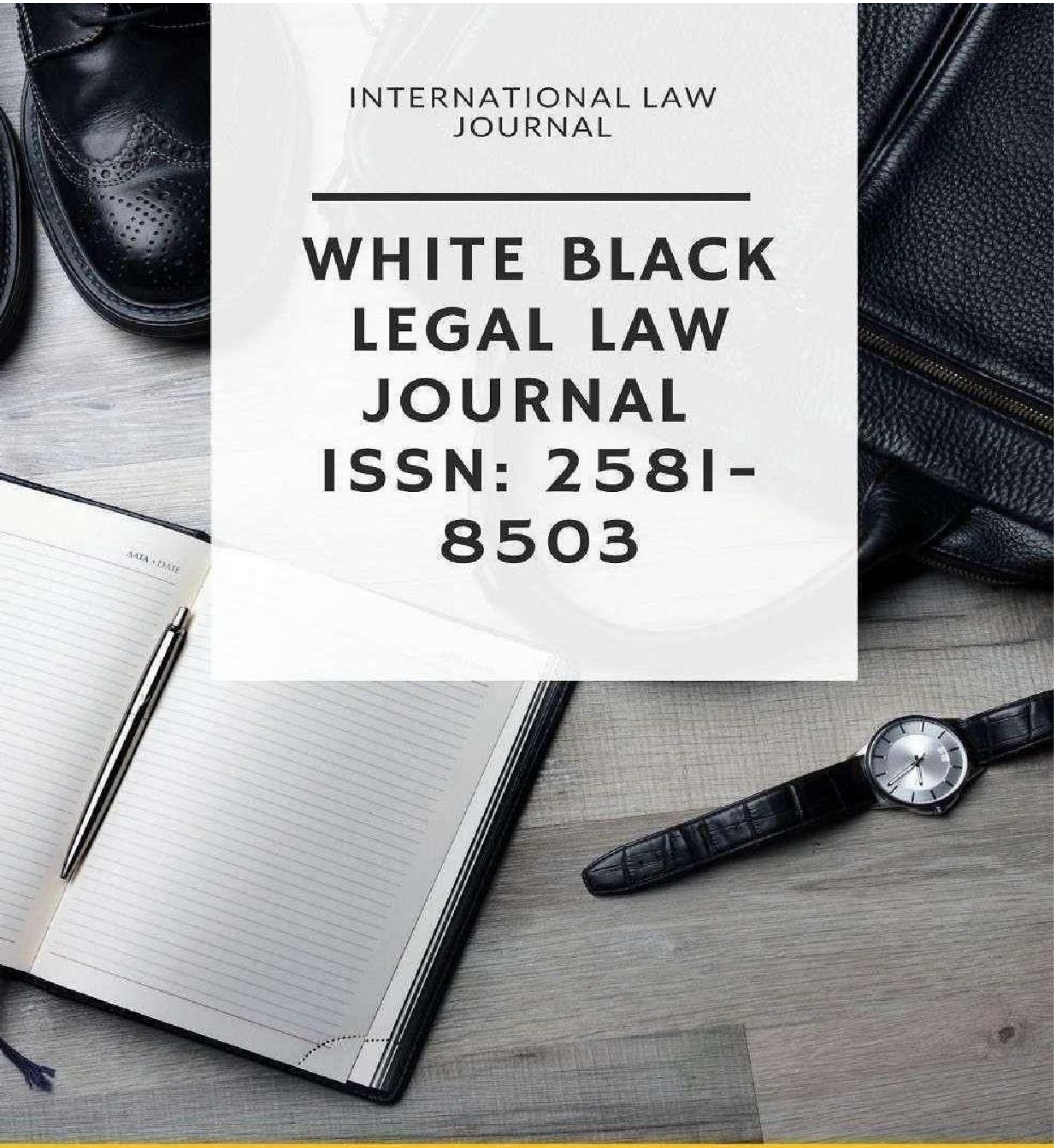

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ACCESS TO JUSTICE IN INDIA: CONSTITUTIONAL FRAMEWORK, STRUCTURAL BARRIERS, AND THE DIGITAL IMPERATIVE

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ABSTRACT

Access to justice is a foundational principle of constitutional democracy and an indispensable prerequisite for the effective realization of the rule of law, human rights, and good governance. In India, although the Constitution does not expressly recognize access to justice as a fundamental right, judicial interpretation of Articles 14, 21, 32, 39A, and 226 has established it as an integral component of constitutional governance and substantive equality. Nevertheless, the realization of this constitutional promise continues to be constrained by persistent structural barriers, including economic inequality, geographical inaccessibility, procedural complexity, judicial delays, inadequate legal awareness, institutional deficiencies, and socio-cultural discrimination. These challenges disproportionately affect marginalized and vulnerable communities, thereby limiting their ability to obtain timely and effective legal remedies.

This chapter critically examines the constitutional foundations of access to justice in India by analysing the relevant constitutional provisions, judicial precedents, and legislative measures designed to facilitate equal access to legal institutions. It further evaluates the effectiveness of institutional mechanisms such as the Legal Services Authorities Act, 1987, the National Legal Services Authority, Lok Adalat, and other alternative dispute resolution mechanisms in advancing constitutional objectives. The chapter also explores the transformative potential of digital technologies, including e-Courts, virtual hearings, online dispute resolution, artificial intelligence, and digital legal services, in addressing longstanding barriers to justice delivery. Adopting a doctrinal and analytical methodology, the chapter argues that digital transformation should not be viewed merely as a technological reform but as a constitutional imperative that must operate consistently with the principles of equality, fairness, inclusiveness, and due process. It concludes that meaningful access to justice in the digital age requires a balanced approach combining constitutional safeguards, institutional strengthening, technological innovation, and inclusive public policy to ensure that digital justice enhances, rather than diminishes, substantive access to justice for all sections of society.

Keywords: Access to justice, Digital Justice, Cyber, Constitution Law

INTRODUCTION

Access to justice constitutes one of the foundational pillars of a democratic constitutional order and serves as the principal mechanism through which legal rights are translated into meaningful social realities. The existence of substantive rights, however comprehensive they may appear within constitutional or statutory frameworks, is of limited significance unless individuals possess an effective means of enforcing them before competent institutions. Consequently, access to justice is no longer understood merely as the formal ability to approach a court of law; rather, it encompasses the broader objective of ensuring that every individual, irrespective of socio-economic status, geographical location, gender, disability, or educational background, can obtain fair, affordable, timely, and effective remedies through an impartial justice system. Contemporary legal scholarship increasingly recognizes access to justice as both a constitutional guarantee and a fundamental prerequisite for the realization of the rule of law, human dignity, equality, and democratic governance.[1]

In India, the constitutional vision of justice occupies a central place within the framework of constitutional governance. The Preamble expressly commits the State to securing justice social, economic, and political for all citizens, while the guarantees of equality before law under Article 14, protection of life and personal liberty under Article 21, constitutional remedies under Article 32, and the High Courts' writ jurisdiction under Article 226 collectively establish the normative foundation of an accessible and accountable justice system. This constitutional commitment is further reinforced by Article 39A, introduced through the Forty-second Constitutional Amendment, which directs the State to ensure that the legal system promotes justice on the basis of equal opportunity and mandates the provision of free legal aid to prevent

[1] Deependra Nath Pathak & Radha Ranjan, *An Introduction to Constitutional Law in India* (2025).

economic or other disabilities from denying access to justice. Through an expansive and purposive interpretation of these provisions, the Supreme Court of India has consistently transformed access to justice from a constitutional aspiration into an enforceable constitutional obligation, recognizing it as an indispensable component of the right to life, fair procedure, and substantive equality.

