**Transforming the justice system**

Dr Zia Ullah Ranjah

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Delays in clearing court cases are a serious challenge in Pakistan. There were 1.5 million pending cases and 2.6 million new cases were filed in our courts in the year 2010. In 2021, it increased to 2.2 million pending cases and 38.5 million new cases.

Considering that there are only about 5000 judges in Pakistan; can this enormous case load be cleared in a timely manner? What are the reasons for the delay? How can legal tech help reduce the delay by making the justice system more efficient?

None other than an honourable judge of the Supreme Court of Pakistan, Justice Mansoor Ali Shah, provides an answer. Justice Shah points out that the “traditional closed architecture of our courts” cannot address the issue of delay. He adds that the time has come to bring technology to run our ‘court house’ – a generic term used for courts in Pakistan. “Delay, delay, delay is the biggest challenge,” he says.

Citing the reasons for the delay, Justice Shah underlines the poor case management system; non-use of technology to monitor the progress of cases; unregulated adjournments and strikes; lack of training of judges and communication between the three tiers of the judiciary. To regulate delays, he refers to an automation system that was employed in Punjab. For example, an SMS service was introduced to inform lawyers as to the fixation of cases; a mobile app was launched to enable lawyers and litigants to monitor the progress and status of their cases; a database was created to categorize cases.

However, says he, “nothing really changed because everything behind the automation system was manual”. The so-called automation system lacked intelligence. It failed to indicate which cases were to be fixed for hearing and the court a case was to be fixed before. Furthermore, there were no flags to indicate the age of cases and the stage of proceedings. That is why the cases of women, children, disabled persons, prisoners, students or cases relating to the economy and to law and order remain pending for years with serious implications for people’s rights and the national economy. The system completely lacks a sense of urgency and there is no intelligent way to find out which judgments are conflicting, multiplying the litigation. Thus, lacking a technology-based system to monitor the processing of cases, there should be no surprise, if the performance of our justice system is poor.

Justice Shah stresses that we need to move from “automation to transformation”. We need “refiguring and restructuring” of the justice sector. Once a bail or injunction is granted, the proceedings are considered to be over. This must change. “The trial has to complete”, he emphasized. The shelf life of a case should be reduced to one year or even less. In this context, Justice Shah proposes:

First, the concept of ‘access to justice’ needs to be redefined. Access to justice should mean not only approaching the courts but also the conclusion of a case from the trial courts to the SC. It will help promote rule of law and set in an effective system of accountability in society.

Second, a mandatory mechanism of mediation and alternative dispute resolution must be embedded in our justice system. Alternative Dispute Resolution centres should be established in each district, reducing the workload on courts and delays in justice. The domestic arbitration law should be revised to minimize courts’ interference in the arbitration proceedings. This would facilitate the transition from the adversary legal system to mediation and arbitration.

Third, an e-filing portal should be created for the filing of documents – pleadings, applications for adjournments and evidence. For an adjournment, a certificate must be uploaded directly by a hospital. The entire proceedings should move through an electronic system, with an inbuilt system of costs for frivolous adjournments and proceedings. The service of summons and notices can be affected through a GPS-enabled e-portal.

Fourth, the system of ‘synchronized hearing’ of cases requires a paradigm shift. The physical presence of parties and their lawyers may be dispensed with. Lawyers can file written submissions or send skeleton arguments through audio or video link. This will allow judges to decide cases quickly. One should deposit security to confirm an appearance on a fixed date of hearing, if a personal hearing is necessary for doing complete justice.

Five, data rooms should be established to monitor the progress of cases. Without live monitoring data rooms, superior courts are unable to gauge what is happening with cases in a district or a province. There is no intelligent system to find out on a day-to-day basis how many cases are fixed or not fixed and decided or not decided. Why are cases adjourned or why are they not moving towards disposal? Thus, there is an urgent need to deploy a smart case management system in our courts.

Six, smart online research centres can be established to facilitate lawyers and judges in legal analysis and research. It will help improve the quality of legal assistance and judgments and would be hugely beneficial for lawyers and judges working in remote districts and subdistricts. The legal fraternity should also use apps like Grammarly to improve writing skills.

Justice Mansoor Ali Shah, in his speech at Islamabad, reminded us that fundamental reforms are needed in the justice system of Pakistan, especially underscoring the need for using legal tech to run a ‘court house’. If the past few years have taught us anything, it is that we must introduce tech to curtail delays for the welfare of the people.

The Global Legal Tech Report 2021-2022 informs that apps like document automation, legal operations, task management, collaboration, compliance, online legal service, client portal, and knowledge management are increasingly used in the legal profession across the globe. Thus, the legal fraternity should embrace legal tech to help transform our justice system. Without lawyers’ appreciation and willingness to move forward, no transformation can take place in the system. Bar councils, thus, must support the judiciary to reform our justice system. Government and tech experts should provide financial and technical assistance to the judiciary to reduce delays. This will help protect fundamental rights, changing the life of the people of Pakistan.

The writer is an advocate of the Supreme Court.