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E-COURTS: “ A POSSIBLE SOLUTION FOR PENDING LITIGATION AMID COVID-19? ”

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The pandemic of COVID-19 has severely affected functioning of various business activities across the globe and has posed a threat to legal services. The risks to legal services posed by the spread of COVID-19 were highlighted a few weeks back when international law firm Baker McKenzie closed its London office after a staff member was suspected to have been at risk of contracting the novel coronavirus. In order to prevent the spread of the menace, people began to refrain from stepping out of homes adhering to guidelines issued by authorities. In the legal fraternity, although lawyers have begun to work from home, impact of the pandemic on the conduct of litigation needs to be seen?

The coronavirus outbreak has already had an impact on the conduct of legal business around the world. In Milan, Northern Italy, where a particularly large cluster of infection has occurred, at least ten law firms have shut their offices. No part of the world has been spared by COVID-19 and the impact of this pandemic can also be witnessed in most of the Indian States, which has eventually led to the complete lockdown throughout the nation to curb the spread of this menace.

The pandemic of corona virus has severely affected the functioning of courts and litigation. Traditional courts require the attendance of judges, court staff, attendance of litigants or at the very least, the lawyers representing them. Apart from the above, witnesses are often required to attend the courts to give evidence. But in recent years an increasing number of civil hearings, particularly at an interim or preliminary stage, have been conducted wholly or partly via telephone or video links, and it has been possible to conduct even substantive hearings by video-conferencing technology without anyone being present in an actual court room. Contemplating over the pros & cons of the situation, it can also be visualized that cross-examination through video-conferencing would have its own ramifications raising dubious thoughts on the veracity, sanctity & testimony of the witness. But, of course, it's a panacea in the meanwhile to proceed with the other stages of a case in the realm of litigation.

Can we do the same here?

It is evident from the Chinese Internet Courts set up in Hangzhou & Guangzhou that the Chinese are using online hearings to deal with both criminal and civil matters during the coronavirus epidemic. The establishment of China's online courts has now become one of the several pioneering developments in the field of litigation. What emerges is that the temporary relaxation of procedure through the video conferencing will cover criminal as well as civil litigation, and in that sense go much further than was envisaged for the initial development of online courts.

Considering that the epidemic may last for some time, the Supreme People's Court, ordered at all levels to guide litigants to file cases or mediate disputes online, encouraging judges to make full use of online systems for litigation, including those for case filing & ruling delivery, to ensure litigants and their lawyers get better legal services and protection. Another platform adopted was usage of 'mobile micro court' on the social media in 12 provinces and cities to help courts conduct trials on the internet. As the adage follows that necessity is the mother of invention and may in this instance also be the father of better innovation and that might just boost the 'can-do' spirit of infrastructure development.

Developing an analogy and taking cues from the instances of foreign nations, we can also seek to devise a mechanism for developing the functioning of courts & litigation despite the closure and inability to physically attend the same & concomitantly continue to function despite the yellow peril of corona virus. From the Indian perspective, this would require developing the e-Courts in such a manner that the judges & lawyers can conduct the proceedings through video-conferencing. The Hon'ble Supreme Court of India has also taken an initiative in this regard, issued guidelines and embarked on the adoption of video-conferencing for hearing matters listed for final arguments.