Despite this robust constitutional architecture, the practical realization of access to justice continues to confront significant structural and institutional challenges. India's justice delivery system has long been characterized by judicial backlog, procedural complexity, high litigation costs, inadequate legal awareness, geographical disparities in judicial infrastructure, linguistic barriers, and persistent socio-economic inequalities. These obstacles disproportionately affect women, children,[2] persons with disabilities, marginalized communities, migrant workers, rural populations, and economically weaker sections, thereby limiting their effective participation in formal legal processes. Consequently, the constitutional promise of equal justice often remains inaccessible to those who require legal protection the most.

Recognizing these systemic deficiencies, the Indian legal system has progressively developed alternative institutional mechanisms aimed at democratizing access to justice. The enactment of the Legal Services Authorities Act, 1987, the establishment of the National Legal Services Authority (NALSA) and State Legal Services Authorities, the institutionalization of Lok Adalats, Permanent Lok Adalats, mediation centres, legal aid clinics, Gram Nyayalayas, and other forms of alternative dispute resolution represent significant attempts to bridge the gap between constitutional ideals and practical realities. While these reforms have undoubtedly expanded the institutional landscape of justice delivery, their implementation has often been constrained by inadequate infrastructure, uneven administrative capacity, limited public awareness, and varying degrees of institutional effectiveness.

In recent years, rapid advances in digital technology have introduced a new paradigm in the administration of justice. The emergence of e-Courts, virtual hearings, electronic filing systems, online case management, artificial intelligence-assisted legal research,[3] online dispute

[2] Suchi, Shalvi, Arvind Kumar, Anjum Parvez, Radhey Shyam Jha & Deependra Nath Pathak, "Protection of Children from the Evil of Pornography", 6(S1) *International Journal of Health Sciences* 14001–14011 (2022).
[3] Radha Ranjan & Jayini Bhaumik, "Regulating Artificial Intelligence in Legal Practice: An Accountability Framework" in *Blockchain and AI in Business: Applications, Research and Insights* (Gyanavi Publishers & Distributors, 2024).

resolution,[4] digital legal aid platforms, and other technology-enabled innovations has transformed the manner in which justice is administered and accessed. The COVID-19 pandemic further accelerated this digital transition by compelling judicial institutions to adopt technology-based solutions for ensuring continuity of judicial functions. These developments have generated renewed optimism regarding the potential of digital technologies to overcome longstanding barriers relating to distance, cost, procedural delay, and administrative inefficiency.[5]

However, the digitalization of justice simultaneously raises complex constitutional, legal, ethical, and socio-economic concerns. While technology possesses the capacity to expand access to justice, it also risks creating new forms of exclusion arising from the digital divide, unequal internet connectivity, limited digital literacy, technological illiteracy among vulnerable populations, cybersecurity threats, algorithmic opacity, data protection concerns, and the absence of inclusive technological infrastructure.[6]The benefits of digital justice, therefore, cannot be evaluated solely through the lens of technological efficiency; they must also be assessed against constitutional principles of equality, fairness, procedural justice, transparency, privacy, and non-discrimination. Digital transformation should function as an instrument for strengthening constitutional justice rather than replacing or undermining its foundational values.[7]

Against this backdrop, the present chapter examines the constitutional, institutional, and technological dimensions of access to justice in India. It seeks to critically analyse the constitutional framework governing access to justice, the structural barriers that continue to impede the effective realization of constitutional rights, and the evolving role of digital technologies in reshaping the justice delivery system. The chapter argues that while digital innovation possesses considerable transformative potential, technological modernization alone

[4]Amaresh Patel, Radha Ranjan, Rahul Kumar, N. Ojha & Aarti Patel, "Online Dispute Resolution Mechanism as an Effective Tool for Resolving Cross-Border Consumer Disputes in the Era of E-Commerce", *International Journal of Law and Management* (2025), DOI: 10.1108/IJLMA-07-2024-0245.

[5] Ranjan, Radha, "The Role of Technology in Enhancing the Efficiency of the Bhartiya Nagarik Suraksha Sanhita, 2023" in *Crime and Consequences: A Comprehensive Guide to Criminal Laws in India* (Singhal Law Publications, 2024).

[6] Ranjan, Radha, Bheem Singh Meena & Shyam Kumar Anand, "Virtual Meetings Under Attack: Assessing the Legal and Security Risks of Zoom Bombing in the Digital Era", 4(2) *ShodhKosh: Journal of Visual and Performing Arts* 1256–1263 (2023).

[7] Radha Ranjan, Ankit Kumar, Shagufta Parweeen, Naveen Nandal, Anupam Sinha, S. Srinivas Kumar & Bhoopathy Rajan, "Policies Against Fraud and Cybercrime: Strategic, Legal, and Technological Approaches" in *Policies Against Fraud and Cybercrime: Strategic, Legal, and Technological Approaches* (IGI Global Scientific Publishing, 2026), DOI: 10.4018/979-8-3373-5992-2.ch007.

cannot guarantee equitable access to justice unless accompanied by institutional reforms, inclusive digital infrastructure, legal safeguards, and sustained policy interventions that address the underlying structural inequalities embedded within the justice system. Accordingly, the chapter situates the digital imperative within the broader constitutional objective of ensuring that justice remains not merely available in law but genuinely accessible in practice for every individual.

