



DEVELOPMENT OF E-COURTS IN INDIA

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The judicial system of India is one of the oldest systems in the world. Britishers ruled our country almost for a long period of 200 years and presently we are running the system that we received in inheritance from Britishers with slight changes according to our own circumstances, situations and needs. The supreme law of the land is Constitution of India which came into effect on 26th January 1950, from where every other law of the land derives its power, functions and duties. Federal system is the feature of our Indian government system grabbing in its fold a unique feature of single integrated system of courts to run both the union and the state laws. Thus, Supreme Court is the Apex court in India. The Indian court system can be categorized as- Sessions Court, High Courts and Supreme Court. These High Courts and Supreme Court by virtue of Constitution of India are enjoying the extraordinary power of Judicial Review. Moreover, the rules of the executives and laws made by the legislature are subject to scrutiny of the higher judiciary in case they are ultravires to any of the provisions of the constitution. Thus the Indian judicial system is helping to meet the justice to the people by benefitting them with the help of their extraordinary power of judicial review.

HISTORICAL BACKGROUND

There is no denying the fact that roots of the present legal system lie deep in the past, which is the result of the experience and thoughtful planning of intellectuals and legal luminaries. Unlike modern times, the ancient and medieval legal system was neither systematized nor codified. At the same time, it is also an acknowledged fact that a sort of legal culture did exist during that time which was quite rich in constitutional and international thoughts based on moral and ethical principles along with democratic and sometimes autocratic mindsets.

In the early Vedic times, there is no clear reference of the existence of the judicial organizations. Legal matters were decided at the open court in the palace of the king. Sabha that assumed the character of a “National Judicature” exercised judicial powers as well. At the village level, the family head or the village elder acted as judges and awarded punishments according to the severity of crime.

Later Vedic period provided civil courts (Dharmasthana) and criminal courts (Kantakshodhna) separately.¹

These courts were mainly of four types:-

- Pratishtitha Court, which was a stationary court established in some town or village
- Apratishtitha Court, which was not fixed at one place, but a moving court
- Mudrita Court, which was the court of the chief judge appointed by the king
- Shasita Court, which was presided by the king himself.²

Medieval period was mainly dominated by Islamic Law that was derived from the sources like, Quran, Hadis, Ijma, Qiyas and customs and traditions prevailing at that time. During that period, four types of courts existed.

- Canon Law Courts, which dealt with religious matters including crimes against God and mankind
- Revenue Courts, dealt with the matters relating to revenue
- Civil Courts, dealt with civil matters
- Criminal Courts, dealt with crimes of different types

These courts were headed by the Emperor and assisted by Qazis, Muftis, Ulemas, Adils, Faujdars, and Darogahs. The Muslim jurisprudence was more in the nature of providing relief to the person injured than to impose penalty for the crime committed.³

The British period provides us a legal system that has become the basis of the present legal institutions. The English men via East India Company started an elementary court system with non-lawyers and that too on

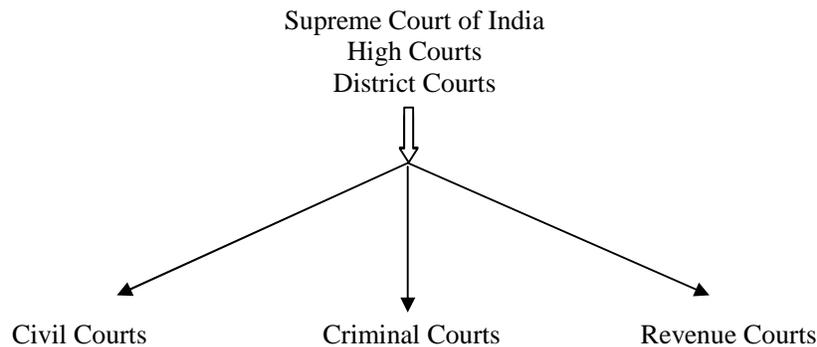
¹ H.V.Shreenivas Murthy, *History of India, Part-I* 196-197 (Eastern Book Company, Lucknow, 2000).

² S.D.Sharma, *Administration of Justice in Ancient India* 166 (A.P.H. Publishing Corporation, New Delhi, 1998).

