**OPPORTUNITIES AND CHALLENGES THROUGH VIRTUAL COURT**

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**ABSTRACT**

The COVID-19 pandemic has very certainly been responsible for an economic downturn in addition to a number of other tragedies (like that to the health sector and industrial sector). The country's judicial system has also been affected in a manner similar to that described above. As a result of the widespread shutdown, the Supreme Court of India and almost all of the country's High Courts have been forced to temporarily seal their doors. But isn't there a way to turn this catastrophe into an opportunity? This era of lockdown provides a chance for the Judiciary to have a better developed court system and to increase the usage of technology inside the judicial system. The Judiciary may take use of this opportunity. Getting the Virtual Courts up and running is one of the ways that the courts can relieve some of the weight they are carrying. The purpose of this paper is to provide an overview of the efforts that have been made by the Supreme Court of India and to propose a road map for how the existing Information and Communication Technology (ICT) can assist the Indian judiciary in becoming more technology driven and increasing its level of transparency.

***Key Words:*** *Indian Judiciary, E-Courts Project, National Judicial Data Grid, Video Conferencing.*

**1. INTRODUCTION**

As things stand right now, the epidemic has prompted the government to put a halt to a variety of activities, including labour, transportation, companies, services, and even freedom. The Constitution, on the other hand, cannot have its own provisions suspended. Any actions carried out in accordance with legislative frameworks are required to be in accordance with the Constitution. In spite of this, such implementation of the Constitution is now in a state of uncertainty since India's judicial system has been rendered almost entirely inoperable. There are a few circumstances in today's world that call for the involvement of the Judicial Branch.

For instance, there is an immediate need for a decision regarding the implementation of the constitutional rights to life, health, and food. To successfully challenge the Constitution, one must have unrestricted access to legal counsel and the judicial system. This access is essentially denied since none of these activities is included on the list of activities approved by the state. As a result, the legal industry has been pushed into an overnight transition to digitalization as a result of the epidemic and the subsequent lockdown.

Strangely, the judicial system has also faded into the background in recent years. While the upper courts are considering topics that are considered to be urgent, the lower courts are only considering cases that have been remanded. They have, as a result of their action, given the executive branch significant constitutional and legal space. As an alternative, video-based online proceedings have been put forth as a possibility. However, the achievement of these goals is contingent on the assumption that all individuals have comparable access to rapidly operating technology that is in good working order. The concept also presupposes that all legal institutions have access to the Internet and that judicial personnel are proficient with modern technology.

Due to societal distancing conventions, the Supreme Court of India and other subordinate courts are now hearing cases virtually, which marks a first in the annals of the profession. In point of fact, the Supreme Court of India is working toward the implementation of an electronic filing system, which would result in significant changes to the filing procedures for attorneys. They will be able to file items whenever it is convenient for them and from wherever they are located provided that electronic filing becomes a reality.

Despite the fact that this is the current situation in the courts, even legal firms have successfully implemented modes of remote working in order to continue doing business as usual during this lockdown. This includes holding virtual meetings, briefings, arbitration, and hearings. To begin, this digital revolution will make those who work in the legal industry more open to the idea of incorporating technology into their practises in order to improve productivity. During the third shutdown, for instance, the opening of two online "courts" to hear cases involving traffic rule violators obtained by surveillance cameras is a prime illustration.

The following are the essential principles:

* Access to justice for the masses, technology as an integral part of the rule of law, and making justice "an indispensable service" to the people, as opposed to viewing it as a merely sovereign function, are all factors that should be considered when attempting to establish a connection between technology and the justice delivery system.

As technology is a part of the rule of law in today’s world, our perspective of creating a bridge between the judiciary and technology must be viewed in the context of the practicality of technical access available in India. According to certain data, In India internet revolution has increased drastically between 2017 and 2020, but according to TRAI data, India's internet density stands at 52 percent, with 66 percent of the population residing in rural areas. And also, according to various statistics, internet usage has been developed between 2017 and 2020.

Now that the epidemic has completely altered the course of human history. There is not a single facet of existence that has been spared. This pertains to the operation of the various courts and tribunals as well. The Judiciary is only hearing urgent issues through video conference as part of its Judicial role. A number of papers have been written in this respect, highlighting a great opportunity for the judicial system's information technology infrastructure to be improved so that video conference hearings can become the norm. However, if this action were initiated before the procedural legislation was updated, it would be futile. In the current situation, the Supreme Court has been forced to conduct court hearings via a virtual courtroom due to the breakout of Covid-19 and the country-wide lockdown. The Supreme Court is presently considering a large number of cases at full capacity. The use of various sorts of information technology is the way forward.

