

# The Plight of Indian Judiciary and How ICT can be its Savior

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**Abstract:** Indian Judiciary is in a very difficult state with humongous number of cases pending and no substantial use of Information and Communication technologies to do away with the crisis. Even today, most of the work in the Indian courts are done manually and that adds to the delay in the process of justice. Managing and administering the regular work in courts would have become easier had there been any court management software in place. This paper discusses the issues that are making the process of justice in India cumbersome and how information and communication technology can help in solving such issues

**Keywords:** Indian Judiciary, Information and Communication Technology, Plight, Savior

## 1. Introduction

Indian Judicial system has a long past associated with it. The historical background of judicial system in India can be traced back to nearly 5000 years. Different rulers of different dynasties have administered the judicial process in their own way. But the modern Indian judicial system adopted the basic structure from the system prevalent during the British rule in India. After Independence, the judicial system was revamped into a pyramid type structure, with Supreme Court of India as the apex court of the country, followed by High courts at the level of each state, followed by District courts at the district level [1].

## 2. Plight of Indian Judicial System

After the independence of India, the pendency of cases has grown exponentially because of various factors. The greatest drawback of administration of justice in India today is delay [2]. The delay can be attributed basically to the slow rate of disposal of cases. This happens because the maintenance and management of records are done in physical manner i.e. either in files or registers and storing such large data in paper form is not easy to retrieve and not even safe and is prone to physical tempering & environmental degradation. The case takes long time to solve and apart from this Cases/Judges/Courts keeps on changing during judgment. Even the witnesses and accused keep on changing their statements and turns hostile. It is always difficult for the new Judges to retrieve the case information & status; so far, the available source is the written information in the case files only [3].

There are various other issues which are the reason behind the delays in the process of justice such as inadequate number

of judicial staffs. India has 15,000 judges as against the sanctioned strength of 17,641 including 630 High Court Judges. This works out to a ratio of 10.5 judges per million populations [4]. Everlasting cases, prolonged delays, inexorable adjournments, high litigation costs annihilate the common man's confidence and trust in the justice delivery system of the country [5].

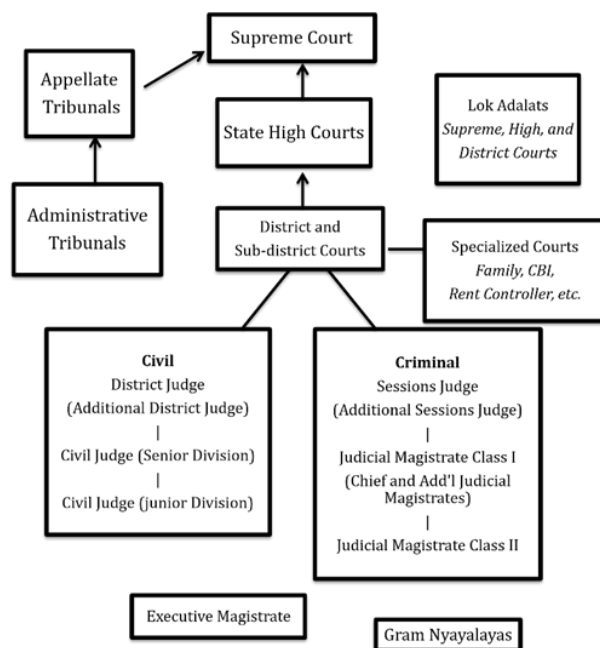


Fig. 1. Hierarchy of Indian Judicial system

The issue that is more concerning is that despite India being one of the top Information Technology (IT) services provider nation for the past decade, there has been no measures adopted to help the judiciary with its problem using IT. Substantial amount of time has gone by from the time of IT boom in the country but not even a proper court management system is in place. List of Business Information System, Filing Counter Computerization, COURTNIC, JUDIS, Supreme Court and High Courts pending Cases on IVR, display boards, and Cause Lists on Internet, are some of the positive steps which were taken in a consistent manner over a period[4], but then they are not maintained and updated regularly and hence are not

completely reliable.

