

Electronic Filing System, Virtual Courts & Online Dispute Resolution -Need of the Hour for Pakistan Legal System

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Overview

This paper addresses the impact that the ongoing coronavirus (COVID-19) pandemic situation is having upon the ability for courts and tribunals to conduct hearings, and the measures that may be deployed in order to ensure that disputes continue to be dealt with fairly, effectively and as expeditiously as possible.

The ongoing situation has compelled both courts and arbitral tribunals to hold virtual hearings, to a far greater extent than has ever been experienced before. As a result, the general level of exposure to E-filing of documents and videoconferencing technology will lead to a greater level of understanding of and competence in the use of such technology amongst judges, counsel and parties.

Whilst we must all hope that the impact of COVID-19 on the vulnerable, elderly as well as businesses all over the world is minimised, it seems inevitable that there will be greater use of video hearings and the online aspects of dispute resolution not just during the course of the stringent 'lockdown' situation currently being experienced around the world but also, possibly, thereafter.

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E-judiciary shall be a step towards modernization in Pakistan legal system. The modern Pakistan while has the court structure the information and communication technology has virtually paved a new line of thinking in modernizing Pakistan judicial system. An overall review of the development in administration of justice till now achieved and the things to be achieved are going to be considered in the light of artificial intelligence and its use in sentencing process. Video conferences from jail to court, court to court, court to witnesses are some of the innovative study, which is going to be discussed.

This paper seeks to set out a short history of the introduction of IT into the legal system, the challenges that arise, the development of the Virtual Courtroom, a review of new enabling technologies and the security implications that arise.

In the field of continuing legal education/training, the technological impact is also going to be discussed. The paper intends to have a study under three different groups such as a study with reference to past computerization, the present stage of computerization and how it has to evolve in future. Ultimately to have a scientific empirical analysis to have a look as to how the computerization in judiciary has become an effective tool to bring down the pendency of cases and to reduce the delay. What course of action is to be resorted to have technology friendly courts?

Introduction

The Global Legal System is changing as the world moves towards the information society. Most lawyers, Judges, legal administrators and participants are regular users of IT in their daily life and increasingly expect to rely upon modern systems in their daily practice. Even the court room, which is often thought of as the last bastion of antiquated working practices is opening its' doors to new technology.

Despite concerted efforts by Judges, Professional bodies and Courts Administrators, even the developed countries like USA, Australia and UK still face a body of lawyers and litigants who are reluctant to embrace new technology. This desire to carry on as before may be one reason why the universal adoption of an ADR (Alternate Dispute Resolution) has been slow to develop in some countries including Pakistan, despite the increasing use in the USA.

Although the benefits of ADR (Alternate Dispute Resolution) and ODR (Online Dispute Resolution) are clearly set out, there is one area where traditional litigation holds the advantage. The civil courts can cater for all types of litigation, from a simple possession case, through to complex multi-party trials taking many years.

As ADR gains the confidence of the litigant, cases that are conducted will become more complex and lengthy, often involve great volumes of paper and multi parties often in different jurisdictions. New levels of computing capacity with accompanying levels of service will be required to support the demands of the global online litigant, whether they turn to traditional litigation or ODR methods to resolve their disputes.

The ODR movement is at a critical stage in its development. If lawyers around the world, purchasers of goods on e-commerce sites, multi-national companies or government departments engaged in multi-jurisdictional disputes are all prepared to turn to ODR before thinking of traditional litigation, then an escalating series of facilities and services has to be offered, from the simple exchange of complaint and answer, though blind bidding and artificial intelligence systems, to the Virtual Trial, capable of supporting bulk documentation, remote location of parties and sophisticated used of graphics.

This paper seeks to set out a short history of the introduction of IT into the legal system, the challenges that arise, the development of the Virtual Courtroom, a review of new enabling technologies and the security implications that arise.

