

# Initiation of Virtual Court System during COVID-19 Pandemic and E-Judiciary: Challenges and Way Forward

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## Abstract

The Constitution of the people's republic of the Bangladesh recognizes the right to protection of law and access to justice as fundamental rights. But the COVID-19 pandemic has, in effect, suspended the execution of these fundamental rights. The immediate impact of the pandemic has triggered courts across Bangladesh be shut to maintain social distancing. Third organ of the State cannot remain static during a crisis of this scale and duration. On this backdrop, the judiciary has started the operation of the virtual court system from May, 2020. Opening the doors to virtual courts, Bangladesh has joined a list of countries across the world where the justice system has similarly responded to the coronavirus-induced lockdown with increased digitalization. If the e-judiciary is introduced properly, reduction of the delay in the court process and elimination of the backlog of cases, which are the biggest challenge for the judiciary in our country, can be resolved rapidly. The virtual court would play a pioneering role in establishing e-judiciary. The Supreme Court of Bangladesh has taken an extraordinary test with the limited resources and digital infrastructures for carrying out virtual courts during this Covid-19 pandemic. The core objective of this study is to investigate the challenges of virtual court system in delivery of justice during COVID 19 pandemic situation and identify the way out to make the digital judiciary as permanent system for effective delivery of E-justice. The success of this noble initiative would largely depend upon ensuring technological support and legal requirements for e-courts and framing and implementing sound national policy and action plan for e-judiciary.

*Keywords:* Virtual Court, E-Judiciary, Access to Justice, Backlog of Cases and E-justice.

## 1. Introduction

Effective, responsive, accessible and fair justice system is a pillar of democratic governance. Consequently, the right to protection of law and access to justice are enshrined as fundamental rights in the Constitution of Bangladesh. But, in any case of the Covid-19 pandemic has made courts across Bangladesh be shut for a long time and these sacred rights stay suspended. The immediate impact of the pandemic made the virtual activity of Judiciary come to talk. Then soon after the flare-up of the Covid-19, numerous nations having e-readiness has taken immediate steps to conduct judicial proceedings online (Huda, 2020). For instance, in the Wales and England of the UK, civil courts are conducting the proceedings through remote hearing based on the "Protocol Regarding Remote Hearings" issued on 20 March 2020 (Mare, 2020). The Supreme Court of the UK chose to hear all cases and delivering judgment through video conferencing until further notification. In India, on 6 May 2020, the Delhi High Court has pronounced its first judgment through videoconferencing. It disposed of a writ petition that arose out of the fact of violation of a compliance advisory of the Central Government to wear mask in Covid-19 situation. The Court dismissed the petition with directions that the judgment to be uploaded on the website of the Court within 24 hours and also to be forwarded to the counsels of the parties via email (Murshed, 2020). In Bangladesh, when the Bar started talking about the dire need for virtual operation of the judiciary, the stakeholder never expected changes to happen overnight. But leadership

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of the Judiciary was expected to take steps in the right direction so that the door to the justice does not remain closed for such a long duration. Successively prompt virtual steps were taken by the esteemed judiciary during Corona pandemic;

- In April, 2020 the SC Committee for Child Rights, under the leadership of Mr. Justice Mohammad Imman Ali held its first virtual meeting for release of children from CDC jail (Daily Star, 2020);
- On the 20th of April, the SC Special Committee for Judicial Reforms, in its 68th meeting, requested the Hon'ble Chief Justice of Bangladesh to start virtual operation of the High Court and the subordinate courts, albeit in a limited manner (Sattar and Chayon, 2020);
- On 23<sup>rd</sup> of April, the Registrar General of the Supreme Court of Bangladesh asked the SC Special Committee for Judicial Reforms and UNDP Bangladesh to take necessary steps to provide technical facilities for virtual operation of courts and training in that regard to judges, lawyers and all other court staffs in every district (UNDP, 2020);
- On 26<sup>th</sup> of April, in the first virtual meeting of the full court, under the leadership of the Hon'ble Chief Justice of Bangladesh, it was decided, inter alia, that:
  - i) the Hon'ble President will be approached for his consent for virtual operation of the courts;
  - ii) a committee will be formed for amendment of the High Court Rules to enable virtual operation of the courts (Rahman, 2020).

