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ENHANCING ACCESS TO JUSTICE THROUGH COURT DIGITALIZATION: ANALYSING BENEFITS AND BARRIERS

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ABSTRACT:

Administration of justice can be defined as the method of applying laws and enforcing them in such a way as to ensure disputes are resolved, wrongdoers are punished and ultimately the rights of individuals are protected. It is a combined process which includes courts, lawyers, judges and other law enforcement agencies. Dispute resolution can be considered as the corollary of administration of justice or vice versa. When a dispute is being resolved by court through application of laws, it is the actual administration of justice happening there. For time immemorial, we are used to the traditional dispute resolution by courts. But once the aftermath of covid-19 hit, we started to see a paradigm shift in almost all areas. Everything became online all at once. Consequently, the regular dispute resolution shifted to online dispute resolution. Now the virtual court hearings, electronic case management, incorporation of latest digital technologies has become very common nowadays. On one hand it is very convenient and updated but on the other hand, people who have limited or no access to these resources get marginalized. Similarly, data privacy issues, confidentiality, fairness and transparency also pose challenges to this system. Digitalization ensures greater improvement on access to justice but simultaneously there is a need to check upon abuse of this process. This paper tries to

examine the pros and cons of court digitalisation by a comparison of various established digital justice systems and recommends for maximising its potential and minimising the threats.

Keywords: Abuse of process, access to justice, administration, application of laws, confidentiality, Covid-19, data privacy, digital justice system, digitalization, dispute resolution, fairness, judges, justice, law enforcement agencies, marginalized, paradigm shift, process, rights, transparency, virtual court hearings.

INTRODUCTION

The Covid-19 pandemic has transformed our life in such a way that anything could be possible with a smartphone and internet connection. Everything, being at our finger tips, has become more efficient. One of such reformation happened in the field of law is the court digitalization. With the integration of technology, the judicial system is being modified and simplified through various activities like virtual hearings, e-filings, online database access, case management systems and the like. Aided by AI and other automation tools, court digitalization guarantees cost effective and proper time management of cases with enhanced access to justice. In case of international disputes, it seeks to ensure cross border cooperation and in domestic disputes, even people in remote areas have the access.

From time immemorial, the judicial system was completely paper based where people need to be present in person and all documents, evidences required physical infrastructure for safe custody. In spite of all these, all these traditional methods are ineffective which we can see from the backlog of cases. A set of administrative staff is required to be employed to maintain these paper works and also if one of the parties to dispute is absent, the case is posted to some other date which goes on for years. If any one element in this chain is not so prompt, it may even be a lazy employee or a person who is unavailable, the entire judicial process gets delayed. We are very well aware of the fact that justice delayed is justice denied (Oxford Dictionary of Quotations, n.d.). in order to overcome the issues related with traditional court system, digitalization is very essential. Through e-filing, we are now able to file any case in any court without being physically present. It is not only time effective but also economic. There are also higher chances of errors and manipulation in paper-based system which are rectified in the digitalization era. With the help of better data management and storage capacities, the judicial systems are getting efficient meeting the needs of changing needs of the society and emerging trends.

This paper mainly focuses on the benefits and drawbacks of court digitalization and how to overcome those barriers. The court digitalization has enhanced the access to justice in far better way than we could imagine. Through this paper, we get to know about the changes that has to be made and incorporated in the fields of technology, regulations and judicial systems. And also, proper measures have to be taken to safeguard data security and privacy for which we have to be clear about the barriers. Court digitalization makes the entire judicial system transparent and accessible, but we should also provide training programmes to those associated with it for a smooth transition. This research tries to provide a blueprint for an efficient judicial system which is accessible and transparent and uphold justice.

LITERATURE REVIEW

With the advancement of technology, the world is growing and changing faster. There is this golden touch of Artificial Intelligence in every nook and corner. There exists no field where people can ignore AI. Consequently, digitalization has also helped the judicial system in being more transparent and accessible. This literature review examines how digitalization is functional in various judicial systems, the pros and cons and the opportunities in enhancing it.

