
IMPACT OF TECHNOLOGY ON ACCESS TO JUSTICE IN INDIA: OPPORTUNITIES AND CHALLENGES

Potnuri Bala Nirguna Naga Sathwik, B.A., LL.B., (Hons.), School of Law, SASTRA Deemed to be University, Thirumalaisamudram, Thanjavur, Tamil Nadu.

Maghavatpriya H G, B.A., LL.B., (Hons.), School of Law, SASTRA Deemed to be University, Thirumalaisamudram, Thanjavur, Tamil Nadu.

ABSTRACT

The role of technology in the judiciary has made it very unconventional and progressive. With the growth of technology in this modern era, almost every field has incorporated itself with technology. Starting from food delivery to teaching classrooms in 'online' mode, while technology is used in these various fields with its advancement; it only makes sense to use it necessarily and adeptly so that it benefits all. The pandemic being one of the main reasons to bridge almost every field with technology, did not spare the Judicial System either. The aim of this article is to analyse the role of technology in the Indian Judicial System. But India being a developing country, still has a long path before it for the complete incorporation of technology into the judiciary. The modernisation of the judiciary by many projects undertaken by the Government has paved the way for a techno-judicial link. Technology has made the access to justice easier for many and the methods used to make justice accessible to technology have been discussed. Access to justice is a must for a common man who includes the population consisting of men and women, younger and older people and people with disabilities; the measures taken for litigants with disabilities to access justice has also been examined. The course of action taken by the government to resourcefully make use of the technological advancements in the Indian Judicial System and the commendable deeds performed by it are also discussed. As it is said, a coin has two sides to itself, there are qualities which prove to be beneficial as well as detrimental with the use of technology in the justice delivery system. The analysis has provided solutions for those demerits and many other pathways which are to be taken for an efficient use of technology by the judicial system for a successful implementation.

INTRODUCTION:

"The right to legal aid, all Chief Justices have concluded, has to begin at the earliest stage, even before arrest" CJI Chandrachud said. "There is a need for judges to publicise schemes and educate not just students but the wider community. And finally, we dwelt on the importance of technology in fostering access to judiciary which is equal between our citizens" he said.¹

The Constitution through Article 39A aims to provide free legal aid to ensure the access to justice to all the citizens. With technology upgrading the functioning of the judiciary it has eased the accessibility of justice to the people who did not have an opportunity towards legal aid at first. The impact created by the use of technology in the judiciary is huge and has enabled many people to approach the judiciary for access to justice.

Technology has introduced itself into every aspect of human life, it started by relieving man from his daily difficulties, like transport, communication and health care. Now it has seeped into the justice delivery system. With the people changing their mode of work from offline to online, it deems fit for the judiciary also to take advantage of the contemporary innovations of technology. By adapting itself to the new innovations of technology, the judiciary can upgrade its justice delivery services. Till date technology has made life easy for people and there is no doubt that it has heaved the Indian Judiciary some of its burden.

The first step towards digitising Indian Judiciary was taken in 2005 by setting up an E-Committee of the Supreme Court. Then, the E-Courts Project was launched by the then Hon'ble Chief Justice in 2013, a Case information System Software was introduced through which the Case Status, Daily Cause-list, information of the Cases Filed and Cases Registered was made accessible for all which included the judges, advocates and general public.

After this the major tech-judicial change was done during the pandemic and it made the justice delivery system function in a more efficient manner by the introduction of innovations by new systems for e-filing and artificial intelligence-enabled referencing systems. This made the judicial system more transparent and gave access to court delivery services for every user. The requirement of technology in our justice delivery system was well established during the pandemic. During the pandemic period, if technology was absent, all the duties of the court

¹ <https://kashmirreader.com/2023/11/29/right-to-legal-aid-must-begin-at-the-earliest-cji/> (last visited on September 6, 2024).

would have been impossible to perform. There are about millions of pending cases in the courts of India and the number of judicial officials are also lacking, if technology was not used properly during the time of pandemic, there would have been a huge addition to the amount of cases which are already pending. This is just one aspect in which technology has been of great use and importance in the administration of justice, there are many more ways in which technology has contributed to the development of the administration of justice in our country.

