
THE INTERSECTION OF LAW AND TECHNOLOGY: A MODERN OPUS HORAE

Kashyap, Gitam School of Law, Visakhapatnam

Deepali Singh, Gitam School of Law, Visakhapatnam

ABSTRACT

Technology became the new surgical blade of the modern judicial phenomenon. The new technological framework provides modern and real-time solutions to long-standing legal problems. Technology, the swift solution to the stagnated issues, is being integrated at the resolution front, giving rise to better handling and ground-breaking solutions. Adopting online filing, video conferencing, and data analysis can streamline court proceedings, which are the best examples of such a system of creative solutions. However, these technological solutions face several challenges, such as breaches of privacy, infrastructure problems, and increasing cybercrimes. Accessing important and sensitive information to unauthorised people may undermine the rights of citizens. This article covers how e-courts bridged the justice gap by making legal proceedings accessible and how they played a crucial role during COVID-19. Using technology to regulate the traffic system and cameras for analysing accidents in real-time through data-driven evidence can aid in speedy trials, which provide more transparency to the judicial process. The article investigates the growing challenges in the legal world of digital arrest, which restrict or monitor an individual's access to electronic devices and platforms. Moreover, the effects of pornography on society and its relation to sexual violence have been of concern. The easy access to online pornography has been related to the increase in cases of child abuse and domestic violence, and the fast development of technology calls for updated laws and reforms in education to protect individuals. Technology offers enormous benefits to the judicial system, enhancing efficiency and access to justice, but it also presents a new challenge. Ultimately, the goal should be to ensure that every citizen can access justice, regardless of their circumstances, by embracing technology while maintaining the necessary safeguards.

Keywords: Legal System, Technology, Access To Justice, Education, Laws

Introduction

At the Indo-Singapore judicial conference, the former chief justice of India, Justice D.Y. Chandrachud, said it was time to adapt to the technology and get out of the status quo approach. This means that technology has the potential to look into the matters that the Indian judicial system is facing, such as the burden of cases, and regulate the free and fair justice delivery system. To improve efficiency, increase access to information, and overcome the legal system's challenges, the courts are adopting technology using video conferencing, online filing systems, digital case management, and data analysis. The important inclusion of audio and video recording in the proceeding of search and seizure is done through the new procedure introduced in 2023 named (BNSS)Bhartiya Nagarik Suraksha Sanhita replacing the criminal procedure court (CRPC) by introducing new changes related to technology and covered many other aspects as well like filling first information reports through phone call, oral or electronic communication comes under the ambit of section 173 of BNSS. The Bharatiya Sakshya Adhiniyam replaced the Indian Evidence Act and introduced the evidentiary nature and admissibility of electronic evidence. The idea behind the change states that the expended version of the primary evidence includes the copies of electronic or digital files and admissibility of electronic records.

The key drawbacks of the technology in the Indian legal system are infrastructure issues like lack of the necessary technological tools that lead to unnecessary disruptions in document management and online hearing of the cases, and the other area can be the breach of privacy because of unauthorised access, which can lead to violation of article 21 of the Indian constitution or the fundamental rights of the citizens. The next criterion can be the cybercrime challenge, leading to unnecessary tape by the offender of cybercrime. Misuse of technology leads to difficulties in adapting existing laws and implementing those mechanisms to address digital offences efficiently.

E-Courts and Justice Delivery System

A variety of factors affect access to justice, like language, cultural differences, biases, and discrimination within the legal system, so it becomes critical to establish to establish a fair and inclusive justice system. The digital and online courts have grown as the judicial system has been digitised. Technological advancement also raises the concept of e-courts to reduce the justice gap and create a free and fair trial system. All the online resources like forums and

different kinds of data are required for the people to access, so it becomes easy for them. Now, people are efficiently engaging with the justice system through online dispute resolution platforms and mobile court applications. A Ministry of Justice 2010 published a report titled Virtual Court Pilot: It demonstrates the concept of video link between the police and the courtroom in the majority of criminal cases for the first hearing by the courts. This also helped the people who could not appear in court for some reason, reducing the number of failed appearances and reducing the burden on the police to bring the prisoner from the prison to the courts.

