

# LEGALFOXES LAW TIMES

## IMPACT OF COVID-19 ON THE LEGAL PROFESSION

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### 1. INTRODUCTION

#### 1.1 COVID-19

The current situation in India and around the world is very horrific because of the Coronavirus. Covid-19 is caused by the virus SARC-CoV-2.

In most cases the people who are infected with the SARC-CoV-2 experience moderate to mild respiratory illness and recover without requiring any special treatment from the doctors or the hospital. However, older people and those with underlying medical problems like diabetes, cancer, and chronic respiratory disease cardiovascular disease are very likely to develop serious illnesses.

The primary method and way to prevent and slow down transmission are to be well aware and informed about the Covid-19 virus, the infection it causes, and how it attacks the human body. The Secondary method is to protect yourself and others from infection by using alcohol-based rub frequently and not touching your face or washing your hands.

The Coronavirus spreads primarily through droplets of saliva or discharge from the nose when an infected person sneezes or coughs. Therefore, it is very important that you also practice respiratory etiquette (for example, the best way is to cough is by coughing into a flexed elbow for safety purposes and for the well-being of others).<sup>1</sup>

#### 1.2 IMPACT OF COVID-19 ON THE LEGAL PROFESSION

##### BRIEF-

Similar to the Spanish Flu of 1918 and the Bubonic Plague of the late 19th century, Coronavirus has made many, including the Judiciary and the legal profession, its victims. The

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<sup>1</sup> World Health Organization, <[Coronavirus \(who.int\)](https://www.who.int)>, accessed on 26 February, 2021.

protector or the guardian of law now finds itself compelled to guard against this Covid-19 deadly virus, its legal fraternity, and litigants alike.

The Judiciary in India has been overburdened for many years, and Coronavirus is only adding to this menace. As of May 27, 2020, there is approximately 48.2 lakh<sup>2</sup> pending cases in the various [High Courts](#) across the country and about 3.24 crore<sup>3</sup> cases pending in [subordinate courts](#) in India and about The apex court of India, vide its [notification](#) dated March 13, 2020,<sup>4</sup> directed the functioning of the court to “urgent matters” only.

It is an irony of fate that the coronavirus crisis in India came at a time when justice and the Hon'ble court administration had reached the threshold of a totally new era with a lot of groundwork already done, especially during the last decade or so, in the area of utilization of ICTs (Information and Communication Technologies) and the Internet facilities. The e-Governance/electronic-governance initiatives in justice administration and the Hon'ble court administration were further enhanced after the enactment of the Information Technology Act, 2000 (IT Act, 2000 amended in 2008). Then E-courts/electronic courts were set up in the country as a crucial part of the NeGP (National e-Governance Plan) launched in 2006.

However, the unforeseen, sudden and unexpected onslaught of the Coronavirus crisis has thrown up new challenges in the justice and court administration in the nation, including those facing the courts in the aftermath of the Covid-19 lockdown. Before analyzing these, to put things in proper perspective and order, we begin by outlining in more detail the major tech initiative/technological initiatives existing in court administration in our country India before the advent of the coronavirus pandemic crisis, such as court-related mobile and iPad apps are available in google play store and for IOS users in the apple store. Further, we examine how the court administration reacted to the new and unexpected challenges thrown up by the coronavirus pandemic, investigating how courts at various levels supreme court, high courts, district courts, and tribunals, including Lok Adalats (People's Courts), modified the manner of court functioning in India. We highlight how the Covid-19 crisis changed the

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<sup>2</sup> [National Judicial Data Grid \(High Courts of India\)](#), <Welcome to NJDG - National Judicial Data Grid ([ecourts.gov.in](#))>, accessed on 02.03.2021.

<sup>3</sup> [National Judicial Data Grid \(High Courts of India\)](#), <<https://njdg.ecourts.gov.in/njdgnew/index.php>>, accessed on 02.03.2021.

<sup>4</sup> [Live Law \(13 March, 2020\)](#), “*Functioning of Supreme Court Restricted to hear only urgent matters in Covid-19*”, < [Breaking] COVID 19: Functioning of SC Restricted to Hear Only Urgent Matters [Read Notification] ([livelaw.in](#))>, accessed on 05.03.2021.

working of the Supreme Court, the High Courts of respective states, and the District and Subordinate Courts, including tribunals, in particular, accelerating the move towards e-Judiciary/electronic-judiciary, before discussing reservations of the Bar (Bar Council) and some major hurdles facing the court administration in the aftermath of the coronavirus crisis in our country.

As per the current scenario and the present situation it appears that the Covid-19 is here to stay at least for some time, and the judicial system of the country needs to cope with it. However, “new normal” functioning or rather a normal functioning of courts is going to take its own time for flexible adjustment. Hopefully, it shouldn’t take too long, lest Lady Justice will soon have to, along with a sword, scales and, blindfold be adorned with a face shield or face mask

## **SITUATION BEFORE CORONAVIRUS PANDEMIC**

### **2.1 THE SITUATION IN INDIA BEFORE THE COVID-19**

In fact, prior to the sudden and unexpected onset of the Coronavirus pandemic crisis in 2020, fortunately, our country India had already covered a lot of ground in the digitization of justice and court management and administration. Three particularly significant developments had been the electronic/E-Courts Project and the development of the Apex Court and E-Court Services mobile Apps.

### **2.2 E-COURTS PROJECT**

Prior to the coronavirus crisis, the E-courts project was one of the National e-Governance projects implemented in all the District/Subordinate Courts in India. The main aim of the electronic/E-courts was to provide an accessible, transparent, and cost-effective justice delivery system to all the citizens of India through the ICT (Information and Communication Technology) and Internet-enabled courts. Consequently, the electronic/E-courts Project had made digital interconnectivity possible among all courts in the country from the District and Taluka level to the Hon'ble Supreme court. The electronic/E-courts project had been earlier conceptualized under the “National Policy and Action Plan for Implementation of ICT (Information and Communication Technology) in the Indian Judiciary System –2005”

prepared by the e-Committee of the Apex Court of India.<sup>5</sup> Approved in 2010, it was saving a lot of time for a lot of users besides providing other extra benefits as well. As a public convenience, various electronic/E-Court services were availed by the concerned citizens through the Judicial Service Centre at a court complex. Therefore, provision already existed in the majority of the courts of India for electronic/e-Service of summons, warrants, notices, through e-mail via the internet; even e-cause lists (list of cases) were available on the court website, as well as, online filing, case status and orders and judgments in PDF, moreover, every crucial and important court information was also provided to the litigant or parties to the case, such as court working days, names of judges, holidays and so on, which came in handy at the time of the coronavirus pandemic.

### 2.3 THE APEX COURT OF THE COUNTRY: MOBILE APPLICATION

Another very important step towards the digitization of the justice administration and management system which was already taken prior to the onslaught of the coronavirus pandemic crisis was the introduction of the Apex Court of India App. The CJI (Chief Justice of India), while explaining the utility of the application, expressed his views with a hope that AI (artificial intelligence) fueled legal translation system would facilitate the quality translation and further help in improving the efficiency and accuracy of the Indian Judicial legal System. The Apex Court App was to translate the judgments into nine regional languages of the country<sup>6</sup>. Moreover, earlier translation in court matters was a necessity, and manual translation in the past used to be a major problem and headache being quite laborious and consumed a lot of energy and valuable time often causing inordinate delays in the judicial administration and process of the country.

Additionally, this official mobile application of the Apex Court of the nation is free to download from the google play store for android users, and for Apple users can download from the IOS platform, it also provides useful information on decided and pending cases with

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<sup>5</sup> Govt. of India, Ministry of Law and Justice. *Evaluation Study of eCourts Integrated Mission Mode Project*, National Council of Applied Economic Research, New Delhi, 2015, p. XV, <[https://www.researchgate.net/profile/Sohini\\_Paul3/publication/327200189\\_Evaluation\\_Study\\_of\\_eCourts\\_Integrated\\_Mission\\_Mode\\_Project/links/5b7f8952299bf1d5a723ca5b/Evaluation-Study-of-eCourts-Integrated-Mission-Mode-Project-Project.pdf](https://www.researchgate.net/profile/Sohini_Paul3/publication/327200189_Evaluation_Study_of_eCourts_Integrated_Mission_Mode_Project/links/5b7f8952299bf1d5a723ca5b/Evaluation-Study-of-eCourts-Integrated-Mission-Mode-Project-Project.pdf)>, accessed on 12 March, 2021.

<sup>6</sup> The Economic Times, (26 November, 2019), *SC proposes to introduce system of artificial intelligence, says CJI* <<https://economictimes.indiatimes.com/news/politics-and-nation/sc-proposes-to-introduce-system-of-artificial-intelligence-saysji/articleshow/72245549.cms?from=mdr>> accessed on 15.03.2021.

a personalized dashboard containing Case Status, Cause Lists, Daily Orders, Judgments, Office Reports, Latest Updates, Circulars, and much more. All these can be facilities that can be accessed, downloaded, and shared in a user-friendly interface<sup>7</sup>.

## 2.4 E-COURT SERVICES APP

Much before the coronavirus crisis made its appearance, in the year 2017, the electronic/E-courts Services mobile application was launched. The E-Court Services mobile application provides information related to cases/lawsuits filed in the Subordinate Courts and most of the High Courts of respective states in the country. It can be specifically and exclusively used for Hon'ble District Courts or Hon'ble High Court or both. The E-court services App provides many useful features to digitally or electronically assist the lawyer or the litigant of any particular case, including the provision of search by CNR — which is a unique number assigned to each case/matter filed in District courts and Taluka Courts anywhere in the country through the Case Information System – so that, simply by entering the Case Number/Case Identity number (CNR), one can get the current status and details of the case. Moreover, in addition to Case Status, search options include Calendar and Cause List. The lawyer or litigant can save all cases of interest, which are shown under a 'My Cases' tab in the E-court services mobile application. The features in the mobile application facilitate the management and creation of a portfolio of their cases/matter or personal case diary for future use.<sup>8</sup>

Additionally, the E-Court Services mobile application also provides numerous other services including<sup>9</sup>; Anyone can view the entire case history of a lawsuit filed by any party through this mobile application; cause list, case status, (N.D.O.H) next date of hearing, and so on. In fact, there is also a provision for lawyers and the litigating parties to e-pay court fees through

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<sup>7</sup> Computer Cell, Supreme Court of India. *Supreme Court of India – Official Mobile App*, <[https://play.google.com/store/apps/details?id=com.nic.sciapp&hl=en\\_IN&gl=US](https://play.google.com/store/apps/details?id=com.nic.sciapp&hl=en_IN&gl=US)> accessed on 16 March, 2021.

<sup>8</sup> Government of India. *NIC eGov Mobile Apps*, <[https://play.google.com/store/apps/details?id=in.gov.ecourts.eCourtsServices&hl=en\\_IN&gl=US](https://play.google.com/store/apps/details?id=in.gov.ecourts.eCourtsServices&hl=en_IN&gl=US)>, accessed on 15 May, 2021.

<sup>9</sup> E-Court Services: District and Taluka Courts of India, <[https://services.ecourts.gov.in/ecourtindia\\_v6/](https://services.ecourts.gov.in/ecourtindia_v6/)> and Official Website of District Court <eCourts Services App on Mobile For Checking Case Status./District Court in India | Official Website of District Court of India>, accessed on 15 May, 2021.

the mobile application.<sup>10</sup> The E-Court Services mobile application provides scanning of Quick response codes/QR codes to access the entire case status and history. The E-Court Services mobile application is also connected with all 18,000 District and Subordinate Courts of the country and 21 High Courts of respective states with more than 3.2 crores (more than 30 million) case statuses available on the E-Court Services mobile application. There is no doubt about the fact that such digitization initiatives in the Indian judicial system were being well received is demonstrated by the fact that the E-Court Services mobile application had seen over 17 lakh (1.7 million) downloads within a few months of its launch, recording a whopping figure of almost 5,000 downloads a day.<sup>11</sup> Also, some useful features of this app include that the History of Case Hearings option in the mobile application shows the entire history of the lawsuit/case from the first date of hearing in the court to the current date of hearing. Consequently, the Judgment option shows a link of all orders and judgments by the Hon'ble court passed and uploaded in the selected case, and judgments can be downloaded using the E-Court Services mobile application.

## **COVID-19 AND THE COURTS IN INDIA**

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### **3.1 MAJOR DECISIONS BY INDIAN COURTS IN LIGHT OF COVID-19 WAVE IN THE COUNTRY**

In relation to the total number of registered Covid-19 cases across the world, India lies in the top 5 countries in the list. India has witnessed a drastic upward trend in the number of confirmed Covid-19 positive cases from March 2020.

Therefore, keeping all these criteria in mind the worldwide outbreak of this Coronavirus and the growing number of Covid-19 positive cases in India, our judicial system has taken a few necessary and remarkable steps in the month of March 2020 to control the spread of this coronavirus within the country.

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<sup>10</sup> Official Website of District Court, <eCourts Services App on Mobile For Checking Case Status./District Court in India | Official Website of District Court of India>, accessed 16 May, 2021.

<sup>11</sup> Times of India, 4 March, 2019. *eCourts app brings reforms in justice delivery system*, Thakur, Pradeep, <eCourts app brings reforms in justice delivery system | India News – Times of India>, accessed on 16 May, 2021.

Various guidelines have been issued in the year 2020 under which several Tribunals and Courts in India are directed to partially shut down and directions for only urgent hearing are given in order to avoid human interaction or interface. Many Courts in India and Tribunals have also issued guidelines and directions for closing down advocates chambers and filing counters. Owing to the situation in the year 2020, the Apex Court of the country has also decided to promote virtual hearing or visual court proceedings, e-filing to prevent advocates from physically coming to courts which in turn somehow will help avoid the transmission or spreading of the coronavirus.<sup>12</sup>

### 3.2 LIMITATION PERIOD EXTENDED

#### *Extension of period of limitation in preferring appeal before the Supreme Court of India*<sup>13</sup>

A three-judge bench comprising Hon'ble Justice L. Nageswara Rao, Hon'ble Justice Surya Kant, and Hon'ble Chief Justice of India S A Bobde, has exercised its power granted under the Article 142 read along with Art. 141 of the Indian Constitution and extended the period of limitation for filing petitions, suits and appeals, and all other proceedings in Tribunals and Courts owing to this serious outbreak of the coronavirus pandemic.

The Hon'ble Supreme Court has extended the period of limitation in the filing of, appeals, petitions, applications, suits, and all other legal proceedings after taking *suo moto* cognizance of the coronavirus situation 2020 in the country and the challenges being faced by the legal fraternity to come to the Tribunals or Courts physically for filing of appeals, petitions, applications, suits, and all other proceedings within the purview of the period of limitation prescribed under the general law of limitation (Limitation Act, 1963) or Special Laws (both Central and/or State).<sup>14</sup>

Article 142 of the Indian Constitution gives inherent power to the Apex Court of the country to pass any such order or decree as is necessary for doing complete and reasonable justice in any matter or cause pending before it. Further, Article 141 states that the decision of the Apex Court of India would be binding upon other courts in the country as well.

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<sup>12</sup> Supreme Court of India, "*Guidelines for Court functioning through video conferencing during covid-19 pandemic*", <[10853\\_2020\\_0\\_1\\_21588\\_Judgement\\_06-Apr-2020.pdf \(sci.gov.in\)](#)>, accessed on 12 May, 2021.