By providing the access of such sensitive and crucial information to the general public, there arises a question on the level of security to protect such data, as this has introduced a potential risk and data breach. Thus, digitising the justice delivery system not only eases the burden of the judiciary but also imposes more responsibility to protect the delicate data stored by the judiciary.

The combination of technology with the administration of justice has become important because it has advantages and ensures that along with the changing times and innovations the old and traditional system of delivery of justice also develops into one which provides for the needs of the contemporary world, at the same time, there is a need to take proper initiatives to digitise the judicial system in such a way that it does not become a target to cyber attacks and breaches. Because of the impact of technology, the new system of delivering justice is intended to make the judiciary more accessible to everybody.

MODERNIZATION OF JUDICIARY THROUGH TECHNOLOGY:

Modernization means adaptation to the contemporary ways of life in which almost each aspect is shaped by technology. And the judiciary should be no exception to modernization.

The Judiciary's role in general is to deliver justice by hearing the pleas from both sides and provide a judgement in a fair manner within reasonable time. For the judgement to be provided by the Courts, there has to be a prayer made towards the court and many other processes are to be gone through before getting the final verdict. In the traditional system of justice delivery, the processes involved in obtaining the final verdict were time consuming and 'not so' cost efficient. Thus, the aim of using technology in the Judicial systems is to enhance the process of delivering justice to the people by giving speedy justice and making the process more cost efficient for the people who seek remedy. The effectiveness of a country's judicial system is vitally linked with its developing nature.

The Indian Judiciary has been modernised with the implementation of the E-Courts Project, it stands as evidence of the Government's commitment towards modernising the Judiciary.

The finest reason to incorporate technology into judiciary was during the pandemic, the Supreme Court had laid down directions for all its subordinate courts in the country to use video conferencing substantially for the court proceedings. The Supreme Court had exercised its plenary authority accorded to it by Article 142 of the Constitution of India to direct the subordinate courts to frame a mechanism for using technology during the pandemic.² The advancement of the Supreme Court to use the technology for its functioning by conducting the hearings online was during the pandemic period. For proper conduction of the e-court proceedings, there was a requirement for an online environment to be established for the functioning of the court and an Information and Communication Technology (ICT) enabled infrastructure. Such an environment was needed to be established thereby enabling the litigants to view the status of their case online, file the complaint electronically through E-Filing and in addition pay the Court Fees or Fine online.

The pandemic has brought on the potential to provide an efficient and cost-effective alternative to the traditional dispute resolution.³ The Indian government has also introduced a draft policy on Online Dispute Resolution (ODR) to promote the use of technology in dispute resolution.

Social media also provides a useful platform through which the legal aid programmes maintain their presence on commercial media like YouTube, Twitter, Facebook and Instagram. The opinion of people can spread easily and has the power to influence the credibility and reputation of a person, thus social media also acts as a double edged sword. The social media debates must be careful to prevent any form of bias and refrain from making any prior judgements based on online information.

This proves that the judicial system in India is undergoing modernization and it will only progress further. With the modernisation of the Indian Judiciary, some processes have proven to be beneficial, but some other concerns regarding the security of the data stored by those

² <https://www.thehindu.com/news/national/explained-article-142-of-the-constitution-under-which-supreme-court-ordered-release-of-perarivalan/article65426654.ece> (last visited on September 8, 2024).

³ https://www.americanbar.org/groups/family_law/resources/committee-articles/odr-era-covid-19/ (last visited on September 8, 2024).

online environments created for the functioning of the Judiciary are to be taken into account also. The platform created for the Judiciary to function should be safe and efficient.

Thus, modernization of the Judiciary has made it easier for more people to access its services.

ROLE OF TECHNOLOGY IN ACCESSIBILITY OF JUSTICE IN INDIA:

The government has made significant efforts to provide access to justice in India by taking the following initiatives:

National Legal Services Authority (NALSA):

According to Section 12 of the Legal Services Authorities (LSA) Act, 1987, the National Legal Services Authority (NALSA) has been created to provide free and competent legal services to the underprivileged sections of society in order to guarantee that no citizen's access to justice is restricted due to their financial situation or other disabilities.⁴ Legal Aid and Advice; Legal Awareness Programmes; Legal Services/Empowerment Camps; Legal Services Clinics; Legal Literacy Clubs; Lok Adalats; and Victim Compensation Scheme implementation are among the activities and programmes carried out by Legal Services Authorities.

