



Digitisation of Indian Judiciary

This editorial is based on “[Justice, A Click Away](#)” which was published in Indian Express on 28/05/2022. It talks about the need for bringing digital methods to deliver justice and the challenges associated with it.

For Prelims: Supreme Court, e-Filing, e-Courts Project, National e-Governance Plan, IT Act 2000, Artificial Intelligence (AI) in Indian Judiciary

For Mains: Digitisation of Indian Judiciary - Need, Initiatives taken, Challenges associated, Way Ahead

The Covid-19 restrictions provided a major thrust to the digitisation of Indian courts. The judiciary, led by the [Supreme Court](#) and the High Courts, adopted [e-filing for urgent matters](#) and conducted frequent hearings over video conferencing.

[Digitization, for the Indian judiciary](#), presents a golden opportunity to reduce the pendency of a plethora of cases and preserve the decade-old documents.

Hence, it is imperative that the **use of digital technology be discussed to better utilise its potential**, particularly in terms of digitisation of court records, e-filing of cases and their virtual hearing, live streaming of court proceedings.

The Advent of Technology in Judiciary

When did it Begin?

- In India, [e-governance](#) in the field of administration of justice began in the late 1990s, but it accelerated after the enactment of the [Information and Technology Act, 2000](#).
- As the 21st century began, the focus was on digitising the court's records and establishing **e-courts** across the country.
 - In the year of 2006, e-courts were launched as a part of the **National e-Governance Plan (NeGP)**.

What Steps have the Courts Taken for Digitisation of Judiciary?

- The Allahabad High Court is a guiding example in this regard. As the Chief Justice of Allahabad High Court (HC), **Justice D Y Chandrachud** conceptualised and **initiated the project to digitise approximately one crore case files** in one year.
- The **hearing of matrimonial cases through video-conferencing** was approved by the Supreme Court in the matter of **Krishna Veni Nagam v Harish Nagam (2017)**. However, the direction was short-lived.

- In 2018, the Supreme Court allowed the live-streaming of cases of constitutional and national importance on the basis of the judgement in ***Swapnil Tripathi vs Supreme Court Of India, 2018***.
 - The livestreaming of court proceedings is a step towards ensuring transparency and openness.
 - The **Gujarat HC in July 2021 became the first court in the country** to livestream its proceedings.
 - It was emulated by the HC of Karnataka, Odisha, Madhya Pradesh and Patna.
- The latest Vision Document for Phase III of the [e-Courts Project](#) was introduced during the Covid-19 pandemic 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.
- Recently, the Law Minister has said that for implementing phase two of the eCourts project, there is a need to adopt new, cutting edge technologies of [Machine Learning \(ML\)](#) and [Artificial Intelligence \(AI\) to increase the efficiency of the justice delivery system](#).
 - To explore the use of AI in the judicial domain, the Supreme Court of India has constituted an **Artificial Intelligence Committee**.

Why is Digitisation of Judiciary a Need?

- **Difficulty in Maintaining Physical Records:** Not only a large space is required to store so many files, it is also quite difficult to manually preserve the decades-old documents.
 - It has been observed that **cases are adjourned simply because affidavits filed several years ago** were not restored with the record or were not traceable.
- **Acquittal of Convicts:** Another purpose is to ensure that these files are traceable electronically as and when required. The consequences of missing court records are grave.
 - In many old cases, criminal records are found to go missing thereby leading to the **acquittal of the accused**.
 - In ***State of Uttar Pradesh v. Abhay Raj Singh***, it was held by the Supreme Court that if court records go missing and re-construction is not possible, the **courts are bound to set aside the conviction**.
- **Delays in Cases:** The time consumed in **summoning records from the lower courts to the appellate courts** is one of the major factors that cause delays in cases.

What Challenges are being Faced in the Digitisation of Judiciary?

- **Connectivity Issues:** Internet connectivity issues and the **need for a well-equipped space** where lawyers can conduct their cases are some of the major problems requiring attention.
 - Lawyers in semi-urban and rural districts find online hearings challenging, mostly due to connectivity issues and an unfamiliarity with this way of working
- **Digital Literacy:** Many judges, court staff and lawyers are **not well-versed with digital technology** and its benefits.
- **Privacy Concerns:** With increasing digitisation, especially of court records, **privacy concerns are likely to be at the forefront** of judicial and public deliberations in the coming years.
- **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**.
- **Other Challenges:**
 - The digitisation of courts over the last decade has been singularly focussed on individual litigants, with court websites designed to allow access to individual cases. There is **no mechanism for a system-level examination** of the judiciary.
 - Deployed with adequate 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**. Power imbalances need to be checked upon.

What Steps can be Taken to Promote the Digitisation of Judiciary?

- **Role of Judges and Lawyers:** Political will and the support of judges and lawyers are necessary for the digitisation process to succeed.
 - The need of the hour is for them to be made aware of the **associated technologies and receive adequate training.**
 - Conducting **training sessions to familiarise the Judges with the e-courts** framework and procedure can give a huge impetus to the successful running of e-courts.
- **Virtual Hearing in Certain Cases:** Virtual hearings cannot be a substitute for physical court hearings in all cases.
 - However, **in certain categories** of cases as identified by the court administration, **virtual hearing should be made mandatory.**
- **Regulation of Technology Usage:** As the technology grows, concerns about data protection, privacy, human rights and ethics will pose fresh challenges and hence, will require **great self-regulation by developers of these technologies.**
 - It will also require **external regulation by the legislature through statute**, rules, regulation and by the judiciary through judicial review and constitutional standards.
- **Training:** The government must make dedicated efforts in the **training of personnel to maintain all the e-data.**
 - These include maintaining proper records of e-file minute entries, notification, service, summons, warrants, bail orders, order copies, e-filing etc. for ready references.
 - **Creating awareness about e-courts and technologies** in the judiciary through **seminars** can help bring to light the facilities and the ease that such initiatives can facilitate.

Drishti Mains Question

Discuss the key challenges India is facing in terms of the digitisation of judiciary and suggest measures that can be taken to overcome these challenges.

UPSC Civil Services Examination, Previous Year Questions (PYQs)

Q. With reference to the Indian judiciary, consider the following statements:

1. Any retired judge of the Supreme Court of India can be called back to sit and act as a Supreme Court judge by the Chief Justice of India with the prior permission of the President of India.
2. A High Court in India has the power to review its own judgement as the Supreme Court does.

Which of the statements given above is/are correct?

- (a) 1 only
- (b) 2 only
- (c) Both 1 and 2
- (d) Neither 1 nor 2

Ans: (c)