
INTERNATIONAL JOURNAL OF ADVANCED LEGAL RESEARCH

**A STEP TOWARDS ADVANCEMENT OF INDIAN JUDICIARY THROUGH
INFORMATION AND TECHNOLOGY**

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ABSTRACT

E-judiciary is a step towards the advancement in the Indian Judiciary. India has a long history which had undergone several changes however the basic structure remained unchanged to a great extent. The Indian legal system was tremendously changed during the colonial rule in India. But the modern India under the outline of the constitution of India have become a unified pyramid like structure. Every aspect of the human life witnessed a great development including in the field of information and technology. So far, the judiciary did not remain behind and now the courts are transforming into e-courts and judiciary into e-judiciary. For the advancement of the Indian judiciary certain plans and projects were made by government i.e. “Mission Mode Project”. It belongs to National e-governance plan which talks about advancement of courts through information technology. The thesis also discussed about the causes behind the emergence of E-judiciary i.e. Work load and Ratio of judges. Then the steps which has been taken to implement the policy of computerization in Indian judiciary are also mentioned like recording of the evidence, video conferencing from jail to court, court to court etc. The position of Indian judiciary amidst Covid-19 has also been discussed in this article. Lastly in the conclusion it is mention that with the help of the information and technology the Indian judiciary has become very advance and it has been successful in providing justice without delay.

Keywords: Colonial, Computerization, Covid-19, E-governance, Judiciary, Information, Technology

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INTRODUCTION-

Judiciary in India has a long history. Among all the continents in the world, India has the oldest concept of administration of justice in the past 5000 years. Different rulers in India established their different patterns of administration of justice in their way. Even in the medieval period the same pattern of justice was followed as in Ancient time. By the Colonial rule in India, the system of the judiciary was somehow modernized. The Courts were established at the Presidency towns by the East India Company and subsequently followed by the British Parliament.² Also, in the local states, the administration of justice was performed by local rulers in the same pattern as set by British rulers.

STRUCTURE OF JUDICIARY- POST INDEPENDENCE-

After the independence when the Constitution came into existence the structure of the judiciary was established in a proper hierarchy. The pyramid-like structure was formed in which the Supreme Court³ is considered as the Apex Court of the land with full independence in its hands. Then the High Courts⁴ was established at the state level and they are subordinate to the supreme court,⁵ at last the district level courts are established at the districts which are controlled and supervised by respective High Courts. The Supreme Court is considered the highest court of the country since it exercises the judicial authority, on the other hand, the High Courts have judicial as well as administrative power and it regulates the affair of the district judiciary.⁶ Since the Supreme Court is considered as the Apex Court of the land, it has plenary and extraordinary powers. The verdict of the Supreme Court binds all courts in India.⁷ So, all the subordinate courts are bound by the decision of the Supreme Court. Both the Supreme Court and High Courts are the court of record.⁸

ACCESS TO JUSTICE THROUGH INFORMATION TECHNOLOGY-

In the contemporary era, various initiatives are being taken in the information technology sector at the national level. According to the 108th recommendation which was given by the

²Constitutional History of India by MP Jain.

³Article 124 of the Constitution of India.

⁴Article 214 of the Constitution of India.

⁵Article 235 of the Constitution of India.

⁶The word district judiciary is used keeping in view the observation made by FNJPC Report, where it was stated that use of phrase subordinate judiciary conveys a wrong signal and needs to be rechristened.

⁷Article 142 of the Constitution of India.

⁸Article 129 in respect of Supreme Court and Article 214 in respect of High Courts.

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Prime Minister of India provides the task to achieve the goal of developing India into an 'IT Superpower'. The use of computers has been tremendously increasing in the private as well as the public sector in India. All the applications made in the Indian railway, Educational institutions, agriculture, etc. have been proved to be successful till now. Moreover, Indian software developers have been recognized on the international platform for their work. Now it is high time that technology should be used in the administration of justice. E-justice can be included as part of e-governance. Since the Indian judiciary is very wide therefore e-justice plays a significant role in the administration of justice. Since 1990 various efforts have been made to modernize the judiciary in the form of e-justice. A project i.e. 'Mission Mode Project'(MMP) which belongs to the National e-governance plan talks about the advancement of courts through information technology. It was suggested that the information and communication technology shall be bifurcated in three phases over 5 years. The main objective of this project is to develop, deliver, install, and implement automated decision making and decision support system in the courts. The main goal of MMP:

1. Reformation of court activities in the judicial administration.
2. To reduce the pendency of cases.
3. To provide access to exact information to the litigants.
4. It provides information regarding legal and judicial databases to the judicial authorities.