THE CONSTITUTIONAL ARCHITECTURE OF ACCESS TO JUSTICE

The Constitution of India, adopted on 26 November 1949 and brought into force on 26 January 1950, is one of the most ambitious constitutional documents in the world. It was drafted by a Constituent Assembly acutely conscious of the social inequalities that had been entrenched by colonial rule and by pre-colonial structures of caste, gender, and economic subordination. The framers understood that the mere proclamation of rights would be insufficient unless the institutional conditions necessary for their practical exercise were simultaneously created and sustained. This understanding shaped both the enforceable fundamental rights in Part III and the programmatic Directive Principles in Part IV, and it gave to the constitutional project a distinctly socio-economic as well as civil-libertarian character.[8]

The right to equality before the law, guaranteed by Article 14, and the prohibition on discrimination on specified grounds under Article 15 form the first pillar of the constitutional framework. Article 14 has been interpreted by the Supreme Court to embody not merely formal equality, in the sense of identical treatment of all persons, but substantive equality, which requires the State to take into account and respond to the actual differences in condition among social groups. This understanding was articulated with clarity in *State of Madras v. V. G. Row*,[9] where the Court observed that the validity of a law curtailing rights must be judged by examining the totality of circumstances, including the nature of the right and the extent to which it is affected. The practical implication for justice delivery is that a system which is formally available to all but practically accessible only to those with resources, education, and proximity to courts fails the constitutional standard of substantive equality.

Article 21 of the Constitution, which guarantees that no person shall be deprived of life or

[8] B. R. Ambedkar, Constituent Assembly Debates, Vol. VII (Lok Sabha Secretariat, New Delhi, 1949), p. 38.
[9] *State of Madras v. V. G. Row*, AIR 1952 SC 196.

personal liberty except according to procedure established by law, has been the single most productive provision in the judicial construction of access to justice as a fundamental right. In its early interpretation, the Court read Article 21 narrowly, requiring only that a deprivation of liberty be authorised by a duly enacted law without imposing any content-based requirements on that law. The transformation began with *Maneka Gandhi v. Union of India*,[10] in which the Supreme Court decisively rejected this narrow reading and held that the procedure established by law must itself be fair, just, and reasonable.[11] This holding opened the constitutional text to a far broader interpretive project in which successive benches read into Article 21 a range of substantive rights, including the right to a speedy trial, the right to free legal assistance, the right to bail in appropriate circumstances, and the right to be informed of the grounds of arrest. The landmark decision in *Hussainara Khatoon v. Home Secretary, State of Bihar*,[12] is perhaps the most direct and consequential assertion of access to justice as a constitutionally protected right. The Supreme Court, confronted with evidence that thousands of undertrial prisoners in Bihar had been incarcerated for periods exceeding the maximum sentence for the offences charged, held that the right to speedy trial is an essential component of the right to life and personal liberty under Article 21. The Court further held that where an accused person cannot afford legal assistance, the State is constitutionally obligated to provide it. This was not a new right invented by the Court; it was a derivation from the logic of Article 21 itself, for a trial without legal assistance for an indigent accused cannot in any meaningful sense constitute a fair procedure.

Subsequent decisions extended and refined this jurisprudence. In *Khatri (II) v. State of Bihar*,[13] the Court held that the right to free legal aid attaches from the moment of first production before a magistrate and cannot be defeated by failure of the accused to ask for it, placing an affirmative obligation on the magistrate to inform the accused of the right. In *Suk Das v. Union Territory of Arunachal Pradesh*,[14] the principle was taken further: the Court held that a conviction obtained without the accused having been informed of the right to legal aid is liable to be set aside as a violation of Article 21. Taken together, these decisions established a constitutional minimum below which the State's provision of justice cannot descend.

[10] *Maneka Gandhi v. Union of India*, AIR 1978 SC 597.
[11] Jivantika Gulati & Radha Ranjan, "Cascading Role of Governance in Ensuring Judicial Activism in India", 19(2S) *Bhartiya Journal of Public Administration (BJPA)* (July–December 2022).
[12] *Hussainara Khatoon v. Home Secretary, State of Bihar*, AIR 1979 SC 1369.
[13] *Khatri (II) v. State of Bihar*, AIR 1981 SC 928.
[14] *Suk Das v. Union Territory of Arunachal Pradesh*, AIR 1986 SC 991.

The right to privacy, recognised by the Supreme Court's nine-judge bench in *K. S. Puttaswamy v. Union of India*,[15] carries important implications for the digital transformation of the justice system. The Court's holding that privacy is a fundamental right protected under Article 21 means that the collection, storage, and use of personal and sensitive data generated by digital court systems, e-filing platforms, and legal aid databases must comply with constitutional standards. Litigants and parties to legal proceedings do not surrender their privacy rights by engaging with the justice system, and the State's obligations in this regard are not discharged merely by enacting data protection legislation unless that legislation itself satisfies constitutional requirements of proportionality and protection against arbitrary use.[16]

Part IV of the Constitution, containing the Directive Principles of State Policy, provides the programmatic complement to the enforceable guarantees in Part III. Article 39A, introduced by the Constitution (Forty-second Amendment) Act, 1976, specifically directs the State to ensure that the legal system promotes justice on the basis of equal opportunity and that no citizen is denied access to justice by reason of economic or other disability.[17] Although Directive Principles are not directly enforceable, the Supreme Court has consistently held that they must be read harmoniously with the fundamental rights and that the State's failure to give effect to them may inform the Court's interpretation of constitutional obligations. Article 41 directs the State to make effective provision for securing the right to work, education, and public assistance in cases of unemployment, old age, sickness, and disablement, and Article 46 obliges the State to promote the educational and economic interests of the weaker sections of society. Together, these provisions mandate a proactive and continuing State commitment to removing the conditions that prevent marginalised communities from accessing the justice system.

The institution of public interest litigation, which developed from the late 1970s under the leadership of Justices P. N. Bhagwati and V. R. Krishna Iyer, represents perhaps the most dramatic practical translation of the constitutional commitment to access to justice.[18] By

[15] *K. S. Puttaswamy v. Union of India*, (2017) 10 SCC 1.
[16] Radha Ranjan, "Evolution of the Doctrine of Proportionality: Assessing its Scope and Ambit in Relation to the Right to Privacy in India", 10(1) *Indian Journal of Law and Human Behavior* 31–38 (2024).
[17] The Constitution (Forty-second Amendment) Act, 1976, s. 8, inserting Articles 39A, 43A, and 48A into the Constitution of India.
[18] Radha Ranjan, Jivantika Gulati "Catalytic Role of Artificial Intelligence in Ameliorating Criminal Justice System: A Critical Analysis" in *Empowerment and Equality: Navigating Human Rights Law in a Complex World* 47–54 (Institute of Legal Education, Tamil Nadu, 2023).

liberalising the rules of standing to permit any person acting in the public interest to invoke the Court's jurisdiction, the Supreme Court effectively transformed itself into a forum of last resort for those who had been systematically excluded from legal redress. The PIL jurisprudence generated a large body of decisions on issues ranging from bonded labour to environmental degradation to the rights of prisoners, establishing in the process a distinctive mode of constitutional adjudication that combined legal remedies with administrative supervision.[19]

The legacy of PIL as a vehicle for access to justice is, however, a nuanced one. Critics, including Upendra Baxi whose pioneering scholarship helped to shape the concept, have observed that PIL in practice has become increasingly captured by elite interests and media-driven causes, while the structural conditions that created the need for it, namely the poverty, illiteracy, and marginalisation that prevent individuals from engaging with the formal legal system, remain largely unaddressed.[20] This critique is directly relevant to the question of digital transformation, for it suggests that procedural innovations, whether PIL in the 1980s or e-filing and virtual hearings today, can alter the form of legal engagement without necessarily changing the underlying conditions of exclusion.

