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# **EFFECTS OF PANDEMIC ON THE WORKING OF CRIMINAL LAW.**

AUTHORED BY - SHREYA SHARMA.

On March 11, 2020, the world as we knew it was irrevocably changed. On this day in 2020, the World Health Organization (WHO) proclaimed a pandemic of the COVID-19 infection and urged governments worldwide "to take prompt and vigorous action" to stop the disease's spread. Many governments responded by declaring a state of emergency, closing their borders, and taking other measures to limit citizen-to-citizen communication. The whole scenario of this pandemic had impacted the life and limb of our system of Criminal Law across different nations.

The pandemic was responsible for the rise in certain crimes whereas reduction of other crimes as well which we will talk about in this paper. With crime comes the procedure for dealing with every crime that has been committed and the skeleton of this framework was altered by the use of technology which is in use even today as it has now become a part of the system. To that end, federal and state officials are creating a number of protocols and enacting a wide range of policies. On March 25, 2020, the Indian government instituted a nationwide lockdown that would last for 55 days in an effort to reduce the spread of the illness. Since actual hearings and regular court hearings in the congregational style were not possible during the Covid lockdown, video conferencing became the primary method of communication for the courts. The district courts have heard 1,68,47,529 cases since Covid shutdown began, while the High Court has handled 76,62,243 cases (totalling 2.45 cr) up until November 30, 2022, utilizing just video conferencing. This is a huge acceptance in the nation of India and it continues to be so.

Lockdowns in several countries due to a global epidemic have disrupted all aspects of life for a time that is still unknown. Distancing oneself from others socially has become the most effective tool for controlling the spread of this extremely contagious virus. On the other hand, numerous businesses around the world have been radically altered as a result of these socially detached instructions.

Pandemic as we all recall has caused a series of drastic changes in different sectors of the world wherein the scale of criminal activities falls in the same domain which changes the whole face of

our criminal law and its working. A person's daily activities have stopped because of the unprecedented health threat posed by the COVID-19. A nationwide lockdown was declared to ensure isolation. The Indian judiciary, like any other institution, has discovered a way to adapt to a changing environment, and one such adaptation is the use of virtual hearings to enable access to justice. The preposition of virtual hearing has happened in the case of Praful Desai, 2003 as a virtual hearing was considered enough to comply with Section 273 of CrPC. However, this process took a new turn during the pandemic and became the only means to justice in India.

## **Criminal Justice System and the Pandemic**

The systematic impact of the drastic changes brought about by Covid-19 is obvious and significant, but it has not yet been completely recognised. Legal aid was not considered mandatory during the lockdown, therefore only a few of "virtual" courts were allowed to function. Access to legal counsel, bail, or a competent investigation became nearly impossible since virtual courts only took on "urgent" situations that had not been clearly defined. Lawyer and family visits to prisons were also restricted because of the outbreak.

Back in 2020, In a letter to the judge of India's Supreme Court, the Bar Council of India requested that, beginning June 1, all courts in the country resume holding physical hearings. The council said that "95 percent of lawyers and advocates were unfamiliar with technology; few lawyers had access to virtual courts; and the fraternity was briefless or without jobs." Even after the implementation of virtual conferencing, the internet and connectivity issues took place which led to neither proper functioning of the courts nor the bail petitions could proceed. There were almost 36 million cases and this virus had created a further backlog in our justice system.

In the United Kingdom it was noted by their Chief Inspectors that large amounts of changes were made at every step of their system. There were not less than 53,000 cases that were left unheard and rest were scheduled for 2022. Chief Inspector of Probation Justin Russel said: "This backlog concerns us all and has a negative impact on victims, witnesses, prosecutors and defendants". Ultimately it led to hoarding of cases, although cases were being piled up still. It was one of the worst backlogs faced by different countries across the world.

While we consider the status of some northern states of India, for instance, Haryana, there were no FIRs registered in the stations, it was really hard to believe that not even a single complaint

could make it up to the records. District administration used to provide instructions to the police regarding the necessary actions to be undertaken by the police of their local areas. These actions involved prevention of those shops which are not related to ration or medics. The Deputy Commissioner instructed the SHOs for the same and considering the timings which were fixed to purchase vegetables every day was 7 a.m. to 9 a.m. in the morning, after the allotted timings the local police of those areas would keep a check for shutting down those shops and prevent the public gatherings altogether. Since this used to take place on a daily basis, more police officers were on the field work rather than the police stations because no one would come and report any kind of problem in the station anyway.

