

## Tracking the Development of Intelligent Court System in China

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### Abstract

With the revolution of information and cyber technology, different institutions of the Chinese government have initiated a series of online platforms under the umbrella of e-government that make use of information technology to carry out administrative functions and make sure disclosure of information to the public. Information technologies have also brought a revolution in the Chinese Judicial system as a result of the enhanced efforts of the Chinese Government, the Communist party and the Supreme People's Court for the informatization of the Chinese Judiciary. These attempts have turned the direction of Judicial Reforms towards the openness of judicial system where the people's courts have been developing innovative mechanisms to open the procedures and the judicial information by utilizing the information technologies. Chinese Authorities have been striving to develop internet based smart judicial system keeping in view the development of technologies in the recent years. However the development of intelligent court system brings a lot of challenges which require careful consideration in order to rule out the potential adverse effects of the online judicial system. This paper focuses on the current state of judicial openness through the development of 'Intelligent Court System' in China.

**Keywords:** Intelligent Court, Internet Courts, Online Dispute Resolution, Judicial System

### INTRODUCTION

With the increasing use of information technology and the heavy investment in upgrading the infrastructure for public services, the network provides easy access to government and the public for online communication.<sup>1</sup> Application of information technology in the judicial system has reached to a new level, providing the facilitations in judicial procedures such as online case filing, online trial and the openness of other judicial activities online where the internet has become the important sign for the development of judicial openness.<sup>2</sup> The information technology has turned the modern courts into cyber-court, e-courts or the internet courts etc. A cyber-court mainly refers to the court where the whole judicial process or the parts of the judicial process are carried out online with the use of internet.<sup>3</sup> It can also be called e-court or the online court.

As the information technology has entered into the people's daily life and online activities of the public have been increasing rapidly which have given rise to the online violations, infringement cases and cybercrimes<sup>4</sup>, especially where the online business and shopping activities are carried out frequently and aspects of e-commerce, intellectual property and online financial services are involved often. The increasing phenomena of online infringements, violations and cybercrimes require the advanced online court system which can fix the increasing number of disputes in the online society. The nature of online cases also

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requires the setup of the court system online having the capacity to settle the online cases through the online procedures.

Therefore, keeping in view the increasing number of cases online in China, the government and the Supreme People's Court of China have taken an initiative to setup the e-commerce court which can handle the disputes through online system using the advanced facilities of information technology i.e. big data or cloud computing etc. As a pilot project to be carried out on experimental base, e-commerce courts have been set up in Zhejiang province, which have the capacity to resolve the case through online procedure from start to the end of the case which means parties do not have to attend the court rather they can proceed from anywhere online. It can also be named as an internet court.<sup>5</sup>

### **Innovation in the Model of E-commerce Dispute Resolution: The Development of Online Dispute Resolution (ODR) Mechanism**

The Online Dispute Resolution (ODR) has been derived from the Alternative Dispute Resolution (ADR) by updating it to the most modernized cyber version.<sup>6</sup> The emergence of e-commerce disputes in China put forward the need for a specific type of ADR targeting the online e-commerce disputes. In China, the Online Dispute Resolution is undergoing in two main directions of development; first the transformation of the traditional judicial system into the advance and IT equipped completely online court system; second, to resolve online disputes and develop a healthy online business environment.<sup>7</sup>

The Online Dispute Resolution is a variety of solutions provided online such as Online Negotiation, Online Mediation and Online Arbitration etc<sup>8</sup> with the elements of fast, convenient, cheap and transparent system for the resolution of online disputes. The ODR has also been used as an assisting measure during the e-commerce development and emergence of cyber economy and it has also been emphasized by international organizations.<sup>9</sup>

In China, Internet based dispute resolution was first time used by the China International Economic and Trade Arbitration Commission (CIETAC)<sup>10</sup> which developed its ODR centre in 2000.<sup>11</sup> In August 2001, the centre handled first internet dispute concerning the domain name of the website which made the centre pioneer in the online resolution of disputes using the arbitration as a mean of resolution of dispute.<sup>12</sup> Moreover, in 2004 June, China's E-commerce Laws Nets and Beijing Deofar Consulting Ltd. developed the "China Online Dispute Resolution Centre" to settle e-commerce disputes, which uses the mediation and negotiation as means to resolve disputes.<sup>13</sup>

