



# Jus Corpus Law Journal

Open Access Law Journal – Copyright © 2022 – ISSN 2582-7820  
Editor-in-Chief – Prof. (Dr.) Rhishikesh Dave; Publisher – Ayush Pandey

This is an Open Access article distributed under the terms of the Creative Commons Attribution-Non-Commercial-Share Alike 4.0 International (CC-BY-NC-SA 4.0) License, which permits unrestricted non-commercial use, distribution, and reproduction in any medium, provided the original work is properly cited.

---

## Reducing the Prominence of Cheques as an Instrument of Payment in the Digital Era

Agrim Verma<sup>a</sup>

<sup>a</sup>Symbiosis Law School, Hyderabad, India

*Received* 23 August 2022; *Accepted* 10 September 2022; *Published* 17 September 2022

---

*The research paper is a conducive effort drawn out from various journals and news articles. The paper provides a detailed analysis on the premise of whether there has been a reduction in the prominence of cheques in the present digital era. This research paper aims at discussing the premise that there has been a reduction in the prominence of cheques as a mode of transaction in the present digital era. The Indian economy has traditionally been dominated by cash and the practice of cheques also dates back several decades. But in the last decade, the quantum of digital transactions has greatly surpassed all the conventional modes of payment. There has been a dip in the use of cheques in the Indian transaction system, their complete cessation does not seem to be quite ideal as well for the present infrastructure is not sufficient enough to deal with all the issues related to digital payment. So this journal is all about exploring the dimensions that have been added to the modes of transaction with the advent of digital payments & analyse the scope and limitations of E-banking according to the Indian scenario. Last but not least it helps you to know the probability of cheques being completely ruled out of the transaction system.*

**Keywords:** *cheque, payment, digital era.*

---

### INTRODUCTION

The earliest mode of transaction happens to be barter, the practice of which finds its origin

several centuries back and with years left before money transactions had come into practice, the barter system was a convenient and popular mode of exchange between neighbours, strangers, and even in Government organized fairs.<sup>1</sup> But, as humans came to realize the various drawbacks that were associated with the practice of the barter system, they switched to some uniform and convenient mode of transaction. Traditionally, the Indian Economy had been dominated by cash, and the practice of issuing cheques also dates back several decades. But the quantum of digital transactions is growing faster and taking over the traditional transactions over the past decade. As defined under Section 6 of the Negotiable Instruments Act, 1881, a cheque is a “bill of exchange drawn on a specified banker and not expressed to be payable otherwise than on demand and it includes the electronic image of a truncated cheque and a cheque in the electronic form.”<sup>2</sup> But in recent times, the issuance of cheques for the transaction has not been the preference of many. Though it has its benefits, the spike in the number of cases of dishonour of cheques and the time each such case takes to be settled in the court of law has greatly affected the popularity of cheques among the Indian masses.<sup>3</sup>

Furthermore, the introduction of demonetization which sought to make India a modern digitized economy and less reliant on cash has given a huge blow to the traditional modes of transactions. Demonetization has spurred a spike in the volume of digital transactions while causing a drop in the volume of traditional transactions on the other hand.<sup>4</sup> The availability of several digital UPI platforms like Paytm, G-Pay, etc. has widened the scope of payments proving not only to be convenient but also more secure forms of payment.<sup>5</sup> Also, easy access to smartphones has further added to the convenience and accessibility of the various modes of digital transactions.<sup>6</sup>

Apart from these UPI platforms, E-banking has simplified the tasks for the users. E-banking

---

<sup>1</sup> Anne Chapman, ‘Barter as a Universal Mode of Exchange’ (1980) 20(3) *L’Homme* 42

<sup>2</sup> Negotiable Instruments (Amendment) Act 2018, s 6

<sup>3</sup> *Ibid*

<sup>4</sup> Amartya Lahiri, ‘The Great Indian Demonetization’ (2020) 34 *The Journal of Economic Perspective* 56

<sup>5</sup> *Ibid*

<sup>6</sup> Deepika Asthana, ‘Digital Payments: Act II’ (Business Today, 16 December 2018)

<<https://www.businesstoday.in/magazine/the-hub/digital-payments-act-ii/story/294442.html>> accepted 23 August 2022

refers to the “provision of availing banking products and services through electronic delivery channels”.<sup>7</sup> The Indian commercial banks have adopted several initiatives to cope with the pressures of growing competition of which E-banking happens to be one. The very adoption of technology has been of great help, adding more dimensions to the field of E-banking which has strongly impacted the strategic business considerations for Indian Banks by cutting down costs of delivery and transactions massively.

