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**INTERNATIONAL JOURNAL OF ADVANCED LEGAL RESEARCH**

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**ROLE OF TECHNOLOGY IN ACCESS TO JUSTICE**- Priyanshi Gupta<sup>1</sup>**Abstract**

Seeking justice is a fundamental human right.<sup>2</sup>Ensuring its accessibility is instrumental to maintaining the stability and progress of a nation. Despite its inherent significance, numerous obstacles hinder access, including lack of transparency, delay in justice due to case pendency, complicated judicial process, and lack of resources. Through a comprehensive examination of literature, case studies, and empirical data, this paper delves into the complex interplay of factors that make a commoner's appeal for justice tedious and how we can overcome these challenges through technological intervention. From assisting lawyers in their legal research to improving the efficiency of the judicial system through the digitisation of court records, technology can bring about a much-needed change in a common man's endeavour for justice. Responsible technology integration can easily handle vast amounts of data, facilitating more informed judgements.

Through this research, we seek to establish how various technological tools such as legal information platforms and virtual courtrooms transcend boundaries of distance, affordability of legal services and the inability of people to understand the law to reach vulnerable communities.

Furthermore, discussing various limitations, such as the digital divide, privacy and security, and the potential biases accompanying this transition is imperative.

How is seeking justice a fundamental human right?

The right to access justice is a fundamental human right because, in simple terms, other rights need to be enforced. Ensuring legal counsel or facilitating an individual's access to courts are not the only

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<sup>2</sup> AMERICAN BAR ASSOCIATION, [https://www.americanbar.org/advocacy/rule\\_of\\_law/what-we-do/human-rights-access-to-justice/#:~:text=International%20standards%20recognize%20access%20to,of%20these%20standards%20is%20weak.](https://www.americanbar.org/advocacy/rule_of_law/what-we-do/human-rights-access-to-justice/#:~:text=International%20standards%20recognize%20access%20to,of%20these%20standards%20is%20weak.), (last visited Mar. 12,2024)

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aspects of access to justice. The ability to seek and secure a solution for grievances by human rights norms through formal or informal justice institutions is known as access to justice.<sup>3</sup>

By curbing this right, governments can hide the most heinous of crimes. For instance, in Afghanistan, the Taliban government has successfully brought the whole legal and judicial system on its toes, which was so expensively built by the international community and the United States over the past two decades. This gave them the liberty to govern the state according to their whims and fancies, giving birth to various human rights violations. The current Taliban Minister of Defense, one of the group's leaders, said that Taliban members should be placed into government positions regardless of their educational background.<sup>4</sup>

Since the Taliban took power, more than two hundred female judges have been forced to hide or escape. International relief and women's rights organisations evacuated many people to other nations. Over an extended period, these judges obtained their judicial credentials and accumulated a wealth of legal expertise and knowledge. Fighters replaced these knowledgeable and seasoned judges with no legal training by the Taliban.<sup>5</sup>

This shows the circumstances that can ensue due to a lack of right to access to justice. Further, article 8 of the Universal Declaration of Human Rights which declares rights that should be enjoyed by all people irrespective of who they are or where they live<sup>6</sup> States, “ Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted to him by the constitution or law.”<sup>7</sup>

In the Indian scenario, article 14 provides for equal access to the judicial system and non-discrimination in the administration of justice. Furthermore, article 39 (A) states that the state must provide free legal aid to ensure everyone has access to justice. In Hussainara Khaton v. State of

<sup>3</sup> UNITED STATES INSTITUTE OF PEACE, <https://www.usip.org/guiding-principles-stabilization-and-reconstruction-the-web-version/rule-law/access-justice#:~:text=Access%20to%20justice%20is%20more,compliance%20with%20human%20rights%20standards>, (last visited Mar. 12, 2024)

<sup>4</sup> JURIST, <https://www.jurist.org/commentary/2022/03/mahir-hazim-afghan-legal-judicial-system-collapsing-taliban-regime/>, (last visited Mar. 12, 2024)

<sup>5</sup> JURIST, <https://www.jurist.org/commentary/2022/03/mahir-hazim-afghan-legal-judicial-system-collapsing-taliban-regime/>, (last visited Mar. 12, 2024)