So, to sum up, the plight of Indian Judicial system can be attributed to the following factors:

- Inadequate no. of Judges and court staff
- Lack of adoption of Technology
- Inefficient court management system
- Poor Judges to population ratio
- Predominance of Adjournment culture in litigation [5]

### 3. Information and communication technology as Indian judiciary's savior

Developments in the field of Information and Communication Technology (ICT) have brought a revolution in the world and made human life easier and surely, if used properly, can help the Indian Judicial system overcome its plight. ICT will help judiciary in increasing productivity, accountability and will increase its accessibility to the common masses.

Following are the various ICT tools and its relevance to the judicial process,

#### A. Video Conferencing Tools

Video Conferencing allows virtual interfacing of a Judge with witnesses, holding of conferences, meetings, production of under-trial prisoners, etc. This facility can be installed in the prison and similar facility would also be made available within the court premise or in the Judge's office. The Judge would be able to interact with the prisoner without the prisoner being physically brought before him. This would save a lot of time and resources, which would have been involved in the physical transportation of the prisoner from the jail to the court. The policemen and other concerned authorities would also, be spared so that they can utilize their time in other official tasks. Also, the risk of a prisoner fleeing during transportation will be removed.

#### B. Publishing Tools

Publishing tools would be utilized for various documentation of the judicial system. An enormous amount of documentation /paperwork is involved in the judicial process. Many times, there is also duplication of paperwork and files. Publishing tools would enable preparation of soft copies of documentation, printing, copying etc. This would be done through printers, scanners, copier machines etc.

#### C. Word Processing Tools

Documentation of the judicial system would involve producing various transcripts, data recording etc. This could be done through word processing tools. These tools permit multi-lingual, electronic transcription, formatting and storage of oral evidence, orders and judgments.

#### D. Storage Management Tools

The enormous data created in the Judicial System needs to be systematically stored in soft form with proper indexing, filing of the data/records. The existing data of the judicial system would also be replicated in the soft form and this would create

a database of documents. These documents would be stored in high-end server/data centre. Various High Courts, district courts and other subordinate courts would also have their localized storage of data. This would be replicated as per the hierarchy of the court. For instance, the data at District Court would be replicated at the High Court level. This kind of distributed database architecture would involve the application of storage management tools. Further, document management tools would be employed to facilitate management of documents in a scientific and easily accessible manner.

#### E. Regional Language Tools

The Indian Judicial System has documentation in various regional language depending upon the location of the court. This is also useful for the public/litigants who desire to have the information in their regional language. For the provisioning of regional language in the ICT implementation in the judicial system regional language tools would be utilized. The regional language tools would provide the various documents that would be printed or available online in the regional language.

#### F. Intercommunication Tools

These tools include various applications such as e-mail, chat, etc. This would be useful for the internal communication within the judicial system. The existing communication in the judicial system is predominantly paper based. By the utilization of the intercommunication tools the communication with and within the judicial system, be it between courts, or between various departments, would be much faster and efficient.

#### G. Fingerprint Recognition System

This would involve fingerprinting of the witnesses, accused, prisoners, etc. and storage in soft form. A centralized database of fingerprints would be created. This would form a good reference during investigation to identify professional criminals. This system would also identify professional litigants and professional witnesses and thus help in preventing of their impersonation.

#### H. Internet, Website and Email tools

Various website and internet tools such as web browsers, etc. would be required for viewing of the created database of documents. The online access to information would also require the website/internet tools so that a litigant would be able to access various information like case status, orders pertaining to its case, cause lists, etc. Electronic mail would facilitate in issuance of summons, notices, warrants, reports, statements, etc.

#### I. Tools for Encryption, Recognition of Digital Signature, etc.

These tools enable the recognition of digital signatures and perform various encryption/decryption functions to help a litigant to view case-status in a user-friendly manner without compromising on the security of the documents and avoidance of hacking by miscreants, etc. These tools ensure security, confidentiality and nonrepudiation of documents. This can be meaningfully used for grant of certified copies of orders and judgments.

