

Origin and development of the law reports in the Indian sub-continent & the United Kingdom –Barrister Mustasim Tanzir¹

AIR: The law report that inspired all the others even before the DLR -

Before DLR and all the 22 law reports of Bangladesh were born, the most well-known and the most reliable law report for us during the British-Indian period was the AIR. There is a saying that, one cannot make any sense of the present, unless a part of them lives in the past. So, we must take a glance at that pioneer law report that inspired all the 22 law reports of Bangladesh, as well as all other living law reports of the Indian sub-continent that we see today.

The history of AIR and its founder is provided in its official website www.airwebworld.com which is quite fascinating. As per the narration of the website, the All India Reporter Pvt. Ltd. (AIR) was founded by **Late Shri V. V. Chitale (commonly known as Appasaheb)** in the year 1922. The first volume of AIR contains the Privy Council cases of 1914 and therefore many lawyers and even law librarians mistakenly think that AIR was founded in 1914. It should be borne in mind that the full version of the judgments of Privy Council were not instantly available in India after those judgments were declared and reached the lawyers. Moreover, it took time to collect them from the UK as transport system was far slower and expensive in those days and it took a long

time to make those judgments ready for printing using the printing machines of those days. When AIR started publishing in 1922, they brought out back volumes from 1914 and continues up-to-date.

Born in a family of humble means of Maharashtra, Appasaheb had to work daylong as a private tutor and study during nights to continue his own college education. Later he joined the law profession due to his extraordinarily ambitious nature and after severe struggle and persistence, came to be known as one of the leading lawyers of the High Court at Nagpur, India.

Being a practicing lawyer himself, he experienced the difficulties faced by the lawyers because of the absence of a reliable journal reporting cases from all over India and the Privy Council. Thus was conceived a law journal which would combine the functions of an All India Journal and of a provincial journal - the All India Reporter. It is this unique feature of the AIR journal which has made Appasaheb's name familiar throughout the length and breadth of India in legal circles. Also, today, AIR is more or less synonymous with law reporting in India and the Commonwealth countries.

Though the AIR was of such obvious value for the country and the legal profession, the idea had not occurred to any of

his predecessors at least in the form which was envisaged by Appasaheb. In that sense he can be truly accorded the position of a pioneer and a public benefactor. He started the institution more out of his love for the profession and to serve the legal fraternity than making a fortune for himself. AIR and its allied journals have the distinction of being quoted authoritatively not only in all the Courts in India, but even in distant foreign Courts like the *Federal Court of Malaysia*.

Even though Appasaheb was a deeply religious man, he had a deep aversion to superstitions. To prove his abhorrence about superstitions, he started the AIR on January 13, 1922 at 13 minutes past 1 O'clock (which can also be written as 13:13). In 1922, Appasaheb started the institution with a team of very few trusted hands numbering not more than 25-30. Over the last 85 years, the organization has grown into a family of nearly 250 people. Once when the Company was reeling under a severe liquidity crunch, the employees on their own offered to work at half wages. Initially All India Reporter had a meagre strength of 1000 subscribers, but after the journey of the past 85 years, *the Company now dispatches approximately 1,00,000/- (One lac) books every month and can boast a readership of nearly 10,00000/- (One million) readers* for its various publications.

Not just the age, but even in terms of size and diversity of contents, the AIR is still the champion among the existing law reports in the entire Indian sub-continent. It is also the most expensive among them due to its surprisingly large number of yearly volumes. There are many states (now 29 states & 7 union territories) of India with their own High Courts, all of which creates case laws along with the Supreme Court of India which is located in Delhi. Moreover, landmark cases of foreign countries are also included in one of the volumes of the AIR. The complete yearly set of the AIR now also have a law journal & statute section. For those who are curious about the price of AIR sets and volumes and considering whether to purchase the AIR, the following information may be relevant. The 2016 yearly set of the AIR has 14 volumes in total with a visible price tag of 10,200/- Rupees as provided by the www.ebcwebstore.com for those who want to buy the hard copies online via international credit card along with shipping cost. On the other hand the official website of the AIR doesn't display the price list of its hard copies and the website displays an official list of its authorized representatives who are the sellers of all the AIR journals, books, reports and products. Local law book sellers of Bangladesh naturally sell these at a higher rate due to the customs, shipping and profit reasons, but one should be very careful not to buy the look alike photocopies of the AIR from a

seller at a higher rate as some sellers may attempt to do these in order to increase their profit margin. The legibility and durability of the photocopies are usually sub-standard and tend to fade away after a few years.

