AIR Discussions (February 1st Week)

AIR SPOTLIGHT 6TH FEBRUARY 2021

IMPROVING JUDICIAL EFFICENCY BY TECHNOLOGY

CONTEXT:

- PM Modi recently batted for Artificial Intelligence to increase speed, efficiency of Indian courts, and hailed growing use of technology in delivering justice.

BACKGROUND:

- With **video-conferencing and tele-conferencing getting legal sanctity from the Supreme Court**, e-proceedings have gained pace across all courts.
- Supreme Court in India has conducted the highest number of hearings via video-conferencing from among the top courts of all the countries in the world during the coronavirus pandemic.
- **Gujarat High Court became the first court in India to start live streaming of proceedings during the pandemic.**
- Today, **more than 18,000 courts have been computerized in the country.**
- Facilities like e-filing of cases, unique ID and QR codes to access case details, have given a new dimension to ease of justice.
- **e-seva kendras** are also being opened in the high courts and district courts to bridge the digital divide.
- **e-Adalat** has become timely and convenient means of justice.
- Judiciary presented an excellent example of its dedication and duty during the COVID-19 pandemic period, by dispensing justice through video conferencing, SMS callout, e-filing and e-mail my case status services, streaming on court's display boards, uploading of orders on the daily basis, and others.

THE EXISTING TECHNOLOGICAL INFRASTRUCTURE IN THE INDIAN JUDICIAL SYSTEM:

The judiciary comprises nearly 15,000 courts situated in approximately 2,500 court complexes throughout the country.

- In 1990, NIC took up computerization in respect of Supreme Court of India. All High Courts were computerized through NIC's network **NICNET**.
- The **'Indian courts'** is a collection of websites of the Supreme Court and all High Courts and their benches in India.
- The Court Information System Project **("COURTIS")** was theorized for the purposes of streamlining registries of courts.
- The main functions of COURTIS are assistance in ascertaining case status, Judgment Information System **("JUDIS"),** cause lists and daily orders on the internet.
- The JUDIS contains judgments of the Supreme Court and several of the High Courts.
- In 1997, NIC took up the computerization of all district courts in the country in the nature of the High Courts' computerization project. **District Court Information System** ("DCIS"), a general-purpose software package was specially developed for the computerization of the district courts.

- In 2004, the Ministry of Electronics and Information Technology, introduced the National e-Governance Plan which contemplated certain Mission Mode Projects on aspects of electronic governance. **Project eCourts** was one such integrated MMP.
- ECourts had been introduced to provide Information and Communication Technology ("ICT") and to enable the Indian judiciary to make the justice delivery system efficient and time bound, litigant-centric, affordable, accessible, cost effective, transparent and accountable.
- Phase-I of the eCourts project was successfully concluded on March 31, 2015.
- The eCourts used the **Case Information System ("CIS") 1.0 software** to make the data of all High Court benches available to all through the **National Judicial Data Grid ("NJDG") portal**, a portal launched by the Ministry of Justice, Government of India.
- Phase-II of the eCourts, aimed at automation of workflow management, enabling the courts to exercise greater control in management of cases. It included installation of touchscreen based kiosks, use of e-filing, e-payment and mobile applications, and composite set of services through judicial service centers.
- Important software and applications such as Case Information System, e-filing, ePayment, **National Service and Tracking of Electronic Processes** ("NSTEP"), video conferencing, Virtual Court, National Judicial Data Grid, and a variety of mobile applications have been successfully tried, tested and implemented.
- In 2017, the **Integrated Case Management System ("ICMIS"),** integrating the Supreme Court and the High Courts of the country was launched.
- Presently, several High Courts in the country including those at Delhi, Punjab, Bombay, Andhra Pradesh, Karnataka and Allahabad have enabled e-filing and presentation of evidence on electronic platform in their commercial divisions.
- In July 2019, the **first virtual court was inaugurated at Tis Hazari Court, Delhi.**
- In Phase-III of the eCourts project, which is presently under preparation, consolidation and growth using technology are envisioned including migration to the cloud (tested and partly implemented already), big data mining and processing through block chain technology and artificial intelligence.

THE NECESSITY OF TECHNOLOGY:

Admittedly, over forty-three lakh cases are pending in the 25 High Courts in the country and over 8,00,000 of these cases are over a decade old.