<sup>6</sup> AUSTRALIAN HUMAN RIGHTS COMMISSION, <https://humanrights.gov.au/our-work/projects/what-universal-declaration-human-rights-0#:~:text=It%20declares%20that%20human%20rights,liberty%2C%20free%20speech%20and%20privacy>, (last visited Mar. 12, 2024)

<sup>7</sup> STAND UP 4 HUMAN RIGHTS, <https://www.standup4humanrights.org/en/article.html>, (last visited Mar. 12, 2024)

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Bihar (1979)<sup>8</sup>- The Indian Supreme Court ruled that everyone has the constitutional right to free legal assistance and that the state is responsible for giving free legal assistance to those who cannot afford it. Throughout history, courts have upheld the legitimacy of the right to receive justice in instances such as Suk Das v. Union Territory of Arunachal Pradesh. (1986)<sup>9</sup>, State of Maharashtra v. Manubhai Pragji Vashi(1995)<sup>10</sup>, M.C. Mehta v. Union of India(1987)<sup>11</sup>, State of Punjab v. Jagdev Singh Talwandi(2003)<sup>12</sup>

What factors hinder access to justice when technology is not used?

Regarding the commoner's pursuit of justice, various factors obstruct the path of justice.

1. Delay-In terms of justice, a delay of justice is an action in a process with long-term, irreversible implications rather than just delaying it for a while.<sup>13</sup>This eventually kills justice; while it is difficult to pinpoint precisely where and when this delay occurs, some statistics help us identify reasons accounting for the same. It is essential to highlight that the most prominent litigator is the government-challenged tax collections, amounting to 4.7% of GDP and continuing to rise due to poorly formulated orders. Approximately 50,000 crores of rupees are committed to completed projects, while investments are declining. These issues result from court-issued stay orders and injunctions, typically severely written and poorly thought out rulings.<sup>14</sup> Less budgetary allocation leads to a shortage of court staff and limits the availability of legal aid services and other resources that help individuals, particularly those from marginalised and low-income communities, access the justice system; the court infrastructure also bears the burnt of lack of resources which further leads to lack of innovation and adoption of new technologies that exaggerate the process. Another detrimental

<sup>8</sup> IPLEADERS, [https://blog.ipleaders.in/hussainara-khatoon-v-state-of-bihar-1979-case-analysis/#:~:text=The%20case%20of%20Hussainara%20Khatoon%20v.%20State%20of%20Bihar%20\(1979,right%20to%20free%20legal%20aid](https://blog.ipleaders.in/hussainara-khatoon-v-state-of-bihar-1979-case-analysis/#:~:text=The%20case%20of%20Hussainara%20Khatoon%20v.%20State%20of%20Bihar%20(1979,right%20to%20free%20legal%20aid), (last visited Mar. 12,2024)

<sup>9</sup>LAWFOYER, <https://lawfoyer.in/suk-das-v-union-territory-of-arunachal-pradesh-1986-2-scc-401/#:~:text=The%20case%20of%20Suk%20Das,Article%2021%20of%20the%20Constitution.>, (last visited Mar. 12,2024)

<sup>10</sup> INDIAN KANOON, <https://indiankanoon.org/doc/314226/#:~:text=Vashi%20would%20submit%20that%20civil, and%20C%20therefore%20C%20this%20court%20has>, (last visited Mar. 12,2024)

<sup>11</sup> BY JU'S, <https://byjusexamprep.com/current-affairs/mc-mehta-vs-union-of-india>, (last visited Mar. 12,2024)

<sup>12</sup> INDIAN KANOON, <https://indiankanoon.org/doc/1158281/>, (last visited Mar. 12,2024)

<sup>13</sup> TIMES OF INDIA, <https://timesofindia.indiatimes.com/readersblog/lawpedia/judicial-delay-in-india-50731/>, (last visited Mar. 12,2024)

<sup>14</sup> TIMES OF INDIA, <https://timesofindia.indiatimes.com/readersblog/lawpedia/judicial-delay-in-india-50731/>, (last visited Mar. 12,2024)

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consequence is an increase in the susceptibility of judges and court staff to corruption and seeking bribes.

