Digital Justice Delivery

drishtiias.com/current-affairs-news-analysis-editorials/news-editorials/2021-06-10/print

This article is based on **"The promise and perils of digital justice delivery"** which was published in The Hindu on 10/06/2021. It talks about the intended benefits and issues pertaining to proposed Phase III of the e-courts project.

In popular perception, Indian courts are associated with long delays and difficulties for ordinary litigants. According to data released by the Supreme Court in June 2020, 3.27 crore cases are pending before Indian courts, of which 85,000 have been pending for over 30 years.

Technological interventions in the form of **e-courts** are being established to address the issue of pendency and other problems.

However, technology can only be used to revolutionise India's courts when it operates within the constitutional framework of the fundamental rights of citizens. If not, technology can further exclusion, inequity and surveillance.

The e-Courts Project: Background

- The e-Committee of the Supreme Court of India recently released its draft vision document for Phase III of the e-Courts project.
- Phases I and II had dealt with digitisation of the judiciary, i.e., e-filing, tracking cases online, uploading judgments online, etc. This has helped in easing justice delivery procedures.
    - For example, Phase II of the e-Courts project saw the development of the National Service and Tracking of Electronic Processes, a software that enabled e-service of summons.
- Despite some hiccups due to the Covid-19 pandemic, the Supreme Court and High Courts have been able to function online.
- Phase III of the e-Courts project, reaffirms its commitment to the digitisation of court processes, and plans to upgrade the electronic infrastructure of the lower judiciary and enable access to lawyers and litigants.
- Most importantly, the Phase III proposes an "ecosystem approach" to justice delivery.

Ecosystem Approach: Intended Benefits

- **Seamless Exchange of Information:** Through this data can be exchanged between various branches of the State, such as between the judiciary, the police and the prison systems through the **Interoperable Criminal Justice System (ICJS).**
- **Uniformity and Standardisation:** Data aggregation under Phase III can be useful when it provides anonymous, aggregated, and statistical information about issues without identifying the individuals.

  This could be made possible in Phase III by encouraging uniformity and standardisation of entry fields.
- **360-Degree Profiling:** Phase III envisages creating a 360-degree profile of each person by integrating all of their interactions with government agencies into a unified database.
  - Once any government department moves online, their pen-and-paper registers will become excel sheets, shareable with a single click.
  - Localised data will become centralised which can lead to great advancements in problem-solving.

Ecosystem Approach: Associated Challenges

- **Exacerbating Inequalities:** It has been pointed out by organisations such as the Criminal Justice and Police Accountability Project that the ICJS will likely exacerbate existing class and caste inequalities that characterise the police and prison system.
  - For Instance, the exercise of criminal data creation happens at local police stations.
  - Local stations have historically contributed to the criminalisation of entire communities through colonial-era laws such as the Criminal Tribes Act of 1871, by labelling such communities as “habitual offenders”.
- **Housing of Data With Home Ministry:** This is of particular concern since the data collected, shared and collated through the e-Courts project will be housed within the Home Ministry under the ICJS.
  - While it is understandable why the courts could reasonably benefit from access to police and prison records, courts deal with a variety of matters, some of which may be purely civil, commercial or personal in nature.
  - There is no clear explanation offered for why the Home Ministry needs access to court data that may have absolutely no relation to criminal law.
- **Data Privacy Issue:** Data aggregation can not violate the privacy standards that it set in **Puttaswamy v. Union of India (2017)**, especially since India does not yet have a data protection regime.

- **Fear of Targeted Surveillance:** 360-degree profiling of an individual has been perfected by social media platforms and technology companies for targeted advertisements.
    - However, the difference is that when technology companies do this, we get targeted advertising, but if the government does it, we get targeted surveillance.

Conclusion

Since the Phase III vision document is a draft, there is still an opportunity to use technology in order to streamline judicial processes, reduce pendency, and help the litigants. However, this should be done within the framework of our **fundamental rights.**

Drishti Mains Question

Technology plays an important role in streamlining the justice delivery system, but it cannot be an end in itself. Discuss the statement in the context of the proposed Phase III e-court project.