STRUCTURAL BARRIERS TO ACCESS TO JUSTICE IN INDIA

Judicial Capacity and Case Backlog

The most visible and widely documented structural barrier to access to justice in India is the chronic and severe backlog of cases pending before courts at all levels. The National Judicial Data Grid, which aggregates case disposal data from district and subordinate courts enrolled in the e-Courts platform, recorded approximately 4.4 crore pending cases in district courts alone as of 2023, with a further substantial backlog at the level of the High Courts and the Supreme Court.[21] The scale of this pendency is not a recent phenomenon; it reflects a structural mismatch between judicial capacity and the demands placed upon it that has persisted for decades and has worsened as the population has grown, economic activity has expanded, and rights-consciousness among citizens has increased.

The Law Commission of India has addressed the problem of judicial vacancies and capacity shortfalls in several of its reports. Report No. 245, published in 2014, recommended increasing

[19] Upendra Baxi, 'Taking Suffering Seriously: Social Action Litigation in the Supreme Court of India', Third World Legal Studies, Vol. 4 (1985), pp. 107-132, at p. 112.
[20] P. N. Bhagwati, 'Judicial Activism and Public Interest Litigation', Columbia Journal of Transnational Law, Vol. 23, No. 3 (1985), pp. 561-577, at p. 563.
[21] Supreme Court of India, Annual Report 2022-23 (Supreme Court of India, New Delhi, 2023), p. 22.

the judge-to-population ratio to at least 50 judges per million of population, noting that India's prevailing ratio of approximately 21 judges per million was among the lowest in the world for a democratic legal system.[22] This recommendation has not been implemented in any sustained manner. Various High Courts collectively carry a vacancy level that, depending on the year and jurisdiction, routinely falls between 30 and 40 per cent of sanctioned strength, and district court vacancies present a similarly persistent problem.

The consequences of case backlog for access to justice are profound and multidimensional. The most direct impact is on undertrial prisoners, who constitute a disproportionate share of India's prison population. The National Crime Records Bureau's Prison Statistics India 2022 records that undertrial prisoners amounted to approximately 76 per cent of the total prison population, a proportion that has remained consistently high over many years.[23] These individuals, who are presumed innocent in law, are in practice subjected to incarceration for periods that frequently exceed the maximum sentence for the offences charged, in conditions that fall well below constitutional standards. This is among the most acute and least controversial illustrations of the gap between the constitutional promise of access to justice and its ground-level reality.

The impact of delay on civil litigants is less dramatic but equally significant in its social and economic consequences. A party to a property dispute, a labour matter, a matrimonial proceeding, or a commercial claim who faces the prospect of a decade or more of litigation is, in a practical sense, denied the remedy to which they are legally entitled. The cost of protracted litigation, both in direct expenses such as lawyers' fees and court fees and in the indirect costs of time, anxiety, and foregone economic activity, functions as an effective deterrent to resort to formal legal channels for many categories of disputes. This effect is particularly pronounced for individuals from economically weaker sections of society, for whom the carrying costs of litigation may exceed the value of the remedy they seek.[24]

Geographical and Infrastructural Barriers

The geographical distribution of courts in India reflects historical patterns of colonial urban concentration that have never been fully corrected. District and sub-divisional courts are

[22] Law Commission of India, Arrears and Backlog: Creating Additional Judicial (wo)manpower, Report No. 245 (Government of India, New Delhi, 2014), pp. 4-9.
[23] National Crime Records Bureau, Prison Statistics India 2022 (Ministry of Home Affairs, New Delhi, 2023), p. 18.
[24] Geeta Oberoi, 'Pendency of Cases in Indian Judiciary: Status, Challenges and Solutions', Journal of the Indian Law Institute, Vol. 59, No. 4 (2017), pp. 489-510, at p. 495.

located in administrative headquarters that in many parts of the country involve travel distances of 50 to 100 kilometres or more for residents of rural and tribal areas. This physical distance from courts constitutes a formidable barrier in conditions where rural households frequently depend on daily wage labour and cannot afford the loss of income that a court visit entails, where public transport is infrequent and unreliable, and where women's independent mobility may be constrained by social norms. The problem is most acute in hilly, forested, and island districts, many of which are home to scheduled tribe communities, where geographical isolation compounds other dimensions of legal exclusion.

Legal professionals are even more heavily concentrated in urban centres than courts. The Bar Council of India data consistently show that the bulk of enrolled advocates practice in the major metropolitan cities and State capitals, with relatively few practitioners choosing to establish themselves in rural or semi-urban areas where the volume and value of litigation are lower. This geographical maldistribution of legal expertise means that litigants in rural areas either face the cost of engaging an advocate from the nearest urban centre, with all the associated travel and accommodation expenses, or are compelled to navigate the legal system without professional assistance, which in practice means relying on informal intermediaries whose advice may be inadequate or self-interested.[25]

Financial Barriers

The cost of litigation in India constitutes one of the most significant and persistent barriers to access to justice. This cost has multiple components: court fees and stamp duties, which in several State jurisdictions are set at levels that bear little relation to the financial circumstances of ordinary litigants; advocates' professional fees, which have risen substantially in real terms as the legal profession has grown in size and sophistication; and the miscellaneous expenses of document preparation, notarisation, translation, and repeated appearances that accumulate over the life of a protracted dispute. For a landless agricultural labourer or a domestic worker seeking to enforce a wage claim, these costs can rapidly dwarf the economic value of the right in issue, producing the paradoxical result that resort to legal process is more expensive than accepting the loss of the right.[26]

The legal aid system established under the Legal Services Authorities Act, 1987 was designed

[25] Jayanth K. Krishnan, 'Scholarly Discourse, Public Perceptions and the Cementing of Norms: The Case of the Indian Supreme Court and a Plea for Research', Journal of Appellate Practice and Process, Vol. 9, No. 1 (2007), pp. 255-293, at p. 267.

[26] Mauro Cappelletti and Bryant Garth, 'Access to Justice: The Newest Wave in the Worldwide Movement to Make Rights Effective', Buffalo Law Review, Vol. 27, No. 2 (1978), pp. 181-292, at p. 188.

to address this barrier. Section 12 of the Act defines the categories of persons entitled to free legal services and extends this entitlement to persons in custody, women and children, members of scheduled castes and tribes, persons with annual incomes below the prescribed limit, victims of natural disasters, industrial workmen, and persons with disabilities.[27] In terms of formal coverage, the scope of the scheme is reasonably broad. The difficulty lies in the practical realisation of the entitlement. Studies of the operation of the legal aid system consistently document gaps in awareness, inadequate quality of assigned legal representation, weak monitoring of the performance of panel advocates, and limited institutional capacity to deliver services in rural and semi-urban locations.

