INDIA’S NEXT GENERATION PLATFORM FOR THE JUSTICE SYSTEM

A WHITE PAPER SERIES BY DAKSH
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OVERVIEW

• The vision for a next generation public platform for the justice system and the principles which should underpin it.
• Legal framework necessary to make the vision a reality
• ICT implementation strategies
VISION

• The digitisation of the Indian judiciary has been successful under Phase II of the E-Courts Mission Mode Project

• However, Phase II must be seen as an essential step towards an ideal end state, rather than as a goal in itself

• This may be achieved through a "Government as a Platform" approach
• Citizens are forced to adapt to the processes and structures of public institutions, including the judiciary

• They are dependent on lawyers and other intermediaries

• Current laws that govern judicial processes are designed for paper-based processes, not their digital equivalents

• Government as a Platform is an approach using ICT to make government citizen-centric
WHAT IS GOVERNMENT AS A PLATFORM?

- Having an authoritative registry of data is the key to Government as a Platform.

- Tom Loosemore, founder of the UK's Government Digital Service, describes Government as a Platform as analogous to the layers of a city.
WHAT IS GOVERNMENT AS A PLATFORM?

- **Platforms** are the infrastructure
- **Services** are built upon these
- **Uniform data registry** is the bedrock
- **Independent oversight** is necessary to ensure responsible use of data
MODULARITY

The justice system consists of multiple verticals – the Judiciary, the Police, prison authorities, etc.

It must also cater to other user groups – e.g. litigants, lawyers

Each group has its own needs, duties, and tasks.

Modularity enables the customization of functionalities for each user group, built on Platform Infrastructure
OPEN STANDARDS

When there is consensus on guidelines for tasks and specifications for objects, they are standards.

Open standards are
1. Openly accessible
2. Free to use
3. Set by a process that is
   1. transparent,
   2. open to all stakeholders,
      and
   3. based on consensus
OPEN STANDARDS

Open Standards enable citizens to develop their own ways of engaging with the justice system. They enable **modularity**, by ensuring compatibility and preventing silos. They facilitate **innovation** and **adaptability**.
**OPEN DATA**

Open Data fosters transparency and accountability

It broadens the scope for citizens’ engagement with the justice system

Reduction in asymmetry of information increases efficiency, apart from other benefits
WHO ARE THE STAKEHOLDERS?

Citizens
Judges and court staff
Lawyers
Police
Forensic Labs
Prisons
Prosecutors and government lawyers
Investigation agencies
Government departments
ADR Fora - conventional and online
WHAT SHOULD THE PUBLIC PLATFORM ACHIEVE?

- Efficiency
- Privacy
- Fairness
- Security
- Accessibility
- Transparency
- Coordination between agencies
- Minimal asymmetry of information
WHY DO WE NEED A LEGAL FRAMEWORK

• The current laws that govern judicial processes and their digital equivalents are outdated, being designed for paper-based processes
• There is a legislative vacuum regarding E-Courts project and relevant authorities
• Regulatory framework difficult for citizens to navigate
LEGISLATIVE MANDATE

Laws and rules are necessary to achieve the following objectives:
• Mandating creation of platform and migration to it
• Granting justiciability to procedures and features of the platform
• Linking platform regulations to existing procedural law
• Providing legal recourse for violations
• Regulating the process of transition to the platform
• Giving legal backing to the standards adopted
• Implementing measurable performance standards for the platform, with rule-based reflection of non-performance
PROTECTION AND RELEASE OF JUDICIAL DATA

• Rights-based protection framework
• Adapted to judiciary and judicial data
• Adapted to digital storage and access
• Open data by default
• Level of protection depends on many factors
  • Sensitivity
  • Grounds of usage
  • Granularity
OPEN DATA
AGGREGATE STATISTICS
All citizens

BULK ACCESS
All citizens

CASE-BY-CASE ACCESS
All citizens

IDENTIFICATION DATA

SENSITIVE CASE DATA

NON-JUDICIAL FIDUCIARIES
Prisons
Investigation Agencies

JUDICIARY (Access limited by jurisdiction)
- Judges
- Registry

- Prisons
- Bailiffs
- Litigants
- Non-litigants
- Police
- Investigation agencies

- Judges
- Registry
- Bodies in charge of judicial appointments
IMPLEMENTATION CONSIDERATIONS

