

Digital Justice And The Right Of Access To Courts: Assessing The Digital Divide In India's Judiciary

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ABSTRACT

The rapid digital transformation of the Indian judiciary has fundamentally altered the manner in which justice is administered and accessed. Initiatives such as e-filing, virtual hearings, online case management systems, and digital court records have improved procedural efficiency and strengthened judicial transparency. However, these technological advancements have also raised an important constitutional concern: whether the benefits of digital justice are equitably available to all sections of society. While technology has the potential to reduce delays and improve access, it may simultaneously exclude litigants who lack digital literacy, reliable internet connectivity, affordable technological resources, or linguistic accessibility. This paper critically examines the relationship between digital justice and the constitutional guarantee of access to justice, arguing that technological progress must be accompanied by inclusive institutional design. Adopting a doctrinal and socio-legal research methodology, the study analyses constitutional principles, judicial decisions, policy initiatives under the e-Courts Mission, and contemporary literature to evaluate the extent to which digital reforms have addressed or inadvertently reinforced existing inequalities. Particular attention is given to the experiences of rural litigants, economically weaker sections, senior citizens, persons with disabilities, and individuals residing in digitally underserved regions. The paper argues that the success of digital justice should be assessed not merely by technological adoption but by its ability to ensure meaningful, affordable, and non-discriminatory access to courts. It concludes by proposing policy measures that promote digital inclusion through infrastructure development, legal awareness, multilingual technological interfaces, assisted digital services, and human-centred judicial innovation. Such an approach would strengthen both judicial efficiency and the constitutional promise of equal access to justice in an increasingly digital legal system.

Keywords: Digital Justice; Access to Justice; Digital Divide; e-Courts; Judicial Inclusion

1. CONCEPTUAL FOUNDATIONS OF DIGITAL JUSTICE AND ACCESS TO COURTS

Meaning and Evolution of Digital Justice

Digital justice refers to the integration of information and communication technologies (ICTs) into judicial processes to enhance efficiency, transparency, and accessibility¹. Initially, digitalization in courts was limited to computerization of records and cause lists. Over time, it evolved into comprehensive systems of e-filing, online case management, virtual hearings, and digital repositories of judgments². This transformation reflects a broader global trend where courts are increasingly adopting technology to overcome systemic delays and procedural bottlenecks. The concept of digital justice is not merely technological; it embodies a normative commitment to ensuring that technological innovation serves the constitutional promise of justice. It is premised on the idea that justice delivery must adapt to the realities of a digital society, while safeguarding fairness, inclusivity, and equality.

Constitutional Basis of Access to Justice

Access to justice is a fundamental constitutional right in India, derived primarily from Article 14 (equality before law) and Article 21 (right to life and personal liberty)³. The Supreme Court has consistently interpreted these provisions to encompass the right to effective judicial remedies. In *Anita Kushwaha v. Pushap Sudan* (2016), the Court held that access to justice is an essential facet of Article 21⁴, requiring that justice be affordable, accessible, and effective⁵. Article 14 ensures that technological reforms in courts must not create discriminatory barriers; digital justice must be equally available to all citizens regardless of socio-economic status. Together, Articles 14 and 21 establish a constitutional mandate that judicial digitalization must be inclusive, preventing exclusion of vulnerable groups. Thus, the constitutional foundation of digital justice is not limited to efficiency but extends to equity and inclusiveness.

Technology and Procedural Fairness

Procedural fairness: the guarantee of a fair hearing, equality of arms, and impartial adjudication is central to the rule of law. The introduction of technology into judicial processes raises important questions about its compatibility with these principles. Enhancement of Fairness: Technology can improve transparency (e.g., live-streaming of hearings), reduce delays, and provide litigants with real-time access to case information. Risks to Fairness: Over-reliance on digital platforms may disadvantage litigants lacking digital literacy or resources, undermining equality of arms⁶. For instance, a rural litigant without stable internet access may be unable to participate effectively in a virtual hearing. Balancing Efficiency and Rights: Courts must ensure that technological adoption does not compromise the fundamental right to be heard. Assisted digital services, multilingual platforms, and accessibility standards are necessary to align

¹ M. S. Sahoo, *Digital Justice in India*, 2 Indian L. Rev. 45 (2019).

² Dep't of Justice, *e-Courts Mission Mode Project Report* (2021).

³ INDIA CONST. arts. 14, 21.

⁴ *Anita Kushwaha v. Pushap Sudan*, (2016) 8 S.C.C. 509 (India).

⁵ *Hussainara Khatoon v. State of Bihar*, A.I.R. 1979 S.C. 1369 (India).

