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Digital banking: An important feature in today's world and its legal effect

M Pranov Vishnu Arjun[1], R Chameli[2]
[1] Assistant Professor, Department of Law, Government Law College, Salem, Tamil Nadu, India
[2] LLM, Advocate, District Court, The Nilgiris, Tamil Nadu, India

Abstract
In the present scenario, the demand of banking is anytime, anywhere banking, this requires innovative robust secure optimized and ready to meet the expectations of empowered and tech savvy customers. If you are a banker, online shopper, tech savvy person or even a regular bank customer, you must have definitely heard the word "digital banking". Interestingly, most people have a different take on digital banking. There is a lot more to digital banking than just a few features that we can see on the surface. Digital banking is converting the brick and mortar banks into more greener and efficient places to operate. There are a plethora of options that people can opt for when it comes to banking. Now people can check their bank account details, pay their bills online, transfer money to other accounts, and all of this can be done from the very comfort of their home. All that the people need for banking these days is an internet connection.
This paper covers Evolution of Digital Banking in India, Role of digitization in Indian banking, Factors affecting the scope of Digital Banking in India from Legal point of view and the Banking laws to guide safer usage for the protection of customers from unlawful practices by the backers.
The present study is based on secondary data. The data has been extracted from the various sources like research articles, publications from Government of India, various bulletins of RBI and authenticated websites.
The study found that, digital banking has drastically reduced the operating costs of banks and has made the life of customers easy in their day today operations but at the same time the laws has to be more stringent and updated in order to protect the customers who never knows what's happening in the other hand as they simply click an "OK" button.
The study also found that, Digital Banking is having enormous potential to change the landscape of financial inclusion. Easy and safe use of Digital Banking can accelerate the integration of unbanked economy to the mainstream and create confidence in the minds of customers.

Keywords: digitalisation, banking in India, legal frame work

Introduction
The digital revolution has changed many elements within almost every industry, especially the financial industry. The new technology wave that has started throughout the entire finance industry has changed a lot of the banking structures that were traditionally set up. Automation is one of the biggest focuses that banks are looking at because technology is increasingly growing.
Banking solutions have changed drastically since the introduction of online banking options. There are many options to withdraw money, deposit checks, or transfer money without going to the bank and, with technology advancements, all this has revolutionized. Cybersecurity and data protection have also improved drastically since the entire industry has shifted to more digital banking options. Factors such as online banking, ATM machines, financial integration, and 24-hour access have changed the outlook for why there is a need for digital banking.
With the emerging technology of digital banking, there are also many innovations that have been succeeding such as mobile digital wallets, investment management applications, depositing mobile checks through banking applications, card-less ATM withdrawals, and many more solutions towards the emergence of digital banking. The difference between digital banking and online banking is the aspect of traditional solutions compared to using newer methods of digitalization. Online banking allows people to check transfer and manage their funds globally through a variety of different options. Management solutions being conducted in a more accurate and faster way is creating a positive potential in finances.

- **Evolution of digital banking in India**

With nearly 47 Million internet users and a GDP rate of 6-7 percent, India represents a digital economy. India has proved to be the biggest market potential for global players. This digital revolution is expected to generate new market growth opportunities, jobs and become the biggest business opportunity for businesses in the next 20 to 30 years. There was an ardent need for this digital transformation in the Indian Banking System during the late 1980s. Digitalisation was mandatory in order to meet customer expectations, and MIS reporting. To fulfill the need of the hour, a committee was formed by the Reserve Bank of India to introduce digitalization in the banks headed by Dr. C. Rangarajan, during the year 1988 [1]. The banks have needed to adopt disruptive technologies to improve customer service and ensure unparalleled efficiency and service at all times. Banks have been adopting face-to-face interactions with the customers to provide meaningful financial services to the individuals and the businesses. However, this one to one interface has changed since the emergence of new technology to meet the evolving demands of the customers. Thus, branch banking changed to bank banking. Core

Banking Solution (CBS) enabled banks to increase the comfort feature thereby delivering a promising step towards enhancing customer convenience. Different Core banking platforms such as Finacle designed by Infosys, BaNCS by TCS, gained popularity. Core banking systems and the digitization of important services are necessary requirements for banks to provide innovative services. Digitisation has helped developments not only in the operational systems of the bank or customer services but also the new capabilities and services that are provided to customers these days. The onset of the World Wide Web, truly revolutionized the banking sector and financial institutions to think out-of-the-box in meeting their customers' needs. This led many banks to invest extensively in internet services and provide services over and above those offered at branches.