Background

After Pakistan attained independence, not only there is an explosion of population but the pendency of cases has grown in a multidimensional way. The back-log of cases has grown and ultimately it has virtually over-burdened the judiciary. Work Load and Ratio of Judge and Common Man, works out to a ratio of 10.5 Judges per million populations. The mounting arrears of cases in Courts, particularly in District Courts and High Courts, have been a cause of great concern. Some of the jurists and judges have commented on the basis of surveys conducted that probably to clear the outstanding pendency; another 320 years are needed. The objective of bringing about the reduction in the time period of disposal of cases and to reduce the existing pendency of cases in a time bound period is of paramount importance.

The disillusionment with the judicial system has led to a dangerous increase in ‘jrgas’ or kangaroo courts in many parts of Pakistan. It is time the county took a serious and comprehensive look at the entire legal system with special attention to tackling the problem of backlog. Too much time has gone by and too little has been done to sort out a problem that undermines the rights of litigants and accused, damages the credibility of the judiciary, and weakens the very basis of the democratic order.

The Judges are to decide not only the disputes but also have to act as administrators in administering the affairs of his court and should act as good managers. The lack of administrative capability and facilitating the judicial work in a time bound manner had virtually created a situation of poor management of resources. The judicial productivity and quality of justice, has reached a bad shape.

Need for a New Look?

E-Governance is the key word in every department of life today. It increases productivity, enhances transparency and accountability, reduces red tape and corruption in administration.

Technological Developments in the field of information and introduction of computers have made a turning point in the history of human civilization. It has brought about a sea change in all fields of human activity. It has resulted in enhanced efficiency, productivity and quality of output in every walk of life. The information technology has been advocated in the western countries for the last two or three decades. This scenario gained alarming thoughts to have technology combined in administration of justice.

Technology is definitely an essential element of change in all spheres of life. The human element involved also is an important factor. If technology is properly used, it can bring about tremendous changes for the betterment of life. Any change we contemplate is for speedy justice delivery mechanism keeping in focus the quality, transparency and public accountability.

At first, at the level of the Supreme Court, the technology was pressed into service and the cases were tried to be disposed off expeditiously by on line hearing. E-Court System was successfully launched in 2019 in Supreme Court of Pakistan. Supreme Court started hearing of cases through e-Court system. It is for the first time in judicial history of Pakistan that cases in the Supreme Court of Pakistan were heard through video-link connectivity. The

proceedings of cases through e-Court system at Principal seat Islamabad and Supreme Court Branch Registry Karachi and Lahore were initiated. The Advocates of Karachi whose cases were fixed for hearing at Supreme Court Branch Registry Karachi, Lahore and Quetta argued their cases through video-link and the Hon'ble Bench at Principal Seat Islamabad heard and decided the cases. This project only continued for few months and was confined to Murder Appeals.

Computers are not new to the Pakistan courts. Towards the end of 1995, one low-end computer was installed in Supreme Court of Pakistan for caveat matching. Immediately thereafter, the process of court computerisation in Sindh High Court and Lahore High Court began. All the courts in the Punjab located up to the District and Tehsil level were computerized a couple of years ago. All the judicial officers and court staff were trained. There was a complete automation from maintenance of data of filing of cases, disposal of cases, writing of judgments to grant of a certified copy. Digital production of under-trial prisoners by video-conferencing was made possible in some Districts of Punjab. Meetings of children in custody and Guardianship cases were arranged through Video Link in Lahore. The judiciary website, cause lists of the Supreme court, High Courts of Lahore, Sindh, Peshawar, Quetta and Islamabad were made available online, a day before. The Judgments announced were immediately available on line on the websites of the courts. A couple of Law Search engines are also available in the country.