⁶ Law Comm'n of India, Report No. 272, *Video-Conferencing in Courts* (2018).

digital justice with procedural fairness⁷. The relationship between technology and fairness is therefore dialectical: while technology can strengthen justice delivery, it can also create new forms of exclusion if not carefully regulated.

Evolution in Global Context

The Indian experience must be situated within a broader comparative framework. Jurisdictions such as Singapore, the United Kingdom, and Estonia have pioneered digital justice reforms. Singapore's e-Litigation system integrates filing, case management, and hearing schedules into a single platform. The UK's Online Dispute Resolution (ODR) for small claims emphasizes accessibility and affordability. Estonia's judiciary employs blockchain-based digital records, ensuring security and transparency. These examples highlight that digital justice is not merely about adopting technology but about designing inclusive systems that balance efficiency with fairness⁸.

Conceptual Challenges

Despite its promise, digital justice faces conceptual challenges:

- **Digital Divide:** Unequal access to technology risks undermining constitutional guarantees.
- **Normative Concerns:** Technology must be evaluated not only for efficiency but also for its impact on rights.
- **Institutional Design:** Courts must adopt human-centred approaches, ensuring that reforms are tailored to diverse litigant needs.

2. DIGITAL TRANSFORMATION OF THE INDIAN JUDICIARY

Evolution of the E-Courts Mission

The e-Courts Mission Mode Project, launched in 2005 under the National e-Governance Plan, represents the cornerstone of India's judicial digitalization. Phase I (2005–2015): Focused on computerization of district and subordinate courts, installation of case information systems, and digitization of cause lists. Phase II (2015–2020): Expanded to online services such as e-filing, e-payment, and the National Judicial Data Grid (NJDG). Phase III (2021 onwards): Emphasizes interoperability across courts, integration of AI-based tools, and citizen-centric services such as virtual courts and online dispute resolution⁹. This phased evolution reflects a deliberate attempt to modernize judicial infrastructure while aligning with the broader Digital India initiative.

E-Filing and Paperless Courts

E-filing systems allow litigants and lawyers to submit pleadings, affidavits, and annexures electronically. The advantages is that it reduced paperwork, faster filing and remote access¹⁰. Despite having challenges, i.e. Digital literacy gaps among lawyers in rural districts; uneven adoption across High Courts. There is a Judicial Endorsement that the Supreme Court has encouraged e-filing to reduce delays, particularly during the COVID-19 pandemic¹¹. E-filing

⁷ Vidhi Centre for Legal Policy, *Evaluating India's e-Courts Project* (2021).

⁸ Civil Justice Council, *Online Dispute Resolution for Low Value Claims* (UK, 2015); Gov.sg, *e-Litigation Overview*; European e-Justice Portal (Estonia).

⁹ Dep't of Justice, *e-Courts Mission Mode Project Report* (2021).

¹⁰ Supreme Court of India, Circular on E-Filing (2020).

¹¹ Id.

represents a paradigm shift from manual processes to streamlined digital workflows, but its success depends on equitable access.

Virtual Hearings

Virtual hearings became indispensable during the pandemic, ensuring continuity of justice. Supreme Court and High Courts: Adopted video-conferencing platforms for urgent matters¹². The Benefits being it reduced travel costs, minimized adjournments, and enabled participation from remote locations. There are some concerns regarding Connectivity issues, lack of privacy safeguards, and difficulties for litigants unfamiliar with digital platforms¹³. The judiciary has recognized virtual hearings as a permanent fixture, but their constitutional legitimacy hinges on inclusiveness and fairness.

Digital Case Management Systems

The National Judicial Data Grid (NJDG) provides real-time data on case pendency, disposal rates, and judicial performance¹⁴. There is transparency as the Citizens can track case progress online. The Policy Utility enables evidence-based judicial reforms. The limitations is that the Data accessibility remains English-centric; rural litigants may struggle to interpret digital dashboards. Digital case management strengthens accountability but requires user-friendly interfaces to ensure inclusivity.

Online Judicial Services

Courts now provide a range of online services¹⁵:

- Cause lists and daily orders.
- Certified copies of judgments.
- E-payment of court fees and fines.
- SMS/email notifications for case updates.

These services enhance transparency and convenience, but their reach is limited by the digital divide¹⁶.

Achievements and Institutional Progress

The digital transformation has yielded significant institutional progress:

- Transparency: Public access to judgments and orders.
- Efficiency: Reduced delays in filing and scheduling.
- Accountability: Data-driven monitoring of judicial performance.
- Resilience: Continuity of justice during crises such as COVID-19.