E-banking has resulted in reducing costs drastically and has generated revenue through various channels. The customer base has also increased because of the convenience of 'Anywhere Banking'. Digitization has reduced human error. It is possible to access any data anytime from any nook and corner of the world. As per the Avaya Banking Survey 2017, 51% of Indians use online banking channels and 26% of Indian customers prefer to access services via their bank's website, and the same number would prefer to use a mobile app rather than talk to a human agent [2]. RBI is the guiding force for the banks informing regulations and giving recommendations. Commercial Banks in India have adopted the technology by way of Bank Mechanization and Automation with the introduction to MICR based cheque processing, Electronic Funds transfer, Inter-connectivity among bank Branches. The implementation of ATM (Automated Teller Machine) Channel has resulted in the convenience of Anytime banking. Strong initiatives have been taken by the Reserve Bank of India in strengthening the Payment and Settlement systems in banks. According to recent surveys, today's customers prefer to maintain multi-platform interactions with their banks. The number of times one visits the branch has reduced substantially and most of the transactions are done online, bills are paid online, cheques are deposited via mobile banking, etc.

Looking back, the Narasimham Committee deserves mention in that it was instrumental in forcing Indian banks to become competitive. Fleet footed private sector banks, forced the public sector banks to embrace technology and improve their level of customer service. Next, the Khan Committee was highly important in that it recommended the setting up of universal banks. Preference was given to financial institutions, which could provide a whole range of corporate financial solutions under one roof. But most importantly, the Verma Committee recommended the need for greater use of IT even in the weak Public sector banks. Actually, the nationalization of banks back in the 80s is proving to be a major obstacle in bringing about the required technological changes.

- **Influence of digital banking**

Indian Government is actively promoting digital transactions. The launch of United Payments Interface (UPI) and Bharat Interface for Money (BHIM) by National Payments Corporation of India (NPCI) are significant steps for innovation in the Payment Systems domain. UPI is a mobile interface where people can make instant fund transfers between accounts in different banks. Today banks aim to provide fast, accurate and quality banking experience to their customers. Today, the topmost priority for all the banks in India is digitization.

According to the RBI Report in 2016-17, there are 2,22,475 Automated Teller Machines (ATMs) and 25,29,141 Point of Sale devices (POS) [3]. Implementation of electronic payment system such as NEFT (National Electronic Fund Transfer), ECS (Electronic Clearing Service), RTGS (Real Time Gross Settlement), Cheque Truncation System, Mobile banking system, Debit cards, Credit Cards, Prepaid cards have all gained wide acceptance in Indian banks. These are all landmarks in the digital revolution in the banking sector. Online banking has changed the face of banking and brought about a remarkable transformation in the banking operations.

At present, there are 23 settlements. Real Time Gross Settlement (RTGS) is primarily used for high-value transactions which are based on 'real time'. The minimum amount to be remitted through RTGS is Two Lakhs. There is no upper limit. Immediate Payment Service (IMPS) is an instant electronic fund transfer facility offered by National Payments Corporation of India (NPCI) which is available anytime and anywhere. The usage of Prepaid payment instruments (PPIs) for the purchase of goods & services and funds transfers has increased substantially. The value of transactions through PPI Cards, which include mobile prepaid instruments, gift cards, foreign travel cards & corporate cards & mobile wallets have jumped tremendously from Rs.105 billion and Rs. 82 billion respectively in 2014-15 to Rs. 277 billion and Rs. 532 billion respectively in 2016-17. This is a remarkable development in the process of digitization in the Indian Banking System [4].

The Indian Banking system is the early adopters of disruptive technology. This will help us go a long way to ensure that banks seamlessly manage this change and stay relevant and efficient in this dynamic phase of development. In this era of digitalization, banks are increasingly becoming the marketplaces and each event is becoming a prospective opportunity. With a plethora of channels for bringing together customers and the banks, the need of the hour is to provide an integrated system for managing the customer lifecycle.

According to a CII report, the Indian Banking System is currently worth INR 81 trillion and is expected to become the fifth largest in the world by 2020 [5]. The BFSI sector contributes about 40% of the revenue for major IT companies. As digital technologies evolve around the concept of data sharing over public networks on a number of devices, ensuring privacy and security related to banks are the major concerns at all levels. Many initiatives adopted by Indian banks are within the social, mobility, analytics and cloud (SMAC) framework.

