NATIONAL JUDICIAL ACADEMY

WORKSHOP FOR HIGH COURT JUSTICES ON ICT ENABLEMENT OF INDIAN JUDICIARY THROUGH E- COURTS PROJECT

AND

THE EVOLVING CONCEPT OF ARTIFICIAL INTELLIGENCE

8th & 9th JANUARY, 2022

Dr. Amit Mehrotra & Dr. Sonam Jain

Faculty, National Judicial Academy

Session 1 – ICT growth of Indian Judiciary under e-Courts & Its way forward
Speaker - Hon'ble Dr. Justice Dhananjaya Y. Chandrachud
Co-Speaker – Hon'ble Justice Atul Sreedhara

Pursuant to the initiative taken by the eCommittee of the Supreme Court of India the National Judicial Academy, Bhopal organized a one day online "Workshop for High Court Justices on ICT Enablement of Indian Judiciary through E- Courts Project and the Evolving Concept of Artificial Intelligence". The workshop was designed and convened by the member (HR) E-Committee, Supreme Court of India. The sessions included ICT growth of Indian Judiciary under e-Courts & its way forward; Artificial Intelligence & Judicial Governance; NJDG and Role & Impact of High Court Computer Committees in eCourts Project; & E-Courts-Technical Infrastructure through NIC.

On the theme *"ICT growth of Indian Judiciary under e-Courts & Its way forward",* the eCourts project endeavoured to provide citizen-centric approach, reduce delays and enhanced judicial productivity. The pandemic was said to have precipitated the growth of ICT in the Indian Judiciary, which should last beyond pandemic. It was highlighted that the ICT has improved the accessibility and affordibity of the justice delivery system. Further, it was pointed out that the new website of the eCommittee uses a platform named *SUVAS,* that has a segment which allows the High Courts to share best practices. It was emphasised that knowledge is limited but imagination embraces the entire world, simulating the progress and giving birth to evolution. The vision to modernize Indian judiciary requires reforms in the mode of functioning. It was stressed that growth is not absolute rather it is relative. It is the synthesis of the past, the present for future.

It was further highlighted that the eCourts project is a mission mode project implemented by the national informatics centre under the national egovernance plan. The object of the project is to provide services to all the stakeholders through the technological enablement of the judiciary. It was discussed that the project is seeks to modernize the judiciary by complete computerization of all the courts in the country.

It was pointed that the implementation of the project facilitated the use of technology such as video conferencing, digital signature, preparing the database of case pendency and developing a system which is litigant friendly. The strategic plan recommended by the eCommitte requires formulation of centrally devised national policy and action plan after discussing with all the stakeholders. It was further discussed that based on the recommendation the three phase implementation plan was suggested for the ICT enablement. After successful implementation of the first two phases judiciary is focused on the last phase. The first phase sought to develop the digital infrastructure in the judiciary and adopt customize software, the second phase aim to upgrade infrastructure and automate judicial processes and the third phase aims to ensure interoperability of the judiciary and other State departments as discussed during the discourse.

Further, it was opined that technology is the gateway between the State agencies to enable better coordination, reduce delays and improving efficiency. In 2013, *www.ecourts.gov.in* was launched linking district and taluka courts for easy access of case status, cause list, orders and judgments through the portal. It was further highlighted that the Phase 2 was tasked with ICT enablement of additional court complexes, improving and upgrading the infrastructure. Phase 2 significantly focused on the process automation, assessment of judicial productivity through data produced on National Judicial Data Grid (NJDG) assessing pendency of the cases, discontinuation of the manual services and providing services through mobile applications. Other initiatives include: the online payment of fee, fine, penalty and judicial deposits.

It was mentioned that the Inter-operable Criminal Justice System (ICJS) is an initiative of the eCommitte to enable seamless transfer of data and information among different pillars of the criminal justice system, like courts, police, jails and forensic labourites from one platform. Further, other initiatives of eCommittee like National Service and Tracking of Electronic Processes (NSTEP), Virtual Courts, live Streaming, JustIS Mobile application, and eSewa kendra were discussed during the session. It was mentioned that the Phase 3 of the eCourts project is yet to be implemented.

It was stressed that the success of the eCommitte depends upon expanding the digital literacy. Technology can be the enabling tool to reach out to all the marginalised sections of the society, and ensure their equal participation as opined by the speaker. The essence of the justice system lies in the value of human being as judges and recognising the value of others when they knock the doors of the court for justice. The session concluded with Q&A and discussions.