E-courts help people through the online filing of cases and the hearing of the cases through the e-courts for those who live far away and cannot attend the court hearings or have mobility issues. Technology has made the process of filing cases and accessing justice faster and more convenient. This concept of e-court more effectively came into the picture during the pandemic period of COVID-19. To protect people from the virus, e-courts came into the picture efficiently, and that became the technological solution that aimed to streamline the courts' process by digitising the courts' procedures. In the case of *Sujoy Mitra V. State of West Bengal*¹, the high court of Calcutta permitted the examination of the witness through video conferencing from Ireland. All the other witnesses were recorded in that current case, as the victim of the crime was led by Ireland, where the trial court allowed the witness statement to be recorded through video conferencing.

IoT & Traffic Management System

The Internet of Things (IoT) refers to the interconnected device environment, such as vehicles and plant electronic systems. IoT categorically increases the efficiency of the working environment, including the judicial system, particularly in cases involving overspeeding or reckless driving. The global judicial system integrates IoT by uploading and utilising the data sets. IoT is even used as evidence in a court of law. It creates a more conducive environment because of its transparency and reliability, making decision-making easy and free from bias. In the cases of drunk driving, now the authorities are using the Breathalyzer to analyse the driver's blood alcohol level; so by using these kinds of technologies, the administrative authorities are working efficiently because in an earlier time to check the particular parameters the medical certificate was required but now the technology in helping the law enforcement

¹ (2015) 16 SCC 615.

officer to save their time to understand the nature of it and to conclude the case without going for any long procedure which is also acceptable in the court of law as evidence. In the case of road accidents, the surveillance camera footage can provide valuable visual evidence of sequences of accidents from every possible angle.

Bytes to Bars: The Digital Arrest Scenario

The term arrest typically means physical restraint by law enforcement officers. Still, digital arrest holds a different meaning, which implies that using technology restricts or monitors someone. It involves a restriction on access to electronic devices, digital platforms, and networks. The common types of crimes leading to digital arrests are unauthorized access to the computer and network system, child exploitation, and pornography which involves the creation of illegal content by involving minors, tapping someone into fake cases by collecting all of their data, and cyberterrorism. The Information Technology Act (2000) covers a wide range of cybercrimes and helps law enforcement authorities understand the nature of the crime, make arrests and prosecute individuals for offences committed in cyberspace.

In the Sextortion Scam, Gurgaon², the law enforcement authorities made a digital arrest. The gang used fake social accounts and other digital tools to lure victims into compromising situations. Once the video was recorded, they would extort money by threatening to release the videos online. Gurgaon police tracked social media accounts and IP addresses to arrest the criminals involved in these crimes. Furthermore, in Crypto Fraud Scandal³, many people were arrested for their role in duping investors through fraudulently cryptocurrency trading platforms. The scammers promised high returns on Bitcoin and Ethereum investments but disappeared with investors' money. International law enforcement also collaborated with police to conduct the investigation process using blockchain analysis tools.

This cybercrime challenges the legal system to deliver justice to the victims because they often cross national borders. In these cases, international cooperation is often required. The rise of new technology like voice manipulation, deepfakes, and AI-driven attacks creates fresh

² Indian Cyber Squad, 'Digital Arrests: Understanding Their Legal Framework, Technology and Case Studies in India' <https://www.indiancybersquad.org/post/digital-arrests-understanding-their-legal-framework-technology-and-case-studies-in-india> accessed [19/12/2024].

³ Supra Note 2

challenges for agencies to do investigations and digital arrests. Cybercriminals exploit certain loopholes which the current laws are unable to cover.

Stronger cyber laws are very important for access to justice, as are collaborations with international agencies in jurisdictional issues and improving cyber forensics by giving them the proper knowledge about technological tools. Public awareness campaigns may be crucial in making people understand these cybercrimes and how to protect their digital identities.

