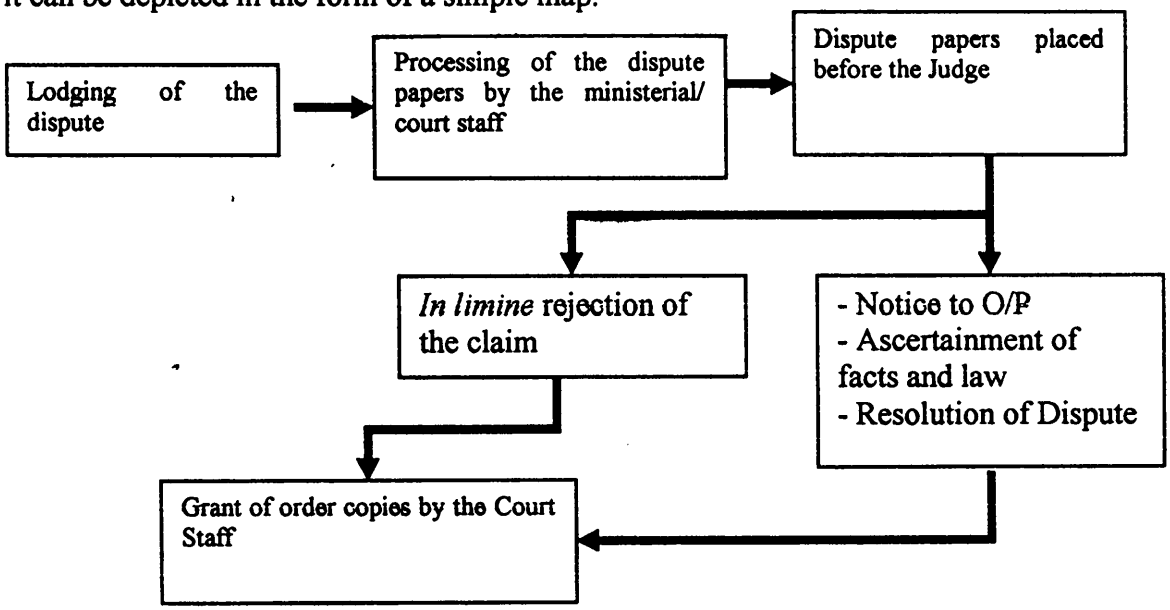
CHAPTER 9

E- GOVERNANCE

9.1 Judicial Process

The striking feature of the judicial process is its division into judicial and non-judicial acts. Acts which are ministerial in nature are performed by the ministerial and administrative staff. Whereas the judicial work is performed by the Presiding Judge. Further more, the 'judicial work' also comprises of two distinct components, namely, (a) decision making process; and, (b) the decision.

To a layman, the judicial process presents a complex or cumbersome mechanism but still it can be depicted in the form of a simple map:



Judicial System Map
Figure – 9.1

The word 'process' denotes a series of actions or operations performed to achieve a certain objective. Judicial process also comprises of various actions and operations to

impart justice or solution to its seeker. So far as non-judicial acts are concerned, those are chronologically specified in Codes of Civil and Criminal Procedure. These acts or actions are well defined and does not permit any digression. In relation to every dispute reaching the system, the process so prescribed has to be repeated.

So far as judicial work is concerned, Justice Hidyatullah, former Chief Justice of India, in his B.N.Rao Memorial Lecture on "*Judicial Method*" said, "The Judge does not speak as an oracle. He is not inspired but reasons to a conclusion. He follows a mental process and decides a case in a more or less methodical way which becomes a habit with him."[1]

In substance, the entire judicial process is structured or designed in a scientific manner. Its sole objective is to facilitate the litigant to conveniently reach the judge and after having his say before him, secure a solution to his grievance in a written and executable form. The end product of the process is the judgment delivered by the judge. **The judicial process, therefore, is nothing but a dispute resolution or justice delivery system comprised of well defined actions and operations.** Therefore, it is reasonable to infer that it can conveniently adapt Information Technology in order to accelerate its process to ensure accessible and affordable justice.

9.2 Need for IT in Judiciary

As it has already been noticed in the previous chapters, the Indian judiciary is facing a challenging task of providing speedy and inexpensive justice to the litigants. Despite all efforts and reforms (as suggested by the expert bodies and the Law Commission of India), the arrears have been on the rise as the years pass by. To resolve this dilemma, the

[1] Judicial Methods page 21 published by National Publishing House, Delhi, 1970

researcher, as the first step, proposes the introduction and use of information technology (IT) in the system.

The need for use of information technology in the judiciary has been expressed many a time and at various instances.[2]At the outset, we need to be clear about the concept of 'information technology' itself. The terminology is indicative of the need of 'better control through information' in any system where it is applied. By use of computers, one is able to have the data acquired (by input programs), process and finally create meaningful reports. The whole purpose of this process is to be able to gain 'information' which otherwise is difficult to acquire. Once the administrator of the system is able to secure processed information, he is in a better position to be able to 'control' and 'manage' the working of the system and in case of its malfunctioning, to be able to suggest solutions and implement them. Thus, a system's ability to maintain control – at all levels from interpersonal to international relations – will be directly proportional to the development of its information technologies.[3] In the same way, if we trace back our steps as to the reasons for the failure of the justice system, one would realize that at the heart of the problem lies the lack of information and consequent loss of 'control' leading to non-management. Information technology will merely assist us to acquire the much

[2] *See* U.Baxi (1981: 69) (noting the need for modernizing court management including its supervisory role in relation to the subordinate judiciary; *Report of the Indian Institute of Management*, prs.5.17.2, 5.18.1, 5.18.2, 5.19.1, 7.2, 7.3, 7.8.1 to 7.8.5, 8.8 (The Record Room in the court should be computerised, all data must be backed up and kept elsewhere in data storage media for each court. Scanning of documents, micro filming etc., should be resorted to in order to reduce dependence on manual work, to prevent tampering with documents and ensuring documents, safety. Apart from supporting effective operation of primary activities, **computers** may assist judges in the court room and for generation of orders through: a) Word processing with provision of standard templates; b) Online availability of case files including pleadings, affidavits, orders and documents and full case histories; c) Case Tracking and Monitoring; d) Access to databases of relevant law and relevant legal precedents, and; e) Vital feedback information for corrective action at all levels of the judiciary.)

[3] James R. Beniger, *The Control Revolution: Technological and Economic Organs of the Information Society*, Harvard, 1997, p. 9

required information relating to the working of the courts, the movement of the case through the various stages and an assessment of reasons of delay.[4]

To be able to implement IT in Indian judiciary, we need to understand the Indian judiciary from the angle of an institution. Reform of the legal and judicial system depends critically on a sound understanding of its existing structure and level of efficiency. Description of key characteristics of the system and measurement of the speed and cost of judicial decisions are crucial.[5] The Indian judicial system, like any other institution, is an assimilation of numerous sub-systems which forms part of its functioning and task of delivering justice to the common man. If we consider the judiciary as one single system, then within this single larger system, one can trace the involvement of a whirlpool of sub-systems (comprising of human players) in mutual interaction with each other. The players are themselves numerous. Each player has its own arena of presence and its behavioural attitude towards each sub-system differs. Understanding these sub-systems forms a vital part of our study of use of IT in the judiciary.

