



Court Management: Need of the hour

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ABSTRACT

PREFACE | *The Constitution of India, 1950 was adopted, enacted and given to us, inter alia, to secure all citizens of this country, through the Preamble, which is considered to be the basic structure of the constitution. It is based on the ideals of Equality, liberty and JUSTICE – Social, Economic and Political. The State is obligated to establish social order in which the legal system of the country provides justice to all the citizens. And Access to justice has to be irrespective of social, economic and Political barriers; | Focusing on the judiciary, it won't be false to state that it has gone through various stages since the adoption of the Constitution in November, 1949. For the benefit of the judiciary a Law Commission was set up which was supposed to look into various problems and reforms required for the same problem that possibly harmed the Indian Judicial System in a negative way. Till date, various Reports on Judicial Reforms have been submitted by the Law Commissions after in depth study, which have dealt with various aspects of Law both substantive and procedural, but most of the important recommendations made by the Law Commissions, from time to time, have not even been properly discussed, leave aside their implementation by the Government. This lack of interest makes it imperative to propagate the recommendations made by the law Commission which circled around the promotion of Court Management, Case Management and improvement in the Administration of Justice. | The Judiciary is alive to the shortcomings and ills facing it and, in order to keep pace with time and changed circumstances, the implementation of the recommendations in necessitated. For the same a proposal was placed before Hon'ble the Chief Justice of India 2012 (Justice Altamas Kabir) emphasizing the need for a comprehensive "National Court Management System" for the country that will enhance the quality, responsiveness and timeliness of Court. | Finally, Hon'ble the Chief Justice of India, in consultation with Hon'ble Minister of Law and Justice, Government of India, in 2012 directed that National Court Management Systems, for enhancing timely justice, may be established. |*

INTRODUCTION

WHAT IS COURT MANAGEMENT OR WHAT IS COURT CASE MANAGEMENT

Court Management or Court case management forms a part of Judicial Administration wherein, apart from the judges and their clerks there is Court administrators who are appointed to disseminate information on new methods and techniques of court administration. They can have college and advanced degree, and many have attended law school.

These Administrators or Managers are involved in overseeing legislative budgets, personnel administration, and court research and planning. Planning for the future is an integral part of the administrative agenda. Court administrators explore alternative ways of managing court cases, often by statistical research. There can be various systems employed to manage the court and its cases, but it's generally inclined towards seeking methods that reduce the amount of time a case remains active in the courts. Consequently, judges often have less control over their time as court managers set out the work that must be accomplished. Computers can also help in reshaping the administration of the courts. With the integration of computers and database software, case information can be recorded and retrieved electronically which would serve as a boon to the system. The use of new technology would improve the efficiency of court administration.

WHY IS COURT MANAGEMENT NEEDED IN INDIA?

"We realize that Justice delayed is Justice Denied, and based on that, the idea of Court Management has emerged".

India has one of the largest judicial systems in the world – with over 3 crores of cases and sanctioned strength of some 16,000 Judges which leads to 40 cases per judge in a single day which is impossible. The system has expanded rapidly in the past so many years, reflecting India's social, economic and political development in this period. It is but obvious that in the coming times disputes and litigation would only rise than decrease due to an effective change in the social, moral and philosophical outlook of man. It is set to continue to expand significantly over the next three decades, rising, by the most conservative estimate, to at least about 15 crores of case requiring at least some 75,000 Courts/Judges. Also, there is an urgent need to shorten the average life cycle of all cases – not only times pent within each court, but also total time in the judicial system as a whole, to bring the average to no more than about one to two years in each court. There are cases that are stretched over decades and still the final verdict is not reached. The state of justice is strained in India. This develops a dire need to systematically maintain and continuously seek to

enhance quality and responsiveness of justice. And, these challenges can only be addressed if there is a substantial upgrading of court management systems in India. Today, data on cases filed in the Indian judicial system is still gathered and maintained in manual data systems by courts across the country. Each month, considerable time is spent by local courts compiling data from manual registers to submit reports to higher courts, which in turn leaves room for discrepancies and inconsistencies and result is a lot of time consumption.