³ M.Ramajois, *Legal and Constitutional History of India, volume-II* 12 (N.M. Tripathi Pvt. Ltd., Bombay, 1990).

honorary basis. The early courts under East India Company were Mayor's Courts and Admiralty Courts in three Presidencies which were established through the Charter of 1726. They were followed by Supreme Court of Calcutta (1774). All these Courts were basically to facilitate the trade of East India Company and to discipline the English traders. After the first war of Independence (1857), Queen of England took over the administration of India into her own hands as a result of which the judicial system in British India was also strengthened. Post 1857 period witnessed abolition of Supreme Court and formation of High Courts (1861) and Federal Court (1935). A peculiar feature of the development of law in India was that for a long time the British government tried to create a system of courts without developing the law. It was only under the charter of 1833 that there was a provision of codification of law and a proper legislative process with English law as Lex Loci (Law of the Land) through All India Legislature. Subsequently, a proper law procedure in the courts was being followed with the help of newly formed codes like Civil Procedure Code (1859), Indian Penal Code (1860) and Criminal Procedure Code (1861).⁴ The most notable feature of the legal system under the British was that it was followed by the Indian Constitution (1950) with little bit of changes here and there due to the change in circumstances.

PRESENT STRUCTURE OF COURTS



As per above mentioned chart it is clear that the court system in India can be divided into three main types i.e Supreme Court of India which is the Apex court of the nation followed by the High Court's working for providing justice in different states of India and the Districts Courts which can further be divided into civil courts, criminal courts and the revenue courts. Hence, courts system in India is an independent system which is working aptly for providing justice to the citizens. But now a days the judicial system is overloaded, overburdened and lagging behind in providing justice well on time which in turn proving a maxim of "Justice delayed is justice denied". The evil of corruption has also entered into the realm of justice delivery system. The system was crying for reforms from last so many years and the invention originated in the form of introduction of a new tool, Information and Communication technology.

GROWTH OF ICT IN INDIA

The fast advent of Information and Communication Technology placed India at international front to choose and avail the opportunities available for development. And at the national level as well origin of this technology and its rapid growth tried to make the nation's governance more capable and efficient towards achieving goals for development in different sectors. The technology proved itself as a catalyst for growth across India. Likewise the role of ICT in legal sector undoubtedly helped towards speedy disposal of disputes. But situation was not so at the time of introduction of ICT when there was a clear cut disconnection between the information and communication and the same situation was existing in the Indian Scenario. Subsequently, the Indian judiciary is also transformed to fit within the boundaries of ICT like any other element of democracy.

⁴ M. P. Jain, *Outlines of Indian Legal and Constitutional History* 443 (Wadhwa Publication, Nagpur, ed. VI, 2007).



NEED OF E-COURTS

Present legal system of India with regard to disposal of cases is not working well as courts have backlog of cases which is increasing at a tremendous speed without any positive outcome in the form of speedy disposal of disputes. Pendency as on today in the Supreme Court is 27,285; in High Courts 29,75,544 and in the subordinate courts 2,39,08,105.⁵ Consequently, the courts are overflowing with new cases coming to them and pending cases are still in the line waiting for adjudication. It shows that the people of this country have strong faith and trust in the judicial system for getting justice. Thus, undoubtedly we are in need of such methods with the help of which we can enhance the efficiency of court mechanism both qualitatively and quantitatively and this is possible only with the introduction of some ICT tools. Further in India, the number of courts is much less to combat the pressure of cases and hence there is delay of justice which violates the 'Right of Speedy trial' as mentioned in the article 21 of the India Constitution. Thus, to meet the expectations of present times and to avoid the delay in disposal of disputes, we are in need of legal reforms. In this direction e-judiciary is a kind of system that operates with the help of internet and digital documentation from the commencement of the case till its completion. In this system, the court procedure and the judgement can be assessed easily anytime for future use.

CONCEPT OF E-COURTS IN INDIA

The concept of e-courts was introduced long time back to speed up the justice delivery system in India. This concept is totally different from computerized courts where courts are equipped with facilities of computer software and hardware only whereas the concept of e-courts meant for a system in which everything is done online i.e. from registering of case to pronouncement of judgments etc. The e-courts are meant for use of ICT for making the justice quick, cost effective and citizen friendly. When the entire world is suffering from the menace of corruption, e-courts are a ray of hope towards making judicial system more efficient and transparent. The e-courts system basically works on the information shared and generated which generally stored as a database that can be assessed by the litigants, advocates and judicial officers.

In 2000, Ministry of Law and Justice submitted a proposal for the creation of an e-committee which was required to make a national policy for the creation of the e-courts. This committee was approved by the Union Cabinet under the chairmanship of Dr. Justice G. C. Bharuka. Accordingly, the e-committee prepared a national policy in 2005 in the name National Policy and Action Plan for Implementation of Information and Communication Technology in Indian Judiciary (NPAPICT). In 2007, our former President of India Dr. APJ Abdul Kalam also endorsed this project and launched the process of establishing e-courts to cover the complete judicial system of India from lower courts to the Apex Court. The whole project of NPAPICT was divided into three phases:

- Introduction of ICT in the court complexes like Supreme Court, High Courts, various District Courts.
- Courts coordination by creation of ICT infrastructure as per the directions of the Apex Court⁶, like the provision of video conferencing and wireless internet facility in court complexes.
- Use of advanced ICT tools to upgrade the court facilities.

