



MODERNIZATION OF INDIAN JUDICIARY

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ABSTRACT

The Constitution of India is the largest written constitution in the world, beautifully codified by the Constituent Assembly and adopted by "WE THE PEOPLE OF INDIA." It defines the three pillars of the Indian government: the legislature, executive, and judiciary. In this document, we will focus on the Indian Judiciary, an integral part of Indian democracy. India has an independent judiciary as per Article 50 of the Constitution. The judiciary is connected to the justice system and follows the principle of separation of powers. This principle ensures that the legislative, judicial, and executive branches have independent roles and responsibilities. The judiciary reviews legislation, upholds justice, defends citizens' rights, and resolves conflicts. It comprises the Supreme Court, high courts, district courts, and other subordinate courts. The judiciary's role is to interpret and apply existing laws, rather than create new ones. It is the sole authority to settle disputes between the Center and the states or among the states. The decisions made by the judiciary must be followed by all public and private entities. The Indian judicial system upholds the Constitution, safeguards human rights, and serves as a balance to the legislative and executive branches of the government.

History to Modernization of Indian Judiciary

India's judiciary has a long and illustrious history. It may not be out of place to say that the administration of justice in India dates back nearly 5000 years, which is among the Asian countries. The State's affairs had been governed by various rulers at various times, and disputes had been settled in the name of justice. The same trend was pretty much the same even during the medieval period. The establishment of British rule in India is directly

RAGINI VYAS

1P a g e



responsible for the formation of the modern Indian judiciary. The East India Company established the courts in Presidency towns, which the British Parliament followed. Additionally, the judiciary in native states was governed by the local rulers and gradually adopted the same structure. After adopting the Constitution “for ourselves”¹, India took steps to establish a unified or integrated judiciary with a pyramidal structure consisting of the Supreme Court² as the apex court of the land with administrative total independence, the High Courts³ at the level of each State, and the District Judiciary⁴ at the level of the Districts, which were under the control and supervision of the respective High Courts. The country's highest court with judicial authority is the Supreme Court, while the High Courts have both administrative and judicial authority over the district judiciary. It is possible to compare the constitutional roles of the Supreme Court and High Court to those of two brothers. Even though the High Court has a lot of power, the Supreme Court is like an older brother, with a lot of power and powers that are out of this world. According to Article 142 of the Indian constitution, the decision of the Supreme Court binds all Indian courts. As a result, the decision of the Supreme Court binds all Indian courts, including the High Courts. As the court of record the Supreme Court and the High Court both have the authority to impose punishments for contempt of court.

E-Judiciary: a step towards modernisation in Indian Legal System.

E-Governance is currently a prominent concept across various domains. It streamlines administrative processes, reduces corruption, promotes transparency, accountability, and enhances productivity. The advent of computers and technological advancements has brought about significant changes in human activities, improving efficiency and output quality. Western nations have been advocating for information technology for the past few decades, which has raised discussions on integrating technology into the judicial system. A technocrat and former Indian president emphasized the importance of technology in all aspects of life, highlighting its potential to improve lives when effectively utilized. The objective is to implement modifications that facilitate faster delivery of justice while upholding quality, transparency, and public accountability.

According to Bharatratna, President A.P.J. Abdul Kalam, Let me describe the situation. A litigant brings all of the documentary evidence he has with him. The E-Court Service Center provides electronic assistance in locating a civil attorney to present his case. In the e-Court, the lawyer files the case in a predetermined format. The e-Court web service agent crawls across the state and central e-governance grid after the case is filed to obtain the litigants' and defendants' encumbrance certificate information and the relevant land records registry. It also collects, if necessary, the parties' credit histories from the banking grid, any criminal records from the police grid, any litigation records from other courts, property tax and service tax payment data for the specific disputed land from the State e-governance grid, verification of legal heirs from the Registrar of Deeds, and classification and conversion

