



THE ROLE OF TECHNOLOGY IN ENSURING LEGAL EQUITY FOR VULNERABLE GROUPS IN INDIA: SOME LESSONS FROM AUSTRALIA

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INTRODUCTION

'Access to justice' encompasses comprehension of legal matters, ensuring legal counsel for the purpose of representation and assistance, and to provide access to legal institutions i.e. courts. It not only includes ensuring the capacity to do all of the above, but also the resources necessary to surmount the obstacle of being incapable of doing any of the aforementioned. There are psychological, legal, social, economic, and geographical dimensions to access to justice. The social dimension of access to justice pertains to individuals' cognizance of their legal entitlements and facilitates their ability to assert those rights and obtain legal assistance. Conversely, from an economic standpoint, the accessibility of the judicial system to the general populace is indicated. Geographic considerations suggest that court locations ought to be dispersed in a manner that is accessible to the maximum general populace. Therefore, to ensure that the justice delivery system is truly accessible to masses, it becomes imperative to either ensure establishment of courts in even remotest locations of the country or to make them accessible through other means. Accessibility to justice also gets affected when legal standards are incomprehensible, gender biased, and unfriendly to the poor. This necessitates that legal texts and procedures are clear, just and easy to understand.

The COVID-19 pandemic has worsened the issue of restricted access to justice, despite the increased demand for legal services that has ensued during this period of crisis. Despite advancements in the implementation of policies pertaining to access to justice in numerous nations, millions of individuals, including those residing in affluent economies, continue to face inadequate and insufficient availability of legal services. Amidst the epidemic, implementation of lockdowns and mobility restrictions worsened the issue of digital exclusion, impeding certain society groups from exercising their entitlements to information, healthcare, education, family connections, privacy, and other rights. Refugees, individuals in mandatory quarantine as a result of the pandemic, residents who are unfamiliar with the local language, tourists and foreign nationals, elderly

individuals, and individuals lacking specialised skills and legal capacity encountered a range of limitations and challenges due to limited or inadequate access to the justice system.

As a solution, the utilisation of advanced digital language technology is essential for automating processes in fields such as law, healthcare, education, and public sector decision-making. The challenges in the adoption of digital technologies can be categorised into three main areas: human, legal, and technological. The human challenges include the fear of losing conventional employment opportunities, limited access to technology, and insufficient technological literacy. The legal challenges arise from unclear or insufficient legal regulations. The technological challenges encompass the complexities of digitalizing languages, the specificities of legal language, and the lack of datasets for research and training machine and deep learning models. The evolution of the legal sector is distinct from other domains or businesses due to the need to not just respond to changing market demands, but also to consider public interests, such as enhancing access to justice. The evolution of the legal domain is typically associated with systematic advances.

The post-pandemic world is transitioning from the era of digital electronics, sometimes referred to as the third industrial revolution, to the fourth industrial revolution, which is marked by the integration of many technologies. The distinguishing feature of this will be the integration of physical and cyber environments. This is visible at a preliminary stage by the use of AI technologies to enhance human efficiency in the legal field, particularly in these areas-

- *Documentation*: Legal work typically involves a substantial amount of paperwork, so a big part of the labour for legal professionals consists of creating and handling documents. Artificial intelligence has the ability to process multiple documents of this nature and acquire the knowledge to produce comparable documents for human use. The AI is capable of acquiring valuable data from these documents and carrying out predetermined operations.
- *Conducting legal research*: Determining the relevant cases that are appropriate to present issues might significantly influence the result of the case. The AI has the capability to enhance the search for case law and provide recommendations for more pertinent instances. Computers' capacity to comprehend decisions can also offer valuable insights about the probable conclusion of a case and, in certain instances, assist in presenting situations in a more conducive manner for analysis.
- *Computer-assisted review*: Artificial intelligence (AI) has the potential to significantly alleviate the workload of humans when it comes to reviewing and analysing existing legal papers. It can efficiently extract crucial information from a vast number of documents, even in cases involving intricate and intricate concerns. AI-powered review would empower legal professionals to do more precise due diligence and efficiently handle bigger quantities of legal papers.
- *Electronic filing*: This is the mandatory electronic submission of information as stipulated by legislation. The responsibility of setting requirements lies with the governing agency. An e-filing system is a comprehensive solution that enables the online submission of complaints, written statements,

answers, and other case-related applications. Both civil and criminal cases can be initiated in any court or other legal entity. A multilingual e-filing system can be developed to cater to a broader range of litigants.

