

ISSN: 2582-6433



INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed 6th Edition

VOLUME 2 ISSUE 7

www.ijlra.com

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EMOTIONS OF THE JUDICIARY- DO

THEY PLAY AN IMPORTANT ROLE? A

DESCRIPTIVE STUDY

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Abstract:

The concept of Emotion plays a controversial role in any field of work, especially in the Legal Fraternity and Judiciary, whose primary selling point is to profess Neutrality and not to pay heed to unsolicited and bland opinions freely thrown out. While upholding Professionalism in Work is pretty much doable, chaos arises when society does not render to your Opinion, and no provision stands the test of time if it is against the public. Not only societal emotions but also personal emotions come into play. A Judge, an adjudicator, a Mediator, or a Conciliator, the person engulfed in the role is human. This paper sheds light on the role of the abstract notion of Emotions, both of the deliverer and the receiver ends of Law. The researcher intends to provide an image with descriptions where the jurists and the people might have to tackle emotions before countering and adjudicating the situation. References to Mediation, International Arbitration, and many judgments and domestic legislations shall be referred to. ADR mechanisms can help societal individuals with a faster and more efficient process to avail justice without the procedural hassle and leave the seekers much happier than ever.

Research Questions-

1. Does a judge's societal and cultural upbringing have a say in the Courtroom?
2. Can ADR help the Indian Judiciary to be efficient?

I. Introduction.

The primary inspiration for the researcher to take up this topic to write a research paper on was- when law students enter into schools of Law, the first thing that usually intrigues them is the Judiciary; for them, Judiciary is the Law. The setup of the Judiciary is much more interesting, including the scenarios where we look at the Collegium System, the experienced Judges, and the British architectural amaze of the courts. Consequently, we are exposed to the fact of the Independence of the Judiciary Emotions are complex and subjective experiences that are uniquely human. While judges are capable of experiencing a wide range of emotions, it is essential to remember that their role is to make decisions based on legal principles and evidence presented in court rather than their emotions. Judges must remain impartial and make decisions based on the facts of the case without being influenced by personal emotions or biases.¹

II. Could the judgments head the other way?

In the *Ayodhya case*², the Judgment was delivered by the bench consisting of Justice Ashok Bhushan, Justice SA Bobde, CJI Ranjan Gogoi, Justice DY Chandrachud, and Justice S Abdul Nazeer. Justice Abdul Nazeer gave the only dissenting Judgment in an overall controversial case. It was the case where the Islamic citizens of India claimed their rights over the Babri Masjid while the Hindu counterparts strongly opposed it being the 'Ram Janma Bhoomi.' The Judgment was delivered on the last working day of the then Chief Justice Ranjan Gogoi, who led the majority opinion, which ruled that the Land should go to the temple's trust and the trust representing the mosque was given 5 acres elsewhere. The Hindus took most of the chunk from this Judgment on a single overlook. If we decipher the bench individually, we could consider the possibility that the Judgment could have had an alternate outcome if the bench could have consisted of another bench. Ranjan Gogoi has been continuously associated with the ruling government, especially when he was given the ticket made by the Member of Parliament immediately after his tenure as the Chief Justice ended.

¹ *Judging, Emotion and Emotion Work*. (2018, January 24). Instituto Internacional De Sociología Jurídica De Oñati. <https://www.iisj.net/en/workshops/judging-emotion-and-emotion-work>

² 2019 SCC OnLine SC 1440

If not a factual inference, a minute feeble relation could be drawn as to how the Judgment could have had an alternate approach if Ranjan Gogoi was not on the bench. S A Bobde, a Brahmin by his cultural upbringing; could it be that the way he was raised and the faith he believes in have an effect that has to be overlooked as it is believed in everyday parlance that a Judge is to profess Neutrality? The underlying point of this paper is to consider at least that a Judge sitting on a case is not a robot or an AI that cannot profess detailed thoughts channeled my feelings.

We could also take the semi-controversial cases of the Triple Talaq Judgment and the Sabarimala case . The cases could have gotten an alternate approach considering the societal mindsets of a majority too, which the Judiciary has to cater to while delivering a Judgment; in the end, the Law has to adhere to the society it governs.