2. Low number of According to the available data, the country's judge-population ratio is approximately 21 judges per million population, based on the population as of the 2011 Census, which was 1210.19 million, and the sanctioned strength of judges in the Supreme Court, high courts, district, and subordinate courts in 2023.<sup>15</sup>
3. Adjournment as a norm-An adjournment is a short-term or temporary pause in the court's ongoing proceedings. It might also concern the current proceedings being put off later.<sup>16</sup> Seeking adjournments for petty reasons not only adds to the delay in seeking justice but also contributes to increased costs to be borne by the litigants due to additional court appearances.
4. Petty disputes- India, the most populous country without any substantial mechanism to filter petty disputes, has several pending petty conflicts.<sup>17</sup>
5. Incompetence of lawyers- Given the prestigious nature of the legal occupation and a vast number of colleges teaching law, it is truly a piece of cake to earn a legal degree, but this dilutes the quality of legal professionals, leading to incompetent judges and lawyers. Sound arguments keep many proceedings from occurring. Time is wasted, and needless litigation is done with the help of sound legal counsel.<sup>18</sup> In the words of the late Mr Nani A. Palkhivala, the tragedy of India is the waste of national time, energy, and labour to deal with the deluge of numerous amendments.<sup>19</sup>
6. Red tapism- Red tapism is a significant problem in the judiciary, leading to delays and inefficiencies in the dispensation of justice. Lengthy legal procedures, bureaucratic hurdles, resource constraints, and a hierarchical structure contribute to this issue. Streamlining

<sup>15</sup> ECONOMIC TIMES, <https://economictimes.indiatimes.com/news/india/india-has-21-judges-per-million-population-govt/articleshow/97559581.cms?from=mdr>, (last visited Mar. 12, 2024)

<sup>16</sup> UNACADEMY, <https://unacademy.com/content/wbpsc/study-material/polity/adjournment/#:~:text=Adjournment%20can%20be%20considered%20as,or%20postponing%20the%20legal%20proceedings>, (last visited Mar. 12, 2024)

<sup>17</sup> BUSINESS STANDARD, [https://www.business-standard.com/article/economy-policy/in-house-mechanism-for-petty-consumer-cases-can-reduce-pendency-ncdrc-118102700371\\_1.html](https://www.business-standard.com/article/economy-policy/in-house-mechanism-for-petty-consumer-cases-can-reduce-pendency-ncdrc-118102700371_1.html), (last visited Mar. 12, 2024)

<sup>18</sup> LEGAL SERVICE INDIA, <https://www.legalserviceindia.com/article/1317-Justice-Delayed-is-Justice-Denied.html>, (last visited Mar. 12, 2024)

<sup>19</sup> LEGAL SERVICE INDIA, <https://www.legalserviceindia.com/article/1317-Justice-Delayed-is-Justice-Denied.html>, (last visited Mar. 12, 2024)

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procedures, enhancing access to legal resources, and investing in technology are crucial steps to mitigate red tape and improve the effectiveness of the judicial system.

There have been various instances when this delay has been witnessed, for example-

- Hashimapura Massacre case

In the Hashimapur massacre, 42 Muslims were brutally killed in 1987 in what was termed a 'target killing'. It wasn't until 2018, a staggering 31 years later, that the fate of the victims was finally determined. The Supreme Court decided following an appeal lodged by the victims' families. The legal process began with charges filed in 2006, followed by a trial that concluded in 2015 with the acquittal of all the accused. However, upon the appeal reaching the Supreme Court, a final verdict was delivered, sentencing 16 police officers from the UP Provincial Armed Constabulary to life imprisonment under section 120B of the Indian Penal Code.<sup>20</sup>

- Safdar Hashmi murder case

Political adversaries murdered Safdar Hashmi and another politician during a street performance. It took 14 years for the court in Ghaziabad to convict the culprits under Section 302 of the Indian Penal Code. By the time the judgment was delivered, two of the 12 accused had already passed away. Although the decision resulted in life imprisonment for the remaining accused, the lengthy delay in justice amounted to a denial of justice for the victims.<sup>21</sup>