Yet, these achievements must be critically assessed against the constitutional imperative of equal access.

3. THE DIGITAL DIVIDE AND CHALLENGES TO INCLUSIVE JUSTICE

Dimensions of the Digital Divide

The digital divide in India's judiciary manifests across several dimensions:

¹² Supreme Court of India, Guidelines on Video-Conferencing (2020).

¹³ Id.

¹⁴ Nat'l Judicial Data Grid, NIC (2022).

¹⁵ Id.

¹⁶ Vidhi Centre for Legal Policy, *Evaluating India's e-Courts Project* (2021).

- Digital Literacy: Many litigants, particularly in rural areas, lack the skills to navigate e-filing portals or virtual hearing platforms.
- Internet Connectivity: Broadband penetration remains uneven, with rural districts experiencing unstable or slow connections.
- Affordability: Smartphones, laptops, and data plans impose costs that economically weaker sections cannot bear.
- Language Barriers: Judicial platforms are predominantly English-centric, excluding non-English speakers.
- Accessibility: Persons with disabilities often face challenges due to inadequate compliance with accessibility standards.

These barriers collectively undermine the constitutional promise of equal access to justice¹⁷.

Impact on Vulnerable Populations

- The digital divide disproportionately affects vulnerable groups:
- Rural Populations: Limited infrastructure and digital literacy hinder participation in virtual hearings.
- Economically Weaker Sections: The cost of devices and connectivity creates financial exclusion.
- Senior Citizens: Age-related digital unfamiliarity prevents effective engagement with online systems.
- Persons with Disabilities: Lack of screen-reader compatibility and accessible design impedes their ability to use e-Courts services.

These groups risk being marginalized in a system that increasingly relies on digital platforms¹⁸.

Risks of Unequal Access

Technological advancement without inclusivity risks creating a two-tier justice system:

- Digitally Empowered Litigants: Those with resources and literacy benefit from faster, more transparent processes.
- Digitally Excluded Litigants: Those without access face procedural delays, inability to file cases, or exclusion from hearings.

Such inequality undermines Article 14's guarantee of equality before law and Article 21's mandate of fair procedure¹⁹.

Judicial Recognition of Challenges

Indian courts have acknowledged these challenges. In *Swapnil Tripathi v. Supreme Court of India* (2018), while endorsing live-streaming, the Court emphasized the need for accessibility safeguards²⁰. During the pandemic, several High Courts noted difficulties faced by rural litigants in accessing virtual hearings, highlighting the need for assisted digital services. Judicial recognition underscores that digital justice must be accompanied by institutional measures to prevent exclusion.

¹⁷ Telecom Regulatory Authority of India, *Internet Penetration Report* (2022).

¹⁸ Nat'l Legal Services Auth., *Digital Literacy Campaigns* (2021).

¹⁹ INDIA CONST. arts. 14, 21.

²⁰ *Swapnil Tripathi v. Supreme Court of India*, (2018) 10 S.C.C. 639 (India).

Comparative Perspectives

Other jurisdictions have proactively addressed digital exclusion:

- United Kingdom: Online Dispute Resolution includes assisted digital services for those unable to access technology.
- Singapore: Community justice centres provide kiosks and staff assistance for digital filings.
- Estonia: Multilingual interfaces and universal digital identity systems ensure inclusivity.

These examples demonstrate that inclusivity is achievable through deliberate institutional design²¹.

Conceptual Implications

The persistence of the digital divide raises conceptual concerns: If we consider justice as a Public Good as if access depends on private resources, justice ceases to be universally available. In context with Technology as a Barrier, Instead of enabling fairness, technology risks becoming a gatekeeper. Constitutional Mandate: Courts must ensure that digital reforms do not erode fundamental rights

4. CRITICAL EVALUATION OF THE EXISTING LEGAL AND POLICY FRAMEWORK

Constitutional Principles

The constitutional foundation of access to justice rests on Article 14 (equality before law) and Article 21 (right to life and personal liberty). Judicial interpretation has consistently expanded these provisions to encompass the right to effective remedies. *Anita Kushwaha v. Pushap Sudan* (2016) affirmed that access to justice is a fundamental right, requiring affordability, accessibility, and effectiveness²². *Hussainara Khatoon v. State of Bihar* (1979) linked speedy trial to Article 21, underscoring that justice delayed is justice denied. *Swapnil Tripathi v. Supreme Court of India* (2018) upheld live-streaming of proceedings, reinforcing transparency as part of open justice. These precedents establish that digital reforms must not only enhance efficiency but also safeguard inclusivity and fairness.