### **E-Commerce and ODR in China**

Online Dispute Resolution (ODR) is not a new concept. It has emerged with the development of information technology.<sup>14</sup> The development of ODR in recent years is the result of significant development in electronic commerce around the world. A recent survey states that in 2020, over 2 billion people ordered goods or services online, and during the same year, e-retail sales exceeded 4.2 trillion U.S. dollars worldwide.<sup>15</sup> As of January 2021 there were found 4.66 billion active internet users worldwide - 59.5 percent of the world's population. Of this number total, 92.6 percent (4.32 billion) accessed the internet via mobile devices.<sup>16</sup> Online business provides convenient excess to large number of goods and services irrespective of the location of the parties involved.<sup>17</sup> In such an online environment powered

by information technology, traditional dispute resolution system which requires the paper based suit filling system and the attendance of parties in the court room has become less practicable and it does not meet the needs of internet society.<sup>18</sup> In China, e-commerce has developed at a relatively fast pace. Revolution in the information technology has brought the benefits of easy accessibility and lowering the costs<sup>19</sup> through the use of internet. China has become the largest market for e-Commerce with revenue of 1,343 billion US\$ in 2020, placing it ahead of the United States.<sup>20</sup> Online Shopping has become more frequent and hence it is turned as the essential component of Chinese citizens especially the young Chinese people.<sup>21</sup> Since 1990s, rapid development of information and big data technology has influenced the revolutionisation of the courts and raised the requirements for the adoption of information technology in the judicial system. The dependence on online methods for the business transactions always gives birth to various kinds of disputes. With the increase in the number of online users of e-commerce, the numbers of disputes also increase rapidly. The resolution of online disputes is vital for the success of online shopping system. Therefore, the situation leads questions to develop the efficient system for the resolution of online disputes. The discussion about the introduction of Online Dispute Resolution (ODR) as an alternative to the dispute resolution through the traditional court system started in 2003.<sup>22</sup> Since then ODR has been developing, adopting different forms and ways including Online Mediation<sup>23</sup>, Online Arbitration<sup>24</sup>, Online System for Consumer Complaint (also regarded as online negotiation)<sup>25</sup> and finally the development of Online Dispute Resolution with the emergence of Online Court System. Hence, the up-to-date form of dispute resolution is through full fledged online courts which is now being developed at a relevantly fast pace in China.

### **Judicial Reforms and Informatization of Chinese Courts**

Since the beginning of 21<sup>st</sup> Century, The Judicial System in China has been undergoing tremendous reforms, transforming the judicial system into a more digital and advance system.<sup>26</sup> The revolution in information technology and the increasing demands of the public for their diversified needs has pushed the Chinese Authorities to equip the judicial system with information technology which has consequently led towards the “big data era”.<sup>27</sup>

According to the 2017 working Report of the Chinese Courts, the significant part of the Judicial Reforms of Chinese courts is to “advance judicial publicity and develop a sunshine judicial system”.<sup>28</sup> If we closely examine the current phase of Chinese Judicial Reforms, the Government in general and the judiciary in particular has been paying a great consideration for the use of Information Technology tools to reshape the judicial services.<sup>29</sup> The use of Communication and Information technologies in the judicial system of China was initiated by the commencement of “Working Conference on Communications and Computers of People’s Courts” in 1996.<sup>30</sup>

Since the start of court reform plans in 1999<sup>31</sup>, the current phase of judicial reforms has entered into the strategic era of openness for the judicial system where new mechanisms for judicial openness has emerged in a short period of time.<sup>32</sup> The Chinese Courts in their current situation are greatly different from the courts of pre-reform era. The adoption of information technology is the main point of difference between post-reform and pre-reform courts.<sup>33</sup> It is significant to mention here that out of 65 measures specified by the 4<sup>th</sup> Five-Year Court reform plan; around 35 measures depend on the use of information technology for the implementation

of those measures.<sup>34</sup> Hence, it is affirmed that information technology has now become the integral part of the dispensation of justice and the judicial procedures largely based on the use of information technology.<sup>35</sup> Adoption of information technology under a systematic reform plan has also been referred as "Informationization of People's Court".<sup>36</sup> The evaluation report "Chinese court third-party assessment of information assessment," jointly issued by 'Chinese society Institute of Law Institute' and China 'Social Sciences Publishing House' on 12 April, 2016 suggests that;

