



E-Courts in India and E-Judiciary in India

Dr. Minal H. Upadhyay
Principal,

B. K. Mercantile Bank Law College
Palanpur, Gujarat (India)

Abstract: *Implementation of Information and Communication Technology (ICT) in Indian Judiciary and in Indian Courts needs rejuvenation. In the age of technology, development of judiciary with e-courts is very essential can make Indian laws and judiciary more transparent and user friendly. The successful use of e-governance for Indian e-judiciary model requires a techno-legal e-court framework. Electronic court in India is an area that requires immediate attention of union ministry of law and justice. We need ICT Training and e-courts training for Indian Judicial System as soon as possible.*

E-courts have been ignored for so many years we are still waiting for the first e-courts of India. The ground reality is that e-court in India is still ignored by the legal and judicial system of India. Further, electronic courts in India must also be supported by active use of online dispute resolution (ODR) in India to reduce backlog of cases. Legal enablement of ICT systems in India is need of the hour.

Keywords: *Information and communication technology, E-Courts, E-signature, E-notice, Online Dispute Resolution.*

I. INTRODUCTION

Indian Judiciary is in urgent need of re-engineering its processes, optimize the use of its human resources and bring about change management by harnessing the potentiality of the available Information and Communication Technology (ICT) to its fullest extent. The objective of this exercise is to enhance the judicial productivity both qualitatively and quantitatively as also make the Justice delivery system affordable, accessible, cost effective, transparent and accountable. Similar objectives have been achieved in other parts of the world by use of technology but in India though its manpower is known for its technology expertise, the ICT benefits could not be fully explored and utilized in public service sectors like Judiciary and other organs of the State.

The main component of this process is that legal and judicial systems are customized in line with information and communication technology (ICT). Although e-courts project of India has been launched as a mission mode project under the national e-governance plan (NEGP) of India.

II. MEANING OF E-COURTS

Electronic court filing (ECF), or e-filing, is the automated transmission of legal documents from an attorney, party or self-represented litigant to a court, from a court to an attorney, and from an attorney or other user to another attorney or other user of legal documents¹. E Courts means justice delivery through the Internet.

An electronic court (e-courts) is the process where the use of information and communication technology (ICT). From filing of the case to its final adjudication, all is done in an online environment.

III. SCOPE OF E-COURTS²

The scope of e-Courts project is to develop, deliver, install and implement automated decision making and decision support system in the District & subordinate Courts of the state with the help of e-Committee Supreme Court of India.

The scope of E-Court is to offer the following electronic features as seamless interfaces to our case management systems.

- ❖ **E-file** is the capability for attorneys, prosecutors, and self-represented litigants to electronically file case documents.
- ❖ **E-payments** is the capability to accept payments by credit card over the Internet as fees for processing electronically filed case documents and to satisfy all other financial obligations to any court.
- ❖ **E-docket** is the capability to expose to court constituents public information about the history of filings, events, and case statuses over the Internet.

¹ <http://www.oasis-open.org/committees/legalxml-courtfiling/charter.php>

² New Hampshire judicial branch



- ❖ **E-schedules** are the capability to expose the court calendar (hearings and trials scheduled in the future) to the public over the Internet.
- ❖ **E-citations** are the capability to conduct motor vehicle citation transactions with state police and local law enforcement electronically.
- ❖ **E-self help** is the capability to provide case-type specific procedural guidance to unrepresented litigants over the Internet.
- ❖ **E-case files** are the capability to provide access to public documents in court files, over the Internet.
- ❖ **E-document** management is the electronic management of case file documents through the case processing stages or events.
- ❖ **E-signature** is a portion of e-document management that allows authorized parties to sign court documents electronically.
- ❖ **E-notice** is the electronic generation and distribution of all court notices to parties.

IV. E-COURTS PROJECT OF INDIA³

The concept of e-courts or e-judiciary is not new to India since talks about establishment of e-courts in India are in progress since 2003. Despite many talks, establishment of e-judiciary in India always remained a dream. As a result electronic delivery of justice in India is still struggling and facing many techno legal hurdles.

The Indian judiciary comprises of nearly 15,000 courts situated in approximately 2,500 court complexes throughout the country. In the Indian Judiciary, effort for computerization of some of its processes has been going on since 1990. From 2001-03, 700 city courts in four metros were computerized and during 2003-04, computerization of another 900 courts were undertaken.