In a recent news article, it was published that payments via cheque account for barely 3% of the total value of payments as of the end of 2018.<sup>8</sup> These data provide support to the premise that cheques are losing their prominence in the present digital era. But, the then RBI Governor in his statement highlighted that India still processes about 90 million cheques per month and the value of such payments via cheque accounted for about Rs. 7 lakh crore per month that implying that even though their popularity and usage have come down drastically in recent times, the issuance of cheques has not been completely ruled out as a mode of transaction.

## LITERATURE REVIEW

The research paper is a conducive effort drawn out from various journals and news articles. The paper provides a detailed analysis on the premise of whether there has been a reduction in the prominence of cheques in the present digital era. Out of all the sources utilized for the drafting of this research paper, the major sources happen to be:

The article “*The Great Indian Demonetization*”<sup>9</sup> by Amartya Lahiri provides information on the policy of demonetization and how it aims at making India into a more digitized economy. Even though the article elucidates the ideals and objectives of demonetization and the preparedness of the RBI for such a shift from traditional modes of the transaction to digital payment, it does not discuss the steps that are to be taken to accommodate such change.<sup>10</sup>

---

<sup>7</sup> Rupa Rege Nature, ‘E-Banking: Challenges and Opportunities’ (2004) 38 Economic and Political Weekly 5377, 5378

<sup>8</sup> *Ibid*

<sup>9</sup> Deepika Asthana (n 6)

<sup>10</sup> *Ibid*

The article "*E-Banking: Challenges and Opportunities*"<sup>11</sup> by Rupa Rege Nitsure provides information on E-banking and India's present scenario in regards to E-banking. It has also highlighted the major concerns of E-banking in India which has provided the researcher with a better understanding of the issue at hand. The scope of the very article is not only limited to the trends and regulations related to E-banking in the Indian context but also discusses the international trends in E-banking and the challenges associated with it in developing countries. The article "*E-Governance: An Overview in The Indian Context*"<sup>12</sup> by Sumanjeet has highlighted the objectives and the benefits of E-governance which gives the researcher an overview of the topic of E-governance, the provisions, and their implications and does not explore in detailed discussion on the concepts of digital payment and nor the laws that are in place which regulate such payments.<sup>13</sup>

The article "*The Simple Payment of Money*"<sup>14</sup> by Ian F. G. Baxter has helped the author in providing information on the conventional modes of transaction which also includes the drawbacks that have greatly affected the popularity of cheques as a mode of payment among the mass but does not discuss much how digital modes of payment prove to be a better and more viable option than the conventional modes.<sup>15</sup>

## RESEARCH QUESTIONS

- Is there any probability that cheques would be completely ruled out as a mode of transaction in the present digital era?
- Are there any legal safeguards for the digital transaction?

## RESEARCH OBJECTIVES

This research paper aims at discussing the premise that there has been a reduction in the

---

<sup>11</sup> Rupa Rege Nature (n 7)

<sup>12</sup> Sumanjeet, 'E-Governance: An Overview in The Indian Context' (2006) 67 Indian Journal of Political Science 857-866

<sup>13</sup> *Ibid*

<sup>14</sup> Ian F G Baxter, 'The Simple Payment of Money' (1974) 24 University of Toronto Law Journal 63-95

<sup>15</sup> *Ibid*

prominence of cheques as a mode of transaction in the present digital era and therefore, the researcher tries to achieve the following objectives as mentioned hereunder:

1. To explore the dimensions that have been added to the modes of transaction with the advent of digital payments.
2. To analyse the scope and limitations of E-banking according to the Indian scenario.
3. To discuss the probability of cheques being completely ruled out of the transaction system.

## **RESEARCH METHODOLOGY**

### *Nature:*

The Indian transaction has predominantly been restricted to the use of cash and the issuance of cheques but lately, the enforcement of demonetization and the present lockdown restrictions due to the pandemic has greatly stimulated digital payments, thus reducing the prominence of cheques in the Indian market. Apart from these, transaction through cheques have their drawbacks and digital payment schemes, covering all those loopholes, have lately been the priority of the mass. The nature of the topic includes analysis of several reports, articles, and journals. Research can be broadly classified into two types Doctrinal and Non-doctrinal research. The doctrinal method of study involves analysing and studying the already existing literature in form of doctrines, books, articles, statutes, and case laws among others whereas in non-doctrinal research the researcher has to do empirical research to answer the research questions, this study requires various statistical tools to understand the concept.

### *Method of Study:*

The researcher in the present paper has chosen doctrinal legal search over non-doctrinal research for in the former more emphasis is given to doctrines and legal documents to explore all the dimensions of the topic at hand. The doctrinal legal research, carried out in the paper, includes the usage of secondary sources like articles, online content, journals, legal databases like SCC Online and Manupatra, and books among various other sources, providing

information for the complete understanding of the topic. Further, the data collected helps in analyzing all the aspects of the issue, this paper seeks.