In UK Barristers and Judges consider dispensing with the wig and gown in order to do justice in a contemporary fashion, the move towards the paper free court or the virtual trial is gathering pace behind the scenes. To computerise the legal system, it is critical to computerise the courtroom. As Professor Frederick I Lederer wrote in 1997,

*'The Courtroom is a place of adjudication, but it is also an information hub. Outside information is assembled, sorted and brought into the courtroom for presentation. Once presented, various theories of interpretation are argued to the fact finder who then analyses the data according to prescribed rules (determined by the Judge through research, analysis and interpretation) and determines a verdict and result. That result, often with collateral consequences is then transmitted throughout the legal system as necessary. The courtroom is thus the centre of a complex system of information exchange and management. Ultimately, because lawyers and judges deal continuously with 'data', high technology courtrooms exist and virtual courtrooms are possible.'*²

Litigation is a dispute between two or more parties, resolved by a Judge, Jury or Arbitrator following argument, usually by counsel. To prove facts in dispute, counsel present evidence. Witnesses are called, their accounts listened to and their demeanour studied. Physical evidence is considered-physical items, photographs, plans, schedules and video evidence considered. Most of these legal processes can be supported by the use of IT.

IT and the Courts

It is now a matter of routine in Courts in the UK, Australia, Singapore and USA for live evidence to be called by use of video link (in the case of vulnerable witnesses). As civil and criminal litigation wrestles with cases of increasing complexity, courts are increasingly prepared to consider evidence served on disk rather than in hard copy. But as the

² Frederick I Lederer, The Courtroom as a Stop on the Information Superhighway, Reform, Spring 199, at 4,4

infrastructure behind the various participants to litigation varies, a strange hybrid now exists in many jurisdictions, where the bulk of the evidence is prepared on paper and copied to all parties, but much is copied, circulated and annotated by some Counsel and Judges on disk.

There has been a considerable drive towards technology in the courts in many jurisdictions. Lord Justice Brooke, Senior Judge in Charge of Modernisation traced the history of the introduction of technology in the UK from 1992 to the present day in a recent address to Court 21 at Leeds University. There was the ad hoc use of electronic presentation facilities in high profile cases such as Kevin and Ian Maxwell. The work has now been expanded under the Crown Court Programme now called the CTMP. Pilot courts have been cabled for Electronic Presentation of Evidence (EPE), digital recording (DAR) video conferencing and electronic delivery of progress of the trial (EXHIBIT). More recently there has been a pilot of the virtual plea and directions hearing. In civil cases, the most dramatic success has been an e-filing project called MCOL 'money claims on line', which was launched in February 2002.

Unlike the UK, the United States does not have a unified system of Courts administration, so progress develops according to many local factors. Electronic filing of evidence, electronic case management, the creation of mulita media legal briefs, an electronic court record and electronic presentation of evidence is now commonplace. In 1998 the Judicial Conference Committee on Automation and Technology released the results of their assessment of certain technologies used in federal courts. 83% of Judges felt that video evidence helped them manage court proceedings better, and 90% of jurors felt that they were able to see the evidence clearly and follow attorney presentations.³ Remote witness testimony has been implemented in a number of Lab Trials.

It is not uncommon in arbitrations, in particular international arbitrations, for arbitrators, parties and witnesses to all be based in different countries and, therefore, required to travel for an in-person hearing. Availability can sometimes be a difficult issue in multi-person tribunals. However, the arbitration rules of most of the major arbitration institutions either expressly provide for, or at least leave open, the possibility of dealing with matters 'remotely' through the use of technology, including video hearings and telephone hearings. Video hearings themselves are thus not an entirely new feature in dispute resolution. Article 22 of the ICC Arbitration Rules 2017 provides (in relevant part) as follows:

"1 The arbitral tribunal and the parties shall make every effort to conduct the arbitration in an expeditious and cost-effective manner, having regard to the complexity and value of the dispute.

2 In order to ensure effective case management, the arbitral tribunal, after consulting the parties, may adopt such procedural measures as it considers appropriate, provided that they are not contrary to any agreement of the parties".

Thus, both the parties and the tribunal are required to be proactive in making efforts to conduct arbitrations efficiently and to agree to appropriate procedural measures to further that cause wherever possible.

Article 24 of the ICC Arbitration Rules 2017 provides (in relevant part) as follows:

"1 When drawing up the Terms of Reference or as soon as possible thereafter, the arbitral tribunal shall convene a case management conference to consult the parties on

³ Courtroom Technology Draws Positive Response. The Third Branch (admin OFF of the US Cts, Washington D.C.) Aug 1998 at 9.

procedural measures that may be adopted pursuant to Article 22(2). Such measures may include one or more of the case management techniques described in Appendix IV.