A need was felt to make the programme of ICT enablement of the Indian Judiciary mission-critical. Under NEGP as a Mission Mode Project, it is proposed to implement ICT in Indian judiciary in three phases over a period of five years. The project scope is to develop, deliver, install and implement automated decision making and decision support system in 700 courts of Delhi, Bombay, Kolkata & Chennai; 900 courts in the 29 capital city courts of states and UTs and 13000 district and subordinate courts.

V. THE OBJECTIVES OF THE PROJECT ARE

- To help judicial administrations of the courts in streamlining their day-to-day activities
- To assist judicial administration in reducing the pendency of cases
- To provide transparency of information to the litigants
- To provide access to legal and judicial databases to the judges.

The project has been devised following the report submitted by the E-committee, Hon'ble Supreme Court of India on National policy & technology in the Indian judiciary.

Department of Justice is providing key support for project monitoring and evaluation. All High Courts have appointed Central Project Coordinators for managing the implementation of the project.

The key service levels to be achieved by this project are:-

- ❖ Registration of cases: by auto generated unique case number.
- ❖ Copies of Judgments: judgments will be made available through web.
- ❖ Preparation and delivery of decrees: decree should be made available to the concerned parties by email, wherever applicable.
- ❖ Generation of automated cause lists.
- ❖ Generation of automated court diaries.
- ❖ Availability of case status: online case status right from filing of case till it gets disposed.
- ❖ Generation of daily orders.
- ❖ Website for each court.

One more major aspect to be covered under E- courts project is Videoconferencing technique through which courts will be connected to the Jail by ISDN lines and at both ends a camera unit and a display unit will be provided with recording facility at the court's end. Under trial is produced at the Jail end. The Judge, Lawyers and witnesses etc. remain present in the court and regular trial is conducted. The judicial remand of the under-trial can also be extended without physically producing him in the court. The benefits of Videoconferencing includes –

- ❖ The dreaded criminals can be tried without risks.
- ❖ Trial is expedited with use of this facility.
- ❖ Cost and manpower in producing under-trials only for remand extension can be saved.
- ❖ Multiple trials of an accused lodged in one jail is possible in different states.

³NIC (National Informatics Centre) Project Monitoring System



- ❖ Evidence of witnesses unable to come to court can be recorded.

Another aspect under e-Courts project covers efficient Data management through the Application Software. Data is captured at the filing stage in computers for new cases. Data of old cases is fed in computers using dedicated manpower. Data relates to date of filing, full description of parties, law provision invoked, property no., detail of witnesses, stage of trial, next date of hearing and advocate's name etc. Data is updated on daily basis without fail.

Another area has been covered under the e-Courts project is having Websites for each courts which helps litigants and lawyers to check the daily cause lists, judgments, and various up to date information regarding the district courts.

The future aspect of e-Courts project includes e-filing of cases, online enquiries, online court fee payments etc.

VI. FINDINGS

There is no doubt that e-courts can bring speedier and economic justice to Indian masses. Right to a speedy trial is contained in Article 21 of the Indian Constitution. It mandates a speedier and timely disposal of a case. Presently, India is facing a mammoth backlog of cases that can be reduced drastically by use of technology and e-courts. Technology can also help in achieving the objectives of National Litigation Policy of India.

The efforts for the establishment of e-courts in India are not sufficient and needs rejuvenation. This is happening because the legislature and executive are not versed with the litigation and the legal fraternity is never consulted while making techno-legal laws. India is also not experimenting well with concepts like online dispute resolution (ODR). In the absence of any interest for ODR in India this concept has still not been adopted by Indian government.

India has been experimenting with technology for long. Even a basic level legal framework has been introduced in India in the form of Information Technology Act, 2000 though it requires immediate repeal or amendment. There are many shortcomings of the IT Act 2000 and one of them is non-binding nature of e-governance obligations of Indian government. The National E-Governance Plan (NEGP) of India has also failed to meet its objectives and marks. As a result India has failed on the fronts of both e-government and e-governance.

While India is still struggling to deal with basic level technology adoption, the BJP government has announced projects like Digital India and Internet of things (IoT) that rely prominently upon technology. These projects intend to extend the services to general public in the field like healthcare, education, judicial services etc.