Fast Track Courts:

For the purpose of handling cases of horrible crimes involving elderly people, women, children, etc., the government established Fast Track Courts. 848 Fast Track Courts for serious crimes, crimes against women and children, etc. are operational as of October 31, 2023. A plan to establish Fast Track Special Courts (FTSCs) around the nation has also been approved by the central government in order to expeditiously handle outstanding cases involving crimes under the POCSO Act and charges of rape under the IPC. By October 31, 2023, there were 758 FTSCs in operation nationwide, comprising 412 exclusive POCSO (ePOCSO) Courts. These courts had resolved over two million cases.

E-Lok Adalats:

Lok Adalats are established to promote justice based on equal chances under the laws of the

⁴ <https://nalsa.gov.in/about-us> (last visited on September 7, 2024).

Legal Services Act⁵. Legal services institutions have been established for this purpose, ranging from the Supreme Court to the Taluk Court level. On a predetermined date, National Lok Adalats are held concurrently in all Taluks, Districts, and High Courts.⁶ State Lok Adalats are arranged by State Legal Services Authorities in accordance with local circumstances and requirements, while Permanent Lok Adalats are held every day or in accordance with the number of sessions determined each week.

In addition, E-Lok Adalat was developed in light of COVID, which greatly enhanced access to justice for those who would not have been able to take part in Lok Adalats.

Live Streaming:

Allowing people to engage in court proceedings remotely, reduces the need for in-person travel, and enhances the transparency and inclusivity of court hearings is one way that live streaming of court proceedings in India is working to improve access to justice. Virtual courts can facilitate real-time case adjudication and lessen the workload associated with keeping court records and pending cases. The Hon'ble Supreme Court of India, as well as the High Courts of Gujarat, Orissa, Karnataka, Jharkhand, Patna, Gauhati, and Madhya Pradesh, have begun live streaming video conferences of the proceedings, enabling the media and other interested parties to participate.⁷

For the purpose of creating Model Rules for Live Streaming, a subcommittee was established under the direction of the Supreme Court of India e - Committee. The principles outlined in the Supreme Court's ruling in *Swapnil Tripathi v. Supreme Court of India (2018) 10 SCC 639* have been considered in the draft model rules⁸. These include issues pertaining to business confidentiality, the privacy and confidentiality of litigants and witnesses, the prohibition or restriction of access to proceedings or trials stipulated by Central or State legislation, and in certain situations, because of the case's sensitivity, to protect the greater public interest. For the live streaming and recording of court hearings, these draft model regulations offer a fair and

⁵ <https://pib.gov.in/PressReleasePage.aspx?PRID=1983953> (last visited on September 7, 2024).

⁶ <https://pib.gov.in/PressReleasePage.aspx?PRID=1983953> (last visited on September 7, 2024).

⁷ Live Streaming | Department of Justice | India (doj.gov.in) (last visited on September 8, 2024).

⁸ <https://ecommitteesci.gov.in/model-rules-for-live-streaming-and-recording-of-court-proceedings/> (last visited on September 8, 2024).

balanced regulatory structure. Both the quantity of open cases and the workload associated with keeping court records might be decreased via live streaming.

Machine Learning:

The Indian judiciary is currently carrying out specially designed algorithms that are trained using deep learning and machine learning techniques for specific administrative tasks. These tasks include creating cause lists, scheduling hearings, reviewing evidentiary documents, filing cases intelligently online, organising cases, and notifying parties of cases. The AI Committee of the Supreme Court created the task-specific algorithm known as the Supreme Court Vidhik Anuvaad Software (SUVAAS), which makes the arduous task of translating judicial orders and verdicts easier. Additionally, the Supreme Court has developed the SUPACE portal, which aids justices in legal study and tracks the advancement of cases. The duty of judges has decreased due to the growth of AI in the judicial sector.

A Scheme on Access to Justice titled: The Government of India scheme is putting "Designing Innovative Solutions for Holistic Access to Justice in India" into practice. Its goals include bolstering pre-litigation advice and consultation through Tele-Law, ensuring a pan-Indian framework for the delivery of pro bono legal services through the Nyaya Bandhu program, and empowering citizens through the Pan India Legal Literacy and Legal Awareness Program. The Plan integrates technology and creates contextualised IEC (Information, Education, and Communication) content in local or regional dialect to facilitate its intervention and make legal services easily accessible to the underprivileged and marginalised groups in society.