*"Judicial reform and information construction are the two rounds of the development of people's judiciary and the wings of birds. Informationization of the courts is also an important part of the informatization of our country. It is the key for the people's courts to uphold social fairness and justice and meet the needs of the judiciary in the new era."*<sup>37</sup>

Informatization of people's court 2.0 versions has already been completed in around 20 years of efforts and now the Chinese courts are moving forward to complete informatization 3.0 version.<sup>38</sup> The terminology 1.0, 2.0, 3.0 versions of informatization is seemingly derived from the concept of Web 1.0, 2.0, and 3.0 etc.<sup>39</sup> In Chinese Judicial System informatization version 1.0 characterizes the initiation of online phase and the transformation of judicial data in online system. Examples of version 1.0 are the launch of three judicial platforms online which are "China Judicial Process information Online"<sup>40</sup>, "Chinese Judgments Online"<sup>41</sup> and "Chinese Enforcement Process Information Online"<sup>42</sup> The main objective of these three online platforms is to disseminate judicial information in order to provide the public with easy access of the information and build judicial transparency which has produced fruitful results.<sup>43</sup>

Version 2.0 of the informatization of the people's court represents the two way interaction between the courts and the public where the mechanisms for interaction and communication between the courts and the public have been developed. One of the significant achievements made in 2.0 Version is the development of the "12368 Litigation Services Platform".<sup>44</sup> 12368 Litigation Services Platform offers a variety of services allowing the litigants and the public to contact lawyers, reach out to judges for making inquiries about the trial procedures, consult cases and file complaints against the violations. This platform has made significant achievements in bridging the gap between the courts and the litigants or the public. These measures are the result of National Justice Information System Project ("Balance Project").<sup>45</sup> It was affirmed in 2015 that the aim of building the system of communication and interaction between the courts and the people had been achieved by the end of 2015.<sup>46</sup> Information technology has been playing an important role in the improvement of transparency of judicial work. The Version 2.0 of informatization of the people's courts has already been achieved.<sup>47</sup> It was emphasized by the third party evaluation report that:

*"Although the goal of version 2.0 has now been achieved, the people's court has not stopped at all and has devoted itself not only to establishing the 3.0 version of the People's Court with Chinese Characteristics."*<sup>48</sup>

The Version 2.0 of the informatization of people's court is characterized as "(a) The construction of information infrastructure, which generates a linked network through administrative intranet, local network of courts, specialised extranet, and confidential intranet; (b) Ten computer applications that are put in use for the purpose of supporting judicial activities, enforcement procedure, and administration; (c) A breakthrough in the integrated

management of data, covering judicial activities, personnel management, and administration.”<sup>49</sup>

The current phase of Judicial Reforms is focused on the achievement of the 3.0 Version of informatization. This requires the integration of information and communication technology into the daily work of the people’s court. It is the phase which aims to develop interactive services through dynamic applications to strengthen the interaction between various sectors for the effective and timely resolution of the cases. The development of Version 3.0 of informatization can be realized in the development of “Intelligent Courts” which fully depends on the information and communication technologies for the resolution of disputes through online system. Further comprehensiveness and the greater integrations between the courts and the public are required to achieve the 3.0 version of informatization. To achieve this goal the Chinese Government under the leadership of president Xi Jin Ping has emphasized the focus on deepening the judicial reforms in order to construct the socialist judicial system and construct the socialist rule of law with Chinese Characteristics.<sup>50</sup> Moreover in the recent years excessive focus has been placed on the integration of internet, big data and artificial intelligence. During his speech delivered before the 19th National Congress of the Communist Party of China, the Chinese President Xi Jinping emphasised “*We will work faster to promote further integration of the internet, ‘big data’, and artificial intelligence.*”<sup>51</sup> The Supreme People’s Court has also been requiring the people’s courts at all levels to make full use of ‘big data’ for the modernization of Justice System. Zhou, the president of the Supreme People’s Court, suggested that “*Applying new technology in promoting justice can make judicial practices more open, transparent and predictable,*”<sup>52</sup>

### **Intelligent Court System in the Era of Big Data**

Revolution in the information technology has led towards the development of big data i.e. the big amount of data which is generated intentionally or unintentionally.<sup>53</sup> Use of big data in Chinese Judicial System is taking strong roots as a result of recent reform process. Chinese Courts have been focusing on the use of dig data technologies in the administration of justice system.<sup>54</sup> The use of big data is full of diversified challenges which need greater consideration.<sup>55</sup> Therefore, a pragmatic approach is required to tackle with the challenges arising out of the use of big data into the judicial system.

