

## IT: The Road to Speedier Justice

*(Text of talk delivered by Justice Yatindra Singh, Judge Allahabad High Court, Allahabad on 20.11.2004 in judicial workshop on 'Cyber Laws, Cyber Forensics and E-Governance in Judiciary' at National Judicial Academy Bhopal)<sup>1</sup>*

1. Fair, inexpensive and quick dispensation of justice is the ultimate aim of every legal system. However, usually it fails to do so. In the novel 'Bleak House' by Charles Dickens, it is said, 'This is court of chancery – which so exhausts finances, patience, hope'. In recent times, it has been repeated by Lord Denning in his own way {Allen Vs. Alfred McAlpine 1968 (1) All ER 543}, 'Law's delays have been intolerable ... They have lasted so long as to turn justice sour'; so true of our legal system. Is information technology the panacea for soured justice? What role can computers have in the justice delivery system?

2. Roger Penrose is Rouse Bell Professor of Mathematics at Oxford. He wrote a best seller (The Emperor's New Mind) in 1989 to prove that neither are human beings computers nor can they be replaced by computers. Nevertheless computers can do one thing very well i.e. sift and analyse data; monitor the progress; and improve time management. Computers and information technology though utilised in some legal systems are yet to be fully utilised by us. They can help in the following areas that in turn will help in reducing arrears.

(i)Case Management

(ii)Court Administration

(iii)Self Improvement

### Case Management

3. It is a very old saying, 'If you have to cut a tree in eight hours, you don't chop it all the time: sharpen your axe for six hours'. In order to sort out any problem, its magnitude, causes of the problems should be found out first and then the solution. The magnitude and causes of the problem cannot be found out by general impressions but by analysis of the data.

4. A civil case broadly has the following stages:

#### STAGE-1

(i) Registration; Notice to the other side; exparte miscellaneous applications.

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<sup>1</sup> Some portion regarding RSS has been added since then.

- (ii) Issues; hearing of miscellaneous applications after opportunity to the parties.

**STAGE-2:** Plaintiff's evidence.

**STAGE-3:** Defendant's evidence.

**STAGE-4:** Arguments.

**STAGE-5:** Judgement.

5. A criminal case (except a summary trial) on a police report in the magistrate's court broadly has the following stages.

**STAGE-1**

- i. Remand and Bail.
- ii. Filing of police report/ challan/ Registration.
- iii. Appearance of the accused;
- iv. Preparation and Supply of documents (Section 207 CrPC).
- v. Summon trial: Substance of accusation to be stated (section 251 CrPC); Warrant trial: Framing of charges by the Magistrate; Session trial: Committal of a case to the Session Court.

**STAGE-2:** Prosecution evidence: witnesses other than formal witnesses.

**STAGE-3:** Prosecution evidence: formal witnesses.

**STAGE-4:**

- (i) Statement u/s 313.
- (ii) Defence evidence.

**STAGE-5:** Arguments.

**STAGE-6:** Judgement/ Sentence.

6. Similarly in a criminal case (except a summary trial) on a complaint in the magistrate's court broadly has the following stages.

**STAGE-1:**

- (i) Filing of complaint/ Registration.
- (ii) Enquiry (section 200 to 203 CrPC).
- (iii) Cognizance (section 190 CrPC).
- (iv) Appearance of the accused, remand and bail.
- (v) Preparation and Supply of documents (Section 207 CrPC).
- (vi) Summon trial: Substance of accusation to be stated (section 251 CrPC); Warrant trial: Complainant's evidence (section 244 CrPC), Framing of charges by the Magistrate; Session trial: Committal of a case to the Session Court.

**STAGE-2:** Complainant's/ Prosecution evidence: witnesses other than formal witnesses.

**STAGE-3:** Complainant's/ Prosecution evidence: formal witnesses.

**STAGE-4:**

(i) Statement u/s 313.

(ii) Defence evidence.

**STAGE-5:** Arguments.

**STAGE-6:** Judgement/ Sentence.

7. A criminal case in the session court starts from the stage of committal by the magistrate and **STAGE-1** could consist of committal/ registration and framing of charge. The rest of the stages may be similar to those in the magistrate's court.

8. The 2002 amendment in the CPC provides time limit for different stages in a civil case however the relevant point to note is that different stages require different period of time to be spent at each stage. Recording of evidence and hearing arguments requires more time than registration or passing an order regarding service or framing issues. It is equally true for the criminal cases. Apart from it, a case fixed for recording of evidence and where witnesses are also present, may not be adjourned. However similar strictness may not be observed at other stages.