A very large number of research states about court digitalization. For instance, J. Donoghue's paper on digitalization can be referred to as one of the earliest research on need and access to justice in virtual courts. According to the paper, the first trial of virtual court at England in 2009 where magistrates conducted hearing of cases by real time connection between police stations and the courts. Later in 2016, the government made some recommendations to digitalize all courts and tribunals. Some of them were digital evidence collection, secured computers connecting lawyers and clients through video conferencing and better case management systems. The author concludes by saying that court digitalization is essential but priority should be simultaneously given to effective public participation so that justice is served suitably¹.

V. Romanova, V. Barankova in their paper discusses the potential benefits of digitalization as better access to justice, cost effective, improved evidence analysis and greater support to judges and automated tasks². Hithesh Bhatt and others in their paper deliberates about the various issues faced by judicial systems such as dearth of transparency, irregularity and recurrent adjournments. The authors mainly link the reasons for these issues to traditional methods. By quoting the examples of various digital judicial systems such as Switzerland's Justitia 4.0 and

¹ (Donoghue, 2017)

² V. R., & V. B. (2023). Digitalization Of Court Operations: Main Directions And Opportunities. *Amparo*.

Brazil's PJE, they explain how court administration is being reinforced by digitalization³. Yuri, A. and his co-authors also converses about the benefits of digitalization and how it improves the system. Some of the benefits they state are time saving and cost-efficient process, independent and transparent system, increased level of public confidence and quality decisions. They also emphasize upon the role of government in balancing the conflicting interests and also step by step change into digitalization so that they can minimise the risk that arises on deviating from established procedures⁴.

Liliya, in her paper compares digitalization techniques in various jurisdiction. In Russia, there is large amount of electronic interaction between court and the parties. They use electronic digital system "justice" which helps in e-filing, video conferencing and recording of sessions, project management systems and online database management systems. When it comes to the US, they have "DARE" software to analyse evidence in civil proceedings. But the criticism against this software is that it fails to evaluate person's feelings. For example, in criminal proceedings, be it accused, complainant or witness, their body language helps a lot in assessing them. This will not be possible by using a software. There exist certain things which can be read through intuition, for which software would not be of much help. Brazil has a very advanced system where the system itself determines the nature of offense in traffic violations and gives a court ruling. This to an extent replaces the functions of judge. Chinese model is very well advanced that the judge is only bound to examine the decision given by the AI assistant and check for any kind of legal errors⁵.

One of the papers which discusses about the prospects as well as challenges on digitalization is by V. Manghora and Yu. Mykhalchuk. They state that the transition to digitalization is essential but it poses greater threat to legal professionals which may throw them out of their profession. Simultaneously cyber security and data confidentiality are also great concerns. Focusing on Ukrainian system, the authors state that the digitalization should meet the latest technology and ensure access to justice is not denied to any section of the society. They also recommend creating certain ethical standards internationally so that no one's privacy is violated⁶.

³ (Hitesh, 2024)

⁴ (Yuri, 2020)

⁵ (Shcherbakova, 2022)

⁶ (V. Manghora, 2023)

An Economic Perspective of the Justice Digitalisation Process is a paper which discusses about the issues faced while implementing digitalisation. The authors agree that the digitalization has made the judicial administration far efficient, the reason for which is better availability of information for the citizens. When the system becomes efficient, it will in turn become economical. But the major challenge or issue here is the discrepancy in availability of information as well as resources. When there occurs a discrepancy, the question of natural justice arises. When one party to the proceeding is economically weak, his access to resources and information will inevitably become feeble, which will ultimately lead to questioning the integrity of the system. The paper also mentions about the crucial role played by AI algorithms in accessing information and dispensing justice⁷.

The scope for improvement in court digitalization has also been dealt with in a few papers. According to Charlotta and her co-authors, one of the after effect of covid-19 pandemic was that the judicial system has to adapt to certain new changes in relation with technology. With this change, there came a feeling that this adaptation can lead to a flexible and efficient system. In order to understand and utilize its full potential, we need to go far⁸. O. Bryantseva, in his paper suggests the same. Current technologies have to be improved and innovations has to be implemented so that the digitalisation of justice system can be optimised to the full level⁹. Olexiy and Yuschenko deliberates four types of digital systems namely one for court interaction, one for online sessions, one for generating court decisions and for delivery of justice. They also recommend AI assistance for handling cases with the consent of parties but with the assurance that each party has equal access to information¹⁰.

