

# INDIAN LEGAL SYSTEM AND ACCESS TO JUSTICE DURING CORONAVIRUS



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## **ABSTRACT**

*Situations may arise which may be tremendously critical on their own facts, and an opportunity is needed to be provided in order to show before a court of law, such an urgency. Urgency cannot be prejudiced on the grounds of subjective understanding of the same, because the test of urgency may be different for each person given their situation.*

*Due to current crisis of COVID-19, the rights of litigants, who are dependent on legal professionals and lawyers to present their cases in the courts, are being set aside in whole. There cannot be an unending shut down of courts, keeping in view the on-going downfall in every profession, particularly the legal profession during COVID -19 pandemic. Despite the present unfavorable situation, the society cannot do away with a justice delivery mechanism. The present crisis needs to be molded in a way to our benefit to offer a justice delivery mechanism which may work effectively and efficiently in such trying times.*

**KEYWORDS:** Coronavirus, Video Conferencing, Legal System, Justice, e-Courts.

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## INTRODUCTION

The operations of justice systems across the globe are facing unprecedented consequences in response to the COVID -19 pandemic. Courts are shutting, or altering their tasks, which can contrarily affect the arrangement of convenient and fair hearings, add to expanded case buildups, and lead to expanded length of legal and administrative procedures. Particular clusters of society such as women, juveniles, undocumented transients, outcasts, and refuge searchers are at risk and intensely distressed by such changes. Pretrial felons or convicts entitled to early release are also suffering sustained confinement due to relegated operations of the courts of law. In the absence of an operative judicial supervision, people apprehended, whilst emergency measures are enacted to take control over the virus, may not be produced before a judge timely.

Precisely asserted by United Nations Development Program, “as states enact emergency regulations to counter the spread of COVID-19, judicial oversight of the implementation of emergency measures is critical to avoid the excessive use of emergency powers. The socio-economic impact of the crisis will also have significant justice-related implications as inequalities are exacerbated. Specific efforts will be required to improve access to legal services and legal information to empower people and communities to resolve their disputes, seek redress for rights violations, or counter discrimination on a range of issues including housing, employment, legal/residency status, access to health benefits or other social protection mechanisms.”<sup>1</sup>

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<sup>1</sup> “Ensuring Access to Justice in the context of COVID-19”, United Nations Development Programme (July 2<sup>nd</sup>, 2020, 6:10PM), [https://www.undp.org/content/un.dp/home/librarypage/democraticgovernance/access\\_to\\_justiceandruleoflaw/Ensuring-access-to-justice-in-the-context-of-covid19-.html](https://www.undp.org/content/un.dp/home/librarypage/democraticgovernance/access_to_justiceandruleoflaw/Ensuring-access-to-justice-in-the-context-of-covid19-.html).

## **METHODOLOGY**

### **Statement of Problem**

The problem profile of this paper relates to the effect of COVID -19 on the current situation of the Indian judicial system, highlighting its lapses and the hitches involved.

### **Aims and Objectives**

This paper aims to put forth the problems faced by the Indian Justice Delivery Mechanism in wake of the harsh conditions faced by the nation due to COVID-19. The government of India had put into action a nation-wide lockdown since March, which took a major toll on the courts all over the nation. This paper discusses what kind of problems were faced by the courts in India and related guidelines by the Supreme Court in various cases. This also deals with how e-Courts and Video Conferencing will become the new face of justice delivery mechanism and how the COVID-19 pandemic brought upon an unfortunate opportunity for Indian courts. And in the conclusion, it gives a few suggestions as to how the new era of courts can come into effect efficiently.

### **Research Questions**

1. What is the scope of Artificial Intelligence in the justice delivery mechanism?
2. How can it help the stakeholders in the said mechanism?
3. What caused the under-achieving situation of Indian Judicial System?
4. How has the COVID-19 Pandemic lead to an unfortunate opportunity for Indian Legal System to undergo a much-needed overhaul?

