



## THE EFFICACY OF JUDICIAL REMEDIES- A FRAMEWORK OF A REFORMED JUDICIARY

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Justice delayed is Justice denied is what we have heard when it comes to the Indian Judiciary. There is surplus of writings regarding the pendency of cases and hearings in the Indian courts, but apart from all these unflattering studies, the belief on the Judiciary still remains unquestionable in the Indian society and otherwise. This could be judged by the popularity of the phrases like 'I'll sue you' or 'I'll drag you to the court'. Indian Judiciary has been subjected to many changes to suit the changing times but all these changes have somehow failed to catalyse the process of timely deliverance of justice. The amendments already incorporated in the court proceedings are applaudable but a lot is still needed to be done on this subject. Through this research paper, using certain technological advancements, I intend to explore the aspect of establishing a Judicial reforms institution with the sole purpose of enabling the judicial remedies to be delivered within the desirable and expected time frame. These technological advancements could mould the judiciary into a much smoother and comprehensive institution where decisions are reached way faster than the current rate. The judiciary would thus emerge as a place/office where Justice is always delivered, never denied. Technology has changed the way humans see things and functions. The advancements occurring on a

daily basis render the same from the previous day look trivial. It's like we are moving forward each day and the step of today is bigger and better than yesterday but smaller than tomorrow. The introduction of computers in everyday life has simply revolutionized the human civilization completely and enormously. The computers have managed to make sea changes in the day to day life of common people. Computers as well as electronic communication devices such as facsimile machines, electronic mail, and video conferencing provide the ability to process large volumes of data with speed and accuracy, exchange of useful information between different locations and support higher quality of decision making. These capabilities have contributed to more efficient and responsive systems not only in business organizations, but also in legal, governmental and other public systems. Taking explicitly the Indian society scenario, the information revolution has come to India a few years ago but the automation in the field of Judiciary has not shown the expected build out. The Indian judiciary is vastly dependent on the functions of the lower courts. If the subordinate courts functions to their optimum level the work load of the High courts and Supreme courts can be significantly reduced, the pendency of cases can also be affected severely to a positive side. The automation has been somewhat introduced at the pedestal of the Higher courts but has not been able to mark its presence in the premise of the district and other subordinate courts. There have been advances and developments to synchronize information technology with Judiciary but the process has been significantly slow and



the developments done are not being able to compete with the automation and use of technology being used in other institutions and industries. The idea proposed here is to introduce an autonomous institution as a Judicial Management Information System (JMIS) to the Indian courts which shall come up with ways, implementations, and ideas to speed up the judicial process or to put information technology in use for the development and management of the Judiciary in aspects that needs improvement. To streamline the process the areas where JMIS can work and develop could be chalked out to be specific following are the areas that need to be improved in the Indian Judiciary in order to enhance productivity and reduce delays:

- i. Legal Information Data Bases
- ii. On line query system for precedents, citations, codes, statutes etc.
- iii. Generation of Cause List and on line statistical reports
- iv. On line Caveat matching
- v. On line updating data, monitoring and “flagging” of events
- vi. Pooling of orders and judgements
- vii. Daily List generation with historical data of each case
- viii. Word processing with standard templates including generation of notices/processes
- ix. Access to international data bases
- x. Feedback reports for use of various levels.

The above are some of the areas where information technology can be put to use for a much reformed Judiciary. In particular, tracking of cases would result in better monitoring and control of cases by the

Presiding Officers, rather than by the lawyers. Computerisation should be supplemented by the use of Fax, E Mail, Video conferencing and other facilities for higher productivity and quicker decision making at all levels. The Judicial Management Information System talked about should be an institution which can function as an autonomous constitutional authority operating under the Constitution of India. This will give this institution the required authority to work and take proper measures to reform the Judiciary. The structure of the JMIS shall constitute a 6 member panel which shall include, 3 Retired Judges of the Supreme Court at the national level as Chief Judicial Commissioner. At the state level the Chief Judicial commissioner shall be assisted by the State Judicial Commissioner who shall be a retired judge of the High court. At the District level, 2 senior most judges or Retired judges of the district courts shall be assisting the judicial commissioners. There shall be a committee consisting of eminent IT, software and mechanical engineers recognised by the Government of India which shall be working in sync with the Judicial Commissioners to suggest them about the rectifications of the problems recognised by the judicial team through the technical aspect and streamlining the judicial process of the country. Also, there can be a process of inviting leading IT companies to work for the betterment of the Judiciary by applying their technical skill set which they already possess and can be given a terminable lease for a period of 3 to 5 years. Being a constitutional authority the JMIS will be amongst a few institutions which can function with both autonomy and freedom along with country's higher authorities. This



institution shall be responsible to put forth the use of technology in courts, especially in Subordinate courts.

