

● E-COURT GOVERNANCE: A WAY FORWARD FOR EFFICIENT JUSTICE DELIVERY SYSTEM IN INDIA



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Abstract

The National Judicial Data Grid statistics indicate Indian Courts are overburdened with total numbers of 32262508 cases pending across district Courts (as on April 24, 2020). This inordinate delay and slow disposal rate of cases raises serious issue of the quality to access conclusive and timely justice and pose challenge to Justice Delivery System in India. Since timely disposal of cases is essential for maintaining the rule of law and fulfilling Constitutional promises to avail justice to every citizen, the initiatives started with National e-Governance Plan (NeGP) with the Policy Mission to transform 'paper based' system to 'paperless' system in India. Under this Policy mission plan, ICT has been used in various functions like filing the schedules, posting of cases, grouping of cases and so on

Key words

E-Court, Governance, ICT, NeGP, Digital India and Justice Delivery System

I. Introduction

Indian Justice Delivery system in its slow and delayed paper based processes in courts contributes significant to pendency of cases. The present justice system is not able to deliver justice in time because of large number of backlog cases. As per data available on the 'National Judicial Data Grid' (NJDG) website on April 24, 2020, total 32262508 cases pending across district courts in different states. Out of these, 9367409 (29.03%) cases are pending for the category of less than three years and 4925602 (15.26%) cases are pending for over ten years.¹ This NJDG data report shows that justice delivery system is not abreast to meet out to respond new challenges with the institution of afresh cases. Further, it's not capable to settle a significant numbers of cases. The existing serious backlogs issue is, therefore, getting aggravated on regular basis. It will lead to a deviation of the Constitutional promises of access to get justice in time and abrasion of the rule of law and good-governance.²

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This present research paper study is part of the ongoing Seed Grant project under IoE, BHU, Varanasi.

¹National Judicial Data Grid (District and Taluka Courts of India)', available at: <https://njdg.ecourts.gov.in/njdgnew/index.php> (accessed on 24/04/2020).

²Government of India, Arrears and Backlog: Creating Additional Judicial (wo)manpower, Report No. 245, Law Commission of India, July, 2014, available at: <https://lawcommissionofindia.nic.in/reports/Report245.pdf> (accessed on 22/04/2020).

It may be noted that the vision of Digital India programme ensures that 'Government services are made available to citizens electronically through improved online infrastructure and by increasing Internet connectivity or by making the country digitally empowered in the field of technology', and thus launched 'e-Courts' project as one of the important outlets entitled 'Technology for Justice' of e-Kranti (NeGP 2.0). To achieve these goal and objectives of 'Digital India' programme, e-courts projects requires processes viz. digitalization of judicial decision, indexing of such electronic records for simple retrieval, authenticate electronic records and replacement of paper based records, digitalization of current records and introduction of electronic filing of the case, plaint, petition, appeal, application, authentication of affidavits electronically, *vakalatnamaas*, documents having manual signatures compatible with bio-metric, electronic Court fees Payment, and procession fees etc., electronic filing receipt generation, e-scrutiny and verify electronic filed documents through the court registry, preparation of the online case filing while utilizing document management system and this must be linked with the case management system, etc.

This all started with the move from paper-based to paper-less digital environment to communicate and record ideas, cannons, concepts, arguments, statements, presentations etc. The inadequacy of a paper-based environment make it an necessary to make over our justice delivery processes viz. pleading, recorded evidences, judgments, orders, injunctions, which are documented and availed on digital platform. Since the paper based procedures in courts contributes significant to pendency of cases, the use of ICT improves this system through inducting ICT modules to improve efficiency and speed up the processes which eventually make transparent environment. ICT has been used in diverse aspects for instance schedules filing, posting, grouping of cases etc. The wide utilization of ICTs can certainly help to improve the efficiency and speed of the system.