The term “intelligent court” was used officially first time in the 2015 Annual Working Report of the SPC presented by the Chief Justice of China on 13 March 2016. He stressed on various occasions to create intelligent courts. He emphasized that “*IT has raised the quality and efficiency of trials, reinforcing social equality and justice in general.*”<sup>56</sup>

“*An ideal form of ‘intelligent court system’ should “make full use of technologies such as internet, cloud computing, big data, artificial intelligence and so on, to promote the modernization of trial system and judgment capability, so as to achieve the highly intellectualized operation and management of the people’s court.*”<sup>57</sup>

Therefore the “Intelligent Court” in this context includes following aspects of the judicial system:

- a) Intelligent Administration of the Court
- b) Intelligent Resolution of the Cases
- c) Intelligent Personal Evaluation

## CONCLUSION

The goal of the recent year's judicial reforms is to achieve social fairness through judicial fairness and raising the integrity of judicial system in the public by delivering the efficient and fair justice in each and every case. The Supreme People's Court initiated the project 'online case resolution' or 'e-court' to develop mechanisms for the Online Disputes Resolution which indicates the future direction of the Judicial Reforms of Chinese Courts through informatization. Diversified mechanisms have emerged in different provinces of China as the attempts towards judicial fairness through up-gradation of the traditional judicial procedures. Furthermore, the incorporation of information technology into the Chinese judicial system has given birth to the development of the 'intelligent' or 'smart' courts system in China. Extensive use of information technology has opened new horizons for judicial openness. It has assisted the policy makers to adopt new ways for the administration of justice system. Liberalization of economic environment and emerging online markets have given birth to new ways of resolving disputes in China in the form of internet courts. The development of the 'intelligent court system' represents the will of Chinese authorities to equip the judiciary with the advanced technology which is going to reshape the case resolution system, transferring it from the traditional offline procedures to the advanced online procedures. The establishment of 'e-court', 'smart court' or the 'online court' in China will efficiently shift the court system from closeness to openness, meeting the increasing expectations of the public from judicial system in the age of information technology.

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- <sup>4</sup> Cybercrime has been defined in the Merriam Webster Dictionary as "crime (as theft, fraud, intellectual property violations, or distribution of child pornography) committed electronically" See Legal Definition of cybercrime, available at <https://www.merriam-webster.com/legal/cybercrime> (Last Visited 10 Jan 2021)
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<sup>19</sup> The affordable and efficient logistics services are playing fundamental role in the advancement of e-commerce in china.

<sup>20</sup> See E-Commerce Analysis, available at

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<sup>31</sup> First Five Year Court reform plan (1999-2003) was initiated by the SPC in 1999.

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<sup>36</sup> See People's court information from 2.0 to 3.0 version forward; The "Wisdom Court" puts its wings on the path to justice which states that "On the whole, the Chinese courts have basically completed the 2.0 version of People's Court Informatization, which is characterized by interconnection and exchange, and centralized management of three types of data: trial execution, judicial personnel and judicial government.", available at [http://www.legaldaily.com.cn/xwzx/content/2016-04/12/content\\_6583771.htm](http://www.legaldaily.com.cn/xwzx/content/2016-04/12/content_6583771.htm) (Last Visited 30 Jan 2021)

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<sup>38</sup> See Ibid

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<sup>42</sup> See the Website of and Chinese Enforcement Process Information Online; <http://shixin.court.gov.cn/> (Last Visited 30 Dec 2021)

<sup>43</sup> Until February 2016, People's courts nationwide published over 1.5 million judgments, 3.5 million pieces of information about the defendant in the enforcement procedure, and live broadcasted 130 thousands of judicial hearings through the above mentioned websites, according to the Annual Working Report of SPC 2015.

<sup>44</sup> See the Website of 12368 Litigation Services Platform; <http://www.gzcourt.gov.cn/12368/> (Last Visited 30 Jan 2021)

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