If this plan gets fully implemented then the judgments, cause list and other relevant information regarding the case can be made available online. After this reformation, the filing, summons, notice to parties, etc. can also be done online which can reduce the burden from the courts. Further, the certified copies issued by courts can be available in digital form. This project came into force in December 2004 and an e-committee was formed to regulate the activities of the plan. Various plans and national policies were made by this committee. To date, courts in Metropolitan cities and Capital cities have been covered. 7 Article 129 in respect of Supreme Court and Article 214 in respect of High Courts. This was done for the benefit of the citizens so that they can get the information without any hurdle.

There are many instances where the witnesses or the victims cannot be present in person in the court therefore the facility of video conferencing can be made available to avoid delay injustice. This project makes a database in which fees are computed electronically which in turn reduces corruption. Further, the cases can be assigned to the judges electronically. It categorizes similar cases in a group so that their references can be taken easily. With the help of this system, even

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the evidence can be protected, and no one can temper with it. Overall, this system helps to modernize and advance the judiciary in India.

CAUSES OF EMERGENCE OF E-JUDICIARY-

1. WORKLOAD

When India got independence, not only there was a population explosion but also the number of cases was tremendously increasing. The backlog of cases has grown and ultimately it has virtually overburdened the judiciary.⁹ Most of the jurists and judges have commented that probably to clear the outstanding pendency; another 320 years are needed.¹⁰

1. RATIO OF JUDGES

According to Law Ministry data, the population of judges in-country has upgraded for the last 3 years. As per the vast population in the country, the number of judges is not sufficient. The document which was prepared in March of this year which was discussed in Parliament and provides the information about the ratio of judges i.e. 19.49 per million people. In the said document it was also providing information about the number of judges which are needed in the Supreme court, high courts, and the lower courts.

The objective of bringing about the reduction in the period of disposal of cases and to reduce the existence pendency of cases in a time-bound period is of paramount importance.¹¹ The judges are to decide not only the disputes but also have to act as an administrator in administering the affairs of courts and should act as a good manager.¹² If this administration and judicial work are not done in a proper time then it will create the situation of poor management of resources. The judicial productivity and quality of justice, as Dr. MadhavaMenon has stated, had reached a bad shape.¹³

NEED FOR THE ADVANCEMENT OF JUDICIARY THROUGH INFORMATION TECHNOLOGY-

In the present era, e-governance became a fundamental need of every department of life it enhances efficiency, increases transparency and accountability lessen corruption in the

⁹Justice BB Malhotra Allahabad High Court, in an article 'Court Management' published [J.T.R.I. Journal First Year, Issue-3-Year-July-September 1995]

¹⁰Indian Judiciary would take 320 years to clear the backlog of 31.28 million cases pending in various courts including High Courts in the country, Andhra Pradesh HC Judge Justice VV Rao said. Courts will take 320 years to clear backlog cases Justice Rao- India- The Times of India.

¹¹J.T.R.I. Journal 2011 STRENGTHING THE JUDICIARY TOWARDS REDUCING PENDENCY AND DELAYS- JUSTICE P. Satashivan.

¹²Journal of Education and Social Policy Volume 1; June 2014.

¹³State of Justice an Agenda for Change Dr. MadhavaMenon. The Hindu Newspaper dated 8th July 2001.

judiciary. Technological development in the field of judiciary played an important role and became the turning point in the evolution of mankind. With the help of information and technology, the life of humans became very easy. In other countries, information and technology are already adopted in the field of administration of justice and it is also proved to be successful. Therefore, it is possible that the administration of justice can be done through technology.

Dr. APJ Abdul Kalam, one of the scientists and former President of India also emphasized to introduce technology in the courts and said that: -

Technology is an essential element of change in all spheres of life. The human element involved also is an important factor. If technology is properly used, it can bring about tremendous changes for the betterment of life. Any change be contemplating is for speedy justice delivery mechanism keeping in focus the quality, transparency, and public accountability.

At first, at the level of Supreme Court and High Court, the technology was pressed into service and the cases were right to be disposed of expeditiously.¹⁴

This modernization of the judiciary has developed friendly relations with citizens and it also created a friendly environment between bar and bench. The pendency of cases in comparison to an earlier period when information technology was not introduced in the judiciary, has now reduced to a greater extent.

INDIAN E-JUDICIARY AMIDST COVID-19 PANDEMIC-

In this extraordinary situation of the Covid-19 pandemic where almost every sector of the world is facing unforeseen challenges, the legal sphere does not remain untouched and it faced even vital challenges. This led to a devastating effect on the concept of “access to justice”.

Recently, the Constitutional Bench of the Supreme Court of India has held that access to justice (apart from being guaranteed under Article 21 of the Indian Constitution) comes within the domain of Article 14 as well.¹⁵ It was further described by the Court that the spirit of ‘access to justice’ lies in the following essentials:¹⁶

1. An effective adjudicatory procedure is provided by the State.
2. The procedure must be accessible concerning distance.
3. The speedy procedure must be ensured.
4. The cost of litigation must be reasonable to be accessed.