## **DRAWBACKS OF USING CHEQUES**

The transaction through cheques happens to be one of the most convenient modes of payment. But, lately, the popularity of cheques among the Indian mass has taken a hit and more people are swayed towards the use of e-banking or digital modes of payment instead of clinging to the traditional modes of payment. Of several factors, the first and foremost drawback associated with the use of cheques was the organizational problem.<sup>16</sup> Being the second most populous nation, the necessity of processing a huge bulk of cheques becomes one of the major setbacks for cheques which come under the definition of negotiable instruments in which the rights are not only affixed to the indispensable pieces of paper but also to the data that needs to be transferred.

Nextly, bank costs happen to be another factor that has affected the popularity of cheques among the Indian mass. According to the RBI mandate, a fee of not more than Rs. 150 shall be collected on cheques worth more than Rs. 1 lakh. Further in case of a cheque bounce, the person has to deposit an amount of Rs. 100 - 150.<sup>17</sup> Even though the charges are not too high, the whole procedure tends to be quite cumbersome. Also, the whole processing of cheques and their clearing consumes a lot of employee time involving repetitive work and earns no profit.<sup>18</sup> Apart from the above-mentioned factors, the collection process between the payer's and the payee's bank can be sometimes of huge inconvenience.<sup>19</sup> So, lately with the advancement of several other digital modes of payment that serve easy, accessible, and less cumbersome modes of payment, there has been a shift in the use of conventional modes of payment like cheques.

## **DIGITAL PAYMENT: EDGE OVER CHEQUES**

---

<sup>16</sup> *Ibid*

<sup>17</sup> Nilanjana Chakraborty, 'ATM, debit card and cheques, Bank Service changes you should know about' (*Livemint*, 6 January 2020) <<https://www.livemint.com/money/personal-finance/bank-service-charges-you-should-know-about-11578300545227.html>> accepted 23 August 2022

<sup>18</sup> *Ibid*

<sup>19</sup> Ian Baxter (n 14)

In simple terms, digital payment can be defined as the purchase or availing of goods or services over various electronic platforms. The mode of digital payments opens up several avenues which were not previously explored by the conventional modes of payment. For instance, the adoption of mobile payment not only happens to reduce the cost but also facilitates the sale of products and services at any time or place. Secondly, in the case of micropayments, neither credit cards nor cheques seem very feasible options and digital or mobile payment serves as the best alternative. Also, digital payments can be applicable in both manned (grocery stores and stationeries) and as well as unmanned (vending machines) points.<sup>20</sup>

Apart from the reduction in costs like those for the technical infrastructure for the customers and merchants, digital payments happen to be more secure and convenient in comparison to the traditional modes of payment.<sup>21</sup> Digital payment not only provides more integrity, authorization, authentication, confidentiality, and non-replication of transactions but also ease and comfort to the users throughout the transaction.<sup>22</sup> Also, easy access to smartphones has further added to the convenience and accessibility of the various modes of digital transactions.<sup>23</sup> As contended by A P Hota, former chief of National Payments Corporation of India,<sup>24</sup> the mode of electronic payments is more efficient and secured and thus changing trends worldwide and India is not an exception to the practice of decline in cheques.<sup>25</sup>

## **E-BANKING: POSITION WITH RESPECT TO THE INDIAN SCENARIO**

E-banking refers to the “provision of availing banking products and services through electronic delivery channels”.<sup>26</sup> The very adoption of technology has been of great help, adding more dimensions to the field of E-banking which has strongly impacted the strategic business

---

<sup>20</sup> Niina Mallat & Virpi Kristiina Tuunainen, ‘Exploring Merchant Adoption of Mobile Payment Systems: An Empirical Study’ (2008) 6 E-Service Journal 24, 27

<sup>21</sup> *Ibid*

<sup>22</sup> Nina Kreyer, ‘Key Pousttchi & Klaus Turowski, Mobile Payment Procedures: Scope and Characteristics’ (2003) 2 E-Service Journal 7, 10

<sup>23</sup> Deepika Asthana (n 6)

<sup>24</sup> *Ibid*

<sup>25</sup> Pallavi Nahata, ‘Will Cheques Soon Check Out Of The Indian Payment System?’ (*The Quint*, 22 August 2018) <<https://www.bloomberquint.com/business/will-cheques-soon-check-out-of-the-indian-payment-system>> accepted 23 August 2022

<sup>26</sup> Rupa Rege Nature (n 7)

considerations for Indian Banks by cutting down costs of delivery and transactions massively. In India, there are 2 types of customers wherein the former category includes those who are multi-channel users and the latter includes those who rely on the branch as an anchor channel.<sup>27</sup> But, the primary challenge for banks in India is to provide consistent service to the customers irrespective of the channel they use. Lately, the banks have been striving towards the vision which includes transformed branches and enhanced telephone services to consistently provide a positive multi-channel experience to the customers.