Conventionally, all judicial work, judicial and administrative, has been based on paper record. The cyber world move away from paper based system as a mode to communicate and records ideas, cannons, concepts, arguments, statements, and presentations etc., associated with the inadequacies of a paper-based environment. In order to meet out present day challenges, introduction to information and communication technology in courts viz. electronic courts which are paperless courts can be a good solution. An e-court requires following processes viz. electronic filing, e-form filled online via internet or kiosks centers in the court or through media utility.³

The uses of ICT & digitalization of records and establishment of e-courts guide in this new paradigm of changing modus of court functions. It can ease the necessity to provide the infrastructure in the form and brings efficiency to speed up the file processing at every phase starting with filing a case to disposal of the case and archival records. It may also make a progressive change in the work pattern of the registry which go ahead to enhance efficiency, speed and productivity. This eventually, provides timely and cost-

³Court Development Planning System: version 2.0', Court Development Planning System, 'Report of a Sub-Committee of the National Court Management Systems Committee', Available at: <https://main.sci.gov.in/pdf/NCMS/Court%20Development%20Planning%20System.pdf> (accessed on 25/05/2020), pp.44-46.



effective services which provide great relief to the litigants. However, this required collaborative and concerted effort from every corner of the justice delivery system, primarily, by judges and advocates.

For the e-court development strategies, it is important to make provisions for the nut and bolt of this new regime i.e. hardware and software. From the Hardware standpoint, data servers devices; high speed Local Area Network processor; quality scanners; speedy internet connectivity; court required necessary technology viz. computers, Laptops, tabs, webcam, high quality LCD screens, electric power connection devices for advocates' laptops/tablets, good quality video conferencing and audio-video streaming facilities. On the other hand, from the Software standpoint, database open source; word, excel and power-point processing software (MS office); PDF Adobe software; digital signature software and custom document management software; online judicial references like Manupatara, SCC online etc.⁴

II. E-courts Project in India: A Journey from NeGP to Digital India

A. E-courts' project- Mission Mode Plan of NeGP

In Indian democratic setup, among other wings, Judiciary endeavors to transform its functional aspects through inducting tools and techniques of information and communication technology (ICT). As a part of National e-Governance Plan (NeGP), since 2007, e-courts plan operated as Integrated Mission Mode Plan for improving efficiency of Indian Judicial system under 'National Policy and Action Plan for Implementation of Information and Communication Technology in Indian Judiciary' (NPAPIICT), conceived by the Supreme Court e-Committee.⁵

This NPAPIICT Report had proposed three Phases for the implementation of e-Court Project. Inclusive several activities in the running phase proposed, various other activities are to undertaken in this project to make holistic approach for the ICT enablement of the Courts as per the vision of NeGP.⁶ With the infrastructure, hardware and software deployment, most District Courts have been adequate to give fundamental services of filing, examining, scrutinizing, registration, disposal, cause-list generation and uploading orders/decisions under this project.⁷

Under this e-Courts Mission Mode Project of NeGP is to make ICT equipped district/subordinate courts of the country. Prime objective of the project is to provide structured services to litigants, advocates and judges lawyers and the judiciary through ICT induction in the Courts of India. The First Phase deals with the deployment of basic infrastructure necessary for ICT, covering various modules, like computer hardware,

⁴Ibid.

⁵Supreme Court of India, Policy and Action Plan Document, Phase II of the E-Courts Project, January, 2014, p. 2-3, available at: http://supremecourtsofindia.nic.in/ecommittee/PolicyActionPlanDocument-PhaseII-approved-08012014-indexed_Sign.pdf (accessed on 22/04/2020).

⁶Ibid.

⁷E-Committee Supreme Court of India, Policy and Action Plan Document, Phase II of the E-Courts Project', January, 2014, p. 2-3, available at: http://supremecourtsofindia.nic.in/ecommittee/PolicyActionPlanDocument-PhaseII-approved-08012014-indexed_Sign.pdf (accessed on 22/04/2020)

software, LAN module and internet connectivity at each Court premises to advanced the ICT enablement of Supreme Court and High Courts, including computer, laptops, tablets, printers, internet connectivity at home and offices of judges and provide ICT training.⁸

'As a part of the Change Management programme, more than 14,000 Judicial Officers have been trained in the use of Ubuntu-Linux Operating System (for their laptops). This has been achieved by training 218 judicial officers from all over the country as Master Trainers in different locations around the country.⁹ 'Similarly, more than 4000 Court Staff have been trained in Case Information Software as System Administrators. This has been achieved through training 219 Court Staff as CIS Master Trainers (District System Administrators) at the Maharashtra Judicial Academy and the Chandigarh Judicial Academy.¹⁰ 'An exercise has been initiated by requesting every High Court to provide a Unique Identification Number (UID) to every Judicial Officer. The UID will be prefixed with two alphabets representing the State, as for example with motor vehicles. This information will be uploaded on the e-courts portal. This will assist the High Courts in maintaining an accurate record of all judicial officers.¹¹ 'An exercise in Process Re-engineering has already commenced. All High Courts have set up Process Re-engineering committees to modernize the processes, procedures and Civil Court/Criminal Court Rules.¹²

