

Significance of Technology in Family Courts: An Analysis

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Abstract

The emergence of computers and technological advancements in the realm of information have marked a turning point in the history of human civilization. It has ushered in a sea of change in all areas of human endeavours. It has improved efficiency, production, and output quality in all aspects of life. Excellent technological compatibility has resulted in more efficient and responsive legal, governmental and other public systems. The implementation of automation in subordinate courts can help to alleviate some of the major challenges that the judiciary is experiencing owing to backlogs and delays. Family courts, as a branch of the Indian judiciary, face the same issues as other subordinate courts. And, especially in this hazardous COVID-19 pandemic, when the physical functioning of family courts and other subordinate courts has been severely hampered, technology has played a critical role in ensuring the continued and uninterrupted operation of family courts. Therefore, in this context, this research paper attempts to analyse the crucial role of technology in family courts.

Keywords: Family Courts, Technology, Video-conferencing, e-justice.

INTRODUCTION

It is now widely recognised all over the world that litigation involving family matters, such as divorce, maintenance and alimony, child custody, education, and financial support, or the trial of juvenile offenders should be viewed as a therapeutic problem in need of resolution, rather than as a failure or success of legal actions. It should be considered as a legal proceeding in which parties and their counsel are attempting to resolve family issues in which humane concerns take precedence over all other factors. Because, the adjudication of family issues differs significantly from the adjudication of civil and criminal cases, it necessitates unique processes meant to assist individuals in difficulty, reconcile and settle their disagreements, and, when required, offer support. In other words, it is an inquisition in which the parties, social workers, attorneys, welfare officials, and psychiatrists are involved in finding a solution to familial issues, rather than a lawsuit in which parties and their counsel are engaged in winning or defeating a legal case [1].

The COVID-19 pandemic has created an unusual scenario in which social distancing has become the norm. As a result, courts throughout the country are being pushed to investigate technology-driven alternatives such as electronic filing of petitions in court and video conference sessions before judges to reduce physical interaction as much as feasible. And as earlier stated, operation of family courts includes inclusion of social workers, welfare officials, psychiatrists, and sometimes lawyers or attorneys. And gathering of all these professionals at one place is quite illogical in a pandemic. And technologies like, video conferencing, e-filing, digitally typed and signed judgement not only helps the professional to perform their tasks from their respective place, but also brings up efficiency and speed in working procedures of the family courts. There are many other significances of technology in family courts, which are described further in the paper.

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TELE JUSTICE

Simply defined, tele-justice is the application of information technology to judicial administration. It may be as basic as a phone conversation, or it can be as complex as utilising satellite technology to communicate between individuals in two countries, or it can be as complex as using video conferencing equipment or intranet technology. Many judicial officers utilise video conferencing on a regular basis, and it is now connected to prisons. In several courts, intranet technology is also being employed.

There are several forms of tele-justice, which have significance in contemporary family justice system; they are listed below:

Store and forward

It's utilised to move digital photos from one location to another. A digital image is captured using a shared digital camera and then sent to a computer, which forwards it to another place. This is often reserved for non-emergency situations. Digitally imaging valuable but disputed documents that could not be transferred by any other method of communication without danger may be kept and forwarded for study and report.

This 'Store and Forward' technology holds much relevance in contemporary family court system. Many times, when the validity of marriage is challenged in family court, then evidence is required for proving the marriage valid. A family court may receive any report, statement, documents, information as evidence, to assist and deal effectively with the dispute [2]. In this situation, either of the parties may present digitally stored documents such as marriage certificate *etc.*, or may present digitally stored photos of their marriage ceremony to prove it valid. Hence, this technology saves both time and efforts of the Family Court and the litigating parties.

Two Way Interactive Television / Video Conferencing

In Family Courts, face-to-face discussion is necessary. A 'real-time' consultation is possible due to video conferencing equipment at both sites. Tele-justice has evolved as a safe method of carrying out legal proceedings in Family Courts across the world. The parties can participate in all legal proceedings without having to physically approach the courts by installing a video conferencing system at the courtroom as well as at the location of the concerned party.