In this background, the president of Bangladesh sanctioned an ordinance titled '*Adalat Kartrik Tothyo Projukti Byabohar Odhyadesh 2020*' (roughly translated as the "Use of Information and Communications Technology in Court Ordinance 2020") allowing the operation of virtual courts by the judiciary on May 9, 2020. The ordinance was passed by the Parliament titled "Adalat Kartrik Tathya Projukti Byabohar Ain 2020" (hereinafter referred as the Act, 2020) on July 8, 2020.

This law was promulgated with an aim to reduce the backlog of enormous number of cases in different courts due to countrywide closure since 27 March to 30 June, 2020. As per the previous law, the trial proceedings were only run in physical presence of judges, counsels and witnesses in the court. Following promulgation of the ordinance, it has been possible for the judges to run the trial proceedings of the cases through videoconferences and other digital means keeping the accused in jails, the lawyers in their residences and the witnesses in other places during the Covid-19 crisis as social distancing was necessary.

Introduction of virtual courts is a landmark decision of the government followed by proposal of the Judiciary (Akter and Tamanna, 2020). Albeit the court has been set up for emergencies, the virtual journey of court system would play a pioneering role in establishing e-judiciary (Murshed, 2020). The preamble to the ordinance expresses that the goal of the law is to empower the courts to make use of information technology to enable virtual attendance of parties to a case.

The Ordinance is a short law which empowers both the Divisions of the Supreme Court to promulgate practice directives (special and general) for trial or inquiry of any case, hearing of an application or appeal or recoding evidence, or taking arguments, or making order or pronouncement of judgment in any case by any court through ensuring the virtual presence of litigating parties, their respective lawyers or any other concerned person or witnesses by audio-video or any other electronic process. This law supersedes all other existing laws, including the Code of Criminal Procedure, 1898 and the Code Civil Procedure, 1908. Ensuring the virtual presence of any individual is supposed to conform to the mandatory provision of the physical presence of that person under any other laws (Adalat Kartrik Tathya Projukti Byabohar Ain, 2020).

## 2. Objectives of the Study

The main objective of the study is to identify the challenges of virtual court system in delivery of justice during COVID 19 pandemic situation. Other objectives include-

- i) To analyze the transformation of Bangladesh judiciary into E-judiciary through virtual court system;
- ii) To uphold the core necessities of digital judiciary for backlog-free judiciary and sustainable justice system;

- iii) Lastly to detect way out to make the digital judiciary as permanent system for effective delivery of E-justice.

### 3. Methodology

In conducting this study, qualitative method was applied and data have been collected from both primary and secondary sources. The primary sources are relevant statutes, Key Informant Interviews (KIIs) among officials of Supreme Court of Bangladesh, i.e. Judges, Lawyers and Litigants and the secondary sources are journal articles, relevant reports, court documents etc. To support findings, current survey on virtual court proceedings, renowned newspaper reports etc. were reviewed. The data have been analyzed in descriptive pattern of narration.

### 4. Virtual Court System and E-judiciary

The interface between law and technology is a growing sphere. The law should accept new dimensions to suit the demands of an IT-based digital society and it should play a powerful role like a living organ (Singh *et al.*, 2018). The current government's Digital Bangladesh by 2021 vision proposes to mainstream ICTs as a pro-poor tool to eradicate poverty, establish good governance, ensure social equity and law enforcement for all (Karim, 2010). In Bangladesh, if e-judiciary was introduced earlier, then virtual court conducting and submission system by the learned advocates from the residence/ chamber/distant place in case of various urgent and pandemic situation would be easily possible. Presently a day, due to Covid-19 Pandemic when the world is static and locked down, our country including all courts has also been locked down. In such situations, e-judiciary and e-court rooms could keep tremendous contribution to keep the judiciary operative despite having such lock down. But the existing judicial system is far away from E-justice. Especially, the lower judiciary, as the court of first instance, deals chiefly with filing of cases, summons, examination or cross-examination, taking evidences which are conducted by 200 years old British-made methods. The Evidence Act, 1872 doesn't admit digital evidences till now. Judgments are pronounced and compiled in the record room. Only the paper copy of judgment is available in the lower judiciary.