But several concerns are associated with the practice of shifting to e-banking from the traditional modes of which the risk of emergence of a “digital divide” happens to be a major one for the poor and uneducated seem to be excluded from the use of the internet and therefore from the financial system. Also, the security risk which is involved in computerization is much of a concern as well. Furthermore, in India, there is no such commercial bank that has exclusive specialization in small business segments, and therefore, the problems like the inability to provide quality data, exhibit formal systems and lack of asset cover seem to exist.<sup>28</sup>

## LEGAL PROVISIONS

*Transaction through Cheques:* The Negotiable Instruments Act, 1881 which was later amended as the Negotiable Instruments (Amendment) Act, 2018 (20 of 2018) provides for the laws that govern the use of all negotiable instruments which include promissory notes, bills of exchange and cheques. The chief objective of the N.I. Act, 1881 is to legalize the system under which negotiable instruments pass from hand to hand in a negotiation like ordinary goods. Section 138<sup>29</sup> under Chapter XVII lays down laws in case of dishonour of cheques. The very section states that when a cheque drawn by a person on an account maintained by him is returned by the bank unpaid, either due to insufficiency of funds or the cheque exceeds the amount arranged to be paid, according to the provisions of the very Act shall be punished either with

---

<sup>27</sup> *Ibid*

<sup>28</sup> *Ibid*

<sup>29</sup> Negotiable Instruments (Amendment) Act 2018, s 138

imprisonment which might extend for a term of two years or with a fine that might extend to double the amount of the cheque that was dishonoured or with both. The Hon'ble Supreme Court has also raised concerns regarding the pendency of cases relating to dishonour of cheques and has opined that even after several legislations, amendments, and court mandates, there has hardly been any change for the better.<sup>30</sup> Even though there are provisions for cases of dishonour of cheques, its very redressal in the judicial forum happens to be cumbersome and thus is one of the crucial factors for the shift from the conventional modes of transaction.<sup>31</sup>

***Transaction through Digital payments:*** For regulation and supervision of payment systems in India, the Payment and Settlement Systems Act, 2007 designates RBI as the authority to adjudicate matters therein. Section 2(c)<sup>32</sup> defines “electric funds transfer” and Section 25<sup>33</sup> of the Act lays down the provisions for the dishonour of electric funds, transfer for insufficiency, etc. funds in the account which in such cases provide for the punishment that might extend up to two years or with a fine that might extend to twice the amount of electronic funds transfer or with both. The Hon'ble Punjab and Haryana High Court in the case of *Om Prakash v Subhash Chand*<sup>34</sup> held that “Section 138 of the N.I. The act is in part material with the provisions of Section 25 of Payment and Settlement Systems Act, 2007.”<sup>35</sup>

## CONCLUSION/ SUGGESTION

The Indian economy has traditionally been dominated by cash and the practice of cheques also dates back several decades. But in the last decade, the quantum of digital transactions has greatly surpassed all the conventional modes of payment. Also, the present Covid scenario has spurred the rate of digital payment. And according to a report “Digital Payments Adoption in India 2020” by NPCI, it was found that around one-third of Indian households have adopted

---

<sup>30</sup> PTI, ‘SC to create mechanisms for expeditious disposal of cheque bounce cases’ (*Business Today*, 8 March 2020) <<https://www.businesstoday.in/current/economy-politics/sc-to-create-mechanism-for-expeditious-disposal-of-cheque-bounce-cases/story/397824.html>> accessed 23 August 2022

<sup>31</sup> *Ibid*

<sup>32</sup> Payment and Settlement Systems Act 2007, s 2(c)

<sup>33</sup> Payment and Settlement Systems Act 2007, s 25

<sup>34</sup> *Om Prakash v Subhash Chand* 2011(1) DCR 108

<sup>35</sup> *Ibid*

digital payment modes in some form or the other.<sup>36</sup> Lastly, even though there has been a dip in the use of cheques in the Indian transaction system, their complete cessation doesn't seem to be quite ideal as well for the present infrastructure is not sufficient enough to deal with all the issues related to digital payment.<sup>37</sup>

---

<sup>36</sup> National Payments Corporation of India, 'Statistics' (NPCI, 2020) <<https://www.npci.org.in/statistics>> accessed 1 September 2022

<sup>37</sup> *Ibid*