



## Issue of Bail Box

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This editorial is based on the article **What we need to fix our judicial system** which was published in The Indian Express on 06/11/2021. It talks about the issue regarding the implementation of bail plea and use of technology in the criminal justice system.

Recently the Indian public has observed with interest the criminal proceedings that followed the arrest of Aryan Khan, son of Shah Rukh Khan. When the Bombay High Court finally granted bail to Aryan, millions of Indians learnt that grant of bail by a court does not automatically entitle the accused to an immediate release, unless the bail order is deposited in a physical letterbox installed outside the Arthur Road prison.

The box is opened four times a day and Khan's lawyers missed the last deadline because of which his son had to spend an extra night in jail. People were astonished to learn that a “**bail box**” can stand between jail and the freedom of an Indian citizen.

In this context there is a need to relook at the rules and criminal justice system and adoption of technology in the court system.

### Initiatives Taken

- Justice D Y Chandrachud, who heads the **e-Committee of the Supreme Court**, commented at a public event that the delay in communicating bail orders has to be addressed on a war footing.
- In this regard, the Supreme court judges recently had taken suo moto cognisance of the issue of non-release of prisoners after grant of bail and directed the creation of **FASTER (Fast and Secured Transmission of Electronic Records) System**, which would transmit **e-authenticated copies of the interim orders**, stay orders, bail orders and record of proceedings to the duty holders.
- The court was entirely silent on the fact that the Phase II document for the e-courts project, published in 2014, had announced an ambitious but unfulfilled plan to allow for the transmission of information between key institutions in the criminal justice system.

- The “**bail-jail**” connectivity issue in this case is but a symptom of a much deeper problem with the structure, management and accountability of the e-Committee, which is responsible for steering the e-courts project.

### **Associated Issues With e-Courts Project**

- A budget of Rs 935 crore and Rs 1,670 crore was approved by the government for Phase I and II of the project, respectively, and the e-Committee, headed by a Supreme Court judge, decides how to spend it. Yet, there is relatively little to show for all this money.
- Many courts do have computers and it is easier to get case information for ordinary citizens but why is it that a basic functionality, like electronic transmission of orders between the courts and the prisons, escaped the attention of the e-Committee, despite being mentioned in its own vision documents
- This could be because the **e-Committee is not accountable to anybody**. Neither the **Comptroller Auditor General (CAG)** nor the **Public Accounts Committee (PAC)** of the Lok Sabha has reviewed its handling of the e-courts project, despite the substantial expenditure of public funds.
- The Department of Justice (DoJ), which works under the Ministry of Law and Justice, after much pressure from the Parliamentary Standing Committee on Law and Justice, commissioned two timid, if not limited, evaluations of the project.
- A project as complex as this should, at the very least, be subject to public review or a performance audit. These are, after all, the basics of public accountability and project management.

### **Issues of Using Technology in the Judiciary**

- **Increase in the Cost:** e-Courts will also prove to be cost-intensive as setting up state of the art e-courts will require the deployment of new-age technology.
- **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 but it is more on the side of prescribed guidelines alone. The practical and actual implementation of the same remains to be seen.
- **Infrastructure:** Challenges can erupt due to insufficient infrastructure and non-availability of electricity and internet connectivity in most of the Talukas/villages.  
Electricity connection is a must along with internet connectivity and computers to ensure justice reaches every section equally.
- **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.
- Other issues might involve the litigant’s lack of confidence in the process due to lack of proximity.

## Way Forward

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- **Address Uneven Digital Access:** While mobile phones are widely owned and used, access to the Internet remains limited to urban users.
- **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.
- **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.
- **Accountability of Judges:** The solution lies in demanding accountability from judges who insist on running administratively-complex projects (like e-courts) for which they are not trained and for which they lack the required skills
- One aspect that needs to be focussed on is the **deployment of a robust security system** that provides secure access to case information for appropriate parties. The security of e-courts infrastructure and system is of paramount importance.
- Also, a **user-friendly e-courts mechanism**, which is simple and easily accessible by the common public will encourage litigants to use such facilities in India.

## Conclusion

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It 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***

There is a need to use technology to make the criminal justice system efficient and effective. Critically analyse the statement.