### **Methodology Used**

The project involves secondary research. The use of electronic research has been made to marshal material and data about this topic. Texts, case laws and other references, have assisted in framing the project. Websites, dictionaries and articles have also been looked into.

## I. BACKGROUND

*“While technology has enabled us to go paperless in many courts and go digital, if not all the way then substantially, in many courts, we now have the benefit of modern artificial intelligence tools that will assist in improving the efficiency of our justice system through sophisticated and contextual automation of existing repetitive non-judicial tasks and functions to reduce pendency, expedite judicial adjudication and create more time for judges to resolve complex cases.”*

-Justice Sharad Bobde (CJI), 2019<sup>2</sup>

Justice Sharad Bobde, Hon’ble Chief Justice of India made the aforesaid excerpt on National Constitution Day, while introducing the ‘first-generation neural machine translation tool’, SUVAS. Talking about transforming Indian courts, Justice Bobde expressed his enthusiasm on evolving technological advancements like Artificial Intelligence and increasing intercessions over conventional mechanisms. *“The necessity for this transformation has become even more prominent under the current scenario where due to the outbreak of the COVID-19 pandemic, courts’ diurnal functioning has practically come to a halt. Courts more than ever before, need to invest heavily in the development of technological facilities and infrastructure. Access to justice needs to be reimagined. It is in this background, the discourse on technology integration in the judiciary must be evaluated with urgency and pragmatism”*, said Justice Bobde.<sup>3</sup>

The Indian Judiciary has, fortuitously, began on an overhaul in technical progression, principally through assimilation of “Information and Communication Technology” in Indian courts. While laying down the infrastructural foundation, under the E-courts mission, for integration of technology in court processes, a disciplined and systematic approach was adopted. “Given this project’s near culmination, it is an opportune moment to build upon its edifice, a more advanced and sophisticated technological framework for the Indian judiciary with a potential to radically alleviate access to justice issues across the country.”

This existing pandemic, calamitous as it is, has provided for the greatly desired momentum for the vision charted by Justice Bobde, to integrate “Information and Communication Technology” in

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<sup>2</sup> The Print Team, “[AI can improve judiciary system’s efficiency](https://theprint.in/judiciary/ai-can-improve-judicial-system-efficiency-full-text-of-cji-bobdes-constitution-day-speech/326893/)”, The Print, 27 November 2019, (July 2<sup>nd</sup>, 2020, 8:28 PM), <https://theprint.in/judiciary/ai-can-improve-judicial-system-efficiency-full-text-of-cji-bobdes-constitution-day-speech/326893/>.

<sup>3</sup> Id.

Judiciary. In order to improve the access to the justice delivery mechanism and expedite it, fundamental advancements can be made. Meanwhile, the pandemic brought about recourse to technological elucidations has led to certain ad-hoc untenable choices that may shake the very structure on which the judicial system stands i.e. the Principle of Natural Justice.

## II. TECHNOLOGY IN INDIAN JUDICIARY

Since 1990, Indian Judicial system has been progressing with efforts at computerization being initiated by the “National Informatics Centre”.<sup>4</sup> Though the former efforts were constrained to the higher judiciary, the “e-Courts mission mode project”, a nascent advance within the juncture of technology and the Indian judicial system, aspiringly targeted this concoction across all district courts in India. The source of the e-Courts project can be taken back to 2005 when the Hon’ble Supreme Court framed an “E-Committee for Monitoring the Use of Technology and Administrative Reforms in the Indian Judiciary”.<sup>5</sup> The “E-Committee” framed the “National Policy and Action Plan for Implementation of Information and Communication Technology in the Indian Judiciary” which sketched the structure for assimilating ICT in District Courts in India.

This idea became the foundation for the “e-Courts project”, which postulated the adoption of technology in various stages. At its core, the “e-Courts” project targeted for providing cost effective and time-bound justice delivery, and augmenting judicial productivity.<sup>6</sup> The main contributions of the “e-Courts project” comprise of “provisioning of technological infrastructure for ICT enablement of District Courts”, including the following:

- “hardware,
- Local Area Network (LAN),
- internet connectivity and
- standardization of software to be used across these courts.”

