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**Digitalization of Judiciary in Bangladesh: Including focus on  
transparency, access to Justice and fairness.**

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## CONSENT PAPER

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Signature of the Supervisor

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## Declaration

I, **Israt Jahan Silvia**, a student at East West University, hereby declared that this thesis paper titled “**Digitalization of Judiciary in Bangladesh: Including focus on transparency, access to Justice and fairness**” was entirely prepared by me under the supervision of **Sayeed Sarwar, Senior Lecturer, Department of Law, East West University** for my graduation requirement. I further declare that the content of this thesis paper has not been submitted or published by any journal, newspaper, or article. The content and materials used for this thesis paper are acknowledged duly and recognized in the references and properly cited.

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## Abstract

This research study explores the digitalization of Bangladesh's court in great detail, focusing on three important areas: fairness, transparency, and access to justice. This study aims to comprehend the complex ramifications of the integration of digital technologies into traditional legal processes, a trend that is becoming more widespread worldwide, in the context of Bangladesh's court system. In order to provide a comprehensive understanding of the digital revolution, the article uses a multidisciplinary approach that combines legal analysis, technical assessment, and sociological viewpoints. Investigating transparency involves examining how digital platforms, case management systems, and online record-keeping are implemented in order to determine how they affect the transparency of legal proceedings. The study evaluates whether digitization increases judicial transparency, accountability, and public trust using factual data and case studies. Examining how digital tools and platforms help or impede the availability of legal remedies to various population segments is central to the focus on access to justice. In order to improve citizens' access to the legal system, the study assesses how much digitization lowers entry barriers such as geographic restrictions, budgetary restraints, and procedural difficulties. Moreover, the research examines the notion of justice within the framework of an electronic court. The impact of digital case management on procedural justice, potential biases in algorithmic decision-making, and the perception of a fair legal system as a whole are all examined. The study critically examines whether the shift to digital technology creates new problems and inequalities or helps to distribute justice in a more equitable manner. As a result of these investigations, the research shows the possible advantages and areas for improvement while also identifying the difficulties and dangers related to Bangladesh's judiciary's digitalization. The research results offer a comprehensive comprehension of the complex relationship between technology and justice, offering significant perspectives for decision-makers, solicitors, and academics who are keen on following the continuous development of legal frameworks in the digital era.

**Key words:** Bangladesh, Digital Judicial system, Transparency, Fairness, Accessibility, Technology, Legal Framework, Access to Justice, Electric Judiciary.

# **Title: Digitalization of judiciary in Bangladesh: Including focus on transparency, access to justice and fairness**

## **CHAPTER I**

### **Introduction**

#### **1.1 Introduction**

The digital transformation of Bangladesh's judiciary presents a complex obstacle that includes issues with fairness, accessibility, and Transparency. The integration of technology into legal processes necessitates addressing the ways in which these technological breakthroughs affect the accessibility of legal resources, promote impartiality in the administration of justice, and effect the publicity of court proceedings. The purpose of this statement is to identify and solve any challenges that may develop in the pursuit of an efficient, open, and equitable digital judiciary system in Bangladesh. It does this by outlining the necessity of navigating the junction of digital transformation and judicial values.

#### **1.2 Objectives of the research**

The goal of this study is to thoroughly examine how Bangladesh's court has gone digital, with a focus on impartiality, openness, and access to justice. The principal goals are evaluating the present condition of digital integration in the Bangladeshi legal system and investigating the scope and kind of technology utilized. The research will examine how digitization affects transparency, assessing how it affects information accessibility and the visibility of court cases. Furthermore, the study will investigate the ways in which digital initiatives improve access to justice, with a particular emphasis on the accessibility of legal procedures and their inclusivity for a wide range of demographic groups. Analyzing potential obstacles and advantages brought about by digitalization is essential. This includes addressing concerns like data security, privacy, and the general advancement of justice in judicial proceedings. In the end, the study aims to offer insightful analysis and suggestions for maximizing the judiciary's digital transformation while making sure it successfully complies with Bangladesh's legal framework's requirements for fairness, transparency, and access to justice.

1. Assess the current level of transparency in the digital jurisdiction framework of Bangladesh, examining the accessibility and clarity of information related to legal processes and decisions.
2. Investigate the extent to which digital jurisdiction mechanisms in Bangladesh facilitate access to justice, analyzing factors such as affordability, efficiency, and inclusivity in legal proceedings.



### **1.3 Research Questions**

1. How may the general transparency of court procedures be impacted by Bangladesh's judiciary becoming more digitalized and major obstacles to overcome in order to achieve transparency in Bangladesh's judicial system?
2. What steps may have been taken to guarantee that every citizen to get access to justice as a result of Bangladesh's court being Digitalization?

### **1.4 Research methodology**

To achieve the purpose of this dissertation, this research study combines qualitative and doctrinal research methods. The study looked at legal doctrine found in academic and legal sources. Primary and secondary sources are used in this research to improve legal documents. The study contains information regarding Bangladesh's digitization in judiciary systems and how it can be beneficiary to improve transparency and accessibility to true justice. That is why the present study research methodology is to investigate the digitalization of the court in Bangladesh, with a particular focus on transparency, access to justice, and fairness. This research technique seeks to offer a thorough knowledge of the complex processes underlying the digital transformation of Bangladesh's judiciary through the triangulation of data from many sources.

### **1.5 Limitations**

Although the research paper has been carefully drafted yet the author of the research paper was aware of its limitations and weakness. Reliable arguments regarding the topic of Digitalization of judiciary in Bangladesh is hard to find as the legislations are very recently enacted. Also, Bangladesh has a distinct legal and technology environment, the research's conclusions can be context-specific and have limited relevance to other legal systems. The continually changing nature of technology also presents a barrier, since the study might not reflect the most recent stage of digitalization and might overlook new developments in technology or legislative changes. Therefore, the paper is based on several journals, newspapers articles and website blogs as because of the lack of access to relevant materials and the limitation of time. So, The paper's deficiencies are its failure to find judicial precedents, laws and other relevant journal papers regarding technology implementation in Digitalization of Judiciary in Bangladesh. Due to the complexity of present procedures and the cost and time of litigation and digitalizing case records many years is needed is resolve this. To form this many developed similar jurisdictions, non-legal scholarly publications, reports, and studies, and newspaper articles were used to support the research.