Another aspect that took place during the pandemic was granting of bail became easier.

Criminals who were sick or have committed peripheral crimes were granted bail to prevent the spread of corona in the jails. This was a concern due to the overcrowded prisons. Prison is "mainly for punishing convicts, not for keeping undertrials," the Delhi High Court stated during a hearing on a case related to the religious riots in India's capital in February. A disturbance that resulted in one death and more than a dozen injuries took place on March 21 in Dumdum Central Prison in Kolkata, in eastern India, four days before India declared its lockdown.

Inmates reportedly expressed displeasure with the administration's decision to postpone court proceedings and cancel meetings with family in order to prevent the further spread of COVID-19. For heavy crimes like Murder, Rape, Dacoity etc., the provision of sending the culprits behind bars were undisturbed but for other complaints regarding theft, imprisoning was avoided.

According to the High Court of Karnataka, For the next month, the Court has ordered that any eviction, dispossession, and demolition orders issued by the Supreme Court, the District Court, and the Civil Court be put on hold. With regards to the criminal justice system, the Court has ordered that any bail or anticipatory set to expire during the lockdown period will be automatically prolonged for one month.

## **Criminal Activities during the COVID-19 Pandemic**

As a result of people staying indoors more often, crime rates have dropped significantly over the world. The most dramatic reduction in crime occurred in Delhi and Karnataka, where a 21-day

internment or lockdown was imposed and crime rates dropped by half. Analysts caution that during the lockdown time, cases of cybercrime and domestic violence may have increased and many may not have been reported, even as crimes like theft, murder, and rape have decreased. In 2020, there will be only one-third as many crimes as there were in 2019, when there were 3,416. Compared to the previous year, when there were 144 allegations of molestation against women, there have been 72 so far in the year of 2020. Kidnappings fell from 259 to 150, and thefts from 110 to 53, both at a significant rate of reduction. Down from 2,021 to 1,244 were motor vehicle thefts. The increased citywide security measures are having an effect. The rate has also been lowered through the tried and true methods of securing the city's borders. Since acquiring drones, the Delhi Police have been able to monitor even the most minute of movements, allowing them to crack down on any and all irregularities. A food courier was recently the victim of a robbery. Most perpetrators of such actions are found to be well-educated individuals with previously spotless records. When questioned by authorities, they admitted that they were unemployed and struggling to make ends meet.

#### Domestic Violence:

Domestic violence rose rapidly during the strike of pandemic. 1 in every 3 women was abused under domestic violence. At the outset of the lockdown, the NCW had received 257 reports of crimes committed against women. Of these, 69 were related to domestic violence. The majority of reported incidents of domestic violence (DV) during lockdown occurred in Punjab, as stated by the NCW president, and all other incidents were reported via email.

There may be more occurrences because nobody can use lockdown. According to the special women's support bench, substance abuse and alcoholism are major factors in the development of cases of physical and mental torture committed by wives and relatives. The present is important, but one's mental condition is also quite influential. The psychological toll of domestic violence is often underestimated, but it may be just as devastating as the physical harm it does. It causes tremendous heartbreak, terrifying dreams, and new societal norms. Domestic abuse and child molestation can become more common as people stay home to avoid spreading the COVID-19 virus.

#### Economic Crimes:

Approximately 85–115 million people globally are currently experiencing extreme poverty and

unemployment as a result of the COVID-19 pandemic, with projections indicating that this figure could reach 150 million by 2021, marking the first increase in extreme poverty cases worldwide in two decades. A study examining crime rates across different phases of the COVID-19 lockdown in Bihar, an area with the lowest police-to-population ratio in the country, found a rise in economically motivated crimes in regions designated as red zones, likely due to widespread job losses and business closures. Instances of fraud include impersonation of public officials, phishing schemes to obtain financial or personal data, fraudulent fundraising for supposed COVID-19 relief efforts, and fraudulent investment schemes in companies claiming to have developed a cure for the virus. Criminal organizations are taking advantage of the shortage of medical supplies by distributing counterfeit products, such as masks and hand sanitizers, posing a health risk to residents of Indian cities.

### Cybercrime:

Many people have spent the majority of their time online during the lockdown, leading to a doubling of cybercrime. The proliferation of remote work has resulted in an increase in the collection of sensitive company information from private houses that lack the same level of security as those found in conventional workplaces. The World Health Organization has issued a cyber security warning about scammers pretending to be WHO employees.