Video Conferencing allows a Judge to interact virtually with witnesses, have conferences and meetings, and produce under-trial parties, among other things. The facility would be set up at the respective parties' locations. A similar facility would be accessible on the courthouse grounds or in the Judge's office. Without being physically present, the Judge would be able to communicate with the parties. This would save a significant amount of time and resources that would have been spent physically transporting the parties from their homes to the court. Police officers and other relevant authorities would be spared as well, allowing them to focus on other official duties.

As mentioned earlier, the Family Court works in collaboration with social workers, welfare officers, psychiatrists [3] and sometimes attorneys or lawyers (in case where a minor is to be presented before the magistrate). Assembly of all these professionals at one place is quite dangerous in the contemporary situation of Pandemic. Connecting to all these professions via the Two-Way Interactive Television or the Video Conferencing technology helps reducing the assembly rates as well as the efforts caused to the professionals for physical transportation.

In addition, the transfer of proceedings in some cases also leads to huge inconvenience for the contesting parties in the family court. Sometimes, the place where one of the parties wants to contest the proceeding, may be inconvenient for the other. In such cases parties put much effort for travelling to the distant court on every next date subsequently, which not only causes physical and financial

efforts, but also mental disturbances which may lead in worsening the condition of the case. Therefore, if procedures are relocated due to genuine problems faced by one of the parties, it is impossible to overlook the problem faced by the other. It may be difficult for one party to oppose the proceedings in a location that is convenient for the other. As a result, transfer is not always a viable option for both sides. Khanwilkar J. in the case of *Santhini v. Vijaya Venkatesh* [4] very exactly observed that, “When both parties are having equal difficulties and there is no place that is suitable for both sides, it may be reasonable to employ existing videoconferencing technology. We understand that videoconferencing is now available in every district across the country. In any event, if such a facility is available, it should be fully utilised, and all High Courts should issue administrative guidelines governing the use of videoconferencing for specific types of cases [5].” This judgement contributes in strengthening the need of technology like videoconferencing in family courts.

Converting ‘ADR’ into ‘ODR’

In every suit or proceeding, it is required for a family court, to make endeavours in the first instance, where it is possible to do so consistent with the nature and circumstances of the case, to assist and persuade the parties in arriving at a settlement in respect of the subject-matter of the suit or proceeding [6]. Alternate Dispute Resolution (ADR) is common practice carried out in Family Courts to settle the disputes between the concerned parties in a silent and simple way as far as possible. ADR includes conciliation and reconciliation between the parties to settle the matter, which also requires the presence of counselling professionals to suggest directions to the parties.

But in the present situation, where gathering of people is not very sensible, ODR i.e., Online Dispute Resolution has substituted the ADR mechanism very efficiently. The use of technology and procedures in Online Dispute Resolution (ODR) can strengthen traditional ADR processes such as arbitration, mediation, and negotiation which are equipped in Family Courts. ODR has helped several other countries, including Singapore, Australia, the United Kingdom, and the United States of America, by decreasing reliance, expanding access, and saving money.

Currently, most family court documents are kept in tangible form, such as files or registers. Physical papers have the disadvantage of being vulnerable to manipulation and deterioration. Witness testimonies, evidence declarations, and supporting papers are also extensive?.

The preservation of papers in an electronic format is preferable for increasing operational convenience. It also cuts down on the time it takes to send a document across institutions. Rather than depending on physical copies, judges can easily refer to related papers from electronic copies. Payment of court fees, filing fees and other associated activities can help the judiciary achieve operational ease at the departmental level if done online.

An ODR system provides considerably more transparency and privacy because processes are freely available and cannot be interfered with. Only a few family courts in India have adopted e-filing. Due to the fact that the majority of litigants do not have access to computers or the internet, e-filing of proceedings cannot be made mandatory for all litigants in the near future.

