

# NATIONAL JUDICIAL ACADEMY



## National Workshop for Senior High Court Justices on Information Communication Technology in Courts

09<sup>th</sup> -10<sup>th</sup> April 2022 [P-1291]

### PROGRAMME REPORT

#### PROGRAMME COORDINATORS:

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The National Judicial Academy (NJA) organized a two-day online ‘Workshop on Information Communication Technology in Courts’. The workshop provided a forum for participating justices to share experiences and insights on the use of technology in courts and interact with a panel of distinguished speakers on the themes. The workshop included discussion on areas like- Information Communication Technology in Courts: Introduction and Background; Paperless Courts and E-Filing; Court & Case Management through ICT; and, Artificial Intelligence in Courts. The workshop involved discussion on various strategies to improve functioning of courts through use of technology and sharing of best practices in the use of technology in different High Courts.

### **Session 1: Information Communication Technology in Courts: Introduction and Background**

**Speakers: Justice Sunil Ambwani, Justice A. Muhamed Mustaque & Dr. Abeline Dorothea Reiling**

The session commenced with sharing of experiences on the integration of technology in courts. The process of implementing information communication technology in the courts of Netherlands was highlighted. Various court processes where the technology should be used including registry, digital filing and documentation, videoconferencing and public access to information were discussed. It was opined that information technology can help in resolving three main problems in the judiciary i.e., delays, inaccessibility of court and corruption. It was opined that delay in deciding cases denies access to justice and foster corruption. The access to justice is access to information and not merely access to courts. The question why implementation of information technology is difficult for judiciary was discussed. Thereafter, opportunities of improvement with the use of information technology including improvement in impartiality and integrity, refining court process and access to justice were discussed. It was stressed that technology helps in making information access disintermediate by making it available on web. The Quality and Innovation Program 2013-2018 of judicial system of Netherlands was discussed highlighting the nitty-gritty involved in designing the digital process for civil justice system including establishing a system of e-filing, improving the registry and communication with court users. Subsequently, experiences involved in active judicial case management without using the clerk office for case management and how it resulted in expeditious disposal of cases was elaborated. The issues and challenges involved in the implementation of this project and its abandonment were discussed. Success stories of digital courts in different countries were highlighted. The findings from a survey conducted by the International Association of Judges regarding the impact of COVID 19 on courts were shared. The issue of public access including access of journalists in video hearings was discussed. The example of public access to Michigan courts on Zoom digital platform in United States was appreciated. The problems in conducting video or remote hearings were highlighted including hardware deficiencies, lack of proper internet facilities, unauthorized recording and unauthorized access in video hearings. Furthermore, issues in conducting video hearings including need of clear legislation, choice and consent of parties, public access, data protection and adequate technical equipment were focused upon. The need of experimentation, acceptance of risk, the possibility of trial and error and adequate funding were highlighted as necessary factors for making digital innovations in court processes.

The discussion then focused on the Indian scenario and the role of the computer committee was highlighted. It was emphasized that the role of computer committees in High Courts is not merely to implement the e-Committee’s projects but they should focus on transformation of

digital system and bring in innovations at local level. Concern was expressed on the absence of technology oriented rules for e-filing which can accommodate technology, new software and flow of data. The need of revamping civil procedures, criminal procedures and High Courts rules and procedures was emphasized. It was suggested that new rules should focus on software and technology which will be required in courtrooms as well as the requirements of stakeholders should be considered. Each region requires different software and technology. The planning of Kerala High Court towards study of gaps in the automation process, coordination with developers for software and reengineering of rules to accommodate the changes was discussed. The use of block chain technology to link government departments and court system was discussed. The need of automation on administration side, judicial administration side and judicial side was emphasized.

The discussion thereafter, focused on the background of e-Courts project. The establishment of digital infrastructure in courts and development of the Case Information System (CIS) in phase I of the e-Courts project were highlighted. The initiatives regarding digitalization in the Allahabad High Court i.e. information to lawyers, availability of electronic copy of judgments and videoconferencing facility between courts and prison were discussed. The need of rules for the digital process and digitalization of records was emphasized and the role of High Courts' computer committee was highlighted. The software system of e-Courts project was discussed and Core and Periphery structure of the software system was explained to the participants. The role of High Courts in the development of periphery structure was emphasized. The ICT committee should focus on ICT related work and should not be involved in non-ICT matters. The judgment *Swapnil Tripathi and Ors. v. Supreme Court of India and Ors.*, (2018) 10 SCC 639 with reference to videoconferencing was discussed. The Interoperable Criminal Justice System (ICJS) and National Service and Tracking of Electronic Processes (NSTEP) were discussed and promotion of these services was emphasized.