In short, the literature discloses a refined image of how digitalization has reformed the judicial system. While there is a threat to confidentiality and privacy, it has actually made the system fairer and transparent. Equal access to resources is a critical element in establishing an efficient system. Further research on how to make the system better while maintaining the privacy will be essential to develop guidelines in this area.

BENEFITS OF COURT DIGITALIZATION

The major benefits of court digitalization are explained in detail in the following sections.

⁷ (José, 2023)

⁸ (Charlotta, 2024)

⁹ (Bryantseva, 2022)

¹⁰ (Olexiy, 2023)

Increased accessibility

The digitalized courts have expanded the access to justice, especially to those people who live in distant areas. One of the basic thing about filing a case is territorial jurisdiction of courts. That is, if we have a case, it should be filed in the court where any of the party resides, or works or the cause of action happened. Once a case is filed, the parties have to be physically present in the court for each sitting. With the help of video conferencing, e-filing and online database management, people from any location can file or attend cases, with the help of a mobile phone and internet connection. By this way, a lot of money can be saved.

One weakness of the judicial system is the large backlog of cases. Many a times, parties attend the cases, but the suit may be postponed for another session, may be after months or a year. Here also, without physical presence, the parties can attend online. Like the systems abroad, if there comes an online set up for evidence analysis, it will further reduce the costs.

The administrative system is also an area where the process becomes time consuming. With the help of e-filing, the delay in paperwork is reduced to a very larger extent. There are also some legal professionals who unnecessarily delay the cases by misleading the clients. Now that e-courts system is well maintained that the clients need not contact the court staff or their advocates to get updates about their cases. All these updated technologies help in delivering justice speedily.

Digitalized courts also assist in meeting the needs of differently abled people. By using AI tools such as text to speech, screen readers etc., people who are unable to read or write can also have equal access to justice. It is to be noted that the proceedings in higher courts in India takes place in English language. Not everyone, especially elderly people and those live in rural areas may not be fluent with the language. Digitalization also offers interpretation and multilingual services so that no one is left behind because of language barrier.

While we speak about the benefits, we should also refer to the issues. Our infrastructure has not developed so far that after a heavy rain, all our networks go down. the same applies here. And also, remote areas may face too much connectivity issues. Digital literacy is another factor where we might need to spend a very large amount to create awareness. In brief, the access to justice has been increased in a tremendous way due to court digitalization but at the same time, network and literacy issues are something that has to be taken care of.

Efficiency and Cost Reduction

Digitalization have entirely transformed the court systems by modernising the processes which are economical. E-filing, online management systems, video conferencing and other digital tools has made the digitalized courts efficient & effective. One of the major revolutions brought by digitalization is e-filing. In the traditional system, there are a lot of paperwork. There may be clerical errors and for sure unnecessary delays. Through e-filing, the parties to the proceeding can file their documents electronically. Since the mode of proceedings are through video conferencing, there is no use of physical copies. As there is no physical storage is required, there is no need of staff for that purpose. This results in reduction of costs.

Precedents are of great importance in judicial systems. During the arguments, the advocates need to cite out previous judgments to prove their point. Manually searching for judgments is time consuming and causes delays. Online case management systems reduce such sort of tedious works. When we are using AI tools along with these management systems, it summarises the judgements and provide us with only the details required. When it comes to first generation lawyers, these digitalization assists them in very efficient manner.

The traditional court proceedings consist of notice, summons and warrants in paper mode. In most cases, these summons and notices are sent by the court staffs. Sometimes, it might be even prepared by para legal volunteers. They might not have any legal knowledge or idea about the cases. There are chances that they might send notice to people who are no longer connected to the case. And also, if the parties are not at the specified address, it creates additional problems. The case management software offers solution for this issue. It schedules cases, sends notifications and track cases. Since the software manages these tasks, so much errors will be reduced. At the same time, we can save operational and staff costs. For litigants also it is convenient. Even if they are travelling or abroad, they can clearly track their case proceedings.