Session 2 – Artificial Intelligence & Judicial Governance
Speaker - Prof. (Dr.) Thomas Fuchs
Co-Speaker – Hon'ble Justice Atul Sreedharan

On the theme *"Artificial Intelligence & Judicial Governance",* the session commenced with the quote of Ian Pearson, a futurist at Futurizon *"AI can go further than human, it could be billions of times smarter than humans at this point".* It was stressed that increasingly, human abilities are attributed to artificial systems like perceiving, recognizing, thinking evaluation or reasoning. Difference between human and artificial intelligence were highlighted. Further, it was mentioned that human is a living organism and without life there is no consciousness, whereas non-living entities like AI or technical system can never attain consciousness, as they lack the decisive prerequisite of human intelligence. The session rolled four major points like subjectivity and simulation, persons are not programs, and programs are not persons, and problems of the application of AI in judicial decision making. It was mentioned that way back in 1936 Alan Turing developed the idea of digital computer and proposed his famous test the 'Turing Test' which was then elaborated upon.

It was asserted that the assumption of a brain as a computer with memories and computational units, is a common misconception. To explain that programs are not persons, the meaning of AI propounded by McCarthy 1956 was discussed, and it was explained that if a machine responds like a human brain, such machine could be designated as intelligent. It was further mentioned that programs are not person as they

don't solve problems, they don't decide etc. it was stressed that we have been all too hasty in granting the concept of intelligence to our machines.

The auxiliary functions of AI in the judiciary could be structured processing and preparation of information, preparation of simple judgements etc. can be done away with an its arrhythmia. It was further stated that in complex and contradictory cases where judgement is to be delivered the ICT can be helpful to make legal resources easily accessible. Major problems and risks like incomprehensibility, datafication and loss of responsibility were also discussed during the discourse.

It was suggested that while analysis, predictions and evaluation are done by at one should not forget that ultimate decision making should be entrusted upon human being. Justice is based on personal freedom and personal accountability of human being and the idea of doing justice must not be shifted to algorithms.

It was opined that excessive reliance of AI would be counterproductive for the judiciary. The human element, if lost, would certainly increase the number of disposals but would it render justice is debatable. AI is beneficial in cases of strict liability where malice or mens rea is not taken into account, e.g. offences relating to traffic challans. It was highlighted that artificial intelligence is an oxymoron and it is a nonsensical word. Further, it was mentioned that as far as analysis of evidence is concerned, it should be left entirely on human agency.

It was further opined that although robots with sensory system exist, it would never be sentient as they are devoid of life and metabolism, and they don't feel hunger, thirst or pain. AI is a black box, and one would not know the process of reaching a result. It is fundamental for an equitable justice or humane justice to know and understand the reasons for a certain judgment. It was further stated that AI judgements are quick, accurate and there are many advantages also, but the humane element of openness, accessibility and the reasoning can't be compromised, as these are the crucial basis of justice. Lastly, it was

clarified that AI is welcomed just to expedite the judicial process but not to deliver judgements, which must be left to the human being. The session concluded with Q&A and discussions.

Session 3 – Court & Case Management tool-National Judicial Data Grid (NJDG)

Speakers: Justice Raja Vijayaraghavan V
Justice Ram Mohan Reddy

On the theme *Court & Case Management Tool-National Judicial Data Grid (NJDG)* the live demonstration of the NJDG was displayed and its modalities were discussed and elaborated upon. Access though the administrative login and how to handle it was also discussed during the discourse. The role of the portfolio judge in accessing the data was underscored. The eplatform that was created by the Kerala High Court and its dashboard were elaborated and the effective usage of NJDG was discussed.

Drill down, pending dashboard, disposed dashboard, alerts and information management tabs on the NJDG portal was explained. Age wise pendency, stage wise pendency and institution *v.* disposal and delay reason pendency chart of NJDG were discussed.

It was stated that CIS is an offline software and is not connected to the internet so staff members have to upload/ replicate the data every evening on the NJDG portal. JustIS mobile app developed for the Judges of District & Subordinate Courts. The App is a digital repository, which provides details about one's court 24×7. The object of the eCourts Services App is to provide customized information related to cases filed in the Subordinate courts and most of the High Courts. ECourts Services App is useful to Citizen, Litigants, Lawyers, Police, Government Agencies and other Institutional Litigants. It was opined that sometimes for a district judge it becomes difficult to access and monitor the data through NJDG particularly when the district is big and more judges are posted for judicial work.

It was iterated that till date seven Courts of Kerala High court are fully functional as paperless Court and are converted into eCourts. The disposal of the electronic products (ewaste) of the High Courts were also discussed. The work done by the High Courts in effective usage of data was also pondered upon.

Session 4 – Role & Impact of High Court Computer Committees in e-Courts Project & e-Courts -Technical Infrastructure through NIC

Speakers: Justice A. Muhamed Mustaque
Justice R.C. Chavan

The theme for the session 4 was *Role & Impact of High Court Computer Committees in e-Courts Project & e-Courts -Technical Infrastructure through NIC.* The session focused on the work done be the ecommittee in Phase 1 in terms of Building IT infrastructure, role of Steering Committee of High Court with reference to overseeing the implementation of the projects; role of Central Project Co-ordinator to co-ordinate the implementation of various modules/ tasks of the project and role of NIC. The work progress of Phase 2 in terms of Centralized Data Management (CIS), Autonomy to High Court developing peripheral module, Continuation of Phase I projects and building more infrastructure and enhancing network connectivity and Citizen centric approach were discussed. The vision of Phase 3 that includes installation of relevant hardware, creation of the digital infrastructure and enable access to critical services was deliberated upon.