Ultimately, locked down situation due to Covid-19 pandemic has made the judiciary function virtually. The recently passed "*Adalat Kartrik Tathya Projukti Byabohar Ain 2020*" empowered the courts to make use of information technology to enable virtual attendance of parties to a case during trial and to allow the court to hold inquiries or hearings of applications and appeals and take evidence or deliver orders or judgments. Opening the doors to virtual courts, Bangladesh has joined a list of countries across the world where the justice system has similarly responded to the Covid-19 induced lockdown with E-judiciary.

A virtual court is not a single window solution; rather it requires that a number of disparate individual components are carefully integrated to create a seamless operating environment. The pre-condition to ensure e-justice in crisis like Covid-19 pandemic is to introduce full-fledged e-judiciary and e-court rooms in Bangladesh. E-court or electronic Court means a location in which matters of law are adjudicated upon, in the presence of qualified Judge(s) and which has a well-developed technical infrastructure. Four types of mechanism that form the E-Court are Video Conferencing System, Case Management System, Community and Advocate Portal System, and Court Recording and Transcription System. The concept of e-courts could be thought of in two environments such as *the court with brick and mortar concept*, which is the courts in reality, and *virtual courts*. The first e-court as a paperless court is not a virtual court but a real court; where in the use of paper is dispensed with. Virtual courts will have no court hall, no timing of a specific nature, but will have an environment of lawyers, judges, parties and witnesses having meeting and exchange of documents by utilizing the facility of video conference, exchange of documents through Electronic Documents interchange, use of digital signatures (Srivastava, 2014). The technological improvements like Skype, face time, while could be used to have one to one look among different stakeholders simultaneously and also otherwise, to have discussions dialogues, the exchange of documents could be done by discoveries, interrogatories, and admissions which are available in the existing laws (Prakash, 2014). The exemplary system of e-courts exists in Singapore where the court is an innovative combination consisting of a multitude of concepts, services and technologies such as the e-Chambers, the Electronic Filing System, Technology Courts, LawNet and Justice Online Imagine a courtroom, which we could walk into, not with sheaves of papers, affidavits, bundles of documents and volumes of authorities, but with an electronic notebook (Putrijanti and Wibawa, 2021). Plugging the notebook into an appropriate socket in the courtroom-in a flash- the judge and lawyers would immediately be able to follow arguments, evidence and authorities- at the click of a mouse (Vijayendran, 2000). The use of technology in the Singapore courts has made a key

contribution towards building up an institution in the administration of justice which is widely acknowledged as world-class and a first amongst equals (Anja *et al.*, 2004).

Information and Communication Technology (ICT) would be beneficial for both improving the court processes and rendering citizen-centric services. E-courts are aimed to make legal processes easier and more user friendly. In an e-court, the entire work is executed digitally, wherein, the information that is shared and generated is stored as a database and synched to a particular software and e-judiciary is to make the justice delivery system affordable, transparent, speedy and accountable. E-judiciary may bring a radical change in the field of the administration of justice moving toward a 'Digital Bangladesh' and common people will automatically habituate with the e-judiciary by the passage of time if it is introduced (Masum, 2015). Having realized the crying need and importance of introducing e-judiciary and e-court rooms in Bangladesh, a lawyer of Supreme Court, being aggrieved, filed a writ petition in the Hon'ble High Court Division of the Supreme Court of Bangladesh as public interest litigation and after hearing; the Court on 19.01.2020 issued Rule Nisi and directed the respondents to introduce e-judiciary and e-court rooms in all courts of Bangladesh within 90 (Ninety) days along with a direction to submit a progress report of implementing this to the court (Bhuiyan, 2020). Canada, Australia, Malaysia, U S A, U.K and most of the European countries have already introduced e-judiciary which is the demand of the time to be introduced in Bangladesh too. In addition, Malaysia has already been recently started to work with e-Judiciary and e-Court rooms (Scott and Thinyane, 2013) (e-filing, automated e-communication of orders and verdicts, recording testimonies through videoconferencing, recording digital evidence and biometric attendance).