## CHAPTER II

### Judiciary Digitalization Initiatives in Bangladesh

#### 2.1 Introduction

In the principles of “Digital Bangladesh” include upholding people’s rights to democracy, accountability, and openness, as well as establishing justice and guaranteeing the provision of public services to the Bangladeshi citizens by making the most use of technology. According to the rules of the Constitution, Bangladesh is divided into three independent Government agencies. A guarantee of judicial independence can be found in the Constitution of Bangladesh<sup>1</sup> and additionally declared by the Supreme Court in the historic case of Masdar Hossain & others v. Secretary, Ministry of Finance<sup>2</sup> Regarding the Constitution without a digital judiciary, we could not consider Bangladesh to be “Digitally empowered.”

For e-judiciary in recent times, there has been a notable surge in digital initiatives in Bangladesh.<sup>3</sup> E-judiciary is the term used to describe the digitalization of the justice system. In order to improve people’s daily lives overall, digitalization aims to ensure people’s democracy and rights, transparency, accountability, the establishment of justice, and the delivery of government services to Bangladeshi citizens through the most effective use of technology. Bangladesh’s legal system has long been in need of modernization.<sup>4</sup> Bangladesh has started a complete path towards a future that is more connected and technologically advanced, starting with the creation of e-governance initiatives and expanding digital infrastructure.

#### 2.2 Key technologies and systems implemented

As part of Bangladesh’s judiciary’s digitalization, in judiciary, the number of significant technologies and systems are being deployed to enhance the efficacy, accessibility, and transparency of the legal system. Among the crucial components that can be useful are:

1. Case Management System (CMS):

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<sup>1</sup> The Constitution of People’s Republic of Bangladesh, a 22

<sup>2</sup> Cotterrell R , “*Access to Justice, Moral Distance And Changing Demands On LAW*” (2020) 36 Windsor Yearbook of Access to Justice 193< <http://dx.doi.org/10.22329/wyaj.v36i0.642>> accessed on November 22, 2023

<sup>3</sup> ibid 2

<sup>4</sup> Tomlinson J, *Justice in the Digital State* ( Policy Press, 2019) [http://books.ie/books?id=3bqZDwAAQBAJ&printsec=frontcover&dq=Digital+judiciary&hl=&cd=5&source=gs\\_api](http://books.ie/books?id=3bqZDwAAQBAJ&printsec=frontcover&dq=Digital+judiciary&hl=&cd=5&source=gs_api)> accessed on November 23, 2023

A computerized case management system was implemented to speed up the handling of legal problems. Permit electronic filing of cases, communication between parties, and tracking of processes.<sup>5</sup>

2. Electronic Court Records:

Paper-based court records to digital ones to facilitate easier access, retrieval, and maintenance of legal documents. encrypts and uses digital authentication to ensure the security and integrity of court documents.<sup>6</sup>

3. Virtual Hearings:

Video conferencing software to conduct online court proceedings is known as “video conferencing for virtual hearings.” reduces the need for in-person attendance and increases accessibility for lawyers and litigants by enabling remote participation.<sup>7</sup>

4. Internet Case Search and Information Portal:

Establishing a gateway on the internet where locals can search for court decisions, case details, and other legal documents promotes transparency and allows the public to be informed about ongoing legal proceedings.

5. Digital signature and authentication:

Digital signature technology to ensure legal documents are authentic and electronically submitted content is accurate enhances the security of digital transactions inside the legal system.

6. Database creating:

Creating an integrated database that brings together information from various legal systems and processes is known as an integrated judicial database. It facilitates data exchange throughout the many branches of the judiciary, leading to improved decision-making and constructing.<sup>8</sup>

7. Mobile software for legal services:

The software for mobile devices to provide public access legal information, case updates, and additional court services. increases the convenience of interacting with the legal system.

8. Cybersecurity measures:

Implementing robust cybersecurity protocols to safeguard and secure legal information and prevent data breaches or hacks. Regular upgrades and surveillance are needed to adapt to evolving cyber threats.

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<sup>5</sup> Hossain M ,*Digital Transformation and Economic Development in Bangladesh* (Springer Nature 2022) <[http://books.google.ie/books?id=euuJEAAQBAJ&dq=Digital+Bangladesh&hl=&cd=sorce=gbs\\_api.>](http://books.google.ie/books?id=euuJEAAQBAJ&dq=Digital+Bangladesh&hl=&cd=sorce=gbs_api.>) accessed on November 23,2023

<sup>6</sup> ibid 4.

<sup>7</sup> ibid 2.

<sup>8</sup> ibid 5

#### 9. Programs for Judicial Personnel Training:

Conducting training sessions to ensure judges, The court staff and attorneys are skilled in using the latest technology. boosts the general effectiveness of the digitalized legal system.<sup>9</sup>

#### 10. Digital Payment Systems:

To lessen dependence on cash transactions and expedite financial procedures, digital payment systems for court fees and other financial transactions are being introduced.<sup>10</sup>

### 2.3 How digitization initiatives have changed throughout time

Bangladesh's road toward digitalization to judiciary has been revolutionary, demonstrating the country's dedication to using technology for legal advancement.