The government has taken significant initiatives to provide access to justice in India through E-Courts, NALSA, Fast Track Courts, E-Lok Adalat, the "Designing Innovative Solutions for Holistic Access to Justice in India" but when will justice be accessible to all people in India is still a question to be answered. The judiciary needs to make sure that new technologies do not make it harder for people with disabilities or those with restricted access to technology to be accessible.

APPROACHES TAKEN BY THE GOVERNMENT FOR PEOPLE WITH DISABILITIES TO GET ACCESSIBLE JUSTICE THROUGH TECHNOLOGY:

In India there are no specific laws on providing justice through technology but the Supreme

Court of India has released a report called *A Court for All: Paving the Way for Greater Accessibility in the Supreme Court for Persons with Disabilities, Women & Senior Citizens*. In this its gives the recommendation how to provide justice through justice for person with disabilities but there is no law or policy which was passed by the Indian government to implement but the government and judiciary should also make sure that the justice which should be available in all possible roles, for example as a claimant, defendant, witness, qualified expert, juror, judge or lawyer.

"The creation of accessible infrastructure, including digital infrastructure, and an appropriate support system in the judiciary for lawyers and litigants with disabilities is imperative in order to create a level playing field," stated Justice Chandrachud, who also serves as the chair of the Supreme Court's e-Committee.⁹ This duty follows naturally from the rights to equality and freedom to practise one's chosen profession granted by Articles 14 and 19(1)(g) of the Indian Constitution, respectively, for litigants and attorneys with impairments.

When it comes to giving people with disabilities meaningful access to information and the courtroom, technology can be especially useful. For example, screen readers make it possible for those with vision impairments to access the Internet by reading aloud text from websites. So, a person may now easily access a court's website on her own and no longer needs to depend on a friend's generosity to read her information about how to file a lawsuit. In remote courts, videoconferencing can be an effective means of providing sign language interpreters for those with hearing impairments.

But, it is crucial that technology advancements do not create new obstacles for people with disabilities, especially when those advancements entail the creation of fresh websites for SRLs.

Nevertheless, many of the difficulties may be addressed by careful web design, and web designers can find tools to assist them in resolving these problems. Courts and legal services initiatives need to stay up to date on advancements in this field and make use of available resources.

⁹ <https://legal.economictimes.indiatimes.com/news/industry/need-to-create-accessible-infrastructure-for-lawyers-litigants-with-disabilities-justice-dy-chandrachud-to-high-courts/79936715> (last visited on September 9, 2024).

MERITS OF TECHNOLOGY'S ROLE IN JUDICIARY:

To understand what are the merits of using the technology in the Indian judicial system, the NEED OF TECHNOLOGY IN THE JUDICIAL SYSTEM should be known.

Justice S.A. Bobde, the Former Chief Justice of India said that he has said –

“We propose to introduce, if possible, a system of artificial intelligence. There are many things which we need to look at before we introduce ourselves. We do not want to give the impression that this is ever going to substitute the judges.”¹⁰

According to him, machines cannot replace humans, specifically the knowledge and wisdom of judges. The deployment of the AI system will help reduce pendency and expedite judicial adjunction.¹¹ It will help the main pillars of the judicial system, the judges and lawyers. The Indian E-Court project seeks to offer lawyers effective and transparent services. Electronic filing, case management, and online case information access are all made possible by the system. In addition, the project has brought video conferencing and virtual court sessions, which have assisted in minimising delays brought on by geographical distance. E-courts are trying to lower the barrier to justice in a large country like India by giving the remote Indian populace the option of virtual participation. Additionally, e-courts foster a less ominous environment than traditional courts, which can motivate people to aggressively pursue their legal rights.

Enhancing the efficiency:

Technology automates routine tasks such as scheduling hearings, generating notifications, and issuing reminders, freeing up judicial and administrative staff to focus on more complex matters. Automated workflows reduce delays and help ensure that cases move through the legal system efficiently.