<sup>13</sup> *Suo Moto Writ Petition (Civil) No. 3/2020*

<sup>14</sup> Supreme Court of India, "*Cognizance for extension of limitation*" <[10787\\_2020\\_1\\_12\\_21570\\_Order\\_23-Mar-2020.pdf \(sci.gov.in\)](#)>, accessed on 11 March, 2021.

Suits, Petitions, Appeals, or any other proceeding before the Hon'ble court which are to be time-barred if not filed before the respective Tribunals or Courts shall be deemed to have been extended last year during the coronavirus outbreak in the country until the Hon'ble Court passes or gives any further order or direction.

### **3.3 THRESHOLD FOR INSOLVENCY**

#### *The threshold for triggering insolvency raised as One Crore Rupees<sup>15</sup>*

The Central Government of India while exercising its power conferred under the Insolvency and Bankruptcy Code [Section 4 (proviso)] has increased the threshold of one lakh rupees for triggering insolvency to one crore rupees. Moreover, keeping in mind the situation of the country from the beginning of February 2020, the Central Government of India has taken this much-needed step to provide relief and extent its support to the companies who shall not be in a state or position to pay off its debts amidst the coronavirus crisis and the nationwide lockdown in the country. This step would help to protect many borrowers or companies from becoming insolvent who are facing monetary problems and are not being able to pay off their debts which are less than one crore rupees.



### **3.4 CHANGES IN THE APEX COURT AMIDST THE COVID-19 CRISIS**

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<sup>15</sup> Ministry of Corporate Affairs, (24.03.2020), “Circular No. 1076”, <Circular\_25032020.pdf (mca.gov.in)>, accessed on 12 March, 2021.



16

1. The Supreme Court has only agreed to hear cases requiring an urgent hearing, restricting the access of informal visitors in the court premises to ensure proper safety.
2. The Apex Court has postponed public tours and its canteens are closed until further notice or direction by the court. Mandatory Thermal screening of all the visitors and auto-declaration forms were also requested.
3. The Apex Court called on advocates and other workers to vacate sanitation facilities in the premises. The Court will soon open the Court's video conference facilities for virtual hearing of the matters.
4. The Apex Court will also provide an interface for advocates from their offices to engage in these virtual hearings or proceedings. Additionally, the smart TVs set up in the Apex Court press room would allow and permit all journalists to watch these proceedings and make a report on the same.

### 3.5 CHANGES IN HON'BLE HIGH COURT OF BOMBAY<sup>17</sup>

<sup>16</sup> Image Source: Wikipedia, < [https://en.wikipedia.org/wiki/Supreme\\_Court\\_of\\_India](https://en.wikipedia.org/wiki/Supreme_Court_of_India)>, accessed on 12 May, 2021.

<sup>17</sup> Hon'ble Bombay High Court, "Notification", <Official Website of High Court of Bombay ([bombayhighcourt.nic.in](http://bombayhighcourt.nic.in))>, accessed on 12 May, 2021.



The Hon'ble High Court of Bombay has agreed to hear only urgent cases, and this order by the Hon'ble court also includes its benches in Aurangabad, Nagpur, and Goa. The Hon'ble Court also ordered the State bar association to comply only with those whose physical presence was mandatory with urgent and official purposes to prevent entry for safety reasons.

Advocates are asked to inform or notify the registry whether their cases are urgent and of utmost importance so that they should be included on the court list of the day, and all other matters shall be immediately adjourned to eliminate the risk of coronavirus transmission. The Hon'ble High Court has also directed all the district-level courts of Maharashtra, unless absolutely appropriate and necessary, to insist on the party's physical presence in the matter.

Further, the apex court has also asked the district level courts not to pass adverse orders or any direction when a party is currently absent from the trial because of safety concerns or any other valid reason with regard to Covid-19. Moreover, unnecessary lock-ups must be avoided in the court premises and the courts should not pursue the parties' physical presence unless the latter is unavoidable and necessary.

### **3.6 CHANGES IN SECURITIES APPELLATE TRIBUNAL<sup>19</sup>**

The "Securities Appellate Tribunal" has always restrained or limited itself to hearing urgent and emergency proceedings and only advocates, chartered accountants (CA), and one litigant delegate have been physically able to enter the courtroom. The advocates were asked to write to the registry of the court before 9:30 a.m. for adjournments. The counsels from both sides were informed they did not have to physically attend the tribunal to demand a postponement

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<sup>18</sup> Image Source, "Affairs cloud", < [Bombay High Court Recruitment 2021 - Vacancies on 18 June, 2021 \(affairscld.com\)](http://Bombay High Court Recruitment 2021 - Vacancies on 18 June, 2021 (affairscld.com))> website accessed on 19 June, 2021.

<sup>19</sup> Mumbai, "About Securities Appellate tribunal", <[Home|Securities Appellate Tribunal,Mumbai|Government Of India \(sat.gov.in\)](http://Home|Securities Appellate Tribunal,Mumbai|Government Of India (sat.gov.in))>, accessed on 15 May, 2021.

in any matter pending before the tribunal. Such kind of limitations are in effect until 27 March 2020 and can be extended further depending upon the covid-19 situation in the pandemic. The court also changed its official working time to 11:30 a.m. in the morning.

### 3.7 CHANGES IN THE HON'BLE DELHI HIGH COURT



20

The functioning of the Hon'ble Delhi High Court was limited until 20.03.2020<sup>21</sup> when the Hon'ble court created an emergency roster for the judges. The Delhi High Court Registry is drawing up urgent cases which are of utmost importance and only those matters are to be dealt with urgently by the Delhi high court. The High Court of Delhi also required all district courts to deal only with matters requiring bail (Sec. 436 CrPC). Therefore, all the courts were advised to dispose of the need for convicts to have their physical appearance, if that is completely inevitable, by virtual hearing or video conferencing.

### 3.8 GUIDELINES

1. The Supreme Court in the year 2020 quoted that “In the case of an “extraordinary epidemic” of the coronavirus pandemic, the Court hearing in the congregation must be made very “exceptional.” All the Courts in India need to respond to the call for social conflict to make sure that they do not facilitate the spread of the COVID-19 virus.

<sup>20</sup> Image Source, “Delhi High Court Google Play”, <Delhi High Court - Apps on Google Play>, accessed on 16 May, 2021.

<sup>21</sup> Zee News (16 March, 2020), “Delhi High Court to hear only urgent matter till 20.03.2020”, < Delhi High Court to hear only urgent matters till March 20 | India News | Zee News>, accessed on 17 May, 2021.

2. The Supreme Court of India and all the High Courts of different states are allowed to introduce steps and measures necessary to ensure the smooth and proper functioning of the judiciary through virtual hearing or video conferencing. All the measures and steps that have been and shall be taken by this Hon'ble court and by all the high courts, to reduce the need for the face to face presence of all stakeholders within the court premises and to make sure that the proper functioning of courts is in consonance with social distancing measures and suitable best public health practices shall be deemed to be lawful.

3. The Apex Court is also of the opinion that the outbreak of COVID-19 in various countries including India has necessitated the immediate implementation of measures to ensure social distancing to prevent mass spreading of the coronavirus, and the Apex Court, as well as the Hon'ble High Courts, have adopted measures to reduce the physical appearance. The Hon'ble bench instructed that courts properly inform and make available all the necessary resources to those litigants who do not have access or means to the facilities like virtual hearing or video conferencing facilities.

4. Where there is a need to appoint an amicus curiae in the relevant circumstances or certain cases, and the abrogate may make available to the virtual hearing or video conferencing facilities. The court stated that until the specific rules of court are drafted or framed, virtual hearing/video conferencing is used mainly for getting to know the arguments at the stage of appeal or trial. Further, no presiding officer shall prohibit the entry of any litigant related to the case unless that party is suffering from some communicable or contagious disease. However, where the number of people or litigants associated with the case is in large number then the presiding officer shall have the power to reduce or limit the numbers. Additionally, the presiding officer shall in his absolute discretion adjourn the proceedings where it is impossible to restrict the number of litigants. The court stated that "these directives have been issued in furtherance of the commitment to the provision of fair justice."

### **3.9 COURT HEARING URGENT MATTERS/ PETITION FILED BY ADVOCATES SEEKING MEDICAL ASSISTANCE DUE TO FINANCIAL INABILITY BECAUSE OF THE COVID-19 WAVES**

#### **PETITION SEEKING MEDICAL FACILITIES FOR LAWYERS**

*Total failure of the state, says Delhi High Court on COVID-19 infrastructure as advocates plead for help and medical assistance [April, 2021]*<sup>22</sup>

"It is a complete and total failure of the state machinery and administration", the Delhi High Court stated this in the month of April 2021 as a bunch of respected lawyers, including BCD (Bar Council of Delhi) chairman Mr. Ramesh Gupta, pleaded for help-seeking financial and medical facilities to advocates suffering from coronavirus. The court hearing in the present petition filed by a group of lawyers witnessed the breakdown of lawyers, including senior advocate Mr. Ramesh Gupta, who urged the Hon'ble judges to come to their rescue, medical help, and financial aid as they were not getting proper and adequate medical treatment for the COVID-19.

A Hon'ble bench of Justices Mr. Vipin Sanghi and Respected Judge Ms. Rekha Palli started during the hearing that they understood the pain and grief of which advocates were undergoing and termed the current situation as a complete failure of the state machinery and administration.

The Hon'ble Court further went on to say "We understand your pain and grief. But unfortunately, we are also going through the same pain. This surge of COVID-19 wave has such a huge number and stats that nobody could have imagined that this will attack us so badly in this way. However, finances are not the issue here. The main problem is infrastructure.

"The bigger picture and problem is that we don't have nurses, doctors, brothers, ward boys, attendants, oxygen, medicines, and enough medical supplies. The Hon'ble said that "It is a total and complete failure of the state machinery and administration," adding that, "it's getting worse and tougher for us".

***The Hon'ble Delhi High Court was hearing a petition seeking medical facilities for advocates.***

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<sup>22</sup> [The Economic Times \(30 April, 2021\), "Complete failure of state, says Delhi High Court on COVID-19", < Complete failure of state, says Delhi High Court on COVID-19 infra as lawyers plead for help - The Economic Times \(indiatimes.com\)>, accessed on 18 May, 2021.](#)

BCD Chairman Mr. Ramesh Gupta, representing the petitioner advocate, submitted in the Hon'ble Court that a private hospital has agreed to give medical help and treatment to advocates but unfortunately it only has oxygen beds in decent quantity and not ICU beds for more patients and urged the Hon'ble court to attach them with a medical care or a hospital that can provide the critical care and medical assistance in case of need because of the Covid-19.

Further, BCD Chairman Mr. Ramesh Gupta said they do not want money or cash, the only thing they want is that in case of any emergency situation, medical help and assistance is provided to advocates and they will collect more funds and financial aid from their fellow members of the bar association and advocates.

BCD Chairman Mr. Ramesh Gupta, who broke down during the matter was being heard while addressing the court, he further said, "We want my Hon'ble lords to come to our rescue. Also, we do not want to criticize or blame anyone or any government (center or state). We have only rupees four to five crore in our relief funds and will try to arrange more from senior members of the legal fraternity. The only thing we want my Hon'ble lords to help us in this tough situation. In Hindi, he also said, "Sir Kuch Karo AAP" which means (Sir please do something)."

The Hon'ble bench of the Delhi High Court asked the Delhi government to take instructions and directions on the issue and inform it at around 2:30 pm.

During the proceedings when the matter was being heard, standing counsel Mr. Santosh Kumar Tripath representing the Delhi government also became a little emotional while informing the Hon'ble court about a lawyer friend's demise due to Coronavirus and said that my lords "daily we are losing our dear and closed ones".

BCD Chairman Mr. Ramesh Gupta also submitted in the Hon'ble Court that there is a hospital in a place called Dwarka by the name of Indira Gandhi which is under construction for the last eight years and the project of this hospital is about to complete soon and urged and made a request in front of the Hon'ble court to arrange for hundred oxygen beds for advocates there.

Meanwhile, an official of a major oxygen refiller unit informed the Hon'ble Delhi High Court that they were regularly and continuously giving their accounts to the government (Delhi government) and were doing their best and whatever they can within their power and limits.

The Hon'ble Delhi High Court asked them to continue doing this noble service and serve society at large in these tough times of coronavirus pandemic.

Further, the Hon'ble bench of the Delhi High Court observed that the current situation: "It is a war, as a community and society, we cannot let people die and suffer because of other's greed and illicit mentality who are indulging in forgery and black marketing of medicine and medical supplies. Such fraudulent activities in the present covid-19 scenario create artificial scarcity. Many People in desperation and emergency situation have to buy oxygen cylinders, cans, concentrators, and medicines from the black market. All that money is of no use. Moreover, the court stated that "we have to bring out our best in these tough times of COVID-19 global pandemic and not our worst. It is also not the time to indulge in black marketing, certainly not, as people are dying and struggling to even meet their basic livelihood needs."

Fortunately, the oxygen refiller unit's officer assured the Hon'ble Delhi High Court that they were helping the needy people in every possible way and manner and Delhi government officials/officers were managing the work at their oxygen plant and Delhi police officials (DP) were managing the crowd and mass gathering there.



## **EFFECTS OF CORONAVIRUS PANDEMIC WAVE ON THE** **LEGAL FRATERNITY**

### **4.1 IMPACT OF NATIONWIDE LOCKDOWN ON LAWYERS**

The lockdown imposed in 2020 in the entire nation and the subsequent social distancing rules due to the Coronavirus pandemic has adversely impacted a significant portion of the legal fraternity— litigating lawyers and legal professionals. The lawyers who tend to litigate in court comprise a majority of advocates in India, practice before various district courts or high courts in the country, and earn their bread on a case-to-case basis through physical appearances. During the beginning of the Coronavirus pandemic in the year 2020, the decision of the Courts to limit the case filing only to urgent matters and conducting only online hearings has led to many of these practicing advocates losing their source of income and livelihood.

This loss of the only source of their income led to demands from practicing lawyers all over the country for *ex-gratia* aid. A Public Interest Litigation (PIL)<sup>23</sup> was filed before the Hon'ble Apex court seeking orders or directions for setting up a national-level scheme to give financial aid to practicing advocates suffering because of the sudden interruption to their daily source of income. In Karnataka, another Public Interest Litigating (PIL) [was also filed before the Hon'ble High Court](#) of Karnataka to direct the Bar Council of state Karnataka to pay ₹50,000 to each practicing advocate enrolled with the Karnataka State Bar Council (KSBC) and in need of monetary aid. The Bar Council of State Odisha received applications for monetary aid from approximately around 40% of advocates<sup>24</sup> enrolled with the Odisha State Bar Council. Fortunately, in September 2020 The [Delhi Advocates Welfare Trustee Committee approved a grant of ₹1 crore](#)<sup>25</sup> to offer livelihood, sustenance, and survival during the Covid-19 pandemic to these practicing advocates. Likewise, similar steps have been taken by other State Bar Councils in India and various State Governments as well.

Unfortunately, the pecuniary vulnerability of many practicing advocates has for the longest time remained a fact not well known to everyone. It is only through my personal experience over the last 5 years that it came to light how about 20-30% of advocates at the various district and high courts earn approximately between ₹5000 and ₹15,000 per month – during the first two years of practice. It is hardly a surprise that the coronavirus pandemic hit them drastically and hard.