After the pandemic, the scope of video conferencing has increased. From kindergarten to international conferences, everything happens at our fingertips. This has also reached the judicial systems. Video proceedings help legal professionals to attend different court proceedings at the same time without any hustle. For litigants, it is convenient that they need not disturb their work or personal life or contact the court staff or advocates to know about the proceedings. Additionally, if in need of an interpreter or any sort of expert, there is no additional cost incurred.

Another feature is that of online payment. Everybody has this UPI ids in their phones that no one possess liquid money now. Let it be fines or the court fees, now the payment has become

simpler and systematic. Then with respect to document verification also, the software can effortlessly check the authenticity. All these help in cutting down costs primarily and reducing the delay. Once the delay is reduced, backlog of cases will not be there. When the cases are settled faster, a lot of expenses can be saved resulting in proper delivery of justice.

Enhanced Transparency and Accountability

We have already spoken about the issues related with the traditional court process and how it is being addressed by the digitalized courts. The data management system and video conferencing all have made the system fair and transparent. While the case files are being manually handled in paper based judicial system, there are a lot of risks associated with it. There may be collusion between the court staff and one of the litigants in the case that they may hide the case details. There are also chances of files getting lost or manipulated. As far as paper files are concerned, after some years, the papers may get damaged, the matters contained may become blur etc. All these issues are being solved by the digital management system. In digital management system, you can have access to any file within seconds. There is no delay, risk of manipulation or loss of documents.

Let us also see it from the perspective of junior lawyers, law students and general public. If they need access to any case file, it is very easily accessible from the online management system. There is also a practice in some higher courts that they don't entertain interns or public to watch the proceedings unless you are connected with the case. They need not visit the court premises or get connected with the staff to retrieve such information now.

With respect to transparency and accountability, now that all files are having public access, people can have a close look on how judicial decisions are made. So, the officers also function properly, knowing that their decisions are closely watched by the public. And by this way, corruption and malpractices can be avoided to a larger extent. Whenever a minor change is made in the documents, the database gives complete details of who, when and what change has made. So there is not even a minute chance of manipulation. Once a judgement is available in the website, by using AI tools, we can summarise and get only the details which we require. Therefore, the digitalization not only ensures the proper functioning of judiciary, but also helps the law students and public in accessing the required data only.

Similarly, video proceedings help the public learn about the proceedings closely. People in remote areas or those who are unable to attend in person, can easily attend the proceedings. advocates are also able to schedule their cases without hustling from one court to another. Once

the automatic scheduling takes place, adjournments also get reduced. There is no need for adjournment of cases when one party is unable to attend the court in person, because everybody accesses it online. Even evidences and documents are analysed online, so the judges are only left with the duty to check errors. Their duties are reduced but accountability has been increased.

But there also problems associated with the digitalization like data privacy are always questioned. Even if it is a high-profile case, everybody has access to the details and judiciary will be under more pressure in giving decisions. Many of the people will become unemployed as the artificial intelligence and software tools takes up their job. People will also completely dependent on these tools that they won't find it necessary to check the veracity and authenticity of the information given. We can't also deny the possibility where AI starts to manage everything by itself without leaving space for human interaction where it may completely rule out humankind.

Case management and document handling

Online case management systems save a lot of time and rectify errors which may happen from manual handling. It removes a lot of operational cost and contributes to faster access of case files and other documents. Once the routine tasks are automated, the judges and advocates can completely focus on the cases and not worry about the administrative functions. Not only accessing the files can be done remotely, but also updation of information. For instance, if one of the litigants produces new evidence in a proceeding, the other party may ask the copy for the same. After receiving the copy of the same only, they can prepare their side of arguments regarding that piece of evidence. There are also chances that it might be a fabricated document. To verify its authenticity, it may take long time and incur extra costs. But by digitalized system, once new evidence is introduced, it automatically checks the authenticity and shares a copy with the opposite party.

When a court complex is being shifted from one place to another, shifting the case records is a huge menace. When it comes to digitalized case files, there is no pressure regarding the same. Whether it be an audio file, video or any format of evidence, it has become easily available. When it comes to the advocates or law students, they can also easily search the relevant cases or judgments with available filters. Storing the case files and evidence also has become systematic.