Judicial Precedents on Technology And Access

Indian courts have cautiously embraced technology. The Supreme Court's guidelines on video-conferencing (2020) recognized its legitimacy but emphasized procedural safeguards²³. High Courts have issued directions to ensure that virtual hearings remain accessible to litigants lacking digital literacy. Judicial pronouncements highlight the tension between efficiency and fairness, acknowledging that technology must not compromise the right to be heard. Thus, while courts endorse digitalization, they remain mindful of constitutional limitations.

Government Initiatives

Several policy initiatives aim to bridge the digital divide²⁴:

- Digital India Programme: Seeks universal digital literacy and connectivity.

²¹ HMCTS Reform Programme (UK, 2019); Gov.sg, *Community Justice Centres*; OECD, *Digital Government Studies* (2020).

²² *Anita Kushwaha v. Pushap Sudan*, supra note 4.

²³ Supreme Court of India, *Guidelines on Video-Conferencing*, supra note 12.

²⁴ BharatNet Project, Ministry of Commc'ns (2021).

- BharatNet Project: Expands broadband infrastructure to rural areas.
- e-Courts Mission Mode Project: Provides ICT infrastructure, e-filing, and online case management.
- National Judicial Data Grid (NJDG): Enhances transparency by publishing pendency statistics.

While these initiatives represent progress, their implementation remains uneven, with rural courts often lacking adequate infrastructure.

Assessment of Current Reforms

Despite achievements, current reforms inadequately address digital exclusion. With respect to the infrastructure gaps, many district courts lack reliable internet and hardware. There is also a language limitations such as the Platforms remain English-centric, excluding non-English speakers. The Assisted Access as few courts provide kiosks or help desks for digitally excluded litigants. And the accessibility standards concerns as the limited compliance with disability-friendly design. Thus, reforms risk reinforcing inequalities rather than eliminating them²⁵.

Comparative Insights

International experiences offer valuable lessons:

- United Kingdom: Online Dispute Resolution includes assisted digital services, ensuring that litigants without technology can still access justice.
- Singapore: Community justice centres provide kiosks and staff assistance, bridging literacy gaps.
- Estonia: Universal digital identity and multilingual platforms ensure inclusivity.

These models demonstrate that inclusivity requires deliberate institutional design, not just technological adoption²⁶.

Normative Evaluation

The existing framework reflects a tension between efficiency and inclusivity:

1. Efficiency Gains: Reduced delays, enhanced transparency, and improved accountability.
2. Exclusion Risks: Vulnerable groups remain marginalized due to literacy, affordability, and accessibility barriers.
3. Constitutional Imperative: Reforms must prioritize inclusivity to fulfill Articles 14 and 21²⁷.

Thus, the success of digital justice must be measured not merely by technological adoption but by its ability to ensure meaningful, affordable, and non-discriminatory access to courts.

5. TOWARDS AN INCLUSIVE DIGITAL JUSTICE FRAMEWORK

Policy Recommendations for Bridging the Digital Divide

The success of digital justice depends not only on technological adoption but on its inclusivity. Policy measures must directly address structural inequalities:

²⁵ Vidhi Centre for Legal Policy, *supra* note 7.

²⁶ OECD, *Digital Government Studies* (2020).

²⁷ INDIA CONST. arts. 14, 21.

- Infrastructure Development: Expand broadband connectivity and ICT facilities in rural and semi-urban courts.
- Assisted Access Centres: Establish kiosks and help desks within court premises to support litigants unfamiliar with digital platforms.
- Multilingual Platforms: Ensure e-Courts services are available in regional languages, reducing linguistic exclusion.
- Accessibility Standards: Mandate compliance with disability-friendly design, including screen-reader compatibility and voice-enabled services.
- Legal Awareness Campaigns: Promote digital literacy through workshops, legal aid clinics, and community outreach.

These measures would ensure that digital justice reforms are not merely technological upgrades but instruments of social inclusion²⁸.

Strengthening Digital Infrastructure

Infrastructure remains the backbone of digital justice.

- Hardware and Connectivity: District courts must be equipped with reliable internet, servers, and digital devices.
- Integration across Levels: High Courts and subordinate courts should adopt interoperable systems to avoid fragmentation.
- Public-Private Partnerships: Collaborations with technology providers can accelerate infrastructure development while maintaining judicial independence.

Without robust infrastructure, digital reforms risk remaining symbolic rather than substantive²⁹.