#### **4.2 ADVOCATES LEAVING INDIA'S CAPITAL TERRITORY AS COVID-19 HITS WORK**

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<sup>23</sup> [Live Law \(27 April, 2020\), "Petition in SC to draw up a uniform policy for giving financial assistance to lawyers in times of emergencies", < Plea In SC To Draw Up A Uniform Policy For Giving Financial Assistance To Lawyers In Times Of Emergencies \[Read Petition\] \(livelaw.in\)>](#), accessed on 19 May, 2021.

<sup>24</sup> [The New Indian Express \(14 July, 2020\), "Odisha Bar Council seeks government help for aid to needy lawyers amid Covid-19", < Odisha Bar Council seeks government help for aid to needy lawyers amid COVID-19- The New Indian Express>](#), accessed on 22 May, 2021.

<sup>25</sup> [The Economic Times \( 05 September, 2020\), "The Advocates Welfare Trustee Committee informed the Delhi High Court that it has approved a grant of Rs 1 crore for the benefit of needy lawyers", < Approved a grant of Rs 1 crore for needy lawyers, Advocates Welfare Trustee Committee informs Delhi HC, Legal News, ET LegalWorld \(indiatimes.com\)>](#), accessed on 22 May, 2021.

*Several lawyers have left Delhi which is considered a mecca/hub for lawyers. Some are seeking aid as coronavirus hits work drastically.*

The lockdown imposed in the year 2020 had already reduced work & monetary earnings for lawyers, with only urgent and important cases being taken up for virtual hearing or video conferencing, the second Covid-19 wave in this year (i.e., 2021) has hit them even harder.

I came across the story of a 42-year-old lawyer who has been practicing in the Supreme Court and tribunals he stated that for the very first time in his 15-year-long professional career in New Delhi, he has had to close down his office/chamber and move back to live with his mother and father in his hometown in Andhra Pradesh, India.<sup>26</sup>

The last year has been difficult for the members of the legal fraternity since the imposition of nationwide lockdown in the year 2020. The very first lockdown was imposed on 25.03.2020, due to coronavirus, courts have been conducting virtual proceedings. Consequently, this has brought down the total number of cases listed for regular hearings, thereby limiting work for lawyers.

Last year, many lawyers were still hopeful that the Covid-19 situation would improve. But the second wave hit even harder and without much work, the daily or monthly earnings of many lawyers plummeted, forcing them to curtail their expenses.

Whatever legal work lawyers are getting in this covid-19 is mainly virtual. Therefore, many lawyers have decided to close down their office/chambers to cut down on various expenditures such as rent of the office, electricity charges, or paying the office peon. It is a tough call but unfortunately, some lawyers are left with no option. Many practicing advocates have their families and children to look after. The second wave has made it hard for some lawyers to sustain.

For almost more than a year now, the speed or pace of work in all courts across the country has significantly slowed down owing to the Coronavirus pandemic. And, it has severely affected moderately successful practicing advocates, such as first-generation lawyers.

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<sup>26</sup> The Print ( 25 May, 2021), "Lawyers leaving Delhi as Covid-19 hits work", < Many lawyers have left Delhi, some seeking aid and queuing up for ration as Covid hits work (theprint.in)>, accessed on 2 June, 2021.

All judicial fora, including every tribunal, switched to virtual hearings following the coronavirus lockdown that was imposed on 25.03.2020. Only important and urgent fresh matters are listed for regular hearing, largely left to the discretion of Hon'ble court.

Even after the lockdown was withdrawn in the year 2020, initially, only one or two benches were taking up cases for hearing and the capacity gradually extended with a very steady pace as per the Covid-19 cases graph and conditions in the country, while some Hon'ble high courts and district courts adopted a hybrid model (a mix of physical and online/virtual) for hearings. However, resumption of normal hearing patterns, where almost approximately 100 cases were listed in a single day, never picked up.

The second wave of Coronavirus now has left the practicing advocates in an even more confused and distressed state, especially those who all appear mainly in district courts and tribunals.

There was some hope when in the month of January 2021 high courts and district courts resumed physical hearings, albeit in a restricted and safe manner. However, more Covid-19 positive cases started getting listed which ultimately made the situation for many lawyers even worse.

However, with the second onslaught of coronavirus, the functioning of the court once again went back to as it was last year (i.e., 2020). All Courts/tribunals are now hearing only those cases that were filed in the year 2021 and of utmost importance, no other matter is being taken up by the Hon'ble court or tribunals.

#### **4.3 NEW AND FIRST-GENERATION LAWYER'S PRACTICE HIT-HARD DUE TO CORONAVIRUS**

*It's tough to handle matters virtually': New lawyer's practice hit drastically due to COVID-19, lockdown*

First-generation and new lawyers in the national capital (Delhi) who are dependent on fresh case filings and hearings for their daily and monthly income have been hit by Coronavirus followed by a lockdown.

Whereas on the other hand and the first thing that strikes the mind of a common man is the misconception that almost every top lawyer charges hefty fees and travel in luxurious expensive vehicles.

Many young and dynamic lawyers moved out of their respective states and settled in the nation's capital dream with a dream to become successful lawyers. However, unfortunately, the dream of such young members of the legal fraternity of becoming a successful lawyers came crashing down, when Hon'ble Prime Minister Mr. Narendra Modi announced the 21-day nationwide lockdown in March 2020 to stymie the Coronavirus infection spread in India.

Further, adding to the misery of fresh-generation and new lawyers, the Hon'ble judiciary — from the Apex Court to the lowest sessions courts — decided that the Hon'ble judges would hear only extremely urgent matters, and that would be done through electronically that is virtual hearing or video-conferencing.

Initially, when the lockdown was imposed in the year 2020, many people from the legal fraternity thought that the lockdown would be a temporary phase and things soon would be normal like before. However, many new lawyers realized the Coronavirus situation is getting worse which forced the central government and state government to extend the lockdown for a few months more. Almost every trial court, where mostly fresh-generation and new lawyers practice, were shut from March 2020 onwards and with hardly any client approaching them. This is resulting and forcing many lawyers to shut their office/chambers as many lawyers are finding it very hard to pay the rent for their premises.

Many lawyers are facing problems related to getting payments from clients. Through my personal experience, many lawyers are saying that their clients are refusing to pay the advance citing the reason that there was hardly any hearing in the Hon'ble trial courts, and they (clients) are not getting any kind of legal relief as well.

Several young lawyers have no plans to come back to the nation's capital Delhi until the Coronavirus situation improves and Hon'ble courts resume their full-fledged functioning like before the lockdown was imposed.

In fact, even though the Apex Court and Hon'ble high courts across the country are conducting online/virtual hearings, the Hon'ble trial courts — where most first-generation and new lawyers practice — are still not working fully and are hearing only important urgent matters.

During my recent internship in the Hon'ble Delhi High Court, I came to know that several lawyers complain and are of the view that they lack proper facilities and infrastructure at home to attend online/virtual hearings and don't have gadgets such as scanners, laptops good Wi-Fi connectivity for better connectivity/bandwidth. Another problem that lawyers face is regarding payment from clients.

While most of the clients don't want to meet personally with lawyers. On the other hand, some fear that the option of digital payment could be risky and fraudulent.

The central and state government is hesitant on opening up the physical courts again fearing the footfall or the people visiting the court premises could lead to further spread of Covid-19 infection.

The online hearing or virtual hearing has come with a heavy price for those legal professionals who all were majorly dependent on daily hearings for their monetary income, especially the advocates who are just starting their careers. Many state bar councils have come forward in order to help such lawyers pecuniary.

According to the BCI (Bar Council of India), there are approximately around 16 lakh advocates enrolled with different state bar councils in their respective states.

These practicing advocates are majorly and solely dependent on the regular matters, though meager, income or payment they earn from appearing in different Hon'ble courts and various Hon'ble tribunals as well as before the quasi-judicial authorities.

The DBC (Delhi Bar Council) had released ₹8 crore to 1,600 lawyers as a relief, besides providing financial support to the practicing advocates and family members suffering from Coronavirus.

Moreover, the council has decided to pay all the families of ₹1 lakh in case a lawyer dies due to the Covid-19 infection as compensation. Consequently, similar funds have been created by various bar councils across the nation, including the KSBC (Karnataka State Bar Council), the Hon'ble Bar Council of Tamil Nadu & Puducherry, and the Bar Council of, Nagaland, Assam, Mizoram, Sikkim, and Arunachal Pradesh.

#### 4.4 LAWYERS PLANNING TO CHANGE PROFESSION<sup>27</sup>

While writing this research paper I came across various articles and got to know that many legal professionals are even planning to change their profession after the imposition of lockdown in the country. One such example is a 42-year-old lawyer and his wife, both working advocates at Hon'ble Delhi High court and tribunals, the covid-19 pandemic has hit the couple so badly that they had to leave their rented house/accommodation in Dwarka and unfortunately shift to their hometown in a place called Gaya in Bihar. Further, the couple stated that “We knew that the Covid-19 lockdown would mean nil or zero income for us in this year. There was also the very dicey and rare possibility that the Hon'ble courts would resume functioning soon in the upcoming days. The couple went on to say that "we are now thinking of switching our legal profession for our livelihood and for better living. If the situation improves then we might think of coming back to Delhi.

#### 4.5 LETTER TO HON'BLE PRIME MINISTER MR. NARENDRA MODI

On July 10, 2020, the Bar Council of Delhi (BCD) had written to Mr. Modi, demanding an allocation of ₹500 crores from the Contingency Fund of the country as well as the PM RELIEF CARES fund “to mitigate their hardships”.

In a letter to the Hon'ble PM, the council has stated that “the condition of lawyers and practicing advocates has been worsening day by day because of the COVID-19 lockdown and the current situation in the country forcing them to find even basic requirements for livelihood being unmet”.

Approximately around 2,000 women advocates from across the nation have also written a letter to the Hon'ble Home Minister Mr. Amit Shah, explaining the financial or monetary stress that they are undergoing in this coronavirus pandemic and urged him to improve the infrastructure in courts and tribunals so that virtual courts can function easily and smoothly.

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<sup>27</sup> **The New Indian Express (23 November, 2020), “Tough case to handle virtually’: New lawyer’s practice hit-hard due to coronavirus lockdown”, <‘Tough case to handle virtually’: New lawyer’s practice hit-hard due to COVID-19, lockdown- The New Indian Express>, accessed on 21 March, 2021.**

The BCD (Bar Council of Delhi) has also written to the Hon'ble Chief Justice of the Delhi High Court, urging him to allow a hybrid system (online and offline) of hearings, where the Hon'ble judges physically assemble in courtrooms or tribunals and then let the practicing advocates decide if they wish to opt for online/virtual or physical hearings.

The letter by BCD (Bar Council of Delhi) member Mr. Rajiv Khosla states: “The hybrid model (online and offline) will not give any excuse to anyone for non-appearance in their matter, citing the difficulty of causing appearance in a particular model or system. Additionally, this will further empower the presiding officer to give or pass effective orders after hearing both the parties present in the matter and the same will also reduce the litigation pendency in the future besides providing some pecuniary or monetary relief to the advocates who are hard-pressed on account of the same process.

#### **4.6 TRIAL COURTS AND TRIBUNALS LAWYERS WORST HIT IN COVID-19/CORONAVIRUS WAVE**

Even though the Apex Court and Hon'ble high courts across the nation are conducting online/virtual hearings, the trial courts — where most advocates practice — are still not working properly and efficiently and are hearing only important and urgent matters.

Many advocates complain that they lack proper facilities and infrastructure at home to attend online/virtual hearings and don't have gadgets such as scanners, laptops, good Wi-Fi connectivity for better bandwidth/connection.

The government of India is hesitant on opening up the courts and tribunals fearing the footfall on the court premises or tribunals could lead to further spread of COVID-19 infection.

#### **4.7 WHAT IS AT STAKE FOR THE LEGAL PROFESSIONALS IN THIS COVID-19 PANDEMIC IN INDIA?**

The Covid-19 crisis that the whole world in general and our country India is facing due to the rapid growth and seemingly uncontrollable spread of coronavirus is not only totally unprecedented in contemporary times but also extremely disturbing that how it is damaging on multiple fronts. Almost the whole world, most of the countries, barring certain exceptions, is in lockdown and just essential services are allowed to sustain human life and to function and operate. Nobody had an idea how the world would look in the aftermath of COVID-19.

Indeed, many things would undergo a significant as well as drastic transformation, from our traveling habits to hygiene habits to eating habits, and lifestyle, however, how we embrace these drastic changes - is the million-dollar question that everyone is wondering about. It is an undisputed fact that how sudden things change the whole system and bring their own diversified challenges, which, in the present case because of the Covid-19, would surely be multi-faceted and ultimately far-reaching.

The present situation in the country due to the Corona wave is very much disturbing and devastating. The devastation is to such extent that not only the poor people are suffering badly more but middle-class families or so-called rich or higher class people are suffering as well.

Present coronavirus situation in the country forced the legal professionals to take help of the advanced technology and started conducting seminars or teaching online, etc. on virtual/electronic platforms via Cisco app, zoom app, etc. also many of them have already learned and some are still learning to file their matter/cases on e- Platform. The current situation will also analyze whether there is a need to switch/move over to this new advanced technological system discarding the old and pre-codified traditional methods of teaching law in the entire nation or not but it's not such an easy-going task because traditional and old methods of teaching law and its ethics and doing other legal tasks at courts or tribunals are very much known and deep-rooted in the legal profession or our legal system's execution manner and process.

It is really high time for the management (be it bar council or any other organization/Govt.) of the legal profession or fraternity upon this restructuring aspect which could ultimately balance the interests of all the advocates or law students as well. We all have to keep in our mind that every year thousands of law student graduates in the country and join the noble-legal profession and no doubt they have to be suitably placed amid this Covid-19 crisis which is itself a difficult and worrisome task for many. We all need to generate this 100 percent confidence in clients that like other professions

Or sectors, the legal sector in our country is also prepared to face the new challenges that come our way. Additionally, we have to further make sure that the quality of legal support, help, and assistance in the absence of huge revenue and less pecuniary gains, is not compromised at all.

Further, we all have to scrutinize and identify the basic, efficient, and prospective cost-cutting avenues. As we the working and professional advocates aren't subjected to any kind of unduly harsh measures. Moreover, above all, we have to take them into the loop and confidence. Consequently, by just knowing that we the Bar Council of India (BCI) don't have enough and sufficient funds to meet the basic livelihood needs of the needy lawyers in this Covid-19 pandemic, in fact, need to scrutinize and analyze the situation thoroughly and keeping the advocate's dignity in mind make the adequate efforts or proposals to help the lawyers who all need the help most in this tough time coronavirus.

However, some bar councils of respective states have come up with a proposal or scheme to support young and first-generation lawyers amid this Covid-19 crisis. Further, we have to keep in our mind that a large chunk of the legal professionals consists of daily bread earners who all are required to work daily and continuously to generate sufficient income to live a decent life. But unfortunately in this lockdown, these legal professionals are the ultimate sufferer in terms of their monetary or financial dependency.

First-generation and Young lawyers are the most hit population of this legal profession in this nationwide lockdown amid coronavirus pandemic because they may have to deal with other factors as well and issues like maintaining their basic structure of living or accommodation or finding difficulty in meeting their daily basic and much-needed needs as well as it may be highly possible that these professionals have just started their legal career in this novel profession of being a successful and independent lawyer, earning on daily basis or monthly to meet up their basic requirements of living.