All the copies of the AIR is available electronically via its sister concern www.airinfotech.in at a rate of 8000/- Indian Rupees for 1 (one) year. Free trial is also available for 15 days for all AIR journals since 2010. All the basic and advanced search features can be accessed during that period. One can get all the contact details in that website. They also sell software CDs since 1997 that contain advanced features of searching. In October 2014 they launched "LeSearch" – A new version of the AIR comprehensive software (SC+ HC+ CRLJ) 1950-2014 (Updated till March 2015) with many advanced features like bookmarks, personal law register, nominal index, judges index, act index, cross reference to more than 35 journals, monthly updating through net, printing & hardware lock etc. The cases within that database can be searched by citation and page number, bench place and type, judge, cases referred and several other options along with multiple combinations.

AIR has its mobile phone version and its app is available in the Google play store. Topic reference, global searching, daily updates and personalization are among its features. Electronic version of

the AIR (2007-2017) is available online at a price of Rs. 5/- per judgment. It seems that they are upgrading themselves and we shall see further developments and enhancements within a short period of time. AIR also has its official Facebook page titled as All India Reporter Pvt. Ltd. Around 13,675/- persons like and follow this page. One can find it in the Facebook by simply typing All India Reporter in the Facebook.

In 2016 AIR published a set of 14 volumes of its law reports. First 8 volumes out of 14 were Indian Supreme Court cases. Volume 9 to 13 includes the case laws produced by the state High Courts. The last chapters of volume 13 includes a journal of 192 pages with legal articles written by top legal and academic scholars of India about the burning issues of legal reform or serious questions of law. In our country, where legal practice often means a clear-cut divorce from the legal academic higher studies and advanced research; this unique and vigorous blend of academic and professional legal thoughts is likely to create strange feelings and ideas in the observers mind.

Its photograph section includes colour photographs of the Chief Justice of India and all the Chief Justices of the state High Courts. Volume 14 of 2016 of the AIR has a section on the International cases where the most recent landmark cases of the USA and the UK are included to keep oneself abreast with their major legal

developments and new legal thoughts. There is also a chapter on the evolution of law where several cases are juxtaposed to compare and understand how a specific legal doctrine has developed over a period of several decades to instil love of legal history and in depth understanding of the specific branches of law. It also has a section for the newly enacted Acts and statutory instruments. At the end of browsing, a person who is newly introduced to it, is bound to marvel and deeply impressed by the depth, gravity and stunning brilliance of the structure and contents of the AIR.

Bangladesh Supreme Court Bar Association Library has the complete and updated set of the AIR. Bangladesh Supreme Court library has AIR volumes from 1922 to 1914. Only the very few elite chambers of our country do have the full and complete sets of the AIR and ordinary lawyers usually do not have enough enthusiasm or money to buy these expensive sets. On the other hand even a smaller percentage of our district court lawyers have the quality or courage to venture inside the treasury of the case laws of the AIR and are not at all concerned about the latest volumes of the AIR. However, there are in fact some antiquated and dust covered volumes of the AIR in some of the district bar libraries. The outstanding level of sophistication and erudition of the AIR case laws are yet to be recognized or understood by most of the lawyers of our country.

However at the end of the day, it should be remembered that it was because of the vision, perseverance, hard work and scholarly endeavour of Late Mr. V. V. Chitale (Appasaheb), that All India Reporter Pvt. Ltd. has blossomed into the premier and pioneer Law Reporter and Publisher of not only of India, but of the entire Indian sub-continent. He struggled valiantly to keep the AIR private limited company afloat during the times of extreme financial hardship and at a later stage of success, to upgrade its existing standard even while he was dying of cancer. Today the AIR has become a colossal monument of his utmost dedication and sacrifice that he made by giving up his successful and lucrative law practice in order to build up the empire of legal knowledge. That was a level of true guts shown only by the legendary figures of the history standing on their unwavering convictions. He seems to have lived the saying of the great thinker Ralph Waldo Emerson that –“Do not go where the path may lead, go instead where there is no path and leave a trail.”