Finally, we must always remember that justice must be assisted, not dominated, by technology. Technology alone does not improve the system. It is people, assisted by technology, who make the Justice System work (Prakash, 2014). The judiciary of Bangladesh also needs to move towards a paperless courtroom, and the birth of the cyber-court. It is hoped that we will be able to appreciate that technology is but a means in fulfilling the age-old duty of delivering justice to the people (Odrowska-Stasiak, 2013).

## 5. E- judiciary and Sustainable Justice System

It is widely understood that a judiciary effective in enforcing the rule of law would not only be conducive to trade, financing and investment but would also promote social peace and trust. As a Constitutional organ, we cannot think of a 'Digital Bangladesh' without a digital judiciary. The concept of e-judiciary and e-court rooms is pivotal for making the judiciary dynamic. However, the scenario is very awfully worse that the court buildings, record rooms and other mechanism are far away from digitalization which has created an unbearable logjam of cases (Alhila, 2018).

Because of corruption, mismanagement and irregularities in different levels of the judiciary, it has become difficult to deliberate justice in many cases (TIB, 2010). Judicial systems, particularly in developing countries like ours, continue to suffer from inefficiencies that have a negative impact on socio-economic well-being. Commonly faced lacunae in judicial performance include (a) length of time it takes for cases to be disposed; (b) uncertainty in the progress of judicial proceedings; and (c) difficulty for the common man to access judicial services, particularly related to the cases she/he is concerned with or is a party to. In this backdrop case flow management as an approach to keep track of cases and ensure their smooth passage through allocation of most appropriate time and resources forms the very backbone of the judicial system. Case flow management techniques are now widely adopted as a way to reduce case backlog, render timely justice and increase predictability in the judicial system. Much like other developing and transitional countries, the judicial system in Bangladesh faces the same constraints and bottlenecks. The largely independent judicial system lacks performance measurement benchmarks and a nation-wide standardization of case management processes that need to be followed. At over 3.6 million cases, the backlog is very high and cases take inordinately long to reach their logical end even as litigation costs keep mounting. To make it still worse, information related to cases is not easily available thus adding to the inconvenience of the already distressed citizen seeking recourse to justice (Masum, 2015).

The valued working hours of courts are being wasted by manual process in our country. May be it is a hope and guideline for us that The USA, Singapore, Canada, Malaysia etc. are now successfully disposing cases by using technologies which may give potential benefits to other mechanisms like ADR, negotiation, mediation, arbitration etc. to remove the deadlock of cases of our Courts (Verma, 2018). Our congested court rooms are not largely up-to-date, have no internet access, video conferencing management, e-cause list, online submission system, modern database etc. which causes delay, mismanagement, corruption, unnecessary expenses in the cases (Bhuiyan, 2020). In

the existing justice delivery system, the process of Case Management is so slow, costly and time consuming that sometimes a person takes it as a tool of harassment and burdensome adventure in filing or defending a case going to any court of the country (Sinha, 2016). In Bangladesh, against about 1700 Judges more than 3.6 million cases are to be heard and disposed of (Office of Registrar, Supreme Court).