The years 2022-2023 are noteworthy due to the numerous initiatives carried out by the Chief Justice of India, D.Y. Chandrachud, in the field of Information and Communication Technology. These initiatives aim to improve efficiency and accessibility to justice. But there is still a long way to go and noteworthy initiatives in other countries can also inspire some developments in India. For instance use of technology by Australian authorities to help survivors of domestic violence in access of justice, is an initiative which can be applied in India.

TECH-INITIATIVES IN INDIAN LEGAL SYSTEM

The 'hybrid hearing' solution integrates the most effective features of conferencing and video conferencing software technology that allows advocates and in-person parties to easily switch between virtual and actual appearances. In 2023 in a case¹ Supreme Court noted the changing dynamics of legal system and recognised the need of wide scale use of hybrid system of hearing in India. The system was introduced in Indian scenario in 2020 due to restrictions caused by pandemic. As of now, India has established itself as a frontrunner in the international arena of video conferencing for conducting court proceedings. As of 30 June 2023, the District and Subordinate Courts had adjudicated on 1,98,67,081 cases, whereas the High Courts had reviewed 78,69,708 cases (for a cumulative total of 2.77 cr) via video conferencing. As of May, 2023, the Supreme Court of India conducted 4,82,941 hearings via video conferencing. Additionally, between 1272 institutions and 3240 court complexes, VC facilities have been enabled.²

In 2017, Integrated Case Management Information System (ICMIS) was launched by the apex court of India. ICMIS aims to mitigate information asymmetries by implementing a fully transparent case management system and to resolve the issue of slow disposal of cases by courts, hence enhancing the efficiency of case processing. Through the use of ICMIS, lawyers can easily initiate an appeal from a High Court order. They simply need to provide the case number and the specific legal basis for their appeal. If the respective High Court has digitised records, the whole documentation of the case will be automatically transmitted from the High Court to the Supreme Court. Each paper-book may have a substantial number of pages, ranging from hundreds to thousands. In addition, the ICMIS can retrieve digital documents from the relevant courts at later stages as needed. The transmission of the digitised content expedites the process for all parties concerned. If the High Court lacks digitised documents for a particular case, there are means within the system by which HC can generate records in a digital form and get them uploaded on ICMIS, within the specified timeframe. The process is closely monitored ensuring that all individuals fulfil the responsibilities conferred on them

¹ Sarvesh Mathur v The Registrar General of Punjab and Haryana High court W.P. (CrI) 351/2023

² Use of Technology in Judicial Institutions. (n.d.). Retrieved from <https://pib.gov.in/PressReleasePage.aspx?PRID=1941500#:~:text=The%20Hon'ble%20Supreme%20Court,courtrooms%20have%20also%20been%20released.>

within the designated timeframe. If the desired outcome does not occur, the subsequent superior entity is promptly notified.³

ICMIS will facilitate the efficient allocation of resources in the court by automatically distributing the workload among the available court officials on a given day. The Crime and Criminal Tracking Network & Systems (CCTNS) connects police stations established throughout the nation, to the system. The CCTNS Project aims to establish connectivity between about 14,000 Police Stations and 6,000 higher offices within the police hierarchy, including Circles, Sub-Divisions, various Zones, Headquarters, Districts as well as scientific and technological organisations like Finger Print Bureau and Forensics Labs. In furtherance of this aim in March 2017, for the first time a police post was connected to the CCTNS system. Not only police posts but prisons are also aimed to be incorporated in subsequent phases.

Another landmark step towards digitization was the launch of the electronic Supreme Court Reports (e-SCR) initiative by Chief Justice of India D Y Chandrachud. The initiative aimed at granting the general public, law students, and solicitors free access to the court's judgements. The judgements will be accessible via the apex court's website, mobile application, and the judgement portal of the National Judicial Data Grid (NJDG), the CJI announced on the first business day of 2023, at the commencement of judicial proceedings. The process of digitising and scanning Supreme Court Reports (SCR) spanning from 1950 to 2017 and preserving the resulting digitised soft copies in PDF format aided the Registry in the establishment of a digital repository containing soft copies of the Supreme Court's reported judgements. The National Informatics Centre assisted the Supreme Court in developing a search engine that uses an elastic search technique in the e-SCR database. The search facility in e-SCR allows users to perform free-text searches, searches within searches, searches by case type and year, searches by judge, year and volume, and by bench strength.⁴

In order to address the digital divide, a total of 819 e-Sewa Kendras have been established. These centres aim to provide support and assistance to lawyers and litigants by offering a wide range of services, including information, facilitation, and e-Filing. Additionally, it aids litigants in utilising online e-Courts services and serves as a lifeline for individuals who lack the financial means or reside in remote regions. Furthermore, it helps to tackle the difficulties arising from widespread illiteracy among the population. The implementation of this system will yield advantages such as time savings, reduced physical effort, elimination of the need to travel great distances, and cost savings through the provision of services such as electronic filing of cases nationwide, virtual hearings, scanning, and access to e-Courts services. A new version (3.0) of the e-filing system has been implemented for the electronic submission of legal documents, incorporating enhanced

