

**TOPIC- EMERGING TREND IN DIGITAL WORLD**

**Sub-Topic- INDIAN JUDICIAL SYSTEM DIGITIZATION**

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ABSTRACT

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There is a strong relationship between the law and society. Law has to be dynamic it cannot afford to be static. In fact, law and Society at and react upon each other. Law reform is a process by which law is adapted and advance over a period of time responds to changing social value and priorities. In the twenty first century where human civilization gone through drastic changes, from pastoral lifestyle to artificial intelligence and technical innovation. Technology is a very powerful tool and made turning point of human civilization in the history.

The objective of this study is to precise the scope of technology in accessing the fundamental right to law and legal proceedings <sup>1</sup>and to put a check and the current work of technology in the Democratic era.

The study emphasizes on the Digitalising era <sup>2</sup>and the present conditions and challenges in a developing country like INDIA facing unemployment, low literacy and lack of awareness in many parts of the country. The study also focuses on the scope of Digitalising the complete process of justice delivery.

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<sup>1</sup> Article 39A, Constitution of India

<sup>2</sup> Present world of technologies

## INTRODUCTION

The era of 21<sup>st</sup> century is standing on a desk of technology and modernisation. Now with the changing time and people there is a need to relook our traditional processes<sup>3</sup>, electing process changed from ballot to EVM, from typical arrange marriage to love and live ins. There is also a need to relook our administrative and judicial processes.

A digital court is a platform where trial of cases will be done electronically and include all types of cases under free registration list. First e-court was High Court of judicature Hyderabad and common court of Andhra Pradesh and Telangana. Access to justice is a key citizen need that required futuristic approach to enhance efficiency, equity, and ease.

The roots of the need for this study takes me with the reality to the fact that the world is in the phase of globalization and advancement. And access to the law and legal proceeding is fundamental right which cannot be restricted in difficult times like pandemic in (recently COVID 19) except some cases.

Courts in democracy functions in an open judicial system which received major thrust due to COVID-19 social distance in restrictions. Adoption of E-filing for urgent matters and conduct frequent hearings over video conferencing was the only best suited option for such a country with population in billions.<sup>4</sup>

### Methodology

- Primary sources- interviews, discussions
- Secondary sources- Reference books, newspapers and journals

### Scopes of digitalization

Justice system has three pillars- basically prosecution, investigation, judiciary. There should be a balance between these three for making the system an utopia to be seen by others.

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<sup>3</sup> Financial express, May 26 2021

<sup>4</sup> Sources- world bank

INDIA has a federal system and integrated judiciary <sup>5</sup>with Supreme court at the apex level and high court on lower, then the district level and sub-divisional levels.

➤ SUPREME COURTS-

India has its apex court at Delhi, having its own independent institution. SC has a well-maintained level of working and working class (judges, advocates, staff, etc.). online mode or digital courts will work very well and can be applicable at apex level in a ease and well working manner.

➤ HIGH COURTS-

India has twenty-five state level courts. HC has appellate, writ, fundamental rights violation, etc. cases. These courts can have limited area of cases or this can be enlarged as well. Also has a good number of cases too. So, digital courts can be applicable but has to seen a little carefully. HC has a discipline and a well standard. In future too have a scope to be fully online and physical works to be exceptional.

➤ DISTRICT COURTS-

India has enormous number of courts, one in almost every district. These courts are step layer in justice delivery and are needed to be more standardized and to be stronger in terms of infrastructure and discipline. Digital system can work very well in such courts but the present condition of many district courts of India is worse off. Level of reasoning, knowledge, procedures, etc. are not up to date. Some advocates have even done advocacy by chance can be seen probably in every court.

Basically, the digital court layout will work well only when infrastructure is available with good amount of knowledge.

### EDUCATION AND AWARENESS

Truly said “knowledge is wealth”. If a person has knowledge, then can achieve anything. Technology is also a result of knowledge of humans only. And it can be correctly used with use of right knowledge only. India since independence has so far three educational policies <sup>6</sup>.

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<sup>5</sup> NCERT class 12<sup>th</sup>

First in 1968, then in 1986 revised in 1992 and the third one recent 2020.

It took 28 years to modify education policy of the country. Which would have been advanced with the time. This is a drawback to country’s people and students knowing only pen and notebook, who should have been using e-learning in the early phase only. This resulted in unease and problems now to children to study online in times of pandemic and worst conditions affecting learning and, in a way, or so their future too.

Now there is a need to revolutionize our education system and make it advanced so to have a good productive future generation for our county which will more be an asset then liabilities.

Also, there is a need for awareness about technology and uses for our old generations too who have not used even androids till yet. They should know the use of various technology and make life easier and step forward with others in the world. Elder generation have to be taught how to access information online, secure their rights and ensure their security from the frauds and cheats done by cheaters digitally.

With this there is a good initiative too taken by courts as told by one of the interviewees. That court has teams made to visit rural areas for organizing camps <sup>7</sup>and spreading awareness to increase the information about people’s rights and procedures.