One of the major concerns with regard to digitalized system is the security. The technology has advanced so well that there are enough measures to ensure privacy. These measures include data encryption, access controls and the like. In this way, tampering, breach of data and unauthorized access can be prevented. It also ensures regulatory compliance and whoever does any minor change to the file or even viewed it, will be completely tracked. In this manner, the issue of security breach is addressed.

Digitalization can actually conserve a lot of money. As paper records are converted digital, there is no need of physical storage and staffs for maintaining it. Digitalized systems reduce the delay and the cases gets completed faster, making it economical for the litigants. Similarly, to err is human. Where manually work is done, there are high chances of error. Rectifying the error is also expensive even if it is a clerical error or manipulation. Digitalization solves this issue too. No matter how we need to use the judicial system, our cost of accessing the digital courts is always lesser than that of traditional court system. Adapting to digitalized system makes the judiciary and all those connected with it fair, efficient, accountable and transparent.

BARRIERS TO COURT DIGITALIZATION

Now that we know the major benefits of court digitalization, we will focus on the barriers. The major barriers to digitalization are as follows:

Digital Divide

We always describe digital courts as fair, efficient and transparency. However, this efficiency and transparency can be maintained only when everyone has equal access to the resources. The inequality in digital literacy, access to technology and the like will affect the quality of justice. These inequalities result in digital divide. There are many reasons that can be accounted for digital divide.

One major reason is the difference in socioeconomic status. During the pandemic, when the schools and colleges converted their classes to online, there were many students who could not afford using smartphones to attend the classes. Then, many NGOs, state governments, influential people started sponsoring smartphones for those who can't afford it so that their education doesn't get stopped in between. The same case applies to digital courts. The main object of video conferencing of judicial proceedings is that people from remote areas need not spent money to travel and attend the court proceedings. By using a smart phone, they can attend the proceedings from anywhere. But this can be done only when they have a smart phone and

stable internet connection. People with low income cannot always afford to buy a smartphone or the cost of internet connection. this creates disparities in accessing proper justice.

Another one reason is the geographic location of the litigants. Whatever the amenities are received by the person living in urban area, a person of equivalent status in rural area will not receive. The infrastructure in rural areas is very limited leading to disparities. They don't have proper network or face issues consistently when connected to the internet. Therefore, while attending digital courts, they are unable to participate in the same way as an individual in urban area. Based on their geographical people can have different access to justice.

Next cause can be accounted to digital literacy. When it comes to younger generation, no special literacy programmes are required to teach them how to use social media or latest technology as they have the ability to learn it all by themselves. But mostly the parties to proceedings are from earlier generations. It is a tedious process to teach them primarily on how to use and access the digital courts. Secondly, the older generations don't easily trust the technological tools. Before training them to use digital devices, we need to first train them to trust the digital devices and updated technology. updating the skill to use the software and how to present the case is an important element. Using the software in such a way that you can clearly present your case is essential to win your case.

Language is another barrier where individuals don't have equal access to justice. The language used in online software is in English. There may be many English legal terms in the software, which even people who are fluent in English cannot comprehend. And also, all regional languages will not be available in the software. So, people who are not that educated or fluent in other languages will find it difficult to make use of digitalized courts. In that case, the software should be equipped with tools like captioning and other inclusive features.

Digital divide is one of the major drawbacks to access justice in digitalized courts. The confidence of parties increases while they are in a traditional set up. People have to upgrade skills and be digitally literate in order to use the software. In order to mitigate the digital divide, there should be equal contribution from the side of government and other stakeholders. A lot of investment in infrastructure is required to solve these issues. Software has to be upgraded so that language will not be a barrier. In order to promote digital literacy and expand the network in rural areas, additional amount has to be spent. As stated earlier, for alleviating the digital divide, all the participants have to come together and invest so that digitalized courts can be efficient and transparent.

Privacy and security concerns

One of the major advantages of traditional court is that all the data remains confidential. But when it comes to digitalized courts, there is always threat to the confidentiality. When people have wide access, there is no privacy. When it comes to courts, there are a lot of sensitive data. When we speak about the advantages of the digitalized courts, we should also be aware of the risks associated with it. Proper measures should be taken to prevent the leakage of data.

