



Use of Technology In Judiciary

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This article is based on **Helping and hindering justice** which was published in the Hindu on 26/08/2021. It talks about the challenges of using technology in the judicial system.

Recently, while dealing with issues arising in connection with the **CoWIN portal**, the Supreme Court pointed out some of the major impediments in the delivery of vaccines to the people at large.

Major Impediments are: **inadequate digital literacy** across the country, **inadequate digital penetration**, and serious **issues of bandwidth and connectivity**, particularly in remote and inaccessible regions.

Despite the ambition of bringing the benefits of vaccination to every human being in the country, the policy was falling short of its goal because of the inherent difficulties pointed out.

The premise in the observations of the court was that relying solely on digital transformation may not be a sound idea. It could result in exclusion of a large section of the population on account of the enumerated shortfalls.

The similar challenges are faced by the judicial system while using technology in the dispensation of justice.

Judiciary's Efforts During Pandemic

- In the wake of the pandemic, courts began using facilities like e-filing in true earnest.
- In May 2020, the Supreme Court also introduced another innovation: **a new system of e-filing and artificial intelligence-enabled referencing.**

This was meant to herald efficiency, transparency and access to court delivery services for every user.

- The judiciary's effort is not merely a one-off action to overcome the pandemic-created emergency. It also seeks to harness technology in overcoming and resolving the intractable ills that have for long dogged the judiciary.
 - These include the **massive backlog of cases** and unacceptable levels of **judicial vacancies** across the country at all levels.
- The latest Vision Document for Phase III of the **e-Courts Project** seeks to address the **judiciary's digital deprivation**.
 - It envisages an infrastructure for the judicial system that is '**natively digital**' and reflects the effect that the pandemic has had on India's judicial timeline and thinking.

Issues Associated With Digital Solution to Judiciary

- **Not a Panacea:** Deployed with adequate data-based planning and safeguards, technological tools can be a game changer.
 - However, **technology is not per se value-neutral** — that is, it is not immune to biases — and therefore, it must be properly evaluated to see whether it works to increase the power imbalance between citizens and the state or whether it affirms and furthers citizens' rights.
- **Maintaining e-courts Record:** The paralegal staff is not well equipped and trained to effectively handle document or record evidence, and make them readily accessible to the litigant, to the council as well as to the court.
- **Hacking and Cybersecurity:** On the top of technology, cyber-security will be a huge concern too. The government has initiated remedial steps to address this problem and formulated the Cyber Security Strategy. However, the practical and actual implementation of the same remains a challenge.
- **Lawyers** in semi-urban and rural districts find online hearings challenging, mostly due to connectivity issues and an **unfamiliarity** with this way of working.
- **Other issues** might involve the **litigant's lack of confidence in the process** due to lack of proximity.
 - It is must to keep in mind that there will always be an inherent resistance to change to all stakeholders, whether for good or bad.

Way Forward

- **Frequent Performance Audits:** It would be imperative to resort to performance audits and sandboxing measures (isolated test environment) to carefully understand and gauge the potential and risks.
- **Deep house cleaning** is required in each court and there also needs to be an outreach to all litigants in a cost-effective, convenient and efficient manner.

- **Evidence Based Rational Approach:** The next course of action should be based on an evidence-based rational approach.
For instance, we need to study and understand why video conferencing in criminal cases has neither shortened trials nor reduced the number of people awaiting trial.
- **Address Uneven Digital Access:** While mobile phones are widely owned and used, access to the Internet remains limited to urban users.
- **Filling Up Vacancies:** Just as doctors cannot be replaced by chatbots, technology, no matter how advanced, cannot be a substitute for judges of whom there remains a big shortfall.
 - The **India Justice Report 2020** pegs vacancies in the High Court at 38% (2018-19) and in lower courts at 22% for the same period.
 - More than four out of every 10 posts of High Court judges remain vacant as of August 2021.
- **Infrastructure Deficit:** Open court is a cardinal principle in the delivery of justice. The question of public access cannot be pushed to the sidelines but must be a central consideration.
The shortage of technical infrastructure has too often meant that **access to online hearings is curtailed.**

Conclusion

Perhaps, this could be the opportune time for making lasting changes that could transform the creaking justice delivery system in India.

But an over-reliance on technology is not a panacea to all the ills plaguing the courts and if done without forethought, could become counterproductive.

Drishti Mains Question

Technology can be a game changer, but it is not a panacea for the ills plaguing courts. Discuss.