RAGINI VYAS

2P a g e



details for the specific land from the district e-governance grid. The litigant and defendant's documentary evidence, as well as certified and authentic documentary evidence gathered from a variety of government agencies relevant to this case, are now in front of the judicial officer. The judicial officer will be able to use his or her mind objectively as a result of this, conducting the best possible cross-examination of the witnesses and making a quick decision regarding the particular case. Integration with the National e-Government Program (NeGEP): The amount of time it takes to make a decision is cut down as a result of this entire process taking place at the speed of the network. The affected party can file an online appeal with the judgment, providing electronic reasons and any additional documentary evidence required by the higher court. Higher courts receive the entire data electronically, allowing them to apply their own legal provisions to evaluate the case on its merit and render a decision quickly. The entire e-governance framework ought to make it easier for the case to move digitally through the various stages of the court and between courts in a safe environment with digital signatures. The e-governance grid data collection mechanism facilitates seamless interoperable data collection and verification with a variety of respondents, including institutions and individuals. From the FIR, interrogation, inquiry, arguments, and verdicts, this data is presented as text, audio, and video. Digitally, the case object moves seamlessly from District Courts to High Courts and from High Courts to Supreme Court. The e-judiciary will be assisted electronically and the decision-making process will be facilitated in a transparent manner by the other horizontal and vertical e-governance grids, such as the police grid, the banking grid, the institutional grid, the state grid, and the central government grid. In essence, in an e-judiciary environment, a case object travels through various stages of the judicial process and generates Meta data at each stage, leaving a footprint of information about the case. Advocates and judges are aided in making decisions based on the spirit of the law by an ICT legal expert system, which provides them with legal provisions, previous case histories, and details of previous judgments in various courts. As a result, the success of E-Judiciary depends on a GRID for e-Governance that is fully operational.

The technology was initially put to use at the Supreme Court and High Court, where cases were attempted to be resolved quickly. Numerous applications that affect the general public, i.e. litigants, have been computerized since NIC began using computers in the Supreme Court in 1990. The following are some of the applications that have had an impact on the general public, either directly or indirectly, and have been successfully implemented at the Supreme Court and 18 High Courts. Some of the positive steps that were consistently taken over time include the List of Business Information System, Computerization of the Filing Counter, COURTNIC, JUDIS, and Cause Lists on the Internet for Supreme Court and High Court pending Cases on IVR, display boards, and Cause Lists. As a result, not only has the judiciary at the highest level become more people friendly, but expenditures on the exchequer have



also decreased. The Bench and bar have become friendlier as a result of the increased transparency.

Phase 3: The present and future of E-Courts services

"I will give you a talisman. Whenever you are in doubt, or when the self becomes too much with you, apply the following test. Recall the face of the poorest and the weakest man [woman] whom you may have seen, and ask yourself, if the step you contemplate is going to be of any use to him [her]. Will he [she] gain anything by it? Will it restore him [her] to a control over his [her] own life and destiny? In other words, will it lead to swaraj [freedom] for the hungry and spiritually starving millions? Then you will find your doubts and yourself melt away." -M.K. Gandhi

Gandhi's talisman serves as the foundation for India's eCourts project's third phase. The Indian judiciary has made it a constant goal since independence to give citizens quick and affordable access to justice. Technology now is a potent instrument for accelerating this endeavour. It presents a chance to make the legal system egalitarian by enabling every citizen, particularly the marginalized, to seek redress from it. The employment of technology in the court is fundamentally driven by two Gandhian principles: inclusion and access. Along with the other long-standing goals of the legal system, equity and efficiency, this gives Phase III of the eCourts project its basic vision for the transition to digital courts. For everyone who seeks justice in India or participates in the administration of justice, Phase III of the eCourts initiative envisions a legal system that is more accessible, effective, and fair. It imagines a natively digital infrastructure for the legal system. Processes are transformed for a digital context, not just paper-based processes are digitised. Each litigant or attorney will be able to submit a case during Phase III without having to go to various windows on the grounds of any particular court. By using the best hearing formats—video or audio, in-person or in writing, synchronous or asynchronous—it aims to create a world in which attorneys and litigants may successfully present their claims with the assurance of hearings and judges can rule fairly. It seeks to establish a system that makes use of technology to streamline administrative procedures including the collecting of various fees and tedious applications. It aims to establish an intelligent system that enables judges and registries to schedule or prioritise cases using data-based decision-making, allowing for more predictability and improvement of the capacity of judges and attorneys. Create a "smart" system where registries will only need to enter data occasionally or carefully review files due to the fundamental capabilities of data connected through technology. Create a framework that integrates alternative conflict resolution techniques within the legal system such that they are viewed as extensions of the courts. A system that combines the enormous corpus of judicial data to promote legal literacy and provide details on remedies to a person who has been wronged at the touch of a button. a future in which resource allocation and focused