- **Efficiency in documentation:** Maintenance of the documents in e-format will reduce the time required to transmit documents between institutions, risk of physical loss of data is minimized. No additional cost will be incurred in storage or for maintenance of physical documents, it may be easier for lawyers as well as judges to refer to various pleadings and related documents from electronic copies.
- **Accessibility and ease in filing:** Presently, filing of pleadings, evidence statements and supporting documents are made in physical copies. Systems of filing and prescribed formats of pleadings before different courts in different jurisdictions are wholly inconsistent. E-filings will ensure a consistent filing system across all courts in the country. This will make the judicial system more uniform and easily accessible to litigants across all states.
- Payment of court fees, filing fees, stamp duty electronically will go a long way in achieving operational ease at the departmental level of the judiciary.
- **E-Monitoring:** Effective monitoring of the case workflow will ensure that processes are duly followed, which will in turn guarantee and protect the rights of litigants, as any misuse of such processes will be immediately evident. The

judiciary will also get a comprehensive overview of current cases and case backlogs disaggregated by court and even by judges. This is will enable more strategic planning and resource allocation for the police, courts and public prosecution.

- **Expediting Court processes:** E-service of summons helps cut down costs and effects service on delinquent parties who are attempting to avoid service. Taking testimony of parties as well as witnesses electronically minimizes the hassle of travel for outstation litigants/witnesses. Additionally, adoption of technology would finally provide equitable access to the court system to lawyers as well as litigants with severe disabilities or infirmities. Video recording and real time transcription systems in courts would ensure that judges have such recordings at their disposal for reference purposes.
- **Cost effective:** greatly saves the cost of litigation. Parties save on filing and copying. Lawyers in courts of different cities may be engaged without having to bear costs of travel. Increased access to the dispute resolution mechanisms eliminate costs associated with middlemen. Saving of invaluable time translates almost entirely into cost savings. Commercial establishments will be able to recover money due to them more expeditiously and at a lower cost. Increase in transparency and quicker disposal of cases will increase the ease of doing business in the country.
- **Strengthens Alternate Dispute Resolution**: Existing ADR processes such as arbitration and mediation are greatly strengthened by the use of technology.
- **Transparency & Privacy:** Installing tamper proof technology would prevent mischiefs such as altering witness statements and would increase litigants' faith in the justice system. Recording of pleadings, proceedings and evidence makes parties more accountable for their conduct in proceedings.

USES OF TECHNOLOGY IN THE JUDICIAL PROCESS:

- Video Conferencing
- Publishing
- Word Processing: Documentation of the judicial system would involve producing various transcripts, data recording etc. This would be done through word processing tools. These tools permit multi-lingual, electronic transcription, formatting and storage of oral evidence, orders and judgments.
- Document and Storage Management
- Regional Language
- Intercommunication: These include various applications such as e-mail, chat, etc.
- Fingerprint Recognition System
- Encryption, Recognition of Digital Signature, etc.
- Voice Recognition and Recording
- Imaging and Scanning
- Web-enabled Connectivity
- Bar Code Technology: Standard bar codes are like social security numbers or car license plate numbers or in the context of court systems, like case numbers which act as reference number that
- Database Management

CASE STUDIES:

Tihar Jail

- Approx. 1,200 inmates taken to courts every day, at least 400 are under trials only seeking an extension of judicial remand.
- Jail vans have to make at least 10 trips to transport the under trials to court.
- We would save up to rupee 1.5 crore annually, the amount we spend on providing security and fuel.
- Earlier system costs around **20 Thousand Rupees per case** but using e-Court only **3 Thousand rupees spends per case**. We can save approx. 17 thousand rupees per case.

Karkardooma eCourt

- The entire existing files have been digitized and a touch screen has been installed on the dais of Judge.
- There is a provision of a document visualizer and any document can be projected on the LCD Screens installed in the e- Court, so that the same are visible to the accused, witnesses or the prosecutor in the same Court, as well as when they are connected through Video-Conferencing.
- Other stakeholders of the case can have access to eFiles using secure login and password.
- This has resulted in quick disposal of cases, ease of record maintenance, reliability of the evidence recorded and to bring more transparency in the functioning of the District Courts.

INTERNATIONAL JURISDICTION CASE STUDIES:

- **Singapore:** The Supreme Court's Digital Transcription System ("DTS") leverages on various technologies to put in place an integrated system to facilitate the digital audio recording of court hearings. All five Technology Courts in the Supreme Court building contain screens and video cameras for video conferencing. The visualisers in these courts also allow images of 3D objects or hardcopy documents to be captured and magnified.
- **United Kingdom:** In the United Kingdom, CASEMAN, a part of the local county court management system, performs myriad tasks, like creating initial court records for registration of cases, issuing summons and monitoring them, storing electronic copies of evidence, generating cause-lists, updating records, maintaining court diary, and automatically generating other relevant documents and records.
- **Australia:** In the Australian Federal Court, documents are filed electronically on the eLodgment system, at any time, from anywhere. They are then sealed, or stamped, electronically.
- **Canada:** Canada has introduced its online Civil Resolution Tribunal ("CRT") which deals with small claims disputes, as well as property issues of any amount.