## **Session 2: Paperless Courts and E-Filing**

**Speakers: Justice R.C. Chavan, Justice Ram Mohan Reddy & Justice Raja Vijayaraghavan V.**

The session commenced by discussing the role of the Supreme Court in the administration of courts. Concerns were expressed on the lack of availability of equipments at the level of majority of litigants and lawyers for utilizing videoconferencing facility. As a solution the use of Citizen Service Centres (CSC) was referred and rolling out of e-courts services through citizen service centres in the country was discussed. The training of advocate's clerk for using the citizen service centres was emphasized. The process of service of summons in remote areas through the use of CSC was highlighted. Disquiet was expressed on the lack of utilization of funds by the High Courts. It was emphasized that all the High Courts should instruct the courts of magistrates to receive case files related to charge sheets and police reports through ICJS. All prosecutorial agencies of states should also furnish their reports through ICJS. All cases related to the Section 138 of the Negotiable Instruments Act, 1881 filed by financial institutions and Banks should be done through e-filing. The digitalization of the records of trial courts was emphasized. The High Courts should own and use cloud storage and virtual machines.

The regulated use of videoconferencing facility was emphasized. Some High Courts are following videoconferencing facility for all cases except cases related to POCSO, offences against women and family matters. It was emphasized that the issue of public opinion should not regulate court proceedings and videoconferencing. The use of e-courts services in Madhya

Pradesh was discussed including online application for copy of judgment and obtaining it in the email. The electronic process of serving summons was also referred.

The utility of ICJS in bringing case files in its domain was emphasized. Presently, in the Karnataka High Court, charge sheet is given only in digital forms and photocopy method is used for rest of other documents of a case file. The use of ICJS in process service in criminal cases was discussed where process service can be done with the coordination of police department. The use of ICJS was also recommended in the MACT cases where the FIR, depositions and other documents can be filed in digital format which can save lot of time of parties in obtaining documents. The issue of access to the Core software system of e-Courts by the High Courts was referred and it was suggested that the activities of the Core software system should be minimized and majority of software development should be allowed to be done at the level of the High Courts. The issue of uniformity in approaches to software and e-court services was highlighted and it was suggested that the federal structure of the judiciary under the Constitution is uniform for all states and there should be uniform procedures or uniform rules for the application of ICT tools for the purpose of collection of data, its maintenance and preservation. There should be similarity in nomenclature across different High Courts. It was emphasized that the common nomenclature across High Courts will benefit litigants having cases involving jurisdiction of multiple courts in different States. The challenges in making common nomenclature were highlighted and it was suggested that there could be common nomenclature for processes such as process service and registration of cases.

The issue of exchange of data from the core software system was upraised. Subsequently, issues in the use of data of National Judicial Data Grid were discussed. It was suggested that data could be displayed High Court wise and not in aggregated manner. Concerns were expressed on the practical use of data of the National Judicial Data Grid.

Thereafter, the discussion focused on automation in e-filing. The experience from the Karnataka High Court regarding e-filing was shared and it was emphasized that there should be data management system for properly categorizing and book marking the data. The experience of the Kerala High Court regarding paperless courts was shared. The tools of verbatim recording and access to transcript followed in paperless court were deliberated. The discussion then focused on the management of data centres. The digital system of the Kerala High Court including advocates' dashboard, advocates' calendar, roaster dashboard, e-filing and e-payment was shown. The system of conversion of word file into pdf file and bookmarking was also demonstrated. The report of digital university on digitalization in the Kerala High Court was discussed. It was emphasized that if one High Court is able to manage its courts well through periphery software then it should be replicated by other High Courts as well.

### **Session 3: Court & Case Management Through ICT**

**Speakers: Justice R.C. Chavan, Justice Raja Vijayaraghavan V & Mr. Ashish Shiradhonkar**

In the third session, emphasis was placed on technology as the means to ensure effective court management. The need for reduction of the number of adjournments was also emphasised. It was stated that adjournments and other dilatory tactics are not due to absence of laws, rather it is the non-implementation of the existing laws that is the reason for the prevalence of such practices. Performance indices for measuring effective performance were highlighted. The challenges associated with computer-generated dates for hearing of cases were discussed and

it was stated that advocates know that the judge will not hear the matter on the date as the dates are given without considering the judge and his capacity and convenience. In turn, such computer-generated dates results in fleecing of the client by the advocate. It was therefore emphasised that the dates for hearing must be given according to the judge's capacity. The need to factor in the judge's ability, the advocates ability, the nature of the case while fixing dates was stressed and the potential role of AI tools in such endeavour was pointed out.

