NATIONAL JUDICIAL ACADEMY

NATIONAL SEMINAR FOR PRINCIPAL DISTRICT AND SESSIONS JUDGES ON ICT REFORMS FOR EFFECTIVE ADMINISTRATION OF COURTS

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29th & 30th January, 2022

Programme Report

The National Judicial Academy, Bhopal organized a two day online National Seminar for Principal District and Sessions Judges on the topic "ICT Reforms for Effective Administration of Courts", on 29th and 30th January, 2022 which was attended by 40 participants from pan India. The conference involved discussion on varied seminal areas which are reported under four distinct sessions hereunder

DAY I

Session 1

Theme–Integration of ICT in Indian Judiciary: An Overview & Paperless Courts and Hybrid Hearings: Challenges and Solutions

Panel – Justice R.C. Chavan and Justice Talwant Singh

It was highlighted that the justice delivery to the litigants should be expeditious, affordable and transparent. It was stated that the e-filing initiative would enhance ease of filing apart from saving cost in digitization of data through scanning and entry of metadata. It was also opined that utilizing judicial time and resources to the maximum extent is important. The participants were exhorted to promote e-filing in their domain and to take the bar council in confidence for smooth transition to efiling. The benefits of using National Judicial Data Grid [NJDG] was also highlighted and it was opined that the portal provides all relevant data regarding pendency. Since the quality of data entered into the system will affect the output, the participants were advised to oversee quarterly/ half–yearly verification of physical files with the data entered on NJDG so that the inconsistencies can be removed. It was also stressed that the judges should fully utilize the potential of video conferencing and should undertake the deposition of doctors and police officers through it so that their time and the resources of the state are not wasted. It was also advised that uploaded judgments should be checked for redaction of the names of the parties in compliance with the relevant laws.

The various features of JustIS App were discussed and it suggested that it could be utilized for allocation of cases, ascertainment of training needs and scheduling of cases. It was also advised that all ten year old cases should be identified at the earliest and should be disposed of expeditiously. The various initiatives of the Delhi High Court in the area of e-filing and paperless court were described in brief. The practice followed in Delhi was highlighted wherein after the decision of the session court the cases where appeal is maintainable to the High Court of Delhi, the efile of the case is shared with the Delhi High Court within 15 days so that in case of any appeal the appellant only has to file the grounds of appeal with the Court. This practice prevents delay due to absence of physical movement of the paper files. The benefits of Inter-operable Criminal Justice System (ICJS) were also highlighted and it was stated that ICJS would integrate cross sharing of data between police, courts, prosecution department, forensic science lab, prisons, hospitals and revenue authorities. It was also stated that ICJS would be populated with the data entered in any department included in ICJS. It was also suggested that each PDJ should initiate a pilot project of a paperless magisterial court within their district. The participants also discussed various issues related with ICT enablement within their domain including digitization, training of public prosecutors and other governmental officers, uniformity of rules, maintenance of multiple registers etc.

Session 2

Theme- Application of ICT in Court Administration and Judicial Proceedings: Indian and International Perspective

Panel- Justice R.C. Chavan and Dr. Dory Reiling

It was discussed with the usage of World Bank data the disposal time period for commercial court cases are more than three years in India. It was highlighted that the introduction of IT in the judicial

system would allow tracking of case duration, shorten the procedures and allow more transparent case management. It was stated that ICT in judicial system involves integrating ICT with the existing processes or adapting the processes to fit the IT. The European Case Law Identifier was displayed and it was stated that case law databases increases transparency and provides more consistency in judging. Moreover, a fully digital court filing system was exhibited and the various processes and flow structures involved therein were discussed. The scope of involvement of Artificial Intelligence (AI) in the judicial system was also discussed which includes process management, knowledge management, advisory technology and prevention of disputes. It was stated that discovery can also be done digitally which would curtail the time and manpower required in such a process. The concept and algorithms allowing predictions of outcome of litigation was also discussed. It was stressed that the AI software has to be tested that it is consistent, unbiased and non-discriminatory before implementation. The various reasons for bias including biased programmers, data and algorithms were discussed. It was highlighted that data quality and quantity for machine learning are relevant considerations for the software. It was stressed that the A.I. should be regulated to make it responsible. The fundamental principles provided in the European Ethical Charter on the use of AI in judicial systems and their environment framed by the European Commission for the Efficiency of Justice were discussed in brief. It was emphasized that the judiciary should be involved in design, development and working of the A.I which will be used in the future in the judicial system. The court should also focus on improving the legal source input for better output and results. The participants highlighted issues regarding absence of proper storage for protection of old records before their digitization, digital divide and lack of adequate manpower (IT cadre) for the district.