9. In order to have more efficient management of criminal cases and tracking of criminal files, the registration of criminal cases should be from the stage of remand rather than from the stage of filing of the police report. The bail applications may be treated as applications in the case. It would save unnecessary waste of time in tracking the files, bail bonds, FIR and other papers. The criminal case number in a magistrate's court also changes with the change of court. This need not be done and can remain the same irrespective of the change of the court like in civil cases. This can be done by allotting a computer number or tracking a case by crime number.

10. Let's consider reports/database that will help in understanding the problems and their solution could be considered. The software should be such that the reports should be automatically generated. Time need not be wasted in creating these reports manually.

**Report-I (List):** The list of every court should be stage wise. A judge is master of his own court and can fix cases of different stages according to the

availability of time and his capability. Generally in civil cases, the heading final hearing includes STAGE-2 and 3 mentioned above. This heading may be further subdivided as indicated above. If possible the appropriate time to be taken up in a case may also be indicated. This list may be available on the Internet. This will also help us generating list of the criminal cases that are at the stage of preparation and supply of documents and dealing with them more effectively.

**Report-II** (Time spent report): This is a study report and should indicate time taken at different stages of a case. This will help in identifying the problems and problematic areas. They in turn could be more effectively dealt with.

11. Often a case is not taken up as more cases are listed than can be taken up. Some margin (about 25%) should be given while listing the cases, expecting that some will be adjourned. The list as indicated in Report-I will help the Judges in managing their list better.

12. We have the data: some of it is in the digital form and some in the record books. It can be easily analysed if it is updated and appropriate reports are generated. Let's consider the following reports. These reports may be weekly, monthly, or yearly as the circumstances demand.

**Report-III** {Formal witnesses (Criminal case) Report}: This report may contain names and addresses of the formal witnesses (doctors and IOs) with details regarding the criminal case in which their evidence is required and the court where these cases are pending. The addresses may be updated from the headquarters every year as it takes a lot of time to track them. This will also help in listing those cases together where the same formal witness has to give evidence in many cases.

**Report-IV** (Undertrial report): This report should include details of the pending cases where there are undertrials with length of their detention and the details of the courts where there cases are pending.

**Report-V** (Case wise pendency report): It should include following information regarding pending cases in a judgeship.

- The date of filing of a case.
- Type of the case (whether it is an original suit or an application or an appeal or a revision etc).
- Nature of the case (whether it relates to declaration, divorce, guardianship etc).

**Report-VI** (Court wise pendency report): This should include cases pending in every court in a judgeship with break up of type and nature of cases.

**Report-VII** (Clearance report): This report should contain the ratio between cases decided divided by cases filed in percentage. It should be for all cases as well as court wise with break up regarding different types of cases.

**Report-VIII** (Disposal report): The decided cases fall in following categories:

- (i) Without contest but not on merits i.e. dismissed for default; dismissed as not pressed or withdrawn.
- (ii) Without contest on merits i.e. exparte decisions, or on the basis of compromise.
- (iii) After contest.

This report should indicate the number of cases decided by the judges in the above mentioned three categories along with the number of days the Judge was on duty. Apart from any other thing, this report will help the Judges to understand their capability better and will also truly reflect their ability.

**Report-IX** (Stayed cases report): This report should include details of the cases that are not proceeding. This may be due to the reason that further proceeding of the case has been stayed or the records have been summoned by the higher courts or it could be for any other reason. This report should also include the reason and the details of the cases in the higher courts due to which the cases in the lower court are not proceeding. This report should be lower court wise as well as higher court wise.

**Report-X** (Caveat Report): This should contain the caveat filed in the judgeship.

13. The above mentioned reports will help us in finding problems and solving them by:-

- (i) Understanding the stage that delays disposal of a case and finding its solution
- (ii) Getting updated report every year regarding posting and addresses of the formal witnesses from the head quarters of that department.
- (iii) Helping in fixing dates in different cases for recording evidence of formal witnesses on the same day.
- (iv) Expediting criminal cases relating to undertrials.
- (v) Fixing priority in the old cases and expediting the same.
- (vi) Equally distributing the old cases among the judges available.
- (vii) Understanding the capability of the judges.