B. E-courts' project as a e-Kranti under Digital India Programme

E-kranti is an important pillar under the Digital India initiative, including mobile Governance under e-governance aim with to upheld Good Governance and rule of law in the country. The key approach shows in the Union Cabinet's vision entitled as 'Transforming e-governance for Transforming Governance!' 'Technology for Justice' is one of the plan under e-kranti to interoperable Indian judicial system improving processes through various applications, viz. e-courts, e-police, e-prosecution and e-jails etc.¹³

Data provided below (on 1st March, 2016) shows that more than 95% of the required activities have been finalized. Implementation Status (1st March, 2016) are as follows-¹⁴

S.No	Name of Modules	Status (01.03.2016)	Percentage of Completion
1	Readiness of Sites	14249	100.00
2	Installation of Hardware	13466	94.29
3	LAN Installation	13683	96.02
4	Software Deployment	13672	95.95

⁸Ibid.

⁹Ibid.

¹⁰Ibid.

¹¹Ibid.

¹²Ibid.

¹³Government of India, 'Digita India, eKranti - Electronic delivery of services', available at: <https://negd.gov.in/e-kranti> (accessed on 25/05//2020).

¹⁴eCourts Mission Mode Project (Phase-I)', available at:

<http://doj.gov.in/sites/default/files/Brief%20on%20eCourts%20Project.pdf> (accessed on 20/05/2020).



Additionally, ICT infrastructure deployment process of the Supreme Court and High Courts has also been upgraded. It may be noted that laptops have been given to 14,309 judicial officers and uniform national application of Case Information System (CIS) software has been implemented. As part of the Change Management exercise, more than fourteen thousand Judges have been trained in the of *Linux* Operating Software; and more than four thousand Court personnel, employee have been trained in CIS software; the e-Committee has started the Process ReEngineering (PR) exercise; This Committees have been established in High Courts to examine and observe existing rules, processes, procedures and forms; Online video conferencing in courtrooms and jails premises. It was decided to provide video conferencing amenities for 488 Court premises and 342 jails compounds out of 667 locations equipment has been delivered; special mentioned here is the National Judicial Data Grid has become functional and operated. This portal gives all information relating to details of case registration, cause list, case status, daily orders, and final judgments in the form of online services to litigants.¹⁵

The Second Phase of e-courts Mission Mode Project received the Government's approval. This Phase basically focuses on universal computerization approach to enhance ICT enablement, cloud computing uses, case records digitalization, availability of electronic Services as e-filing, online payment gateways and mobile payments gateways. It may be noted that the e-committee of Supreme Court after consultation with all the High Courts, approved by then Chief Justice of India. This project of Rs.1670 Crores has been approved for four years period or until the project is finalized. Some of the highlighting objectives of this e-court Phase II are as follows: about 5751 new courts' computerization; about existing 14,249 computerized courts with additional enhanced ICT enablement hardware; connecting all courts through WAN; citizen centric approach and facilities like 'Centralized Filing Centers'; e-Kiosks in each Court Complex; provision not covered under First Phase; 2500 Video Conferencing facility deployed; 800 jails ICT deployment; provide Cloud facility; solar energy system at Court premises; and hand-held devices and applications.¹⁶

This Phase designed a collaborative and consolidated all the initiatives and measures promised to be taken up and provide multi-platform services under the Charter of Services. These services include case registration, lists, status, and upload order/judgment. Further, e-filing, online-payment of court fees, email through process, hand held devices services, receipt of digitally signed judgments etc. Above mentioned the Charter of Services guide to provide litigant service centric under Second phase. One of the major advantages of digitalization of courts is 'automation of workflow management'. This ICT deployment is expected to enable the courts across country. This includes three major viz. the judiciary, litigants and advocates.¹⁷

III. 'Five Plus Free' Rule

It may be specifically mentioned here that 'National Court Management Systems Committee' in the year 2012 recommended "Five Plus Free" rule for Indian Judicial

¹⁵ Ibid.