Digital case management systems allow courts to track cases from filing to disposition efficiently. Judges, lawyers, and court staff can access case information, update records,

¹⁰ <https://www.warwicklegal.com/news/627/india-role-of-artificial-intelligence-in-justice-delivery-system> (last visited on September 10, 2024).

¹¹ <https://www.analyticsinsight.net/artificial-intelligence/supreme-court-use-artificial-intelligence-better-judicial-system> (last visited on September 10, 2024).

schedule hearings, and manage deadlines electronically, reducing paperwork and administrative burdens.

Improved Access to the Law:

With the advent of digital libraries, online legal resources, and websites that provide extensive collections of statutes, case law, regulations, and legal commentary, technology has democratised access to the law for all citizens of a nation. Legal apps and software offer resources for legal research, document preparation, and obtaining legal advice and services, while open access journals and legal blogs support academic dialogue and public comprehension of legal ideas. Furthermore, legal education and skill development possibilities are provided by online courses and MOOCs, while legal aid portals offer direction and support to those in need of legal assistance. These resources eventually enable citizens to engage in civic life and successfully traverse the legal system. For example the technology improved in e-courts to help lawyers and judges:

Document Management System (DMS):

With the DMS, authorised staff members can access and preserve court records digitally from anywhere at any time. Time is saved because there is no longer a need for physical documentation.

Court Management System (CMA):

From case registration to judgement delivery, the entire court process is managed by this web-based system. Information can readily move across multiple departments and stakeholders due to the system's coherence.

Recording of Court Proceedings:

Court proceedings are captured and transcribed by the Court Recording and Transcription System (CRTS) for use as references or supporting documentation. Because of this, taking handwritten notes is no longer necessary, and the records are precise and comprehensive.

System for Video Conferencing (VCA):

Judges, attorneys, and other parties can engage in remote proceedings via the VCS from any

location in the world. This is especially helpful in cases where someone is unable to attend in person because of health issues, travel constraints, or long, expensive commutes.

DEMERITS AND OBSTACLES OF TECHNOLOGY IN JUDICIARY:

The integration of technology in the judiciary is pivotal for enhancing access to justice. Despite its potential benefits, the implementation of technological solutions in India's legal system faces significant obstacles. According to the 2023 Rule of Law Index by the World Justice Report, India ranks 79th out of 142 countries in terms of justice delivery.¹² This ranking indicates that India's performance is subpar compared to smaller and developing nations such as Ghana, Indonesia, Jordan, Malaysia, Nepal, South Africa, and Sri Lanka. Efficiency and delayed judgements are the prevalent problems in the Indian Judiciary. While technology can address some of these issues by reducing human intervention, India's technological infrastructure is underdeveloped, with minimal use of technology and a lack of digital courts.

However, digital courts have emerged as a potential solution to the inefficiencies in the judiciary. They offer various advantages, and have the potential to increase accessibility and efficiency of justice. However, the effectiveness of the technology employed depends on several factors:

Accessibility of Technology:

The effectiveness of virtual courts is compromised because of the limited number of openings available for them. The legal practitioners and their clients in remote or rural areas often lack the basic infrastructure and internet requirements, which makes it challenging for them to participate in virtual hearings. This issue of lack of accessibility affects a large division of the Indian population, making access to justice both costly and difficult. Many litigants are not from economically advantageous backgrounds and may not have proper internet access or the skills necessary to use virtual media. Till date the access towards justice is viewed as a privilege which is available only for a few, thus, for these individuals, virtual court meetings only marginalises their access to justice and does not provide a wider environment where everyone can easily access legal remedy.

¹² http://civilrighttocounsel.org/major_developments/217 (last visited on September 10, 2024).

Connectivity Gaps Across the Nation:

There is a disparity in broadband connectivity across the nation, and service quality has been observed to be of poor quality and many interruptions have been dealt with in the access of internet. This variation in internet availability further worsens the difficulties faced by those in under-connected regions. The Bharat Net Project is one of the measures taken by the government to improve digital accessibility, affordability, connectivity, and inclusivity across India.¹³ The government and several private sector organizations are collaborating on this project as part of a public-private partnership. The project's aim is to provide broadband connectivity to all the rural areas in India like the Gram Panchayats and so on.¹⁴ Thus, the connectivity gaps are trying to be bridged by developing the nation's infrastructure which will further ease the access to the justice system through technological advancements.