...3 To ensure continued effective case management, the arbitral tribunal, after consulting the parties by means of a further case management conference or otherwise, may adopt further procedural measures or modify the procedural timetable.

4 Case management conferences may be conducted through a meeting in person or videoconference, telephone or similar means of communication. In the absence of an agreement of the parties, the arbitral tribunal shall determine the means by which the conference will be conducted. The arbitral tribunal may request the parties to submit case management proposals in advance of a case management conference and may request the attendance at any case management conference of the parties in person or through an internal representative".

An ICC tribunal may therefore conduct a Case Management Conference by videoconference and, indeed, can determine to do so on its own motion in the absence of party agreement. In practice, however, tribunals and parties should act in consultation with each other on such matters.

Appendix IV, referred to in Article 24(1) of the ICC Arbitration Rules 2017, concerns "*case management techniques*", and provides (in relevant part) as follows:

"The following are examples of case management techniques that can be used by the arbitral tribunal and the parties for controlling time and cost. Appropriate control of time and cost is important in all cases. In cases of low complexity and low value, it is particularly important to ensure that time and costs are proportionate to what is at stake in the dispute.

...f) Using telephone or video conferencing for procedural and other hearings where attendance in person is not essential and use of IT that enables online communication among the parties, the arbitral tribunal and the Secretariat of the Court". (emphasis added)

An ICC tribunal can therefore hold both Case Management Conferences and other hearings "*where attendance in person is not essential*". Given the restrictions on gatherings and on travel currently at play in many countries around the world as a result of the COVID-19 outbreak, parties and tribunals should be giving close thought to what matters it is imperative for there to be in-person attendance. In practice, even substantial hearings involving live witness examination may be dealt with without in-person attendance by everyone involved, subject to the practical considerations discussed below.

English Civil Courts' Temporary COVID-19 Protocol

On 22 March 2020, the English courts issued a temporary COVID-19 Protocol, *inter alia*, to provide guidance to the courts and parties on the carrying out of remote hearings. In addition to providing practical guidance as to how the hearings are to take place, guidance is given on how to hold such hearings in a manner compliant with the principles of open justice. The Protocol is now found in Section AA of Volume 1 of the White Book and online on the website of the judiciary (<https://www.judiciary.uk/coronavirus-covid-19-advice-and-guidance/>).

In practice, an increasing number of English Court hearings are being conducted (where possible) by telephone or video-link. A member of the public or press may contact the Court authorities to potentially observe such hearings, signalling the fundamental importance attached to open justice.

Practical Aspects of Video Hearings

Technology has the ability to make any hearing more efficient. For example, document viewing software exists to remove the problem of multiple people in a room struggling to find the relevant passage amongst thousands of documents in multiple hard copy files; a technology consultant presses a button and the document/passage appears simultaneously on the screens of the court, counsels, parties and (where relevant) witnesses. Additionally, many hearings benefit from real time transcripts and recordings of proceedings.

The other side of the coin is that technology also has the potential, if used ineffectively, to obscure the substance of a hearing which (at worst) can lead to procedural unfairness. For example, PowerPoint presentations can, on the one hand, be used effectively to simplify dense submissions and voluminous material and can also, on the other hand, have the effect of duplicating the amount of material that the tribunal needs to view and understand (if it is attempted to be used as, in effect, an extra round of 'submissions').

A common practical difficulty is ensuring that everyone involved in a hearing (wherever they may be in the world) can access the relevant technology/equipment and has a sufficiently strong Internet connection to be able to run it smoothly. A concern that is being raised by some, which must therefore be addressed by service providers with greater clarity is the confidential/secure nature of internet based video communications.

Perhaps the most common area in which videoconferencing has been deployed in arbitration (and in the English courts) so far has been for the hearing of the evidence-in-chief and cross-examination of live witnesses.