When a person knows the case number and name of the party, he/she can get access to complete details of the case. When we have access to sensitive information, cyber criminals can target anybody. It may cause damage to reputation of people and also result in other cyber-crimes. Stringent laws should be introduced to ensure data protection. There is also the possibility of hacking e-documents, where the hacker may alter the information. This may also be created by persons who are managing these databases. Downloading or clicking any link to malware may also result in losing data.

When we rely completely upon the digital system, there are high chances that we might be subject to various cyber-attacks. Any single cyber-attack can entirely collapse the judicial system. There are always those cyber experts who can find out loopholes in every system resulting in attacking the system. Along with spreading the awareness on digitalized courts and inviting people to use it, adequate measures must be taken to ensure that proper security is also ensured while using the system.

In case of highly sensitive cases, we use in-cameral proceedings. But when it comes to video proceedings, assuring that no outsiders have access is little bit complicated. We know that media now has become vultures looking for breaking news. If they have access to proceedings of such high profile or highly sensitive cases, there will be no confidentiality. There are also likelihoods of recording the proceedings and making it public. In addition, these court databases may be managed by some tech companies who might also sell the personal data.

In short, while we discuss about the fair and transparent digital judicial system, there is always the risk that someone stranger is watching us. In our daily life, we witness these issues. For example, if we discuss about may be a plan for trip, or something we intend to buy with someone in person, the moment you open the phone, you can see the advertisement of the same thing you discussed. The privacy is under great threat when we depend too much on digitalized system. Proper encryption, authentication, audits need to be done properly in the digitalized judicial system so security breaches can be reduced.

Technical challenges

Some of the basic technical issues faced when shifting to digitalized courts are reliability of software, training the users and integrating the entire system. We can measure the reliability of software based on how much we depend on it. For that, the software has to perform precisely without committing any errors. There should be continuous checks for bugs and errors. This can be ensured with regular updates. We should also keep an eye on unauthorised access to the software and database as it contains a lot of sensitive and personal information. One of the issues associated with the digital system one small bug can entirely disrupt the system, unlike the traditional paper-based courts.

As we discussed above in the digital divide, it is easier practically to upgrade the technology and spread it in urban and rural areas. But when it comes to awareness on how to use this technology is something which requires additional cost. The judges, lawyers, court staffs and public should be well versed in using the digitalized courts. Most of these people belong to older generation and are used to the traditional paper-based system that they are reluctant to switch to the upgraded system. They always doubt the reliability of digital system. The system and software should be always user friendly. First of all, effort should be taken to change the mindset of people and get used to the digital system. Complete training should be given to all those associated with the system. This will require large amount of capital, resources and effort.

There may be different software for video conferencing, e-filing, case management and analysis of evidence. Though all these are part of the same system, it is very essential that all these software has to be integrated properly for the smooth and efficient functioning of digitalized courts. A small technical glitch in one of the software can completely abrupt the entire system. The data stored in each of the software should be compatible or easily transformed to required formats. It is not necessary that all these software belong to the same company, so when they become inter-operative, we might face issues. Therefore, integration of the system is highly essential without compromising confidentiality and security of data.

The issues discussed above are something which can be managed. But it requires lot of resources. Only if these issues are properly addressed, we can claim that digitalized system offers fairer, more efficient and transparent judicial system. Moreover, for warranting equal access to justice, these services should be economical. That is, it must not demand higher cost from public, who are the main participants.

Legal and Ethical issues

The Lady Justice was represented as a blindfolded woman with a sword and scales. In India, the blindfold has been removed and the sword is being replaced by the Constitution¹¹. Whether blindfolded or not, the statute represents being fair. One of the major elements of judicial system is fairness. Though it is traditional paper-based system or digitalized court, the aim is to be fair and transparent. To ensure equal access to justice in the digital world, proper awareness and technological infrastructure play greater role. Inability in having a stable connection or a proper device will affect the participants adversely.

Similarly, a lot of data are now available in the internet. There are very less tools and techniques available to sort out the useful ones. People after seeing advertisements or some other content may not use the database in an effective manner. The AI algorithms also have their own role in this matter. For instance, in the case of Google LLC & Another v CCI & Others, it was contended by the CCI that Google was abusing its dominant position by restricting entry of other competitive products¹². The data which you are receiving depends upon the advertising agencies and algorithms. This also affects the equal access.