The project has progressed over the years in its parameters, aims and its monetary aspect. It has unquestionably permitted the Indian Judiciary to make substantial profits in supervising of:

<sup>4</sup> Shalini Seetharam, “e-Courts in India: From Policy Formulation to Implementation”, Vidhi Centre for Legal Policy (July 2<sup>nd</sup>, 2020, 10:15 PM), [https://vidhilegalpolicy.in/wp-content/uploads/2019/05/e-CourtsinIndia\\_Vidhi.pdf](https://vidhilegalpolicy.in/wp-content/uploads/2019/05/e-CourtsinIndia_Vidhi.pdf).

<sup>5</sup> “Office Order (No. L-I 10151212004-Jus, 2004), Ministry of Law and Justice, Govt. of India” (July 2<sup>nd</sup>, 11:05 PM), <https://main.sci.gov.in/pdf/e-committee/ecommittee%20officeorder.pdf>.

<sup>6</sup> “National Policy and Action Plan for Implementation of Information and Communication Technology in the Indian Judiciary (2005)”, E-Committee, Supreme Court of India (July 2<sup>nd</sup>, 2020, 11:20 PM), <https://main.sci.gov.in/pdf/ecommittee/action-plan-e-court.pdf>.

- “court-wise case pendency,
- simplifying routine operational activities and
- providing a digital infrastructure for online service delivery.”

The “e-Courts” project gave birth to the establishment of technological infrastructure for the “District and Taluka Courts of India” and has brought about a transition the pattern of litigation in India in many ways. Principal amongst them is the “e-Courts website” which features numerous litigant-centric services like:

- “finding out the case status,
- electronic cause lists,
- and easy access to daily orders in PDF formats.”

From a data gathering perspective, arguably the “e-Courts project’s” greatest accomplishment has been the creation of the “National Judicial Data Grid”.<sup>7</sup>

### **III. GUIDELINES FOR FUNCTIONING OF COURTS ISSUED BY SUPREME COURT OF INDIA**

The COVID-19 outbreak in India, has compelled the instant adoption of measures to ensure “social distancing” in order to avert the diffusion of the virus. The Hon’ble Supreme Court of India and High Courts have implemented measures to reduce the physical presence of:

- “lawyers,
- litigants,
- court staff,
- para legal personnel and
- representatives of the electronic and print media”

in courts across the nation and to safeguard the constant dispensation of justice.

To preserve the “Rule of Law” in the democracy envisioned by the Constitution of India, access to justice is fundamental. The challenges induced by COVID-19 need to be dealt with while conserving the constitutional obligation to warranting the delivery of and access to justice to those who seek the same.

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<sup>7</sup> “The NJDG is a data gathering portal which tracks pending and disposed cases across all the High Courts, District and Taluka Courts in India, in real time, and has emerged as a significant tool for empirical data collection on court performance”, [https://njdg.ecourts.gov.in/hcnjdg\\_public/index.php](https://njdg.ecourts.gov.in/hcnjdg_public/index.php).

“Faced with the unprecedented and extraordinary outbreak of a pandemic, it is necessary that Courts at all levels respond to the call of social distancing and ensure that court premises do not contribute to the spread of virus. This is not a matter of discretion but of duty.”<sup>8</sup>

Thus, in exercise of the powers conferred upon the Hon’ble Supreme Court of India vide Article 142 of the Constitution of India to “make such orders as are necessary for doing complete justice”, the SC directed that<sup>9</sup>:

- i. *“All measures that have been and shall be taken by this Court and by the High Courts, to reduce the need for the physical presence of all stakeholders within court premises and to secure the functioning of courts in consonance with social distancing guidelines and best public health practices shall be deemed to be lawful;*
- ii. *The Supreme Court of India and all High Courts are authorized to adopt measures required to ensure the robust functioning of the judicial system through the use of video conferencing technologies; and*
- iii. *Consistent with the peculiarities of the judicial system in every state and the dynamically developing public health situation, every High Court is authorized to determine the modalities which are suitable to the temporary transition to the use of video conferencing technologies;”*
- iv. *“The concerned courts shall maintain a helpline to ensure that any complaint in regard to the quality or audibility of feed shall be communicated during the proceeding or immediately after its conclusion failing which no grievance in regard to it shall be entertained thereafter.*
- v. *The District Courts in each State shall adopt the mode of Video Conferencing prescribed by the concerned High Court.*
- vi. *The Court shall duly notify and make available the facilities for video conferencing for such litigants who do not have the means or access to video conferencing facilities. If necessary, in appropriate cases courts may appoint an amicus-curiae and make video conferencing facilities available to such an advocate.*
- vii. *Until appropriate rules are framed by the High Courts, video conferencing shall be mainly employed for hearing arguments whether at the trial stage or at the appellate stage. In no case shall evidence be recorded without the mutual consent of both the parties by video conferencing.*

<sup>8</sup> : In Re: Guidelines for Court Functioning through Video Conferencing during COVID-19 Pandemic (Suo Moto Writ (C) no.5/2020)”, [https://main.sci.gov.in/supremecourt/2020/10853/1085\\_2020\\_0\\_1\\_21588\\_Judgement\\_06-Apr-2020.pdf](https://main.sci.gov.in/supremecourt/2020/10853/1085_2020_0_1_21588_Judgement_06-Apr-2020.pdf).

<sup>9</sup> “In Re: Guidelines for Court Functioning Through Video Conferencing During COVID-19 Pandemic (Suo Moto Writ (C) no.5/2020)”, [https://main.sci.gov.in/supremecourt/2020/10853/1085\\_2020\\_0\\_1\\_21588\\_Judgement\\_06-Apr-2020.pdf](https://main.sci.gov.in/supremecourt/2020/10853/1085_2020_0_1_21588_Judgement_06-Apr-2020.pdf).

*If it is necessary to record evidence in a Court room the presiding officer shall ensure that appropriate distance is maintained between any two individuals in the Court.*

viii. *The presiding officer shall have the power to restrict entry of persons into the court room or the points from which the arguments are addressed by the advocates. No presiding officer shall prevent the entry of a party to the case unless such party is suffering from any infectious illness. However, where the number of litigants are many the presiding officer shall have the power to restrict the numbers. The presiding officer shall in his discretion adjourn the proceedings where it is not possible to restrict the number.”*

#### **IV. IMPACT OF COVID-19 ON THE JUSTICE DELIVERY MECHANISM**

The slenderest notion of “access to justice” refers to “an individual’s formal right to litigate or defend”. The Preamble of the Constitution of India begins with “the solemn resolve to secure to all its citizens Justice, social economic and political”. Article 39A portrays this by imposing a duty on the State to ensure that the operation of the legal system endorses justice on the basis of equal opportunity. It is clear enough that access to justice can neither be shut down nor deferred until the pandemic is over. This access is a necessity for everyone in order to proclaim and protect their fundamental rights and freedoms.<sup>10</sup>

Congestion within Court campuses is a generic feature. Other than Judges and their court staff, lawyers, associates, clerks and litigants too swarm courtrooms. In this environment, the idea of social distancing is unfeasible.

Quoting Sidharth Luthra, an eminent Lawyer, “Ever since the shutdown of Courts from the third week of March 2020, various High Courts and the Supreme Court have begun to use Video Conferencing facility to hear cases, though the system is still in the process of being fine-tuned. With only one or two benches functioning in most Constitutional Courts, and restricting themselves to hearing only what they consider urgent matters, litigants are suffering. The imperative need of the hour is to ensure that the VC infrastructure is upgraded, finetuned and enhanced substantially and very fast, so that each and every

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<sup>10</sup> Sidharth Luthra, “COVID-19: Has Access to Justice been Lost?”, Latest Laws (July 3<sup>rd</sup>, 2020, 1:10 AM), <https://www.latestlaws.com/articles/covid19-has-access-to-justice-lost-by-sidharth-luthra-senior-advocate-and-advocate-ketaki-goswami/>.