**WHAT ARE VIRTUAL COURTS?**

Virtual courts are courting that function via the use of a remote working system with the help of a range of software and other instruments. The goal of this initiative is to eliminate the human presence in courtrooms. This will guarantee that the adjudication of cases is not hampered by the absence of the litigant or the client, as well as any court staff members. E-courts are a subset of virtual courts since they are concerned with the websites and components that are utilised to support virtual court operations. Electronic courts or Virtual Courts is another name of e-courts. Websites, mobile applications, and other types of software that are employed in the process of computerising the judicial system are often referred to as e-courts.

India is striving toward a system in which no personal appearance in court is required to settle legal disputes. After all, it's not altogether wrong to argue that we wouldn't be able to access these courts. If "Virtual Courts" are properly implemented in full swing, then it will guarantee that justice is delivered to its all citizens and persons in a fair period of time with a maximum efficiency without any delay. Let's take a look at all that has been done in our country's judicial system up to this moment.

At the Tis Hazari Court on the 26th of July, 2019, Delhi's first virtual court was introduced to the city. After thereafter, on the 17th of August 2019, the Punjab and Haryana High Court inaugurated a virtual court in Faridabad. This court handles issues involving traffic challans in the state of Haryana. The e-committee of the Supreme Court of India provided the direction that was needed to get this initiative off the ground.

The process that is used in this instance is uncomplicated and user-friendly. The matter is brought before a Metropolitan Magistrate of the Virtual Court, which hears all cases brought before it. After that, a summons is prepared, and it is sent to the accused by either email or text message. After that, the accused person will be able to go to the internet, where, if he enters a guilty plea, the whole amount of the fine will be shown. The matter will be closed without further action on the part of the court once the required fee has been paid. In the event that the accused wishes to challenge the traffic challan, the matter will be sent to the Regular court for processing in accordance with the geographical authority of that court.

The technique helps to speed the disposition of cases, particularly in circumstances in which the accused formerly needed to appear in court even to plead guilty. This was previously required in certain cases. This procedure aids in minimizing the number of people visiting the courtroom.

**3. E-COURTS PROJECT**

The e-committee of the Supreme Court of India was responsible for submitting the "National Policy and Action Plan for Implementation of Information and Communication Technology (ICT) in the Indian Judiciary-2005," which served as the foundation for the commencement of the project. The implementation of this strategy will bring forth technical breakthroughs that will improve the operation of the judicial system. The recommended actions for this project might be broken down into two distinct stages:

The major goal of the project's first phase (which started in 2007) was to kick off the adoption of ICT (Information and Communication Technology) into the legal system. This was done by providing computers, a working internet connection through LAN (Local Area Network), and the appropriate software and hardware to the courts (like printers, scanner, etc).

In addition, all judges were given laptop computers with internet connection, digital signatures were established, and the district court websites were made operational. Citizens may utilise these websites to check on the status of their cases, as well as daily order sheets and final orders.

Phase-2 was successfully implemented thanks to the efforts of the e-Committee, the National Infrastructure Commission (NIC), the Department of Justice (DoJ), the Ministry of Finance, and the Diet. The infrastructure model was revised and computerization was carried out in the offices of the Delhi Legal Services Authority (DLSA), the National Judicial Academy (NJA), the State Judicial Academy (SJA), and the Taluka Legal Service Committee.

Furthermore, a standardised software platform known as CIS (Case Information Software) has been created. All of the court's data, including historical cases, will be transferred to this platform. Video conferencing technology is almost finished being installed in courts and correctional centres. Mobile app advancements include e-Court services for District and Taluka courts, as well as the JustIS Mobile App for judicial professionals. Websites like e-Filing, which enable people to file their cases from the comfort of their own homes, watch the real-time status of their cases, and pay court costs using the e-Pay facility, are examples of Phase 2's accomplishments.

Handwritten registers will be phased away by the end of Phase 2, a cloud-based system will be utilised for all court-related activities, and all cases will be digitized, regardless of whether they are still pending or have been decided.

**4. PENDENCY OF CASES CAN BE DEALT WITH VIRTUAL COURTS**

The number of pending cases in India's many different courts is just astonishing. There is a segment in the Economic Survey for 2019-2020 that is devoted to the pending lawsuits about taxes and revenues. According to the survey's interpretation, the solution to the issue is to increase the number of courts and judges. On the other hand, the already available infrastructure is being leveraged in a very inefficient manner. There are several tribunals, such as the Income Tax Tribunal, that only operate for half a day the majority of the time.

