Is Technology A Saviour for our Criminal Justice System?



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Abstract:

Will India's digital revolution bring in reform in the criminal justice sector? With the introduction of numerous initiatives, which use technology to make it easier for citizens to access the system and for functionaries to strengthen oversight, the real test lies in sustainability and their impact in practice. The integrated criminal justice system can help streamline processes and bridge many gaps that exist in the system today. This will not only improve coordination between different agencies of the criminal justice system, but also make the system more transparent and accountable.

Keywords:

Technology, citizens, justice, prison, police, courts, legal aid, monitoring, digital

1. Introduction

itizen centric services are at the core of India's e-governance initiatives more popularly known as the Digital India programme. Technology today is playing an important role in the increase of transparency in government functioning. With the increasing quantum of data being made available in the public domain, which is also in line with the mandate to proactively disclose information under the Right to Information Act 2005, bublic engagement in government functioning is more relevant and call for accountability at every facet of public administration is on the rise.

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^{2.} http://digitalindia.gov.in/content/introduction.

^{3.} The Act also requires every public authority to computerise their records for wide dissemination and to proactively certain categories of information so that the citizens need minimum recourse to request for information formally.

As e-government initiatives continue to transform the nature of India's bureaucracy and enhance the quality of government services,⁴ there is hope that implementation of Information and Communication Technology (ICT) in the criminal justice system will play a central role to push reform efforts. The 31 Mission Mode Projects under the National e-Governance Plan, which was initiated in 2006, also includes courts and police as part of the wide range of domains covered.⁵ ICT in the judiciary was envisioned as an aid to 'enhance judicial productivity both qualitatively and quantitatively'.⁶ In the past decade courts at all levels have undergone 'informatisation' in their administrative and management process, with the aim to usher in transparency to the 'common public'.⁷Technology is now acknowledged in the legal aid sector too as a vital tool that 'can enable the system to enhance outreach to the needy, and improve our skills, in handling complex legal situations, timely and effectively.⁸

Technology promises to be atleast a significant cure for a system that sometimes seems at its last gasp. This article looks at the various technology-based initiatives and projects in India aimed at bringing justice closer to masses and vice versa. It then evaluates how these initiatives can assist in the transformation of judicial sector both from a citizen centric perspective and in removing systemic gaps, leading to long term systemic reforms within this sector. With miles to go before India achieves full implementation of these initiatives, the article advocates for inclusion of a review process to track its progress and impact.

II. ICT IN THE CRIMINAL JUSTICE SYSTEM

Of the numerous efforts to introduce technology in the justice sector, four projects stand out viz. Crime and Criminal Tracking Network and Systems (CCTNS) for the police, e-Courts project for the judiciary, e-Prisons Application Suite for prisons, and e-application processes for legal aid. Both the CCTNS and the e-Courts project are part of the Mission Mode Projects under the National e-governance plan of the government of India. The e-Prisons application suite on the other hand has been developed by the National Informatics Centre (NIC), to computerize and integrate all the activities related to prison and prisoner management in the jails. In November 2015 the government decided to create an integrated electronic system, termed as the Integrated Criminal Justice System, to link the criminal justice system functionaries by integrating the

 $^{4. \}quad https://cis-india.org/internet-governance/blog/what-will-be-the-role-of-ict-in-indias-judical-reform-process.$

^{5.} http://digitalindia.gov.in/content/introduction.

^{6.} National Policy And Action Plan For Implementation Of Information And Communication Technology In The Indian Judiciary, Prepared by E-Committee Supreme Court of India New Delhi 1st August, 2005.

 $^{7. \}quad http://egov.eletsonline.com/2007/11/mainstreaming-ict-for-judicial-delivery-system/.$

^{8.} Justice J.S. Khehar, Chief Justice of India in his speech at the 15th All India Meet of State Legal Authorities in March 2017, available at

http://nalsa.gov.in/sites/default/files/document/Inaugural%20Address%20NALSA%20Annual%20Meet%2018-19.3.2017_0.pdf.