Courts are treated as a last resort by those whose rights have been violated, when all alternative means have failed (Moran, 2015). Currently getting judicial service is a time consuming process, particularly accessing to legal information. If we can provide the people with the right information of law and explanation of law using technology at the doorsteps then it is possible to reduce case filings. The biggest challenge for the judiciary in the country is to reduce the delay in the court process and remove the backlog of cases. The Justice Sector and its emerging challenges include effective justice, namely, predictability in judicial operations and services, speedy case disposition and service delivery to those who need them the most (Masum, 2015). Costs and corruption in all parts of the system and interference by the political and more powerful members of society make it difficult for the poor and vulnerable groups to access justice (Moran, 2016). One important constraint recognized and acknowledged by many stakeholders is the lack of speedy and efficacious disposals of cases (Golub and Huda, 2015). The E-Justice system may provide a very quick solution to the problems. Judiciary has been disappointing as compared to the other pillars of the state, namely the Executive and the Legislative. If all other sectors of the state are enjoying digitalization, then why not digitize the judicial system? (Islam, 2019). For case backlogs, two major groups of official witnesses- police and doctors – are the main culprits responsible for delaying trails. Virtual court provides a simple solution to the problem. Supreme Court is publishing hearing dates (cause list) and orders on the website. This way, there is no chance for other people to misguide justice seekers. About 90% of corruption can be reduced with an e-judiciary (Rahman, 2020). E-filing of cases and submitting e-documents will reduce the pile of papers in lawyer's chambers and court offices. This will consequently increase efficiency and reduce delay and complexity. Witness depositions may be recorded and in cases of urgency video recording of witness testimony may be admitted. This will fill the time gap of witness summoning, rendering the disposal of cases quicker. In addition, the case filing and management process, if found online through a digitalised system, will become more transparent and automatic, thereby reducing the possibility of individual adverse influences on a particular case (Imran, 2020). However, to think that the need for virtual courts only arose in the aftermath of lockdown would be to deny reality. It has been a long time coming. Coronavirus and the national lockdown aside, e-judiciary is crying need to ensure the effective and sustainable justice system in the country. Actually, e- judiciary can play a vital role to diminish the case backlogs of an overburdened judiciary and the huge pile of cases which is causing serious bar to seek justice by destroying time, money, hope and emotion of the parties but this large number of cases cannot be disposed of in a shorter period without the introduction of e-judiciary. E.g. in e-case filing system, a person and/ or an advocate on his/her behalf may create a personal account with secured password where every updates of the case(s) can be provided within a moment. Thus, this service can be reached up to peoples' bedroom. Bangladesh has reached total mobile subscribers exceeding 16 crores and Internet penetration surpassing 10 crores across the country which opened the door of digitalization easily. The cause list of particular cases may be sent via SMS to the common people. Any latest update, query or information may reach within a short period of time by SMS to the litigant and /or their appointed lawyers. However, through the introduction of e-judiciary, litigant people will get one stop services and there will have no hassle for Tadbir of the cases and thus filing of the false and fabricated cases will get reduced markedly. It will take time before the entire court system becomes digital (Scott, 2010). Once it is digitalized it will bring great relief to the litigants at one click.

## **6. Real Scenario of Virtual Court System during Pandemic Situation**

In the context of closed situation due to coronavirus pandemic, Bangladesh has started its journey of conducting judicial proceedings through virtual courts on 12 May 2020. As per provision of new legislation, the Supreme Court of Bangladesh had issued practice directives for the Appellate Division, the High Court Division and the subordinate Courts for conducting judicial proceedings through video conferencing. In its first virtual hearing over a writ petition, the High Court Division has issued directives to stop the killing of dolphins in Halda River (Murshed, 2020). The Lower Judiciary throughout the country has enlarged a number of accused individuals on bail through virtual hearings i.e. more than 72,000 (seventy two thousand) people have been granted bail out of 1, 47,000 (One lac forty seven thousand) virtual hearings (Special Officer, Office of Registrar, Supreme Court of Bangladesh, 2020). These hearings are the beginning of a long journey towards a sustainable e-judiciary. At present, trials have been held in virtual chambers of the Appellate Division of the Supreme Court and 4073 (four thousand seventy three) cases have been

disposed of during July 13 to September 24, 2020 whereas 15,260 cases are pending in the division of Supreme Court (Special Officer, Office of Registrar, Supreme Court of Bangladesh, 2020).