Authorities have also noted an increase in cybercrime since the start of the pandemic. There have been 400 documented examples of criminal activity in Maharashtra, all of which include perpetrators who employed online hate speech to give a communal slant to the outbreak.

Cybercriminals who are set on stealing your money have created phony websites that look like those of popular stores and home delivery services, in the hopes that you will make a purchase from them. There has also been an increase in financial fraud as a result of cybercriminals frightening victims with bogus reactivations of existing debit and credit cards, online bookings, free coronavirus testing, and international job offers when lockdown limitations were lifted. Authorities have reported an increase in incidents of "sextortion" throughout the epidemic, in which cybercriminals alter women's images in order to blackmail them. Government agencies have encouraged the public to be wary of suspicious emails and texts and to report incidents of online fraud, cyberattacks, and extortion to authorities in complete trust. There are multiple cyber-crimes conducted on social media platforms as well which included hacking and the crime

of voyeurism.

Counterfeiting and Fraud:

There have also been reports of fraud and counterfeiting associated with the COVID-19 epidemic. India's police have issued a ban on thousands of counterfeit N95 masks, raided establishments selling expensive masks and hand sanitizer, and brought charges against people who hoard protective gear. Issues will be taken up by India's highest court, the Supreme Court.

On March 23, 2020, the Supreme Court of India utilized its inherent powers under Articles 141 and 142 of the Constitution of India to extend the deadline for filing petitions, applications, suits, appeals, and all other proceedings before all Courts, Tribunals, and authorities across the country from March 15, 2020. This extension will persist until further orders are issued. Consequently, the period from March 15, 2020, and the time preceding such orders will be excluded for the purposes of limitation.

Terrorist Activities:

In April, Delhi police officers in India received an advice warning of an individualist strike or "stabbing, gunfire, or hitting by automobiles" by ISIL on police personnel in the field. Sixty-four terrorists were killed during 27 counterterrorism operations carried out by Indian security forces in Jammu & Kashmir between January and May of 2020. Eighteen of them perished in India during the COVID-19 quarantine. Five para commandos from the Indian Army were slain by terrorists in the first week of May. In his final audio message, released in 2020, Hizb-ul-Mujahideen commander Riyaz Naikoo advised his supporters to heed the advice of health specialists amid the COVID-19 pandemic. A short time later, he met his end.

The Indian Judiciary has been seriously hampered by COVID-19. Since the lockdown was enacted in the month of March, the normal operation of the Indian courts has not resumed. Although courthouses in India were only able to function at a quarter of their capacity, several precautions were made to ensure that the delivery of justice would continue unabated despite the epidemic. By using their authority granted to them in Section 144 of the Code of Criminal Procedure, district magistrates all over the state have enacted curfews (CrPC). The Supreme Court of India issued its decision for a nationwide lockdown and the exclusive consideration of essential matters on March 26, 2019, and this directive was communicated to all lower courts.

The Supreme Court's message, then, was that the courts are not paralyzed and can continue to fulfil their constitutional responsibilities. Even if the lockdown is at an all-time high, courts are continuing to work at full speed in order to deal with newly filed suits and other newly added matters.

## **Advantages and Disadvantages to the Legal Culture.**

### Challenges

- Litigation's once-proud status as the champion of dispute settlement appears to be eroding as the world embraces socially distancing methods. 17 The traditional court proceedings in India have been postponed or relocated to the online Virtual Courtroom system. The virus may be contributing to the substantial backlogs in the Indian judicial system. The delay of hearings is just one problem affecting the judicial system, however. Movement restrictions across the country are also complicating the routine of collecting evidence and questioning witnesses.
- Several legitimate concerns have been raised by advocates and parties as a result of the transition to virtual hearings as a means of delivering justice in the courtroom. A lot of people are worried about their privacy and safety with the new video conferencing system. In addition, numerous judicial officials and parties have experienced technical difficulties, which has impacted the delivery of justice. In addition, in many cases in India, junior lawyers will stand behind their older lawyers and help them argue. Lawyers in this case are having a difficult time coordinating their efforts due to the new virtual hearing procedure.
- When the travel bans persist and nations struggle to recover, the effects of coronavirus could also lead to the closure of many arbitral seats.
- Finally, the transition to a digitized court system may expand the use of artificial intelligence in the justice system. Because of the AI's inherent biases and incomprehensible structure, this could slow down the judicial process.