In *Hanaro Shipping v Cofftea Trading* [2015] EWHC 4293 (Comm), Teare J rejected an argument that there was a procedural imbalance between one party's witnesses giving evidence in person whilst the counterparty's witnesses gave evidence only by video link. Teare J held (at paragraph 16) as follows:

"16. In any event, there is the possibility of evidence being given by video link. It seems that is not possible in the Sudan, but would be possible elsewhere; Dubai has been mentioned. No doubt that would take - I think it is said in the skeleton argument - two days and involve expense, but that expense it seems to me would be well within the means of the defendants who have purchased as I say this cargo for \$18 million. Finally I should say in relation to the video link Mr Buckingham suggested that there would be an imbalance between witnesses who have to give evidence by video link and witnesses who give evidence in person. I am not persuaded that there is such a risk. Perhaps in the early days of video link when the quality of the video link was poor and it was a novelty, perhaps that might have been said, but these days I do not consider that that can be said".

However, whilst taking evidence by video link is aimed at contributing to procedural fairness (if the alternative is that witness evidence cannot be received or adequately tested), it is important to understand and guard against the risk that the method of videoconferencing should be such as to allow the court/tribunal and the parties to be satisfied that the witness is not being coached or prompted off-screen, either by a person or other materials.

Furthermore, the effectiveness either of the witness's evidence or the ability of counsel to examine or cross-examine can be undermined by a poor or intermittent Internet connection at either end. There are many examples of English court judgments where judges have felt compelled to make a note of unsatisfactory videoconferencing. For example:

In *Jiangsu Shagang Group Co Ltd v Loki Owing Company Ltd* [2018] EWHC 330 (Comm), Carr J, discussing the underlying arbitration proceedings, noted (at paragraph 15) as follows:

"15. ...The hearing spanned a week in July 2016 during the course of which Mr Shen Wen Ming ("SWM") alone gave oral evidence for JSG via (an unsatisfactory) video link from the PRC (and with the aid of an interpreter). SWM was at all material times the Vice President of JSG and also a director of Shagang".

In *PEC Ltd v Asia Golden Rice Company Ltd* [2014] EWHC 1583 (Comm), Andrew Smith J held (at paragraph 34) as follows:

"34. ...However, it is less clear whether anyone other than Mr Narang gave approval: Mr Mirchandani's evidence about this was not assisted because the video-link to India broke down while he was being cross-examined about this. I conclude on balance that Mr Mirchandani probably did not give approval in advance ...".

When litigant comes with his with all the documentary evidence which he possesses. E-Court Service Centre helps electronically to identify a civil lawyer to present his case. The lawyer files the case with a prescribed format in the e-Court. Once the case is filed, the e-Court web service agent crawls across the Provincial and central e-governance grid and collects the relevant land records registry and gets the encumbrance certificate details of the litigants and the defendants. If necessary, it also collects the credit history of the parties from the banking grid, criminal record if any from the police grid, litigation records if any from the other courts, property tax and service tax payment data for the particular disputed land from the State e-governance grid, legal heir verification from the Registrar of Deeds and classification and conversion details of the particular land from the district e-governance grid. The judicial officer now has the documentary evidence submitted by the litigant and defendant and the certified and authentic documentary evidence collected from various government units which have relevance to this case on the fly in front of him. This will enable the judicial officer to apply his or her mind objectively with optimal examination and cross-examination of the witnesses leading to taking a fast decision in the particular case.

Implementation Strategy for Pakistan

The Electronic Filing System (EFS) should be implemented by the Pakistan Judiciary to provide a platform for Law Firms (LFs), individual lawyers and litigant in person to file documents to the Courts electronically over the Internet. The EFS should be specifically designed to fully exploit the electronic super highway to minimise not just the physical movement of people and paper court documents from LFs to the Courts, but also to leverage the benefits of electronic storage within the Courts: i.e. faster document filing and retrieval, eradication of the misplacement of case files, concurrent access to view the same case filed by different parties, etc.