#### Phase 1: From the late 2010s to the early 2020s

In the mid-2010s, the emphasis enhancing accessibility through online platforms, allowing stakeholders to track case statuses and access legal information remotely. This phase is aimed at reducing physical barriers and promoting transparency within the judicial system. In recent years, the focus has turned towards implementing more technologies, data analytics, to expedite case analysis and improve decision-making processes.<sup>11</sup> Specially in time of COVID-19, ARTICLE 19 of a British organization in their report said a total of 89 cases were lodged against 173 people under the Digital Security Act from the month March till June 22 at time it was highest cases which were filed online. Even last year the number of cases filed was 1189. So, the digital jurisdiction landscape in Bangladesh is expected to continue evolving, with ongoing efforts to integrate emerging technologies and further improve the overall efficiency, accessibility, and transparency of the legal system.<sup>12</sup>

#### Phase 2: From the 2020s to till 2023

Even after covid, however, the current judicial system is very distant from the E-judiciary procedure. The ongoing procedures are carried out using techniques that have been in place

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<sup>9</sup> Ferdous Z, "EMERGENCE OF DIGITAL EVIDENCE IN BANGLADESHI COURTS FROM THE US BASED DIGITAL PLATFORMS: PROSPECTS AND CHALLENGES" (2022) 20 Bangladesh Journal of Law <<http://dx.doi.org/10.58710/bjlv20n2y2022a06>> accessed on November 23, 2023.

<sup>10</sup> ibid 2

<sup>11</sup> Jahed JI, "E-Courts And E-Judiciary In Bangladesh | BDL" (Bangladesh Law Digest (BDLD), November 5, 2020) <[https://bdlawdigest.org/e-courts-and-e-judiciary-in-bangladesh.html#:~:text=Some%20Recommendations&text=a\)%20Independence%20and%20separation%20of, System%20\(CMS\)%20as%20well.>](https://bdlawdigest.org/e-courts-and-e-judiciary-in-bangladesh.html#:~:text=Some%20Recommendations&text=a)%20Independence%20and%20separation%20of, System%20(CMS)%20as%20well.>) accessed on Dec 09 2023> accessed on November 27, 2023

<sup>12</sup> Janmajoy Dey, "This Is How Bangladesh Is Digitalizing Its Judiciary" (Centre for Research and Information, July 26, 2022) <<https://cri.org.bd/2022/07/24/this-is-how-bangladesh-is-digitalizing-its-judiciary/>> accessed on November 28, 2023

for over 200 years and were established by the British.<sup>13</sup> As of today, the Evidence Act of 1872 does not accept digital evidence. The Covid-19 pandemic has necessitated the virtual operation of the judiciary, due to the lockdown measures in place. The recently enacted “Adalat Karthik Tathya Projukti Byabohar Ain 2020” grants the courts the authority to utilize information technology for virtual participation of parties in a trial, to conduct inquiries, hearings, and evidence collection, and to issue orders or judgments.

Bangladesh has implemented E-judiciary, joining a global trend of countries using virtual courts in response to the Covid-19 lockdown. To secure e-justice during crises such as the Covid-19 outbreak, it is necessary to implement a comprehensive e-judiciary system and establish e-courtrooms in Bangladesh.<sup>14</sup> The first e-court is not a virtual court, but rather a physical court that operates without the usage of paper. Virtual courts are characterized by the absence of physical courtrooms and fixed schedules. Technological advancements such as Skype and FaceTime enable multiple stakeholders to engage in real-time video conferences and facilitate discussions and document sharing.<sup>15</sup> These platforms can lead to a technologically advanced society in Bangladesh. Over time, the general public will naturally become accustomed to the e-judiciary system if it is adopted. Recognizing the urgent need for and importance of implementing e-judiciary and e-courtrooms in Bangladesh, a lawyer from the Supreme Court filed a writ petition in the Hon’ble High Court Division of the Supreme Court of Bangladesh as a public interest litigation. After considering the case, the Court issued a Rule Nisi on 19.01.2020, instructing the respondents to introduce e-judiciary and e-courtrooms in all courts of Bangladesh within 90 days. The Court also directed the respondents to submit a progress report on the implementation to the Court.<sup>16</sup>

## **2.4 E- judiciary and a sustainable justice system**

As a Constitutional entity, we cannot envision a ‘Digital Bangladesh’ without a technologically advanced judiciary. Nevertheless, the situation is exceedingly dire as the court buildings, record rooms, and other systems lack digitalization, resulting in an overwhelming backlog of cases.<sup>17</sup>

Typical deficiencies in judicial performance involves-

- (a) Excessive duration of case resolution
- (b) Lack of clarity in the advancement of legal proceedings and

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<sup>13</sup> ibid 3

<sup>14</sup> Law F, “E-Judiciary:Solving the problem ofAcross to Justice in Bangladesh- FutureLaw”(FutureLaw Initiative, June 23,2017) <<https://futrlaw.org/e-judiciary-solving-problem-access-justice-bangladesh/>> accessed on November 17, 2023

<sup>15</sup>ibid 5

<sup>16</sup> “Bangladesh Cybersecurity”(DataGuidance, December19,2022) <<https://www.dataguidance.com/opinion/bangladesh-cybersecurity>> accessed November 22, 2023

<sup>17</sup>ibid 14

(c) Challenges for ordinary individuals to obtain judicial services, especially regarding the specific cases they are involved in or affected by.

Despite the impact of the Coronavirus and lockdown, still there is a pressing need for the implementation of e-judiciary to ensure an efficient and long-lasting justice system in the country. Without the introduction of e-judiciary, it is not possible to dispose of this large number of cases within a shorter timeframe.<sup>18</sup> By implementing e-judiciary, litigants will have access to services, eliminating the need for multiple procedures. This will significantly decrease the occurrence of fake cases. The complete digitization of the court system will need a significant amount of time but once the process of digitization is complete, litigants will be able to access the facilities of the Judiciary with a single click, providing them with significant respite.

## 2.5 Conclusion

In conclusion, Bangladesh's digitalization in judiciary efforts show a remarkable journey. In the direction of adopting technology for socioeconomic advancement. Starting with the fundamentals, the country has proven its dedication to utilizing the potential of digitalization, from the stages of infrastructure construction to the incorporation of cutting-edge technologies.<sup>19</sup> In summary the transition toward E-judiciary is easily accessible legal system. These actions not only sped up the legal system but also improved openness and inclusion guarantee easier access to and involvement in the legal system for the public.