To make things even more difficult, the majority of courts are closed for the holidays and over the summer. The effectiveness and productivity of judges are not subject to scrutiny. Due to the exorbitant expense of legal representation and the arduous nature of the court system, many of Indians are prevented from accessing the judicial system. It is a known truth that personal hearings are not required for the majority of tax disputes. After the first authorities have recorded all of the facts, tax matters go on to the tribunals and higher courts. Both the High Courts and the Supreme Court are responsible for resolving questions and interpreting the law respectively. The need that attorneys on both sides be present in court at the same time is one of the judicial system's most annoying quirks. The proceedings in court cases are often postponed for a variety of reasons. It is within this framework that we provide our argument for the establishment of a virtual judiciary.

According to data from the National Judicial Data Grid (NJDG), there are now over sixty thousand unresolved cases at the Supreme Court, as well as 45 lakh twelve thousand eight hundred cases pending in various High Courts. The number of unresolved cases in district and subordinate courts has surpassed two crores, a rise of 80 percent over the previous year's figure.

In addition, in order to resolve these matters, at present there are 34 judges in the Hon’ble Supreme Court, and 1079 Judges in different High Courts, and 390 Judges posts are vacant in High Courts. And there are now 22,667 Judges working in district and subordinate courts, despite the fact that 6000 judicial positions remain unfilled.

Because of the lengthy appointment procedure for judges, there is almost always at least one judge position that is vacant. This is an ongoing issue. In spite of everyone's best efforts, the proportion of the population serving as judges in our nation has not yet reached the target level ie., Sanctioned Strength, which is the same as it is in other developed countries. The attempts to reduce the backlog of cases in the courts, however, have not yielded any fruit.

Infrastructure has been enhanced across the judicial system, beginning with the Supreme Court and its working in way down upto the lower courts. The Informix training and orientation programme is designed for the judges to ensure that they are up to date with the most recent developments of the new laws that are about to be enacted. Since the middle of the 1990s, the use of information technology has failed to provide the results that were anticipated, and more crucially, the focus has shifted away from traditional courtroom litigation and toward other methods of conflict resolution and reduction. In spite of all of these efforts being done at different levels, we have not been successful in lowering the pending cases for decades.

This situation with Covid-19 was both a blessing and a disguise in the sense that the use of Information and Communication Technology (ICT) in the courts previously consisted primarily of the computerization of the courts, the listing of the cases as they were from the computer, the posting of the judgments on the internet, and the filing of petitions via the internet as well. All of these procedures were carried out online. Because the majority of the advocates were opposed to holding the hearing via virtual courts, the hearing did not take place. This was one of the issues that led to the delay. Another reason why it did not happen is that there were technical issues that prevented people from having a sort of trust that should be built among litigants over the operation of the virtual courts. This was another reason why it did not happen.

We should be grateful for this new opportunity, which the judiciary has grasped, and the Supreme Court, following the Covid-19, issued an order directing all High Courts and District Courts to frame a mechanism for using technology during the pandemic, while exercising its powers as enshrined in Article 142 of the Indian Constitution. The Supreme Court issued its direction Suo Moto in line with Article 142 of the Indian Constitution, which affords it plenary powers.

Therefore, even in the Covid-19 scenario, when physical and social distancing became extremely vital, but then the courts were not shut down due to lockdown and to prevent the spread of covid the court came up with a different mode like avoiding the physicial presence of litigants and all other staffs, and it was necessary to maintain this distance. To create a sense of social distancing, the Supreme Court decided to hear its sessions through virtual courts that was effective from March 25, 2020. This process change is part of the court's overall shift towards the increased use of technology in Courts.

As the COVID-19 epidemic quickly spread without any prior notice, the Supreme Court took preventative measures such as restricting the appearance of different stakeholders, sterilizing court buildings, conducting temperature checks at court premises, and other similar measures. As soon as the lockdown was declared, it became abundantly clear that court operations had to go on as normal since the criminal justice system cannot be brought to a stop under any circumstances. As a result, working of courts was permitted since it was an supreme need.

However, a pandemic-induced economic lockdown may lead to a decline in the volume of business cases filed. However, this can ultimately result in an increase in criminal cases, which might cause delays in the questioning of witnesses, the interrogation of suspects, and, most crucially, the liberty of those accused who are imprisoned as they await trial for a longer period of time. The Supreme Court opted to extend the statute of limitations in these instances because the conclusion was predictable.

It's important to stress that a welfare state must actively participate in the public health emergency caused by the coronavirus epidemic. Civil, criminal, and constitutional courts have the duty to uphold individual rights, uphold governmental accountability, and advance the rule of law regardless of the state's policy decisions.