#### J. Voice Recognition and Recording Tools

This would be utilized for the tasks involving dictation, voice recording, etc. The judgments and orders being dictated by Judicial and Administrative Officers would be converted into digital form with the help of these tools. The judicial process necessarily involved the preparation of various documents based on the dictation given by judges, etc. The manual work of taking the dictation work would be taken care of by the voice recognition system. But this tool is yet to acquire perfection. The experience so far is that it stores hardly 80% to 85% of the words spoken into the microphone. The tool is not apt for judicial functioning specially for the purpose of dictating judgments. It is a growing technology and may, in the coming years, become more efficient for the Indian environment. Still, a lot of research and development is required to be put in.

#### K. Imaging and Scanning Tools

Imaging and scanning tools would assist in storage and management of documentary evidence, photographs of accused, and litigant witnesses for future identification.

#### L. Web-enabled Connectivity

With the creation and implementation of a detailed Relational Database Management System (RDMS) and use of Wide Area Networking (WAN) including internet facilities, it is feasible to create a National Grid of court information for judicial reviews at all hierarchical levels as also for taking centralised policy decisions for effective court management and its implementation. With the availability of national data in the centralized manner, well-devised national policies pertaining to delay reduction (i.e., arrears-control), programs can be conveniently implemented. A central data warehouse can be created where the data can be processed, analysed and reports can be prepared. The original, main data is filtered and transferred to the data mart which in turn, after further filtering, sends the data to the data warehouse. There can be a centralized research and planning wing for judiciary and the experts and jurists can then evolve centralized policies for the whole judiciary. Such an objective and rational administration is very much essential and critical for meaningful management of the judicial system today.

#### M. Bar Code Technology

Standard bar codes are like social security numbers or car licence plate numbers or in the context of court systems, like case numbers which act as reference number that a computer uses to look up associated descriptive data and other pertinent information. The process requires the conversion of a bar code that can be printed on or affixed to an item and subsequently, read by a light source and fed into the computer. This technology immensely helps in document management, moveable property identification. Bar code scanners are faster than human eye and far more accurate. Based on tests, bar code information has an accuracy rate of one error per ten million (one crore) characters. Compared to this, the keyboard error rates are one error per hundred characters. This form of "automatic identification" can help in prevent misidentification

errors. It can be used in the court system. This can be used for locating files, documents concerning cases like pleadings, issues, evidence, both oral and documentary, orders, judgments as also the moveable properties seized, attached and exhibited. This technology can be very effectively tracking the file movements and its locations.

#### N. Document Management

Document management was originally developed to control and manage heavy information flows in corporate, non-profit and government organizations, document management systems focused on making data – whether legal documents, funding proposals, mail-merge documents, or white papers – readily accessible and easily archived. The goal was to organize files. Early systems focused on adding information about a document to the computer file containing the document, organizing that information in a database, and defining relationships between documents. What one had was essentially a computerised library. Documents are defined by certain set criteria, generally known as metadata indexing elements. These include document author, date of creation of the document, type of document, topics covered in the document, completion date, related documents, keywords, and the like. Document management can be very effectively used is the transcription and storage of judicial documents. One would no more be required to use a manual typewriter.

Moreover, the typists and stenographers can better organize and format documents with facilities of simultaneous spell checks and font organisation and numerous other facilities. These documents can be easily accessible with all securities. The simple and basic advantages of using document management tools like, cut and paste instead of retyping on a separate sheet, the ability to make correction without the use of erasing liquids, transfer of document from one work station to another on a click of a mouse, etc. would be of immense help in lessening the manual work.

#### O. Database Management System

A well-structured database is the heart of court management, case management and case flow management. There are several important databases which need to be created to store the information captured in a systematic and meaningful manner:

##### 1) Courts database

This database contains the entire information of all the courts, like, (i) the class i.e. Civil Judge (Jr. Dn.), Civil Judge (Sr. Dn.) or District Judge; (ii) jurisdictions both territorial and pecuniary; (iii) name; (iv) location; and, (v) judicial and revenue district in which it lies.