VIRTUAL COURTS, ONLINE COURTS, ONLINE DISPUTE RESOLUTION- THE DIFFERENCE:

- Online Courts constitute an advancement over Virtual Courts. The only difference between Virtual Courts and Online Courts being that in the former hearing is synchronous and the latter involves asynchronous form of interaction.
- This means that, in Virtual Court hearings, the Judge, advocates, litigants and witnesses need to be available at the time of hearing for a case to progress. In contrast, in Online Courts, the participants need not be present simultaneously; arguments, evidence are presented to the Judge without the parties being together at the same time.
- Online Dispute Resolution refers to the use of online platforms for the resolution of disputes between parties through Alternative Dispute Resolution Mechanisms.

CHALLENGES:

- **Digital divide:**
  - a large number of advocates and litigants especially those living in rural and remote areas lack basic infrastructure and high speed internet connection required for virtual hearing of cases and that this digital divide makes access to justice unaffordable and inaccessible for a vast majority.
  - It has three dimensions-namely, access divide (access to equipment and infrastructure), connectivity divide (access to broadband connectivity) and skill divide (knowledge and skills required to use digital platforms).
  - Statistics suggest that till 2017, nearly **72% of the population** does not have any access to the internet. Similarly, the internet connections that India does have are pretty **unevenly distributed**.
  - There's also a yawning gap in connectivity between states depending on their network infrastructure and relative affluence.
- **Technological competence:** is a concern that virtual Courts unfairly benefit tech savvy advocates and law firms which have access to stable internet connection and high quality videoconferencing facilities.
- **Poor Digital connectivity:** technical glitches plague hearings, especially during peak hours when many people log into the videoconferencing system, how it often crashes, broadband connectivity is woefully poor and is insufficient for proceedings. Poor quality audio/video, frequent loss of connection, disruptions and high latency affects judicial assessment of demeanour, emotions and other nonverbal cues and the changing communication dynamics which are also important variables in deciding a case.
- **Open Court principle:** concern over the opaqueness of Virtual Court hearings as said that Virtual Courts threaten the constitutionality of Court proceedings and undermine the importance of Rule of law which forms a part of the Basic structure of the Constitution.
- **Data privacy and Data security:** There are concerns that Virtual Courts will compromise privacy of data as well as confidentiality of discussions and Court proceedings.
- **Infrastructural Constraints:** No hardware, no connection, no Wifi facility. So, Videoconferencing is practically a nonstarter in District Courts.
- Tardy progress of e Courts Integrated Mission mode project.
- **The demeanor of witnesses and false evidence:**
  - Physical presence can serve important expressive functions, particularly during cross-examination, which ultimately leads to the discovery of truth.
  - Evidence recorded using video conferencing may **distort non-verbal cues** such as facial expressions, postures, and gestures.
  - Another issue that arises in recording testimonies and conducting evidence through video conferencing is that the litigant or the witness testifies from an environment they find most comfortable, either their home or office, there are all the chances that in such proceedings, the parties testifying **may feel free perhaps excessively so to testify falsely.**
- **Defeating the objective of punishment under Criminal law:**
  - The objective of punishment is to communicate the consequences of the crime.
  - Apart from communicating a response appropriate to the crime committed by the offender, it is also paramount to communicate the degree of censure and condemnation the crime deserves, to the public at large, which invariably will also add to the deterrent value of punishment and refrain people from committing the crime.
- **The threat of identity theft by either party or even by a third party:** The implementation of remote hearings begs the question of the lack of confidence litigants may have in the system and how many litigants would be agreeable to divulge such information on an online platform.

WAY FORWARD:

- **Digital divide:** exploring the feasibility of involving private agencies to take videoconferencing equipment to the doorsteps of people who are not tech-savvy to help them connect with courts, launching mobile videoconferencing facilities in remote areas.
- **Connectivity divide:** government ramp up efforts to ensure timely implementation of the National Broadband Mission. The Mission aims to fast track growth of digital communications infrastructure, bridge the digital divide and provide universal and affordable broadband access to all.
- **Skill divide:** training and awareness programs be conducted on all court complexes across the country to help advocates acquire skills required for handling digital platforms, Bar Council of India introduce computer courses as one of the subjects in law courses across colleges to enable students to adapt to the online system.
- **Subordinate courts:** The Committee noted that lower courts lack basic infrastructure and have experienced difficulties in adapting to virtual courts. There is a need to explore the feasibility of new financing approaches such as a public private participation model.
- **E-courts project:** Department of Justice should take necessary steps to ensure that the targets under project are achieved within the specified time frame.
- **Indigenous software:** develop an indigenous software to handle virtual court hearings, involve private companies to develop artificial intelligence systems capable of supporting bulk documentation and sophisticated use of graphics.
- Draw up **a policy** for encouraging the setting up of e-courts.
- Deployment of a **robust security system**.
- A **user-friendly e-courts mechanism**, which is simple and easily accessible by the common public.
- Creating **awareness** through talks and seminars.

