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● A DOSE OF REFORMS

Corona crisis prompts reimagining of justice delivery

The corona shock poses questions for most existing structures, including delivery of justice.

Use disruptive technology-led solutions to flatten the curve for access to justice and, over time, reduce the stress on courts

THE RAPID ONSET of the Covid-19 pandemic has been a shock to most existing systems and structures. This is apparent even in the delivery of, and access to, justice. These are times unlike any other, and extraordinary measures are being taken across the world. The Supreme Court of the United States has, for the first time in a century, indefinitely closed its doors to oral hearings. Entire continents are in virtual lockdowns, and systems are under strain. For the Indian justice system, disruption through technology will be key. With the pandemic, deployment of technology is necessary in the short term, to ensure social distancing in courtrooms. In the long term, it will

be even more necessary, to ensure distancing norms, and to help reduce pendency and burden on the courts. This is crucial to make positive inroads into the staggering number of matters pending, which are in excess of 3.5 crore.

This will ensure that access to justice and efficiency of dispute resolution in India is forever altered. Significant work has already been done to harmonise technology, innovation, engagement, and frameworks. It is merely a question of getting into mission mode to expedite reforms, and move from dialogues toward immediate action.

Decriminalising minor and petty offences

Today, authorities globally are using their discretion to differentiate between petty, non-violent crimes and other crimes so as to reduce the number of imprisonments, and therefore mitigate the risk of community spread. In this regard, the Government of India's ongoing effort to decriminalise minor and petty offences by making them compoundable remains visionary and citizen-friendly. Recently-enacted laws are also working with this concept, as well as enabling innovative options such as class action suits to help reduce the volume of lower-value matters reaching the courts as individual lawsuits. Enabling groups of petitioners with compiled grievances to jointly file suit will streamline the cause of action, and lower the number of matters filed, helping reduce the burden over time. For ease of doing business, with protection for bona fide decisions, the decriminalisation of certain offences will go a long way toward increasing investor confidence. This is supported by the repeal of more than 1,500 archaic and redundant laws thus far.

Virtual courtrooms: Role of technology

In the near future, technology can no longer just be a support, but must also be an enabler of justice for those who haven't been able to easily access it until now. A framework for the development of virtual courtrooms and remote hearing centres that enables all concerned, including the judges, to operate remotely and efficiently was perhaps due even before the pandemic, which has turned it into a necessity. Also, the required and growing role of e-adjudication and technology-led dispute resolution not only ensures remote solutions in these times of social distancing, but also maximises efficiencies, reduces costs, and enhances convenience for citizens at large.

AI, for aspects not related to objective and discretionary decision-making, has significant potential. ROSS, an AI solution for legal services, is said to have launched a revolutionary contextual search technology, which actually enables lawyers to research 80% faster. India, too, has innovators in this space for case-law research and litigation support, with potential for achieving scale. This is a major pivot for support services in the legal and judicial ecosystem. A conversation between service providers and dispute resolvers could help add cohesion-led problem solving, with the option of imminent scale.

Relying on data

An important first step from collaboration would be to help ensure the downstream usability of reliable and verifiable data. The data could be generated from filings, judgments, and related docu-

ments to assess and analyse the efficiency impact. Machine-readable laws will also help. By standardising inputs in a way that are technology-adaptable, analysis will be possible with a large data set and, presumably, more reliable than anecdotal evidence generated through current data-gathering and analysis. Technological tweaks to help data could perhaps, in future, be analysed for identifying under-trials who have already served their term waiting for a court date in the case of petty, non-violent offences. Augmenting reforms, both legal and judicial, with technology interventions could perhaps help unclog prisons and courts, assess efficiency and streamline access to data and result in better case-flow management for judges.

Continuing legal education for qualitative improvements

The legal fraternity can also help in increasing capacity and capability to help the most vulnerable. Widening the importance of continuing legal education can help streamline and update knowledge of processes and laws for all lawyers practising across the various tiers, bringing qualitative improvements. Virtual classrooms for these can allow pan-India dissemination in a cost-efficient manner. A concerted drive can also be initiated to improve processes for legal aid, including through a broad-based pro bono initiative to help those who need it the most.

The time for disruptive reform is now

The Supreme Court, to its credit, has been increasingly progressive in recent times. Successive Chief Justices of India have expressed their willingness to evolve the judiciary into a technology-friendly landscape. Chief Justice SA Bobde in particular has welcomed the use of AI and machine learning for non-invasive aspects, to enhance efficiency in judicial functioning. In fact, the court as a whole has been open to innovation and cognisant of the need to change the status quo. The e-Courts project, and aligned initiatives, are indicative of that mindset. But, now, novel technology-led ideas should be initiated as pilots, and pilots should be rolled out widely, without further delay.

Technology-led solutions will help flatten the curve for access while, in the long term, reducing the stress on courts. There will, as with all disruptors, be a learning curve, and longer-term implications in providing a sustainable framework. Continuous dialogues will help bridge many of those gaps. Positive, visionary responses to emergencies define institutional legacies. There will be no better time for disruptive changes to be introduced for the long-term good.