interventions are made possible by macro data-driven decision-making on the judicial and administrative sides.

Conclusion

Information technology has paved the way and made a significant inroad into the country's judicial system. While the right to equality is guaranteed by Article 14, Article 21 imposes a moratorium on the taking of life and liberty outside of the laws just, fair, and reasonable procedure. In this context, it is important to think about how far artificial intelligence could be used to impose the right sentence in a criminal case and quickly resolve cases with the right software. Prof. Lakshminath made the observation that disruptive legal information technology and the upcoming Electronic Legal Information ELI may emerge as the fourth cornerstone in the face of the difficulties.

In the case of Shayara Bano and Ors. vs. Union of India (UOI) and Others, the Supreme Court of India addressed the practice of "talaq-e-biddat" (instant triple talaq) and its constitutional validity. The court used its authority under Article 142 of the Constitution to issue necessary instructions. It instructed the Union of India to consider relevant laws and proposed legislation that would take into account improvements in Islamic personal law, as rectified by legislation around the world. The court held that the practice of talaq-e-biddat was arbitrary and violated the fundamental freedom guaranteed by Article 14 of the Constitution. The court declared the practice to be unconstitutional, and the 1937 Act, which recognized and upheld triple talaq, was deemed invalid to the extent that it supported this practice.

In the case of Navtej Singh Johar and Others vs. Union of India and Others, a writ petition was filed to challenge the constitutionality of Section 377 of the Indian Penal Code. The petitioners sought to include the "right to sexuality," "right to sexual autonomy," and "right to choice of a sexual partner" within the right to life guaranteed by Article 21 of the Indian Constitution. The Supreme Court, in its landmark judgment, decriminalized consensual same-sex relations and held that Section 377 was unconstitutional to the extent that it criminalized such relationships. This decision was a significant step towards recognizing and protecting the rights of the LGBTQ+ community in India.

These cases exemplify instances where the Supreme Court of India has played a crucial role in modernizing the society by striking down age-old practices and laws that were deemed arbitrary, discriminatory, or violative of fundamental rights. The court's verdicts in these cases reflect a socio-legal change and signify a progressive approach towards ensuring equality, dignity, and justice for all individuals.

The submission portal can integrate reliable document authentication tools and link to government databases for faster document processing. Judges can grant online access to the

RAGINI VYAS

5P a g e

opposing party once documents are accepted, and registry staff can verify authenticity using automated tools. Real-time docket management allows judges to control their schedules and prioritize hearings based on subject matter, stage, and urgency. The algorithmic cause list can be adjusted by judges, who can also reschedule hearings as needed. Video conferencing expands flexibility in scheduling, and transcribed proceedings can be accessed online. Notifications via the portal and SMS keep parties and lawyers informed of hearing dates, reducing adjournments. Algorithmic cause list generation improves case timeline efficiency, and judges have access to relevant documents during hearings. The portal should provide easy referencing of laws and precedents. Lawyers can submit discovery requests online, aided by natural language processing and data analytics. Templates based on previous cases can assist in drafting orders. Judge workflows can be customized based on case types. Witnesses can be summoned through various channels, and written and oral arguments can be conducted remotely. Tools assist judges in decision-making and drafting decrees. Judicial precedent and legislation databases aid in locating relevant laws and rulings. Parties receive online copies of judgments with references. Information on post-judgment options is automatically provided. Compliance with decrees can be monitored and verified through the portal and database interoperability.

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