9.3 The System Concept: Technological Analysis of Judicial System

Norbert Wiener, a mathematician, observed that information and communications, provide connecting links for unifying fragments or elements.[6] His systems concept of

[4] The researcher has already demonstrated in present work that once, by use of Information Technology, the number of cases pending before the Bangalore City Civil Court was found, the data was processed and bifurcated in different batches of pre-1980 cases, 1981-85 cases and so on. Therefore, the first step of gaining the 'information' was done by the use of IT. Thereafter, appropriate administrative efforts with an attempt to attitudinal change was made to finally make the whole task a success.
[5] Report of the World Bank, 2002, Chapter 6, The Judicial System, p. 120
[6] Norbert Wiener, Cybernetics (New York: John Wiley & Sons, 1948)

information theory, which shows the parallel between the functioning of human beings and electronic systems, laid the foundation for today's computer systems. Herbert A. Simon, a political scientist, related the systems concept to the study of organizations by viewing an ongoing system as a processor of information for making decisions.[7]

Systems analysis and design for information systems were founded in general systems theory, which emphasizes a close look at all parts of a system. Too often analysts focus on only one component and overlook other equally important components. General systems theory is concerned with "developing a systematic, theoretical framework upon which to make decisions"[8]. It discourages thinking in a vacuum and encourages consideration of all the activities of the organization and its external environment[9]. Pioneering work in general systems theory emphasized that organizations be viewed as total systems. The idea of systems has become most practical and necessary in conceptualizing the interrelationships and integration of operations, especially when using computers. Thus, a system is a way of thinking about organizations and their problems. It also involves a set of techniques that helps in solving problems.

9.4 Definition

The term system is derived from the Greek word systema, which means an organized relationship among functioning units or components. A system exists because it is

[7] Herbert A. Simon, The Shape of Automation for Men and Management (New York: Harper & Row, 1965).
[8] Richard A. Johnson; Fremont E. Kast; and James E. Rozensweig, The Theory and Management of Systems (New York: McGraw-Hill, 1973), p.6

designed to achieve one or more objectives. We come into daily contact with the transportation system, the telephone system, the accounting system, the production system, and, for over two decades, the computer system. Similarly, we talk of the business system and of the organization as a system consisting of interrelated departments (subsystems) such as production, sales, personnel, and an information system. None of these subsystems is of much use as a single, independent unit. When they are properly coordinated, however, the firm can function effectively and profitably. The study of systems concepts, then, has three basic implications:

1. A system must be designed to achieve a predetermined objective.
2. Interrelationships and interdependence must exist among the components
3. The objectives of the organization as a whole have a higher priority than the objectives of its subsystems. For example, computerizing personnel applications must conform to the organization's policy on privacy, confidentiality, and security, as well as making selected data (e.g. payroll available to the accounting division on request).

9.5 Designing Dispute Resolution Systems

Coming to the judicial system, its settled object is to provide speedy and affordable justice. The question is why Indian Judicial System is not able to resolve the disputes speedily ?

For solving the above problem, we must possess certain primary information. To begin with (i) whether there are sufficient number of courts to cope up with the cases filed in

[9] See Vincent P. Luchsinger, and Thomas V. Dock, The Systems Approach: An Introduction, 2d ed. (Dubuque, lowa: Kendall/Hunt Publishing, 1982), p. 12.

the State/District/Taluka within the targetted period of one year.?

Answer to this question depends on the following information:

(i) Geographical/Administrative Unit information

(a) Name of the State (Karnataka)

(b) Name of the District (Bangalore Rural)

(c) Name of the Taluka (Devanahalli)

(ii) Infrastructural Information

(a) No. of courts with their grades and jurisdiction (pecuniary and territorial) in each of the talukas.

(b) No. of Judges to preside over the established court

(.c) No. of supporting ministerial staff required and availability.

(iii) Case (Disputes) information:

(a) Total number of cases filed everyday in each court, naturewise and typewise

(b) Total number of cases disposed every day (with nature of disposals) in each court, naturewise and typewise)

(c) No. of cases (naturewise and typewise) pending on a cut-off date in each court.

(d) Parties to the Disputes (Litigants)

(e) Advocates representing the parties.

With the above information, we can find out .-

(i) the rate of flow of cases (i.e. case reduction rate) courtwise, as well as geographical unit wise (i.e. Taluka, District, State, country)

(ii) If the reduction rate[10] is found to be low, then a policy decision can be taken to augment the rate of flow of cases by:

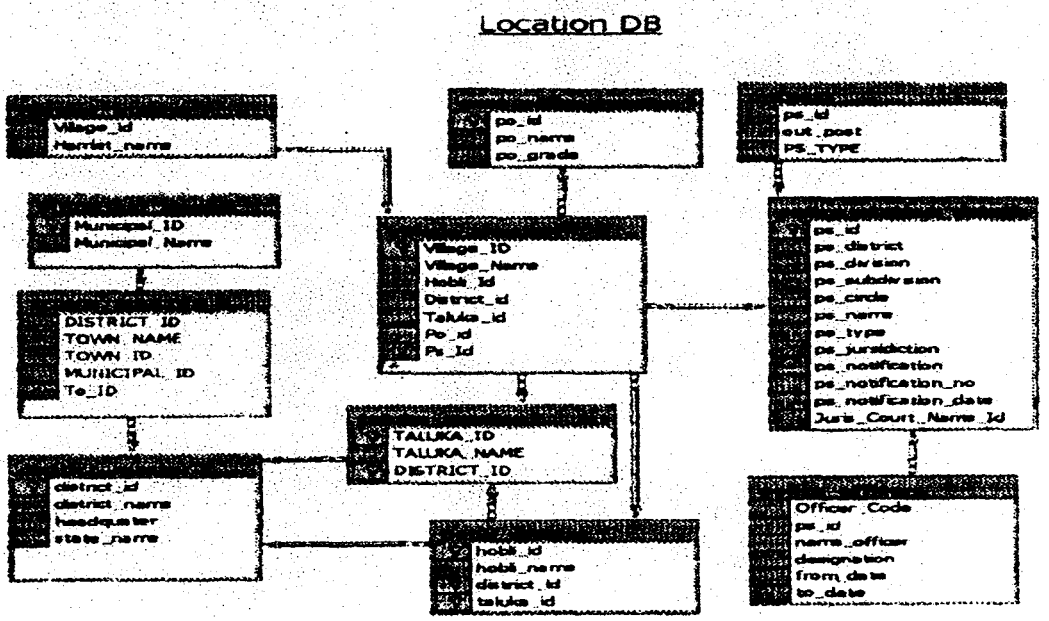
(a) tracking the stage progression of cases

(b) enforcing performance by the Judges, and

(c) As a last alternative to create additional courts at the locations where reduction rates have to be enhanced.

DATABASE[11] – I (LOCATION)

In order to have the above informations in a structured form, location data base has been designed to have data of :



Location Database

Database - 1

[10] Reduction rate is the percentage of cases disposed of (D) as compared to number of cases filed (F) in a court during a given length of time. (i.e. monthly, quarterly, half yearly and yearly). Therefore, reduction rate = D/F * 100.

[11] A Data base is an organised collection of related information used for a specific purpose.