Bench in all Constitutional Courts begins working to full strength and capacity and all matters be heard.”<sup>11</sup>

Several questions come up and as of now remain unanswered:

- “How will a litigant in jail, access lawyers when jail visits are stopped and when remand appearances are through video conferencing?
- How will he/she instruct lawyers on strategy or on facts?
- Will video conferencing in Courts maintain confidentiality to enable client and lawyers to confer in private?
- Similarly, how does one secure the sanctity of witness’s testimony during VC evidence?
- By not having the accused present personally, will not his/her right to participate in the conduct of proceedings be breached?
- Doesn’t this defeat the principle of open court?”<sup>12</sup>

COVID-19 has channeled the emergency of interim relief from the Hon’ble High Courts and the Apex Court. “With the virtual courts only functioning, around 80% of the daily judicial workload has disappeared. The Supreme Court is functioning at 15–20% of its strength on the judicial side with 4 to 10 judges presiding out of present strength of 32 judges and the litigation load is around 10% to 15% of the usual list of business on a daily basis.”<sup>13</sup>

In times to come, the judicial forums will have to come up with and put in practice anew work pattern. Overcrowding would be reduced by restricted entry in these forums, along with hygiene and sanitation of the premises becoming a priority. Manpower would be replaced by technology and court tourism of few chronic disputants would also have to be brought under control. “In a nation of 137 crore the lower courts have very poor infrastructure and the states need to address this issue.”<sup>14</sup>

S.A. Bobde, C.J.I said, “*The pandemic has forced to rethink on how to function and what is essential in judicial process. Real threat came in March and I am happy that the Supreme Court was one of the first institutions to announce that it will not be open in a usual way and function in a restricted manner. This period has provided a compulsory training to prepare for a new working environment. There is no*

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<sup>11</sup> Id.

<sup>12</sup> Id.

<sup>13</sup> Merusagar Samantaray, “COVID Impact on the Legal System: What Should be the Way Forward?” Odisha Bytes (July 3<sup>rd</sup>, 2020, 2:30 AM), <https://odishabytes.com/covid19-impact-on-legal-system-what-should-be-the-way-forward/>.

<sup>14</sup> Id.

*looking back. We will have to change the mindset regarding the way we look at Court proceedings. We are rolling out the module with the suggestions of and for the Bar”.*<sup>15</sup>

Justice Bobde again said *“the apex court was one of the first institutions to respond to the crisis by restricting the normal functioning and it was determined to ensure that the court does not become the Centre for propagation of the corona virus. We found that it was not possible to maintain the safety and protect the lives of advocates and members of Registry because every space be it filing counters, bar rooms, copy rooms or canteens were congregated by people. It was found absolutely necessary to work jointly to reduce footfalls in the apex court premises”*. Justice Bobde further said *“technology should be simple to use and not exclude citizens anywhere and this system of e-filing will make access to justice simple and inclusive through inexpensive system.”*<sup>16</sup>

Speaking on the occasion, Justice D.Y. Chandrachud said that Covid-19 has distressed the daily lives of people and calls for vigorous and regulated institutional responses. *“In using technology our motto in the e-committee is simple: efficiency, transparency and access to every user of justice services. We are also conscious of the fact that not every lawyer has the access of the technology. Hence our solution must factor this to ensure that we continue to be an inclusive institution and reach out to those do not have the access to technology, in particular the junior members of the bar”*.<sup>17</sup>

As laid down by Santosh Paul, a Senior Advocate in the Hon’ble Apex Court. There are several aspects to the problem in these trying times<sup>18</sup>:

1. **“Annihilation of Rule of Law:** Access to justice is a very important and determinative factor before any of the options are considered. People may wrongfully be under incarceration deserving bail, some will need protection from eviction/dispossession of their properties, aggravated actions of the executive and the wings of government will have to be restrained which effects their rights of life and also their right to property and other fundamental rights, protection from arbitrary actions of the instrumentality is of the state, people seeking protection

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<sup>15</sup> PTI, *“Coronavirus has Forced Courts to Rethink on How to Function: CJI”*, Financial Express (July 3<sup>rd</sup>, 2020, 3:20 AM), <https://www.financialexpress.com/india-news/coronavirus-supreme-court-functioning-cji-sa-bobde-covid19-justice-chandrachud/1960592/>.