The respective bar councils such as DBC (Delhi Bar Council) have floated an idea last year in 2020 whereby ₹5000 per month would be provided as monetary or financial assistance to young lawyers. The idea shared by the Delhi Bar Council (DBC), although appreciated by many, but has its own challenges and difficulties in execution of this idea as bar councils do not maintain or keep a record of the income cycle of the advocates enrolled with it. Moreover, how such advocates who require monetary or financial assistance would be identified or selected presents their own difficulties under the conditions of the Covid-19 lockdown restrictions.

Although the idea shared by the Bar Council of Delhi (DBC) has been publicized and senior advocates and members of the bar council of Delhi have been urged to contribute financially whatever amount they can and reportedly, some senior advocates and members of the bar

have contributed to such corpus and noble initiative taken by DBC as well, however, it is unclear and ambiguous as to how many advocates have actually received the benefits of such assistance and initiative by DCB. However, the top most senior lawyers or members of the Bar Council of Delhi (BCD) now come up with the proposal to distribute the "**RASHAN KITS**"<sup>28</sup> (daily basic necessities) to the needy advocates by providing their particulars like Enrollment number, Ids, etc.

Consequently good not bad but surely there must have more ideas, schemes or similar proposals to be executed like the senior-most members of BCD did and well-to-do members of the bar council should identify the young and struggling advocated in an efficient manner mainly in their own respective networks and should directly or indirectly through whatever means must support them. Moreover, this would also facilitate support or much need help under the Covid-19 pandemic and nationwide lockdown and it would not require any bulky paperwork formalities, can give financial or monetary assistance to the needy advocates in their respective Unified Payment Interface (UPI) or bank accounts so that these advocates can manage that much-needed fund their best ways. Further, the BCI (Bar Council of India) has moved a letter petition before the Apex Court of the country, seeking appropriate directions or orders to alleviate the sufferings of the legal professions from Coronavirus

The corpus and its policies/ideas/scheme of implementation or execution should be promptly and appropriately deliberated rather than putting the advocate's dignity, and self-respect at stake.

No doubt this may surely not be the end of the death row due to coronavirus. But the enrolled members of the Bar Association of respective states need to be well prepared for today and for the future as well

## **LOSS OF LIVELIHOOD IN COVID-19**

### **5.1 ADVOCATES LOST LIVELIHOOD IN CORONAVIRUS PANDEMIC**

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<sup>28</sup> Bar Council of Delhi, "*Rashan Kits*", < [BCD Ration Helpline | Bar Council of Delhi \(delhibarcouncil.com\)](#)>, accessed on 08.06.2021.

*“Even Apex Court asked the center that "Lawyers lost livelihood in Covid-19, why no special fund to help them”<sup>29</sup>*

A bench headed by Hon'ble Chief Justice of India Mr. S A Bobde termed the situation “unprecedented” and unfortunate and issued notices to the Centre and the BCI (Bar Council of India).

The Apex Court took Suo-moto cognizance with regard to the loss of livelihood of advocates on account of the COVID-19 pandemic and sought to know the reason why a special fund should not be set up to help lawyers whose livelihood has been affected drastically.

Further, the Supreme Court said that "We find that the Covid-19 pandemic has taken a heavy toll on the lives of citizens of India and particulate legal professionals. The bench pointed out that legal professionals are bound by rules and directions to restrict their profession to the practice of law and are not entitled or allowed to earn a livelihood by any other mode or means.

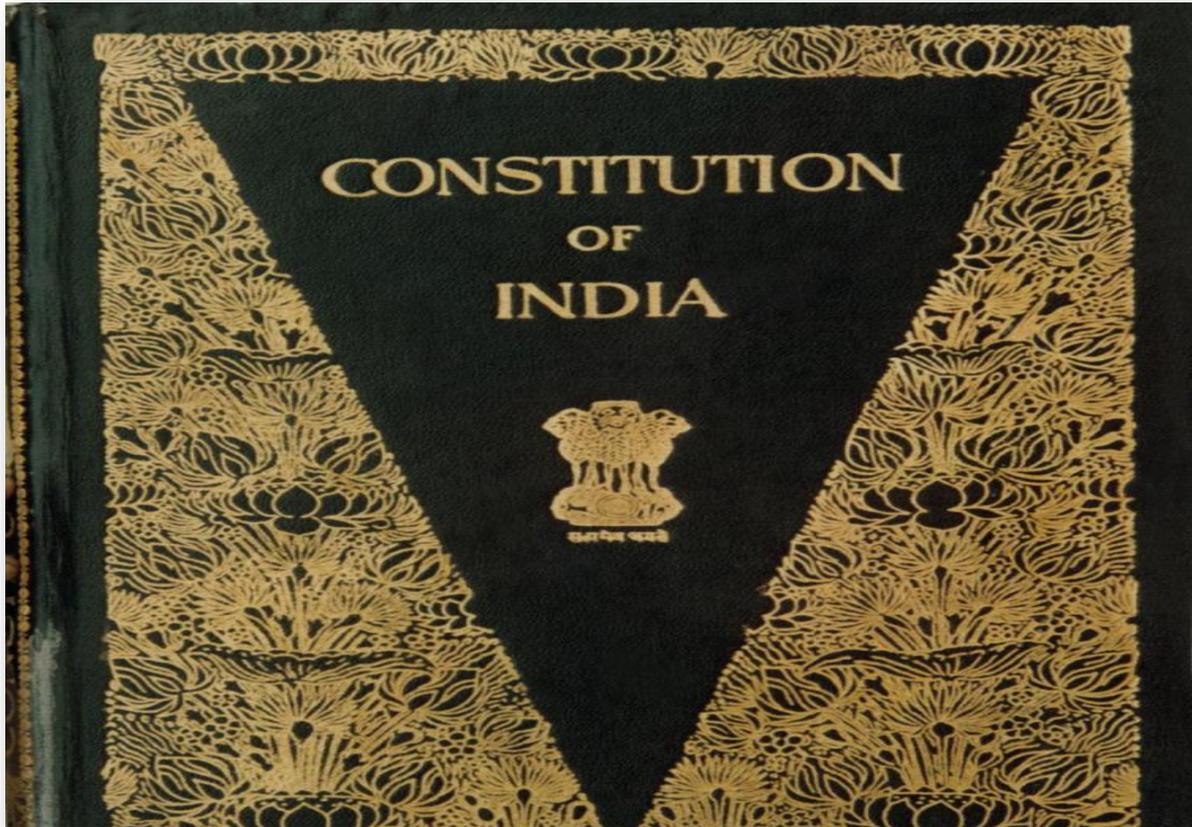
A sizeable proportion is denied of their monetary income and livelihood. The court also observed that this had prompted constant calls and requests for resumption of physical/face-to-face hearings and not online/virtual which, however, may jeopardize the health situation in the country because of the coronavirus.

## **5.2 THE QUINTESSENCE OF RIGHT TO LIFE AND LIVELIHOOD UNDER ARTICLE 21 OF THE INDIAN CONSTITUTION**

Initially or in the initial phase, the Hon'ble courts regarded the Right to livelihood under Part-III of the Indian Constitution as exclusive to the right to life. But the view of the Hon'ble courts underwent modifications through various landmark decisions of the court and the definition of the word specifically ‘life’ started to be taken as broad, wide, and expansive. Right to livelihood as mentioned In the Indian Constitution started to be taken into account after the landmark Board of trustee’s case.

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<sup>29</sup> The Indian Express (23 July, 2020), “SC asks center: Lawyers lost livelihood in covid-19, why no special funds to help them”, <Lawyers lost livelihood in Covid, why no special fund to help them: Supreme Court | India News,The Indian Express>, accessed on 25 May, 2021.



### ◀ LEGAL FOXES ▶

Further, the case explicitly explained that the word ‘life’ does not merely mean or presage just animal existence or continued drudgery throughout life. Rather, where the outcome of a departmental/institutional inquiry is likely to affect the livelihood or reputation of a person, some of the final graces of human beings civilization that make life worth living would be unfortunately jeopardized and the same can be sadly put in jeopardy only by law or statutes which inheres fair and reasonable procedures.

An important step was taken by the Hon'ble court in expanding the scope of the Article Under the Indian Constitution when it argued that ‘life’ in Article 21 does not mean just merely ‘ an animal existence’ but living with ‘human dignity and respect’. The Hon'ble court has therefore given very extensive parameters in regard to Article 21. As the Apex Court of the country has observed in Francis Coralie, "it questioned that the right to life under Article 21 and its limitation is restricted to only the protection of limb or faculty.

The second or another question can be the extent of the right to life in terms of proper clothing, adequate nutrition, and shelter over the head and facilities for reading, writing, and expressing oneself in various and diverse forms and ways, also freely moving about and

mingling and mixing with fellow human beings of the society at large. The content and magnitude of the components of this right enshrined under the Indian constitution would depend upon the extent of the economic development of the nation, but it must include basic and every common necessity of life and also the right to carry on such activities and functions as they constitute the bare minimum expression of every individual or the human self in general.

In a landmark case of *Munn vs. Illinois*<sup>30</sup>, Hon'ble Justice Field "By the term "life" as here used something more is meant than merely any kind of animal existence. In fact, the fact is that the inhibition against its deprivation extends to all those faculties and limbs by which life is enjoyed and fully lived with dignity and respect. The specific provision as discussed equally restricts or prohibits the mutilation of anybody by the amputation of a leg or an arm.

Moreover, Article 21 under Part-III of the Indian Constitution was also very evident and clear in the very famous Indian movement for the 'Bandhua Mazdoor' community. Unfortunately, earlier people used to be bought at minimal unfair throwaway prices and were treated very badly in inhumane ways. Therefore, another formulation of the basic theme of life with dignity and respect is to be found in "Bhandhua Mukti Morcha" characterizing and to some extent decoding Article 21 enriched under part 3 of the Indian Constitution as the heart and soul of the fundamental rights, the Hon'ble Court gave it a wide and expanded interpretation- "to live life with human dignity and respect," and totally free from inhumane treatment, ill-mannered behavior, and exploitation. Additionally, it includes the protection of life, basic health, and strength of the workers, women, and men, and of the tender age of child against abuse, facilities, and opportunities, for children of the country to develop and grow in a healthy manner.

Further, in *Chameli v State of UP*<sup>31</sup>, the Hon'ble court moved further included the right to water, food, and a decent healthy environment. Moreover, the court explained a certain connection with respect to an organized society that states that the "right to live as a human being" is not ensured by meeting just only the basic animal needs of man.

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<sup>30</sup> U.S Supreme Court, "*Munn Vs. Illinois [94 U.S. 113 (1876)]*", < *Munn v. Illinois*:: 94 U.S. 113 (1876) :: [Justia US Supreme Court Center](#)>, accessed on 27 May, 2021.

<sup>31</sup> *Chameli vs. State of UP [Appeal (civil) 12122 of 1995]*, <[Chameli Singh vs State Of U.P on 15 December, 1995 \(indiankanoon.org\)](#)>, accessed on 27 May, 2021.

However, it is secured only when he is assured of all basic facilities to develop and grow himself in an adequate manner and is freed from every kind of restriction that inhibits his growth. Significantly, all human rights are codified and designed to achieve this objective. Also, the right to guaranteed in any civilized society implies the right to water, food, and a healthy and safe environment, shelter, and adequate medical care.

### 5.3 RIGHT TO LIVELIHOOD AS A FUNDAMENTAL RIGHT

In simple terms, the basic meaning of the term Livelihood can include basic shelter, education, occupation, food, and medical care. However, the court's view kept on transforming with time. The Apex Court of the country in the landmark case "*Olga Tellis v. Municipal Corporation of Bombay*<sup>32</sup>", popularly known by the legal professionals as the "*Pavement Dwellers landmark Case*" an eminent five-judge bench jury of the Hon'ble Court stated that 'right to livelihood' is borne out of the 'right to life as a fundamental right, as no person or citizen of India can live without the means of living, that is, the means of Livelihood for all.

Further, the court, in *Olga Tellis v. Bombay Municipal Corporation*, observed that: "The sweep of the right to life conferred by Article 21 (Part 3 of the Indian constitution) is wide and far-reaching. Article 21 of the Indian constitution does not merely mean that life cannot be extinguished or taken away as, let's say for example, by the imposition and execution of death penalty or death sentence, except according to the procedure established by law and the legal principles. That is but one aspect of the right to life under Article 21. An equally important and crucial facet of the right to life as a fundamental right is the right to livelihood because no person on this land or citizen of India can live without the means of livelihood."

If the right to livelihood under Article 21 of the Indian Constitution is not treated as a part and parcel of the Indian constitutional right to life, the simplest or easiest way of depriving a person of his right to life as a fundamental right under part three of the Indian constitution would be to deprive him of his means of livelihood to the point of abrogation.

In a landmark case "*Olga Tellis v. Municipal Corporation Bombay*", the Hon'ble court further opined: "The state may not by affirmative action, be compelled to give or provide adequate means of livelihood or work to the citizens of India or to any people living in the

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<sup>32</sup> *Olga Tellis vs. Municipal Corporation of Bombay*, 1986 AIR 180, <*Olga Tellis & Ors vs Bombay Municipal Corporation & ...* on 10 July, 1985 ([indiankanoon.org](http://indiankanoon.org))>, accessed on 28 May, 2021.

country. But any person who is deprived of his right to livelihood under Article 21 which is a fundamental right except according to the just and fair procedure established by law and the legal principles can challenge the deprivation as offending the right to life conferred in Article 21 of the Indian Constitution.”

Additionally, emphasizing upon the close relationship of life and livelihood under part 3 of the Indian Constitution, the Hon'ble court stated in *M. Paul Anthony v. Bihar Gold Mines Ltd*<sup>33</sup>, it was held that when any government servant (center or state) or one in a public undertaking is suspended pending a departmental disciplinary inquiry/action against him/her, subsistence allowance must be paid to him/her. Further, the Hon'ble Court has emphasized that a government servant (Center or State) does not use his right to life and other fundamental rights in this particular case stated.

However, if any person or citizen of India is deprived of such a right according to law of the land and to the procedure established by law which must be just, fair, and reasonable and which is in the larger interest of general people, the plea of deprivation of the right to livelihood under part of Fundamental right (Article 21) is unsustainable.

Further, the Court opined that the state acquires land in the exercise of its power of eminent domain for Public services and for a public purpose. Moreover, the landowner is paid compensation in lieu of land/property/place, and therefore, the plea of deprivation of the right to livelihood under Article 21 of the India Constitution is unsustainable.

Also, In *M. J. Sivani v. State of Karnataka & Ors*<sup>34</sup>, the Apex Court held that "right to life under Article 21 of the Indian Constitution does protect livelihood but added a rider that its deprivation if so cannot be extended too far or stretched or projected to the business, avocation, or trade injurious to the public interest at large or has an insidious effect on public order or public morals. Further, it was, therefore, held that regulation of some video games or prohibition of few video games of pure chance or mixed chance and skill are not violative of Article 21 under part 3 of the Indian constitution nor is the procedure unfair, unreasonable, or unjust.

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<sup>33</sup> *M. Paul Anthony v. Bihar Gold Mines*, AIR 1999 SC 1416, <Capt.M. Paul Anthony vs Bharat Gold Mines Ltd. & Anr on 30 March, 1999 (indiankanoon.org)>, accessed on 29 May, 2021.