¹⁶ Ibid.

¹⁷ Ibid.

System on urgent basis. This rule simply prescribes free those cases having old more than five years, may address 27%¹⁸ of cases which have more than five years pendency. Similarly, it's important to settle cases in each court in lesser time through reduction of average life cycle of cases, which contribute to reduce the total time spent in the judicial process in totality, eventually, in each court come down the average life of case that are not more than about one year.¹⁹

IV. Chief Justices Conference: Agenda Notes

The induction of ICT automation happening in courts provides to amend the procedures in the wake of transformed system to improve efficiency and responses of courts. It is an urgent need to revise the present rules, processes and procedures and to address the question that whether and how, due to this ICT adoption Judicial processes and procedures should be streamlined and reformed. Notably, in order to advance this present rules, processes and procedures, the justice delivery system requires improving and innovating current regulatory regime to speed up the rate of disposal of cases. It needs re-hauling, re-engineering, and re-examining the court processes.²⁰

The ICT automation processes potential, expected to be continued in Second Phase of this e-courts plan and project, through which the re-engineering of judicial Processes and procedures will be finished to explore the automation processes meet out with recent advancement in science and technology. This Second phase Policy agenda not only provide automation in Judicial processes and procedure but also responsive towards the functioning of administrative processes concerning the Registry of the courts. In this connection each High Court is required to prompt to take up this work, complete and employee the re-engineering process forthwith.²¹

Further, a trio-Memorandum of Understanding among and between the Central Government, High Courts and State Governments, require State Governments to make certain maintenance and up keeping of the infrastructure, hardware and equipment targeted within this project.²² In this connection ICT infrastructure and structure of the apex Court and High Courts have been advanced, as well computerization of courts work have been in progress. Under this e-courts project plan, in addition to basic ICT infrastructure in the district and subordinate courts, the activities also focuses on the ease of doing business processes.²³

¹⁸As of NJDG Data, (Cases pending more than 5 years), available at: 'http://164.100.78.168/njdg_public/main.php' (accessed on 12/06/2016).

¹⁹Supreme Court of India, 'NCMS Policy and Action Plan Committee in Consultation with Advisory Committee', 2012, available at: <https://main.sci.gov.in/pdf/NCMSP/ncmspap.pdf> (accessed on 25/05/2020).

²⁰Agenda Notes briefs, Joint Conference of Chief Ministers and Chief Justices of the various High Courts' on April 24, 2016, available at: <http://doj.gov.in/sites/default/files/AGENDA-NOTE-CMCJ.pdf> (accessed on 25/05/2020).

²¹Ibid.

²²Ibid.

²³Ibid.



V. Chief Justices Conference: Resolutions

Concerning about efforts made on ICT implementation, it has been observed that to get desired results and for beneficial purposes for litigants and public at large, Chief Justices Conference noticed in the ICT induction in judicial system, connectivity is one among major challenges which has to be addressed as early as possible. It may be noted that the 14th Finance Commission recommended Rs. 479.68 Crores for technical manpower support, however still number of State Governments has to utilize the allocated resources for technical manpower support for advancing the Courts 'infrastructure. On the other hand, it has been found that in spite of recurring requests of High Courts to fill technical manpower posts, there is lack of support from a number of State Governments. As per data provided by the High Courts, as on January 01, 2016, 2.62 Crore cases were pending, out of which 2.06 Crore cases shown as pending on respective date mentioned on NJDG data portal. The difference shown is primarily due to connectivity issues at many Court compounds, because of the gap in the updating data in respect of filing and disposing cases during Court processes.

Further, it is required to maintain equipment after the warranty period, the consumables required for DG Sets, Printers etc. need special attention, and this causes hardship in certain States leads to continue Project activities and providing services to the litigants, advocates and public at large. There are instances that all required fields of the Case Information System are not updated, since data is the primary and basic requirement in effective execution, because this feeding information and statistics have to be disseminated through National e-courts portal and National Judicial Data Grid, thus it is very important for the progress of the Case Information Software to ensure correct, complete and regular data of pending cases.²⁴ Furthermore, since this initiation is inter-linked with the standardization employed to the Case Information Software (CIS) for the High Courts, under the aegis of NCMS, uniform entitles for all cases registered in the High Courts have been adopted on priority basis. The State Governments taken up issues of connectivity and providing technical manpower support with high priority.²⁵