It was stated that in Kerala High Court the focus was on the role to shift from implementing agency to transformative agency and to conduct independent study for total automation. It was suggested that there should be structural changes through interactive mode.

Key functional role of the IT directorate of Kerala High Court was discussed including eaudit to ensure eprojects are implemented in time bound manner. Preparation of inventory, strengthening ADR mechanism through technology, inclusive access through technology and JOEL-Continuous e-learning process for judicial officers formed part of discussion.

It was stated that an IAS officer was appointed as nodal officer for the eCourt Secretariat, High Court of Kerala for co-ordinating the e-activities of the High Court with different agencies of the Government. It was emphasized that nodal officer takes proactive role in extending the government IT related projects & services to the High Court. The nodal officers assist the High Court to meet requirement such as hosting of applications in State data centre, providing free of cost virtual machines and servers.

It was also highlighted that a study being undertaken by the Kerala University of Digital Sciences, Innovation and Technology (Digital University of Kerala) of judicial and administrative functions of the State judiciary in reference to the process re-engineering for complete automation so that Rules may be framed or modified accordingly.

It was deliberated that the Kerala High Court has developed an online module/format for the efiling of bail applications. It was emphasised that judicial function is interlinked with the function of many other stakeholders (investigating officers, Advocate General office, CGC Office, prosecuting agency and all other entities and institutions government departments and Organizations) and therefore linking them altogether for the complete automation is the need of the hour.

Security threat and its measures to curb such threats were also discussed. The initiation taken by the ecommittee on security audit, data protection and management were elaborated. It was highlighted that Kerala High Court has focused on developing software applications making the virtual office a reality. Dashboard of the Chief Justice was displayed to the participant justices. Hybrid model court hearing by Kerala High Court, connecting mainstream judiciary through technology and accessing from remote locations were elaborated upon. In reference to the long term goal process re-engineering through complete automation, bringing reforms in the Rules and redeploying surplus manpower for creating more courts in district judiciary were emphasized upon.

The issue of non-utilization of the funds was pondered upon. It was suggested that all High Courts should utilize and properly spend the full allotted funds. Need based demand for additional fund may be raised with the government. It was suggested that technical man-power should be attached in every High Court to assist the functioning of the eCourts. It was remarked that the computer committee of High Court plays a pivotal role in building the structure and working of information and technology in the court set up.

It was opined that availability of insecured data in the open platform of NJDG may be a concern with respect to the right to privacy of litigants. In light of the same right to be forgotten was. It was asserted that quantitative performances of judges can be assessed through NJDG. The data reflected on the NJDG has not been used for judicial administration, but is only used for looking into the disposal rates of the cases. It was suggested that the information of the data available on the NDJG may also be used to train a particular judge after assessing his/her specific training needs. It was opined that lack of prospects of career advancement of IT employee of the High Court disables them to update them. It was emphasised that IT savvy judicial officers be deputed to the IT cell High Courts. It was opined that such judicial officers although work efficiently, get deprived of judicial work on the flip side. It was suggested to keep pace with the fast changing technology. It was emphasised that focus on now rather than making 5 year plan should be the mantra.

It was emphasised that High Courts can have their own system and there may not be any dependency on NIC. It was suggested that massive exercise of business process re-engineering is to be undertaken and it was urged that the Kerala High Court may invite and involve the brother judges of the other High Courts to see what has been done and carried out in this regard so that it may be adopted by the other High Courts. It was emphasized that even the same agency as hired by Kerala High Court may be given the task to complete the exercise so that nation-wide uniformity may be maintained.

The overview, feasibility and modalities of live streaming of court proceedings were deliberated upon. It was opined that the object of the live streaming of court proceedings has to be examined and it has to be seen that whether we are able to achieve it. The live streaming of the court proceedings of the Gujarat High Court and Madhya Pradesh High Court were elaborated upon. The bottlenecks and challenges in live streaming of court proceedings were also underscored upon. It was suggested that live streaming should be done in such a way that it should not harm the majesty of the institution. It was asserted that suggestions may be invited by the ecommittee from the High Courts regarding the function of the eCourts and common/uniform rules may be devised for the smooth functioning of the eCourts. In this regard, it was suggested that the best practices can be adopted. An online training for advocates organised by the State Judicial Academy in collaboration with the Information Technology cell, High Court of Gujarat to train advocates as master trainer on information technology was deliberated upon and it was suggested that such training may also be adopted in other High Courts. The judgement *Swapnil Tripathi v. Supreme Court of India,* (2018) 10 SCC 639 was referred during the discourse. Book on Future Crimes by Marc Goodman and Scoop by Kuldip Nayar were referred as suggested reading. The session concluded with Q&A and discussions.

**************************x**********************************x*************************x***********