³ Mahibha, G., & Balasubramanian, P. (2020). A Critical Analysis of the Significance of the eCourts Information Systems in Indian Courts. *Legal Information Management*, 20(1), 47–53. <https://doi.org/10.1017/s1472669620000092>

⁴ Law, L. (2023, January 1). Live Law. Retrieved from <https://www.livelaw.in/top-stories/cji-to-launch-e-scr-project-tomorrow-digital-version-of-judgments-reported-in-supreme-court-reports-to-be-available-217828>

functionalities. The e-Filing guidelines have been developed and distributed to the High Courts for implementation. As of June 30, 2023, a total of 19 High Courts have implemented the e-Filing model guidelines. The process of e-Filing cases necessitates the provision for electronic payment of fees, encompassing court fees and penalties which are to be directly remitted to the Consolidated Fund. There are currently 20 High Courts that have successfully adopted electronic payment systems within their different areas of authority. As of 30.06.2022, the Court Fees Act has been modified in 22 High Courts.

Moreover, Government of India has implemented the Tele Law programme as part of the DISHA scheme since 2017. This programme aims to connect individuals in need of legal assistance and guidance with panel lawyers through an electronic interface platform. The platform offers video conferencing, telephone, and chat facilities, which can be accessed at the Common Service Centres (CSCs) located in Gram Panchayat, as well as through the Tele-Law mobile App.

In order to do away with the manual way of recording Advocates' appearance in court, the 'Advocate Appearance Portal' was introduced. It is an internet-based platform that enables advocates to document their appearances. The elimination of appearance slip manual submission through the online portal is a step towards the registry becoming paperless. It was stated that the appearance notice would be obtained electronically via the Advocate Appearance Portal. Upon logging in, software will conduct authentication of the AoR using a One-Time Password (OTP). In the past, advocates recorded their names, case details, and serial numbers on a prescribed paper form to indicate their attendance at a hearing and guarantee that their names would be included in court orders or judgements. This led to a lot of paperwork resulting in waste of paper. Therefore, this online facility is an additional environmentally conscious measure. A similar online portal is also created for visitors to Supreme court- 'Suswagatam'. It is an online and mobile-compatible programme that enables users to register and apply for e-passes for different purposes, such as attending court hearings or meeting with advocates.

To guide this wave of digitization towards providing practical solutions to the prevailing problems, the apex court has tried to take help of the best minds in the country. In furtherance of these efforts an agreement in the form of a memorandum of understanding (MoU), has been established between the Supreme Court and IIT Madras. The purpose of this agreement is to enhance the digitalization of the Indian legal system and enhance the availability of justice. The collaboration between the highest court and IIT Madras will focus on utilising artificial intelligence (AI) and emerging technologies for various purposes such as transcription tools, summarization of page transcripts, translation tools, a dedicated streaming platform for court trials, process automation, and the development of extensive language models specifically designed for the legal field.

Apart from addressing the accessibility issues the Supreme Court tried ensuring principles of fairness and transparency through this wave of digitization. Being an ardent supporter of Right to Information (RTI), it would have been a paradox if the right is not enforceable against themselves. Therefore SC introduced internet-based system of Right to Information, through its online RTI Portal in 2022. Citizens can now submit

applications in online mode under Right to Information Act, 2005 (RTI Act) to the Supreme Court. This includes filing RTI petitions, First Appeals, and making payments for fees and copying charges. The cost for these services is Rs 10. This is similar to the system of acquiring information under the RTI Act from any public authority, where the applicant should submit an application requesting the desired information from the relevant Public Authorities via their corresponding Central/State Government Portal. The Apex court has been encouraging HCs all over the country to operationalize their online RTI portal and database.

LESSONS FROM AUSTRALIA

At the onset of the COVID-19 pandemic in early 2020, the travel restrictions prompted a swift shift from in-person to online family and social support services. The implementation of lockdowns, restrictions on physical proximity, stay-at-home mandates, and limitations on movement, together with other related problems such as joblessness, deteriorating mental well-being, and financial difficulties, had increased the likelihood of Domestic and Family Violence (DFV). In Australia, like in numerous other nations, there was a noticeable rise in the occurrences of Domestic and Family violence subsequent to the outbreak of pandemic. Additionally, these pandemic curbing measures had also hindered access to support services, thereby aggravating the problem. In response to this concerning pattern, the United Nations had coined the phrase 'the shadow pandemic' for violence against women and called upon states to prioritise the inclusion of measures to combat the same in their national COVID-19 response strategies.

