

The case to the court which affected the

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The civil justice system in UK contributed in handling civil disputes.

Unfortunately, reports showed that civil process was ineffective as they were not able to resolve severe issues rising in most countries because of unsystematic development in the civil legal system. In recent years changes have been made in civil justice system to solve three crucial problems of cost, complexity, and delay. It was in this background of criticism the Conservative Government appointed Lord Woolf to undertake another broad-extending review civil process. The civil legal system being mostly adversarial resulted in unchallenging pre-trial procedures in civil courts.

As amount of public money spent on justice system increased, delay and high cost in solving disputes became a political issue. To minimize the length of time and trial when cases reach courts, reforms of pre-trial procedures were initiated from the early 1950's. Introduction of some further reforms such as Civil Justice Review of 1986 mentioned to improve the machinery of civil justice in England and Wales through introducing reforms to reduce cost, complexity, and delay. 1 Costs were unbalanced to amount of claim.

There was delay in bringing an action and getting the case to the court which affected the evidence and the witnesses. Compensation were too delayed which reduced public confidence in justice. In relation to complexity too many cases were tried at the high court. The solution was seen in balancing the cost and efficiency of the courts and in improving the management of courts which were made in the Courts and Legal Services Act. 2 The above reforms had little impact on legal system; therefore, in 1994 Lord Woolf was ordered to eliminate the defects in civil justice system.

According to him the courts should encourage dynamic case administration. The utilization of alternative methods of acquiring justice, through mediation, was to be empowered and the exchange of witness statements between both parties was to be preferred. His proposals were afterward made a portion of civil system under the New Civil Procedure Rules³ with the aim of making civil disputes simple, quick and less adversarial. CPRs are Litigation rule book which provide rules to the processes and procedures that must be followed. Lord Woolf, while starting his examination of the Civil law process recognized mixed issues. His interim report of June 1995 stated some of the main issues which were cost, delay and, complexity. Lack of legal control made the litigation process appear as a battle field where no rules apply which resulted in unbalanced cost and unforeseeable delays. ⁴According to him litigation should be dodged wherever conceivable.

Other crucial reforms that had immediate impact on cost and delay were Pre-action protocols, case management and ADR. Pre-action protocols encouraged early settlements which should be followed by parties before making a claim for judicial review. The aim is to enable the parties to promote co-operation by knowing everything beforehand and avoiding litigation process. ⁵Case management was critical feature consisting of three tracks; each determining which court will deal with claim depending on its cost value and the subject matter. Alternative Dispute Resolution is a less costly method of resolving disputes between two parties who avoid going to the courts. ADR leads to agreed solutions between the parties and promotes

early settlements. As of the compulsion on the parties, individuals are less willing to try ADR.

There is a need of request for mediation, particularly in the cases where the claim is a result of a breakdown in a relationship. In *Cowl v Plymouth City Council*, the case was heard by Lord Woolf where he held that ADR options such as mediation must be preferred by the courts especially where public money is involved. To resolve the issues concerning hesitance of claimants in utilizing Alternative Dispute Resolution, changes are required in civil justice system. One important criticism of Woolf reforms is the introduction of proportionality through an overriding objective into Civil Procedure Rules where courts can deal with cases justly. Which means making sure that the parties are on an equal footing, saving expenses and ensuring that case is dealt fairly.

Introduced by the Courts and Legal Services Act 1990 and Access to Justice Act 1999, Conditional Fee Arrangements refers to 'no win, no fee' contract between solicitor and private client. Here, private client on winning agrees to pay success fee to the solicitor which will be paid by the losing team. The losing party will have to pay success fee with litigation fee, which is 95% of the total legal fees. The whole aim was to empower the deprived people to pursue litigation. *MGN Ltd v UK* held that success fees were disproportionate to the claim brought. It was argued that Woolf reforms increased the costs by introducing CFA's instead of making litigation more cost effective.

Therefore, Lord Jackson was asked to conduct review of civil litigation costs. His view was that cost should be proportionate to the value of case. One of

his key recommendations was to avoid using CFAs. 10 Though Woolf's Reforms were accepted by many, there were also who criticized them as unsuccessful. One of the major criticisms was made by Michael Zander.

He argued that once the case begins, there is a massive pressure on the parties to enter settlement. He also added that pre-trial hearing will not reduce delay and cost. 11 Furthermore, according to Rand report case management increased the work for lawyers also the cost as it adds to front loading. There were many others who believed that Woolf's reforms have not contributed towards success especially when it comes to cost.

In conclusion, comment will be that Woolf reforms have succeeded in promoting settlement and avoiding litigation which is great advantage for litigants who can now avoid high costs and everlasting court procedures. But the main aim of reforms was to reduce the cost, which is not completely achieved. Since advantages supersede the disadvantages, Woolf's reforms still have a long way to go and can be considered as a great incentive for the future.