(i) all the states in the country;

(ii) all the districts in a State;

(iii) all the talukas in a district;

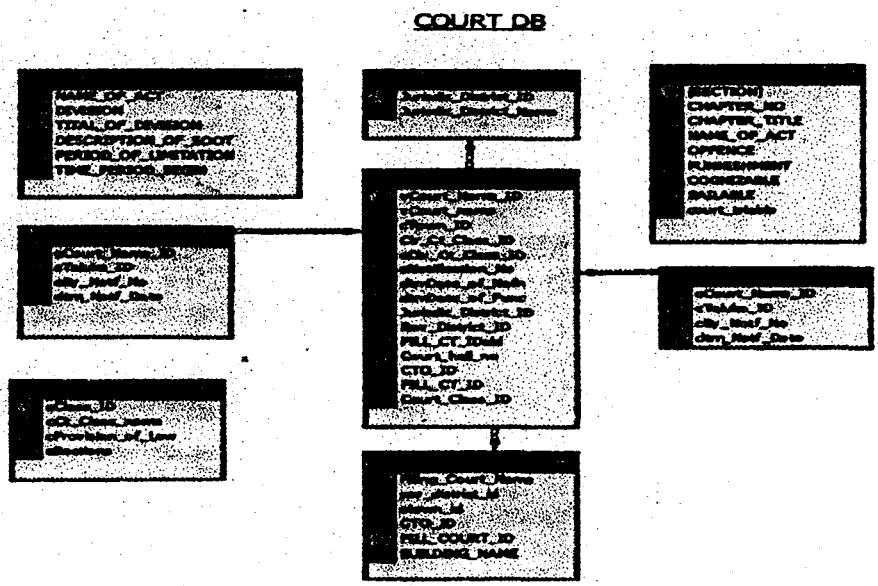
(iv) all the hoblis in a taluka, and

(v) all the villages in a hobli with their area and population

This database helps in storing and retrieving of object/correct location of an immovable property or address of a person i.e. the court, judge, litigant, advocate, staff etc

DATABASE – 2 (COURTS)

This database contains the entire information of all the courts, like (.i) the class i.e. Civil Judge (Jr. Dn.), Civil Judge (Sr. Dn.) or District Judge (ii) jurisdictions both territorial and pecuniary (iii) name (iv) location and (v) judicial and revenue district in which it lies.



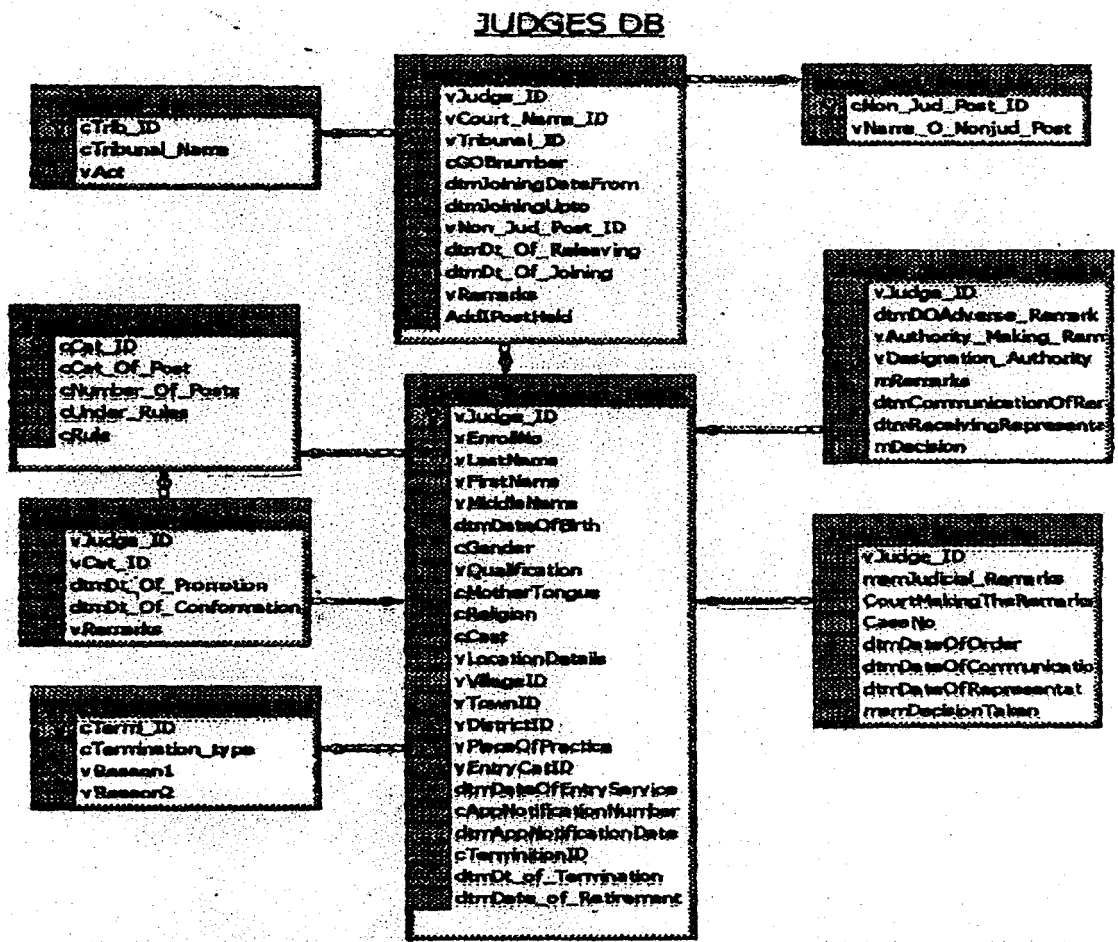
Courts Database

Database - 2

This database contains the core information for identification of a case, court management and case flow management.

DATABASE – 3 (JUDGES)

The information relating to the central human object in the judicial system is stored in this database. It contains judge personal data including date of entry into service, grade, promotions, adverse remarks, disciplinary proceedings, transfers and postings. It helps in taking vital decisions regarding performance of a judge which has a direct bearing on delays and arrears.