Although the lower judiciary has started regular court proceedings with physical appearance again from August 5, 2020, virtual benches of the High Court Division as well as actual benches with physical appearances are functioning simultaneously.

The Act would be useful for criminal trials even if the virtual court was set up for emergencies. For example, in criminal cases, trials are delayed because many witnesses do not come or are out of the country. Therefore, the virtual court system, in allowing people to attend hearings online and for judges to issue decisions therein, has immense potential in eliminating the distance factor and corruption issues. The Act itself is quite vague and brief with only five generic sections. To this end, section 5 of the Act empowers both branches of the Supreme Court (Appellate Division and High Court Division) to issue Practice Rules (Special or Ordinary) in relation to the virtual court system. The day after the ordinance was passed, both branches of the Supreme Court duly issued 15-point "Practice Directions for Virtual Courts" on the Supreme Court website. Although issued separately, the Practice Directions of branches are largely identical in nature. The first of these directions states that "Any lawyer wishing to file an application/petition is to file such application/petition via email address of the Bench Officer of the concerned Court along with an application requesting virtual hearing giving reason for urgency within 1 (one) page." The tenth direction states that upon receipt of the case application or petition by email by the Bench Officer, "the Judge shall, upon considering the urgency of the matter, fix a date and time of hearing and accordingly inform the Bench Officer concerned." From this, it becomes clear that individuals themselves are unable to file cases directly; rather it must be done through a lawyer. Additionally, not every case filed will necessarily be heard, rather the key determinant will be "urgency". It is not yet clear what the Supreme Court judges would consider urgent. On the other hand, the Supreme Court also issued Practice Directions for Subordinate Courts and Tribunals, which specifically state that they are to only hear matters relating to bail petitions. The decision to treat bail hearings as a matter of priority is justifiable given that an astonishing 81.3 percent of our total prison population comprises pre-trial detainees, i.e. those who have not yet been found guilty of committing any offence (Golub and Huda, 2015).

It is indeed a matter of success that the digitalization of courts in Bangladesh has already started, while many western countries are still in the process of transformation to the digital model. The daily 'cause list' of both High Court Division and Appellate Division cases can now be found in the website of Supreme Court of Bangladesh together with the judgment and orders in the same place, allowing litigants and lawyers to access the requisite materials themselves. It will take time before the entire court system becomes digital (Imran, 2015). Already, the impact of ICT on court systems can be felt with case management systems, court administration, human resources, online libraries and many other ICT-enabled facilities that are now available with stakeholders.

The rapid progress made in ICT in Bangladesh including advancements in penetration rates with mobile subscribers exceeding 16 crores and Internet penetration surpassing 10 crores across the country and connectivity infrastructure deployed to connect all government offices. However, adoption of ICT in Judiciary has been disappointing as compared to the other pillars of the state, namely the Executive and the Legislative (GOLDER, 2020).

While asked about virtual court system, it was found that it is the senior lawyers who are struggling to adjust to the virtual court system as they are not used to technology. Younger and junior lawyers are taking to the system very well. Some lawyer of Supreme Court said virtual courts are adequate during an emergency but they should not replace the regular systems, as physically appearing before the court is important in itself. Some added, Virtual courts can continue, but necessary resources are still not available as the system is developing. The problem may be solved in the near future. It was responded that lawyers are not against the virtual court, but the Supreme Court administration should have given them time for preparation and training before introducing it. Very few lawyers have access to facilities necessary to file cases with the virtual court. Access to justice would be more effective through the virtual court if lawyers and staffs had training'.

Some lawyers expressed, things are not as difficult as many of our lawyers are thinking. We, the lawyers, have to gradually adjust to the newly introduced system. The Bar Council or Lawyer's Association can arrange training for lawyers. In the future, amendments to relevant laws may allow for video conferencing to help record witness statements, and not just for virtual courts. If the e-judiciary is introduced properly, pending cases can be completed quickly, some added.