CCTNS with e-Courts and e-Prisons as well as forensics and prosecution in order to facilitate transfer of data among the various pillars of the criminal justice system. A brief summary on features under each project is provided below:-

A. Criminal Tracking Network and Systems (CCTNS)

CCTNS, conceptualised in 2009 in the aftermath of the 26/11 attacks, seeks to create a comprehensive and integrated system for enhancing the efficiency and effectiveness of policing. CCTNS entails digitisation of data related to FIRs registered, cases investigated and charge-sheets filed in all police stations, in order to develop a national database of crime and criminals. It is envisaged as a system to facilitate collection, storage, retrieval, analysis, transfer and sharing of data and information at the police station; between police stations themselves as well as the headquarters, and; between the police of one state and another state or the central government, including IB, CBI and the Central Police Organisations. Once fully implemented, it will lead to the creation of a central citizen portal, making several citizen-friendly services online for instance reporting a crime, tracking the progress of a case, reporting of grievances against police officials, access to victim compensation fund, police verification for passports, and legal services. The latest data from June 2017 on implementation of CCTNS indicates a compliance rate of 67.8% across India, with Telangana topping the list at 93.1% and Bihar coming last with a mere 8.9% compliance rate.

B. e-Courts

The e-Courts Mission Mode Project is monitored and funded by Department of Justice, Ministry of Law and Justice, Government of India for digitization of district courts in India. The e-Courts project was conceptualised as per the 'National Policy and Action Plan for Implementation of information and communication technology (ICT) in the Indian Judiciary – 2005' submitted by e-Committee, Supreme Court of India. In a nutshell the project aims at providing efficient & time-bound citizen centric services delivery; develop, install and implement decision support systems in courts; automate the processes to provide transparency in accessibility of information to its stakeholders and; to make the justice delivery system affordable, accessible, cost effective, predictable, reliable and transparent.¹³

^{9.} Extension of Crime and Criminal Tracking Network and Systems Project, Press Information Bureau, Government of India, 18November 2015, available at http://pib.nic.in/newsite/PrintRelease.aspx?relid=131585.

^{10.} http://indianexpress.com/article/explained/cctns-project-to-let-police-stations-talk-where-it-stands-and-how-it-can-help-fight-crime/.

^{11.} ibic

^{12.} http://ncrb.nic.in/BureauDivisions/cctnsnew/CCTNS_Dashboard/PRGATI%20dashboard%202017.06%20ver%206.0%20 for%20MHA.pdf.

^{13.} National Policy And Action Plan For Implementation Of Information And Communication Technology In The Indian Judiciary, Prepared by E-Committee Supreme Court of India New Delhi 1st August, 2005.

In August 2013 the e-Courts 'National Judicial Data Grid' portal 'www.ecourts.gov.in' was launched. This portal works as a national data warehouse for case data including the orders and judgments for district and appellate courts across the country. The website purports to be accessible, compliant and available in local languages. There is provision for promoting use of mobile applications, sms and emails as platforms for dissemination of information. To enhance access to litigants, kiosks are being setup in court complexes, certified copies of documents are to be given online and e-Payment gateways are to be opened to make deposits, payment of court fees, fines etc.

As per reports prepared by the Department of Justice, in March 2016,¹⁴ 95% of the mandated activities under the project has been completed. In its last report dated December 2016¹⁵ it is reported that litigants can now access online case status information in respect of over 7 crore pending and decided cases and more than 3 crore orders and judgments pertaining to more than 16900 district and subordinate Courts. It further states that litigants and lawyers are now being provided services such as case filing, certified copies of orders, case status etc., through the *Judicial Service Centre* at the court complexes. Also that 63 lakh auto-generated SMSs had been sent to litigants and lawyers in the period between Jan-Jun 2016 and video conferencing facility had been operationalised between 500 courts and corresponding prisons.

C. e-Prisons Application Suite

An initiative of the National Informatics Centre (NIC), the e-prisons application suite aims to provide vital information about inmates lodged in the prisons, in real time environment, to the prison officials and other entities, involved in criminal justice system. It also facilitates online visit requests and grievance redressal. The primary purpose of this project is to computerize and integrate all activities related to prison and prisoner management in the jail. It comprises three components viz. a management information system (MIS), a national prisons information portal (NPIP) and *Kara Bazaar*. The MIS envisages modules on management of prisoner information, visitors, hospitals, legal aid, inventory and prison administration as well court monitoring and kiosk information. The NPIP on the other hand is a citizen centric portal where one can view statistical data from prisons across the country, book visits to meet family member in prison and submit grievances on behalf of prisoners. *Kara Bazaar* is an initiative to enhance productivity and marketing for products manufactured or being prepared by prisoners in prison.