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<sup>18</sup> Jahed JI, 'E-courts and E-judiciary in Bangladesh' (Bangladesh Law Digest, July 27, 2017) <<http://bdlawdigest.org/e-courts-and-e-judiciary-in-Bangladesh.html>> accessed on November 18, 2023

<sup>19</sup> Trainee, "Upsurge in Digital Security Act Cases during the Covid-19 Pandemic" (Dhaka Tribune, June 28, 2020) <<https://www.dhakatribune.com/amp/bangladesh/214429/upsurge-in-digital-security-act-cases-during-the>> accessed on November 22 ,2023

## CHAPTER III

# Transparency, Access to Justice and Fairness in the digital judiciary

### 3.1 Introduction

#### **Transparency:**

Firstly, Transparency means in general is the quality of allowing light to pass through so that objects behind can be seen clearly. But in law it is quite different as here in law it refers to the principle of openness and visibility of justice regarding the court proceedings, policies, decision making and the view of full administrative process of justice. It is important to ensure the public and other litigants to have access to information about how the justice system is functioning and the process which is resolving the matters of legal disputes.<sup>20</sup>

#### **Fairness:**

Fairness is a fundamental principle of legal system that ensures Equal treatment and impartiality for all the individuals involved. It Has many aspects like procedural fairness, substantive fairness, and the principal of equality.<sup>21</sup> A fairness of trial includes the right to be notified of the charges and the opportunity to present a case to have access to legal representation and to cross examine witnesses. Key issues

#### **Access to Justice:**

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<sup>20</sup> Ball C, “What Is Transparency?” (2009) 293–308 Public Integrity <<https://doi.org/10.2753/pin1099-9922110400>> accessed on November 27, 2023..

<sup>21</sup> Levi DF and Levi DF, “What Does Fair and Impartial Judiciary Mean?” (Bolch Judicial Institute of Duke Law | The Bangladesh Judicial Institute’s mission is to study and advance rule-of-law principles, judicial independence, and law reform through technology and innovation., June 6, 2022) <<https://judicialstudies.duke.edu/2019/11/what-does-fair-and-impartial-judiciary-mean-and-why-is-it-important/>> accessed November 30, 2023.

Access to Justice is a fundamental principle within the legal system that ensures individuals have the ability to seek and obtain a fair resolution of their legal disputes regardless of their socio-economic status or other disadvantages. Access to Justice is to ensure individuals have the right to seek and obtain effective remedies before a court or tribunal when their rights have been violated. It guarantees that legal processes are accessible, affordable, and fair.<sup>22</sup> International instruments supporting the right to access to Justice is in Universal declaration of human rights (UDHR) Article 7 of UDHR stating individuals are equal before the law and entitled to equal protection of the law also Article 8 states to guarantees the right to an effective remedy before a competent tribunal for acts violating fundamental rights.<sup>23</sup>

### 3.2 Challenges and limitations in achieving Transparency

Bangladesh's e-judiciary faces various transparency barriers. One issue is the "digital divide," in which internet and technology availability can prevent the widespread adoption of computerized legal proceedings. The processes may be less transparent due to unequal participation. It is challenging to ensure that everyone, especially marginalized groups, gets fair access to digital courts. Keeping sensitive legal information secret requires protections against unauthorized access and data breaches. In addition, integrating electronic technologies with the current judicial infrastructure may cause incompatibilities and hinder information transmission for which legal system's transparency may suffer. Electronic procedural regulations must be comprehensive and adaptable to changing technology. To maintain legal integrity, digitally filed documents' legal standing, admissibility of electronic evidence, and authentication must be resolved.

Furthermore, it is imperative that legal practitioners receive continual training and education on digital tools. Low levels of digital literacy might make it more difficult to use electronic platforms effectively, which can impact how transparent legal proceedings are. To mitigate these issues,<sup>24</sup> a comprehensive strategy comprising legal reforms, strong cybersecurity measures, and initiatives to close the digital gap is needed. Establishing a sound equilibrium between the underlying principles of transparency in the E-judiciary and technological improvements is crucial for fostering public trust in Bangladesh's judicial system.

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<sup>22</sup> Abu Taher M and Jamaluddin SZ, " ENHANCING ACCESS TO JUSTICE THROUGH E-JUDICIARY IN BANGLADESH(2022) 13 UUM Journal Of Legal Studies <<http://dx.doi.org/10.32890/uumjls2022.13.2.13>> accessed on November 23,2023.

<sup>23</sup> Nations U, "Universal Declaration of Human Rights | United Nations" (United Nations) <<https://www.un.org/en/about-us/universal-declaration-of-human-rights#:~:text=Article%207,any%20incitement%20to%20such%20discrimination>>. accessed on November 28, 2023

<sup>24</sup> Jayasurya G, "Judicial Accountability and Judicial Transparency: Challenges to Indian Judiciary" [2010] SSRN Electronic Journal <<http://dx.doi.org/10.2139/ssrn.1601846>>.accessed on December 5, 2023



### **3.3 Access to Justice through Digitalization**

Digitalization has fundamentally changed Bangladesh's legal landscape by revolutionizing Access to Justice. The nation has embraced technological developments to simplify the legal system and increase citizen accessibility. Legal documents can now be filed electronically thanks to online platforms, which lowers administrative barriers and improves the effectiveness of court cases. Court proceedings conducted are already virtually commonplace, allowing participants to engage from a distance and saving time and money. The need to guarantee fair access to justice is emphasized by the legal framework that underpins this digital change.<sup>25</sup> To guarantee that the advantages of digitization are equitable and reach all facets of society, there are still obstacles to overcome, such as the requirement for broad digital literacy and the need to rectify infrastructure inequalities. Continued efforts to improve Bangladesh's legal and technological framework will be essential to expanding the country's ability to access justice online. This project aims to improve access to justice for all residents by addressing a number of issues with the current legal system.