¹⁴<http://IndianCourts.nic.in/courts/itinjud.html>.

¹⁵Anita Kushwaha v. Pushap Sudan (2016) 8 SCC 509.

¹⁶Ibid.

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Even before this pandemic, the judiciary has marked a digital shift in numerous cases. The Supreme Court in a case¹⁷ allowed the recording of evidence in the criminal trial under Section 273 of the Code of Criminal Procedure. In another case, the Apex Court has also permitted live-streaming of court proceedings and open court hearings.¹⁸

ONLINE HEARING-

Numerous virtual hearings have been directed effectively by both the Supreme Court and some High Courts. Most Courts use video-conferencing applications, for example, Zoom with shared connections that are secret key ensured having huge gatherings with a definitive point of live streaming legal procedures.

Virtual hearings graphically delineate that a court isn't a venue but it is basic public assistance. Advocates and interested persons need no longer to travel to the court, sparing expense, and time. The online-based recording of pleadings encourages the consistent work of archives between parties. The proficiency gains reach out to conceivably speedier removal of cases. The rules currently require composed entries ahead of time of the conference to decrease the time spent on oral support and to zero in the court's consideration on current realities and matters legitimately in the debate. The evil of shortened hearings scattered by incessant dismissals can stay away from as there can be no reason for prosecutors and legal counselors not having the option to 'join in' court.

VIRTUAL COURTS-

E Courts can be established to manage new cases carefully recorded. Old issues can be dispensed to another arrangement of courts. The last can zero in on disposing of the accumulation and the previous can dedicate their energies to guaranteeing that new issues are discarded rapidly, without the development of a build-up.

Virtual court can be considered as the significant contribution of e-courts in the present era during the time of pandemic. Many courts like Delhi, Haryana, Tamil Nadu and Maharashtra has been successfully tried the process of pleadings through virtual courts. Through the process of virtual court cognizable as well as non-cognizable offence can be tried. In the cases of fine the virtual court has the system of collection of fine. According to the present situation, it become important for the judiciary to achieve the maximum functionality. And for achieving

¹⁷State of Maharashtra v. Dr. Praful B. Desai (2003) 4 SCC 601.

¹⁸Swapnil Tripathi v. Supreme Court of India (2018) 10 SCC 628.

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this goal virtual court can play an important role.

VIDEO CONFERENCING-

According to the present situation where whole of the world is fighting against this pandemic, the courts are still working. They have not paused their work, in spite of it they modified their working process. They introduce the concept of video conferencing. With the help of video Conferencing advocates can directly connects their hearing to the Hon'ble judges as same as court room. It can be considered as the one of the unique evolution in the history of Indian judiciary. By the video Conferencing judiciary is trying to avoid the denial of justice and passes many orders and judgments on it.

STEPS TAKEN TO IMPLEMENT THE POLICY OF COMPUTERIZATION IN INDIAN JUDICIARY-

For the advancement of the judiciary certain steps has to be taken by Supreme Court under the guidance of Chief Justice of India and Prime Minister. A proper committee was constituted regarding the advancement of technology in judicial system.

1. DEVELOPMENT OF SOFTWARE

The preparation of software is an important task which is done in collaboration with the National Informatics Centre. Customized software i.e. 'Litigation Management System' was prepared under the guidance of senior judge Justice Dr. GC Bharuka. After some time the litigation management system was replaced by new software i.e. 'Case Management System' which was also made by National Informatics Centre, Pune. The ability of the Indian software was properly implemented.

1. EXTENSION OF NETWORKS IN RURAL AREAS

For the proper functioning of the technology, the internet and network play an important role. If the proper facilities of network and internet are not present, then the desktop and laptop cannot be used and only the last option left was a traditional typewriter which is a time-consuming process.

1. PRIMARY ADMINISTRATIVE SET UP

Whenever any person wants any information regarding the case in which he is involved, he gets the basic information easily like name of the parties, nature of the case, subject matter of the dispute, regarding order sheet, the relief claimed, or preparation of summons. Earlier it was very complicated for the parties to get this information and it was difficult for them to get this information on time. But nowadays these things became easier and whatever information the parties want to have related to their cases they can easily get access to it. The preparation of

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summons and other relevant documents can be prepared easily and also easily served to the person.

1. RECORDING OF EVIDENCE

It is primarily the function of trials court to record the evidence on disputed facts and pronounce judgment based on the principle of laws. The task of the recording of evidence is necessary to be done in an opaque way. The old system of recording the evidence through a typewriter has now been replaced using the technological means to record the statements of the witness in the court. Moreover, printers of great quality have now been adapted with a proper internet connection so that the parties and also the council representing the parties can have the printouts of the statements without complications.