- **Levels of banking services**

Levels of banking services offered through INTERNET can be categorized in to three types:

1. The Basic Level Service is the banks' websites which disseminate information on different products and services offered to customers and members of public in general. It may receive and reply to customers' queries through e-mail,
2. In the next level are Simple Transactional Websites which allow customers to submit their instructions,

applications for different services, queries on their account balances, etc, but do not permit any fund-based transactions on their accounts,

3. The third level of Internet banking services are offered by Fully Transactional Websites which allow the customers to operate on their accounts for transfer of funds, payment of different bills, subscribing to other products of the bank and to transact purchase and sale of securities, etc.

The above forms of Internet banking services are offered by traditional banks, as an additional method of serving the customer or by new banks, who deliver banking services primarily through Internet or other electronic delivery channels as the value added services. Some of these banks are known as 'virtual' banks or 'Internet-only' banks and may not have any physical presence in a country despite offering different banking services.

- **Risks involved in internet banking**

Internet is not an unmixed blessing to the banking sector. Along with reduction in cost of transactions, it has also brought about a new orientation to risks and even new forms of risks to which banks conducting E-banking expose themselves. Regulators and supervisors all over the world are concerned that while banks should remain efficient and cost effective, they must be conscious of different types of risks this form of banking entails and have systems in place to manage the same. An important and distinctive feature is that technology plays a significant part both as source and tool for control of risks. Because of rapid changes in information technology, there is no finality either in the types of risks or their control measures. Both evolve continuously.

Operational risk, also referred to as transactional risk is the most common form of risk associated with E-banking. It takes the form of inaccurate processing of transactions, non - enforceability of contracts, compromises in data integrity, data privacy and confidentiality, unauthorized access / intrusion to bank's systems and transactions etc. Such risks can arise out of weaknesses in design, implementation and monitoring of banks' information system. Besides inadequacies in technology, human factors like negligence by customers and employees, fraudulent activity of employees and crackers / hackers etc. can become potential source of operational risk. Often there is thin line of difference between operational risk and security risk and both terminologies are used interchangeably.

Security risk arises on account of unauthorized access to a bank's critical information stores like accounting system, risk management system, portfolio management system, etc. A breach of security could result in direct financial loss to the bank. For example, hackers operating via the Internet, could access, retrieve and use confidential customer information and also can implant virus. This may result in loss of data, theft of or tampering with customer information, disabling of a significant portion of bank's internal computer system thus denying service, cost of repairing these etc.

- **Legal issues faced in e-banking**

The banks providing Internet banking service, at present are only accepting the request for opening of accounts. The accounts are opened only after proper physical introduction and verification. Considering the legal position prevalent, particularly of *Section 131 of the Negotiable Instruments Act, 1881* and different case laws, we come to view that there is an obligation on the banks not only to establish the identity but also to make enquiries about integrity and reputation of the prospective customer. However after coming in to force of the *Information Technology Act, 2000* and digital certification machinery being in place, it may be possible for the banks to rely on digital signature of the introducer.

The present legal regime does not set out the parameters as to the extent to which a person can be bound in respect of an electronic instruction purported to have been issued by him. Generally authentication is achieved by security procedure, which involves methods and devices like user-id, password, personal identification number (PIN), code numbers and encryption etc., used to establish authenticity of an instruction. However, from a legal perspective a security procedure needs to be recognized by law as a substitute for signature. In India, the *Information Technology Act, 2000*, in *Section 3(2)* provides for a particular technology (viz., the asymmetric crypto system and hash function) as a means of authenticating electronic record. This has raised the doubt whether the law would recognize the existing methods used by banks as valid methods of authentication.

In keeping with the view that law should be technology neutral, *Section 3(2) of the Information Technology Act, 2000* needs to be amended to provide that in addition to the procedure prescribed there in or that may be prescribed by the Central Government, a security procedure mutually agreed to by the concerned parties should be recognized as a valid method of authentication of an electronic document / transaction during the transition period.

Banks may be allowed to apply for a license to issue digital signature certificate under *Section 21 of the Information Technology Act, 2000* and function as certifying authority for facilitating Internet banking. Reserve Bank of India may recommend to Central Government for notifying the business of certifying authority as an approved activity *under clause (o) of Section 6(1) of the Banking Regulations Act, 1949.*

Section 40A(3) of the Income Tax Act, 1961 recognizes only payments through a crossed cheque or crossed bank draft, where such payment exceeds Rs. 20000/-, for the purpose of deductible expenses. Since the primary intention of the above provision, which is to prevent tax evasion by ensuring transfer of funds through identified accounts, is also satisfied in case of electronic transfer of funds between accounts, such transfers should also be recognized under the above provision. The Income Tax Act, 1961 should be amended suitably.