At the end it can be said, the process of granting access to justice through digitalization in Bangladesh's e-judiciary entails a complex strategy that combines legal reforms and technological improvements. The goal of this change is to establish a justice system that is more accessible, transparent, and efficient while also meeting the wide range of requirements of the populace. The justice system's embrace of online filing and e-filing in Bangladesh is a dramatic and revolutionary change that uses digital technology to expedite legal procedures. The goal of this project is to improve the resilience, efficiency, and accessibility of legal processes.<sup>26</sup>

### **3.4 Important Aspects of Electronic and Online Filing in the Bangladeshi Judiciary:**

An important development with wide-ranging effects is the judiciary's embrace of online and electronic filing in Bangladesh. Increased accessibility is promised by this digital change, allowing litigants from different regions to submit documents without being physically limited. Efficiency is a critical component that can expedite case settlement by simplifying procedures. But maintaining inclusion is crucial to the success of this shift, taking into account things like

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<sup>25</sup> Law F, "E-Judiciary: Solving the Problem of Access to Justice in Bangladesh – FutureLaw" (Future Law Initiative, June 23, 2017) <<https://futrlaw.org/e-judiciary-solving-problem-access-justice-bangladesh/>> accessed on November 23, 2023

<sup>26</sup> Shivaannasan DrKV, "Modernisation of e -Judiciary in India" (Google Books) <<https://books.google.com.bd/books>> accessed on November 25, 2023

digital literacy and fair access in different areas.<sup>27</sup> To protect sensitive legal information's privacy and confidentiality, strong data security procedures are essential. Important elements include adhering to a well-defined legal framework, integrating with current systems seamlessly, and providing extensive training programmers for both litigants and legal professionals. Additionally, the success of electronic filing can be attributed to user-friendly interfaces and fast feedback mechanisms, which hold the promise of improving Bangladesh's judicial system's transparency, efficiency, and accessibility.<sup>28</sup>

### **1. Convenience and Accessibility:**

With increasing ease and accessibility, litigants can submit papers and file lawsuits from any location with an internet connection. This minimizes the need for people who live in rural areas to physically travel to legal offices, which is very advantageous for them.

### **2. Efficiency in Court Cases:**

Digital filing procedures speed up court cases by lowering paperwork, labor-intensive handling, and processing durations. The efficient management and tracking of cases by courts results in a more rapid and transparent administration of justice.

### **3. Security and Integrity of Documents:**

Security mechanisms are included in e-filing systems to safeguard the integrity and privacy of electronic legal documents. Sensitive data is kept safe and impenetrable using encryption and authentication procedures.

### **4. Decrease in Administrative Work:**

The transition to digital filing systems reduces court staff's administrative workload and frees them up to concentrate on important legal work rather than tedious paperwork.

### **5. Electronic Case Processing:**

Electronic case management systems and e-filing are frequently connected, giving judges and other legal practitioners quick access to case-related data.

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<sup>27</sup> Rogier V, "EPO Online Services: Online Filing and Online Fee Payment Update" (2007) 29 World Patent Information 369 <<http://dx.doi.org/10.1016/j.wpi.2007.06.001>> accessed on November 25, 2023

<sup>28</sup> "Home | Judiciary: Bangladesh" <<https://www.judiciary.gov.bd/en/?shem=ssusxt>> accessed November 25, 2023

## **6. Education and Developing Capabilities:**

For the implementation to be successful, judges, legal professionals, and court employees must all complete extensive training programs to guarantee that they are adept in the use of digital technologies.<sup>29</sup>

## **7. Public Knowledge:**

It is imperative to take steps to increase public knowledge of the advantages and protocols of electronic filing and online filing.

The Bangladeshi justice system's adoption of online filing and e-filing is a progressive step toward modernizing legal procedures. It strengthens the robustness and transparency of the legal system in the digital age while simultaneously improving efficiency and accessibility.<sup>30</sup>

### **3.6 The impact on marginalized and remote populations**

The introduction of electronic justice in Bangladesh could have a big effect on the underprivileged and isolated communities. People who live in rural places can overcome geographical constraints and access legal processes online, which lessens the typical urban-centric aspect of judicial proceedings. This change encourages inclusivity by removing the barrier of long-distance travel and allowing marginalized communities to interact with the justice system. To guarantee fair access, however, issues with digital literacy and inequalities in infrastructure need to be resolved. By providing marginalized people with a more level playing field while navigating the legal system, efforts to close these disparities can empower them. Furthermore, there is hope that the electronic courts will speed up case decisions, which could help to reduce the backlog of cases that disproportionately impact underprivileged groups. To fully realize the revolutionary potential of an electric judiciary, Bangladesh must concentrate on meeting the special requirements of marginalized and distant communities as it transitions to a more digitalized legal system.<sup>31</sup>

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<sup>29</sup> Law F, "E-Judiciary: Solving the Problem of Access to Justice in Bangladesh – FutureLaw" (FutureLaw Initiative, June 23, 2017) <<https://futrlaw.org/e-judiciary-solving-problem-access-justice-bangladesh/?shem=ssusxt>> accessed on Nov 23 2023

<sup>30</sup> Adalat Kartrik Tathya Projukti Byabohar Ain, 2020, s 4

<sup>31</sup> Miah MdAH, Exploring Rights and Entitlement Situation of Marginalized and Poor Communities in Bangladesh (2015).

### 3.7 Challenges and disparities in digital access

Bangladesh's shift to a digital judiciary presents issues and inequalities in digital access that need to be addressed. The current digital gap, which shows differences in internet connectivity and technology access between urban and rural areas, is one of the main causes for concern. This presents a serious barrier since it could be difficult for people living in remote areas to engage with digital legal processes in an efficient manner. Furthermore, diverse demographics' various degrees of digital literacy may make it difficult for electronic filing systems to be adopted smoothly.<sup>32</sup> The price of technology and internet services may put up financial obstacles that disproportionately hurt those who are already struggling financially. Targeted efforts to close these gaps are required to guarantee that the advantages of a digital judiciary are experienced by all citizens. Examples of such initiatives include comprehensive digital literacy programmers and projects to upgrade internet access in disadvantaged areas. In addition, security, and privacy measures for anyone interacting with the digital judiciary are required, addressing issues with cyber-attacks and data breaches. Reaching the full potential of an inclusive, transparent, and open digital judiciary in Bangladesh requires overcoming these obstacles.<sup>33</sup>