Within the Courts, the EFS will electronic documents to be automatically routed to the appropriate registry staff for processing. The system will allow further routing within the courts e.g. for approvals by the Duty Registrar and a reply shall then be sent out by the

Registry staff which shall be routed back to the originating LF. This will enable realisations of improvements in efficiency by minimising paper flow to shorten case processing time. Fees payable by the LFs for filing documents to Court are shall be deducted automatically by the EFS. The whole process will be fast, convenient and efficient

For the LFs, the EFS shall provide an electronic case file showing hearing dates and documents filed by them, served on them or received from the Courts. It will also provide an electronic platform for the service of documents on other LFs. The EFS will also allow for faster response as well as accurate and up-to-date information. Hence, other benefits of the EFS shall include the speedy inspection of documents electronically and the ability to request for and receive electronic extracts of documents via the Internet. Electronic cause book searches and legal research will also available through the Website. Lawyers could even obtain details of hearing fixtures via Short Messaging System (SMS) using their mobile phones.

Within the court room, registrars shall make use of the EFS to conduct hearings in chambers electronically using the EFS.

The Components of EFS

The EFS shall consist of the following components:

- The Front-End (FE) accessed via the Internet from each 'EFS ready' Law Firm's or Individual lawyer's desktop.
- A Gateway (GW) that will receive submissions from the LFs or the replies from the Courts, route it to the appropriate party and compute the fees payable by the LF for the transaction.
- The Courts' Workflow (WF) application that will reside on Courts' computers and cater for the internal routing and workflow processes within the courts.
- A Hearing Module that will be used to conduct hearings electronically.
- A stand-alone Key Management System (KMS)

Front End Application

The EFS FE will be a web based solution that LFs can access from their PCs via the Internet. A LF shall need to register in order to gain access. Upon registration, the LF would be issued with smart cards containing the digital certificates from the Court's Certification Authority. The FE shall provide LFs with an online case file through which they can view the documents which have been filed by them, served on them or replied from the Courts. Upcoming hearing dates shall also pushed through the EF at the law firm level and at the case level. The FE's File-n-Serve feature facilitates service of documents on other parties in the case with one click of the mouse.

Documents shall be transmitted in Portable Document Format (PDF). To file or serve a document, the LF will have to fill up the appropriate online template in the FE and attach the document to be filed or served in PDF format. The entire submission may consist of one or several documents and this will be digitally signed using the smart card issued upon registration in order to ensure authenticity and non-repudiation.

The Gateway

When the LF will file a document to the Court, the submission will actually be received by the GW which then will perform certain validations, compute the fees to be charged and

identify to which user department the submission is to be routed to. Replies from the Court will be received by the GW and routed to the correct LF for retrieval. The GW will perform the following crucial functions:

- (a) Automated validation checks when documents are filed;
- (b) Implementation of certain special rules;
- (c) Automated routing of submissions into Courts' in-trays;
- (d) Computation of stamp and other filing fees;
- (e) Exchange of information between the Back End and the Front End.

Court's Workflow Application

The business logic of the courts shall be built into this application. It shall encapsulate workflow routing, document management and statistical report generation; documents will be stored in a jukebox. An electronic case file will allow the easy retrieval of documents; and an upcoming enhancement will collate and present information relating to a case file within a single easy to use interface.

Hearing Module

The Hearing Module shall be customised to allow registrars and judges to make use of the EFS to conduct paper-less hearings in chambers. The Hearing Module will pre-fetch the entire case file of hearings fixed before a registrar to the local PC to allow quick recall of documents. Dual screens shall be deployed to allow the viewing of the case file and minute sheets on one screen and the viewing of documents on the other. The Pack-n-Go feature will allow registrars and Judges to download all the documents in a case file onto a thumb drive for reading at home.

Key Management System

The Courts shall operate as an independent Certification Authority which will issue digital certificates on smart cards to LFs. The Key Management System (KMS), which will be central to this function, shall comprise the following components:

- (a) A Certificate Authority Management System used to issue and revoke digital certificates;
- (b) A Certificate Server that centrally stores the digital certificates;
- (d) A web-based Certificate Client System which LFs use to manage smart cards issued to them and to request for and receive digital certificates which are then stored in the smart cards; and
- (e) A web-based Key Generating Software which LF use to generate their private–public key pair.