Pornography, Technology and Access to Justice

With growing technology, the traditional perception of pornography has also changed; the essence of porn is no more limited to magazines or specific sects of videos, but not it can be witnessed through a variety of creative approaches like internet memes, stickers and even audiobooks. Though the settled law of the state prohibits the viewing of child pornography (*making it a punishable offence under section 67B of the Information Technology Act 2008*⁴), the circulation of the same can still be traced over the vast web of the internet under the disguise of the folder-in-folder method. Easy access to internet pornography has led to an increase in sexual violence; the use of pornography by children (under 18) has additional impacts on their mental as well as physical health; this will also automatically lead to antisocial behaviour and child-on-child sexual abuse. The prevention of problematic pornography use is very important for those who are watching it at a very young age and have no idea about its consequences. In many jurisdictions around the world, pornography is legal, and some aspects are illegal. The law and government policies have not kept pace with technological and social changes in other jurisdictions.

⁴ Whoever-(a)publishes or transmits or causes to be published or transmitted material in any electronic form which depicts children engaged in sexually explicit act or conduct; or(b)creates text or digital images, collects, seeks, browses, downloads, advertises, promotes, exchanges or distributes material in any electronic form depicting children in obscene or indecent or sexually explicit manner; or(c)cultivates, entices or induces children to online relationship with one or more children for and on sexually explicit act or in a manner that may offend a reasonable adult on the computer resource; or(d)facilitates abusing children online, or(e)records in any electronic form own abuse or that of others pertaining to sexually explicit act with children,shall be punished on first conviction with imprisonment of either description for a term which may extend to five years and with fine which may extend to ten lakh rupees and in the event of second or subsequent conviction with imprisonment of either discription for a term which may extend to seven years and also with fine which may extend to ten lakh rupees:Provided that provisions of section 67, section 67A and this section does not extend to any book, pamphlet, paper, writing, drawing, painting representation or figure in electronic form-(i)the publication of which is proved to be justified as being for the public good on the ground that such book, pamphlet, paper, writing drawing, painting representation or figure is in the interest of science, literature, art or learning or other objects of general concern; or(ii)which is kept or used for bona fide heritage or religious purposes.

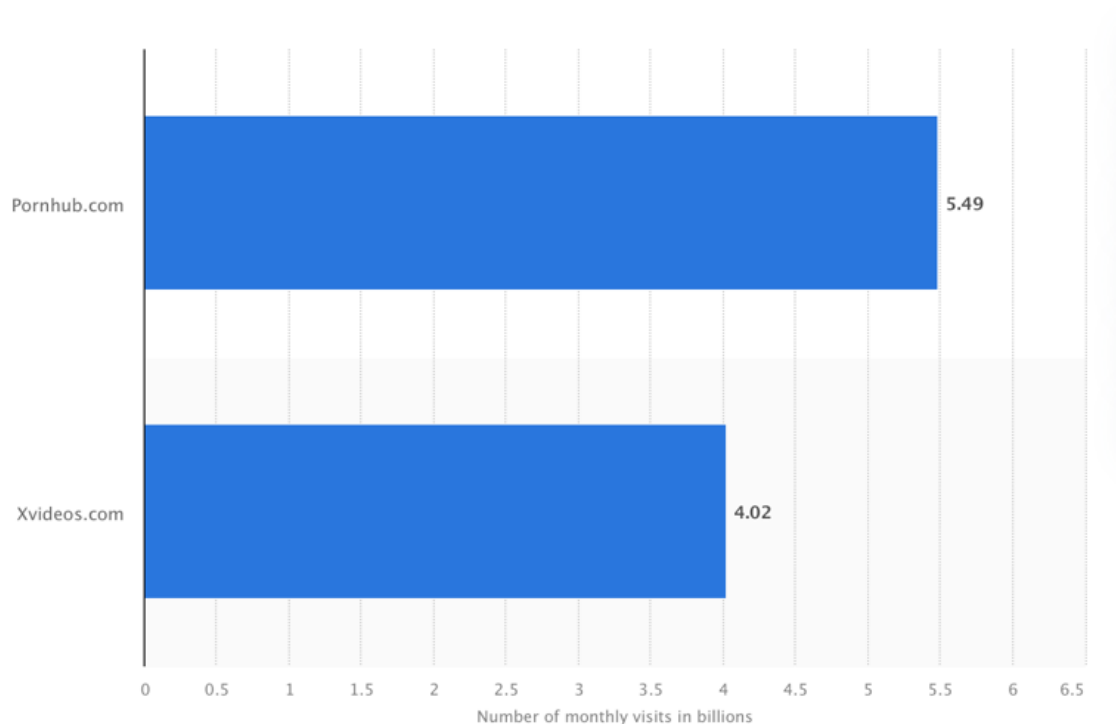
During the COVID-19 period, the crime of domestic violence or abuse came into the picture in that most of the cases were related to the problematic pornographic use by adults and children as well because of the access to the internet and pornographic sites⁵. The reason behind that can be the social awareness and the unavailability of sex education in educational institutions through any social campaigns; health warnings within pornography websites are potentially powerful tools for reducing the harm from pornography use⁶.