### 3.8 Justice equity in the E-courts

Justice equity in Bangladesh's E-courts represents a revolutionary step in guaranteeing just and easily accessible legal processes. By providing citizens with more equal access to the legal system, regardless of where they live, technological integration seeks to remove gaps. Bangladesh's e-courts could improve justice dispensation equity by streamlining procedures, cutting down on delays, and increasing transparency. To guarantee that everyone in society can benefit from e-courts, it is imperative to address issues with digital literacy. Maintaining justice equity in the digital sphere necessitates a holistic approach that blends innovation in technology with an emphasis on inclusivity, strengthening the cornerstones of Bangladesh's just legal system.<sup>34</sup> Putting policies in place that support the values of justice, equity, and openness in the digital legal system is necessary to guarantee fairness in Bangladesh's e-judiciary. To achieve fairness in this situation, several important factors are necessary:

#### 1. Equal Technology Access:

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<sup>32</sup> Islam MDJ, "E-Courts and E-Judiciary in Bangladesh" (ResearchGate, July 27, 2017) <[https://www.researchgate.net/publication/371640687\\_E-courts\\_and\\_E-judiciary\\_in\\_Bangladesh?shem=ssusxt](https://www.researchgate.net/publication/371640687_E-courts_and_E-judiciary_in_Bangladesh?shem=ssusxt)>accessed November 25,2023

<sup>33</sup> "ACCESS TO JUSTICE IN BANGLADESH SITUATION ANALYSIS" (UNDP) <[https://www.undp.org/bangladesh/publications/access-justice-bangladesh-situation-analysis](https://www.undp.org/bangladesh/publications/access-justice-bangladesh-situation-analysis-role)-role> accessed on November 25, 2023

<sup>34</sup> Bhuiyan MS, Islam M and Salam MF, "Access to Justice through Village Court for Rural Poor: The Case of Bangladesh" (International journal of publication and social studies, January 1, 2019) <<https://doi.org/10.18488/journal.135.2019.41.1.10>>accessesd November 30, 2023

It is essential to guarantee that everyone, irrespective of their financial situation, has equitable access to digital tools and online venues. It is important to work toward closing the digital divide and offering the assistance required for people who might encounter technical difficulties.

## **2. Open and Accountable Legal Procedures:**

Fairness is preserved through the use of transparent e-judiciary procedures, such as explicit rules for online case filing and virtual hearings. Public trust is enhanced by making judicial decisions and procedures easily accessible.

### **3.9 Fairness in E- judiciary**

Maintaining equity within Bangladesh's e-judiciary is critical to the legitimacy and soundness of the legal system. Resolving potential gaps in digital access is crucial because it can affect the effectiveness of participation for a variety of communities. In order to be equitable, electronic processes must be created with accessibility in mind, taking into account different user levels of technology and digital literacy. Legal protections must also be in place to provide fair representation in virtual proceedings and avoid digital exclusion. Fairness in the E-judiciary is based on transparency, which makes it necessary to have explicit rules on electronic evidence, data security, and privacy rights. One of the most important aspects of the current digital revolution is finding the correct balance between using technology to increase efficiency and maintaining basic standards of justice in legal procedures. A strong dedication to justice will be necessary when Bangladesh adopts e-judiciary in order to preserve public confidence and respect the fundamentals of justice in the digital era.<sup>35</sup>

### **3.10 Conclusion:**

At the end of this discussion, there are important ramifications for the legal system at the nexus of openness, justice accessibility, and equity in the digital judiciary. It's critical to strike a balance between preserving fundamental justice values and technical improvements. Accountability is ensured by transparency, inclusivity is promoted by access to justice, and the integrity of judicial proceedings is protected by fairness. Adopting digital tools must be consistent with the overall objective of strengthening the fundamental values that underpin our legal systems, as opposed to undermining them.<sup>36</sup> A deliberate and methodical approach is

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<sup>35</sup> Eremenko P, "When 'Fairness' Is Efficient: The Role of the Judiciary in Maximizing Aggregate Social Welfare" [2005] SSRN Electronic Journal <<http://dx.doi.org/10.2139/ssrn.900463>>.accessed on December 2, 2023

<sup>36</sup> Courts IPSO, Judicial Transparency and Ethics (CreateSpace Independent Publishing Platform 2017).

necessary as we traverse this changing terrain to maximize the advantages of technology while maintaining the cornerstones of a just and equitable legal system of Bangladesh.

## CHAPTER IV

### Introducing Digital judiciary transformation in Bangladesh

#### 4.1 Introduction

Bangladesh sets out on a transformative path to modernize its court through digital innovation in an era characterized by technology advancements. Transparency and accessibility are the primary goals of this project, which aims to transform the current legal system. Bangladesh's adoption of a Digital Judiciary marks a significant turn in the direction of an inclusive and effective judicial system. This project is a calculated step to give citizens more access to justice while maintaining the openness of the judicial system, not just a technology improvement.<sup>37</sup> The basic objective is still the same as we explore the difficulties of this revolutionary change: to create a court that not only keeps up with the digital world but also promotes a more accessible, fair, and open legal system.

#### 4.2 Transparent Transition

“Transparent Transition” in Digital Judiciary Transformation in Bangladesh represents a comprehensive endeavor aimed at promoting transparency and improving accessibility to justice. As far we know by the word Transparent in legal terms is the legal action procedure or method with no hidden agendas, transparency in word and intention.

This multipronged strategy incorporates cutting-edge procedural modifications and the use of digital technologies into the nation's legal system. The creation of a strong digital case management system is essential to this change. The judiciary hopes to simplify and arrange case data by adopting this technology, giving stakeholders easy access to real-time updates and facilitating smooth case progress tracking. Concurrently, the execution of open data initiatives is essential in strengthening the principles of openness by enabling the public to get court records, rulings, and precedents.