##### 2) Location database

This database helps in storing and retrieving of object/correct location of an immovable property or address of a person i.e. the court, judge, litigant, advocate, staff etc.

##### 3) Judges database:

The information relating to the central human object in the judicial system is stored in this database. It contains a Judge's personal data including date of entry into service, grade, promotions, adverse remarks, disciplinary, proceedings,

transfers and postings. It helps in taking vital decisions regarding performance of a judge which has a direct bearing on delays and arrears.

#### 4) *Court Staff database*

Like that of judges, this database contains the entire relevant information of the supporting infrastructural staff provided to the court. This helps in maintaining discipline, work culture and available strength of this class.

#### 5) *Litigants database*

This database contains the information relating to parties to a dispute brought before the court as required in the procedural laws. It helps in convenient and accurate creation of cause titles, summons and notices, orders, judgment and decrees. With the help of this database, many statistical reports can instantly be generated, like, (i) in how many cases the same litigant is involved many cases pending in the state or elsewhere; (ii) whether he had earlier filed any other case for the same cause of action; or, (iii) litigants' classification with variables to have a behavioural study, etc.

#### 6) *Advocates database*

This database is designed to contain all relevant information relating to enrolled advocates. It helps in many ways. If any advocate appearing for any litigant is disabled from appearing in any case, because of other assignments or has expired, then all such cases can be sorted out immediately and court notice can be sent to the parties at the earliest. It helps in retrieving and recording the names of advocates and printing their names correctly in cause-lists, orders, judgments, etc. It permits class analysis in all desired manners.

#### 7) *Case database*

This database, like the Court database, contains another set of key information for understanding the system behaviour. This database can answer all queries relating to all cases i.e. case institutions, pendency, disposals, stages, nature, etc. The information contained in this database can reveal out all the miseries which has led to systemic failures.

#### 8) *Case Updation database:*

This database takes care of case progression and provides a key to case flow management. It facilitates tracking of the stages of cases and helps in case management through supervisory process.

#### 9) *Exhibits and Witnesses database*

The witness and exhibits database is an integral part of judicial process. This database helps the Courts in finding out the witnesses examined, the exhibits marked and submitted to the court, admissible documents and details of witnesses and the evidences produced before the court [3]-[5].

## 4. Conclusion

These tools, if implemented properly, would be able to help judicial system in the country to overcome its shortcomings and help in driving a transformational change to the Indian Judicial landscape, thereby forming the base for E-Judiciary. Envisioning a setup of E-Judiciary, People's President Bharat ratna Dr. A. P. J. Abdul Kalam once stated: A litigant comes with his all the documentary evidence which he possesses. E-Court Service Centre helps electronically to identify a civil lawyer to present his case. The lawyer files the case with a prescribed format in the e-Court. Once the case is filed, the e-Court web service agent crawls across the state and central e-governance grid and collects the relevant land records registry and gets the encumbrance certificate details of the litigants and the defendants. If necessary, it also collects the credit history of the parties from the banking grid, criminal record if any from the police grid, litigation records if any from the other courts, property tax and service tax payment data for the particular disputed land from the State e-governance grid, legal heir verification from the Registrar of Deeds and classification and conversion details of the particular land from the district e-governance grid. The judicial officer now has the documentary evidence submitted by the litigant and defendant and the certified and authentic documentary evidence collected from various government units which have relevance to this case on the fly in front of him. This will enable the judicial officer to apply his or her mind objectively with optimal examination and cross-examination of the witnesses leading to taking a fast decision in the case [4]. Hence if all the above-mentioned tools of ICT are adopted and implemented in the Indian Judicial system then definitely Dr. Kalam's vision can be fulfilled and the country's citizens could be provided with a robust and reliable E-Judiciary system.

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