



***Supreme Court Issues Guidelines for
Videoconferencing***

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In a matter that has been taken up by the Supreme Court suo motu, certain guidelines were issued for functioning of courts by means of videoconferencing amidst the COVID-19 crisis. A bench comprising Chief Justice Bobde and Justices Chandrachud and L. Nageswara Rao emphasised on the need to maintain social distancing in light of the pandemic and stated that video conferencing and its modalities are an important step for ensuring rule of law and to preserve the Constitution.

The guidelines laid down by the Court are:

- Courts shall have the power to restrict entry into courtroom to maintain distancing. However, the presiding officer shall not restrict entry of the parties to the case unless the parties are suffering any health problems.
- Any complaint on videoconferencing quality shall be made during, or immediately after the hearing. No grievance regarding the quality of the video or video feed shall be entertained afterwards.
- Until such time as rules are framed by High Courts with respect to videoconferencing, evidence shall not be recorded by videoconferencing unless agreed by both the parties. Once rules are framed, District Courts shall adopt videoconferencing in accordance with rule framed by the respective High Courts.
- Presiding Officer can prohibit entry into courtroom and shall also possess the power to restrict gathering.
- Courts shall make appropriate arrangements for litigants who cannot access video conferencing facilities.
- All courts shall maintain a helpline for grievances regarding video feed, during and immediately after the hearing.

Justice Chandrachud, who is also the Chairperson of the Supreme Court E-committee, emphasised the need for prompt measures during the time of crisis and commented that the use of technology must be institutionalized even after the lockdown is lifted and normalcy is restored. The E-committee had also discussed the possibility of live streaming of court proceedings held by video conferencing but based on an assessment of technical issues like availability of bandwidth and dedicated servers, it was felt that the recordings should be hosted on court websites by the next day to ensure that people have access to the proceedings. An e-filing module is also being developed by the Supreme Court which is in an advanced stage of development and may be used during the lockdown.

The current force majeure situation and the interruption it has caused to the justice delivery system is far from desirable. Especially in a country like India with its already over-burdened judiciary and litigants languishing for years for their matters to come to a finality, the lockdown has only put things behind the clock. In hindsight, a judicial system that functions with equal facility, electronically, would have controlled the damage to a great extent. Understandably, the present crisis was not in foresight. But a crisis should not have been the cause for judicial systems to be more aligned to technological advancements. Instead of a matter of preparedness and a lesson going forward, this should have been a matter of course and in keeping with India's celebrated image of a global IT hub!

Interestingly, the English justice system was quick to respond to the Covid-19 crisis. On 22 March 2020, an insertion was made to the Civil Procedure Rules in England, popularly called the 'White Book'. The HMCTS (Her Majesty's Courts and Tribunals Service) issued a temporary COVID-19 Protocol, in Section AA of Volume 1 which inter alia, provides guidance to the courts and parties on the carrying out of remote hearings. The Protocol also provides practical guidance as to how the hearings are to take place and the manner of conducting such hearings so as to make them compliant with the principles of open justice. In practice, a large number of hearings are being conducted in England by telephone or video-link during the lockdown.

Unfortunately, Indian court systems lag far behind in this respect. The guidelines issued by the Supreme Court are a welcome step which will not only ensure the safety of litigants and citizens in general but may also lead to technology being extensively used by the court even after the crisis is over, resulting in a greater access to and speedier delivery of justice.