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<sup>37</sup> Carolyn Ball, “*What Is Transparency?*” (2009) 293–308 *Public Integrity* <<https://doi.org/10.2753/pin1099-9922110400>> accessed on November 26, 2023

In addition, one of the main components of this change is the move to electronic file systems, which reduce paperwork while increasing productivity. Digital document submission and access empowers attorneys and litigants and promotes a more accessible and efficient legal process.<sup>38</sup> By enabling parties to participate in dispute settlement remotely, the incorporation of Online Dispute settlement (ODR) systems further demonstrates the dedication to accessibility. Blockchain technology enters the picture to strengthen the transparency and integrity of court records by giving legal documentation a safe, verified base. This shift is entirely user-centric, with user-friendly interface design guaranteeing accessible for those with different levels of technological proficiency. Training initiatives are put in place to familiarize the public and legal experts with these digital platforms. Robust cybersecurity protocols are implemented to safeguard confidential legal data, guarantee adherence to data protection laws, and maintain the privacy of parties engaged in legal actions. In addition to these actions, public awareness initiatives are started with the goal of educating the public about the benefits of the shift to a digital judiciary and fostering public confidence in the legal system through open communication. All things considered, the “Transparent Transition” is a comprehensive development meant to improve the accessibility, transparency, and modernity of the legal system.<sup>39</sup>

### **4.3 Fairness amidst digital judicial Transformation**

One crucial aspect of Bangladesh’s Digital Judicial Transformation that requires careful consideration is the concept of justice. Maintaining fairness becomes critical as the legal landscape changes in the digital sphere in order to sustain the ideals of justice. Advanced technology integration needs to be supported by policies that ensure fair access and treatment for all parties involved. This entails giving careful thought to any biases that might exist in algorithms or digital processes, highlighting the necessity of ongoing monitoring and improvement to avoid any unintentional prejudice. Fairness also includes making digital tools and platforms accessible, so that everyone can interact with and manage the changing legal environment, regardless of financial background or level of technological ability. The pursuit of justice serves as a pillar in this revolutionary journey, reaffirming the dedication to justice and equality in the digital age.<sup>40</sup>

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<sup>38</sup> Staff T, “TRANSPARENT” (The Law Dictionary, March 2, 2013)  
<<https://thelawdictionary.org/transparent/observer>> accessed December 3, 2023

<sup>39</sup> Tomlinson J, Justice in the Digital State (Policy Press 2019)

<sup>40</sup> Levi DF and Levi DF, “What Does Fair and Impartial Judiciary Mean?” (Bloch Judicial Institute of Duke Law | The Bolch Judicial Institute’s mission is to study and advance rule-of-law principles, judicial independence, and law reform through technology and innovation., June 6, 2022)  
<<https://judicialstudies.duke.edu/2019/11/what-does-fair-and-impartial-judiciary-mean-and-why-is-it-important/>> accessed on Dec. 3 2023



## 4.4 Data security dilemmas

The introduction of E-judiciary in Bangladesh brings about a paradigm shift in the legal environment along with a number of difficulties, chief among them being issues with data security. Safeguarding judicial data becomes increasingly important as legal processes and sensitive information move online. Strong cybersecurity measures are required due to vulnerabilities created by the interconnection of systems and the reliance on electronic platforms. The challenge is to strike a balance between the need to preserve private legal information and accessibility. Modern encryption techniques, strict access rules, and frequent cybersecurity assessments to find and fix possible flaws are all necessary to maintain this delicate balance.<sup>41</sup> In addition, worries about possible abuse or illegal access to private legal information must be addressed. To traverse the complex terrain of data security in Bangladesh's developing e-judiciary, extensive policies and moral standards are needed.

## 4.5 Conclusion

In conclusion, Bangladesh's adoption of the Digital Judiciary Transformation initiative ushers in a new era in which the administration of justice is dedicated to openness and accessibility. The adoption of digital technologies serves as a metaphor for this revolutionary journey, which aims to alter conventional paradigms and improve the accessibility, efficiency, and transparency of legal processes for everybody. The focus on a "Transparent Transition" highlights efforts like electronic file systems, open data policies, and digital case management, which promote real-time updates and public access to legal material. In this evolution, the pursuit of justice is crucial because it guarantees equal treatment for all parties involved. But as this digital frontier develops, issues like data security conundrums demand careful consideration. The digital judiciary cannot succeed unless data protection and accessibility are carefully balanced. The essential objective in negotiating these complications is still the same: creating a legal system that respects the fundamentals of justice for Bangladeshi residents, including fairness, transparency, and accessibility, while also embracing technology innovations.<sup>42</sup>

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<sup>41</sup> Trainee, "Upsurge in Digital Security Act Cases during the Covid-19 Pandemic" (Dhaka Tribune, June 28, 2020) <<https://www.dhakatribune.com/amp/bangladesh/214429/upsurge-in-digital-security-act-cases-during-the>>accessed December 4, 2023.

<sup>42</sup> Report T, "The Law on E-Judiciary Might Change Bangladesh Courts Forever" (The Business Standard, May 21, 2020) <<https://www.tbsnews.net/thoughts/law-e-judiciary-might-change-bangladesh-courts-forever-84148?shem=ssusxt>> accessed December 6, 2023.



# CHAPTER V

## Conclusion

### 5.1 Introduction

Bangladesh's digital transformation has brought in a new era and profoundly altered many aspects of society. The judicial system is one of the prominent areas that is undergoing reform, with an emphasis on improving access to justice and openness. There are benefits and drawbacks to this progression as technology is woven more and more into the structure of government.<sup>43</sup> In light of this, it is critical to investigate how Bangladesh's digitalization process affects openness and access to justice in order to comprehend wider societal ramifications and influence the direction of the legal system in the future.<sup>44</sup>

### 5.2 Findings of the Study:

Results of the Study on Bangladesh's Digitalization of the Judiciary: Accessibility, Fairness, and Transparency

#### 1. Greater Transparency:

The public now has easier access to case information, decisions, and court dates as a result of the advent of digital platforms, which have increased transparency in the legal system. Citizens can monitor the status of their cases through online portals and databases, which encourages accountability and lessens opacity in the legal system.

#### 2. Improved Access to Justice:

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<sup>43</sup> Dey J, "This Is How Bangladesh Is Digitalizing Its Judiciary" (Centre for Research and Information, July 26, 2022) < <https://cri.org.bd/2022/07/24/this-is-how-bangladesh-is-digitalizing-its-judiciary/> > accessed on Dec 08 2023

<sup>44</sup> *ibid*, 3.