To talk about some of the technological advancement that can be a boon to the judicial pillars in the Indian society one among them is the newly introduced Block chain technology which is the fundamental principle of the crypto currency in use, for instance Bit coin. This technology in simple words can be understood as—*a block chain is an incorruptible digital ledger of economic transactions that can be programmed to record not just financial transactions but virtually everything of value.*<sup>1</sup> This kind of technology when used to its utmost value can actually eradicate the possibilities of generating fake contracts, will, Sale deeds, Agreements, notary etc. Moreover using this in courts this technology can make the work of the courts easier as the information regarding the case history, cause list, court fee, international database, client's history, accuser's history everything will be available to every stakeholder of the case such as the lawyer, Judge and even the clients of each party. This will make the decision- making process highly accountable and quick. Imagine the number of legal documents that should be used this way. Instead of passing them to each other, losing track of versions, and not being in sync with the other version, why can't *all* business documents become shared instead of transferred back and forth? So

many types of legal contracts would be ideal for that kind of workflow.<sup>2</sup>

In addition to this one of the best things about the block chain is that, because it is a decentralized system that exists between all permitted parties, there's no need to pay intermediaries (Middlemen) and it saves time and conflict. Block chains have their problems, but they are rated, undeniably, faster, cheaper, and more secure than traditional systems. To put more, block chain technology has also evolved a much more sophisticated and precise method of establishing contracts known as Smart contracts. Smart contracts are a way in which the people can exchange money, property, shares and anything of value without the service of a middleman in a transparent and conflict free manner. Another mode working in this regard and extensively being experimented upon to make the judicial process quick is the Alternate Dispute Resolution (ADR) mechanism. The goal of ADR system as the expression itself suggests is to resolve issues of different kinds outside the conventional legal mechanism i.e. courts/judicial system. There is a wide range extending from the absolutely consensual mode of resolving conflicts like arbitration, conciliation or negotiation; however a mix of a portion of the procedure like negotiation, mediation, conciliation and arbitration may likewise be utilized to determine certain question. ADR in this way offers an alternative route for

<sup>1</sup> Don & Alex Tapscott, authors Blockchain Revolution (2016)

<sup>2</sup> William Mougayar, Venture advisor, 4x entrepreneur, marketer, strategist and block chain specialist



resolution of disputes. Electronic business is critical, and maybe, inescapable. In this way, to consider the legal inference of the development and improvement of electronic business is basic. However, the absence of dispute resolution mechanism on the cyberspace will lead to a genuine obstruction in the further advancement of electronic trade. At the point when Alternative Dispute Resolution moves to the internet, especially arbitration and mediation as the primary sorts of ADR, it tends to be that the type of Online Alternative Dispute Resolution (OADR) can amplify the development of web based business. Online dispute resolution is a branch of dispute resolution which utilizes innovation to encourage the resolution of disputes between parties. It basically includes negotiation, mediation or arbitration, or a combination of all of them. In this regard it is regularly observed as an online replica of ADR. However, Online Dispute Resolution can expand these customary methods for settling question by applying creative strategies and online advances to the procedure. ODR includes the formation of a virtual imitation of physical setting and direct procedures by utilizing different methods for data transfer – email, SMS, digitized records, grid computing and also video and tele conferencing. A portion of the advantages of ODR is that it is proficient, efficient, and non-fierce, requires less physical gathering and additionally less physical information stockpiling. The implementation of ODR in India has not been productive reason being the absence of knowledge and nonappearance of satisfactory resolve to utilize Information and Communication Technology for Dispute Resolution. Maybe, it is an extremely odd

thought for Indian Industry and Commercial Entities to utilize ODR for Dispute Resolution. ODR can turn into an exceptionally viable Alternative Dispute Resolution Mechanism (ADRM) in India. The present ADRM in India is administered by the obsolete and problematic Arbitration and Conciliation Act, 1996. Except if adequate arrangements are made to help the consolidation of innovation into the field of ADR in India, online dispute resolution cannot be completely implemented. One crucial factor for the absence of improvement in the field of ODR in India and worldwide is the absence of uniform Maws in this regard. The United Nations Commission on International Trade Law (UNCITRAL) has taken endeavours towards providing a uniform legal framework to the ODR. When this is brought into power and is appropriately consolidated into the laws of the nation, ODR can turn into a viable method for resolving conflicts in India.

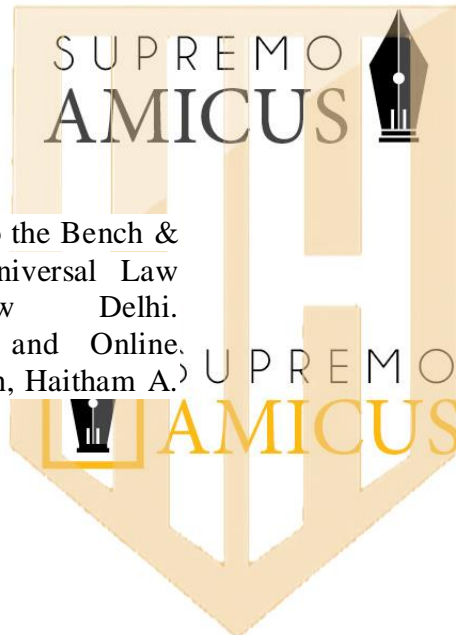
A lot of work and research needs to be done on this subject but one thing is evident that the changes are necessary and needs to be done in this aspect as early and efficiently as possible. Our country has come a long way since the first initiative of computerisation was taken by us in the year 1990. Since then its advantages has obviously been felt and accepted as the judicial process has become a lot easier as compared to the time before the intervention of technology in this field as it has become easier and manageable for everyone such as lawyers, judges, and litigants to participate in the process of law. It has reduced great amount of efforts in various features of the judicial process and has thus brought down the delays and pendency of cases. The technology has a



positive impact in the amount of trust that the citizens have on public institutions and has also affected the access to justice and information as its use enables and ensures an increased amount of dialogue between the citizens and the public institutions. However, there remain a lot of obstacles that must be overcome so that the judiciary can function to its actual potential utilizing the usage of data and innovation. When our legal framework turns out to be totally effective in executing the utilization of present day innovations, equity can be legitimately served to all in a quick and proficient way.

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