As far as judiciary is concerned, we are still struggling to establish the first e-court of India till October 2014. In these circumstances, achieving the objective of establishing e-judiciary in India is still a distant dream. E-judiciary project of India is also suffering from lack of techno legal expertise to manage the same. For instance, we have a single techno legal e-courts training centre in India. There is urgent need to develop e-courts skills in India so that e-judiciary project can become a reality.

VII. REASON FOR FAILURE OF E-COURTS IN INDIA

E-courts project of India has not been able to be successfully transformed into a judicial reform initiative. At the institutional level, e-court project is bound to fails as there is no techno legal expertise present there. This is the reason why despite the national e-governance plan (NEGP) of India being launched, it has largely remained a failure to bring legal enablement of ICT systems in India.

However, the task is really difficult to achieve because of lack of expertise, techno-legal training and absence of time bound performance. Every year in the month of February, the tenure of E-Courts Committee is extended for another year. This shows there is a lack of Political Will to achieve the task as merely extending time for another year without performance report and accountability is just a pretext to avoid the ultimate accomplishment, i.e. establishment of E-Courts in India.

The fact remains that despite all glamorous conferences and public announcements, we do not have even a single E-Court in India and there is not even a single case that has been filed, contested and finally adjudicated through an E-Court System in India. Where those claimed E-Courts are and what cases they had adjudicated is still a big mystery.

India has a single techno legal e-courts training and consultancy centre of India managed by Perry4Law Techno Legal Base (PTLB). There is no second firm or company in India that deals in techno legal e-courts related issues except the one managed by PTLB

It seems India is just making press statements years after years and courts after courts about establishment of E-Courts in India without actually establishing and operationalizing them. The task of their establishment and operationalizing cannot be accomplished till we honestly and dedicatedly try to achieve the same. Till now India is just adopting the half-hearted efforts and evasive approach.



VIII. CONCLUSION

Establishment of E-Courts in India is an important aspect of judicial and legal reforms in India. However, despite this pressing need India has been doing nothing in this regard except giving press statements since 2003. Till December 2014, we are still waiting for the establishment of first e-court in India. E-Courts in India cannot be established till we have experts who can manage this ambitious e-governance pilot project. Similarly, we also need to train judges and lawyers regarding not only e-courts but also for laws like cyber law and telecommunication laws. India has to do much more than mere press statements and opening of e-courts on “papers only” if it really wishes to encash the benefits of Information and Communication Technology (ICT) for effective, speedier and constitutional justice delivery system. The ICT Trends of India 2009 have proved that Indian e-governance initiatives like E-Courts, E-Bharat, etc have failed due to lack of proper training, management and insight.

Indian judicial system in particular is that judicial-infrastructure of India also needs rejuvenation. Presently essential capabilities like e-filing, presentation, contest and adjudication of the cases in an online environment, etc. are missing and India is just stressing upon "mere computerization" with no actual work towards establishment of e-courts. E-courts services in India are an altogether different ball game that Indian courts and Indian government are not capable of playing with their existing capabilities and skills.

In Indian a significant growth has already been achieved regarding computerization of traditional courts and their procedures. Many crucial aspects regarding Indian litigation like case list, case status, certified copies, etc. are available online. This has also considerable reduced the backlog of cases in India⁴.

With the growth of Information and Communication technology in India, it's just a matter of time how fast the e-Courts works will grow in Judiciary System in India. But with the Judges and court staffs being serious and more concerned in today's working environments, nothing seems to be impossible and the goal of the e-Courts project could be attained soon.

Fast and fair trial has always been a long awaited dream for the citizens in India. The experience of a person undergoing trial has never been pleasant so far. Hence there is a need of ICT enablement of Indian Judiciary for trails to be quicker. It is hoped that in the coming time, e-Courts will prove to be a landmark in the life of the people and transform their anticipations into reality.

IX. SUGGESTION

Implementation of Information and Communication Technology (ICT) in Indian Judiciary and in Indian Courts needs rejuvenation. The successful use of e-governance for Indian e-judiciary model requires a techno-legal e-court framework. We need ICT Training and e-courts training for Indian Judicial System as soon as possible. Further, electronic courts in India must also be supported by active use of online dispute resolution (ODR) in India to reduce backlog of cases. Legal enablement of ICT systems in India is need of the hour.

E-Courts are time saving technology has to be executed all over the country as soon as possible.

⁴ Law firm Perry4 Law