On the root level there is also a need to have government as well as individual initiatives to take this chain of changes and steps towards advancement on the higher levels and spread the edges to all part of country. Government should ensure the needs and drawbacks becoming a breaker in this initiation of digitalization.

One of such breakers in India other than literacy is network issues not only in rural but also in urban areas.

People often finds disconnections and courts too have the issue of lacking network becoming a major problem in justice delivery. Judges are often seen saying our video stopped, your voice is lacking, the evidence is not properly seen, etc.

Government has to take such small necessities very carefully. And has to ensure such issues must be resolved first to provide justice to the people standing in any part of the country.

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<sup>6</sup> History of education policy. By athshala

<sup>7</sup> Adv. Rajendra Tiwari- Gwalior HC

Beside these, digitization of Indian judiciary system is an advantage to the advocates as well as the citizens which were earlier trapped in the traps of middle man , wrong advocates, etc.

Benefits of digitization of judiciary system

- ✓ First, everyone has ease to access info from courts to ordinary person in any part of the world.
- ✓ Second, it provides a little flexibility to the advocate who can do advocacy from anywhere and has no restricted time schedule.
- ✓ Third, lawyers can go in variety of fields and can give time to a greater number of cases at a time.
- ✓ Fourth, it saves a lot of time in formalities and travelling. This is an ease to the judge, lawyer and citizens too.
- ✓ Fifth, this a good way for new comers who are hesitant to speak in the court as they don't have such prior experiences and that way of taking and advocating.
- ✓ Sixth, digitization will help in lowering the level of politics in the cases and justice delivery.
- ✓ Seventh, the people who has to face advocate dealing or the exploitation done will be benefited to have a free access to justice.
- ✓ Eighth, digitization will decrease the corruption level at every stage and places.
- ✓ Ninth, digital access will provide higher authorities to put a 360-degree view and a check on lower authorities to see working and speed of working.
- ✓ Tenth, digital access provides information of past cases and judgements done which are beneficial at basic points to solve the new cases and understand the field of judgements.

Causes and Problems

There are variety of problems in such a justice delivery method but as a phrase state “where there is a will there is a way” the online mode has some major drawbacks too:

- ✓ Data is spread over more then twenty websites which make the access complicated to an ordinary person living in rural por sub-urban areas having incomplete knowledge of internet and websites.

- ✓ There are approx. 3.5 crore cases pending <sup>8</sup>in high court and below
- ✓ The pendency status changes but it takes months or years, which shows disappointments between public.
- ✓ The major flaw is the network which is like an ocean wave touching the land and going back to its flow.
- ✓ For digitization first we have to fix the network problem all around the country.
- ✓ Less awareness and more legality make the justice delivery slow still on digital modes
- ✓ There are fair chances of fraud and wrong techniques used by providing false evidences, witnesses, etc.

### Impacts

- Barrier faced = the online access has a captcha system on website.
- People have to type captchas repeatedly. This is a flaw because of network taking a long process back again to access info of the case.
- Statistics are not in machine-processable format, again a problem with respect to a huge number of cases and pendency status.

### Solutions

Solutions can only work if we take firm steps towards the problems.

- ❖ Indian court website shows only individual cases there is no mechanism for a system level examination of judiciary, we need machine readable granular data for big-picture analysis.
- ❖ There is a need for major updates and upgradations with improvements.
- ❖ Upgradation of infrastructure of supreme court and high court complexes, process of setting ITI infrastructure started around 15 years ago (additional technical infrastructure) there is a need of necessary wireless LAN.
- ❖ There is also a need for security upgradation of digital record rooms and digitization of legal tools

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<sup>8</sup> The live law news network-2021-01-19

- ❖ India is a part of common law system have digital archives and inter connectivity of law libraries which need to be more advanced in surveying material present and record of that.
- ❖ National judicial data grid <sup>9</sup>is another step and NDSAP (national data sharing and accessibility policy) 2012 are playing significant role.

### Final report

- Technology can only be used to revolutionise India’s courts when it operates in correct manner. Or can further spread exclusions, inequality and surveillance.
- Phase one and two dealt with digitization of judiciary i.e. e-filing, tracking cases online uploading.
- judgement online, etc. Helped in ease in justice delivery procedure.
- Phase three propose an ecosystem approach <sup>10</sup> to justice delivery, reaffirms its commitment to digitization of court process and plans to upgrade electronic infrastructure to lower judiciary.

### Conclusion

- ✚ Technology plays an important role in streamlining justice delivery system but it cannot be end in itself.
- ✚ Hence Indian courts should be digitised in a step-by-step process. If the digitization is done in a single go it can create an imbalance between ordinary people and court system. It can also lead to major flaws of corruption and fraud. Hence it has to be done in very attentive and processed manner.
- ✚ There is a need to work more to make India stand on the dice with other developed nations of the world
- ✚ Firth we have to work on basic need to have such a revolutionised advancement in our systems.

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<sup>9</sup> NDSAP 2012

<sup>10</sup> E-committee, supreme court

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