**5. OPPORTUNITIES IN VIRTUAL JUSTICE DELIVERY SYSTEM**

It's feasible that procedures like conducting arbitrations online could one day become the norm. The use of cutting-edge technology tools, a higher level of adaptation, and the least amount of time and resources required will make virtual arbitration an enticing option for both parties and arbitrators. In order to increase efficiency, the Supreme Court is committed to the idea of moving filing to an electronic format. Justice DY Chandrachud, the Chairman of the Supreme Court e-committee, is serving as the leader of this endeavour. The courts of the future may choose to hold some sessions in private while holding others in public in order to maximise productivity without compromising the public's ability to access justice.

This Virtual Court was a wonderful gift to all of us, and it will surely help us reduce the backlog of cases by using artificial intelligence (AI), as well as by saving time for litigants by reducing the amount of travel time they would have had to spend. Instead, the litigants will be able to present their cases from the convenience of their homes, and they may even be able to do so in two or three courts at once. For all attorneys, it is both a blessing and a curse for the following two primary reasons: access to all courts across the country, which permits attorneys to appear wherever they choose, and the realisation that accessibility to justice has at last arrived.

The current problem with Covid-19 presents new difficulties for the Indian Judiciary to deal with. It would be irresponsible of us to delude ourselves into thinking that the effects of Covid-19 would only last till the national lockdown is implemented. We cannot allow ourselves to be so foolish as to believe that there will never be another epidemic in the future.

Is this not an ideal time for the Indian court to break free of the shackles of the antiquated paper and records system and initiate a comprehensive reform in the way justice is administered in order to better serve the interests of litigants? How much longer will the courts be able to stay closed and act as if they have no opinion on the escalating injustice? If we were given a little window of time for some absolutely critical tasks, do you think that would help us get over this dreadful tide?

At the moment, the various courts make use of a variety of apps on a "try it and see" basis. The Supreme Court use Vidyo, the Kerala High Court utilises Zoom (despite the fact that the Central government has recommended that it is not a secure platform), the Karnataka High Court seems to have constructed its own in-house video conferencing facility, the Delhi High Court utilises WebEx, etc. The utilisation of technology and the consistent use of that technology across all levels of the judicial system is an absolute need in this day and age.

**6. CHALLENGES IN VIRTUAL COURT SYSTEM**

Due to the fact that litigants are unable to receive justice via the process of virtual courts because of bad Wifi and other technological issues, we cannot expect a meaningful hearing to take place during this procedure. Under the current conditions, the virtual courts may seem to be a must; but, it goes without saying that there are a whole bunch of bugs and deficiencies in the way that they are being implemented at the moment.The procedure of electronic filing is fraught with uncountable problems.

The use of cutting-edge technology is another factor that will drive up the price of e-courts, since putting up modern e-courts would need the use of such technology.

1. ***Hacking and Cyber security***

When it comes to technology, cyber-security will be an extremely important topic of discussion. The government has taken corrective actions to address this issue and has developed a plan to improve cyber security, although the approach focuses mostly on adhering to the standards that have been recommended. The use of the same in a realistic and practical setting has not yet been determined.

1. ***Infrastructure***

In the majority of the Taluk and Villages, there is a deficiency in the infrastructure, and there is neither power nor internet access available. This might lead to difficulties. Electricity connections are required, as are computers, in order to guarantee that justice will spread to all areas.

1. ***Maintaining e-record***

The paralegal staff does not have the necessary resources or training to successfully manage document or record evidence and to ensure that it is easily available to the litigant, the council, and the court. Consequently, they are unable to do so efficiently.

Last but not the least, court hearings that take place online are not the same as those that take place in a traditional setting, when you stand in front of a microphone with your adversary standing by your side and the judge sitting in front of you, closely observing what you have to say. The fundamentals have not changed, but the peripherals have, and this presents a challenge for many attorneys who are trying to get up to speed.

**7. RECENT DEVELOPMENTS**

In order to prevent any sort of gathering in Court, Justice SA Bobde, then Chief Justice of India, addressed the usage of video conferencing on March 15, 2020, while serving as the meeting's chairman. This move was made to contain the COVID-19 outbreak and lessen the impact it would have on the functioning of our country's judicial system.

According to a statement made by Justice DY Chandrachud, who also serves as the head of the Supreme Court's E-committee, e-filing is now available 24/7, and court sessions will also be held via video conference. These modifications were made in an effort to promote social remoteness and do away with the requirement that attorneys being present in person during court proceedings.