### Advantages

- The Indian Legal System has executed and protected our historic custom — Justice, at all Cost, Always! — by modernizing the legal system in the face of an unprecedented global crisis by embracing technology.
- The administration of justice has been unimpeded even in these exceptional times because

of advancements in information technology. In order to mitigate the worldwide pandemic's effects, the Indian legal sector is increasingly reliant on IT-enabled online systems and communication capabilities. Virtual technologies in the national legal system are thriving, despite the difficulties of the new system.

- Because the pandemic will have lasting effects, virtual hearings will undoubtedly increase. The widespread implementation and adoption of Internet Dispute Resolution could be a watershed moment in the history of India's judicial system. To top it all off, the internet's extraordinary reach in the modern day means everyone can have their day in court while also having their health concerns addressed.
- Due to the virus, evidence gathering and dissemination will undergo significant changes. Electronic filing is encouraged by the courts, and paper documents are expected to play a less role in stopping the spread of the virus. As a result, paper waste, a major contributor to India's pollution problem, would decrease. The unique access granted to the mainstream press is also encouraging widespread coverage of virtually every case and its resolution. All of these indicate that the legal system in India will be updated in the near future. The Indian legal system will undergo significant transformation as a result of the pandemic.

### **Technology, A way Forward.**

Justice is something which can be delayed but never denied, and here is what happened, due to COVID-19 pandemic, when it was almost impossible to serve people with their judicial rights, the concept of Virtual Hearings came into the picture. Reminded of the Praful Desai verdict, in which it was ruled that a virtual presence met the requirements of Section 273 of the Criminal Procedure Code, so this is not the first time that technology has been used to aid in court proceedings. It's a nod to the ever-evolving requirements of modern life. Hearing of urgent matters via video conferencing via video desktop/application was stated in a March 23, 2020 circular from the honourable Supreme Court.

In circumstances when the witness was unable to attend court proceedings, video conferencing has been used. For example, in *Alcatel India Ltd v Koshika Telecom Ltd & ors* [2004], the court permitted the witness to give evidence through video conference since the witness was ill.

The High Court of Calcutta stated in *Amitabh Bagchi* that a court should have a practical perspective while enabling electronic video conferencing since it is a cost-effective option and

prevents delays in the administration of justice.

The Bombay High Court granted the plaintiff's request in Liverpool and London Steamship Protection and Indemnity Association Ltd v. MV "Sea Success I" & Anor [2005] to depose via video conference because the witness was residing in the UK with her two young children and was unable to travel to India.

Cases can now be filed electronically and Court costs and fines can be paid online, both of which are steps towards greater efficiency. The statute of limitations was extended thanks to the Supreme Court's use of its discretionary authority under Articles 142 and 143. As a result of the current shutdown, Indian courts have taken a course of action they would have avoided under regular circumstances. Denial of justice can result if people are prevented from accessing the courts while the country is on lockdown. The reception of virtual proceedings in India has been varied. Whilst there are supporters of the decision, its implementation has not been without its share of bumps. It's also true that not every matter can be settled in an online setting, but having even some options is preferable to having none at all. The Supreme Court ruled in Santhini v. Vijaya Venketesh 3 that video conference evidence is not acceptable in matrimonial proceedings. For there to be a chance of an emotional connection, both parties must be present in court. The settlement process may be hampered by the unavailability of either side.

*Advantages of Virtual Courts:*

- As a result, no one will have to show up to court (along with their lawyers) in person. Having the option to appear in court proceedings virtually from anywhere in the world can help reduce anxiety about going to court for the first time.
- Due to the elimination of unnecessary travel expenses, this method of litigation will save both time and money. It will be more convenient for attorneys to appear in multiple courts the same day, saving them time and money. There will be an increase in effectiveness and output.
- Online apps provide access to case status updates. Recording court proceedings will increase transparency and provide a permanent record for future reference. Judicial deliberation will benefit from judges being able to quickly and easily extract data contained in a database.
- When cases are resolved rapidly, society receives justice more quickly, and the judicial

system has less strain.

- Lack of courtroom space would no longer be an impediment to enforcing the law. It will be simple to exchange information between courts as well.
- Considering the current health issue, virus control may be ensured through virtual hearings, and the online system would help in reducing the paper waste that is widespread in the physical court system.

