public opinion. Further, strategies were also developed to communicate the public opinion thus created to the authorities concerned. Complainants were advised to approach the court only as a last resort.

Neither of these organizations have ever collected any fees from citizens for the guidance and support provided. They never took donations from public nor have they received any government grants. The day-to-day expenses were met from the honorarium received from


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periodicals for the articles contributed and sale proceeds of the literature published by the Forum. Whenever funds are required for any project or program, the members of the Trust chip in with equal contributions to raise the amount. Thus, the Forum has achieved financial independence with no strings attached.

Source and Collection of Data:

After working for more than 10 months, a comprehensive report has been prepared. The study will be mainly focused on the functioning and methodologies of Human Right Protection Foundation and Consumers' Forum, Basrur. The principal source of data for the present study is based on both primary as well as secondary data. The work highlights the continuous and invaluable service rendered by these two NGOs in these four decades to poor, down trodden and vulnerable classes of society.

The data have been collected by personal interviews and interactions with the stakeholders through questionnaires and study of cases successfully tackled by these NGOs.

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Prologue

As on 1 March 2021, there were 66,727 matters pending in the Supreme Court. This is the highest number since monthly statements started being published in 2012, and possibly the suggesting that the number of cases pending in the Supreme Court has increased by 6,258 over 12 months. This amounts to a 10.35% increase in the number of pending matters.¹ People of India have to wait for years together to get justice delivery through existing system of Judiciary in India. Every now and then Government of India appointed Committees for judicial reforms. Common citizens never knew whether these Committees submitted any reports and if submitted, whether the recommendations of these committees were implemented. Other than cursing the judiciary or the government, a common citizen did not know the way out. He had no say in the matter. Whenever his rights were violated, the only way was to file one more petition in the court of law, even though he knew there was no point in burdening already overburdened judiciary. Delay in justice delivery and the expenses involved in litigation were the cause of worry. Therefore, the common citizen was forced to accept the injustice. Therefore, a novel method of Justice Delivery which could be an alternative or supportive to the existing system was very much necessary.

Present position in the Country

Indian Judiciary is over-burdened with pending cases. The Indian Judiciary is crumbling under the weight of pending cases due to many reasons. Government is the biggest litigant in the country. State fights cases against the citizens at the cost of the citizens. Moreover the officers neither allow the cases to get resolved nor withdraw the same as they have vested interest in pendency.

India's Supreme Court works 190 days in all every year, while the number is 232 for High Courts and 244 for lower courts. Hence, there is an urgent need to reform Indian Legal System.²

Law Commission of India, in order to reduce this burden, has recommended several procedural changes in the Legal System;³ Procedural Reforms were introduced in Civil Procedure Code such as Sec. 89 of CPC was amended to introduce Settlement of Disputes

¹ <https://theprint.in/opinion/under-bodde-pending-cases-rose-in-supreme-court-now-they-lie-at-the-next-cjis-door/628093/> The Print- Sunday, 11 April, 2021- Under Bobde, pending cases rose in Supreme Court. Now they lie at the next CJI's door-Accessed on Sunday, 11 April 2021

² <https://www.businessinsider.in/india-economic-survey-2019-calls-for-judicial-reforms/articleshow/70072487.cms#:~:text=India's%20Supreme%20Court%20works%20190.an%20inordinate%20number%20of%20holidays.> Business Insider India- Indian courts with their vacancies and long vacations are a big hurdle to ease of doing business, says India's economic survey 2019- JUL 4, 2019,- Accessed on Sunday, 11 April 2021

³ How far has the Law Commission of India been effective-By Diganth Raj Sehgal -August 12, 2020--
https://blog.iplleaders.in/far-law-commission-india-effective/#rigger_up_the_ADR_mechanism

outside the Court⁴ (vide the Code of Civil Procedure (Amendment) Act 1999 and Criminal Procedure Code introduced Plea Bargaining vide Criminal Law (Amendment) Act, 2005.⁵

Research Envisaged

Most of the recommendations of the Law Commission of India to reduce the delay in justice delivery require interference of the State Sponsored Judiciary for their implementation. Very few of them suggest adopting Non-State Judicial Systems to reduce the burden of State-owned Judiciary. There are Non-State bodies working in India in this direction, one of them being civil societies such as NGOs.

Human Rights Protection Foundation, Udupi and Consumers' Forum, Basrur (herein after both these NGOs together are referred to as 'the Forum') have been functioning for the last four decades. They have handled a considerable number of cases without taking the issues to the judiciary. Therefore, it was decided to evaluate the modus operandi of these Organizations by going through the literature available on internet, website maintained by the Forum, digitalized documents available in the archive and the live files available.

This research project investigates the efforts made by the activists in establishing the organizations and evaluates effectiveness of their modus operandi.

1. Origin and Growth of Public Interest Movement

Emergency was one of the most controversial events in the history of independent India. It was in effect from the 25th of June 1975 to the 21st of March 1977, imposed by the then Prime Minister of India, Indira Gandhi. During those 21 months, there were reports of gross violation of human rights across the country. There was widespread resentment across the educated middle class. For the first time since the independence India witnessed the human rights and civil rights violations on an alarming scale affecting all sections of the society⁶.