- (viii) Getting information regarding cases from the higher courts due to which any case in the lower court is not able to proceed. And if the case in the higher court has not been decided then request may be sent to the higher court to decide it expeditiously.
- (ix) Deciding the cases on priority due to which a case in the lower court is not able to proceed.
- (x) Understanding the needs of the judgeship better.

### **Court Management**

14. There is delay in issuing certified copies of the judgements. All judgements may be uploaded on a server and their uncertified copy or certified copy may be issued by printing the same. Till this is achieved, every judgement should also have two carbon copies so that the certified copy can be issued immediately or the certified copy may be issued by issuing a photostat copy. This practice is being followed in most of the judgeships. The following report may be generated in order to have a better control and to see whether certified copies have been issued or not.

**Report-XI** (Certified copy report): This report should contain the date of application, date of issuance of the certified copy, and the details of the cases in which certified copies have not been issued along with the length of pendency of applications for obtaining certified copies.

15. The following reports may be generated in order to have a better grip on the court management in a judgeship.

**Report-XII** (Money deposit report): This report should contain the details of money deposited in the court in pursuance of the orders of the higher courts; their investment in fixed deposit; and the reminder date for the renewal of the same.

**Report-XIII** (Budget report): This should contain budget allocation and its utilisation including break up under different heads.

16. The following database may be prepared.

- (i) Indexing of the library books.
- (ii) Service records of the employees including details regarding leave, provident fund, etc. The employees may also log on the server to find out personal details. They may also point out the mistakes if any; it will help in obtaining post retirement benefits quickly.
- (iii) List of the Advocates: every advocate has a unique number namely his

enrolment number. It should be recorded in every Vakalatnama. A list of the names of advocates practising in a judgeship be prepared by their enrolment number. This list may also be on the server. The list of cases may be sent to the advocates by emails. This will help the lawyers to arrange their work better. It will also help in identifying persons who are not entitled to practise and are illegally practising.

(iv) Judgements and status of a case (brief order sheet) may be available on the Internet for the public to view.

17. Communication and information to the Judges and officers may be made through emails. Meetings may be conducted by video conferencing. This will save funds and time. In the Allahabad High Court all notifications to the Judges and officers are sent through emails. They are also available on the home page of the court on the Internet. All meetings of the computer section between Allahabad and Lucknow bench are conducted by video conferencing.

### **SELF IMPROVEMENT**

18. Information technology, as the name suggests, offers easy mode of acquiring knowledge. The judges by profession seek knowledge and it can be utilised for seeking knowledge and improving oneself. Some examples are as follows:

- (i) The judgements of the higher courts are available on the Internet. They are located on the website of that court. They can be accessed and seen.
- (ii) The judgements of the Allahabad High court as well as of some other High Courts are available on the Internet but Internet facility is not so easily available everywhere. Most of the High Courts publish Indian law Reports (ILR), make its head notes, and have copyright<sup>2</sup> over the same. In case they are converted into digital format then ILR online services may be started. Perhaps supply of Judgements on CD may be a better idea.

### **Internet**

19. Many websites send free emails/ newsletters. One has to register oneself on their website. This registration is without any price. They send their newsletters with a summary of the news/information. In case it is useful then its details may be

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<sup>2</sup>The reproduction or publication of judgement or order is not infringement of copyright {Section 52(1)(e) and 52(1) q (iv) of the Copyright Act}. However, in certain circumstances, the owner of the journal or the writer of a head note may have copyright over the same.

seen on the Internet by clicking on the web address. This facility may profitably be utilised. The details of some of the good websites are as follows:

<http://www.gigalaw.com/index.html> This website is about legal information regarding Internet, cyberlaw.

<http://www.nytimes.com/> This is the home page of New York Times. Apart from other news, the emails include information regarding law and technology news (generally of the US).

<http://www.qlinks.net/> This website sends newsletters regarding legal and regulatory aspects of market and technology. It also includes information regarding Intellectual property Rights (IPR). This offers good information regarding cases in Europe.

<http://scitechdaily.com/> This website as the name suggests sends email regarding information on science and technology.

<http://www.alldaily.com/> This website does not send any email or newsletter but contains excellent information regarding book reviews and articles on the web. They relate to law, philosophy, and literature that offer new ideas, breakthrough, and trends.