NATIONAL COURT MANAGEMENT SYSTEM, INDIA

The Hon'ble the Chief Justice of India, after consulting the Minister of Law and Justice in the Government of India directed the establishment of National Court Management Systems in India. The National Court Management Systems will be under overall control of Hon'ble the Chief Justice of India. It will primarily deal with policy issues. NCMS will include the following six main elements:

- (1) A **National Framework of Court Excellence (NFCE)** would be set up, that will set measurable performance standards for Indian courts, addressing issues of quality, responsiveness and timeliness;
- (2) A system for monitoring and enhancing the performance parameters established in the NFCE on quality, responsiveness and timeliness would be established.
- (3) A system of **Case Management** to enhance user friendliness of the Judicial System, via technology would be incorporated.
- (4) A **National System of Judicial Statistics (NSJS)** would be appointed to provide a common national platform for recording and maintaining judicial statistics from across the country. NSJS should provide real time statistics on case and courts that will enable systematic analysis of key factors such as quality, timeliness and efficiency of the judicial system across courts, districts/states, types of cases, stages of cases, costs of adjudication, time lines of cases, productivity and efficiency of courts, use of budgets and financial resources. It would enhance transparency and accountability.
- (5) A **Court Development Planning System** would be assigned to provide a framework for systematic five year plans for the future development of the Indian judiciary.
- (6) A **Human Resource Development Strategy** would be considered which would be standards on selection and training of judges of subordinate courts.

NATIONAL COURT MANAGEMENT SYSTEMS COMMITTEE (N.C.M.S.C.):

Specific proposals for the Court Management System outlined below

will be developed by an 18 member National Court Management Systems Committee (N.C.M.S.C.), which subject to directions of Hon'ble the Chief Justice of India, shall consist of the following:

Chair :

A Jurist/Domain Expert nominated by the Hon'ble Chief Justice of India. He will be paid honorarium and given such facilities as may be decided by Hon'ble the Chief Justice of India for Chairing N.C.M.S.C.

Members :

1. For Sitting Judge (one from each zone in India) nominated by the Hon'ble Chief Justice of India.
2. The Secretary General of the Supreme Court. (Ex-officio)
3. Joint Secretary and Mission Director (National Mission for Judicial Delivery and Legal Reforms), Department of Justice, Government of India (ex-officio).
4. Registrar Generals of three High Courts nominated by the Hon'ble Chief Justice of India.
5. Director, National Judicial Academy.
6. Two practicing Advocates nominated by the Hon'ble Chief Justice of India.
7. An expert Statistician, nominated by the Chief Statistician of India.
8. An expert in management of decision making systems and process re-engineering nominated by the Hon'ble Chief Justice of India.
9. An expert in Computer Technology relevant to Court Management, nominated by the Hon'ble Chief Justice of India.
10. A representative of a NGO working for improving access to justice and user friendliness of courts, nominated by the Chief Justice of India.
11. Additional Registrar, Information and Statistics, Supreme Court of India (ex-officio) – Member Secretary.

The Committee shall also be supported by necessary staff and facilities as following :

- a. Branch Officer – **One** (In the pay-scale as applicable in the Registry of Supreme Court of India)
- b. Senior Personal Assistant – **One**. (In the pay – scale as applicable in the Registry of Supreme Court of India)
- c. Personal Assistant – **One**. (In the pay-scale as applicable in the Registry of Supreme Court of India)
- d. Court Assistant – **One**, (In the pay-scale as applicable in the Registry of Supreme Court of India)
- e. Junior Court Assistant – **Two**. (In the pay-scale as applicable in the Registry of Supreme Court of India)
- f. Chauffeur – **One**. (In the pay-scale as applicable in the Registry of Supreme Court of India)
- g. Junior Court Attendants – **Three**. (In the pay-scale as applicable in the Registry of Supreme Court of India)

The staff shall be called on deputation on such terms, conditions and facilities as Hon'ble the Chief Justice of India may decide. They shall be under overall supervision of Additional Registrar, Information and Statistics, Supreme Court of India for day –to – day functioning.