Post emergency, a group of youngsters from Udupi District gathered and decided to address the problems of violations of both civil and human rights. To start with, it was necessary to develop appropriate strategy for the movement after studying the behaviour, attitude, ambitions of average citizens. After a great deal of discussions, the group decided to begin with finding solutions to simple issues bothering common man in day-to-day life and then gradually move to tackle more complex problems. The objective was to invent a permanent solution for the evils that affect the citizens and deliver justice to them without any delay and at affordable cost. The questions were: How to go about it? From where to start? How to start? The immensity of the task was mindboggling.

⁴ <https://indiankanoon.org/doc/174517104/?type>

Law Commission Report 238Th Report On Amendment Of Section 89 Of The Code Of Civil Procedure, Government of India Law Commission of India Amendment of Section 89 of the Code of Civil Procedure, 1908 and Allied Provisions accessed on 04-04-21

⁵ <https://indiankanoon.org/doc/1233094/> Central Government Act The Code Of Criminal Procedure (Amendment) Act, 2005 The Code Of Criminal Procedure (Amendment) Act, 2005 NO. 25 OF 2005 [23rd June, 2005.] accessed on 04-04-21

⁶ Public Interest Movement: Hand book for Activists. Published by Consumers' Forum, Basrur® 2002

2. Efforts by the Activists to develop a novel ADR Technique

An alternative method would be acceptable to the people only when it is inexpensive and less time consuming. Meanwhile, care had to be taken that such a new method should adhere to all the legal principles of natural justice as well as procedures followed in the existing state-owned judiciary in India.

Successful Public Interest Movements in early 80s:

A sincere effort was initiated simultaneously in a small town of Udupi and in a tiny village *Basrur* in *Kundapur* Taluk. The initial objective was to empower citizens to fight for their rights in the event they faced harassment at government offices. But most of the citizens were unaware that they had rights to question the government officers. Some of them did not even know that they can enter the chamber of District Collector to file a complaint against officers in the district administration in case of suffering harassment at their hands.

3. Identification of Psychological Barriers⁷The Forum decided to extend its support only to those who were prepared to struggle for getting redressed. But the activists observed that despite facing harassment at government offices and getting raw deals in markets, people were submissive and indifferent. They were expecting someone else to come to their rescue and help them in solving their problems. They believed that they were not in a position to fight for justice. It appeared as if they were suffering from some psychological barrier due to which they would not initiate any action on their own.

The activists took up the task of identifying these psychological barriers which prevented them to fight and started analyzing the reason behind such responses. Most of these psychological barriers are applicable to the humans around the world but some are indeed applicable only to Indians because of their social and cultural background.

In the initial stages, the Forum began with giving suggestions to solve simple problems faced by the citizens. As the movement progressed, the Forum realized that problems faced by average Indian are more fundamental and complex. More and more people approached the Forum with complex problems involving legal issues. While catering to the needs of society, citizens approached the Forum with labour problems and environmental issues. To offer effective guidance, members of the Forum had to be equipped with legal knowledge. Some of the members even joined Law Schools to acquire legal knowledge and to understand judicial procedures.

4. Definition of 'Consumer' and 'Service provider'

All these happenings were in early 80s. The word 'Consumer' was not defined properly in any legislation till then.⁸ Therefore, it was very necessary for the Forum to define the word

⁷ The expression "psychological barrier" should not be misunderstood for "psychiatric disease". It simply means that there is a hindrance in their mind to take any initiative in solving their problems. Once someone identifies these barriers and points out to them, the citizens could successfully come out of these barriers and fight for their rights

⁸ In fact, the Consumer Protection Act was passed by the Parliament in 1986


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'Consumer', covering all the aspects. The following expressions, with the wide range meaning, were included in the definition of the word consumer.⁹

1. Anyone who pays for services and goods is a Consumer.
2. The payment for such a service or goods may be direct or indirect:
 - a) Direct (as someone pays for purchase of goods from a shop or purchase of a ticket to travel in a bus). Or
 - b) Indirect (through paying tax for service available at any government office or government hospitals).
3. A citizen can be a Consumer even without paying. For example, every citizen has a right to clean environment and unpolluted drinking water or peaceful sleep at night without any payment.

5. Principles evolved and methodology designed

Before understanding the modus operandi, it is very necessary to clearly understand the objectives of this movement. Then principles to be followed by the organization had to be evolved and the code of conduct for the activists had to be formulated.

6. Objectives of the Forum:

- i. To educate consumers to protect their rights and interests
- ii. To cultivate a sense of responsibility among Consumers and Services providers
- iii. To support the consumers in their struggles for justice.
- iv. To give regular feedback of the performance of various governments' owned utilities and other service providers.

For any Organization or Movement, to achieve its objectives, it is very important to evolve firm principles. It is also necessary to follow these principles in letter and spirit. Literature survey reveals that both CFB and HRPF did a lot of research on human behavior and evolved their principles.

- a) In order to guide and support the complainants, the principles were evolved after analyzing the citizens' behavior including their psychological barriers.

⁹Justification of the Definition adopted by the Forum

Whenever the Forum approached the government Departments which provide services such as education, Health, revenue etc., they refused to accept Forum's definition under the pretext that the services in these departments are offered free of cost to the citizens. But the Forum insisted that since the maintenance expenses of the departments and the salary of all the officials were being paid out of the tax paid by the public, citizens have a 'consumer right' to get service without deficiency. Consequently, every citizen becomes a Consumer and every official is a Service Provider of the facility or utility rendered by those departments