Discussions were undertaken on the National Judicial Data Grid (NJDG) and the effective use of the NJDG by judges for effective case management. It was stated that NJDG is a huge database of over 6 lakhs judgments which can be read by lawyers and judges alike to know the law on any issue. Guardian judges can utilise NJDG to assess the quality of judgments of the judicial officers. Judges can also use NJDG to find out if similar cases are pending in other courts and how they are handling these cases. Analysis of data on NJDG will also be useful to identify judges who need training and the areas of training to sharpen judicial skills. Discussions were undertaken on allotment of cases to judges and the criteria for the same. It was stated that equal allocation may not be an effective method rather allotment should be based on the capabilities of the judge. Emphasis was placed on quality of output of the judges and that the performance of judges should not be assessed on quantity of output (disposal of cases) alone. The important features of the e-courts system and its benefits in case management were discussed, including –

- Linkage of High court appeal with the case at the lower court so that the judge can access details of the lower court case
- Computerised system with data of all judicial officers and their previous postings, which enables an organised system of posting to ensure no favouritism

The need was expressed for the creation of a system where judicial officers are rewarded for handling difficult caseloads or districts. The limitations of the unit system in incentivising challenging caseloads were highlighted. On livestreaming of judicial proceedings, the need for adequate infrastructure and resources including manpower was pointed out. Discussions were undertaken to analyse the features and comparative benefits and challenges in direct livestreaming *vis-à-vis* deferred livestreaming. The benefits of livestreaming include –

- Observation of proceedings by law students and lawyers for learning purposes
- Access to justice
- Transparency
- Litigants can keep a track of their case and can keep a check on their advocates.

Conversely, livestreaming also has a potential for misuse, such as -

- Lack of privacy for the parties
- Manipulation
- Fake reporting of proceedings
- Intimidation of witnesses

It was opined that livestreaming should not be the norm, rather it should be enabled for exceptional cases only like in matters of public interest. Livestreaming should not be done in cases where sensitive matters are discussed (cases relating to children, women, family disputes etc.) or where parties may face embarrassment. It was stated that livestreaming in trial courts

can also prove to be a challenge as witnesses can be influenced or threatened. The present approach to livestreaming in various high courts across India was discussed. Deferred livestreaming was stated to provide a window to filter certain sensitive and other content before uploading thereby enabling the removal of content that is sensitive or private. A demonstration of the features of VConsol – the videoconferencing application used by Kerala High Court provided the participant justices with an insight into workable videoconferencing mechanisms which can be emulated. It was stated that in VConsol access to the live proceedings can be provided to the litigant on request and the court can track who is watching the proceedings, thereby ensuring access to justice, user-friendliness and control of data by the court. The need for significant infrastructural upgrade for enabling livestreaming was underscored. It was opined that the benefits of livestreaming outweigh the drawbacks.

#### **Session 4: Artificial Intelligence in Courts**

##### **Speakers: Justice Suraj Govindaraj & Dr. Abeline Dorothea Reiling**

The discussions commenced highlighting the adaptability and benefits of Artificial Intelligence (AI) to the judiciary, while parallel pointing out its limitations in supplanting human inputs in decision making. It was stated that while considering assimilation of AI in the judicial system it should be ensured that judicial data should be in the control of the judiciary itself. The concept of AI and its functionalities were explained. AI was stated to be a simulation of intelligent behaviour in computers. AI can operate as machine learning - where the computer operated through a goal defined algorithm, and also as deep learning – where the algorithm adapts itself. The utility of AI for the judicial system was discussed and it was stated that AI can assist the judiciary in knowledge management, process management, and in advisory services. AI can assist courts by structuring information and also in case processing by streamlining data. Chatbot and its features were explained and demonstrated. Advisory uses of AI to identify solutions and support resolution were pointed out. The use of AI in forecasting outcomes of litigation by the creation of predictive models based on the judge's profile was critically analysed.

Bias in AI based decisions was discussed at length and it was stated that AI based decisions are largely conservative and consistent as they are based on a set of data provided to the computer. Bias is introduced into the system by the information input by humans which is inherently representative of the bias of the person who provides such input. The operation of such bias in AI was illustrated with the Correctional Offender Management Profiling (COMPAS). Bias can also be introduced the quality and quantity input to the computer which is the basis for AI decisions. Judge profiling practices and its ethical challenges were touch upon. The European Ethical Charter for the Use of AI in Judicial Systems and their Environment was discussed. Principle 5 of the abovementioned Charter which states that AI must be under user control, precludes a prescriptive approach and ensures that the users of AI are informed actors with complete knowledge what AI does. This ensures that the users are in control of their choices and can decide what to do with the AI's result and can even differ with the AI's decision.

For the introduction AI, courts must be involved in the designing, development and safeguarding and must have control over the process. To ensure effective functioning of AI, the quality and quantity of input should be ensured. It was opined that AI cannot replace the judge in the delivery of judgments. It can offer a solution to handle the judicial workload by reducing and streamlining judicial processes. It was opined that mere use as a productivity tool

to eliminate repetitive tasks is not an efficient use of AI. It was suggested that AI can potentially have a greater role in the summary offences, MACT cases and traffic offences; and AI can serve to streamline the process of listing of cases for hearing while taking into consideration the judge's order to list the case at the top of the list. The stifling impact of AI on the development of law due to conservative and predictable outcomes in AI decision-making was pointed out as a cause for concern.

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