Advisory Committee:

The NCMS Committee shall be advised by an Advisory Committee consisting of two Judges of Supreme Court of India and such other Chief Justices/Judges of High Courts as may be nominated by the Hon'ble Chief Justice of India.

The Chair of the NCMS Committee shall be a member of the Advisory Committee. Secretary, Department of Justice, Government of India, shall be ex-officio Member of Advisory Committee. The Secretary – General of the Supreme Court shall be the convenor of the Advisory Committee.

SUGGESTIONS AND RECOMMENDATIONS TO ESTABLISH A SYSTEM OF EFFECTIVE COURT MANAGEMENT

1. In order to establish an effective CMS, it is necessary to identify best practice for and how the provisions of it can be guarded against malpractices.
2. Computerization is the comeback. And hence, there should be a substantial shift from manual working to technology.
3. The parties involved in the dispute should be encouraged to opt for an ADR, because if a case gets solved in its first stage, time wouldn't be spent in arguing it in the Court which would in turn save the time of both the Court and the parties.
4. Throughout the country, various Lok Adalats and Literacy Campaigns in all the three tiers are being held under the guidance of National Legal Services Authority (NALSA) and State Legal Services Authorities. Hon'ble Judges of Supreme Court of India, High Courts and Members of Subordinate Judiciary have been actively participating in this regard, and therefore these should be contacted first before choosing litigation at the very first instance. If a dispute can be solved in the first state then there is no point to carry it forward through the years

ANALYSIS

The basic problem ailing India and the Indian Judiciary in particular is the fact that there are a plethora of laws and commissions but unfortunately the implementation of them is very weak. Off course having a management system in order to reduce the burden of the Indian Courts is an excellent idea on paper for now, but how well it would work in the Indian set up is still a big question. With problems like Corruption, slow technology, to name amongst a few, it would be hard to execute such an idea in India, unlike a few states in the United States of America, where the Court Management system works flawlessly. But amidst all the chaos and confusion the prevails in the Indian System, the author believes that there still is hope that can be clung on to, and maybe the implementation of this system works out in the most proficient way, in order to ensure the success and growth of the Indian Judicial System.

REFERENCES

- Kesavananda Bharti v. State of Kerala, AIR 1973 SC 3401 The first Law Commission was established during the British regime in 1834 by the Charter Act of 1833. After that three more Commissions were established in pre-independent India. The first Law Commission of independent India was established in 1955 for a three year term. Since then eighteen more Commissions have been established. Under the NCMS, the Committee would comprise of 18 Court administrators. | Global and national experience shows that the number of new cases filed into a judicial system increases with literacy and economic wealth (for example, Kerala, with a literacy rate of over 90%, has some 28 new cases per thousand population as against some 4 cases per thousand population in Jharkhand which has a literacy rate of some 53%). As India's literacy rate and per capita income increases the number of new cases filed per thousand population is likely to increase from the current rate of about 15 (up from roughly around 3 cases per thousand cases some three decades ago) to about 75 cases in the next three decades. By this time India's population should be about 1.5 billion. This will mean that at least some 15crores of cases may be filed into the judicial system each year by then. To achieve a ratio of 50 judges per million population, at 1.5 billion population, India will need to have 75,000 judges. Court Management and Administrative Skills, Justice, R. Bhanumathi. | In respect to the National Court Management Systems Report, released by the Hon'ble Chief Justice of India. As subject to the National Court Management Systems Report : Policy and Action Plan. Court Management System | Alternate Dispute Resolution | According to Statistical Data of the Compiled Report of Lok Adalat & Mediation Centres between 1st April 2011 to 31st March 2012, 24, 96, 522 cases were disposed off by the Lok Adalats and the mediation centers between 2011-2012. |