<sup>16</sup> Id.

<sup>17</sup> Id.

<sup>18</sup> Santosh Paul, *“Courts in the age of the coronavirus: Why courts can’t shut down”*, The Economic Times (July 3<sup>rd</sup>, 2020, 10:50 AM), <https://economictimes.indiatimes.com/blogs/courts-commerce-and-the-constitution/courts-in-the-age-of-coronavirus-why-courts-cant-shut-down/>.

from land mafia and other antisocial elements, children seeking maintenance in matrimonial courts, women and children of foreign nationalities to travel to their home in this hour of crisis.”

2. **“Intensifying Backlog:** Closing down courts will magnify the problem by many folds the backlog of cases. It would also be a serious infringement of the right of the parties to a constitutional guaranteed fair and speedy trial.”
3. **“Shutdown will be Self Serving:** It is important that social distancing demanded by the scientists and doctors requires to be followed. But the fear of the pandemic to completely shut down the courts and thereby deprive access to justice is a move which can only be perceived as the right exercised by an entitled group. People are manning the healthcare centers, hospitals, essential services like electricity, water, sanitation, transportation of food and materials into the areas of human habitation across the country, policing not to” “mention the Armed Forces. To claim complete protection for ourselves at the cost of millions of litigants would be viewed and perceived as self-serving.”<sup>19</sup>

## V. WHAT CAN BE DONE?

- **“E-Filing with Written Submissions”:** Often an exchange of oral arguments is necessary for admission purposes. In the experience of lawyers on record and filing advocates, there cannot be a worse nightmare in the current system than that of E-filing. This process often eats up hours of labor. This makes the entire arrangement disadvantageous and the required social distancing becomes futile. Hence, the system of paper filing needs to carry on until a user-friendly e-filings procedure is introduced.
- **“Email Queries and Responses from Bench”:** Situations might arise when the courts require a reply on certain definite issues. In such instances, limited oral-hearing or even uncertainties can be emailed to the lawyers and/or clients. And the same can be responded to via email.
- **“Video Conferences Replacing Arguments in Courts”:** Significance of oral arguments cannot be repudiated. As most aptly put by Justice William Rehnquist, “Oral arguments offers a direct interchange between court and Counsel... Probably the most important catalyst for generating further thought... Justices of the United States Supreme Court have almost unanimously agreed that effective oral advocacy is one of the most powerful tools of the professions”. Undoubtedly,

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<sup>19</sup> Id.

the same will be restricted to the urban areas where there is the required infrastructure for this methodology.

- **“Partly Heard Matters Disrupted by Roster Changes”**: There are numerous partly-heard matters which get disrupted in the courts simply because of the repetitive variations in the roster. A lot of these matters are on the brink of completion when the benches change. In the current situation where time is of the essence, roster fluctuations should not affect partly-heard matters. This also entails the objectionable and wholly redundant overcrowding of the courts once again by the same pairs of advocates and disputants.
- **“Written Arguments where Technological Innovations are Impossible to Operate”**: there are numerous courts in different parts of the nation which are not expediated with sufficient internet connectivity or the necessary communications facilities. There exist challenges for the legal fraternity, many of which may not be pally with the current-day technological advancements. The transition may be gradual in some parts of the nation than others. Written arguments can serve as alternate technological inventions till they become effectively implementable.<sup>20</sup>

## VI. THE REFORMATION OF LEGAL CULTURE

The menace is lethargy of entrenched stakeholders i.e. Bar Associations, law firm equity partners, tenured law school faculty, general counsel, regulators, and the judicial system. Their equilibrium is entrenched in legal culture, antiquated, structural, self-regulation, economic, and delivery paradigms and hubris. The legal profession which until recently has been tantamount with the industry, has been assimilated to respect precedent, evade making mistakes, and adapt to an inward-looking, consistent, conventional, risk-averse, culture that endorses the myth of its exceptionalism.