PROCEEDINGS TO BE HELD IN CAMERA [7]

Every suit or proceedings may be held in camera if the Family Court so desires and shall be so held if either party so desires [8]. Due to the fear of being caught on camera, video recording of court proceedings will play an essential role in controlling the conduct of everyone present in the courtroom, including lawyers, judges, litigant parties, witnesses and others. It would also go a long way toward reducing the danger of any type of accusation being made against a judge or an advocate for not being able to carry out their duties effectively. Another advantage is that the judges will not be accused of being prejudiced or biased towards any of the parties that appear before them. It would also be a valuable resource in determining the truth [9].

From the perspective of the litigant parties, a sense of assurance and security would be generated in their hearts, because if they happen to be absent at any stage of the suit due to personal reasons, they can always keep themselves updated and informed in order to be well prepared for making an appearance in the next stage of the suit and they can have a backup plan.

The parties involved would feel satisfied that a fair and accurate trial had taken place if the proceedings were video recorded, which would help boost public trust in the country's legal system. It would reduce the possibility of witnesses withdrawing statements that they would have admitted to at a certain point in the case, as well as demotivate them from doing so [10].

PUBLISHING TOOLS

The family court system's different documentation would be documented using publishing technologies. The judicial procedure necessitates a massive amount of documentation and paperwork. Duplication of papers and files occurs frequently. Publishing tools would allow for the creation of soft copies of documents, as well as printing, copying, and other tasks. This would be accomplished via printers, scanners, and copier machines, among other devices.

INTERCOMMUNICATION TOOLS

These tools include e-mail, chat and other applications. Internal communication within the court system might benefit from this. The court system's current communication is primarily paper-based. Communication with and inside the legal system, whether between courts or between other agencies, would be considerably faster and more efficient if intercommunication technologies were used.

INTERNET, WEBSITE AND E-MAIL TOOLS

For accessing the produced database of documents, various website and internet technologies such as web browsers *etc.*, would be necessary. The online access to information would also need the creation of a website/internet tool that would allow a litigant to access information such as case status, orders related to their case, cause lists and so on. The issue of summons, notifications, warrants, reports, statements and other documents would be made easier with the use of electronic mail.

VOICE RECOGNITION AND RECORDING TOOLS

This would be used for dictation, speech recording, and other similar activities. With the aid of these instruments, judicial and administrative officers' decisions and orders will be translated into digital form. The court procedure necessitated the creation of numerous papers based on dictation from judges, among other things. The speech recognition technology would take care of the manual task of taking the dictation.

ANALYSIS

Along with all other sectors of our country, the judiciary and mainly the family courts of the country need to get digitalized *i.e.*, needs to employ modern technology in its working system to ensure the smooth and efficient working of the judicial system and the access to justice to every citizen of the country.

The present situation of the family courts is quite frustrating for the concerned contesting parties. Pendency of numerous cases cause inconvenience for the parties. It not only delays the justice delivery to the parties, but also in some cases leads to the worsening of the crucial matrimonial cases.

As mentioned earlier, the place for contesting litigation which is convenient for one of the parties, may not be convenient for the other party and which causes mental, physical and financial losses and disturbances. In such cases, technology plays a pivotal role which easily speed up the process of litigation through its uses in the family courts thus easily granting justice in a efficient manner to all. In the country like India, where matrimonial affairs are quite crucial, use of technology to litigate

proves quite significant. Family courts in all over the country needs to understand this significance of modern technology and employ it in the interest of justice.

CONCLUSION

Technology has brought a revolutionary change in the family courts' system. Ease of access to law, saving of unnecessary efforts, saving of time, saving of money, and quick justice are some of the most significant impacts of technology in family courts. Adoption of technology by family courts has resulted into an enormous change in the traditional justice delivery system of it. Many family courts and other sub-ordinate courts in rural areas are still far away from technology. And this may be the ultimate reason for the cases to be still pending. Adoption of technology by all family and subordinate courts country wide can result into the conservation of the fundamental right of speedy justice of every citizen of the country.

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