- Pallavi Purkayastha murder case

The security guard was found guilty of murdering the advocate in 2012, and the court delivered its verdict in 2014. However, in 2016, he escaped from Nashik jail while on parole and has been on the run since then, failing to report back to the authorities. He was eventually located with the assistance of informers recruited from Jammu and

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<sup>20</sup>THE WIRE, <https://thewire.in/communalism/may-1987-hashimpura-massacre-muslims-meerut-up-pac> ,(last visited Mar. 12,2024)

<sup>21</sup> LEGODESK, <https://legodesk.com/legopedia/justice-delayed-is-justice-denied/#:~:text=Safdar%20Hashmi%20murder%20case%3A&text=Till%20the%20time%20judgment%20was,being%20denied%20for%20the%20victim>, (last visited Mar. 12,2024)

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Kashmir. Unfortunately, due to his escape and continued absence, justice has been delayed and remains elusive in this case.<sup>22</sup>

- Nirbhaya case<sup>23</sup>,

In this case, a three-judge bench led by Justice R Bahumathi and featuring Justice Bhushan and Justice A S Bopanna found all four men guilty of the murder and gang rape case from 2012 in Nirbhaya. The men were ultimately executed after seven years of heinous crime. Not only do rape cases take a long time to get a verdict, but trials involving religious implications have also taken a long time. The Babri Masjid destruction case is the best illustration of this, with the court taking 28 years to decide.<sup>24</sup>

How technology can improve access to justice?

1. Online Legal Advice: Platforms such as LawAdvisor<sup>25</sup>, Rocket Lawyer<sup>26</sup>, or LegalZoom<sup>27</sup> provide legal advice online, often through chat or video conferencing. These services can connect individuals with lawyers who can guide them on legal issues, making legal advice more accessible and affordable.
2. Virtual Courtrooms: Virtual courtrooms use video conferencing to conduct court proceedings remotely. For example, the Singapore State Courts launched a virtual courtroom for remote hearings, allowing parties to participate in court proceedings from anywhere with an internet connection.
3. Legal Information Platforms: Platforms like Legal Information Institute<sup>28</sup> (LII) or Indian Kanoon<sup>29</sup> access various legal information, including statutes, regulations, and court decisions. These

<sup>22</sup>INDIAN EXPRESS, <https://indianexpress.com/article/opinion/columns/pallavi-purkayastha-murder-case-guard-sajjad-mughal-parole-2962300/>, (last visited Mar. 12,2024)

<sup>23</sup>LEGAL SERVICE INDIA, <https://www.legalserviceindia.com/legal/article-1788-nirbhaya-case-history-and-present.html>, (last visited Mar. 12,2024)

<sup>24</sup>WIKIPEDIA, [https://en.wikipedia.org/wiki/Demolition\\_of\\_the\\_Babri\\_Masjid](https://en.wikipedia.org/wiki/Demolition_of_the_Babri_Masjid), (last visited Mar. 12,2024)

<sup>25</sup>LAW ADVISOR, <https://lawadvisor.ventures/>, (last visited Mar. 12,2024)

<sup>26</sup>ROCKET LAWYER, <https://www.rocketlawyer.com/>, (last visited Mar. 12,2024)

<sup>27</sup>LEGAL ZOOM, <https://www.legalzoom.com/country/in>, (last visited Mar. 12,2024)

<sup>28</sup>LEGAL INFORMATION INSTITUTE, <https://www.law.cornell.edu/>, (last visited Mar. 12,2024)

<sup>29</sup>INDIAN KANOON, <https://indiankanoon.org/>, (last visited Mar. 12,2024)

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platforms make legal information more accessible to the public, helping individuals understand their rights and obligations. This will also aid lawyers and judges in their research and pave the way for sound arguments and informed judgements.

4. Online Dispute Resolution (ODR): Platforms such as Modria<sup>30</sup> or Smartsettle<sup>31</sup> Offer online dispute resolution services. These platforms use technology to facilitate negotiations and resolve disputes without needing in-person court appearances, making the process more efficient and accessible.

5. Mobile Apps: Apps like LegalAidSA<sup>32</sup> Provide legal information and resources on mobile devices. These apps can help individuals access legal information and services on the go, making it easier to navigate the legal system.