Socio-Cultural and Linguistic Barriers

Beyond the financial and geographical dimensions, access to justice in India is also shaped by deeply embedded socio-cultural barriers that are less amenable to institutional remedy. Legal processes in India are conducted primarily in English at the appellate and constitutional levels, and in a mixture of English and regional official languages at the district court level. For many litigants, particularly those from rural, tribal, and Dalit communities, the language of the court is literally incomprehensible, making meaningful participation in proceedings an aspiration rather than a reality. The provision of certified court interpreters remains woefully inadequate across most jurisdictions, and no systematic mechanism exists for ensuring that litigants who do not speak the language of the court are able to follow and respond to what is happening in their cases.[28]

The intersection of caste and access to justice is a dimension of the problem that has received less academic attention than it deserves. Members of scheduled castes continue to face discrimination and intimidation in their attempts to access the legal system, both from private actors and, in some instances, from actors within the system itself. Research by Jayanth Krishnan and others has documented the social distance between the legal profession and the communities most in need of legal assistance, noting that the cultural capital required to navigate the formal legal system effectively is unevenly distributed along lines of caste, class, and education.

Gender presents a further dimension of socio-cultural exclusion from the justice system. Women litigants face a combination of structural obstacles and attitudinal biases that

[27] Legal Services Authorities Act, 1987 (Act No. 39 of 1987), at p. 12-13.
[28] Report of the Committee on Reforms of Criminal Justice System (Malimath Committee), Vol. I (Government of India, Ministry of Home Affairs, New Delhi, 2003), p. 27.

compound the financial and geographical barriers already discussed. Property and inheritance matters, matrimonial disputes, and cases involving domestic violence and sexual assault require engagement with a legal system in which the processes of evidence recording and cross-examination can themselves be re-traumatising. The Supreme Court's jurisprudence on gender-sensitive court procedures, including the guidelines in cases such as *Vishaka v. State of Rajasthan* and the legislative reforms that followed, represents a partial response to this dimension of the problem, but the gap between formal procedural reform and the lived experience of women litigants remains substantial.[29]

THE INSTITUTIONAL INFRASTRUCTURE FOR LEGAL AID AND ACCESS

The National Legal Services Authority, established under the Legal Services Authorities Act, 1987 and operationalised in 1995, represents the primary institutional response to the constitutional mandate under Article 39A. NALSA operates through a three-tier structure of State Legal Services Authorities, District Legal Services Authorities, and Taluk Legal Services Committees, with the Supreme Court Legal Services Committee providing assistance to persons entitled to legal aid before the apex court. The system is tasked with providing free legal services, conducting Lok Adalats for the settlement of disputes, organising legal awareness camps, and operating tele-law and other services for the delivery of legal assistance in remote areas.[30]

Lok Adalats, which function as statutory alternative dispute resolution bodies under Chapter VI of the Legal Services Authorities Act, have achieved the most visible numerical success of the legal aid system. The mechanism allows parties to disputes, including pending court cases, pre-litigation matters, and cases in execution, to appear before a panel of persons designated by the legal services authority and arrive at a settlement that is recorded as an award enforceable as a decree of a civil court. NALSA's annual reports record very large numbers of cases disposed of through Lok Adalats, running to several crore cases annually across the country.[31] The quantitative success of the Lok Adalat mechanism must, however, be assessed with some caution. Critics have pointed out that the bulk of Lok Adalat disposals occur in motor accident

[29] Singh, Pallavi & Radha Ranjan, "Sexual Harassment of Women at Work Place: A Study of Indian Legislation and Judicial Approach", 4(1) *Indian Journal of Law and Legal Research* 1–8 (2022).
[30] National Legal Services Authority (NALSA), Annual Report 2022-23 (NALSA, New Delhi, 2023), pp. 4-6.
[31] NALSA, Annual Report 2022-23 (2023), p. 19.

compensation claims, pre-litigation compoundable offences, and matrimonial matters where a settlement is relatively easy to facilitate. The mechanism has proven less effective for categories of disputes involving power imbalances, such as employer-employee relations, land acquisition, or cases where one party has substantially stronger economic resources and no incentive to compromise. The voluntariness of Lok Adalat settlements is also a matter of concern, since there are documented instances where parties, particularly women and members of economically weaker sections, have settled matters for less than their legal entitlement under pressure from settlement facilitators or the social dynamics of the forum.[32]

The landmark judgment in *NALSA v. Union of India*,[33] in which the Supreme Court recognised the rights of transgender persons and directed the Government and NALSA to extend to them the benefits of the legal services and social welfare framework, illustrates the potential of the legal services system to serve as a vehicle for constitutional protection of the most marginalised communities. The judgment went beyond the recognition of identity rights and connected them to the material conditions of social access, requiring affirmative action in education, employment, and access to public services. This integrative approach, linking constitutional rights to institutional delivery mechanisms, represents a model for how the legal services system might be deployed in relation to digital access as well.

The tele-law initiative, launched in 2017 through a collaboration between the Ministry of Law and Justice and the Common Service Centres Scheme of the Ministry of Electronics and Information Technology, represents an attempt to leverage digital connectivity for legal aid delivery in rural areas. The programme enables citizens to access legal advice from panel advocates through video-conferencing facilities at Common Service Centres located in gram panchayats. By the mid-2020s, the scheme had been extended across a large number of States, and the number of consultations delivered had grown substantially from year to year.

The tele-law scheme is, in one sense, itself an instance of the digital transformation of justice delivery and therefore a subject of the broader inquiry conducted in this study. Its significance in the present context, however, is as a test case for whether digital tools can genuinely extend access to the populations most excluded from the formal legal system. The preliminary

[32] Planning Commission of India, Twelfth Five-Year Plan (2012-2017): Social Sectors, Vol. III (Government of India, New Delhi, 2013), p. 166.
[33] *NALSA v. Union of India,* (2014) 5 SCC 438.

evidence is mixed. The scheme has undoubtedly brought legal advice within physical reach of some communities that previously had no access to any form of legal assistance. At the same time, studies have documented limitations in the quality of legal advice provided, difficulties in ensuring follow-through after an initial consultation, the continued challenge of language and literacy barriers, and the dependency of the scheme on the operational capacity and motivation of CSC operators, which varies considerably across locations.[34]