DAY II

Session 3

Theme–Safeguarding Institutional Integrity from Cyber Attacks: Diagnosis, Prognosis & Panacea

Panel – Justice A.M. Mustaque and Mr. Anand Venkatnarayanan

The session kicked off by evaluating the crucial need to balance protection of informational privacy (both institutional and private), against its largely unguarded, and all-pervading availability. A contemporary judicial initiative to address the issue in India could be flagged at Justice K.S. Puttaswamy v. Union of India, (2017) 10 SCC 1. The need to fend a cyber-attack transcending national boundaries, and with its inchoate and impersonate prima facie traceability, poses a persistent issue for the judiciary to fix accountability and liability. The session structurally composed of four core areas: i) Data Protection & Cyber Security; ii) Attack Attribution: iii) Mitigation Strategies; iii) Execution Challenges. The urgency to protect the integrity of judicial system, which is a goldmine of institutional and private data was aired. In a recent effort to defend against siphoning out of classified and sensitive information, the new guideline had been recently circulated to the Ministries and higher government officials that:

"Any classified or secret documents should not be stored in officials mobile sets and that should not be shared with any officials by mobile as the new communication apps' servers are owned by the private ownership and can create a big risk for national security and other related issues," [The New Indian Express, 21-Jan-2022].

It was underscored that the future potential wars would be on or for “water” and “data”. “Data” being a potential “monetizor” shall be avenged and hence, demands protection. The nature of future war may not necessarily be caused by so called weapons of mass destruction, but be a digital warfare in the nature of a cyber-war with massive data annihilation, or a cyber information grid

paralysis. One of the lopsidedness towards having a robust cyber-defense system, to protect judicial institution could be discredited to the immiscibility posing resistance for a smooth integration of a systemic domain expertise. Yet another issue identified in relation to adopting new technology by the judicial system was the innate tendency to deal with a situation a priori with personal experiences, thereby posing significant resistance to adopt and internalize "change". The vulnerability of judicial institutions to cyber-attacks was emphasized. The scaling up of the incidents of such attack was exemplified by citing US judiciary wherein cyber-attacks ~9 mio in 2016 rose to ~24 mio by 2019. The intent of cyber-attacks may not necessarily hinge on apathy to the system or any of its functionalities, but may be for the value involved in the data for a larger (illegal) gain. Skepticism of the judicial officers, about their nexus and role in preventing cyber-attacks was addressed. In the most fundamental approach, every judicial officer may be suggested to recall the top of the mind asset which (s)he would like to protect. In essence metaphorically focusing on the jewels of the crown. It was suggested to enable professionally designed systems to do the job of first filter. This could be done by adopting certain pre-designed, primary professional dispositions and Standard Operating Procedures (SoPs) viz. using original software: system and software updating and upgrading; installing anti-viruses; using strict internet navigation protocols etc. The value addition of a network security engineer and the Government owned National Informatics Centre (NIC) was floated. NIC-CERT, the nodal arm of NIC for managing the cyber security incidents was referred. To the question of volatility and mutating nature of the cyber world pushing and changing the status quo, the focus should be on deciphering and building upon the fundamentals which are not or least susceptible to change. It was underscored that often the expenditure in maintenance and upgrading systems (thereby incurring cost to reduce asset from transiting to becoming liability) is often ignored and not factored-in while

budgeting. It was accentuated that as a simile to traffic accidents, which are common place but avoidable or controlled, cyber-attacks should be considered in the same spirit and a rather proactive and preventive policy should be adopted. A reactive forensic approach is perhaps a good approach for incremental improvements.