Web Information Service

The Web information service, should be developed into a comprehensive network of computer services for the legal sector, comprising six modules covering major areas of legal practice:

- Litigation
- Conveyancing
- Corporate Law
- Intellectual Property

- Legal Research
- Integrated Law Office.

A Judicial Administration computerisation program, a comprehensive network infrastructure should be put in place to support various applications, including connectivity to external systems. An Electronic Bulletin Board should also be set up to facilitate communication through electronic means as a step towards the paperless office environment.

A Technology Court should be launched. The Technology Court should feature digital recording and transcription of proceedings, as well as facilities for the multimedia presentation of evidence. A Remote Chamber Hearing System should also be launched to enable members of the legal profession to have ex parte matters heard via desktop video conferencing, and a Judicial Officer's Bulletin Board should be set up as part of the incremental shift towards a paperless court system.

As the cornerstone of a new electronic paperless case management system, the Electronic Filing System (EFS) initiative is proposed to the IT Committee. Under the proposed EFS, law firms would be able to file their suits and submit documents through an electronic data interchange. In addition to electronic filing, the proposed EFS should incorporate an electronic case document extract service, allowing for electronic service of documents, and provide for a comprehensive electronic information service.

E- Filing Portal

The Courts System shall be working on automating the process for filing court documents. A new Legislation should support these efforts by mandating a transition to the electronic filing "E-filing" of court records and the Supreme Court and High Courts should make Rules to set standards.

The E-filing portal website shall be developed which provides E-filing and E-recording capability to users with a single login. Users may utilize the E-portal web interface to submit documents to Clerks and Recorders.

Electronic Filing/Electronic Process Applications

E-Filing Application - RTF and PDF

Generally, any request for a "formal" e-filing system which:

- Includes the electronic receipt and storage of a .PDF document
- Must include the submission of a pre-formatted cover sheet containing extensible

Mark-up Language (.XML)

- Provides the option to eliminate paper filing submissions
- Any system that involves a third-party provider or service
- Submissions are generally classified as Moderate or High complexity

E-Process Application - RTF and PDF

Generally, a request to implement an automated process/system which:

- Uses a printed copy of an e-mailed document to place in the case file
- Any system that provides electronic distribution, outside of the court, of orders to parties in a case
- Submissions are generally classified as Low complexity

System Review Checklist - RTF and PDF

- This checklist is for informational purposes only.
- The checklist is provided as a guide to ensure all required standards have been met and the application submitted to the Court is complete.

How to Use

General Instructions

- Lawyers must submit briefs and petitions through the E-filing website rather than through mail or e-mail.
- Lawyers must submit briefs and petitions in Adobe Portable Document Format (PDF), in Microsoft Word 97 or higher format, or in WordPerfect format.
- Lawyers must submit, in addition to their briefs and petitions, any appendices.
- Court has started the E-filing facility. The status of e-filed cases will be regularly updated on SMS and email address of concerned Advocate or party-in-person.
- It is notified that the facility of E-filing of urgent cases in High Court has been started on E-filing portal developed by E-committee of Court. This portal is being used by court for E-filing. Link of e-filing portal is available on the web site of court in top bar on home page.
- E-filing of urgent cases shall be made in accordance with the Guidelines already issued for the purpose along with this office order No. dated.
- E-filing portal will be directly integrated with online payment facility of court fees.
- Before e-filing, the Law Firms, Advocates or party in person shall be required to create his/her user account on the e-filing portal. Smart Cards shall be issued for said purpose. Detailed guidelines for user creation are available on the web site of Court.
- The Advocate account creation process shall be verified by one Time Password' which will be sent on Mobile Number and email address of concerned Advocate registered in the data base of court. Some advocates may have changed their mobile number or the registered email address may not be in use. To meet such situation, an option 'Advocate Details', is made available on the web site of court where the advocates can see their registered email address and mobile number.
- If any change in mobile number or email address is required, the advocates may send email for the same along with a copy of their Bar Council Enrolment certificate or Bar Association Identity card having Bar council enrolment number.