Under the present regime there is an obligation on banks to maintain secrecy and confidentiality of customer's account. In the Internet banking scenario, the risk of banks not meeting the above obligation is high on account of several factors like customers not being careful about their passwords, PIN and other personal identification details and divulging the same to others, banks' sites being hacked despite all precautions and information accessed by inadvertent finders. Banks offering Internet banking are taking all reasonable security measures like SSL access, 128 bit encryption, firewalls and other net security devices, etc.

In Internet banking scenario there is very little scope for the banks to act on stop-payment instructions from the

customers. Hence, banks should clearly notify to the customers the timeframe and the circumstances in which any stop-payment instructions could be accepted [6].

Prevention of Money Laundering Bill, 1999 imposes obligation on every banking company to maintain records of transactions for certain prescribed period. *The Banking Companies (Period of Preservation of Records) Rules, 1985* also require banks to preserve certain records for a period ranging between 5 to 8 years. These legal provisions which are applicable to all banking transactions, whether Internet banking or traditional banking, will adequately take care of this concern and no specific measures for Internet banking is necessary.

The Consumer Protection Act, 1986 defines the rights of consumers in India and is applicable to banking services as well. Currently, the rights and liabilities of customers availing of Internet banking services are being determined by bilateral agreements between the banks and customers. It is open to debate whether any bilateral agreement defining customers rights and liabilities, which are adverse to consumers than what is enjoyed by them in the traditional banking scenario will be legally tenable. Considering the banking practice and rights enjoyed by customers in traditional banking, it appears the banks providing I-banking may not absolve themselves from liability to the customers on account of unauthorized transfer through hacking [7] Similar position may obtain in case of denial of service. Even though, *The Information Technology Act, 2000 has provided for penalty for denial of access to a computer system (Section-43) and hacking (Section – 66),* the liability of banks in such situations is not clear.

The Information Technology Act, 2000, in Section 72 has provided for penalty for breach of privacy and confidentiality. Further, *Section 79 of the Act* has also provided for exclusion of liability of a network service provider for data travelling through their network subject to certain conditions. Thus, the liability of banks for breach of privacy when data is travelling through network is not clear. This aspect needs detailed legal examination. The issue of ownership of transactional data stored in banks' computer systems also needs further examination.

- **Suggestions and Conclusions**

The implication of above-mentioned findings is that now commercial bank is required to play a leading and aggressive role affecting consumer perception, attitude and behaviour of existing and potential e-banking customers. The recommendations for banks are as follows:

1. The best strategy at the early adaptation stage is to provide and maximise the awareness regarding e-banking among customers. Because e-banking products and services are very much new in India especially in Rajasthan. To fulfil these objective banks should use every form of advertising such as T.V. commercials, advertisement in magazines, brochures, online advertisement etc. to educate customers about its advantages, so it can reach to the maximum number of existing and prospecting e-banking customers. To reach maximum number of prospecting internet banking customers and banking staff should take initiative to inform them e-banking services provided by the bank.
2. Bank should effectively design its websites as a service providing mechanism and it should also give information beyond the services offered by bank.
3. Bank should eliminate the language barrier to have effective communication with clients. Specifically in India, bank should provide banking information in English as well as in Hindi language.
4. The major driving factor of adopting e-banking for its users is the reliable access system. The information regarding security should not provide in technical terminology and should comprise with standard security statement.
5. Banks should offer incentives such as special benefits for frequent users, loyalty reward etc.
6. To increase its service value bank should create a collaborating venture with internet service provider companies and by increasing linkages to suppliers and merchants.
7. Banks should try to give higher value services to its consumers. Banks should closely analyse the history of its customers' banking transactions to have better understanding regarding their requirements and provide them well customized internet banking products and services.
8. Banks should target right set of customers. Banks should attract those customers who have strong financial position and adequate income level to adopt the e- banking system.
9. Banks should emphasize on the advantages of the e-banking usage i.e. time saving, 24 hour service availability, information availability, convenience, low cost services etc.
10. Banking customers perceive that e- banking charges levied by the banks are not fair. Banks should initiate a campaign for educating customers regarding the fairness of e- banking charges.
11. The frequency of the online transactions through e-banking is less. Thus, Banks should provide motivation to banking customers to increase their frequency of e-banking transactions.

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