Of the numerous features of e-Prisons, the important ones are aimed at rendering the services to

^{14.} http://doj.gov.in/sites/default/files/Status%20of%20eCourts%20Project%20as%20on%201.03.16.pdf

^{15.} http://doj.gov.in/sites/default/files/Brief%20on%20eCourts%20Project%20%28Phase-I%20%26amp%3B%20Phase-I%29%20Dec%202016.pdf

^{16.} http://eprisons.nic.in/NPIP/public/About.aspx.

the police and other investigating agencies by providing nationwide search for inmates and their complete profile; prisons by providing alerts like hearing dates, eligibility under s.436/436 ACrPC, parole jump, inventory, medicine etc. for monitoring purpose; courts by making available reports on eligibility under s.436/436A/441CrPC and alerts for jumping parole, interim bail return due dates; and to the public by making available statistical information and reports on national and state basis. As of now e-prisons covers 36 states/UTs and 675 out of 1401 prisons.¹⁷

D. e-Legal Aid Initiatives

With the e-Courts project provisioning the computerization of offices of legal services authorities at the district and taluka levels, technology has made inroads into the legal aid system as well. Over the past few years, a number of schemes, which use technology to increase the outreach of legal aid services, have been launched by the National Legal Services Authority (NALSA). In order to make a poor man's access to judicial justice a reality; village-level decentralisation of judice delivery system is a must. 19

In order to enhance its outreach, NALSA and the Department of Justice, Ministry of Law & Justice (DOJ) have launched a number of empowerment initiatives to improve access to legal services in the past couple of years. These and some other important schemes and initiatives are discussed below.

i) Legal Services Management System: NALSA launched its bilingual e-portal 'Legal Services Management System to further efforts to ensure prompt legal assistance for all' in November 2016. ²⁰Using the portal, any person can apply for legal aid online, and also upload documents, track information, seek clarification or send reminders. Filing of online applications via the portal can ideally shorten the time gap between application and delivery, ²¹ which at present can take anywhere from a day to a few months.

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^{17.} http://eprisons.nic.in/NPIP/Public/Home.aspx. Last accessed on 21 August 2017.

^{18.} NALSA is constituted under the Legal Services Authorities Act, 1987, is tasked to monitor and evaluate implementation of legal aid programmes and to lay down policies and principles for making legal services available under the Act. NALSA's vision statement defines its role as 'to legally empower the marginalized and excluded groups of the society by providing effective legal representation, legal literacy and awareness and bridging the gap between the legally available benefits and the entitled beneficiaries'. For more see http://www.nalsa.gov.in/content/vision-statement.

^{19.} Justice JSKhehar, Chief Justice of India in his speech at the 15th All India Meet of State Legal Authorities in March 2017, available at

http://nalsa.gov.in/sites/default/files/document/Inaugural%20Address%20NALSA%20Annual%20Meet%2018-19.3.2017 0.pdf.

 $^{20. \} http://nalsa.gov.in/lsams/nologin/applicationFiling.action?requestLocale=en.$

^{21.} Madhurima Dhanuka and Raja Bagga, 'Is e-application the e-asy way to go for legal aid in India', The People's Beacon, Orissa Human Rights Commission, 2016 available at http://www.humanrightsinitiative.org/download/Is%20e-application%20the%20e-asy%20way%20to%20go%20for%20legal%20aid%20in%20India.pdf.