Disadvantages of Virtual Hearings:

- Not everyone is confident in their ability to navigate the complexities of doing things online. BCI reports that 90% of attorneys are technologically illiterate. Those who should be its primary proponents have doubts about whether or not virtual courts will be easily accessible to them.
- Virtual hearings have some drawbacks, including limited resources and a lack of infrastructure. In recent months, it has been increasingly frequent for video and/or audio streams to experience unexpected interruptions or become garbled.
- The judge and defence attorney can get a better sense of the individual being questioned if they can see them in person. The appearance, body language, and attitude of witnesses or defendants might shed light on their character, which in turn can affect the outcome of the case. In contrast to the traditional courtroom, all of these nonverbal indications will be lost in an online setting.
- Because they have never had the opportunity to become acquainted with the online method, the lack of well-equipped staff makes managing the electronic records a challenge and an unnecessary extra strain. To the contrary of what is necessary, this causes courthouse deficiency.
- Maintaining online safety is a top priority. Information that is easily accessible online is more likely to be hacked, and if the wrong hands get a hold of it, it might be used for illicit purposes.

To eliminate these problems, courts just need to take a few measures to enhance the system through training for court workers. The goal of developing a cyber system is to ensure the protection of data while also creating a technology that really is simple and accessible to the widest potential audience. The fundamental requirement for carrying this process further into the future is the upgrading of infrastructure. Increased digital literacy within the judiciary and legal