<sup>34</sup> *M.J Sivani v. State of Karnataka & Ors.*, [Appeal (civil) 4564 of 1995], < *M.J. Sivani and Ors vs State Of Karnataka And Ors* on 17 April, 1995 (indiankanoon.org)>, accessed on 01.04.2021.

In the landmark case, Supreme Court in "*U.P. Avas Vikas Parishad v. Friends Cooperative Housing Society Ltd. (Limited)*",<sup>35</sup> stated that the minimum or basic "right to shelter" given under Article 21 has been held to be a fundamental right of every individual under part-III of the law of the land that is the Constitution of India which is taken from the "right to residence" secured in Article 19 Clause (1) Subclause (e) of part 3 of the supreme law of the land and the "right to life and personal liberty" enshrined under or guaranteed by Article 21. To make the right meaningful to the 'poor', the respective state has to provide facilities and opportunities to build houses/accommodations.

Even, for the animal, it is the basic and bare protection of the body, for every human being, it has to be a suitable accommodation/housing facility that would allow him to grow in every aspect be it – mental, physical, or intellectual. The law of the land "Indian Constitution" aims at ensuring the fuller development of every child of the country. That would be only possible if the child is located in a proper accommodation/home/housing facility. It is not necessary that every citizen of the country must be ensured of living in a well-built comfortable accommodation but a reasonable home, particularly for people in our country India, can even be a mud-built thatched home or a mud-built fireproof basic housing facility.”

In Landmark case: "*Chameli Singh v. The State of UP*",<sup>36</sup> a bench of 3 Judges of the Hon'ble Apex Court of India had considered and held that the "right to shelter" under Article 21 is a fundamental right under part-III of the Indian Constitution available to every citizen of the country and it was read into Article 21 of the Indian Constitution as encompassing within its virtue or ambit, the "right to shelter" to make the "right to life" under Article 21 more valuable, relatable, and meaningful.

Additionally, the Hon'ble Court observed that: basic “Shelter for every individual or every human being on this planet and India, therefore, is not merely just protection of his "limb" and "life". It is however where he or she has opportunities to grow mentally, physically, spiritually, and intellectually. The "right to shelter" under Article 21, therefore, includes adequate living space, safe, sound and decent structure, decent and clean surroundings,

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<sup>35</sup> *U.P. Avas Vikas Parishad v. Friends Cooperative Housing Society Ltd.*, 1996 AIR 114, < *U.P. Avas Vikas Parishad & Anr vs Friends Coop. Housing ...* on 24 April, 1995 (indiankanoon.org)>, accessed on 05.04.2021.

<sup>36</sup> *Chameli vs. State of UP [Appeal (civil) 12122 of 1995]*, <*Chameli Singh vs State Of U.P* on 15 December, 1995 (indiankanoon.org)>, accessed on 27 May, 2021.

sufficient light, pure water and air, sanitation, electricity, and other basic civic amenities like common roads, etc. so as to have comfortable and easy access to every human being for their daily avocation and work. The 'right to shelter under Article 21, therefore, does not mean a mere 'right to a roof over anyone's head but the right to all the basic infrastructure necessary to enable them to live peacefully and develop as human beings.

#### **5.4 LAWYERS FACING LIVELIHOOD PROBLEMS RELATED TO ACCOMMODATION/PAYING EMI'S/RENT AS COVID-19 HITS BADLY**

*Even a plea In Hon'ble Delhi High Court is filed seeking financial assistance as Interest-Free Loan to Lawyers For at least Five Years Facing Acute Shortage of Money Due To Coronavirus<sup>37</sup>*

A plea by an advocate has been moved in the Hon'ble Delhi High Court this year (i.e., June 2021) seeking extension of financial or monetary assistance as an interest-free loan to practicing advocates enrolled with the BCD (Bar Council of Delhi) in order to fulfill their basic needs and survive with honor, respect, and dignity and make payment of their pending EMIs, School Fees of their children, against their various Credits Card Payments/Loans, etc. in the times of COVID-19 Pandemic.<sup>38</sup>

This plea is moved by various practicing advocates of the nation's capital Delhi, the plea makes UOI through the Ministry of Finance, GNCTD (Government of N.C.T of Delhi), DBC (Delhi Bar Council), and Reserve Bank of India (RBI) as respondents.

Stating that the covid-19 pandemic brought a significant and drastic financial or monetary difficulty, the plea avers that most of the practicing advocates who come from a middle-class background/family and lower Middle-class family are still desperately waiting for the opening of Courts and tribunals since last years, and when they were very hopeful for the opening of the courts and tribunals which had been completely shut down and closed due to second covid-19 wave.

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<sup>37</sup> Live Law (06 June, 2021), "Plea in DHC seeking financial assistance for interest free loan to lawyers", < Delhi High Court | Financial Assistance | Interest Free Loan | Advocates | Covid 19 | delhi bar council (livelaw.in)>, accessed on 07.06.2021.

<sup>38</sup> Live Law (06 June, 2021), "Ritesh Tanwar & Ors. v. Union of India & Ors. (2021)", < Delhi High Court | Financial Assistance | Interest Free Loan | Advocates | Covid 19 | delhi bar council (livelaw.in)>, accessed on 07.06.2021.

**The Plea filed by the advocates read as:**

*“That after the expiry of more than almost 1.5 years and Hon'ble courts are still closed for its normal and day-to-day work, due to which now practicing advocates are also not in a state to pay their respective equated monthly installment (EMI) of their respective loans viz. Car, Personal Loan, Home, and payments for Credit Cards, etc., and also unable to pay school fees, etc. of their children. Due to this many schools refused to teach their children because of the non-payment of the fees. The schools are also rightfully forcing them to pay their school fees of their children on time, which lawyers are not able to pay as their own professional work is totally stopped from previous year i.e., Last March 2020 till today”.*

Moreover, stating that the DBC (Delhi Bar Council) had floated a Tender dated 10.02.2021 for Redevelopment of their Head office at an estimated cost of around ₹3.5 Crore.

**The plea reads thus:**

*“At this time when all practicing advocates are suffering from pecuniary or financial crises, there is no need for Redevelopment of Head Office of R. No.3 (i.e., Respondent No.3), and this money should be used and utilized more efficiently to save the monetary struggling advocates from this financial crises during Covid-19 Pandemic”.*

Therefore, it is in this view that it has been stated that to preserve the dignity and basic needs of the Legal professionals, monetary assistance in the form of Interest-free Loan is much needed from the respondents severally or jointly so that they can maintain and save their dignity in the front of society at large.

**The plea states the following prayers<sup>39</sup> -**

- *Issue an appropriate Writ, Direction, or Order in the nature of mandamus or any other suitable and appropriate Writ or Direction against the respondents to provide the monetary or financial assistance of Rs. Five Lakhs in the mode of interest-free Loan to practicing advocates enrolled with BCD (Bar Council of Delhi) without any kind of discrimination on the ground of voter id. Or residential address.*

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<sup>39</sup> Live Law (06 June, 2021), “Prayer in Ritesh Tanwar & Ors. v. Union of India & Ors. (2021)”, < Delhi High Court | Financial Assistance | Interest Free Loan | Advocates | Covid 19 | delhi bar council (livelaw.in)>, accessed on 07.06.2021.

- *Direct the Respondents to grant or issue an interest-free Loan of Rupees 5, 00,000 (Five Lakh) to each practicing advocate for the period of 5 Years.*
- *Direct the Respondents to protect and safeguard monetary or financially struggling advocates in this exceptional time of Covid-19 pandemic and consequent paralysis in entire courts systems in the entire nation Hon'ble Court may be please to pass appropriate orders or directions to protect the life and livelihood of thousands of young and first-generation legal professionals or practitioners who are facing destitution in its coronavirus pandemic and acquit shortage of livelihood money for daily or day to day basic expenses.*

## **LAWYERS RIGHT TO LIVELIHOOD SUFFERING FROM CORONAVIRUS**

### ***Concluding Paragraph-***

Therefore, the right to livelihood can have an extended and wide meaning to it as it is the most crucial and important right when it comes to human dignity and life. Thus, every lawyer suffering monetary as well as personally from Covid-19 to maintain his or her livelihood must be looked after either by the Center, state, or respective bar councils of every state or union territory.

## **LAWYERS RIGHT TO ADEQUATE MEANS OF LIVELIHOOD**

### ***UNDER DIRECTIVE PRINCIPLES OF STATE POLICY***

#### **6.1 RIGHT TO ADEQUATE MEANS OF LIVELIHOOD<sup>40</sup>**

*Article 39(a) under Part-IV of the Directive Principles of State Policy (DPSP) of the constitution of India deals with securing an adequate means of livelihood for men, women, or the citizens of the country India.*

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<sup>40</sup> Ministry of Law and Justice: Legislative Department, "Constitution of India", <COI.pdf (legislative.gov.in)>, accessed on 08.05.2021.

Continuing to wreak havoc on several lives and millions of livelihoods including lawyers across the country and world, I through my research work call on the government of India (Centre and State) to carry out all efforts and measures to ensure the security and livelihood of the members of the legal fraternity especially lawyers those suffering from the vulnerable economic conditions as a result of lockdown and coronavirus and the inability of earning their livelihood. The loss of livelihood of several lawyers has impacted the ability to pay house/accommodation rent as well. The central government of India (GOI/central government) announced a relief package of ₹1.70 lakh crore to provide free food and cash transfers to the poor sector and health insurance for frontline health care workers. However, lawyers are missing from this relief package being provided by the central government. Several state governments like West Bengal, Punjab, Haryana, Tamil Nadu, Delhi, and Uttar Pradesh (UP) government acknowledged the need for employee wages but unfortunately, lawyers are missing from this.

## 6.2 LAWYERS AS FRONTLINE WORKERS <sup>41</sup>

*Even Former Hon'ble PM Dr. Manmohan Singh thinks that lawyers are to be considered frontline workers in this pandemic.*

Recently, Dr. Manmohan Singh's addressed letter included an important suggestion to leave it to the discretion of all the state governments to declare several classes of people as frontline workers of COVID-19. However, no specific relief for the welfare of the lawyers who are hardly hit by coronavirus was provided by the central or state government, respectively.

## 6.3 DPSP [DIRECTIVE PRINCIPLES OF STATE POLICY]: MEANING<sup>42</sup>

The Directive Principles of State Policy (DPSP) has been taken from Ireland (Irish constitution) and enumerated in Part-IV of the Indian Constitution.

The concept behind the Directive Principles of State Policy (DPSP) is to create a '**Welfare State**'. In other words, the intent and motive behind the inclusion of Directive Principles of State Policy are not establishing political democracy rather, it's about and related to establishing social and economic democracy in every state. These are some basic principles

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<sup>41</sup> Bar and Bench (19 April, 2021), "*Lawyers as Frontline Workers*", <[Lawyers as frontline workers for priority COVID-19 vaccination? Dr. Manmohan Singh thinks so \(barandbench.com\)](http://barandbench.com)>, accessed on 11.05.2021.

<sup>42</sup> Ministry of Law and Justice: Legislative Department, "*Constitution of India*", <[COI.pdf \(legislative.gov.in\)](http://COI.pdf (legislative.gov.in))>, accessed on 08.05.2021.

or guidelines or instructions for the government (Centre and State) all respective states while formulating laws/policies of the country and in executing them.

According to respected Dr. Bhim Rao Ambedkar, these principles under DPSP are ‘novel features of the Constitution of India. Directive Principles of State Policy acts as a guideline or instructions for the state and should be taken into consideration while coming up or forming any new policy, statute or law. However, unfortunately, no one can compel the State to consider and follow all that which is mentioned in Directive Principles of State Policy, as DPSP is not justiciable.

## Directive Principles Of State Policy



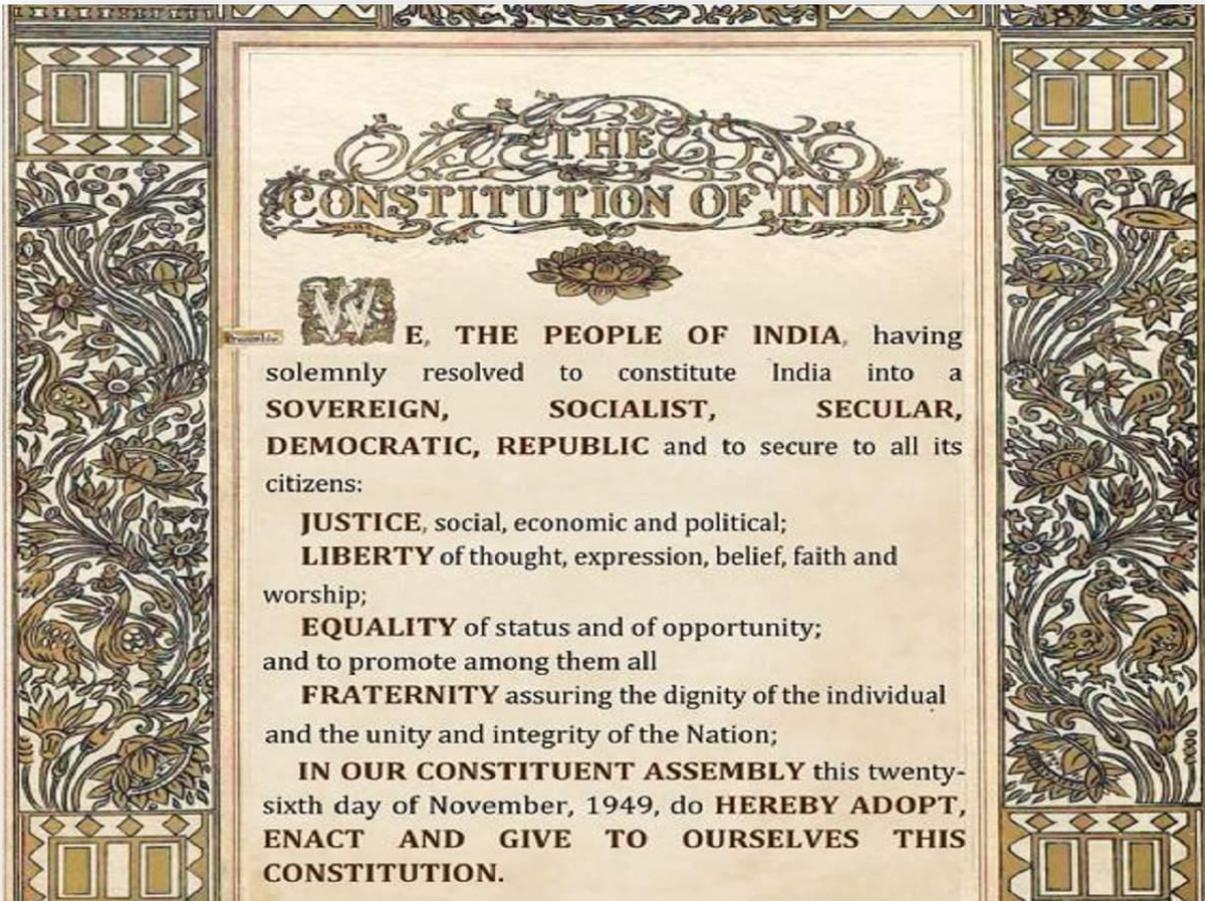
43

### 6.4 DPSP: REFLECTION OF PREAMBLE OF THE INDIAN CONSTITUTION

*The **Preamble** of the Constitution of India is a brief introduction to the constitution and it contains all the objectives which were there in the mind of the drafters of the Indian Constitution.*

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<sup>43</sup> Image Source (05.05.2018), “iPleaders”, < [Directive Principles of State Policy \(DPSP\) Under the Indian Constitution \(ipleaders.in\)](https://www.ipleaders.in/directive-principles-of-state-policy-dpSP-under-the-indian-constitution/)>, accessed on 12.04.2021.