- Process re-engineering
- Phased rollout of functionalities, incremental changes
- Interdependencies of modules
- Private sector expertise and off-the-shelf solutions
- Pilot projects
- Stakeholder involvement and change management
DISCUSSION

1. How would a legal framework for the platform be enacted?
2. Are the suggested provisions for privacy and transparency adequate?
3. How should process re-engineering be conducted?
4. What should be the change management strategy for the platform?
   a. For judges and non-judicial court staff
   b. For other stakeholders
5. Who should own this project?
APPENDIX
Mapping Principles to Solutions

- Minimal asymmetry of information
  - Government to citizen technology (G2C)

- Ease of use
  - Interactive and intuitive design

- Accessibility
  - Multiple options for access - multilingual, flexible

- Intelligent tools
  - Using AI and ML with case law history
CASE LIFECYCLE IN A PUBLIC PLATFORM FOR THE JUSTICE SYSTEM

Key:
- Litigant/Lawyer
- Court/Registry
- Automated
- Police/Investigation Agencies
- Criminal case
- Civil case

DISPUTE
- Creates profile
- Enters dispute details
- Assesses dispute, suggests course of action

To Notice
- Scrutiny
  - Immediate, remote
  - Automated verification of documents

E-Filing via platform
- E-Plaint, E-Vakalatnama
  - Remotely or at police station
  - Platform determines jurisdiction of court, police station

To Remand/Bail
- Summons/Arrest
  - Tracks arrest or service of summons
  - Accused can contact, give platform access to lawyer, family
Discovery and Inspection
- Online submission of interrogatories, requests of other party
- Online receipt of documents

Framing of issues
- Upload interim order, if any
- Can access interim order

Examination
- Witnesses can testify via video link

Appeal
- Appeal has same case number
- Parties given options

Execution
- Civil: Can file execution petition
- Criminal: Can alert prison
- Family of accused will be informed
- Can track parole, release dates, schedule visits

Arguments
- Can opt to upload written arguments
- Automated transcription
- Audio, video recording and streaming
- Optional video conferencing

Judgment
- Can use templates
- Access to case law database

From Examination
LEGAL FRAMEWORK FOR PROTECTION AND RELEASE OF JUDICIAL DATA

Rights of principals:
• Fair treatment
• Right to be notified
• Access
• Objection to usage
• Security
• Erasure
• Rights regarding automated processing
• Accuracy and rectification
• Effective remedy for violation of other rights

Obligations of fiduciaries:
• Fair treatment of the principal
• Notification of the principal
• Purpose limitation
• Data minimisation
• Storage limitation
• Security
• Accountability

Grounds for processing:
• Necessary for legal proceedings
• Consent
• Criminal investigation
• Compliance with orders of courts/tribunals
• Platform improvement
• Functions of the state
• Contractual obligations
Computerisation of listing, recording judgments, Supreme Court and High Courts.

Stage 1:
Digitisation of cause lists, notices, central enquiry, filing, 700 District Courts.

E-Courts Phase I:
Upgraded infrastructure, but suffered delays, cost overrun.

Stage 2:
Digitisation in 900 district courts - achievements unclear.

E-Courts Phase II:
CIS, mobile services, online services, performance assessment.

2014 - 2018

E-Courts Phase III:
Integration with other agencies, digital library management system.

1990
Attempted central scheme to digitise subordinate courts.

1997

2001 - 2002

2004 - 2004

2007 - 2014

PLANNING STAGE
TYPICAL FEATURES OF DIGITISED JUDICIARIES

Case management system (CMS)
E-courtroom
Digital archive
Online payment
Document management
Judge support system (JSS)
Online dispute resolution (ODR)
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<th>Country</th>
<th>CMS</th>
<th>E-Court room</th>
<th>Digital Archive</th>
<th>Document Management</th>
<th>Online Payment</th>
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CURRENT ICT LANDSCAPE OF THE JUDICIARY

Applications

- Case information system:
  - Core modules
  - Data exchange modules
  - Statistical report generation
  - Modules for data transfer to information layer

Integration with other applications:
- Core modules
- Data exchange modules
- Statistical report generation
- Modules for data transfer to information layer

Channels of Engagement

- Courts
- Web portal
- Mobile portal
- Court intranet portal
- Judicial service centres
- JustIS app

Infrastructure Layer

- Network connectivity
- Computers for judicial officers
- Cloud architecture
- Video conferencing

Information Layer/Data Warehouse

- NJDG for high courts and subordinate courts
- Business intelligence tools
THANK YOU