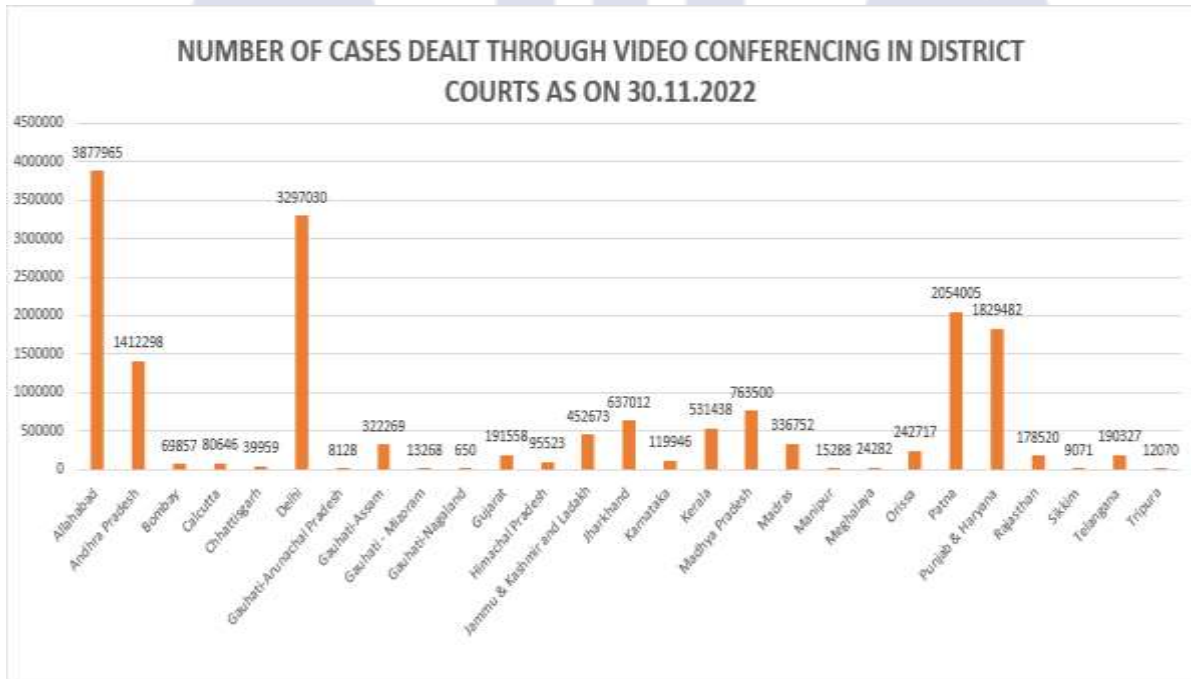
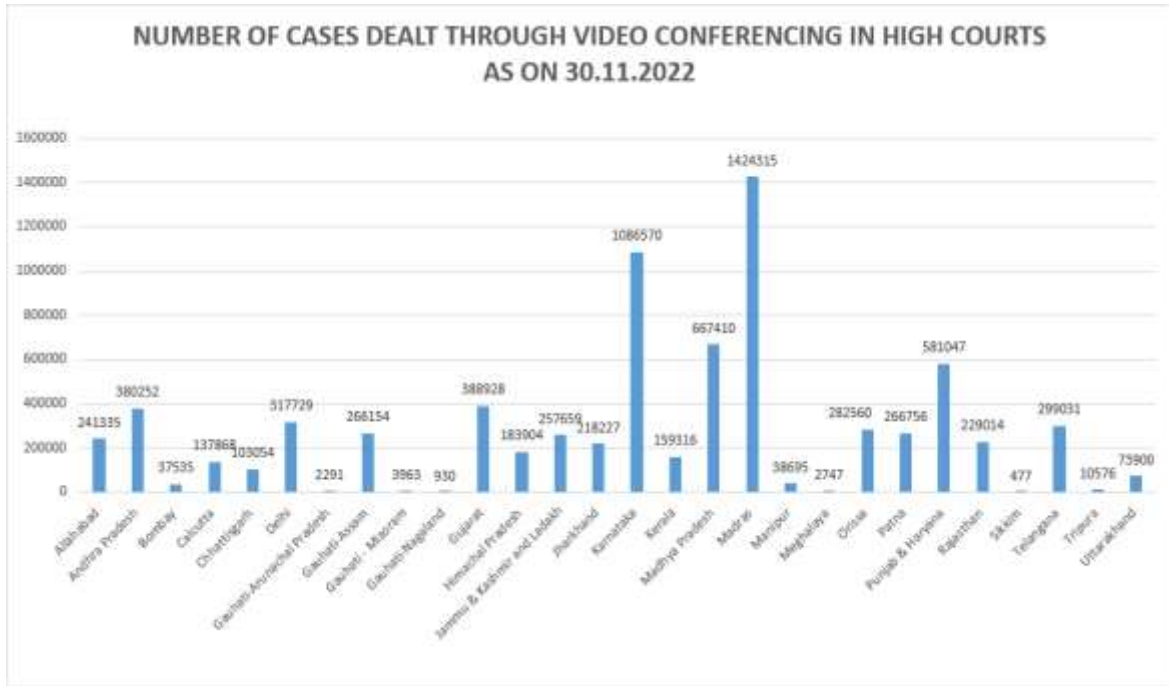
profession. Due to this severe breakdown of Covid-19, the filing of FIRs also started taking place online. Although filing an FIR is an essential process for the criminal justice to act in motion and it is generally filed in Police Stations or by calling the Helpline Numbers (e.g 100 in Delhi) and now you can log on to online websites (for eg- <https://www.delhipolice.nic.in/> in Delhi) and place your complaint. There are other states as well where such provision has been given such as Uttar Pradesh, Haryana, Rajasthan, Maharashtra, Madhya Pradesh, Bihar etc.

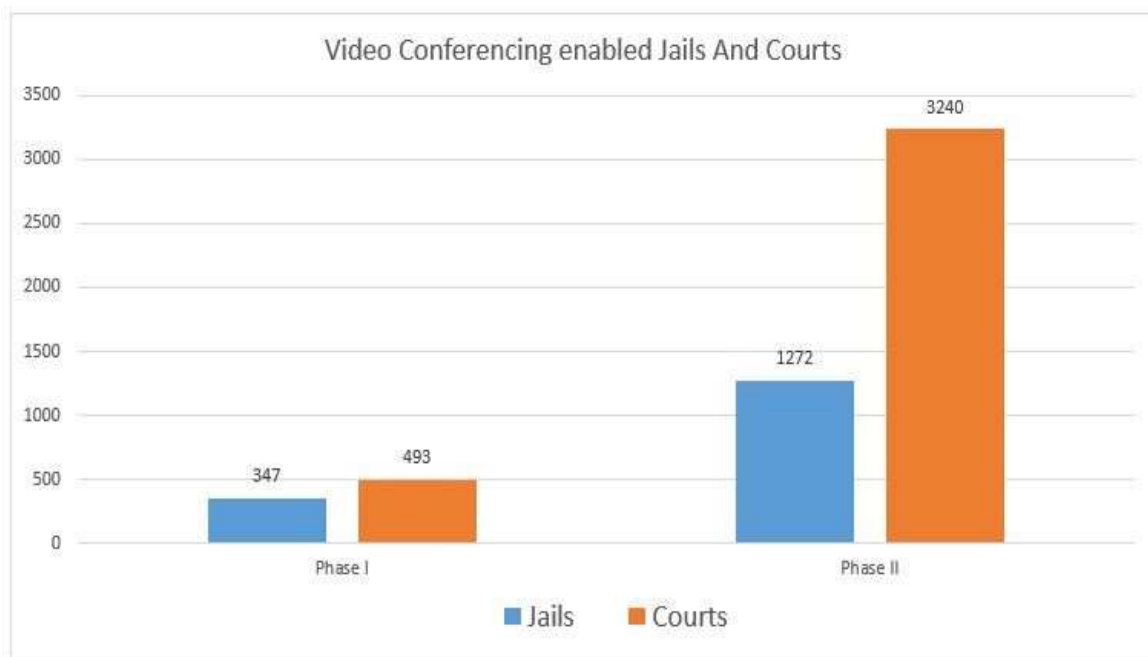
Video conferencing proceedings will adhere to all relevant statutory provisions governing judicial proceedings, including those outlined in the CPC, CrPC, Contempt of Courts Act, 1971, Indian Evidence Act, 1872, and Information Technology Act, 2000.