Digitalization has made it possible to file cases online, which eliminates the requirement for in-person court appearances and has greatly increased access to justice. People living in rural places have benefited most from virtual hearings and e-filing alternatives, which have made legal services more widely accessible and inclusive.<sup>45</sup>

### **3. Efficiency:**

The use of digital technologies has expedited the legal system, leading to a reduction in backlog and quicker case resolutions. E- Court processes have become more efficient as a result of the faster data retrieval and exchange made possible by automated case management systems.

### **4. Obstacles to Digital Access:**

In spite of advancements, obstacles such regional internet access restrictions and differences in digital literacy continue to exist, affecting the fair accessibility of digital judicial services. The ongoing need to close the digital gap and guarantee that every person is able to use digital platforms for legal purposes.<sup>46</sup>

### **5. Fairness in Digital Proceedings:**

By encouraging uniformity and standardization in legal processes, digitalization has had a positive impact on fairness. Ensuring the admissibility, security, and reliability of digital evidence is crucial in upholding the integrity of legal proceedings.

### **6. Public Awareness and Legal Literacy:**

Even if access has expanded due to digitization, the study emphasizes the significance of raising legal literacy and public knowledge of digital legal procedures. Encouraging citizen education on their digital rights and responsibilities is essential to guaranteeing the efficient use of digital judicial services.

### **7. Interagency Collaboration:**

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<sup>45</sup> Chornomorets Y, “Digital Technologies in the Process of Reforming the Judiciary” (2020) 8 Public administration aspects 136 <<http://dx.doi.org/10.15421/152062>.>accessed on December 7,2023.

<sup>46</sup> Report T, “The Law on E-Judiciary Might Change Bangladesh Courts Forever” (The Business Standard, May 21, 2020) <<https://www.tbsnews.net/thoughts/law-e-judiciary-might-change-bangladesh-courts-forever-84148?shem=ssusxt>>accessed December 6,2023

The court, law enforcement, and other pertinent agencies must work together effectively for digitalization to be successful. The results highlight the necessity of continual cooperation to handle issues with information sharing and digital crimes.

## **8. Flexibility and Ongoing Enhancement:**

The research emphasizes the significance of flexibility in the face of changing digital environments which can improve transparency.

### **5.3 Recommendation:**

The following actions are recommended for Digital judiciary system's fundamental legal framework:

#### **1. Update on Legislation:**

Modify current legislation to clearly address digital jurisdiction and provide clarity on the process of determining jurisdiction in the digital sphere. Creating a legal definition of digital offences and crimes that will direct the judicial and law enforcement systems.<sup>47</sup>

#### **2. Digital Evidence Standards:**

Create and implement guidelines governing the admissibility of digital evidence in court. Create policies and processes to guarantee the accuracy, legitimacy, and integrity of digital evidence that is produced in court.<sup>48</sup>

#### **3. Public Awareness and Education:**

Start efforts to inform the public about cyber laws, digital jurisdiction, and the possible repercussions of participating in illicit online activity. Encourage the reporting of cybercrimes and promote ethical online conducts.

#### **4. Monitoring and Evaluation:**

Create a system for ongoing assessment of the success of reforms pertaining to digital jurisdiction. Review and update legislative frameworks on a regular basis to reflect changing issues and digital landscapes.

#### **5. Improvement of Technological Infrastructure:**

To expedite court procedures and enable effective handling of digital evidence, invest in cutting-edge technologies and case management systems. - Ascertain that the judiciary has the gear and software required for safe and efficient digital communication.

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<sup>47</sup> Ibid 9

<sup>48</sup> Ibid 11

## **6. Specialized Digital Courts**

Create courts that are specifically designed to handle cases pertaining to cybercrimes and digital jurisdiction. These courts should have judges who have received training in digital law and technology. To guarantee a concentrated and knowledgeable approach, designate particular courtrooms for the handling of digital cases.

## **7. Legal Education for the Judiciary:**

To improve judges' proficiency in managing digital matters, give them ongoing education on cyber laws, emerging digital technology, and international standards. Lead seminars and information-sharing sessions with subject-matter specialists.

## **8. Assistance with E-Discovery and Digital Forensics:**

Form alliances with specialists in digital forensics to aid the legal system in managing and analyzing digital evidence. Incorporate e-discovery technologies to help find and gather pertinent digital information quickly.

## **5.4 Conclusion:**

In summary, this legal study on Bangladesh's digitalizing judiciary, with an emphasis on fairness, transparency, and access to justice, reveals a revolutionary change in the legal system of the nation. Digital technology integration has and in future can greatly improve Transparency, increasing public access to and accountability for court procedures. The combination of online case filing, virtual hearings, and real-time updates has made the legal system easier to navigate and more transparent in common people. There has been a noticeable improvement in the availability of justice through digitalization. Online platforms have made it easier for people to engage in judicial proceedings by removing physical barriers, especially for those who live in rural places. Increased productivity and prompt case resolutions highlight the beneficial effects of digital tools on the legal system as a whole.<sup>49</sup>

Though there are still issues, especially with guaranteeing that everyone has access to digital court services. It is necessary to overcome disparities in digital literacy and internet connectivity to ensure that every citizen has fair access to the legal system. In addition, cybersecurity issues demand constant attention to protect private legal data and preserve public confidence in the digital judiciary. But this study emphasizes how important legal literacy and public awareness campaigns are to maximizing the advantages of digitalization. To guarantee citizen involvement and engagement, education regarding digital rights, duties, and the workings of the digital judicial system is essential.<sup>50</sup>

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<sup>49</sup> Ibid 12

<sup>50</sup> Report T, "The Law on E-Judiciary Might Change Bangladesh Courts Forever" (The Business Standard, May 21, 2020) <<https://www.tbsnews.net/thoughts/law-e-judiciary-might-change-bangladesh-courts-forever-84148>>accessed November 26, 2023

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