- **Tele Law Scheme:** Tele-law aims to facilitate the delivery of legal advice through an expert panel of lawyers stationed at the office of the State Legal Services Authorities in each state. The project will connect lawyers with clients, even when located in remote areas, through video conferencing facilities by the paralegal volunteers stationed at the Common Service Centre's run by village level entrepreneurs.²² The project has been launched across 1800 panchayats across India²³
- **Pro bono legal services:** Under this scheme any person can seek free legal assistance by submitting an application online on the DOJ website. The DOJ will then connect them to a pro-bono advocate pre-registered with the DOJ who will provide them their services free of cost. The nature of legal assistance provided could be legal counselling, advice, drafting of case related document(s), appearance in the court depending on the availability of the advocates.
- iv) NyayMitra Scheme: This project will operate out of district facilitation centres housed in common service centres in the rural areas or districts. A nyaymitra, who will be a retired judicial or executive officer will be appointed at each centre. ²⁴ The nyaymitra's responsibilities include assistance to litigants who are suffering due to delay in investigations or trial, by actively identifying such cases through the National Judicial Data Grid, providing legal advice and connecting litigants to relevant authorities. The nyaymitra will also refer the marginalised applicants to Lok Adalats for dispute resolution and render assistance towards prison reforms within the district, in coordination with the district judiciary and other stakeholders.
- v) Legal aid for prisoners: NALSA launched a web portal to provide legal services to prisoners in June 2017.²⁵ The portal will be used by legal services authorities to document data on legal representation of prisoners. The state and district authorities can now keep close watch on whether prisoners have defence counsels to represent them in court, and where there are none, appoint lawyers. The software will then be able to generate reports showing total number of inmates, number of inmates unrepresented, number of inmates represented by legal services lawyers and number of inmates represented by private lawyers.
- vi) NyaySampark Legal Aid Establishments: This is the most recent initiatives of NALSA. Under this initiative NALSA envisions the setup of Nyaya Sampark

^{22.} Read more about Common Service Centres at https://www.csc.gov.in/.

^{23.} http://doj.gov.in/page/tele-law-scheme.

^{24.} http://doj.gov.in/page/nyaya-mitra-scheme.

^{25.} http://www.nalsa.gov.in/content/launch-web-application-legal-services-prisoners-28th-june-2017-indian-law-institute-new.

(Contact with law) at the office of the state legal services authority in each state. In these legal aid establishments legal aid beneficiaries can get

- a) information about case status pending in any of the Districts across the State,
- b) legal aid and advice and
- c) information about various schemes of Central/State Government. They will also provide facilities like a toll-free helpline number for those seeking legal aid, a video conferencing facility to connect under trials in jails to lawyers, a team of volunteers to help people seeking legal aid.

III. WHATARE THE BENEFITS?

Increasing use of technology, innovative ideas and systems thus developed are optimising the functioning of the criminal justice system. It is consistently being seen as a cure to many of the ills that beset the delivery of justice. For one, the ambitious plan to integrate police, courts and prison will breakdown present work silos. Technology will inform justice system reform through the use of data sets, relationship data and more complex knowledge generation. ²⁶ At the state level centralised data collection will enhance accountability and reveal bottlenecks. It will also assist to inform, support and guide people involved in the justice system and make them more aware and at pace with the law. The outreach for all this would be to a much wider audience than hitherto possible.

However, all this is quite nascent. There are huge challenges in achieving complete integration of technology within the system. Infrastructure setup, maintenance and upgradations; how adept functionaries are with machines; interface with public and ease of use; safeguards against misuse, all these factors will determine how technology will ultimately aid justice reform. Nonetheless, the benefits of technology even at this preliminary stage are perceivable. These can be broadly discussed under two heads, viz. benefits to citizens and to the system. While the former is a citizen centric evaluation, the latter is a reflection on how the system can use technology to aid in monitoring of various services linked with the criminal justice system, thus making it more transparent and accountable.

A. Benefit to citizens

The foremost beneficiaries of technology integration are citizens. As more and more citizen related services and basic information are available online or through mobile applications, the difference it's making to people's perception of justice is immense. For instance, many of those who were till now dependent solely on lawyers or touts or were forced to bribe court clerks to

^{26.} Tania Sourdin, Justice and Technological Innovation, 2015, Civil Justice Research Online, Australian Centre for Justice Innovation, available online at http://www.civiljustice.info/cgi/viewcontent.cgi?article=1039&context=access.

receive a copy of the court order, can now do all that through the e-courts website. Or if one wanted to meet their family member lodged in a prison, they were forced to bribe the prison guard, a process which now becomes rather obsolete with the increasing adaptation of the visitors management system or online booking facilities that is now available in many states.²⁷

While benefit to citizens can be considered at many levels, some important ones are discussed briefly below:-