"OUR MISSION YOUR SUCCESS"

44

According to some well-known scholars, DPSP (Directive Principles of the State Policy) is ‘the **kernel of the Indian Constitution**’.

The DPSP (Directive Principles of the State Policy) are the guidelines or instructions for the state which it must consider while formulating new laws, statutes, and policies of the citizens of India and it lays down all the objectives and its aim which the Constitution of India seeks to achieve.

The expression mentioned in the preamble of the constitution of India is “**Justice – Social, economic and political**” the ultimate aim and objective that has to be achieved through the formulation of the Directive Principles of the State Policy.

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<sup>44</sup> Image Source: “*The Times of India* (27 January, 2020)”, < [Reconnect with the Preamble | India News - Times of India \(indiatimes.com\)](#)>, accessed on 15.05.2021.

Directive Principles of the State Policy (DPSP) are enlisted to attain this ultimate objective and aim, as mentioned in the preamble of the constitution of India i.e. Justice, Liberty, Equality, and fraternity, which are also known as the major four pillars of the Constitution of India. Further, it also enlists the idea of the "*welfare state*" which was absent under colonial rule pre-independence.

### **6.5 ENFORCEABILITY OF DIRECTIVE PRINCIPLES OF STATE POLICY**

Directive Principles of State Policy (DPSP) was not made enforceable by the Constituent Assembly of the Indian Constitution. *But the non-enforceability of the Directive Principles of State Policy does not mean that they are of no importance.*

### **6.6 SIGNIFICANCE OF DIRECTIVE PRINCIPLES OF STATE POLICY**

- Directive Principles are non-justiciable but these are backed by *vox populi* (*voice of the people*), which is the real sanction behind every law in reality.
- Directive Principles of State Policy give the philosophical foundations of a welfare system or for the welfare state. These Directive principles make it a responsibility of the State to secure it through welfare legislation and proper laws.
- DPSP nature is more of moral ideals. Directive Principles of State Policy constitute a moral code for the State but this does not reduce their value as moral principles are very important and the absence of them may hamper the growth of society as a whole. A state is run by its people or the citizens of the country and the Government is always formed and managed by them through a democratic structure, so it's really an important task to have a set of standards for making laws in India.
- Directive Principles of State Policy act as guiding torch for the government which helps them in making policies, guidelines, and laws for the purpose of securing the welfare and justice in the State.
- Directive Principles of State Policy (DPSP) is like a source of continuity in the Governance of the entire country because where a democratic system exists, the Governments change after regular intervals of elections and every new government makes different policies, guidelines, and laws for the country. The presence of such policies and guidelines is really important because it ensures that every Government will follow the set of principles in the form of DPSP while formulating its laws.

- Directive Principles of State Policy can be called the positive directions or guidelines for the State which helps in securing social and economical dimensions of democracy. Directive Principles of State Policy are supplementary to Fundamental Rights which is mentioned under Part-III of the Indian Constitution which offers political rights and other freedoms. DPSP and fundamental rights both are nothing without each other as one provides social and economic democracy and the other, political rights.
- Directive Principles of State Policy (DPSP) make it possible for people to measure the worth of its government and its work. Most importantly a Government that doesn't consider these Directive Principles of State Policy can be rejected on this ground by the people in favor of a government that gives due importance to the task of securing these Directive Principles of State Policy (DPSP) in the state.
- The Directive Principles of State Policy (DPSP) constitute a manifesto of the country. These directive principles reflect the views and ideas which were there in the mind of the drafting assembly/drafters while drafting the constitution of India. These reflected the ideology and philosophy behind the making of the Indian Constitution and hence provide useful valid and information to the Hon'ble courts in interpreting the existing provisions in the Constitution of India and in coming up with better policies and laws.
- The Directive Principles of State Policy (DPSP) do not seem to be very rigid in their meanings and the content as stated in Part-IV of the constitution, and this very much helps the State in interpreting and applying these directive principles in accordance with the situation prevailing at a given time and scenario.

***To recapitulate, the problems suffered by the legal fraternity especially lawyers must be addressed by the state as Part-IV imposes a liability on the state to secure an adequate means of livelihood [Article 39(a)] and welfare of the state.***

Therefore, the inclusion of Part-IV in the constitution of the India which contains the Directive Principles of State Policy (DPSP) proved to be very useful for the entire country. The Directive Principles of State Policy (DPSP) provide good foundations for the welfare state. The securing of Directive Principles of state policy helped in completing the requirements of a democratic system r structure of a country as mentioned in the preamble of the Indian constitution. Further, it supplemented the Fundamental Rights mentioned in Part-

III under the constitution for the people and built a State characterized by these four pillars – Justice, Liberty, Equality, and Fraternity.

### **6.7 PART IV OF THE CONSTITUTION OF INDIA<sup>45</sup>**

*Part-IV of the Constitution of India consists of all the Directive Principles of State Policy (DPSP).*

DPSP covers the Articles starting from 36 to Article 51.

Further, Article 36 of Part IV of the DPSP defines the term “State” as the one, who has to keep in mind all the Directive Principles of State Policy before formulating any policy guidelines, or law for the nation. Moreover, the definition of “State” as stated in part IV of the constitution will be the same as that of Part-III of the constitution of India unless the context otherwise requires a change in it. In Article 37 of the constitution, the nature of Directive Principles of State Policy has been defined. DPSPs are non-justiciable in nature.

Article 38 to 51 of the constitution of India contains all the different DPSP’s.

### **6.8 ARTICLE 39 OF THE INDIAN CONSTITUTION**

Article 39 of the Indian Constitution is considered as one of the very important provisions of part IV of the constitution of India [i.e., DPSP (Directive principle of state policy)] in the constitution of India whose main aim and objective are to provide the guidelines or directions in another word, to the state which has relation in policymaking. Further, it describes the area where the state must have to take into its loop and consideration of work to grow as a "welfare state" where the interest of every citizen of India has some important effects or taken into consideration in other words. Moreover, all the policies, guidelines, or directions which are to be established must be under the preview of this article (i.e., Article 39) as this is considered as the pioneer of policy establishment.

***Article 39 as mentioned in the Indian Constitution states all the Principles of policy, guidelines, or directions which must be followed by the State.***

*The State shall make its policies or guidelines towards securing the following objectives—*

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<sup>45</sup> Ministry of Law and Justice: Legislative Department, “Constitution of India”, <COI.pdf (legislative.gov.in)>, accessed on 08.05.2021.

- All the women, men, and citizens of India should have the right to an adequate means of livelihood.
- The ownership and control of the people of the country over any material resources under the community should be distributed as it is for the common good of the public;
- The functioning of the economic system of the country should be such that the concentration of wealth and the means of production don't result in a loss common to all or to the citizens of India or which causes detriment to the people of India;
- There shall be no and any kind of gender discrimination, both women and men should get equal pay for equal work in the country.
- The health and strength possessed by any worker, women, and men, and the tender age of children should not be abused and the citizens of India should not be forced in any manner to enter and indulge in any profession or occupation which is not suitable for their respective age or strength, not even out of any pecuniary or financial necessity or economic backwardness
- Children of the country must be given enough facilities and opportunities so that they develop in a healthy and suitable manner and in such conditions where their dignity and freedom, including the fact that their childhood and youth remain protected, against any kind of exploitation and against any sort of material or moral abandonment.

*Concluding Paragraph for subheading No. 6.8:*

Therefore, in a nutshell, Article 39 of the constitution of India describe that while framing guidelines or policies, i.e., the state would strive to provide adequate means of livelihood to every citizen of the country including women and men both, equal pay for equal work, which is very much needed and important as earlier women used to get lesser pay as compared to men as it was a stereotype or an orthodox mindset that women have less energy or strength in comparison to men but state comes into the picture directly and make this moral principle in part-IV of the Indian Constitution the supreme law of the land, next is a resource distribution, and finally, the safety of every citizen of India, their healthy and safe development including of children is all provision which state must take himself into consideration for making any kind of guidelines, rules or policies.

## 6.9 CASE STUDY ON DPSP (DIRECTIVE PRINCIPLES OF STATE POLICY)

Interestingly, the question that arises is whether Fundamental Rights under Part-III precedes Directive Principles of State Policy (DPSP) or later takes a higher position than the former, it has been a subject of argument for years.

*There are some important judicial pronouncements/precedents that tried to give an answer to this question, they are as follows:*

### **Case: *Keshavnanda Bharati vs the State of Kerala*<sup>46</sup>**

The Supreme Court of India placed Directive Principles of State Policy in a higher position than Fundamental Rights.

After that, in the landmark case of *Minerva Mills vs Union of India*<sup>47</sup>, the Hon'ble Court while deciding the case held that the "harmony between the two (Fundamental rights and DPSP) should be maintained because neither of the two has any precedence over each other". Both Fundamental rights and DPSP are complementary to each other and they should be balanced anyhow for the proper functioning and welfare of the State.

### **Case: *Unnikrishnan vs State of Andhra Pradesh*<sup>48</sup>**

The Hon'ble Court was of the view that Fundamental Rights under Part-III and Directive Principles of state policy under part-IV are not exclusive but complementary to each other. The Hon'ble Court said that the Fundamental Rights (FR) are the ways and medium through which the goals are given in Part-IV of the India Constitution can be achieved.

## 6.10 CONCLUDING REMARKS AND OPINION REGARDING THE ABOVE DISCUSSED POINTS UNDER THE HEADING 'LAWYERS RIGHT TO ADEQUATE MEANS OF LIVELIHOOD UNDER DPSP'

The significance of Directive principles of state policy (DPSP) cannot be looked down upon just because of the reason that it is not enforceable in any court of law as mentioned in part-IV of the Indian Constitution. These Directive principles of state policy were added to facilitate the governance of the respective states and the smooth functioning of the country.

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<sup>46</sup> (1973) 4 SCC 225

<sup>47</sup> AIR 1980 SC 1789

<sup>48</sup> 1993 AIR 2178

Moreover, it was added to meet the main aims, objectives and the ultimate goal of a nation i.e. to work for the welfare of every citizen of India.

There are many important Acts for example (Equal Remuneration Act, 1976), so we can't say that Directive principles of state policy are not implemented and have no importance at all.

Additionally, the Directive Principles of state policies are like a structure given for the government and it should work and formulate new laws, policies, or guidelines revolving around that structure only so that the welfare of every citizen of the country be ensured. Every policy, guideline, and law formulated by the state has to meet the standards and content of the Articles of the Indian Constitution which are mentioned in Part-IV.

***Thus, the state should make some policies or guidelines for the welfare of the lawyers and for their adequate means of livelihood.***

However, even after being non-justiciable, they are implemented in some important Acts and they hold equal relevance, significance, and importance as Fundamental rights (FR) as mentioned in Part III of the Constitution of India.

***Therefore, in such a tough time of COVID-19 in the entire nation, every state and the government must formulate relevant and suitable laws, policies, or guidelines for many lawyers who all are suffering economically***

## **BAR COUNCIL COMES TO RESCUE ADVOCATES IN**

### **CORONAVIRUS PANDEMIC**

#### **7.1 LAWYERS DEPENDENT ON WELFARE SCHEMES**

The way Covid-19 is eating the livelihood of some lawyers is disheartening to see. Many lawyers are helpless and forced to wait in a queue to pick up their kit of dry ration – given by the *Bar Council of Delhi (BCD)* –in Delhi. Such incidents break the perception about the legal fraternity or legal profession being a financially rewarding career or profession. Only a handful of advocates do make good earnings. They all did so in pre-coronavirus times and continue to do so.

India's capital Delhi-based legal think-tank Vidhi Centre for Legal Policy published a study in May 2020, according to which practicing advocates with experience of up to two years of legal practice earn less than ₹10,000 a month. Many advocates revealed that their average

monthly income in the first two years of their professional legal practice approximately lies between ₹5,000 and ₹20,000.

According to the **(BCI) Bar Council of India**, the supreme regulatory or disciplinary body for lawyers, there are 16 lakh lawyers enrolled with various respective state bar councils.



49

Even the Bar Council of India (BCI) claimed that many lawyers started practicing law within ten years and a significant number of legal professionals are first-generation advocates. Further, BCI filed a petition and has sought financial aid or assistance for lawyers in the wake of the coronavirus pandemic. However, a decision on the petition filed by the Bar Council of India is still pending.

Bar Council of India (BCI) Co-Chairman Mr. Ved Prakash Sharma said in one of the interviews that the regulatory body gave recommendations and suggestions in writing to the solicitor general of India after the matter listed was heard last in February 2021 this year. But the matter could not be placed before the Hon'ble court since the petition did not get listed before the Hon'ble bench.

The question on "whether advocates can take up any other Job/profession (as an interim or part-time job because of the COVID-19 work crisis), BCI Co-Chairman Mr. Ved Prakash

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<sup>49</sup> Image Source: Wikipedia, < [Bar Council of India - Wikipedia](#)>, accessed on 17.05.2021

Sharma said the Bar Council of India does not approve of it. As “The Advocate’s Act bars a Practicing advocate from doing any other Job/work”.

## 7.2 BAR COUNCIL OF DELHI (BCD) – RATION HELPLINE<sup>50</sup>



# BAR COUNCIL OF DELHI

51

*BCD on May 17th, 2021 Posted a circular on its website whereby it is stated that:*

The closure of Hon'ble Courts because of the Covid-19 Pandemic and frequent lockdowns for more than one year due to has resulted in a situation where many of our sisters and brothers from the legal fraternity/legal profession are in dire need of some basic essential items that are needed to survive at their homes. Therefore, the BCD (Bar Council of Delhi) has opened a special helpline to assist those lawyers who are in need of ration/basic essential food items. Also, for the smooth functioning of this initiative taken by the bar council of Delhi, BCD has designated a dedicated email address (covidbcdrationhelpline@gmail.com), which is as of now operational.

BCD (bar council of Delhi) members in need of ration/basic food essentials can fill in the form as (*BCD Ration Form attached in sub-heading 7.3 of this research paper*) and e-mail it to covidbcdrationhelpline@gmail.com along with a copy of the Bar Council of Delhi ID. All enrolled members of the bar council of Delhi (BCD) are eligible to request for ration only once a month and the requests will be processed accordingly to the applications received in total.

<sup>50</sup> Bar Council of Delhi, “Ration Helpline”, <[BCD Ration Helpline | Bar Council of Delhi \(delhibarcouncil.com\)](https://www.delhibarcouncil.com)>, accessed on 27.05.2021.

<sup>51</sup> Image Source: Delhi Bar Council, <[BCD Ration Helpline | Bar Council of Delhi \(delhibarcouncil.com\)](https://www.delhibarcouncil.com)>, accessed on 29.05.2021.