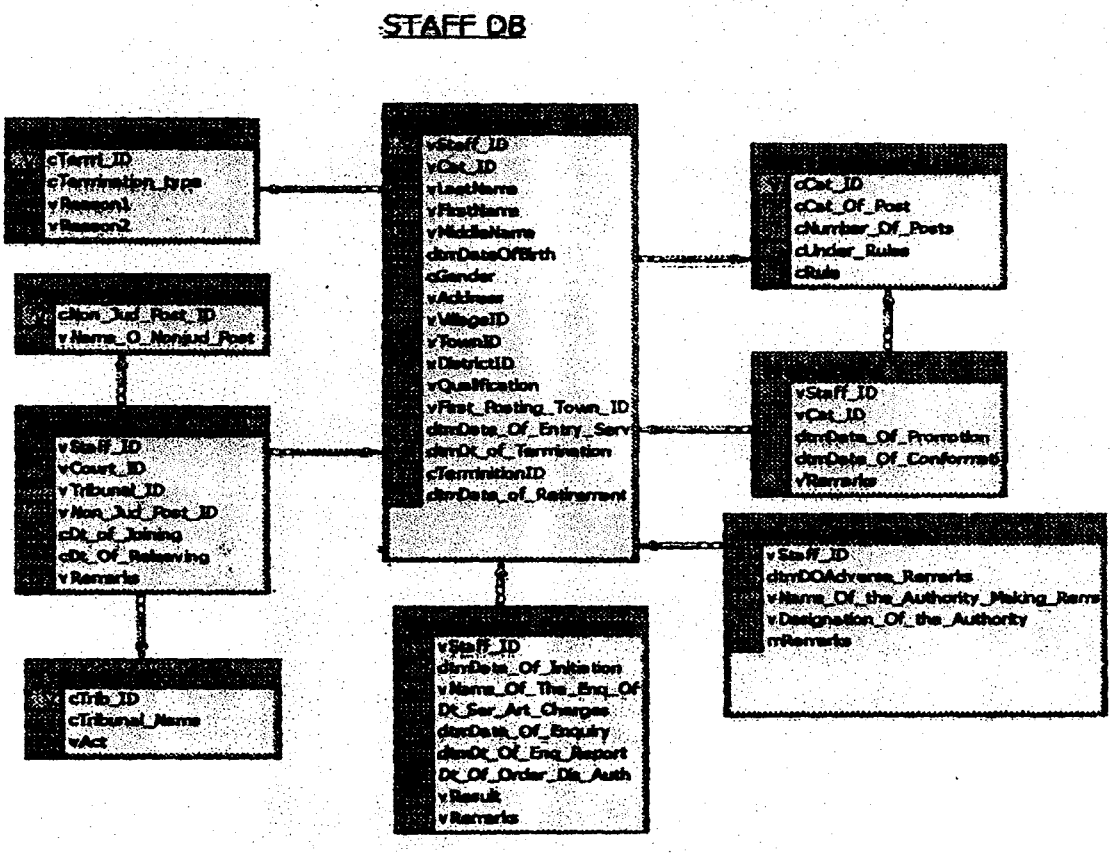


Judges Database

Database - 3

DATA BASE – 4 (COURT STAFF)

Like that of judges, this data base contains the entire relevant information of the supporting infrastructural staff provided to the court. This helps in maintaining discipline, work culture and available strength of this class.

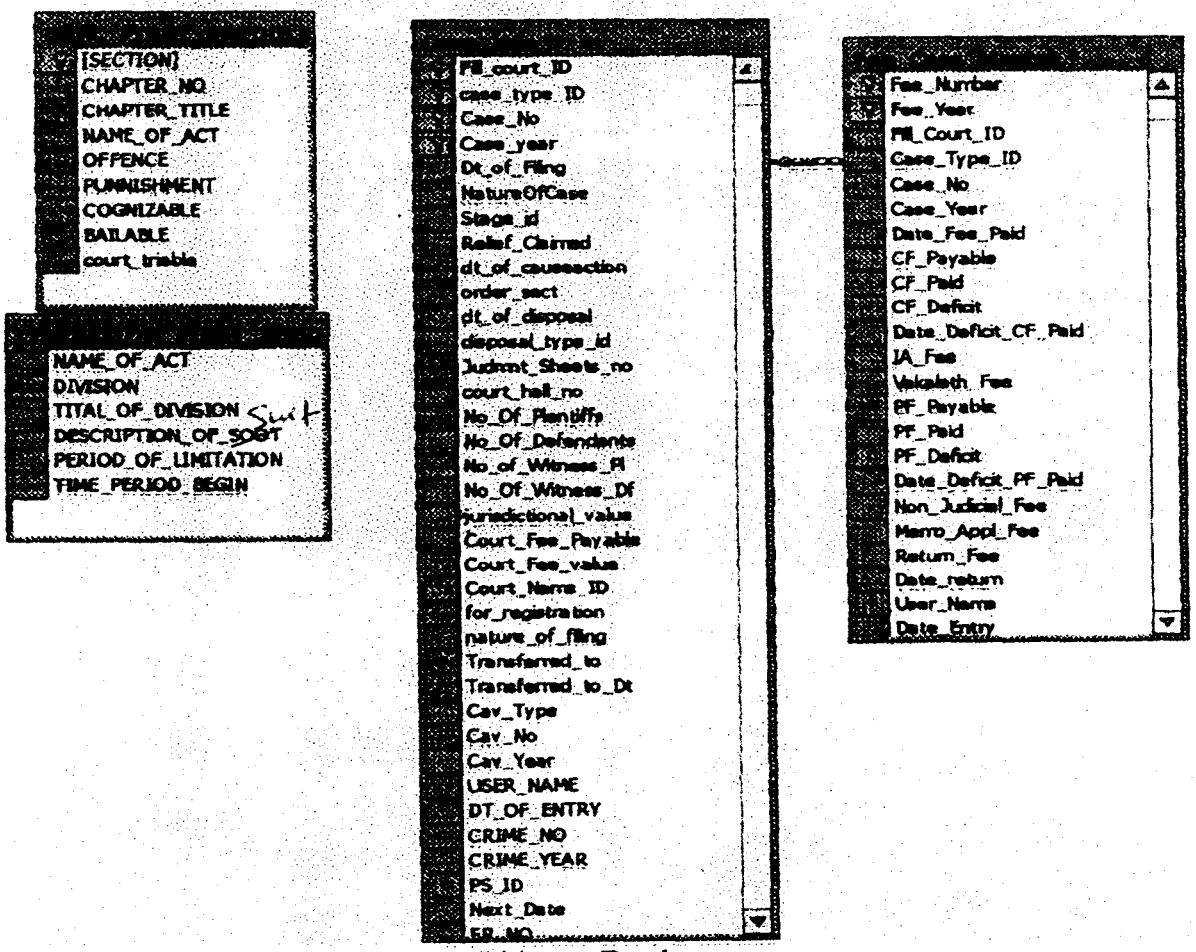


Court Staff Database

Database - 4

DATABASE – 5 (LITIGANTS)

This database contains the information relating to parties to a dispute brought before the court as required in thes procedural laws. It helps in convenient and accurate creation of cause titles, summons and notices, orders, judgment and decrees. With the help of this database many statistical reports can instantly be generated, like, (i) in how many cases the same litigant is involved many cases pending in the state or elsewhere (ii) whether he had earlier filed any other case for the same cause of action (iii) litigants classification with variables in order to have a behavioral study etc.

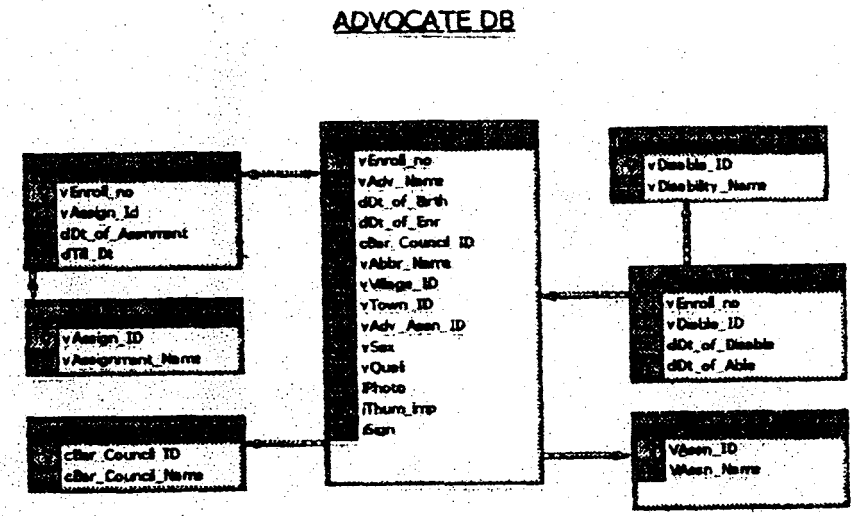


Litigants Database

Database - 5

DATABASE – 6 (ADVOCATES)