THE STATUTORY FRAMEWORK FOR JUSTICE DELIVERY AND ITS ADEQUACY

The statutory framework governing access to justice in India is multilayered and, in certain important respects, fragmented. The principal procedural instruments, namely the Code of Civil Procedure, 1908 and the Code of Criminal Procedure, 1973, now substantially replaced by the Bharatiya Nagarik Suraksha Sanhita, 2023 in the criminal sphere, were designed for a system of physical courts with paper-based records and in-person hearings. Their provisions on service of process, examination of witnesses, recording of evidence, and conduct of trials assume a degree of geographical proximity and direct human interaction that is increasingly at odds with the realities of a partially digitised justice system.[35]

The amendments introduced into the Code of Civil Procedure over the years, while addressing some procedural inefficiencies, have not produced a fundamental reconception of civil justice delivery. Order VI Rule 15A, which permits the verification of pleadings by an affidavit filed through electronic means in courts that have adopted e-filing, is an example of incremental adaptation rather than structural reform. The Bharatiya Nagarik Suraksha Sanhita, 2023 introduces important provisions relating to the use of electronic communications in criminal proceedings, including the recording of statements and evidence in electronic form, but the extent to which these provisions will be implemented consistently and, in a manner, accessible to all parties remains an open question.

The law of evidence has undergone its most significant recent reform through the Bharatiya Sakshya Adhiniyam, 2023, which replaces the Indian Evidence Act, 1872. The new statute

[34] V. K. Srivastava, 'Legal Aid and the Digital Divide: Structural Inequalities in Access to e-Justice', Indian Journal of Law and Technology, Vol. 18, No. 2 (2022), pp. 101-128, at p. 110.
[35] Code of Civil Procedure, 1908 (Act No. 5 of 1908); Code of Criminal Procedure, 1973 (Act No. 2 of 1974); Bharatiya Nagarik Suraksha Sanhita, 2023 (Act No. 46 of 2023).

addresses the admissibility and evidentiary weight of electronic records in a more systematic manner than its predecessor. They do not, however, resolve the underlying questions of access: a clearer rule for the admissibility of electronic evidence does not help a litigant who lacks the technical equipment or expertise to produce evidence in the requisite digital form, and it does not address the risk that the costs of digital document production may themselves become a barrier to justice.[36]

The absence of a dedicated statute governing online dispute resolution is a significant lacuna in India's legal framework for digital justice. The potential of ODR as a supplement to, and in certain categories of disputes a substitute for, court-based adjudication is widely recognised. The NITI Aayog's report on ODR, published in 2021, identified ODR as a priority area for legal reform and proposed a set of principles for a regulatory framework. However, no statute has been enacted, and ODR providers continue to operate under a patchwork of general contractual law, information technology regulations, and the arbitration framework where arbitral processes are involved. This absence of dedicated regulation creates uncertainty about the enforceability of ODR outcomes, the procedural standards applicable to ODR proceedings, and the protections available to weaker parties in unequal bargaining situations.[37]

The court fee regime, which governs the financial cost of initiating civil proceedings, represents another dimension of the statutory framework that requires critical attention in the context of access to justice. Court fees in India are regulated by a combination of central and State legislation, principally the Court Fees Act, 1870 and its State-level equivalents. Ad valorem court fees, levied as a percentage of the value of the suit, have long been identified as a barrier to access for litigants of limited means. In property disputes, matrimonial matters, and commercial claims, the court fee payable on filing a suit can amount to a substantial sum that effectively prices lower-income litigants out of the formal court system. While exemptions and waivers are available to persons entitled to legal aid, the mechanisms for claiming them are frequently cumbersome and are not consistently applied across jurisdictions, leaving many eligible litigants unaware that relief is available.

[36] Deepika Bhansali, 'Digital Justice: Bridging the Technological Divide in Access to Courts', Journal of the Indian Law Institute, Vol. 62, No. 3 (2020), pp. 312-329, at p. 320.

[37] e-Committee, Supreme Court of India, Phase III e-Courts Project: Policy and Action Plan Document (Supreme Court of India, New Delhi, 2023), pp. 5-8.

The National Court Management Systems Committee, constituted by the Supreme Court in 2012, produced a series of reports identifying the need for a comprehensive overhaul of case management, judicial infrastructure, and legislative procedures as a precondition for meaningful improvement in access to justice. The Committee's framework for a National Framework of Court Excellence proposed key performance indicators for courts across dimensions including timeliness, affordability, and user experience. While the framework has influenced subsequent planning documents, including the e-Courts Phase III policy documents, its more ambitious institutional reform recommendations have not been systematically implemented, reflecting the persistent gap in India between policy aspiration and institutional follow-through.[38]

ACCESS TO JUSTICE IN INTERNATIONAL HUMAN RIGHTS LAW

The constitutional framework for access to justice in India does not exist in isolation; it is situated within, and must be read alongside, a body of international human rights law that establishes minimum standards for access to legal remedies and sets normative benchmarks against which domestic legal systems are to be assessed. India's engagement with this international framework is relevant both as a matter of treaty obligation and as a source of interpretive guidance for domestic constitutional adjudication.[39]

The International Covenant on Civil and Political Rights, to which India became a party in 1979, guarantees in Article 14(1) that all persons shall be equal before courts and tribunals, and that in the determination of any criminal charge or civil rights and obligations, everyone shall be entitled to a fair and public hearing by a competent, independent, and impartial tribunal established by law. The United Nations Human Rights Committee, which monitors State compliance with the Covenant, has interpreted Article 14 to require not merely the formal existence of courts but the practical possibility of access to them, including the provision of legal aid in cases where the interests of justice so require. The Committee has observed that the right to a fair hearing encompasses procedural equality between parties, the availability of legal assistance for those unable to afford it, and the right to have proceedings conducted in a language that the parties understand.[40]

[38] Law Commission of India, Manpower Planning in Judiciary: A Blueprint, Report No. 120 (Government of India, New Delhi, 1987), p. 12.
[39] International Covenant on Civil and Political Rights, Art. 14(1), opened for signature 16 December 1966, 999 UNTS 171 (entered into force 23 March 1976). India ratified the ICCPR on 10 April 1979.
[40] United Nations Human Rights Committee, General Comment No. 32: Article 14 (Right to Equality before

The United Nations Sustainable Development Goals, adopted by the General Assembly in September 2015, include Goal 16, which calls for the promotion of peaceful and inclusive societies for sustainable development, the provision of access to justice for all, and the building of effective, accountable, and inclusive institutions at all levels.[41] Target 16.3 specifically commits member States to ensuring equal access to justice for all. For India, as for other member States, this commitment operates as a normative benchmark against which the adequacy of domestic justice delivery systems is to be assessed. The UNDP's Access to Justice Practice Note, which provides operational guidance on the implementation of SDG 16.3, identifies five dimensions of access to justice that must be addressed: awareness, availability, accessibility, affordability, and adequacy of legal remedies.[42]

The relationship between these international standards and the constitutional framework in India is one of mutual reinforcement rather than hierarchy. The Supreme Court has consistently held that international human rights norms may be used as aids to constitutional interpretation, particularly where the Constitution is silent on a specific point or where its provisions are ambiguous. This principle of harmonious interpretation, articulated in decisions such as *Vishaka v. State of Rajasthan* and elaborated in subsequent jurisprudence, means that India's obligations under ICCPR Article 14 and its commitment to SDG 16.3 are relevant to the constitutional assessment of digital justice initiatives. A digital transformation programme that, in its design or implementation, falls short of the international standard of effective access to justice for all may also fall short of the constitutional standard, even if individual provisions of domestic law are technically complied with.