6. Community Legal Clinics: Technology can support community legal clinics by providing resources and information online. For example, the Legal Services Corporation in the United States funds legal aid programs that use technology to reach underserved communities and provide legal assistance.<sup>33</sup>

7. Language Translation: Platforms like Google Translate or Microsoft Translator offer language translation services, which can help overcome language barriers in legal proceedings. These services ensure that individuals can access legal information and services in their preferred language, improving access to justice for non-native speakers. In a country like India, which has 780 languages and is the second highest in the world, this could be a groundbreaking step in access to justice for an ordinary man.<sup>34</sup>

What are the limitations of technological intervention?

<sup>30</sup> MODRIA, <https://aaa-nynf.modria.com/>, (last visited Mar. 12,2024)

<sup>31</sup> SMART SETTLE, <https://www.smartsettle.com/>, (last visited Mar. 12,2024)

<sup>32</sup> LEGAL AID SOUNTH AFRICA, <https://legal-aid.co.za/legalaidsa/#:~:text=Legal%20Aid%20South%20Africa%20provides%20professional%20legal%20advice%20and%20representation,Monday%20to%20Friday%207AM%20%2D%205PM>), (last visited Mar. 12,2024)

<sup>33</sup> LEGAL SERVICES CORPORATION, <https://www.lsc.gov/#:~:text=LSC%20was%20created%20to%20financially,assistance%20to%20low%20income%20Americans>, (last visited Mar. 25 ,2024)

<sup>34</sup> ECONOMIC TIMES, <https://economictimes.indiatimes.com/news/politics-and-nation/seven-decades-after-independence-many-small-languages-in-india-facing-extinction-threat/articleshow/60038323.cms>, (last visited Mar. 25 ,2024)

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Transitioning from traditional to online justice can indeed present several limitations and challenges:

1. **Digital Divide:** The digital divide, or the difference between those with access to technology and the internet and those without, is one of the main obstacles.<sup>35</sup> This divide can prevent certain groups, such as low-income individuals, elderly populations, or rural communities, from accessing online legal services and participating in virtual courtrooms, leading to unequal access to justice.
2. **Privacy and Security:** Online justice raises concerns about privacy and security. Confidential information shared online during legal proceedings or through legal advice platforms could be vulnerable to hacking or data breaches. Ensuring the security of online platforms and protecting the privacy of individuals is crucial to maintaining trust in the legal system.
3. **Potential Biases:** The online justice system, trained on vast amounts of data, may introduce new biases or exacerbate existing ones. For example, biases in algorithms used for predictive policing or in AI systems used for legal analytics could lead to discriminatory outcomes.<sup>36</sup> Additionally, individuals from marginalised communities may face challenges in navigating online platforms or may not trust these systems, potentially leading to unequal treatment. Depending on the database studied and the type of metrics, researchers found that 3.4% to 38.6% of data was biased.<sup>37</sup>
4. **Access to Technology and Skills:** Only 38% of households in India are digitally literate. In urban areas, digital literacy is relatively higher at 61% compared to just 25% in rural areas.<sup>38</sup> Even for those with access to technology, there may be barriers related to skills and familiarity with online platforms. Some individuals may struggle to use online legal services or participate in virtual courtrooms due to a lack of digital literacy or technical skills.
5. **Digital Evidence and Authentication:** Admitting digital evidence and ensuring its authenticity can be challenging in online justice systems. There may be concerns about the reliability of digital

<sup>35</sup>INVESTOPEDIA, <https://www.investopedia.com/the-digital-divide-5116352>, (last visited Mar. 25, 2024)

<sup>36</sup> IBM, <https://www.ibm.com/topics/ai-bias#:~:text=12%2F22%2F23-,What%20is%20AI%20bias%3F,outputs%20and%20potentially%20harmful%20outcomes.>, (last visited May 25, 2024)

<sup>37</sup>USC Viterbi School of Engineering, <https://viterbischool.usc.edu/news/2022/05/thats-just-common-sense-usc-researchers-find-bias-in-up-to-38-6-of-facts-used-by-ai/>, (last visited May 25, 2024)

<sup>38</sup> INDIA DEVELOPMENT REVIEW, <https://idronline.org/article/inequality/indias-digital-divide-from-bad-to-worse/>, (last visited May 25, 2024)

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evidence and the potential for manipulation or tampering. Online proceedings may raise due process concerns, particularly regarding the ability of individuals to effectively present their case, cross-examine witnesses, and access legal representation in virtual courtrooms. Ensuring that online justice systems uphold the principles of due process is essential.