Other British-Indian era law reports before the AIR:

Even before the AIR there was a weekly periodical which was used as the most authentic legal report in the British India. It was called *Calcutta Weekly Notes (CWN)*. Its beginning date was 1897. It began with *volume 1 (1896-1897)*. Each of its volume covers cases from November to October. It also

contained the Privy Council cases apart from the decisions of the Calcutta High Court. Its history is shrouded in the mystery as it stopped publishing in 1946 due to the critical situation created by the partition of India. One can easily get idea about the contents of the CWN by reading the cover page of the CWN which states “Important decisions of the Calcutta High Court and of Indian Appeals to the Judicial Committee of the Privy Council.” The first volume of CWN provides reference to many other law reports that existed before it.

M.P Jain in his renowned classic *“Outlines of Indian Legal History”* (4th ed. 1981) pages 499-509 provides extremely detailed history of the origin of case law system and law reporting in India. He states that, in pursuance of the Indian Law Reports Act, 1875, an official series of reports, known as the Indian Law Reports, was started. Each High Court of India gradually got a series of Indian Law Reports (I.L.R.) for itself. Thus, a case decided by the Madras High Court may be found reported in the I.L.R. Madras ; a case of the Bombay High Court, in the I.L.R. Bombay, and so on for every High Court. The dates of commencement of the series, High Court-wise, are as follows: Bombay, Calcutta, Madras and Allahabad—1876; Patna—1922; Lucknow—1926; Nagpur—1936; Punjab—1948; Cuttakand Assam—1949; Rajasthan and Mysore—1951; Andhra Pradesh—1954;

Madhya Pradesh—1957; Kerala—1957; Gujarat—1960; Delhi—1968. There were also private law reports such as Madras Law Journal (MLJ) which started publications from 1891 and continues till now. CWN (1896-1946) and Allahabad Law Journal (1904-1974) were among the most reputed law journals. Bombay Law Journal started publishing from 1899. Besides these, there were a host of private publications in India. Those law reports were mostly of local interest and were not much in demand on an all India level.

There were several other case law books, case law periodicals and law journals before or during its contemporary period, which can be found in detail in the incredibly well researched book named "*A Complete List of British and Colonial Law Reports and Legal Periodicals*" (3rd Edition, 1995) edited by William Harold Maxwell, Charles Raynor Brown and published by the Lawbook Exchange, Ltd. Union, New Jersey, USA. It was originally published in Toronto by the Carswell Company Limited in 1937. Unfortunately this book is unavailable in the Amazon for being out of stock. But fortunately a part of this invaluable book is available in the Google books for genuinely enthusiastic legal researchers.

Origin, heritage & legacy of the English law reports:

Before the AIR or the other British Indian law reports, when our country was a part of the

British Empire in India, we had to follow the principles of the case laws of the UK. Even at the present period, British case law and legal principles are held in high esteem for their sophisticated reasoning and objective analysis especially in new and complex branches of the law. Our historical connections with the British law reports cannot be ignored. In order to fully understand the history and present system of our law reports, it is essential to know the historical evolution and present condition of British law reports.

Prior to 1865 case law had been reported by the barristers within court and the reports were named after the people who wrote them and these were known as the nominate reports. The older nominate reports were then reprinted in a series called The English Reports to contain the 'law' in one series. The English Reports can be found in hard copies or at paid websites or even for free at the official website of the renowned British and Irish Legal Information Institute (BAILII) http://www.bailii.org/form/search_ers.html which is an absolutely free resource.

The modern system of case law reporting in the UK dates from 1865 with the advent of the *Incorporated Council of Law Reporting (ICLR)*. ICLR is a legal charity, set up in 1865, who publish the most highly reputed and quasi-official series of law reports of the judicial decisions of the Superior and Appellate Courts in England

and Wales. Lord Woolf's Practice Direction 2001 unequivocally and officially affirmed its authentic status. The exact statement is given below with specific legal reference.