Adult content contributes to a large chunk of network traffic; due to the heavy inducement of technology, access to pornography has become a cakewalk; as on May 2024, the leading pornography website, Pornhub, had reached an average monthly view of 5.94 billion⁷. This digital viewership attracts the eye of grifters leading to the undetected integration of adware; in the name of gratification of sexual fantasies, grifters encourage the users to sign up over a fake platform, which in turn grants access to sensitive information, including login credentials, credit card details and even access to the smartphones' internal storage including the camera and voice controls. This unauthorised access to sensitive information allows con artists to extort a hefty sum of money. A cybercrime, especially one threatening the individual's dignity, often goes undetected because of the mutually developed social norm of public humiliation, which makes the victims susceptible to future exploitation. There is a perfect hindrance to access to justice, especially when the domain is cyberspace, and the reason is a lack of proper infrastructure, technological know-how and, most importantly, the silence of the victim. In a justice delivery system, the first step is informing the appropriate authority about the issue, which is usually received once the damage is done to the victim. In cyber crimes, especially the one hovering over the domain of pornography and adult content, the settled principle of *Lex salus vigilantis* is to be constructed. The state should strive towards pollutant-free technology, which can be reached through infrastructure and balance, knowledge and a better sex education curriculum.

⁵ Pushpita Mitra, 'Role of Technology to Guarantee Access to Justice' (2024) 2(7) International Journal of Legal Research and Analysis <https://www.ijlra.com> accessed [19/12/2024].

⁶ M Sharpe and D Mead, 'Problematic Pornography Use: Legal and Health Policy Considerations' (2021) 8(4) *Current Addiction Reports* 556–567 <https://doi.org/10.1007/s40429-021-00390-8> accessed [19/12/2024].

⁷ Statista, 'Most Visited Porn Websites Worldwide' <https://www.statista.com/statistics/1445661/most-visited-porn-websites-worldwide/> accessed [18/12/2024].



Conclusion

It is equally important to understand that not all judicial work can be assigned to technology alone. In many cases that are sensitive in nature, the judge has to apply his wisdom and knowledge. Cyber security has risen with increased dependence on technology; trained and well-equipped staff are required to run court proceedings through e-courts and other technical mediums. The enforcement authorities and the officials of the courts should be well versed with the technology to maintain the court records and should know cybercrimes. Technology is helping the court in many ways. It saves time for the court to manage data and all the case records but also requires proper infrastructure and knowledge about technological sources. AI holds its own set of challenges, but this platform would make the justice system more accessible, which in itself could create a huge surge in demand for services. This indicates that government departments and our broader legal system must be ready to meet this demand by embracing the right technologies as soon as possible. Access to justice is a right that is and should be afforded to every citizen⁸. Getting legal support is the right of every citizen, and it can be limited at any cost. By embracing technology and digital innovation, we can ensure that our justice system is set up to meet everyone's needs.

⁸ Adya Pandey, 'Technology as a Medium to Access Justice: Analysing the Advantages and Challenges in Practical Implementation and the Road Ahead' (2023) 3 *AJJCLA* 104, 104–112 <https://www.aequivic.in/post/technology-as-a-medium-to-access-justice-analysing-the-advantages-and-challenges-in-practical-implement> accessed [19/12/2024]