Conclusion

The ongoing COVID-19 situation has compelled both courts and arbitral tribunals to hold virtual hearings, to a far greater extent than has ever been experienced before. As a result, the general level of exposure to videoconferencing technology will lead to a greater level of understanding of and competence in the use of such technology amongst Judges/arbitrators, counsel and parties. It seems inevitable that there will be greater use of video hearings and the online aspects of dispute resolution not just during the course of the stringent 'lockdown' situation currently being experienced around the world but also, possibly, thereafter. There is always an opportunity in every crisis and the need is the mother of invention.

Modern technology, allows courts to enhance the administration of justice, realize significant time saving, cost savings, and meet the justice delivery system expectations of today's court participants. Numerous solutions are available to meet each court's unique needs, resource persons and funds are also available for implementation.

We'll have to develop a software and E-portal to achieve the goals mentioned above for which we have very competent IT experts available in Pakistan and it can be done in few weeks. The Supreme Court and High Court Rules have to be framed to cater to the needs of this technology. IT committees will have to be established to supervise and administer this system at all court levels. More importantly we'll have to impart training to Lawyers, Judges, Prosecutors, Court Administrators, Staff and Investigating agencies at the Judicial Academies, Law Schools and Bar Councils/ Associations by way of continuing legal education. And also encourage and register service providers to help lawyers, who are not acquainted with computers to help them with E-filing. This new system can be introduced by way of pilots in a class of cases and then extended to other cases with requisite changes on the basis of experience gained. Room was not built in a day but was built alright.

The information technology has paved its way and has made a firm inroad in to the judicial field of the country. Article 25 of the constitution while guarantees the right of equality the article 10 imposes a moratorium that the life and liberty cannot be deprived otherwise than the just, fair and reasonable procedure established by law. Under article 10A for the determination of his civil rights and obligations or in any criminal charge against him a person shall be entitled to a fair trial and due process.

In this context, how far the further development of artificial intelligence could be used to impose appropriate sentence in a criminal case, speedy disposal of cases by using proper software are all the area which needs consideration.

Disruptive legal information technology and emerging Electronic Legal Information (ELI) may arise as the 4th cornerstone in face of the challenges, the other three being (i) Lawyer (ii) Dissemination of law and (iii) Judiciary.

Electronic Legal Information (ELI) refers to (i) an integrated Electronic Law governing civil procedures and other areas of substantive law, (ii) electronic legal document filings and evidence and (iii) electronic court case status information. ELI is transforming the existing cornerstones to their virtual existences, which take on new capability to face the challenges of high costs, delay and complexity.

For this purpose, the days are not far off that we may have to translate all our legal texts from what so ever language it is in to the digital language as understood by the computers and systems akin thereto. The law as a constant need to be understood as in digital form to find out where there is deviation and so also to find out the degree of deviation. When the deviation is too much then the person could be considered as a deviant and appropriate rehabilitative step or even if need be penal actions in accordance with constitutional goals could be taken to make the Rule of Law a reality than to allow the things to be governed by Rule by law.

As ODR techniques adapt to the emerging technologies, those who wish to resolve their disputes online will no doubt wish to bring increasingly complex disputes for resolution. These disputes will often be based upon matters of the utmost commercial sensitivity, so the requirement for a trusted solutions provider operating in a secure environment, becomes increasingly necessary. It is critical for there to be a simultaneous development of these 'back office' functions in line with the 'front office' technologies such as blind bidding and the use of Artificial Intelligence by such sites, if consumers and litigants are to be persuaded to turn to ODR to settle their differences.

Significant progress has been towards establishment of the 'Virtual Courtroom'. ODR is now moving into a critical stage where, consumers and litigants must learn to trust this alternate

form of dispute resolution. An alliance between the new global network and the ODR community will help build that trust and facilitate the introduction of emerging technologies to enable complex disputes to be resolved online.