The human element in the traditional system is not to be forgotten. While judging a case or analysing the evidence, equal importance is given to non-verbal elements. But here in digitalized courts, everything happens over a screen and there is no personal contact. Effective communication may not be always possible in digital system. There is always this possibility of muting the calls, network errors or someone tampering with the system. There may be AI assisted tools which handle and analyse evidence, of which we can't completely rely upon.

In spite of all the technical advancements, there are chances of bias and being unfair in digitalized system. All parties should be given equal chance to get represented and heard.

¹¹ Bisht, S. (2024, October 25). *What's The Story Behind Supreme Court's New 'Lady Justice' Statue Without A Blindfold? Explained*. News 18. Retrieved November 18, 2024, from <https://www.news18.com/explainers/whats-the-story-behind-supreme-courts-new-lady-justice-statue-without-a-blindfold-explained-9098461.html>

¹² Google LLC & Anr vs Competition Commission Of India & Ors (National Company Law Appellate Tribunal March 29, 2023).

Robust measures should be taken to assure that all the participants feel that they are being fairly treated and also algorithms do not mess up the entire process.

CASE STUDIES

In this area, we will be discussing about certain instances where they have effectively implemented digitalized courts and also places where they have faced difficulties in implementing it.

Successful cases

Firstly, we will take the example of the United States. To give the public a deep understanding of the court process and larger access to court records, they have introduced the system of Public Access to Court Electronic Records (PACER) in 1988. Currently, there are around 1 billion case files from around 200 federal courts. It provides audio files of case hearings, status of case, opinions and other information regarding cases. The users of this system include court staffs, bar members, media and general public. For a user to search case files, first he/she has to create an account which is free of cost. But in order to get the information regarding cases or to search case files, they have to remit a fee. That said, if a party to the case tries to access the case file or if they are trying to access court opinions, it is completely free of cost. The fee collected is used for the maintenance and development operations of the system. For the attorneys to file a case with the court, they can also make the use of this system¹³.

In Estonia, e-filing system was introduced in the year 2005. It is an European funded project where the project had been recognized in the European Crystal Scales of Justice Awards 2014. Through this system, the parties are able to interchange information simultaneously. Every document is authenticated by electronic signatures and are encrypted, thereby increasing the reliability of services. It also provides in complete detail about the stage of proceeding, decision and the parties to the case. The KIS (Court Information System) is the information management system for Estonian courts which registers the case, allocates the judges automatically, issues reminders & summons, and publishes judgments. It even screens the time spent for each case. Estonian court system, by use of digital means is one of the most efficient judicial systems of Europe¹⁴.

¹³ (n.d.). *PACER*. Public Access to Court Electronic Records. <https://pacer.uscourts.gov/about-us>

¹⁴ *ABOUT US | Registrate ja Infosüsteemide Keskus*. (n.d.). <https://www.rik.ee/en/agency/about-us>

Singapore judicial system is considered to be one of the global leaders in the digitalized court systems. They offer various services like Integrated case management system, probate services, divorce services, community justice and tribunals system, e-litigation, integrated family application management system and authentic court orders. The online platform of Integrated case management system (ICMS) manages criminal cases at State courts and Youth courts. Here, a party to the case can check the case details and updates, reschedule the dates and file applications and documents. The Probate e-service and Divorce e-service helps the parties in filing and submission of matters in their respective matters. Whereas the Community Justice and Tribunals System (CJTS) manages the files with respect to Small Claims, Employment Claims & Communities Dispute Resolution tribunals. E-litigation as the name suggests files and manages civil cases and Integrated Family Application Management System (iFAMS) provides services for family courts¹⁵.

Cases of challenges

In United Kingdom, the platform used for court digitalization is the Common platform. It is an interface for lawyers, judges, staffs and parties to the case. Though it provided many services, there were many criticisms against the system. The major requirements for digitalized court are that people who have basic education should be able to use it, time effective and error free. But the problem with the Common platform it was very complicated. There were continuous errors and it takes too much time to complete tasks. Some users even reported loss of data. Hence, many reverted to the paper-based system since the system was less reliable upon.