In the past, it was believed that a complete shutdown of the highest courts was physically impossible. However, the courts have finally been successful in implementing a complete lockdown that lasted for some weeks in order to stop the rare coronavirus from spreading any further.

We are not making a false claim if we claim that the progress and technological development would not have been possible without the occurrence of this crisis. Whatever the case, there is a good likelihood that the work was already underway and in the planning stages; however, the implementation of this "virtual court" system has gained momentum as a direct result of the spread of this dreadful virus. There doesn't seem to be any logical reason to change the choice to set up online courts once the outbreak is finished.

**8. ADVANTAGES AND DISADVANTAGE OF ONLINE COURTS**

1. ***Advantage***
* When implemented properly, a full-fledged online court system would help reduce or perhaps even completely eliminate the costs related to maintaining a court, including those related to its personnel, infrastructure, and security, among other things. The process will be more cost-effective because the parties involved won't be required to appear in court personally, which will reduce the amount of time spent travelling.
* Increased accountability and better administration in the running of the legal system would arise from the use of digitization and computerization in the institutions. The video conferencing feature that was added to courts to stop the spread of COVID-19 has assisted in redirecting traffic away from physical courthouses and moving it to virtual courts with the use of remote video technology. This has, as we can clearly see, assisted in reducing the proliferation of COVID-19 in the courts.
* One of the most important advantages we will experience is the court's flexibility to operate day or night. There is a substantial backlog of cases in the court system, and the delay in the administration of justice has directly impacted the public's impression of the legitimacy of the judicial system. As a result, the procedure will be accelerated and case adjudication will be possible in a manner that is time-constrained.
1. ***Disadvantages***
* Everything has both advantages and disadvantages. The alleged "virtual courts" in India can be compared to this. It is conceivable that there are no potential negatives to this plan and that it appears to be the most efficient and practical way to progress and strengthen the legal community in India. But that is not the case right now. where only some authorized users are allowed to access the virtual court. Whereby the basic principle of transperancy itself falls into a question.
* There will be a variety of legal issues to deal with, including those concerning the application and validity of the identification of witnesses, evidence brought in front of the court, and other such matters. Even the secrecy of the legal proceedings will be put at risk due to the fact that, in the end, the entire setup will involve the utilisation of technology in addition to a variety of other software and tools, all of which have the potential to pose some risks in relation to the data's security and privacy.
* In addition, there are 24 High Courts, more than 600 District Courts, and several other subordinate judicial institutions in India, which presents another practical challenge that is unique to India. A significant amount of capital would be required to cover the expenses associated with the initial configuration and installation of necessary components. In order to transform the legal system into a successful "virtual" environment that can be worked from a distance, it is important to both invest in new technology and upgrade existing courtroom infrastructure.
* Aside from this, the following crucial issue is left unanswered: Will improved justice administration efficiency result in a drop in the quality of that justice? We must take appropriate steps to make sure that the swift administration of justice does not undermine either of those qualities. Because having a more effective legal system requires that everyone have access to technology towards the creation of "virtual courts" in many states.
* Aside from this, the following crucial issue is left unanswered: Will improved justice administration efficiency result in a drop in the quality of that justice? We must take appropriate steps to make sure that the swift administration of justice does not undermine either of those qualities. Because having a more effective legal system requires that everyone have access to technology towards the creation of "virtual courts" in many states.

**9. CONCLUSION**

We have concluded that we can be certain of the following after completing a detailed study into all of the pertinent factors: Every crisis does really present a fresh opportunity and a chance to develop and better ourselves as well as a chance to arm ourselves against difficulties and hindrances that may come our way in the future. The situation with India's introduction of "virtual courts" was the same.

After conducting an in-depth investigation into all of the relevant factors, we have reached the conclusion that we can be certain of the following: Yes, Every Crisis Does Bring a New Opportunity. A chance to grow and improve ourselves, as well as an opportunity to fortify ourselves against challenges and obstacles that may lie in our path in the future. The situation was the same with regard to the development of "virtual courts" in India. Earlier, we posed the issue of whether or not this future is "near."

To do this, however, we must not lose sight of the challenges that lie ahead of us and the ways in which we could surmount them. India still lacks a fully operational system of virtual courts as a result of a number of sporadic holes in the mechanism for their implementation. The National Legal Data Grid (NJDG) was found to be outdated by numerous different district and subordinate courts, which runs counter to the idea of having accountability for how the country's legal system is operating.

Additionally, there are instances when we separate the judiciary from the rest of the legal profession. The whole of our country's legal society consists of litigants, law firms, judges, and all other staff members who work in this area. Additionally, for one institution to develop and thrive, it is crucial for the other institutions to also advance.

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