Competence Variance:

A lot of knowledge and skills are required to use digital methods in the contemporary days. Given the difference in the gradation of the knowledge and skill levels, some individuals lack the necessary expertise to effectively navigate and utilise virtual court systems. Many legal practitioners may lack the technical knowledge required to fully understand and effectively use emerging technologies. This lack of understanding could lead to the ineffective or inappropriate application of technological solutions.

Malfunctioning Technology:

Technical malfunctions and poor digital connectivity are prominent in the nation and are huge obstacles to virtual hearings. Issues like system crashes or poor internet connectivity, especially during peak hours, can disrupt the smooth running of proceedings.

Legitimacy and Authenticity:

In the course of court proceedings in reality, there are many instances of producing a false witness and false evidence in cases which influence the final decision taken by the Court. If the plight in actuality has instances questioning authenticity and veracity of the witnesses and

¹³ <https://usof.gov.in/en/ongoing-schemes> (last visited on September 11, 2024).

¹⁴ <https://usof.gov.in/en/ongoing-schemes> (last visited on September 11, 2024).

proof presented, the virtual hearings scenario raises concerns about the applicability and legitimacy of witnesses' identities and evidence presented to the court. The potential for fraud or misrepresentation to happen during the trials and proceedings of the court on the digital platform is high.

Data Security Concern:

The judiciary will increasingly collect sensitive data for the adjudicatory process, thus there is a critical need to ensure robust security measures. Data breaches will ruin the justice system's integrity and thereby wipe out the trust the public has on the justice delivery system. The storage and handling of court case data through certain programs and software pose security risks. Inadequate data security measures can lead to data violations, thereby making virtual courts easy targets for cyberattacks such as hacking.

Complexity of E-Filing Process:

The process of e-filing litigations is highly complex and can be a barrier to effective use of digital courts. This complexity further complicates access to justice for individuals unfamiliar with digital systems.

Cost of Implementation:

There are 25 High Courts and over 688 District Courts in the nation, the financial and logistical challenges of digitising the whole judicial system are to be considered. Transitioning the entire judicial system in India to a virtual model is exorbitant. Taking into account that India is still a developing country, there might not be sufficient resources to invest in the advancement of the technological infrastructure of the legal system of the nation. This limitation could reduce the potential benefits of technological advancements for the justice system.

AI's Role:

The use of emerging technologies, such as Artificial Intelligence (AI), may unintentionally give biased responses if the algorithms are not carefully designed. Another risk is that new technologies could also worsen the existing prejudices and inequalities in the legal system. Another topic of heated debate is the fear of legal practitioners losing their jobs because of the role played by AI as legal assistants. The AI technology is being modelled in a certain way that

it is able to give unbiased legal advice for free, thus endangering the jobs of the legal advisors in firms. With the development of AI, human involvement in the legal system seems questionable but it is still a path which requires more development. Therefore, AI should not become a rival to the human legal practitioners but act as an aid in the justice system.

Ethical Examinations:

By incorporating new technology into the legal system involves various ethical considerations. With the involvement of technology which is just machinery, there arises a question on whether the ethical and moral aspects which are considered in a normal judgement providing scenario by humans will be exhibited with the involvement of technology in the development of the legal system. Thus, there is a potential loss of human judgement or 'conscience' in legal decision-making, and it is crucial to ensure that emerging technologies do not compromise individuals' rights or the integrity of the legal system.

The integration of technology into the judiciary holds promise for improving access to justice and enhancing efficiency. However, the challenges and demerits as outlined range from technical and socioeconomic blockades to concerns about data security and ethical considerations must be addressed to ensure that technological advancements contribute positively to the legal system. Effective advancement of technology in the legal system will require overcoming these barriers and ensuring that technology serves to enhance the justice delivery system rather than acting as a hindrance to its development.

CONCLUSION:

According to our Constitution, every citizen has a right to justice and it should be ensured by the government that everyone has an equal opportunity to access the services of the judicial system. The role of technology in the judiciary is to make justice accessible to everyone who seeks it. Though it comes with many challenges, the steps are taken to overcome those by the government and a certain feat of progress has been made. With the plans formulated and implemented and the advancement strategies which are on their path of being implemented, will make sure that everyone has an access to justice through technology.