Assisted Access and Human-Centric Design

Digital justice must be designed around the needs of litigants, not merely institutional efficiency.

- Assisted Digital Services: Court staff or paralegal volunteers can help litigants file cases, access documents, and participate in hearings.
- Community Justice Centres: Local centres can provide digital kiosks, training, and support for rural populations.
- Human-Centric Interfaces: Platforms should prioritize simplicity, multilingual support, and accessibility features.

This approach ensures that technology complements human support rather than replacing it³⁰.

Multilingual and Accessible Platforms

Language and accessibility are critical to inclusivity:

- Regional Language Interfaces: Judicial platforms must provide services in major Indian languages.

²⁸ U.N. Dev. Programme, *Digital Inclusion Report* (2020).

²⁹ Dep't of Justice, *supra* note 9.

³⁰ Gov.sg, *Community Justice Centres*.

- Accessibility Compliance: Courts must adopt WCAG (Web Content Accessibility Guidelines) to ensure usability for persons with disabilities.
- Voice-Enabled Services: AI-driven voice interfaces can assist illiterate or semi-literate litigants.

Such measures would democratize access to digital justice³¹.

Legal Awareness and Capacity Building

Digital literacy is essential for meaningful participation:

- Training for Lawyers and Litigants: Regular workshops on e-filing, virtual hearings, and online case management.
- Integration with Legal Aid: Legal aid clinics should incorporate digital literacy modules.
- Public Campaigns: Awareness drives through media and community outreach can normalize digital participation³².

Capacity building ensures that reforms translate into practical empowerment.

Towards A Citizen-Centric and Rights-Based Model

Ultimately, digital justice must be grounded in constitutional values:

- Citizen-Centric Design: Systems should prioritize litigant needs over bureaucratic convenience.
- Rights-Based Approach: Technology must serve as an enabler of equality, ensuring that Articles 14 and 21 are realized in practice³³.
- Balanced Reform: Efficiency gains must be harmonized with inclusivity, preventing the emergence of a two-tier justice system.

This model envisions digital justice as both a technological and constitutional project.

6. CONCLUSION

Restating the Constitutional Imperative

The digital transformation of India's judiciary represents one of the most ambitious institutional reforms in recent decades. Yet, as this study has demonstrated, the constitutional guarantee of access to justice under Articles 14 and 21 requires that digital reforms be measured not only by efficiency gains but by inclusivity. Justice cannot be considered accessible if vulnerable groups are excluded due to literacy, affordability, or infrastructural barriers.

Balancing Efficiency with Inclusiveness

Digital justice has undeniably improved transparency, reduced procedural delays, and enhanced accountability. However, these achievements risk being undermined if they create a two-tier system: one for the digitally empowered and another for the digitally excluded. The constitutional vision demands a balanced reform model where efficiency is harmonized with inclusiveness³⁴.

Towards A Rights-Based Digital Justice Framework

³¹ World Wide Web Consortium, *Web Content Accessibility Guidelines (WCAG)*.

³² Nat'l Legal Services Auth., *supra* note 18.

³³ INDIA CONST. arts. 14, 21.

³⁴ Vidhi Centre for Legal Policy, *supra* note 7.

The future of digital justice must be grounded in a rights-based approach. Technology should serve as an enabler of equality, not a barrier. Institutional design must prioritize human-centric interfaces, multilingual accessibility, and assisted services. Policy reforms must integrate infrastructure development with legal awareness and capacity building. Such a framework ensures that digital justice strengthens both judicial efficiency and the constitutional promise of equal access.

Global Lessons and Indian Pathways

Comparative experiences from the UK, Singapore, and Estonia demonstrate that inclusivity is achievable through deliberate institutional design.³⁵ India's judiciary must adapt these lessons to its unique socio-economic context, ensuring that reforms are not merely technological imports but contextual innovations tailored to diverse litigant needs.

Digital justice is not an end in itself but a means to realize the constitutional vision of equal access to courts. Its success must be assessed not by the sophistication of technology but by its ability to deliver meaningful, affordable, and non-discriminatory justice.³⁶ The challenge ahead lies in bridging the digital divide through inclusive policies, robust infrastructure, and human-centred innovation. If pursued with constitutional fidelity, digital justice can transform India's judiciary into a model of both efficiency and inclusiveness, reaffirming the principle that justice in a democracy must remain accessible to all, regardless of digital capability.

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³⁵ Civil Justice Council, supra note 8; Gov.sg, supra note 8; European e-Justice Portal, supra note 8

³⁶ Global Comm'n on the Future of Justice, *Justice for All Report* (2019).