- a) Legal remedies at one's doorstep: The establishment of service centres, facilitation desks, front office desks, common service centres in rural areas and installation of kiosks in courts and administrative complexes will turn the dream to 'ensure access to law for all' a reality. The difference this accessible and affordable advice and support is making to the lives of people previously cut off from such services is immense. It takes just a webcam, a computer to plug it into, and a connection to a free video conferencing service like Skype for a remote village to connect with a whole new world. In this way, many are being granted social justice rights and entitlements for the first time. This is especially important for women, children, the elderly, lowincome earners, and people of low social standing among India's rigid social systems.
- b) Eradicating devious court practices: Earlier, as a litigant, for every small bit of information one would rely on the lawyer or the court clerk, which would mean paying unnecessary and unexplained fees to those concerned. Moving a file, getting an order-sheet, filing petitions all were linked to unfair practices. All this has and will change substantially, though not completely, as now these processes are subject to being reported and recorded in the database. Today, with district courts being linked under e-Courts project one can access information pufacing to a case with the click of a button. Not only is it easier to know case listings, but also the progress on your case can be easily tracked. Indeed awareness regarding these systems is poor, but that too will be addressed by the system. As courts move towards making all court documentation paperless, citizens stand to benefit the most as this would mean eradication of the middlemen who consistently make justice elusive to the common man.
- c) Easy 'access' to information: A decade back if someone wanted to know about laws, access research studies, or collate and analyse data they would visit public libraries or find relevant books at a bookshop. Now with a simple click of a button or touch, on the computer or on phone, one has access to almost all basic information needed. This

^{27.} To make a booking for a prison visit, go to https://eprisons.nic.in/NPIP/public/MyVisitRegistration.aspx.

^{28.} https://www.videoconferencingdaily.com/recent-news/can-indias-live-chat-tele-law-service-bring-justice-entire-nation/.

applies in a similar manner to knowledge about government functioning or processes, even organisational structures and contacts. Earlier this knowledge was subject to having 'contacts in high places'. For instance, if one wants to analyse data on arrests from a particular state, it can be found on most state police websites. Or if one wants to analyse data on arrests, trials and detention rate a visit to the National Crime Records Bureau website would suffice. Even information on welfare activities undertaken by the police or legal services authorities is easily available online. With most criminal justice functionaries having websites, majority of which regularly update relevant information, accessing information is no longer as difficult as it was in the past.

B. Benefit to system

In addition to benefits for citizens', technology can also aid the system in ensuring accountability and improve its efficacy. Some of the ways by which technology can benefit the system are discussed below:-

- Improving coordination among agencies: As ICT in the different agencies of the a) criminal justice system picks up pace, and more data is collated and compiled leading to inter-linkage between each agency one can hope that it would iron out the lack of coordination that plagues the systems at present. An effective inter linkage would mean that the moment a person is brought to the police station his record will be entered into the CCTNS. If he has no lawyer, immediately an alert will go to the nearest legal aid authority, triggering the appointment of a lawyer;²⁹ with reduced chances of fudging up records, the arrested person will be produced before the magistrate within the mandated 24 hour period; upon remand of persons to judicial custody, basic information on the accused reaches the prison prior to his arrival, including information such as any medical ailments, lack of legal representation etc., thus assisting them in preparing for his/her admission. Even during the entire trial process regular updates on cases can be made available to inmates by the NIC proposed Information Kiosks installed inside prison premises. All this would also save time and resources lost in re-entering the information in the database and prevent duplicity of record keeping.
- **b)** Conservation of time: While there is an initial resistance to switch to technology, marked mostly by fear of making one's job cumbersome, eventually the same

^{29.} In compliance with Article 22(1) &39A of the Indian Constitution read with Section 41DCr.P.C. which mandates the presence of a lawyer at the police station at the time of interrogation.

functionaries learn to appreciate the benefits that technology has to offer. For instance, in an interaction with a prison official over the use of e-prisons application suite, he mentioned how the staff feared the difficulties they would face in maintaining records at two places. But these apprehensions were disputes within few months, as they realised how simplified their work had become. With reports generated in a jiffy, the benefit of technology was understood. Thus, conservation of time, resources and energies of those who run these offices is one of the biggest benefits that technology has.