Bar Council of Delhi (BCD) surely understands that this is very small/minimal help as the bar council of Delhi members are in dire need of monetary or financial need as well and therefore it is making herculean efforts to get the loan case expedited so that the same may be listed before the Chief Justice of India (CJI) bench at the earliest for appropriate directions and orders and in the meanwhile, providing small or bare minimum help in the form of ration and payment of ₹15000/ towards home quarantine and ₹50000/ for hospitalization and medical care will continue.

### 7.3 RATION REQUEST FORM- BAR COUNCIL OF DELHI (BCD)<sup>52</sup>

#### BCD RATION REQUEST FORM

Please fill in the form hereinbelow and email the same to [covidbcdrationhelpline@gmail.com](mailto:covidbcdrationhelpline@gmail.com).

Name	
Age	
S/o or D/o or W/o	
Sex	
Address	
Email Address	
Telephone number	
Number of Dependents	
BCD Enrollment Number	

Please attach the following in the email:

1. Copy of BCD ID.

*Declaration : I do hereby solemnly affirm that all information provided by me hereinabove is true to the best of my knowledge. I confirm that I have not requested for and received ration in the last one month. I also undertake that in case if I have not taken membership of any Bar association, then I will do the needful within 1 year after the pandemic is over. I further undertake that if any averment hereinabove is found to be incorrect, Bar Council of Delhi can take necessary action in law.*

DATE

SIGNATURE

*\*Please forward this form containing the email address to other colleagues as well\**

<sup>52</sup> Bar Council of Delhi "Ration Request Form" <<https://delhibarcouncil.com/>> accessed on 27.05.2021.

#### 7.4 BAR COUNCIL OF DELHI (BCD) URGES CENTRE AND STATE GOVERNMENT TO ENSURE THAT NO LAWYER ASKED TO LEAVE FOR NON-PAYMENT OF RENT<sup>53</sup>

The BCD (Bar Council of Delhi) in March 2020 approached the Hon'ble Delhi High Court seeking direction to the Centre, AAP (Aam Aadmi Party) government, and police to make sure that no advocate enrolled with the bar is shunted out of rented accommodation or any housing facility due to failure to pay the monthly rent to the landlord amid the lockdown due to Covid-19 pandemic.

Bar Council of Delhi (BCD) Chairman Mr. K C Mittal, in the plea, stated and expressed his desire to seek to issue directions to all authorities, similar in working to the Reserve Bank of India (RBI) directions, to defer or postpone all dues till the time normalcy restores in the entire nation.

##### **The plea said:**

*"Several advocates staying in Nation's capital Delhi/NCR in rented accommodation are not in a state or position to pay rent and are likely to be asked to vacate or thrown out with their baggage and bags on the roads, which will create more problem and complication. They are struggling to meet their basic ends, totally helpless and require immediate remedy, help, and redressal, with the help of the government of India,"*

It said the BCD (Bar Council of Delhi), with its basic and minimal resources, has decided to give some initial monetary help to such struggling advocates in this coronavirus pandemic.

The plea further said, *"That due to the complete lockdown in the entire nation, lawyers are not able to earn their basic livelihood, and payment for EMI's and of rent."*

It referred to the instructions or directions given by the RBI (Reserve Bank of India) to all the banks to defer or postpone payment of EMIs for home loans and stated that it is a step in the much needed and right direction.

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<sup>53</sup> Deccan Herald (30.03.2020), "BCD urges Govt. to ensure no lawyer asked to leave for non-payment of rent", <Bar Council of Delhi urges government to ensure no lawyer asked to leave for non-payment of rent | Deccan Herald>, accessed on 15.03.2021.

**The plea also added:**

*"It is the absolute duty and responsibility of government (center and State) to provide basic necessities to sustain and in order to live, no matter whether the people of the country have lost their respective jobs or not able to EMIs, house rent, or are unemployed."*

**7.5 BAR COUNCIL OF DELHI DISTRIBUTES ₹ 3.5 CRORES WORTH OF SUPPORT TO LAWYERS TILL MAY, 2021<sup>54</sup>**

*BCD extending help to advocates suffering from Coronavirus, BCD has given over Rupees 3.59 crore as financial or monetary aid in May 2021.*

The BCD (Bar Council of Delhi) has helped more than 2,000 advocates fighting the coronavirus waves with monetary aid in May 2021. The Bar council of Delhi said that since April 2021, it has been extending its helping hand through monetary help of ₹15,000 to advocates who are under house quarantine and ₹50,000 to those who had to be admitted to hospital or clinical care due to coronavirus infection and did not have any kind of medical insurance.

So far and as of now, the Bar Council of Delhi has released monetary aid worth nearly ₹3.59 crore. Further, according to a press release issued by the Bar Council in Delhi in May 2021, approximately 2287 advocates received ₹15,000 each, and 33 advocates were given ₹50,000 to cover their medical, clinical, and hospitalization fee.

Approximately a total of almost 110 oxygen cylinders, purchased by the BCD through its trust, have also been distributed and circulated, even delivering at doorsteps and by providing refilling facilities being extended to the respected Bar council members.

In the month of May 2021 in a statement, bar council of Delhi (BCD) Executive Committee chairman Advocate Mr. Manoj K Singh said:

*"Many of our bar Council members are not able to get the medical help or assistance they need because of monetary and financial problems, and thus, in these challenging and hard times, if we don't come forward to help such people, who else will. Therefore, that is why we*

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<sup>54</sup> India Today (20 May, 2021), "BCD distributes over Rs. 3.5 crore as financial Aid to lawyers", <Bar Council of Delhi gives over Rs 3.59 crore as financial aid to Covid-affected lawyers - Coronavirus Outbreak News (indiatoday.in)> accessed on 21.05.2021.

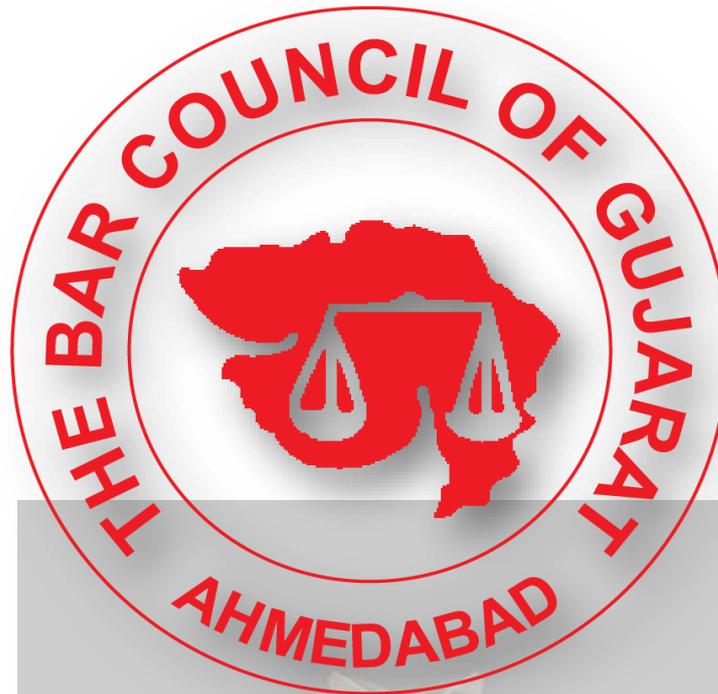
*have been standing by with our sisters and brothers who need our support during this Covid-19 crisis."*

As of now, the payouts as a relief have been from the (BCD) Bar Council 'Trust Funds'. But the Bar council Trust Fund is also looking into launching or starting a crowdfunding initiative where anyone or every member of the legal profession or fraternity can contribute to the Coronavirus relief drive. Bar Council of Delhi (BCD) Chairman Mr. Ramesh Gupta also said in one of his interviews that the bar council is considering whether to impose a restriction or "minimum contribution limit" of ₹1 lakh for the Covid-19 relief fund.

*"Chairman of BCD Mr. Ramesh Gupta further went on to say that we don't want small payments, tokens, or amounts to be sent as covid-19 relief. Rather, we will request senior-most members of the BCD and advocates to contribute or donate, but not less than Rupees 1 lakh. Such kind of donations are tax-exempt, so any member of the legal fraternity can pay more."*

Similar initiatives such as taken by the BCD for crowdfunding aid or donations for legal professionals have also been set up in other states of the country as well.

Further, (GHAA) Gujarat High Court Bar Association President Mr. Yatin Oza said that the Gujarat Bar Association started the contributory fund or donations last March 2020. Moreover, he went on to say that *"We have kept the system completely secure and confidential. Additionally, only a 4 member committee, headed by 2 senior-most advocates, is aware of who has asked or need a favor or monetary aid and how much has been allocated so far"*. Such kind of secrecy is also maintained to respect the dignity of struggling lawyers in these tough times.



55

The president of the Gujarat high court bar association also said that we were the first to start such an initiative or aid relief program to help the lawyers suffering from the COVID-19 pandemic. Further, in May 2021 he stated that "It has been going on now for approximately 15 months now, and we are to continue this providing monetary aid till the courts and tribunals are reopened in the state and country, which looks to be a distant possibility as per the current Covid-19 situation of the country. He is also very happy about the fact that the members of the bar council who are well-off financially have been contributing and helping the needy ones.

Also, on May 10, 2021, the KSBC (Karnataka State Bar Council) had also announced an initiative to give ₹10,000 to advocates under home quarantine and who all are suffering from COVID-19 and ₹25,000 to advocates who need medical care and hospitalization. The LSBC (Karnataka state Bar Council) also made a request to the government officials, following which a few nodal officers were appointed at the district level and taluka level to assist advocates and their families who contracted Coronavirus.

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<sup>55</sup> The Bar Council of Gujarat, "Image Source", <Bar Council of Gujarat> accessed on 02.06.2021.



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### 7.6 EX-GRATIA GRANTS AN INTERIM SOLUTION

Even though the steps for *ex-gratia* grants are all measures in the right direction, they cannot be considered sustainable in a long run. While writing this research paper I came across a book published in 2017, “*Tomorrow’s Lawyers*”, by writer **Richard Susskind**. This book forecast fundamental and irreversible changes in the legal fraternity or legal world and offers important and essential practical advice for those who intend to build their careers profiles and businesses in the legal field. It’s like a definitive guide to the future for upcoming or aspiring lawyers, and all who want to modernize today's justice and legal systems. In this book, the author pointed that in 20 years’ time, the legal profession would have changed beyond all recognition. Mr. Richard Susskind predicts that as the use of virtual or online dispute resolution processes increases, practicing advocates will be pushed to use their legal expertise and experience to help develop ‘legal machines’ to facilitate these services or to grab some highly specialized job offers that necessarily need human involvement and interaction. Although Mr. Susskind’s book is mostly geared for the upcoming generation of advocates, considering the present situation of the litigating community, it may be fruitful

<sup>56</sup> Karnataka State Bar Council, “Image Source”, <Karnataka State Bar Council (ksbc.org.in)> accessed on 06.06.2021.

and advantageous for the old guard to incorporate and include some of his recommendations and ideas as elaborated below in the upcoming paragraphs.

## **TOWARDS INDIA'S 'TOMORROW'S LAWYERS'**

### **8.1 CORONAVIRUS: THE GAME-CHANGER IN ADVOCATES WAY OF WORKING<sup>57</sup>**

The whole world has seen that the vision, dedication, and work potential of us Indians are immense and commendable. When the GOI (Government of India) challenged 136.64 crores, people, for 21 days lockdown period, with few exceptions and restrictions, then during that time every citizen of the country be it poor, middle-class, or rich supported the government of India (Center and State) to stop the spread of Covid-19 virus in the nation. Later, as we all came to know that the lockdown period was further been extended to 39 days and almost all people of the nation fully supported its well. The countries around the world began to learn from Indian people in different ways and aspects to prevent the spread of the Covid-19. In this world, there will hardly be any economic area escaping the coronavirus wave influence. Unfortunately, this is affecting the legal framework of many countries around the world. Thus, a proactive approach is very much needed to insulate the legal system from possible breakdowns and advocates need to look at this from a different angle and perspective.

#### **1. IMPACT ON ADVOCATES:**

In the upcoming days, courts and tribunals around the world, including our nation India, will be caught in several cases such as manpower rationalization (retrenchments), closures of startups, business units, disruptions or disordering in supply chains, and non-performance of legal contracts, calling off projects (big or small both), implementation or execution delays, and what have you. That can result in or add to the existing massive pendency of matter/cases at various courts (Supreme Court, High Courts, and Tribunals), breakdown in commercial activities, loss of job and livelihood, etc. Subsequently, cases emanating due to coronavirus breakout will unfortunately further rapidly increase the pendency of matters/cases in the courts or tribunals.

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<sup>57</sup> Insight Success, "Coronavirus: The Game Changer in Advocates Way of Working", <Covid-19: THE GAME CHANGER IN LAWYERS WAY OF WORKING - Insights Success>, accessed on 29 May, 2021.

ADR (Alternative Dispute Resolution)/(Alternative dispute settlement) mechanisms like conciliation, arbitration, and mediation should have resorted and advocates should also be indulged or involved in settling the cases/matters arising out of coronavirus breakout, particularly relating to rent disputes like tenancy, employment, issues deferment of loans/EMIs, and interest chargeable on the same thereof. There must be finality for such cases decided and higher courts in our nation should be approached with a remedy of an appeal only under exceptional cases and circumstances. Further, special courts and Hon'ble benches also can be considered across the nation to handle cases or matters arising due to coronavirus breakout, commercial cases/matters, and other related ones.

Moreover, the appointment of advocates/lawyers under Arbitration, Forum, Special Proficiency and Assistant as mentioned in the above paragraph can create new chances and opportunities for advocates to handle working as part of the judicial system and administration this surely must be considered by the GOI (Government of India) and the Hon'ble High Courts of the respective states and Union territories as well as the Hon'ble Apex Court of India to promote Arbitrations in disputes which are commercial in nature, to appoint lawyers or advocates as assistants to the Hon'ble Learned Judges in courts or tribunals and take over some part of the Judicial administration work at the cost of the litigants or parties of cases. Further, appointing advocates as arbitrators who have almost more than fifteen years of expertise or experience in any subject of law and establish a platform for advocates to settle cases /matters in respect of various matters such as tax/workers/civil/customers/services /various tribunals, an alternative or secondary options should also be considered for settlement of pending cases/matters in courts or tribunals by classifying these cases at cost of litigants or parties of the cases. Additionally, this will give advocates a new opportunity and dimension to work and help the Government of India to resolve pending cases/matters, facilitate quicker and easier decision-making. In many cases, it is very important to give the advocates an opportunity to be in support of the judicial system or judiciary to help reduce the pendency of cases in our country.

The advocates now need to be technology or computer savvy. One such possibility or prediction is that the Hon'ble Apex Court and GOI (Government of India) will introduce new guidelines, orders, or rules and allow some pending cases/matters to be run through online/VC (video conferences), even in the district courts and tribunals, some cases can be allowed to run through VC, so advocates will have to adopt many new electronic

technologies, such as faster bandwidth/internet services, computer, laptops, zoom, skype, video software and many more.

If some court or tribunal proceedings are carried out through VC (Video conferencing) by the Hon'ble High Courts, district courts, or tribunals, working of advocates from their office/chambers will save a lot of their valuable time, energy, and money spent due to disruptive roads and areas they have to travel from, traffic jams, waiting for the hearing of their matter to be listed, continuously monitoring cause list displaying outside the courts, etc. Also, in almost any city of the country, if the litigating parties and the advocates could work or attend court hearings virtually/online from their office/chamber, undoubtedly there will be many benefits and save paper costs. Which will ultimately lead to helping the environmental damage by reducing pollution and will also contribute to making the air cleaner in the city.