It was discerned that the need for a robust privacy engineering arises because of the fact that "data" is an asset (utility) and a liability (also at times known as "toxic asset" as an extreme expression) at the same time. Data is unlike a resource which can be extracted, processed and discarded or abandoned without drawing consequences. A "balance sheet" approach to deal with data is advisable wherein the data generated and collected needs to be simultaneously accounted in a ledger as an asset and a liability. "Data audit" has to be a regular feature to ascertain the health of the institution, identify vulnerabilities and secure susceptible data.

Session 4

Theme– Expansion of ICT enablement- Artificial Intelligence, Online Dispute Resolution and Virtual Courts

Panel – Justice Suraj Govindaraj, Mr. Francesco Contini and Dr. Rajeev Sangal

The pervasion of AI in pursuit of access to justice and effective delivery of justice, along with the progressive venturing into the virtual world of Online Dispute Resolution (ODR) emancipating from the shackles of jurisdictional complexities, enabling ease of doing business formed part of the discourse of the session. The session focused on empowering the judges with assimilation of the knowledge and contemporaneous skills to help impactful foremanship while doing justice. It was iterated that "technology is what technology does". At the outset the popular prevalent myth that AI is essentially a replacement of human being was examined and cut to size. It was

underscored that AI needs to be considered as a tool to enable judicial system to improve its efficacy and efficiency viz. qualitative & quantitative improvements in justice delivery, access to justice, flatten the area under curve representing backlogs and the likes. It was cautioned that adoption of AI in justice delivery would necessarily need an assured validity along with being sufficiently time tested prior to induction, simply owing to the very nature of the sensitivities involved in the judicial system. The current use of AI in fields of "due diligence", as "predictive technologies", "legal analytics", "document automation", "Intellectual Property (IP) analysis", "litigation finance", "divorce proceeding automation", "AI chat bots to answer standard queries" etc. AI facilitates accurate sifting of big data, its analysis to establish meaningful connections to drive-in a data perspective. An attempt to answer the question as to how AI would help a judge was made. Synchronizing the job of a judge (who is skilled to discern the facts, issues and operates the law by putting it in perspective), an augmentative synergy could be enabled by effectively utilizing machine reading and analytics. A list of dates and events could be instantly discerned using AI from the big data (in a particular case in hand) to facilitate decision making in quick turnaround time (TAT) thus, helping a judge to connect the dots. AI may be put to effective use not only for discerning the facts, but also for enabling identification of issues, framing of charges, and research of the legal precedents (if available and suitable to an instant case). AI is a supplementary enabler and not supplant, to a judge. The myth of AI writing a judgment was demolished as a matter of fact on the pretext that justice is not binary but ingrained and sieved through equity. Models of "Deep Learning" (DL) & "Machine Learning" (ML) to classify, categorize and extract relevant information was discussed in context to big-data analytics and documentation automation. The use of AI in mutually consented divorce proceedings wherein the concept of shared parenting and guardianship responsibilities, with visitation rights are often

quibbled was discussed. Rajnesh v. Neha,(2021) 2 SCC 324 was cited w.r.t. data which needs to be provided to the court in the cases of maintenance claims to be decided by the courts. In such cases the data furnished before the courts may be sifted with the help of AI for a more effective and timely justice delivery. Moreover, it helps in accentuating suppressio veri or suggestio falsi; i.e. to ascertain the veracity of such data furnished, the same could be verified from other collateral, authoritative and relevant databases or inter departmental verification could be done in real-time with the help of such algorithms. The difference between ODR and "Virtual Courts" (VC) was explained. VCs have been established in India for specific purposes viz. traffic offences, wherein the police IT has been integrated with the CIS of a particular district court. It was underscored that the administration of such virtual traffic courts have escalated the efficiency by 600 times in cities like Bangalore and New Delhi. It was suggested that the same model could be mimicked for the negotiable instruments cases as expressed by the apex court in myriad cases including Meters and Instruments Private Limited and anr. v. Kanchan Mehta, (2018) 1 SCC 560; and Makwana Mangaldas Tulsidas v. State of Gujarat, (2020) 4 SCC 695, to ensure a similar massive impact in reducing the case load owing to docket explosion. The session ended with interactive inquiries on status of ICT implementation and bottlenecks.
