# Judicial Transformation – An apt case for Artificial Intelligence



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India as a true democracy takes immense pride in separation of executive and judiciary. Our judicial system, till a few decades ago, had by and large done well to function as an independent institution which decided cases & issues on the basis of Law without fear or favours. However, it is common knowledge that the judicial system today suffers from various flaws – nepotism, favouritism, political pressures, media verdicts, public opinions and ego issues, besides alleged instances of corruption at various levels.

A major problem in our judicial system today to my mind is the fact that the influence of media reports and perceived public opinion weighs heavily on judges. As a result, the doctrine of 'being deemed innocent till proven guilty' is summarily dismissed routinely by courts at all levels. This doctrine seems to have been replaced by the principle that relief to an accused (say by way of bail) in a media reported case can only be considered when the particular news is no longer a major news, having been replaced by more sensational reportings.

This situation prevails particularly with respect to high profile personalities accused for crimes ranging from criminal offences to economic offences to sexual misconduct and harassment, where accused are pronounced guilty on basis of public perception created by media frenzy. I firmly believe that citizens and media are in no position to judge and have no authority to pronounce such people either guilty or innocent. That authority and responsibility as per our constitution must solely lie with judiciary. However, a legitimate question in cases of such known personalities who have already been pronounced unequivocally GUILTY by media (and there have been many in recent past both on economic offences and sexual harassment), would be as to what is the likelihood of them getting an unbiased and fair hearing by the courts. I am sure that an honest answer today is more likely to be a 'no', or 'not sure' or 'not likely', at least at the lower courts.

Another serious problem that is well known is the undue influence that some prominent lawyers have on many judges, resulting in an exorbitantly expensive legal system where the legal fees of certain prominent lawyers have gone through the roof, mainly because it is believed that an 'appearance' by them can get the desired judgement or relief. Anyone in corporate world in particular would experience this all the time. For many individuals, legal remedies are getting beyond their means because of such high costs.

Makes me wonder as to what is then the purpose of asserting that 'law is blind' when same judges have to see cases through the lens of media or based on faces of some senior lawyers, and not based on law and facts supported by proof. At times, it appears that instead of a lengthy legal process, we might as well authorize a panel of media persons and some senior lawyers to pronounce judgements.

There are of course some rare judgements in recent memory, where the Honourable court had the wisdom and courage to rule against popular perception and based on evidence and law. For instance, the case of Sabarimala temple where much against the religious sentiments, the Honourable Supreme Court held that all women of menstruating age have a right to visit the shrine and that the ban imposed on them for centuries is illegal.

It is also unfortunate that even our cinema proudly encourages and celebrates instances where a judge has pronounced a judgement based on perception rather than legal evidence. A case in point was 'Jolly LLB' where the Honourable judge proudly declares in the end that while generally the accused would have been let off because of lack of evidence before the court, in the present case he was holding the accused guilty even without clinching evidence because "like everyone else, he believes that the accused had committed the crime." Obviously the wide media coverage played a big role in establishing such 'belief'. Popular and appealing that it may sound, this attitude directly is an attack on basic jurisprudence which requires an accused to be proven guilty before being sentenced.

Add to these the huge pendencies of legal cases before judiciary at all levels and across the country and it becomes fairly apparent that our judicial system, if not broken, is certainly crumbling.

The reasons for above issues are far ranging from large vacancies due to various factors, lack of competence, fear of following law which would go against popular opinion, expectations of governmental favours with respect to promotions or post retirement postings to outright corruption, to fear of being hauled up by CBI for favours given, etc. etc.

If one is to carefully analyze the root cause for issues pointed out above, there would only be one conclusion to my mind. And that is that all these problems and imperfections are caused due to 'human angle' in the judiciary. Lack of human resources/capabilities and

mixing human feelings and emotions with law and proofs cause the problems that we see in our judicial system today.

The solution I propose is to replace 'judges' by 'cyber judges' i.e. computers using 'Artificial Intelligence' (AI). It might take some time, but it would be relatively simple in this age of AI, where reported cases have already been brought online and as reported a New York based Law firm has started using AI to draft petitions and arguments. The proposal I have is that for all cases, both sides must file all written arguments and pleadings with citation of law as well as case laws online before the "Honourable Cyber Judge" for its consideration, along with relevant proofs. The two sides should be given an opportunity to file their rebuttals of the assertions made by the other side.

Based on arguments and counter arguments, the 'judge' would pronounce the decision with complete reasoning and after appreciating all evidence, arguments, counter arguments, laws & legal cases cited. It is certain that such a decision would qualitatively be as good, if not better, as what one would expect from a totally impartial judge who follows 'law is blind' as a religion.

The advantages will be several :
- In one stroke, the legal professionals will get judged and recognized on their abilities and intelligence as a lawyer and hard work put in preparing a case and not on 'reputation', seniority or the ability to mould arguments, presentations and pitch according to the personal preference/learnings of the Honourable judge.

   This would mean end of the exorbitant legal fees charged today by seniors who quote millions of rupees for a mere 'appearance' in a matter of 'admission of a petition' or 'stay of proceedings' – even if the case is adjourned or does not come up for hearing.
- No influence of media reports and trials or propaganda carried out by interested parties – whether religious groups, political parties, powerful lobbies or corporate rivals.
- No scope for nepotism, favouritism or corruption.
- No pendencies as the 'Honourable judges' would be able to work 24x7 without any fatigue.
- Radical reduction in cost of maintaining judiciary including freeing of very expensive and prime properties occupied by thousands of courts and Lordships.
- Total elimination of government influence over judges.
- End of 'discretionary' powers, which have almost become like whims & fancy of individual judges, especially in dealing with cases involving bails or interim stays.

- In case of differing judgements of various regional courts (which could be there because of different precedents in specific states on same matter), the issue and all cases involved shall be automatically collated and transferred to 'Supreme Court' for a final judgement. Over a period of time, the time taken for a final pronouncement on any issue would be shrunk beyond what can be currently imagined.
- The tendency in recent times of courts assuming authority which as per Constitution lay with Parliament, would be eliminated. The separation of judiciary and executive would be truly restored with each acting within the boundaries prescribed by Constitution.
- The distinction between cases involving issues of 'facts' vs. 'law' would be clearly made, thereby ensuring that issues involving facts would be finalized at 'lower' level only.
- The prevalent practice of 'remanding' the case to lower authorities or court to reconsider (which basically amounts to kicking the ball in someone else's court) would be totally eliminated. Pendencies of cases accordingly will seriously reduce.
- The man hours and petrol & diesel saved because of eliminating need to commute to the 'courts' will have a very positive impact on our economy and environment.
- Most important, the 'unbiased' judiciary will instill tremendous confidence in investors and citizens who have to face serious and prolonged litigation on account of actions of overzealous or corrupt or scared government officials (particularly involving taxation & levies since they are under tremendous pressure to collect revenue), that they will get fair and prompt relief where deserving without the fear that the 'judge' would feel uncomfortable giving large relief which will impact government revenue. This would be a major step towards 'ease of doing business' rather than mere lip service.

In summary, I believe based on a factual assessment as above that lack of human intervention in judicial process will eradicate many  follies in our judicial system that exist today.

Radical as it may sound, I believe there can be no better application of 'Artificial Intelligence' than application in judicial system, especially for large democracies, emerging economies and societies like ours where large scale litigation and pendencies of cases are a norm and which are resulting in gross injustice to citizens.