Similar issues were faced by the e-judiciary system of Nigeria. Nigeria, as we know is one of the underdeveloped countries in the world and consequently, they have limited resources. They face continuous power cuts which makes the entire system unreliable. Another issue is poor connectivity and the infrastructure which complicates the problem. On the other hand, with the limited infrastructure when it involves corruption, the entire system becomes failure. Reports have been received that the court staffs tamper the documents and there is some collusion between the government and the companies which takes the contract of digitalization. Digital divide also worsens the situation. People lose trust upon digitalization and they continue with the traditional system.

¹⁵ *E-Platforms*. (n.d.). Default. <https://www.judiciary.gov.sg/services/e-platforms>

CONCLUSION

The transformation from paper-based system to digitalized court system is one of the major paradigm shift in addressing the problems associated with the judicial system. With the use of AI assisted tools for online filing, video conferencing, case management systems and the like, the entire judicial institution has become efficient, transparent, economical than it ever was. Even then it has its own cons which if properly tackled can work wonders.

In a country like India, the first thing to be solved is the concern of digital divide. People belonging to low-income groups and rural areas do not even have stable power supply. Once the power supply is proper, then necessary steps have to be taken to establish infrastructure providing proper internet connection. After expansion of the connectivity, next step is to create and spread digital literacy. Government and other stakeholders have to take hold of these course of action. In addition, proper awareness programs have to be provided to the lawyers, judges, court staffs to use the digitalized system and improving their trust upon the new method.

Once the people become digitally literate to use this infrastructure, their next concern is about privacy. Whatever the subject matter may be, all the cases are somehow linked to their personal life and no one will be interested to share that information or make it public. Also, it may sometimes lead to blackmailing or any other sort of crimes. Recently, we have seen many incidents where companies sell people's personal data for profit. First of all, we need to ensure the authenticity of the companies which undertake to manage the digitalized judicial system. They must be under close watch to ensure they do not commit any unethical practices. Stringent laws and punishments should be introduced to penalise unauthorized access to such data. Security measures like encryption, authentication, verification and all such tools should be strengthened so that no cyber crimes take place in this context. Regular updation and tests will also keep the system guarded.

The important aspect with the introduction of digitalized court system is the saving of time and cost. It reduces a large amount of paperwork resulting in no clerical errors. There is no need for the advocates to run from courts to courts to present their cases, when everything is available online. People can track the record of their cases in no time, avoiding unnecessary interferences. With the advent of AI assisted tools, managing court matters become easier for parties as well as the officials. It does automatic scheduling, interpreting, screen readers and much more. Now the real window to access justice has widened. But there are also issues like loss of employment, AI overruling human judgment and lack of importance given to human

values. Proper monitoring should be implemented to enhance the reliability of digitalized judicial system. Technical failures can threaten the foundation of entire system. It must be properly checked. Proper fund allocation and equal partnership from all the stakeholders can help in attaining the optimal use of the system.

Following are certain recommendations that can be implemented to ensure proper use of the digitalized court system.

- ⇒ Proper guidelines shall be instituted to ensure ethical practices and maintaining fairness and transparency.
- ⇒ Legal frameworks to be reformed addressing all kinds of issues arising from the use of digitalized court system.
- ⇒ Conduct regular awareness campaigns so that public have an understanding about the pros of transforming into digitalized system.
- ⇒ Integrate the entire system so that submission, analysis, video conferencing, scheduling and case management takes place smoothly and effectively.
- ⇒ Legal aid is one of the directive principles enshrined in the Indian constitution. Establishing an online legal aid platform will be easier for the weaker sections to access justice.
- ⇒ Designing user friendly platforms with inclusive access to differently abled persons and multi lingual options or interpretation tools.
- ⇒ Improved infrastructure reducing digital divide and increasing inclusivity to people from all backgrounds.

By implementing these recommendations, it will be easier to outweigh all the cons of digitalized system. No matter what happens, we will be completely depending on digital devices in our future. So whatever issues or barriers we have discussed earlier can be overcome by proper implementation. Digitalization makes life easier and all we need to make sure is that the judicial system when digitalized becomes fairer, more transparent, more effective and gives wider access to justice.