The Chief Justice of India has emphasized the irreversibility of these changes, urging everyone to embrace and adapt to them. It is imperative for the legal system to evolve with the times rather than remain static. Both higher and lower courts have implemented precautions to address the challenges posed by the shutdown. In response to the Covid-19 pandemic, numerous High Courts have committed to hearing urgent applications and extending interim orders. Similarly, courts in various countries have devised strategies to tackle the crisis. Video conferencing is now primarily used for urgent hearings, while electronic filing systems handle other matters. Given the success of international arbitration conducted via video conferencing, it should be feasible to establish a framework for similar success in India.

Bharat VC, an Indian-developed video conferencing app, has been shortlisted for the "Atma Nirbhar App Challenge" and is undergoing testing as a standard video conferencing platform. Each court complex, including taluk level courts, has received one video conferencing equipment, with additional funding approved for equipment in 14,443 courtrooms. Funds have also been allocated for the installation of 2506 VC Cabins and the purchase of 1500 more VC licenses. Currently, there are 1272 jails and 3240 court buildings equipped with video conferencing amenities. Additionally, 1732 Document Visualizers will be purchased for a total of Rs. 7.60 crore.

Here is some data to analyse the current progress of Virtual Hearing in India:





Numerous organizations, including Indian Tribunals and Courts, have shifted to virtual and online platforms due to the global epidemic that began in early 2020. The Video Conferencing Regulations streamline procedures for using video conferencing in Indian courts. Embracing electronic filing and video conference hearings even after normal court operations resume and the lockdown ends will enhance the legal system. All stakeholders, including personnel, the Bar, and the Bench, stand to benefit from this transition as they become familiar with the process, allowing us to identify and address any shortcomings.

While video conferencing offers numerous advantages, its effective implementation requires significant investment in training, discipline, and infrastructure—a task that demands collective efforts from all involved in the country's judicial administration system. The Department of Justice suggested moving some cases, such as those involving traffic citations and check fraud, to virtual courts. A hybrid model can be used to digitize manual procedures (including the filing of a plaint and the issuance of summonses) in cases involving the interpretation of the law, facts, and the cross-examination of a large variety of witnesses, and the hearings can be placed in actual courtrooms. Moreover, summary trials, conciliation hearings, and arbitration hearings may all be conducted in virtual courts.

When no significant action has been taken in this area for so many years, it is difficult to adjust

to an entirely novel approach. The only prerequisite is to keep both systems in balance. It will be more complicated in the short term, but if used in a planned and staged manner, it will produce positive results. To bolster its roots, coordination and effort should be made. All attorneys and judges must make sure they are properly taught and equipped to participate in this significant transition.

All that is going on in the world makes it seem as though these changes will last for a very long time. While it is evident that virtual courts cannot completely replace actual courts, they will stabilize the judicial system and eventually allow the two to work together. Virtual courts offered some possibility of maintaining the wheels of justice turning when the doors of actual courts were closed. The Indian legal system still needs improvement, therefore establishing permanent e-courts is undoubtedly a wise move given the current situation.

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