THE DIGITAL IMPERATIVE - TECHNOLOGY AS AN INSTRUMENT OF JUSTICE REFORM

Against the background of the structural barriers and institutional limitations surveyed in the preceding sections, the emergence of digital technology as an instrument of justice reform carries both genuine promise and substantial risk. The promise lies in the capacity of digital platforms to overcome some of the most persistent barriers to access: geographic distance can be reduced by online hearings and e-filing; information asymmetries can be partially addressed

Courts and Tribunals and to a Fair Trial), UN Doc. CCPR/C/GC/32 (2007), paras. 9-10.

[41] United Nations, Transforming Our World: The 2030 Agenda for Sustainable Development, A/RES/70/1 (United Nations, New York, 2015), Goal 16.3.

[42] United Nations Development Programme, Access to Justice: Practice Note (UNDP, New York, 2004), pp. 7-9.

by digital legal aid platforms and legal information services; the cost of routine administrative interactions with courts can be lowered by electronic case management systems; and the transparency of the justice system can be enhanced by real-time data publication through platforms such as the National Judicial Data Grid.[43]

The constitutional dimension of the digital imperative deserves to be stated with some precision. The Supreme Court's judgment in *Anuradha Bhasin v. Union of India*,[44] which affirmed that the right to access the internet is constitutionally protected as an aspect of freedom of speech and expression and the right to carry on trade and business, has implications that extend to the justice sector. If internet access is itself a constitutionally protected interest, then a system of justice delivery that makes digital engagement mandatory or strongly incentivises it without ensuring universal and meaningful digital access raises constitutional concerns that go beyond the conventional framework of access to justice. The digital infrastructure of the justice system is not merely a matter of administrative convenience; it is a constitutional matter. The risk that digital transformation will compound rather than reduce existing inequalities is well documented in the empirical literature. Srivastava's study of the digital divide in legal aid delivery demonstrates that the populations most dependent on legal assistance, including residents of rural and tribal areas, economically weaker sections, elderly persons, and persons with low levels of formal education, are precisely those least likely to have reliable internet connectivity and the digital literacy required to navigate online legal services. Suresh's fieldwork with litigants and legal aid practitioners in three States provides granular evidence that the shift to digital court processes has in practice created new procedural disadvantages for the most marginalised litigants, who are unable to participate effectively in virtual hearings or to utilise online case tracking systems.[45]

The telecommunications infrastructure data further reinforce this concern. While India's aggregate internet subscriber base has grown dramatically in the past decade, driven largely by the expansion of mobile broadband access, the quality and reliability of connectivity remains highly uneven across geographical regions, income groups, and genders. The Telecom Regulatory Authority of India's data consistently show that rural broadband penetration lags

[43] Richard Susskind, Online Courts and the Future of Justice (Oxford University Press, Oxford, 2019), pp. 63-68.
[44] *Anuradha Bhasin v. Union of India*, (2020) 3 SCC 637.
[45] Maya Suresh, 'Digital Courts and the Marginalised: A Socio-Legal Inquiry', Socio-Legal Review, Vol. 17, No. 2 (2021), pp. 1-29, at p. 12.

urban penetration by a substantial margin, and that States with higher proportions of scheduled tribe populations tend to have lower levels of digital connectivity.[46] The National Family Health Survey data reveal a persistent gender gap in mobile phone ownership and internet usage, with women in rural areas significantly less likely than men to have independent access to internet-enabled devices.

What follows from this analysis is a conclusion that has both descriptive and normative dimensions. Descriptively, it is clear that the digital transformation of the Indian justice system has so far produced a partial and uneven extension of access that has benefited those already best positioned to engage with formal legal mechanisms while leaving the structural conditions of exclusion faced by the most marginalised populations largely intact. Normatively, a constitutional framework that demands substantive equality and equal access to justice for all citizens requires that digital transformation be designed and implemented in a manner that actively addresses these conditions of exclusion rather than treating them as an acceptable residual. The question of what such a design requires, in terms of legal reform, institutional investment, and regulatory architecture, is one of the central questions that the remaining chapters of this study seek to answer.[47]

JUDICIAL RECOGNITION OF THE DIGITAL DIMENSIONS OF ACCESS TO JUSTICE

Indian courts have begun, in a tentative but potentially significant manner, to engage with the intersection of digital technology and access to justice. The Supreme Court's invocation of its powers under Article 142 to authorise virtual hearings during the COVID-19 pandemic was the most dramatic instance of this engagement. The Court's subsequent deliberations on the continuation of video-conferencing as a permanent feature of hearing procedures have raised, though not yet fully resolved, a set of important questions about the relationship between the digital medium of hearings and the constitutional requirements of a fair trial.[48]

[46] Ranjan, Radha, "Improving E-Commerce Fraud Detection: A GAN and Reinforcement Learning Approach Integrated with Personality Analysis for Secure Digital Economy" in *Proceedings of the International Conference on Visual Analytics and Data Visualization (ICVADV-2025)* (IEEE, 2025).
[47] Sourdin, Justice Apps and the Digitisation of Dispute Resolution (2021), p. 134; Reiling, Technology for Justice (2009), p. 68.
[48] Rajeev Khanna, 'The Promise and Peril of Online Courts: Lessons from the COVID-19 Pandemic', Journal of the Bar Council of India, Vol. 39, No. 1-2 (2020), pp. 52-71, at p. 64.

The decision in *Foundation for Media Professionals v. Union Territory of Jammu and Kashmir*,[49] in which the Supreme Court held that restrictions on internet access must satisfy the test of proportionality and be subject to periodic judicial review, establishes an important constitutional principle with direct relevance to digital justice. If the State cannot arbitrarily restrict internet access for the population at large, a fortiori it cannot design a justice system that in practice denies access to those who lack the digital infrastructure to engage with it, and then disclaim responsibility for that denial on the ground that the barriers are economic rather than legal. The constitutional obligation of the State to ensure access to justice is not discharged by creating digital channels that are formally open to all but practically navigable only by those with the necessary technological means.