1. PROVIDING INDIVIDUALIZE LAPTOP

This technology has also enhanced standardized software and also the procurement of hardware. The judicial officers are provided their separate laptops and printers and also they are made more aware of the computer usages. Not only the judicial officers but also the clerical and administrative staff were trained as to how they should use the computers. Besides this, the laptops are provided with the broadband facility to have access to the internet so that the judicial officers while deciding a case can have the window open to the world at large. This has also been a part of e-courts as projected by the national informatics center.

1. FIRST INFORMATION REPORT AND TECHNOLOGY

The first information report is a document containing information about the commission of an offense. Section 154 of the Criminal Procedure Code states the provision regarding the first information report. FIR is of such importance that can help in solving the case at first instance. However, delay in the transmission of FIR can create negative aspects in the case and prove as delay injustice. But by use of the technological program, this delay can be removed and it could also prevent the loss of time. Regarding this various step has been taken to make people aware of lodging the FIR online.

1. KIOSKS AND PEOPLE FRIENDLY ENVIRONMENT

Translucency and access to information in the judicial process are various significant. To achieve this objective, information centers must be established. With the help of these centres, one can easily have the access to the information about the proceedings going on in the case. Moreover, SMS alerts, IVRS, etc. are now being hosted to make people aware of the stage of proceedings.

1. TOOLS TO PREPARE JUDGMENT

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When the arguments are completed by the parties by their representative council, the task of judge is to prepare the judgment, and for this work judges have to consider various things.

1. LEGAL TOOLS

While pronouncing the judgment the judges have to get access to online journals like All India Reporter, Supreme Court Cases which can be available online just at the click of the mouse. This can be more user friendly than the present system of complicated nature, which is also very time consuming.

1. LANGUAGE TOOLS

India is a country with linguistic diversity where referring to the local and regional languages, the preparation of judgment, citing the document, and recording of evidence may take a lot of time. To overcome this time-consuming system the language tool is used. The software as developed by centre for Development of Advanced Computing could be used.

1. VIDEO CONFERENCING AND JUDICIAL ADMINISTRATION

Video conferencing is considered one of the most important tools in the administration of justice. There are many instances where the important witnesses cannot be present in the court in person due to which there is a delay in justice and therefore by communicating with the witnesses or other person through a video conference can facilitate the courts to provide justice on time.

1. E-COURTS AND PAPERLESS ADMINISTRATION

Since the introduction of e-courts, the paperless courts are established. The first paperless court has been established in the capital of the country, New Delhi. With the introduction of the e-courts, the time-consuming processes are abolished, and it has reduced the workload as well as saved money. It was like one of the dreams for the Indian Judiciary which has now come true. At present, it is also established in many parts of the country.

The Centre for Development of Advanced Computing (C-DAC) has made pioneering contributions in developing Indian language tools with natural language processing, and in evolving script and fonts standard through its GIST technology, to enable and spread the use of computer in various languages. It accordingly took up the initiative of developing important governance solutions in Indian languages, which impact government and the citizens both.

CONCLUSION-

Information and technology has immeasurably contributed to the evolution of human civilization and is reaching out in every phase of human life. The computerization of Indian

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judiciary has been started since 1991-1992, for office automation, maintenance of account and preparing the paroles. In the year 1997-98, computers were introduced in the supreme court of India and some high courts for day to day activities of the courts and printing of orders and judgments. Article 14 of the constitution of India which ensures the right of equality and the article 21 establish that the life and liberty of an individual are of at most importance which cannot be deprive otherwise then the fair just and reasonable procedure establish by law. In this regard the further evolution of artificial intelligence can be used to impose appropriate sentence in a criminal case, speedy trial of cases by using appropriate software are all the concerns which needs to be looked upon.

The causes for the delay in the justice system is both methodical and subjective, which is due to the slow process of our justice system which consequently results in stay of trial and delayed disposal. Therefore, it is significant prerequisite for the good court administration that a fast disposal of litigation should be done. For this if modern technologies are utilized by the court staffs this problem can be marginalized.

The phase II of the Mission Mode e-Courts Project that was lasted in the year 2018, giving a way for phase III, in which there was innovations of new technology such as 5G applications, are edificial aptitude, ambient; better reality; appliance version, coordination with mobile, recognition of speech, internet of things (IOT) etc. achieve a proficient, expectable, transparent and accountable judiciary.

There has been a remarkable development in the e-judiciary since last twelve years. Also it has got the support of government of India as compare to any advance judicial system. Therefor it can be said that the days are not so far when all are legal desk in what so ever language will be translated into digital language so that computers and systems can understand them to.

The judiciary is supposed to be the most hard headed, everything being equal, prisoner to personal stakes and impervious to change. The maxim "never waste a good crisis" gives the Indian judiciary an authentic chance to essentially change its working. The extraordinary capability of virtual courts if appropriately executed and stretched out to live-gushing of cases is immense.



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