Hence, the e-committee is the pinnacle as far as implementation of ICT is concerned. Subsequently, a National Advisory was formed which comprise of members from the National Informatics Centre (NIC), Indian Institute of Technology (IIT), Indian Institute of Science (IISc), the judicial sector as well as the ICT sector.⁷ To start the project, at the first instance India's first e-court was initiated at Hyderabad.⁸

⁵ Anupam Kurlwal, *An Introduction to Alternative Dispute Resolution System* 94 (Central Law Publication, Allahabad, 2014).

⁶ *All India Judges Associations v. Union of India* (2002) 4 SCC 247

⁷ E-Committee, Supreme Court of India available at: <http://supremecourtindia.nic.in/e-committee.htm> (Visited on August 31, 2017).

⁸ It was opened at High Court of Judicature on July 17, 2016.



OBJECTIVES OF THE E-COURTS PROJECT

- To make the everyday functioning of the courts more efficient and effective.
- To help the judiciary in reduction of workload with the help of technology
- To provide right and timely information to the litigants parties
- To help the presiding officer of the court in easy access of the legal and judicial database.

GOVERNMENT EFFORTS

The former President, Dr. A P J Abdul Kalam stressed on the Supreme court to make a shift from print to digital judiciary. He emphasized that this programme can be first initiated in the metro cities and the union territories and then should be established in all the courts of the country. For the implementation of the e-courts plans, some projects are required to be undertaken-

The first and the foremost project is the *E-Court Mission Mode Project* which provides to computerize all the district and subordinate courts all over the country. There is another project in the name *Web Based Court Cases Monitoring System* which not only aims to monitor all the pending cases but also assist the advocates and other judicial officer to get to know about the history and follow up actions of the unsolved cases. *E-Litigation* is another tool in this direction that helps to find advocates online for various court cases in different government departments. SMS facility is also provided under this project. *District Court Information System* which is another project to be carried on for various district and session courts to get all sorts of case related information including case status, interim orders and judgements, salary accounts and so on. Another project is *Integrated Software for Judicial Functions of High Courts* that includes everything relating to cases in the High Courts like case status, filing and refiling, cause list and judgements. Every detail is available on the concerned website. Not only the High Courts, the advocates and the parties can also assess the case status online. In 2009, *Model E-Courts* project was initiated in Gujarat which furnished audio-video recording of the proceeding. It also rendered video recording facilities by linking the courts with prisons, forensic science laboratories and the like. In this direction the Punjab and Haryana High Court is the first to begin the e-filing system after a successful start in the Supreme Court of India.

OBSTACLES IN IMPLEMENTATION

What appearing to us apparently does not turn out to be so in actual practice because of some iceberg factors hidden with the e-system. Thus, despite many efforts on the part of the Government, this project of using ICT and launching e-courts is facing a lot of hurdles. These are:

- Training to large number of employees where nearly half of the number is not e-system friendly may be because of their age or lack of interest.
- There may be lack of coordination and gap of communication between different departments like police, investigating agencies, boards, prisons and Courts etc.
- Lack of awareness programmes for litigants where almost half of the population is residing in India and have not at all acquaintance with the e-system.
- To upgrade the present judicial system and replace it with necessary e-system is undoubtedly a herculean task.
- Questions may arise for cyber security of data of the system.
- We are living in 21st century but still facing the problem of insufficient electricity then how can we be able to maintain such a system which is wholly dependent upon uninterrupted services of electricity.

These are some of the possible basic challenges we can't avoid in relation to establishment of e-courts in India.

SUGGESTIONS

To address the abovementioned problems, a few suggestions can be put forward:

- First of all, spreading awareness and encouragement regarding the benefits of using e-courts amongst the law professionals and society at large is the need of hour.
- Secondly, awareness campaigns are to be held at different places to enhance the knowledge of the litigants.



- Thirdly, the courts are to be equipped with the basic digital facilities like the internet to facilitate the e-working.
- Fourthly, to protect the e-system from cyber threats should be the prime concern for successful initiation of the e-project.
- Last but not least, the proper implementation of all the above mentioned projects is the sole solution to ameliorate the proper working of the courts.

CONCLUSION

Hence, it can be concluded that in the age of ICT, establishment of e-courts is the need of hour. When the present structure of court is suffering from huge pendency of cases the e-courts can be a solution to give relief to the litigants who normally suffer stress and anxiety due to delay in justice. Although the Government has given a number of projects to start e-courts in India but there is a lack of implementation of those projects. Thus, awareness amongst masses and proper implementation of Government projects is the prerequisite for remodeling of legal system in the form of e-courts.

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