Law has countered the past catastrophes with distinctive caution, endurance to material change, and an anticipation of return to status quo. Those economic depressions produced short-term industry belt-synching and superficial change. They did not uncover the industry’s systemic Achilles’ heel or trigger swift implementation of new operating models. COVID-19 is different. It has casted an unforgiving light on the obsolete justice dispensation mechanism. In hardly any time, law schools have turned to online learning, minor flaws in the partnership model law firms have converted to discrepancies. Covid-

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<sup>20</sup> Santosh Paul, “Courts in the age of the coronavirus: Why courts can’t shut down”, The Economic Times (July 3<sup>rd</sup>, 2020, 10:50 AM), <https://economictimes.indiatimes.com/blogs/courts-commerce-and-the-constitution/courts-in-the-age-of-coronavirus-why-courts-cant-shut-down/>.

19 has mobilized the potential of unactualized tools and alternate work patterns long forborne by the legal institution.<sup>21</sup>

*“Is law’s present its future?”*

The delineations of the post-Covid industry are yet to be molded, but a dilemma arises that Covid-19’s legacy will survive its cure. To scrounge from “T.S. Eliot’s *The Journey of the Magi*”, the legal institution is “no longer at ease here, in the old dispensation –it has witnessed the birth of new ways of doing things and the death of the old order. The iron grip law’s entrenched stakeholders have long held on the industry has been released.” The question arises that which rudiments of “old law” and legal ethos are here to stay, not whether things will get back to the pre-Covid order.<sup>22</sup>

In *Mark A. Cohen*’s view, published in *Forbes*- “Automation will eliminate many jobs once performed by attorneys, replacing them with new ones requiring new skillsets, mindsets, agility. The industry will accelerate its gradual transformation to a multidisciplinary, integrated, platform-driven, capitalized, data-based, problem-solving, customer-centric marketplace. A handful of elite providers have made that transition at scale and can expect explosive growth from customers in need of safe hands, track records, capital, and infrastructure required to deliver data-backed solutions to complex business challenges that include legal risk. The pandemic will turbocharge industry transformation and change legal culture with or without establishment support.”<sup>23</sup>

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<sup>21</sup> Mark A. Cohen, “COVID-19 and The Reformation of Legal Culture”, *Forbes* (July 3<sup>rd</sup>, 2020, 4:10 PM), <https://www.forbes.com/sites/markcohen1/2020/04/14/covid-19-and-the-reformation-of-legalculture/#21cca59c171d>.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

## CONCLUSION AND SUGGESTIONS

*“How can we do better?”*

The procedure commences with the consumer outlook. The industry will be less self-absorbed and much more consumer-centric. Schools of Law will not be the sole authorities of good students, the marketplace shall be. Legal consumers, not law firms, will regulate the division of labor. Platforms will offer buyers and sellers with immediate, data-led, safe access to resources across various spheres. The discrepancies between different categories of legal professionals will become increasingly distorted, if not meaningless. “Law’s zero-sum mentality, a myth from the start, will yield to an everyone wins ethos.” This will require a cultural restart that will emerge from legal consumers that claim it. The Law Schools must upgrade themselves to prepare law graduates for the altogether changed legal profession.<sup>24</sup>

Once we return to the “new normal”, it is evident that the existing courses will not apply. A public function as crucial as adjudication cannot be dependent on third-party software. The “National Informatics Centre” will have to produce a platform that comprises of features such as video-conferencing and e-filing. To be definite, forming a next-generation justice dispensation mechanism will not be without its obstacles. Although “information and communications technology” is becoming predominant, many people may still comfortable with the new technology. During the conversion, it will be imperative to inspect the current procedures to eradicate severances, so that incompetent processes on paper are not reproduced in digital form. Equally importantly, for the radical transformation to be a success, we will need these three things<sup>25</sup>:

1. “A clear articulation of the guiding principles and vision of the platform to better achieve a quality justice system that can be future-proof against new technologies.
2. A cogent strategy regarding the implementation of the platform’s details.
3. A clear legal framework that will give sanction to the implementing agency to lead the co-ordination of reforms but also protect the interests of litigants.”