6. Equitable Access to Technology: Ensuring equitable access to technology and internet connectivity is crucial for addressing the digital divide. Governments and organisations can implement initiatives to provide technology resources and digital literacy training to underserved communities. It is essential to note that only 50% of Indians are active Internet users, which can adversely affect technology access.<sup>39</sup>

Maintaining transparency and accountability in online justice systems is essential for ensuring trust and legitimacy. Clear guidelines and standards for online proceedings and mechanisms for oversight and accountability are necessary to address concerns about potential biases and ensure fairness. This demonstrates that online justice has the potential to improve access and efficiency; addressing these limitations is crucial to ensuring that the transition to online justice is equitable, secure, and fair for all individuals.

Which case studies are relevant to look into?

Singapore has implemented virtual courtrooms for certain hearings, enabling remote participation in court proceedings. This has improved access to justice and reduced the need for physical court appearances. Examining Singapore's experience can offer insights into the implementation of virtual courtrooms.<sup>40</sup>

Singapore's experience with virtual courtrooms offers several insights into their implementation:

- Singapore's successful implementation of virtual courtrooms highlights the importance of having a robust technological infrastructure. This includes reliable

<sup>39</sup> THE HINDU, <https://www.thehindu.com/news/national/over-50-indians-are-active-internet-users-now-base-to-reach-900-million-by-2025-report/article66809522.ece>, (last visited May 25, 2024)

<sup>40</sup> GOVINSIDER, <https://govinsider.asia/intl-en/article/inside-singapores-move-to-virtual-court-hearings>, (last visited May 25, 2024)

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internet connectivity, secure video conferencing platforms, and digital document management systems. Investing in such infrastructure is crucial for ensuring the smooth operation of virtual courtrooms.

- Singapore has focused on providing a user-friendly experience for participants in virtual courtrooms. This includes training judges, lawyers, and court staff on how to use the technology effectively. Ensuring that all stakeholders are comfortable with the technology is critical to the success of virtual courtrooms.
- Singapore has implemented measures to ensure the security and privacy of virtual court proceedings. This includes using secure video conferencing platforms and encryption technologies to protect sensitive information. Maintaining high standards of security and confidentiality is essential for building trust in virtual courtrooms.
- Singapore has ensured that virtual courtrooms are accessible to all, including individuals with disabilities. This includes providing captioning and sign language interpretation services for hearings. Ensuring that virtual courtrooms are inclusive and accessible to everyone is crucial for upholding principles of justice.<sup>41</sup>
- Singapore has updated its legal framework and regulations to accommodate virtual court proceedings. This includes amending court rules to allow for remote hearings and electronic filing of documents. A clear legal framework is essential for effectively implementing virtual courtrooms.

## Conclusion

Overall, Singapore's experience demonstrates that successfully implementing virtual courtrooms requires a holistic approach considering technological, legal, and procedural aspects. By addressing these factors, jurisdictions can effectively implement virtual courtrooms and improve access to justice.

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<sup>41</sup>THE SINGAPORE LAW GAZETTE, <https://v1.lawgazette.com.sg/2001-11/Nov01-focus2.htm>, (last visited May 25, 2024)

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In summary, technology has the potential to significantly improve access to justice in India by offering innovative solutions such as online legal advice platforms, virtual courtrooms, and digital information systems. While India's experience with technology in the legal sector is still evolving, initiatives like the eCourts Project<sup>42</sup> and e-filing demonstrates promising progress. However, challenges such as the digital divide and privacy concerns must be addressed to realise technology's benefits in the legal system fully. By investing in digital infrastructure and promoting digital literacy, India can create a more accessible, efficient, and equitable legal system for all its citizens.



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<sup>42</sup> NATIONAL INFORMATICS CENTER, <https://www.nic.in/products/ecourts/>, (last visited May 25, 2024)  
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