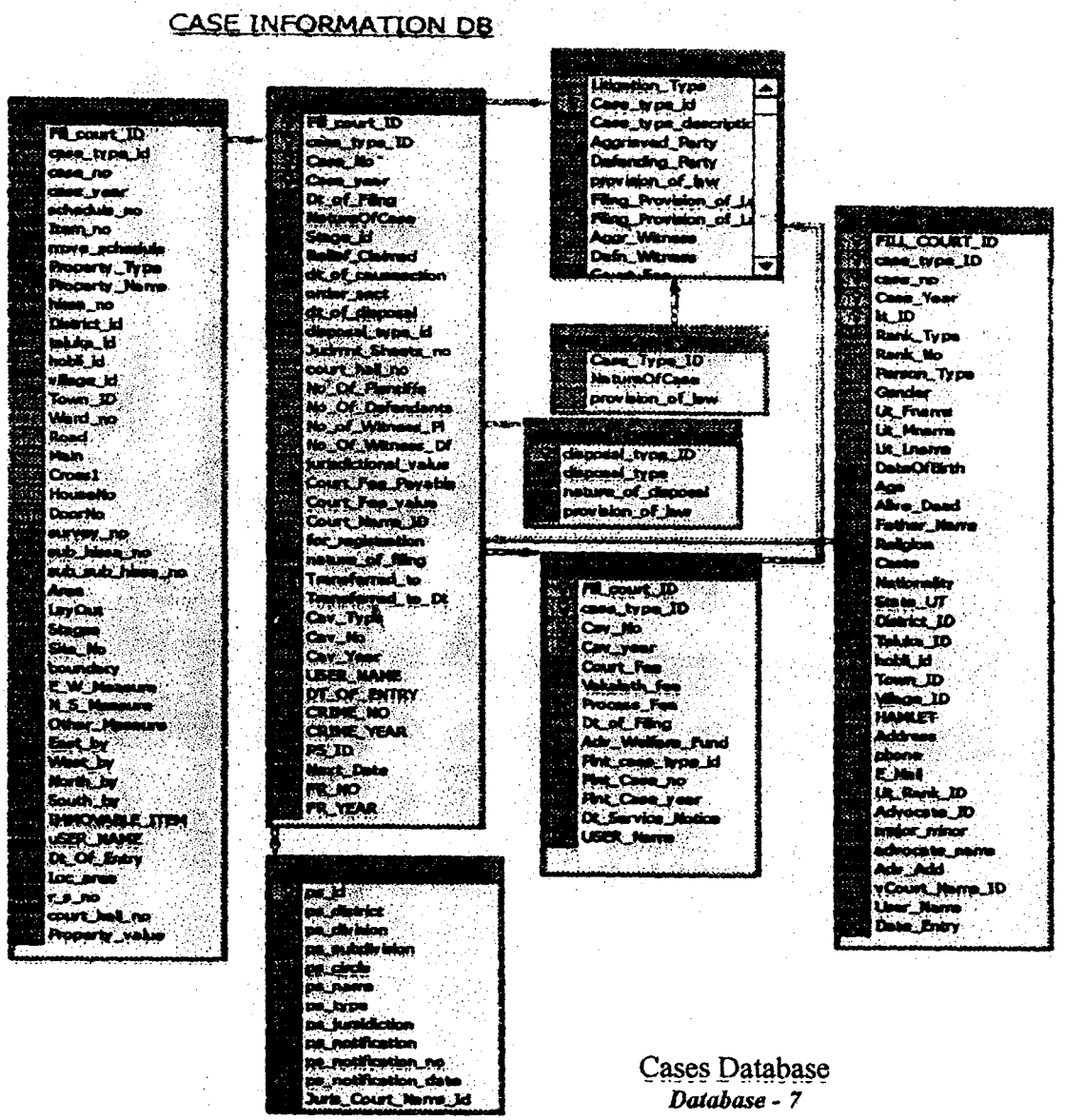
This database is designed to contain all relevant information relating to advocates enrolled in India. Presently, it contains the particulars of all the advocates enrolled by Karnataka State Bar Council. It helps in many ways. If any advocate appearing for any litigant is disabled from appearing in any case, because of other assignments or has expired, then all such cases can be sorted out immediately and court notice can be sent to the parties at the earliest. It helps in retrieving and recording the names of advocates and printing their names correctly in cause-lists, orders, judgments, etc. It permits class analysis in all desired manners.



Advocates Database
Database - 6

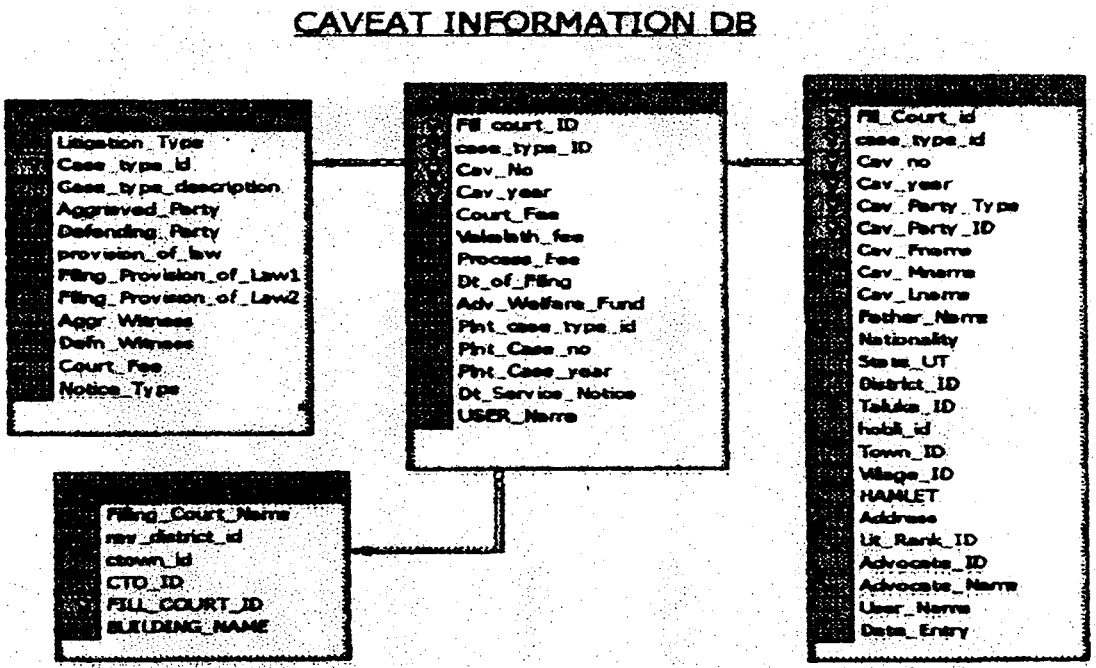
DATABASE – 7 (CASES)

This database, like the Court database, contains another set of key information for understanding the system behavior. This database is capable of answering all queries relating to all cases i.e. institutions, pendencies, disposals, stages, nature, etc. The information contained in this database can reveal out all the miseries which has led to systems failures.