The way forward, would also command application of the following<sup>26</sup>:

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<sup>24</sup> Mark A. Cohen, “COVID-19 and The Reformation of Legal Culture”, Forbes (July 3<sup>rd</sup>, 2020, 4:10 PM), <https://www.forbes.com/sites/markcohen1/2020/04/14/covid-19-and-the-reformation-of-legalculture/#21cca59c171d>.

<sup>25</sup> Madhav Chandavarkar, “The Coronavirus Pandemic is an Unfortunate Opportunity for India’s Judicial System to Modernize”, Scroll (July 3<sup>rd</sup>, 2020, 6:10 PM), <https://scroll.in/article/958271/the-coronavirus-pandemic-is-an-unfortunate-opportunity-for-indias-judicial-system-to-modernise>.

<sup>26</sup> CD Staff, “Judiciary in Times of COVID-19 Outbreak”, Civils Daily (July 3<sup>rd</sup>, 2020, 6:40 PM), <https://www.civildaily.com/burning-issue-judiciary-in-times-of-covid-19-outbreak/>.

1. “Overhaul of the entire legal ecosystem to equip the judiciary and legal fraternity, particularly at the district courts with the knowledge of handling technology and use of visual platforms for filing cases, arguments, authentication of documents, presenting evidences etc. It may also require amendments to the Evidence Act, acceptance of e-authentication, e-signatures etc. This also calls for drastic changes in the Indian Criminal and Civil Procedures Acts.”
2. “The legislative underpinning of the courts’ modernization should begin boldly and immediately.”
3. “Importantly, in the entire chain of events, the litigant-common man- should be an active participant and he should be able to see court proceedings through virtual media, get intimation of the hearing well in time, daily rulings not being present in the court.”
4. “The digital platforms should not be subject to hacking, cyber threats and manipulation by vested interests. There should be strong cyber security systems in place.”
5. “Use of technology is not a low hanging fruit. Considerable work has to be done in integrating and linking systems, data, harmonizing procedures, creating digital structures that are user friendly.”<sup>27</sup>

The Judicial system of India has already dealt with multi-faceted issues such as degraded infrastructure and low habitancy of judges even pre-pandemic. Already, justice is anyway not readily available to the underprivileged. Moreover, the uneducated are uninformed of their rights, many often fear approaching the court. Covid-19 has only supplemented the already existing issues and as of now, turning towards technology seems to be the only way. The hon’ble Supreme Court in view of defending its virtual courts system said *“there cannot be divergent views about the fact that justice cannot be spoon-fed. Justice delivery, even at the door-steps of the stakeholders, requires the stakeholders of the ecosystem to diligently discharge their role and duties, prescribed and required in the scheme of things”*.<sup>28</sup>

The pandemic has undoubtedly done unparalleled impairment to the entire world which is why such times call for tough measures. Where conventional means have failed and might seem obsolete, one

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<sup>27</sup> Dr. Lalit Bhasin, “Covid-19 and its Impact on the Legal System”, Legalera (July 3<sup>rd</sup>, 2020, 7:10 PM), <https://www.legaleraonline.com/articles/covid-19-and-its-impact-on-the-legal-system>.

<sup>28</sup> Shikhar Shukla, “Right to Access Justice Amidst COVID-19”, Legal Services India (July 3<sup>rd</sup>, 2020, 7:35 PM), <http://www.legalserviceindia.com/legal/article-2351-right-to-access-to-justice-amidst-covid-19.html>.

must resort to contemporary methods. Hearing of cases over video-conferencing may be inefficient but is far better than a complete shutdown on court proceedings.<sup>29</sup>

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<sup>29</sup> Id.