In furtherance of this declaration Australian government and NGOs started using remote technology to provide specialist services to the victims of domestic and family violence. Organisations developed novel alert systems to enable communication with women facing violence at home or require any other assistance. Physical signals and the use of coded phrases in telephone and text communications were used to alert the authorities. In a similar vein, professionals modified their methods for identifying and assessing risks, elaborating on novel remote strategies such as conducting "house tours" through video conferences with victim-survivors in order to comprehend their surroundings, which served as crucial context for safety planning and risk assessment.

In order to tackle the issue of the perpetrator monitoring the victim's communication devices and online activity, some organisations have started utilising encrypted online services allowing video calls, which do not necessitate users to install applications onto their devices. In an effort to streamline the application process, improve accessibility for those in rural and remote areas, and to dispense with the mandate for DFV survivors to fill the form in person, the Magistrates' Court of Victoria launched an online application form for Family Violence Intervention Orders (FVIOs) in early 2020. According to a fact sheet on domestic violence specialist services published in 2020 by Victoria Legal Aid and the Federation of Community Legal Centres, a victim

of domestic violence has three options for seeking intervention: in person, digital (through an online system of application), or by sending application to the appropriate court via email.⁵

Family dispute resolution (FDR) is a non-judicial procedure outlined in section 10F of the Family Law Act 1975. It involves the assistance of an FDR practitioner to aid those impacted by separation or divorce to address their problems with one another, either partially or completely. The advent of technology has brought about substantial transformations in the conduct of FDRs, shown by the creation of the Telephone Dispute Resolution Service in 2007. The utilisation of online technologies for the provision of FDR has been investigated prior to the pandemic, but, the transition to videoconferencing platforms was expedited during the lockdowns. Online FDR offers several advantages. It gives parties liberty to avail the benefit of process at any time, without any geographical constraints. Thereby eliminating the costly travel and accommodation expenses. Additionally, online FDR enables prompt updates regarding progress made with regard to agreements. Furthermore, it minimises the discomfort encountered by survivors in face-to-face contact and communication in cases involving domestic violence.

BENEFITS AND DRAWBACKS

Customers appreciate the convenience of online or remote service supply since it eliminates the need to commute or, for working clients, because they can speak to service providers over the phone on the way to or from work. These services when put to use for protection of domestic violence victims, it helps reduce their re-traumatization because the offender is no longer physically present in vicinity. People in rural, remote, and regional locations now have easier access to healthcare because to telehealth and other digital choices. Although there are certain downsides to using technology, these new developments are helping more people get access to the courts and legal services. Technology is inherently intertwined with the economic and social environment in which it develops, is created and utilised. Technology-driven initiatives that disregard socio-economic, geographic, and computer literacy hurdles may exacerbate the problems rather than eliminating them. While utilising technology, awareness and consideration towards these factors can truly expand access to justice.

CONCLUSION

Use of technology in the justice delivery system has helped increase its accessibility to the masses. It has also helped reduce the barrier of red-tapism. The initiatives like hybrid system of hearing in courts, Integrated Case Management Information System (ICMIS), electronic Supreme Court Reports (e-SCR), e-Sewa Kendras, e-Filing of cases and Tele Law programme as part of the DISHA scheme helped ease out the working of apex court and made it more accessible than ever. Steps like 'Advocate Appearance Portal' and 'Suswagatam' are

⁵ Woodlock, Alexander, & Cabarrubias. (2022, May). *Legal Tech for Justice: Enhancing Access to Justice in Family Violence Legal Services*. Australian Centre for Justice Innovation, Monash University. Retrieved from https://bridges.monash.edu/articles/report/Legal_Tech_for_Justice_Enhancing_Access_to_Justice_in_Family_Violence_Legal_Services_Monash_University_Australian_Centre_for_Justice_Innovat_pdf/20173784

not only environment friendly but also more efficient system of recording appearance of advocates in courts and to provide entry passes to visitors, respectively. The use of remote technology in Australia to deal with domestic violence issues is a noteworthy initiative. Such initiatives help increase the reach of legal system to the vulnerable masses in difficult situations like those during pandemic. It can help inspire a similar tailor made approach in India to deal with Domestic violence situations. Use of technology in legal sphere comes with its own set of challenges. The sensitive data stored online in browser history or by spywares is vulnerable to hacking. A robust data security mechanism is crucial to prevent such breaches. While technology can assist, it should not replace human judgment entirely. An efficient legal system requires a right balance between human expertise and technology.