c) Improving monitoring & oversight: Extending the reach of technology to address gaps in monitoring and reporting, can improve accountability many-a-fold. Even with a strong legal framework, ground level implementation in India is poor due to slack monitoring. Lately, there has been a perceivable emphasis on effective monitoring; this is evidenced by the Supreme Court's recent observations in *Hussain and Another v. Union of India*, where the court emphasised upon the role of the high courts 'to ensure that the guidelines issued by this Court are implemented in letter and spirit.' It expounded this by stating that monitoring can be done more effectively by the High Courts since it would be easy for that Court to collect and collate the statistical information in that behalf, apply the broad guidelines already issued and deal with the situation as it emerges from the status reports presented to it. A chunk of this statistical data is sourced in ICT.

Technological tools such as web portals and mobile applications further aid accountability. With the increased use of smart phones by lawyers, litigants, judges etc. documenting and reporting can be made easier and less cumbersome for all by resorting to mobile applications for tracking and reporting work of legal aid lawyers, paralegal volunteers, police officers, probation officers etc. Mobile applications can also be made to record work of oversight bodies such as board of visitors for prison oversight; under trial review committees for periodic review of detention and; monitoring committees for legal aid.³¹

Moreover, modules can also be introduced in the existing e-courts and e-prisons system to aid monitoring of prisoner cases, preventing prolonged and unnecessary detention.³² For instance, if a remand date is missed due to shortage of escorts; a prisoner is eligible for statutory bail;³³ a prisoner is granted bail but is still in detention due to inability to pay surety; a prisoner can be released under probation of offenders

^{30.} Hussain and Anry, Union of India Criminal Appeal No. 509 OF 2017 9 March, 2017.

^{31.} For more see https://www.dimagi.com/blog/how-mobile-data-collection-can-aid-prison-reform/.

^{32.} For more details and specification document on features required, see EPIC - Evaluation of Prisoner Information & Cases, CHRI 2016 available at http://www.humanrightsinitiative.org/download/1475562359EPIC-%20EVALUATION%20OF%20PRISONER%20INFORMATION%20AND%20CASES.pdf.

^{33.} Sec 167(2), 436, 436ACrPC.

act; alerts would go to the concerned authorities, family members and lawyers already registered in the system.³⁴

a) Improving training & capacity building of functionaries: Technology can also complement training and capacity building efforts of training institutes in India. Interactive and practical training methodologies are quickly replacing the age old classroom lecture format for teaching. Technology can aid in making mock scenarios become alive by use of 360 serve views of courts rooms, police stations, prisons etc. One such 360 training tool, the *Virtual Police Station (VPS)*, which has been prepared by the Commonwealth Human Rights Initiative & Rajasthan Police Department is already making inroads in the way police personnel are being trained in many states. Similar technological tools can be conceptualised for visualization of court rooms and prisons too. The national & state judicial academies, police academies, prison training institutes, prosecution services etc. can thus benefit by use of technological innovations

IV. CONCLUSION

As rapid developments in technology continue to open up new opportunities that were unthinkable a few years ago, it is proving to be an indispensable tool that the justice system must use to restore public confidence in the legal system. Technology can and will play an influential role to ensure that the relationship between citizens and the judicial system is strong and communicative. The individual system is strong and the formal systems of justice has the potential to empower the whole nation. However, all this is work in progress. While technology is likely to do enormous good in repairing a broken system, there are many challenges before it.

The widespread reliance on technology depends on constant electricity and high speed internet services; skilled operators and accurate, timely and regular information input; regular maintenance of hardware. All this is not available everywhere, especially in rural areas, where the need is most, and outreach worst. Additionally, what is conspicuously missing from this is a review process to monitor implementation. Who is setting the markers and will review progress; what will be the assessment process and; where are the mechanisms to track progress or failure. These questions, unanswered at present, must be addressed soon. Only then would technology turn out to be the true saviour.

^{34.} http://www.humanrightsinitiative.org/download/1475562359EPIC-%20EVALUATION%20OF%20PRISONER%20INFORMATION%20AND%20CASES.pdf

^{35.} For more information see www.virtualpolice.in.

^{36.} Intelligent use of ICT can revamp the Indian justice delivery system, Dr. Justice G.C. Bharuka, http://www.commoncause.in/publication_details.php?id=453.