## RSS

20. There is another way of getting information: RSS. There is some debate as to what RSS stands for, but the majority agree that it stands for 'Really Simple Syndication'. Put plainly, it allows you to identify the content you like and have delivered directly to you. Not all websites currently provide RSS, but it is growing rapidly in popularity and most of the important website offer it. It is an aggregator (newsreader) that scans websites and looks for key words or subjects, then downloads the content, so you don't have to waste time surfing. There are many such free programmes {Bloglines (bloglines.com), NewsGator (newsgator.com) or You (yousoftware.com)} , but one good way is to configure these with the email programme that your use. I use Thunderbird (Mozilla) programme for emails; it is open source; works in windows as well as Linux, and has this programme already installed in it. Just set up 'News & Blogs'. The other way is to go to My Yahoo and set it up there however you should have a Yahoo email id which, in any case, is free.

21. One cannot get information by this way from every website; it is only those websites that send RSS feeds. This is indicated by an orange button that says RSS or XML (the computer language RSS uses). It looks like this:






22. If your favourite website offers RSS feeds then you merely have to subscribe to it—the RSS programme will do the rest: like an e-dog will fetch new headlines or the entire text as soon as they're available. In case you set it up to fetch headlines only then by clicking on the headline it will take you straight to the full story via your Web browser. There is one another advantage in using RSS: it allows you to play news editor and zero in on the information you really need. You can subscribe to just that part of the website that interests you.<sup>3</sup>

### TV Programmes

24. The following half an hour programmes on BBC and CNBC offer good insight into Internet, e-commerce and new developments. These programmes may be seen.

- (i) 'Click of line' on BBC at the following time: Monday – 10pm; Wednesday – 7pm; Friday – 1am; Saturday – 12pm
- (ii) 'e' on CNBC at the following time: Monday to Thursday - 7.30pm
- (iii) 'generation e' on CNBC at the following time: Friday 7:30pm; Saturday 7:30am, 7pm, 9 pm; Sunday 8:30am, 7:30pm

### FUNDS

25. Information Technology requires infrastructure and we have limited funds. We have to make best use of our limited resources. This could be done by using open source software (OSS) rather than any proprietary or close source software. No royalty is required to be paid for OSS; however, money could be charged for services. OSS is as good as any proprietary/close source software. Some of the successful and commonly used OSS are as follows:

- (i) Linux: it is an operating system (OS) like windows. It is as easy to operate as windows.
- (ii) OpenOffice.org suite: it is an office suite similar to Microsoft office suite. It is normally used for word processing, data base programmes, and making presentations.
- (iii) Mozilla: it is an Internet browser and manages emails. It is similar to

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<sup>3</sup>Since delivering this talk, Allahabad High court website ([www.allahabadhighcourt.in](http://www.allahabadhighcourt.in)) became the first court in India to give RSS feed about its approved for reporting judgements

Internet explorer and outlook Express put together. It has come out with,

- (a) Mozilla Firefox - an Internet browser, similar to Internet explorer;
- (b) Mozilla Thunderbird - an email manager, similar to Outlook express
- (c) Mozilla Sunbird – it is an e-manager and reminds birthdays, marriage anniversaries and other important dates. It is similar to Microsoft outlook.

OpenOffice.org, Mozilla, Mozilla Firefox, and Mozilla Thunderbird work in Linux as well as in windows.

### **CONCLUSION: CHANGE IN ATTITUDE**

26. Michael Crichton (of '*Jurassic Park*' fame) in the book *Electronic life* says that Computers are like 'English butlers'. They have to be told what to do and they do it in that way and no other way. Computers love routine and are never bored. But to achieve any success the minds of the judges, lawyers, and court employees have to be streamlined into a method. One has to leave individualism<sup>4</sup>. The reports cannot be generated unless data is fed into computers; they will not have any meaning unless they are utilised and goals are fixed. And above all, if there is no will to change, no orientation to the work culture, then nothing can work.

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<sup>4</sup> Shah Committee Report (1972) had suggested each puisne judge may be required by the Chief Justice, as in America, to file a strictly confidential detailed weekly report of 'the number of hours he spent on the bench each court day, the number of cases and motions he heard and disposed of, with reasons'. Sri Upendra Baxi in his book '*The Crisis of the Indian Legal System*' (page 72) has this to say about it. 'Organisationally, this is an ideal suggestion, although, given the individualism of Indian Judges, one wonders whether such a suggestion can really be put into practice.'