



## 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)**