III. The Court Room Emotions.

Emotions can play a significant role in a courtroom, both for the individuals involved and the overall outcome of the case. Here are some instances where emotions show a vital effect³-

When it comes to witnesses and victims under trial, they tend to experience a range of emotions when recounting their experiences in court, such as fear, anger, sadness, and anxiety. Not just while undergoing trial, but getting involved in the judicial process might also have after-effects on a human being. Although one can try to carry on with their everyday life, society may start to view them differently, which can potentially cause side effects on a person's mental health. These emotions could affect their communication ability and may impact their credibility as witnesses.

Under Jury, primarily prevalent in the US Judiciary, jurors may also experience emotions during a court case, such as empathy for the victim or frustration with a slow-moving trial. These emotions can influence their perception of the evidence and their verdict. All parties involved in a court case must recognize and manage their emotions to ensure a fair and just outcome. Additionally, jurors are expected to be instructed to remain impartial and base their verdict solely on the evidence presented

³ Snider, K. M., Devereux, P. G., & Miller, M. K. (2021, April 27). *Judges' emotion: an application of the emotion regulation process model*. PubMed Central (PMC).

<https://doi.org/10.1080/13218719.2021.1904454>

in court.

One central notion that goes unnoticed is the feeling of the person entrusted with the premium responsibility of delivering justice. A judge is a legal professional who presides over court proceedings and ensures that justice is served according to the Law. The judge is responsible for overseeing the trial, ensuring that the prosecution and defense have a fair chance to present their cases, and making a final decision based on the evidence presented. While judges may have personal opinions or beliefs, they must set them aside when making decisions and rely solely on the facts presented in the case. The judge has to remain impartial and apply the Law fairly and consistently. In addition to presiding over trials, judges have other responsibilities, such as setting bail, issuing search warrants, and making decisions on sentencing. Overall, the role of a judge is to uphold the Law and ensure that justice is served fairly and impartially.

IV. Alternative Dispute Mechanisms-

ADR (Alternative Dispute Resolution) mechanisms can be affected by emotions in several ways. Some of the critical instances include Mediation, where a neutral third party helps parties in a dispute reach a mutually acceptable resolution. Emotions can play a significant role in Mediation, as parties may have strong feelings about the dispute or the other party. The mediator must manage these emotions carefully to ensure that the parties can communicate effectively and work toward a resolution⁴. Mediation, unlike litigations, focuses on "Win-Win" scenarios by considering the intricacies of both parties, including their clear stance, which they portray on their basis. Mediation usually tends to familial and personal relationship issues.

Furthermore, arbitration is a process where a neutral third party makes a binding decision on a dispute. Emotions can also play a role in arbitration, as parties may have strong feelings about the dispute or the arbitrator. The arbitrator must remain impartial and make decisions based on the facts and evidence presented rather than emotions. In arbitration, unlike mediations, emotions must not be placed on the main stage as the parties involved are body corporates where parties in a dispute try to reach a mutually acceptable resolution through direct discussion. Negotiators must be aware of the

⁴ *Mental Health in the Legal Profession - Minority Corporate Counsel Association*. (n.d.). Minority Corporate Counsel Association. <https://mcca.com/mcca-article/mental-health-in-the-legal-profession/>

emotions involved and work to manage them to ensure productive discussions.

Overall, emotions can affect ADR mechanisms in both positive and negative ways. On the one hand, strong emotions can make it difficult for parties to communicate effectively and work toward a resolution. On the other hand, emotions can also motivate parties to work harder to find a mutually acceptable solution. Skilled ADR professionals can help parties manage their emotions and work toward a resolution that meets their needs.

V. Conclusion-

In any law of the Land, be it kings who handled it in the olden days. Now the common law judicial setup, the person adjudicating is formed on his own over the years, and the point shouldn't be forgotten that he is a part of the society too, and he is, at last, a human. The purpose of this paper was to portray that although the decree provided shall be done after hearing both sides of the case by Judge A, the approach which Judge B had taken would have been different in the same matter. Such is the way how more or less it works in real-life courts, and people have to start accepting that alternate approaches to justice must be considered seriously, where the scope for emotions is not downtrodden.

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