## **2. REVIEW OF EXISTING LAWS PRESENT IN THE COUNTRY**

Coronavirus breakout also necessitates an amendment to various existing laws to make them suitable, appropriate, and contextual to the recent changes that are conceived. Indian Evidence Act, Indian Labor Act, Indian Contract Act, IPR, Indian Disaster Management Act, Indian Epidemics Act, etc. are some of the statutes/legislations that need a review/amendment to align with the perceived and recent changes in the legal and economic framework.

## **3. PROCEDURAL ASPECTS THAT NEEDS TO BE CHANGED**

Every pandemic or crisis around the world brings in its wake opportunities. Coronavirus breakout can be leveraged to bring about greater use of the advanced technology in the legal system or administration from the supreme court of India to the grassroots layers of the legal system be it high courts, district courts, or tribunals. A limited experiment is being done in the Apex Court of the country and High Courts of various states for the introduction of advanced technology and the electronic system to make access to the system comfortable, easy, and affordable to the litigants or parties to the case. For example, the apex Court of the country and some High Courts are hearing urgent and important cases through an online/virtual medium. Further, this has to be intensified, escalated, and widened so as to equip every court in the country from big to small with the right advanced technology and bandwidth/Internet connection to facilitate the whole process.

*Additionally, this also requires, among other things, the following:*

1. Greater allocation of outlay specifically for advanced technology and electronic setup up-gradation, which can reduce the pendency of cases/matter in the country drastically.
2. Overhaul of an overall legal ecosystem to equip the legal fraternity and the judiciary, particularly at the Hon'ble district courts with the knowledge of handling technology, electronic equipment, and use of visual platforms for filing cases (e-cases), authentication of documents, arguments, presenting evidence, etc. it may also require amendments to The Indian Evidence Act, 1872, acceptance of e-signatures, e-authentication, etc. Further, this also calls for much-needed drastic changes in the Indian Civil and Criminal Procedure Acts.
3. Most Importantly, in the entire chain of events, the parties to the case or litigant – the common man – should be a 100 percent active participant and he/she should be able to watch the Hon'ble court proceedings through online mode or apps like (Cisco, google meetings, etc.) or through any virtual media, get intimation of the hearing of the case/matter well in time, daily rulings not being present in the Hon'ble court.
4. Moreover, digital platforms or electronic platforms should not be subjected to cybercrimes like hacking, cyber threats, breach of privacy, and manipulations by vested interests. There need to be strong cybersecurity systems in place to make the e-functioning of the courts safe and smooth.
5. In fact use of technology or any electronic medium is not low-hanging fruit. Considerable work needs to be done in linking and integrating the systems, harmonizing procedures, data, creating digital structures that are safe and user-friendly. For example, in the United States of America, the idea of induction of technology or any kind of electronic means was started almost over a decade back through proper meticulous planning to create a smooth ecosystem for work, which is completely comprehensive and taking care of all possible disruptions the system can cause while working online. India can borrow from the American system the automation methodology, procedures, and innovation trail instead of reinventing the wheel from scratch.

## **8.2 ADAPTING TO TECHNOLOGICAL INTEGRATION IN INDIA'S LEGAL SYSTEM IS THE WAY FORWARD**

*'Tomorrow's' lawyers must adapt to new technology integration in India's legal system*

The present situation across the country due to the Coronavirus pandemic has clearly shown that e-courts, online dispute resolution, and virtual hearing are a reality in India more than ever before. At the very least, the post-Coronavirus legal administration system in India will be a hybrid model with both physical court processes and virtual court processes. Easier administrative tasks and legal cases requiring limited application of different rules and provisions will be technologically driven, while only specific and specialized tasks will continue in the physical form.

Therefore, the erstwhile system which was largely dependent on human interaction involvement – both in the form of administrative staff in courts and lawyers, can no longer be taken for granted. Hence, it logically follows that law students and tomorrow's lawyers in India must strive to rethink their influence and roles in the justice delivery system to continue to sustain themselves and more significantly, to continue to remain relevant. It is in their own personal and professional interests that law students and lawyers must reinvent themselves and strive to adapt to the changing nature of the legal system by imbibing new skills and adequate knowledge required as part of their repertoire, especially focusing on project management, online dispute resolution and, legal technologies in particular.

The legal fraternity or the lawyering community, in addition to demanding monetary aid, which is not a permanent fix to their problems, must also demand projects and programs that will provide them with the specific knowledge along with additional skill sets required to cater to significantly changing expectations. Most importantly, the current legal education framework in India and especially in law colleges must be upgraded to sufficiently prepare a future breed of well-educated and exceptionally skilled lawyers who can be hung along well with this changing or evolving system.

### **8.3 CONCLUDING REMARKS AND OPINION REGARDING THE ABOVE DISCUSSED POINTS UNDER THE HEADING - TOWARDS INDIA'S 'TOMORROW'S LAWYERS'**

In this way, Coronavirus breakout is going to have a big impact on the field of law, whole legal fraternity, and all advocates need to be computer savvy and tech-savvy and the government of India should provide opportunities for the advocates in the field of the judiciary/judicial administration in different forms as mentioned above in the paragraphs. Further, I would like to bring the attention of Judiciary and Executive to consider the above matters and with the coordination of our respected Law Commission, a serious consideration

of the above effects should be thoroughly studied and a report is required to be submitted to the Government of India so as to convert this into rule of law.



### CONCLUSION

Covid-19 as showing its impact in India, as evident particularly in the period after lockdown, the global coronavirus crisis suddenly enforced a rapid, sudden, and unprecedented shift in the mode of court management and judicial administration at all levels of the judiciary. Key to this has been a shift from electronic/E-Courts to electronic/E-Judiciary, in the form of VC or virtual hearings.

In crux, briefly, as of now, it cannot be said for sure that the coronavirus crisis will be short-lived. Consequently, that only time will tell, because the coronavirus is showing long term after-effects as well, and long-Covid-19 cases too are emerging, plus new strains/variants/types of the coronavirus are making their appearance now and then, like in South Africa, United Kingdom, Brazil and so on, and the Covid-19 virus continues to pose a dreadful potential worldwide threat. As of now, we do not seem to be fully out of danger yet from Covid-19 and its various strains. So, for how long the coronavirus crisis-induced interim hurriedly introduced technological innovations and the new coronavirus crisis prompted court working methods shall persist, is yet to be seen in the upcoming days. Under the current circumstances, whether these will become a permanent “new normal” in the court administration system of the country in times to come, is also difficult to predict as of now. Nevertheless, this is a very important aspect that would be the subject matter of future quantitative legal studies and legal administration work, after the ongoing coronavirus crisis dust settles down.

However, another question that arises here is what next? Our Country India may have come to the stage of E-judiciary earlier than expected due to the coronavirus crisis but is that all? It is observed that now further improvements in the justice administration and courts management in India are also expected to gather pace. Steps are afoot for the greater use of AI (Artificial Intelligence) in judicial administration. For example, in December 2019, the CJI (Chief Justice of India), had proposed to introduce the system of AI (Artificial intelligence) as that is expected to bring about further improvements in the judicial administration and system of the country besides helping in better administration and delivery of judgments. The Chief Justice of India (CJI) allayed the fears that digitization will ultimately replace the judges in the courts. Clarifying, the CJI (Chief Justice of India) at an event organized by the Supreme Court Bar

Association (SCBA) said that ‘We propose to introduce, if possible, a system of AI (artificial intelligence). Further, there are many things which we need to look at before we introduce ourselves. As we do not want to give the impression that this is ever going to substitute the judges of the respective courts in the country.’<sup>58</sup>

Keeping in mind the current Covid-19 scenario it’s not completely possible for anyone to predict the future with 100 % accuracy, but one thing we can be confident about that is this legal technological system and electronic judicial procedures trends will play a transformative role in the legal industry and on legal fraternity over the years to come. Moreover, watching these advanced technological trends, observing them as they evolve with the present legal system, and measuring their impacts and importance over time will be key for both law students, law firms, Hon'ble courts, tribunals, legal departments, and every member of the legal profession.

For every member of the legal fraternity keeping these legal technology trends in mind is very important, because the legal industry and every legal department are going to be a very different space in the post-Covid-19 world.



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<sup>58</sup> The Economic Times, 26 November, 2019, “*SC proposes to introduce system of artificial intelligence, says CJI*“, <<https://economictimes.indiatimes.com/news/politics-and-nation/sc-proposes-to-introduce-system-of-artificial-intelligence-saysji/articleshow/72245549.cms?from=mdr>> accessed on 15 May, 2021.

### SUGGESTIONS

Advocates, Hon'ble judges, law students, and paralegals are all rookies towards technology due to which legal profession is not so developed in terms of technology, therefore, still, more preference is given to manual work when it comes to the legal profession.

*Firstly*, various practical training sessions or programs on the utilization of technology related to the legal system must be conducted for all lawyers, judges, law students, and paralegals. Training Programs and sessions must be held under the observance and guidance of either the government bodies or various private bodies so that Hon'ble judges and every member of the legal fraternity must willingly be able to adopt technology in their services and practice. Although many plans were initiated by the government, however, unfortunately, those plans did not turn out to be that successful.

*Secondly*, it's high time for the government at the center and state level both to inaugurate a long-term plan with proper and appropriate funding to have technology in each court and tribunal across the nation, whether subordinate judiciary or higher judiciary with the only aim to make the judicial system paperless. Every state government must fall into step with the central government and look over the technical department in each district court of their respective areas.

*Thirdly*, every law college in the country has to come up with Legal Tech Courses and training programs to keep every law student of their respective college/institute/university updated with the advanced technology especially those that are directly or indirectly related to the legal profession, which would further aid law students in their legal profession. Such Legal Tech courses and practical training programs related to it must be made mandatory for every law student.

Moreover, professors, teachers should focus to make every student's technical pro and tech-friendly. Further, the Information Technology Act of India is not as updated as compared with other countries. In the present and post Covid-19 scenario certain changes are very much needed in the Information and Technology Act, 2000 with respect to the privacy and secured

connections because there's no doubt about the fact that privacy of every litigant or party to the case especially in sensitive matters is of great importance. As, e-judicial procedures or digital platforms should not be subjected to any type of cybercrimes like cyber threats, hacking, breach of privacy, and manipulations by vested interests.

For instance, recently, the Hon'ble Delhi High court was hearing a 5G case filed by Juhi Chawla on the issue pertaining to potential damage of setting up a 5G wireless network in the country. However, the virtual hearing of the case was interrupted by an intruder causing a nuisance who started singing Juhi Chawla's song in between the proceeding<sup>59</sup>. Therefore, strict cyber rules and guidelines for such kinds of nuisance and acts must be there and a much safer electronic judicial mechanism needs to be formulated for securing the privacy of the litigants and evidence of a case.

From the second week of June 2021, Hon'ble Allahabad High Court also started sharing VC Links/virtual hearing links on its [website](#)<sup>60</sup>. However, the only point of discussion and concern is the safety issue, privacy issue, and data breach. Therefore, despite the fact that we have Information Technology Act, 2000 in India dealing with cybercrime and electronic commerce there needs to be a strong cybersecurity system in place to make the e-functioning of the courts safe and smooth.

**Fourthly**, the legislature or the Hon'ble judiciary need to amend existing or introduce new laws to meet the technological changes in society keeping in mind the current coronavirus changes in the legal system and post Covid-19 scenario in the working of courts.

**Fifthly**, the government of India should take inspiration from other countries around the world to make the legal system digitally capitalized.

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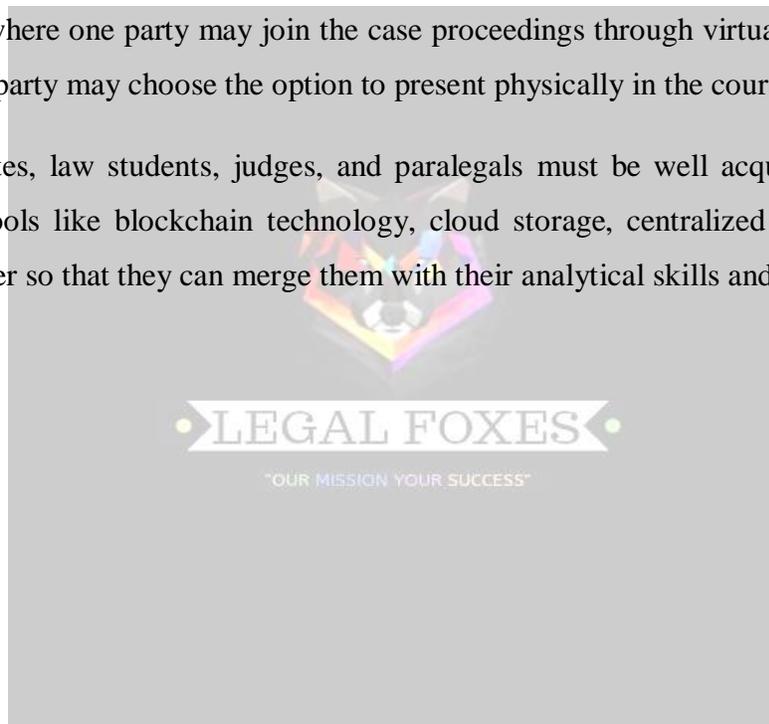
<sup>59</sup> Hindustan Times (03 June, 2021), "*Juhi Chawla's 5G case hearing interrupted by man singing her songs*", < <https://www.hindustantimes.com/cities/delhi-news/juhi-chawla-s-5g-case-hearing-interrupted-by-man-singing-her-songs-101622663438684.html>>, accessed on 05.06.2021.

<sup>60</sup> Live Law (08 June, 2021), "*Allahabad High Court Starts Sharing VC Links on Its website*", < <https://www.livelaw.in/top-stories/allahabad-high-court-starts-sharing-vc-links-website-plea-filed-legal-journalists-175398>>, accessed on 09.06.2021.

*Sixthly*, there's no doubt about the fact the members of the legal fraternity have realized the importance of a hybrid system in this covid-19 pandemic during the lockdown. Further, a Hybrid system saves the energy and valuable time of lawyers, and the option of a hybrid system somehow indirectly helps to reduce the pendency of cases as well because it is often seen that lawyers are burdened up with different matters in various courts on the same day making it difficult for them to present physically in every court and this, unfortunately, result in adjournment or pass over in many cases. Therefore, the option of a hybrid system must be there to make the work of lawyers easier in coronavirus times and post Covid-19 scenario.

Even Hon'ble Delhi High Court has already initiated steps for a hybrid hearing in the month of January 2021, where one party may join the case proceedings through virtual or electronic mode while the other party may choose the option to present physically in the court.<sup>61</sup>

*Lastly*, Advocates, law students, judges, and paralegals must be well acquainted with various technological tools like blockchain technology, cloud storage, centralized database, and other distributed ledger so that they can merge them with their analytical skills and research skills.



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<sup>61</sup> The Economic Times (22 January, 2021), “*Delhi High Court implementing Hybrid System*”, <https://economictimes.indiatimes.com/news/politics-and-nation/delhi-high-court-implementing-hybrid-system-of-hearings-via-virtual-physical-mode/articleshow/80405008.cms?from=mdr> accessed on 25.05.2021.

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