CONCLUSION:

- The Supreme Court thus observed the following:
  (1) Open Court is not an end in itself, but a medium for fair adjudication;
  (2) Open Court hearings cannot be claimed as a matter of absolute right;
  (3) Open Court necessitates access to litigants and public, and/or their representatives, but not their bodily presence together in any given place;
  (4) There may be alternate models of Open Court system, in its physical sense.
- The wider infusion of technology will go a long way in improving the service and efficiency of the Indian judicial system.
- To benefit from digitization, a proactive approach is necessary and courts across the country must show greater willingness in adopting technology for filing and other ancillary actions.

SOURCES:

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PRELIMS: NEWS IN BRIEF

CHAURI CHAURA INCIDENT

- **February 4th 2021 marks hundred years of the Chauri Chaura incident** that had led to Mahatma Gandhi calling off the Non-cooperation Movement.
- On 4th February 1922, about 2500 people marched towards the Chauri Chaura market (Gorakhpur, UP) in order to picket a shop selling liquor.
- One of their leaders was arrested. A group of people then marched towards the police station demanding the release of the arrested leader.
- The police fired shots in the air hoping to disperse the crowd. However, the crowd became agitated and started pelting stones at the police.
- Things were getting out of hand and the sub-inspector at the station came forward and fired at the crowd killing three people.
- This incensed the people who then charged at the policemen who were heavily outnumbered. The police station was set ablaze by the people and all the policemen and officials inside were charred to death.
- Gandhi withdrew the movement on 12 February officially since he felt that the people were not ready to take up a non-violent movement.

http://newsonair.com/Main-News-Details.aspx?id=409167

WORLD WETLANDS DAY

- The day is celebrated every year on **2nd February** to raise global awareness about the vital role of wetlands for people and the planet earth.
- This day also marks **the date of the adoption of the Convention on Wetlands** on 2 February 1971, in the Iranian city of Ramsar on the shores of the Caspian Sea.
- The theme of this year's World Wetlands Day is **Wetlands and Water**.
- India has **42 sites designated as Wetlands of International Importance also known as Ramsar Sites**.
- Wetlands are land areas that are saturated or flooded with water either permanently or seasonally.
- Inland wetlands include marshes, ponds, lakes, fens, rivers, floodplains, and swamps. Coastal wetlands include saltwater marshes, estuaries, mangroves, lagoons and even coral reefs.
- Fishponds, rice paddies, and saltpans are human-made wetlands.
- India has nearly **4.6% of its land as wetlands,** covering an area of 15.26 million hectares.

http://newsonair.com/News?title=World-Wetlands-Day&id=409072

ADVANCED LIGHT HELICOPTERS (ALH) MK III

- HAL hands over five ALHs Mk III to Indian Navy and Indian Coast Guard.
- The ALH Mk III or the Mark III Advanced Light Helicopter is meant for **coastal security**.
- The helicopter features a full glass cockpit with HAL's Integrated Architecture Display System (IADS), more powerful "Shakti" (Safran Ardiden 1H1) engines, and a host of new systems.
- It is fully loaded, multi-mission and fitted with an array of advanced sensors.
- These helicopters have come up with latest-generation avionics and role equipment.
- The Mk-III ALH are also equipped with an indigenous low frequency dunking sonar (LFDS).
- The aircraft has also a nose-mounted surveillance radar with 270-degree coverage that can detect, classify and track multiple marine targets.

http://www.newsonair.com/News?title=Indian-Navy-receives-3-Mk-III-Advanced-Light-Helicopters-from-HAL&id=409292

AERO-INDIA SHOW

- HAL received the order to deliver **83 LCAs Mark- IA** and the first aircraft will be delivered in March 2024. The complete delivery of 83 LCAs will be achieved in six years.
- Indigenous production of LCA Mark -IA has 52 per cent raw materials procured in India and it will be increased to 65 per cent in the coming days.
- HAL has developed a combined Air Defence System comprising of a mother ship and an unmanned aerial vehicle that can be controlled remotely by the mother aircraft.

- To be ready by 2024-25, these machines named **as CATS Warrior and CATS Hunter** are said to shatter enemy facilities without human casualties.
- **HAL Light Utility Helicopter (Army Variant)** receives Initial Operational Clearance. The LUH is a three-ton class new generation single engine helicopter indigenously designed and developed and will **replace the ageing fleet of Cheetah/Chetak helicopters**.
- Aero India is a biennial air show and aviation exhibition held in Bengaluru, India. It is organised by the Defence Exhibition Organisation, Ministry of Defence.
- 1st edition was held in 1996 and 13th edition this year.

http://newsonair.com/Main-News-Details.aspx?id=409216