Lord Woolf CJ, Practice Direction (Judgments: Form and Citation), [2001] 1 W.L.R. 195, para. 3.1 (11 January 2001) - "For the avoidance of doubt, it should be emphasized that both the High Court and the Court of Appeal require that where a case has been reported in the official Law Reports published by the Incorporated Council of Law Reporting for England and Wales it must be cited from that source. Other series of reports may only be used when a case is not reported in the Law Reports." The official website for its law reports of the ICLR is www.lawreports.co.uk. The official website of the ICLR is www.iclr.co.uk which provide links for its highly specialized law reports.

The primary series of reports published by the ICLR is The Law Reports, which the Council maintains are "the most authoritative reports' and should always be 'cited in preference where there is a choice'. This series is divided into four main sub-series:

Law Reports, Appeal Cases (AC), covering decisions of the House of Lords (and, since 2005, the Supreme Court), the Privy Council and the Court of Appeal – started in 1866.

Law Reports, Chancery Division (Ch), covering decisions of the Chancery Division of the High Court – started in 1865.

Law Reports, Family Division (Fam), covering decisions of the Family Division of the High Court – started in 1865.

Law Reports, Queen's Bench (QB), covering decision of the Queen's Bench Division of the High Court – started in 1865. The aforementioned 4 law reports of the ICLR sometimes slightly modified their names and abbreviations. For an example, during a male monarch, the Queen's Bench became Kings Bench and hence the name of the law report adapted to those changes accordingly by changing its own name.

Additional reports published by the ICLR include the following law reports - *The Weekly Law Reports (W.L.R.)*, started in 1953 and covering what the ICLR describe as "the cases that really matter, which either develop the law in some way or introduce a new point of law". The Weekly Law Reports appear each week in paperback. *The Industrial Cases Reports (I.C.R.)*, started in 1975 and covering cases of employment law heard in the House of Lords, the Court of Appeal, the High Court, the Employment Appeal Tribunal and the European Court of Justice, as well as "cases of special interest" from the Privy

Council, the Court of Session and employment tribunals; *The Business Law Reports (Bus. L.R.)*, started in 2007 and covering company, commercial and intellectual property law; and *The Public and Third Sector Law Reports (P.T.S.R.)*, started in 2009 and covering issues such as adoption, charity, ecclesiastical law, education, environmental law, health law, housing, human rights, local government, public health law and social welfare. Most of its reports were available electronically on Westlaw and LexisNexis until the beginning of 2017, when the ICLR instead published its reports exclusively on its platform.

Another very well-known law report publishing house of the UK is the *All England Law Reports (abbreviated in citations to All ER)* which is a long-running series of law reports covering cases from the court system in England and Wales. This commercially published series has broader coverage than The Law Reports and The Weekly Law Reports. It was established in 1936. The All England Law Reports are a commercially produced alternative to the "official" reports produced by the Incorporated Council of Law Reporting (under the title The Law Reports). The All England reports are published by *LexisNexis Butterworths*.

Recently, a second set of reports, titled *The All England Law Reports Reprint (All ER*

Reprints), has been published to cover around six thousand key cases from between 1558 and when the publication of the All England series began in 1936 in order to make the historical cases more available. A further three thousand important cases from the period 1861-1935 is available in a complementary series The All England Reprints Extension. Its official website is www.lexisnexis.co.uk/en-uk/products/all-england-law-reports.page

These historical law reports were followed and imitated in all the colonies of the former British Empire. They have shaped the legal thoughts and formats of every other law reports in all the 57 countries of the British Commonwealth. The British law reports are still held in high esteem by their counterparts and by the judges and lawyers of these countries who often borrow invaluable legal wisdom and ideas hidden inside their case laws.

Ed.

1. [The writer is an Advocate of the Supreme Court of Bangladesh. He has completed his LL.B (Honours) and LL.M from the University of Rajshahi and another LL.B (Honours) from the University of London. He has completed the Bar Vocational Course from the City Law School, which is a part of the City University (Renamed as the City, University of London in 2016). He was called to the Bar of England and Wales by the Honourable Society of the Lincoln's Inn. He is a member of the Dhaka Bar Association, Dhaka Taxes Bar Association and a life member of the Tangail Bar Association. Mail: mustasim.tanzir@gmail.com]