VI. E-courts and High Courts Initiatives in India

This section explores actual employability and application of ICT in Indian High Courts, discussed as follows:

Karnataka High Court

So far ICT application promptness is concerned, the Karnataka High Court has been extensively using SMS facility to provide relevant information to advocate and litigants, make them updated. In fact, data shown that 177 courts out of 199 courts, the SMS facility provide great advantage to the wholesome judicial mechanism. This function, through 'HC2LC application' similarly used for the benefit of Judge where the information and communication exchange made between High Court and the

²⁴'Resolutions Adopted In The Chief Justices' Conference', April, 2016, available at: <https://main.sci.gov.in/pdf/sciconf/Resolutions%20adopted%20in%20the%20Chief%20Justices%27%20Conference,%202016.pdf> (Visited on 25/05/2020).

²⁵ Ibid.

subordinate Courts. For an example, where an appeal or revision is filed in response to an interim order by a judge, the High Court sends a message to him/her which make him aware of the fact, and it also make him learn about any stay proceedings and its status. On the other hand, it helps the Judge to make the LCR for further process to the concerned Court forthwith, meaning saves a lot of precious time of the court. Likewise, if any appeal or revision disposal is done, the required SMS send to the concerned judges. Notably, this transmission of information make advantage to keep cases status update, thereby, the NJDG be corrected and updated with fast pace.²⁶ Further, the Karnataka High Court has started the ICT application through online inviting applications for recruitment purposes.²⁷

Gujarat High Court

Special mention to the Gujarat High Court, where 'CIS 2.0' has been implemented in the districts courts of Gujarat, emphasizing on the benefits and advantage of the wide use of VC and media facilities, in this respects, the High Court taken steps to provide training program for judges, certainly make positive outcome accordance with aim and objectives of the e-Courts project.²⁸ Further, the Taluka Courts uploads data relating to order, judgment through GSWAN/NICNET ('slony' and 'sync') connectivity to the staging web application server at High Court.²⁹ For an example, online bail application provides significant assistance in the legal aid services.³⁰

Madras High Court

Coming to Madras High Court, the reengineering process has been taken proper attentions, accordingly the Civil and Criminal Court Manual is being overhauled. This has been taken the peripheral development of modules for districts courts and the High Court, in consonance with practices followed in the District Courts.³¹

Uttarakhand High Court

On March 16, 2010, then Chief Justice, Justice Barin Ghosh launched the websites of High Court connecting with all thirteen District Courts in Uttarakhand.³² Looking into the ICT deployment in the State of Uttarakhand, 'District Court Information System' (DCIS) software training given to all officials. This DCIS Software application provides steps in the development for the computerization initiatives in the District Courts. With the compatibility of the guidelines and directions of Central Government websites,

²⁶eCommittee Newsletter, Supreme Court of India', March 2016 available at: <https://cdnbbsr.s3.waas.gov.in/s388ef51f0bf911e452e8dbb1d807a81ab/uploads/2020/07/2020070524.pdf> (Visited on 25/05/2020).

²⁷Ibid.

²⁸Ibid.

²⁹Ibid.

³⁰Ibid.

³¹Ibid.

³²'Inauguration of Websites of High-court of Uttarakhand', available at: <https://informaticsweb.nic.in/news/inauguration-websites-highcourt-uttarakhand-and-all-13-district-courts-state-hon-chief-justice> (Visited on 22/03/2020).



websites developed under PHP and MySQL and hosted on the Server provided by NIC-Uttarakhand, which are registered on GOV.IN domain having relevant information and details of Web Information Managers.³³

VIII. Conclusion

To sum up, one can say that judicial processes in India are undergoing a change through digital India policy initiatives, the innovative application of ICT like Artificial Intelligence technologies may help to ensure efficient justice delivery to reduce backlog of pending cases. The efficient use of application of ICT will lead to good governance which ensures rule of law and to take e-governance initiatives to the desired level of aspiration of progressive and forward looking Government. The systemic application of ICT technologies may address the issue of efficiency of the justice delivery system in India.

³³'National Policy and Action Plan For Implementation', available at: supremecourtfindia.nic.in/ecommittee/action-plan-ecourt.pdf (Visited on 23/03/2020).