At the High Court level, there has been a growing body of orders addressing the practical problems faced by litigants and advocates in engaging with virtual hearing systems, e-filing platforms, and digital cause list management. These decisions, while not establishing general constitutional principles, cumulatively indicate a judicial awareness that the transition to digital justice delivery raises access concerns that require proactive management. Several High Courts have issued practice directions requiring that cases involving parties who declare inability to participate in virtual hearings be accommodated through hybrid or physical hearing arrangements, a practical recognition of the constitutional point that procedural innovation cannot be permitted to operate as procedural exclusion.[50]

The Supreme Court e-Committee's engagement with these questions through the Phase III e-Courts Policy and Action Plan Document reflects an institutional awareness of the access dimension of digital transformation. The document explicitly acknowledges the risk of digital exclusion and commits to addressing it through measures including the provision of digital assistance infrastructure in court premises, the development of user-friendly interfaces and vernacular language support in e-filing and case tracking systems, and the integration of the tele-law programme with the wider ecosystem of digital justice delivery. Whether these commitments are translated into effective implementation is a question that the next chapter examines in detail.

[49] *Foundation for Media Professionals v. Union Territory of Jammu and Kashmir*, (2020) 5 SCC 746.
[50] Government of India, Ministry of Law and Justice, India Justice Report 2022 (Tata Trusts, New Delhi, 2022), p. 34.

RECONCEIVING THE RELATIONSHIP BETWEEN CONSTITUTIONAL RIGHTS, STRUCTURAL BARRIERS, AND DIGITAL REFORM

The analysis conducted in this chapter suggests the need for a more integrated and constitutionally grounded framework for evaluating the relationship between digital transformation and access to justice than is typically found in either the legal reform literature or the technology policy discourse. Two dominant framings of this relationship are each, in different ways, inadequate.

The first, which might be called the efficiency framing, evaluates digital transformation primarily in terms of its capacity to reduce delay, lower costs, and increase the volume of case disposals. This framing is not without value: the quantitative performance of the justice system matters, and digital tools have genuine potential to improve it. But efficiency is neither the only nor the most important metric by which a justice system should be assessed. A system that disposes of more cases more quickly by channelling the most complex and contentious matters into inadequately regulated digital procedures, or by discouraging resort to legal remedies through the imposition of digital barriers on those unable to navigate them, may score well on efficiency metrics while failing the constitutional standard of equal and meaningful access.

The second, which might be called the technology-as-solution framing, treats digital transformation as a self-evidently beneficial development whose benefits will, if adequately implemented, extend access to justice to currently excluded populations. This framing is often found in government policy documents and in the more optimistic strands of the legal technology literature. It understates the degree to which the conditions that have historically produced exclusion from the justice system, including poverty, geographical remoteness, low literacy, and social marginalisation, are not primarily technological conditions and cannot be fully addressed by technological means. Digital tools can reduce some barriers and open new channels of engagement, but they cannot substitute for the material conditions of digital access or for the human-centred services that many litigants require.

What is needed in place of either of these framings is an approach grounded in the constitutional standards of substantive equality and equal access to justice, which treats digital transformation as a means in the service of constitutional ends rather than as an end in itself. This approach asks, at each stage of the design and implementation of digital justice initiatives, whether the initiative is likely to extend or to curtail access for those who are currently most excluded; whether the legal and regulatory framework governing the initiative is adequate to ensure procedural fairness, data protection, and accountability; and whether the institutional conditions necessary for the initiative to fulfil its potential are in place.[51]

This constitutionally grounded approach also requires attention to the distributional question that is so often missing from technology policy discourse: who bears the costs when digital transformation fails to extend access? The answer, consistently, is those who are already least able to bear additional costs. When a litigant in a rural area lacks the connectivity to participate in a virtual hearing, the cost is borne by that individual in the form of delayed justice. When an undertrial prisoner cannot engage with a digitised case management system because neither the prison nor the prisoner has the technological means to do so, the cost is borne by that prisoner in the form of continued detention. Constitutional seriousness about access to justice requires that these costs be made visible and that policy be designed to prevent them.

CONCLUSION

This chapter has undertaken a systematic examination of the constitutional architecture, structural conditions, institutional infrastructure, and emerging digital dimensions of access to justice in India. Several conclusions of significance for the subsequent analysis emerge from this examination.[52]

First, the constitutional framework for access to justice in India is, on a proper reading, both more demanding and more enabling than is sometimes recognised. The combination of the enforceable guarantee of fair procedure under Article 21, the substantive equality standard under Article 14, and the programmatic commitment under Article 39A creates a constitutional mandate for a justice system that is not merely formally available but materially accessible to all citizens regardless of their economic condition, social location, or technological capacity. This mandate is not discharged by the creation of digital infrastructure that is formally open to all; it requires that the institutional conditions for meaningful engagement be in place.

[51] A. D. Reiling, Technology for Justice: How Information Technology Can Support Judicial Reform (Leiden University Press, Leiden, 2009), p. 52.
[52] Bhansali, 'Digital Justice' (2020), p. 323; Suresh, 'Digital Courts and the Marginalised' (2021), p. 22.

Second, the structural barriers to access to justice in India are deeply embedded and multidimensional, arising from judicial capacity deficits, geographical concentration of legal resources, financial costs of litigation, procedural complexity, linguistic exclusion, and socio-cultural dimensions of discrimination. Digital transformation addresses some of these barriers, partially and unevenly, but does not address others and risks creating new forms of exclusion among populations that lack the digital access and literacy necessary to engage with online legal services.

Third, the institutional infrastructure for legal aid and access to justice, while formally extensive, operates at a level of effectiveness that falls well short of what the constitutional mandate requires. The legal services authority system, the Lok Adalat mechanism, and the tele-law programme have made genuine contributions to extending access for some categories of the population, but significant gaps remain in coverage, quality, and the ability to serve those who are most excluded.

Fourth, a constitutionally grounded approach to the relationship between digital transformation and access to justice requires that digital initiatives be evaluated not merely in terms of their efficiency gains but in terms of their distributional consequences for those currently most excluded from the justice system. This evaluative framework, which treats digital transformation as a means in the service of constitutional ends, will inform the analysis of the e-Courts initiative in the next chapter and will provide the normative baseline against which the study's reform proposals will be developed.[53] It takes up the detailed examination of the e-Courts Mission Mode Project, which represents the most significant and ambitious institutional vehicle through which the Indian State has sought to deploy digital technology in the service of justice reform. The analysis will assess the project's design, implementation, and outcomes against the constitutional framework and the structural conditions identified in the present chapter, with particular attention to the question of whether, and under what conditions, the project has succeeded in extending meaningful access to justice to those who have historically been most excluded from it.

[53] Khanna, 'The Promise and Peril of Online Courts' (2020), p. 66; e-Committee, Supreme Court of India, Phase III e-Courts Project: Policy and Action Plan Document (2023), p. 14.