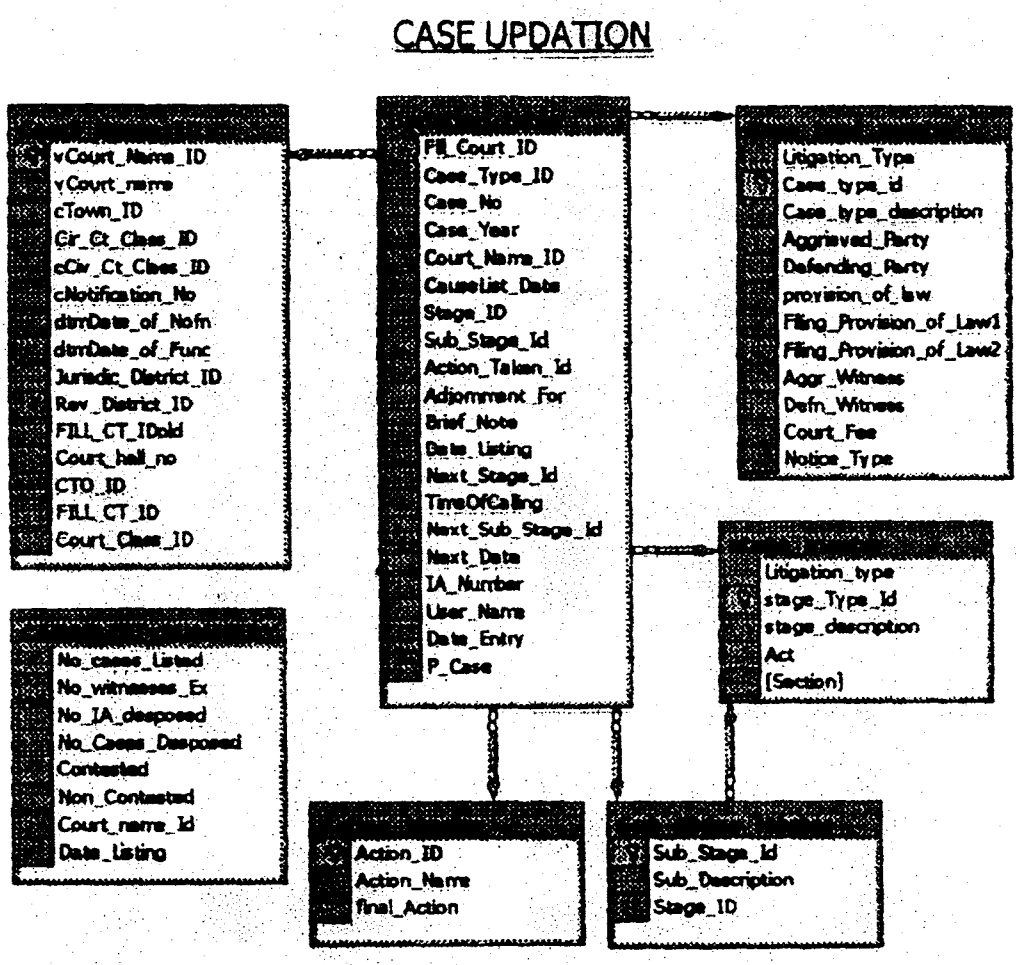
Cases Database
Database - 7

By taking note of systems requirements and causes of delay as noticed in previous chapters, database have been designed to track stages of cases. These database help in ascertaining the stage advancement from institution of a case to its disposal as required under the amended provisions of the procedural laws. These concern institution, scrutiny, court fees payable, limitation applicable, caveat ascertainment, issuance and service of summons, framing of issues, oral and documentary evidence, delivery of judgments, preparation of decrees and grant of certified copies of all documents, orders, judgments, issues, pleadings and evidence.



Caveat Information Database

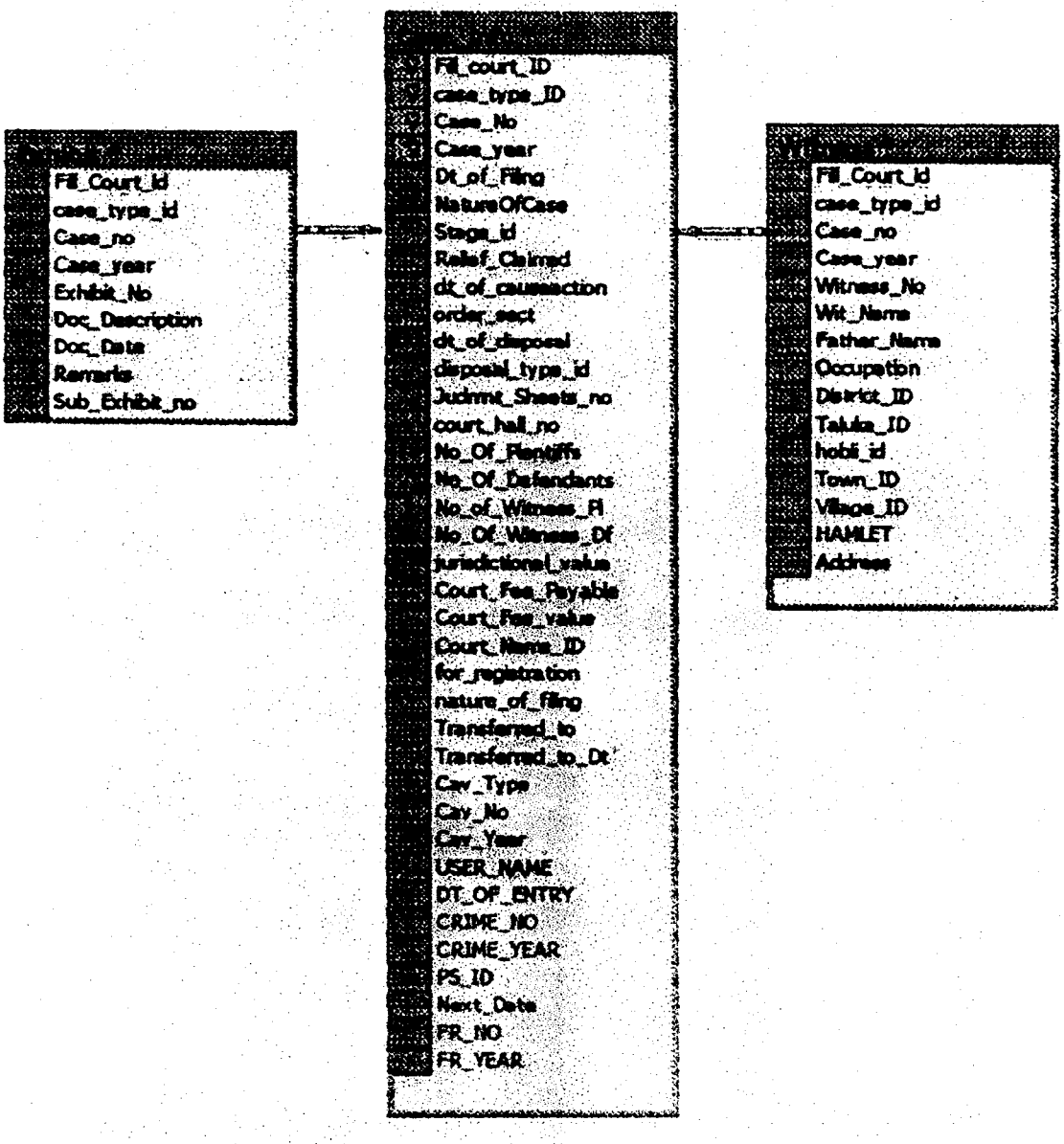
Database - 8



Case Updation Database

Database - 9

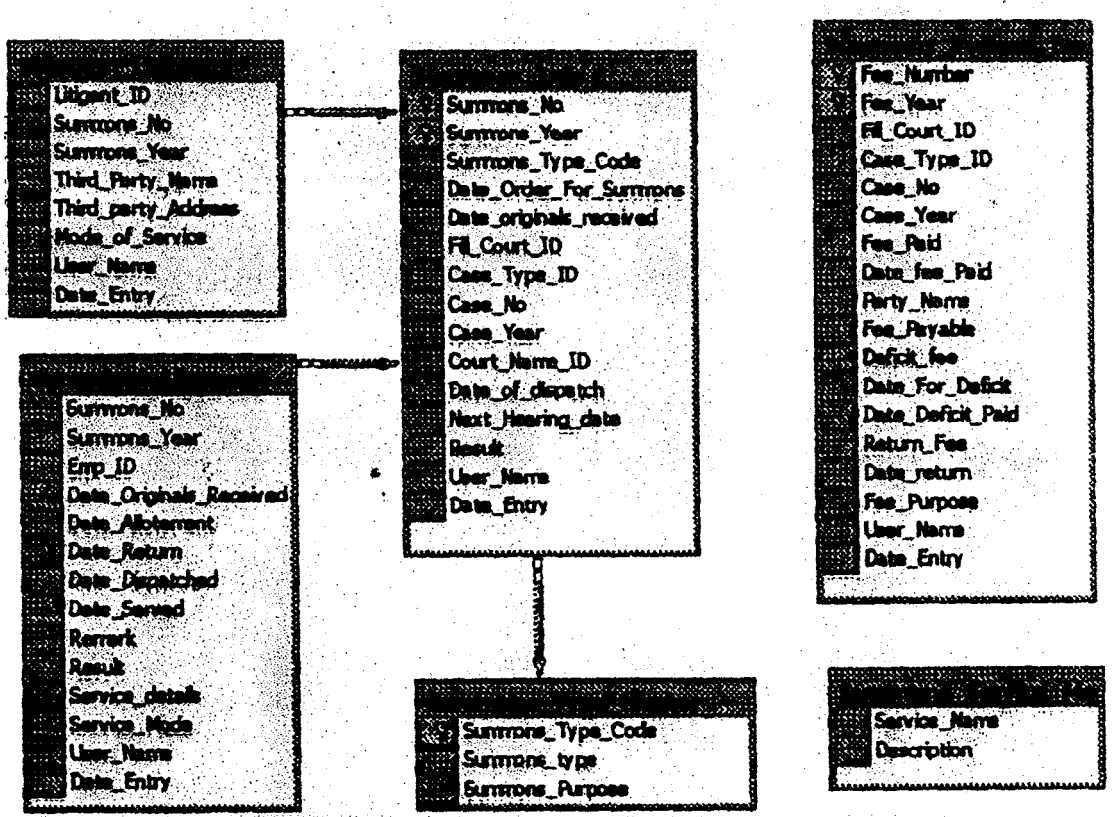
Witness & Exhibits DB



Witness and Exhibits Database

Database - 10

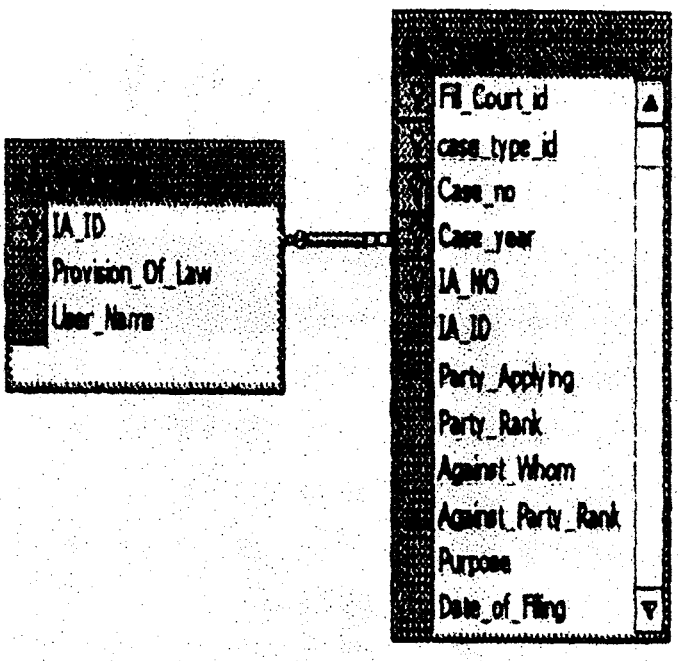
SUMMMONS DB



Summons Database

Database - 11

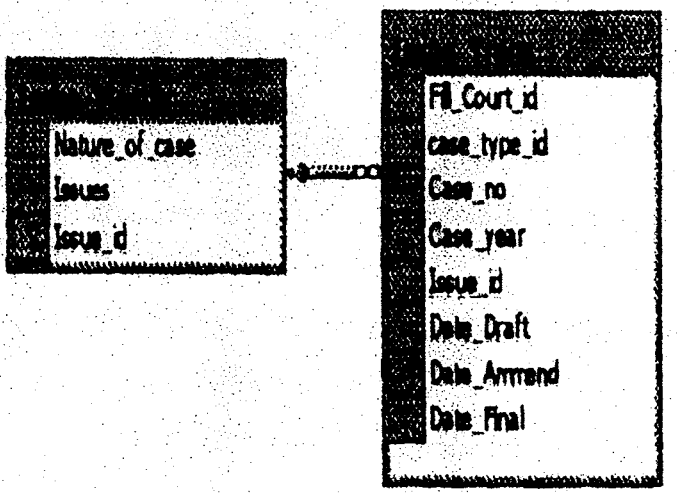
IA DB



IA Database

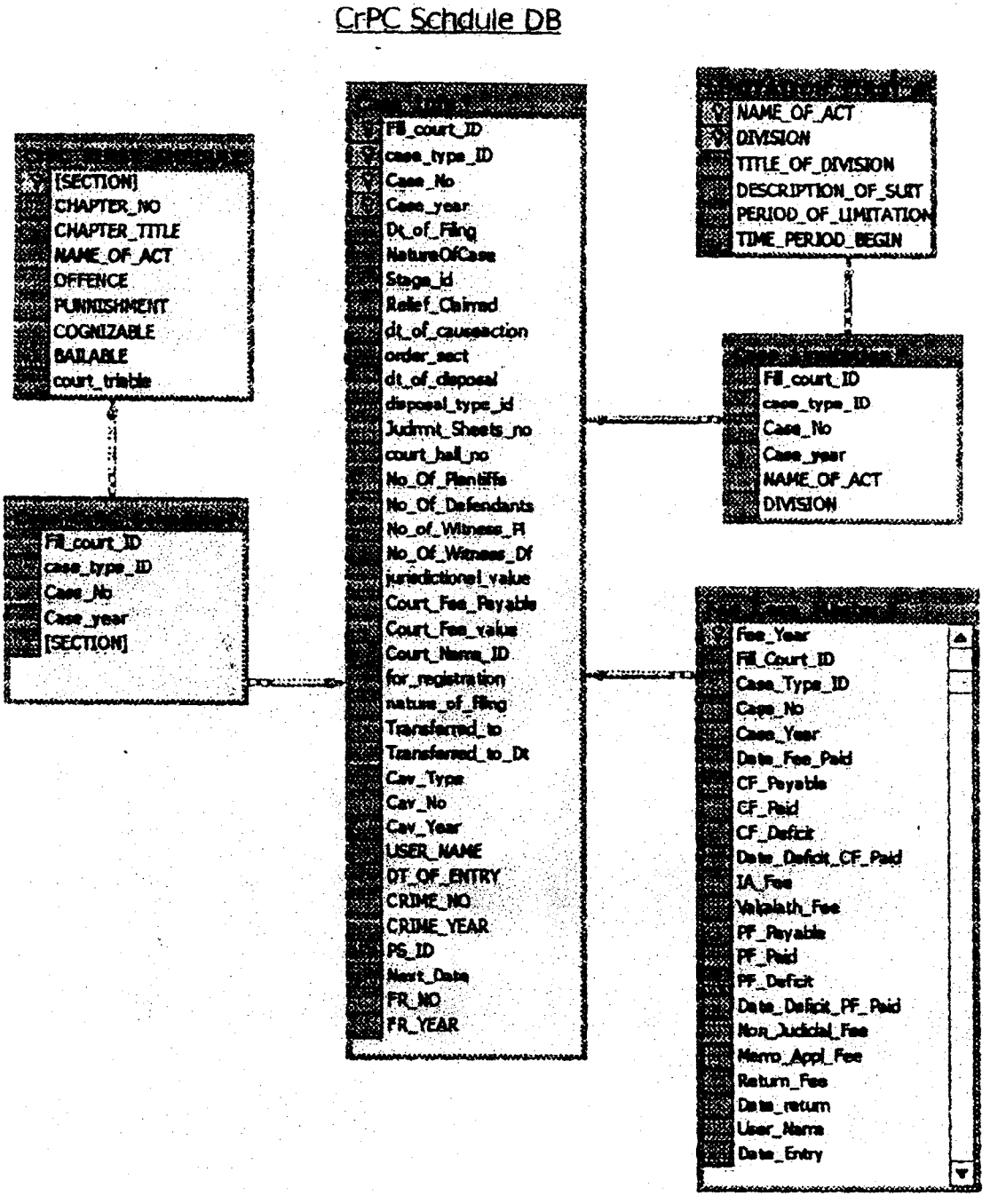
Database - 12

ISSUES DB



Issues Database

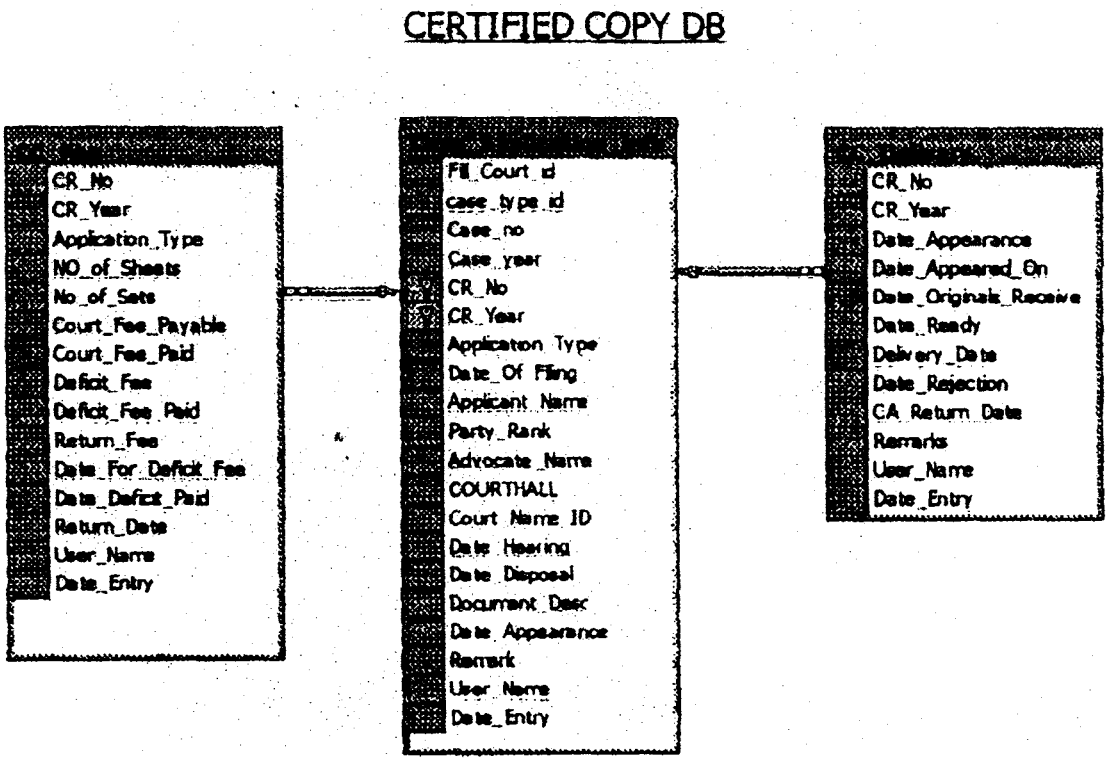
Database - 13



CrPC Schedule Database

Database - 14

Based on the above stored information, the computer automatically generates scrutiny report, caveat report, suit register, case assignment report, register of court fees paid and payable, initial order-sheet, summons, issues, cause-list and court diary showing judicial performance, sample copies of these auto generated reports are included in this work as annexures.(See annexure IV)



Certified Copy Database

Database - 15

With the help of the above database, all the registers, summons, notices, warrants, monthly, quarterly and yearly statements sent by all the courts regarding court statistics can be automatically created as and when required . Though presently during the transitional period, such reports are being generated and complied on papers but in due

course maintaining of paper documents can be completely dispensed with. This will help saving of numerous hours in generating the reports based on secondary information, which will serve the problem of space occupation and it will also help in better utilisation of manpower and other court resources. The auto processing of court informations will relieve the judges from many administrative responsibilities. This will help them in concentrating more on judicial work.

9.6 DOCUMENT MANAGEMENT:

The next area in which the computer technology has been very effectively utilised in Karnataka Judiciary is the transcription and storage of judicial documents through computers. Now, the use of manual typewriters has become a matter of past. Now, neither in the High Court nor in the subordinate courts in the State of Karnataka, neither a typist or stenographer wants to use typewriter because of feather touch use of computer key boards, they are relieved of strains of typing on manual typewriters. Moreover, they can better organize and format documents with facilities of simultaneous spell checks and font organisation and numerous other facilities. Now, these documents have become easily accessible with all securities.

9.7 National Data Grid

With Creation and implementation of the above detailed Relational Database Management System (RDMS) and use of Wider Area Networking (WAN) including internet facilities now it is clearly feasible to create National Grid of court informations for Judicial reviews at all hierarchical levels as also for taking centralised policy decisions for effective court management and its implementation.