The software needs to be easier for users. The technology was not developed specifically for virtual courts, and there have been many technological errors. Those who do not have android phones or other technological facilities cannot engage in virtual courts. The virtual court is definitely better during emergencies, but the facility needs to be accessible for everyone. The virtual court is not supplementary or complementary to the regular court system. It has been launched in a constitutional vacuum in our judiciary due to nonfunctioning corona pandemic, some added.

In shops, many lawyers are using the same headphones to join virtual hearings. How can we maintain social distancing and other measures to prevent spreading of the coronavirus? Moreover, the virtual court can never play an effective role until uninterrupted power supply and an integrated network is ensured, added by some interviewees.

The High Court Division and the Appellate Division of the Supreme Court are the constitutional courts having both civil and criminal jurisdictions. Apart from the Constitution, the High Court Division follows the Supreme Court (High Court Division) Rules, 1973, and the Appellate Division follows the Supreme Court (Appellate Division) Rules, 1988. These Rules are framed under article 107 of the Constitution. Therefore, the Supreme Court has taken the initiative to make necessary amendments to these Rules for conducting judicial proceedings in the virtual courts. The Evidence Act, 1872, applies in both civil and criminal matters. The civil procedural laws and criminal procedural laws, along with the Court Fees Act, need to be carefully examined. Hence, it is crucial to consider the entire gamut of law in conducting the virtual courts in Bangladesh.

## 7. Major Challenges

What is more difficult than the concept of E-judiciary is its implementation. Various barriers appear to smooth functioning of virtual delivery of justice-

- It will overturn hundreds of years practice in legal arena which is heavily reliant on paper based model;
- Existing court infrastructure is not suitable for E-judiciary;
- After about a month since the virtual court system was introduced in Bangladesh due to the Covid-19 pandemic, lawyers and judges have suggested more technical support and training is needed so the system may function more effectively;
- One of the biggest challenges is the complete digitization of its records and proceedings
- Strong internet connectivity throughout the courts and appropriate training for the staffs for the new system are not ensured;
- Court record room and case Management System are old fashioned and paper based;
- It is difficult at the outset to make everyone familiar with the digitalised court system, for the concept is relatively new and requires technical knowledge;
- It will take time before the entire court system becomes digital;
- There will always be a high chance that confidential information disclosed during virtual proceedings may be recorded by any of the litigants in their personal devices and used in other situations to the advantage of an unscrupulous litigant and/or made viral on the internet to the disadvantage of the innocent litigant;
- Another potential difficulty may arise out of the absence of any special agreement with the software provider which will supply the video conferencing technology;
- Use of technology has high risk of being hacked, distorted and misused.
- 200 years old procedural laws are not adapted with virtual court system;
- Mind set of stakeholders and litigant public are not used to the new system;
- The e-judicial setup demands high level of fund infusion into the programme;
- No coordinated action plan and national committee between the government and judiciary to implement the challenging job of digital judiciary;
- A change in the mindset of the judiciary from a paper-pushing culture to a paperless culture.

## 8. Way out

The following recommendations are identified to be stressed for effective functioning of virtual court and future delivery of E-justice-

- Introduction of e-court rooms or the whole old-fashioned courtrooms should be accommodated with new technologies;

- The stakeholders especially lawyers have to gradually adjust to the newly introduced system;
- Judges, lawyers, law enforcing agencies and court officials should be trained so that they can cope with e-judiciary;
- Infrastructural developments are inevitable especially court room equipped with necessary technology and continual connectivity for all stakeholders, Court wise IT expert, service receiver friendly system etc.;
- The stakeholders must be provided more technical support so the system may function more effectively;
- The virtual court can never play an effective role until uninterrupted power supply and an integrated network are ensured;
- The required laws should be updated to adapt with E-Judiciary, especially the Evidence Act, 1872 should be amended making parallel with e- judicial system and backup plan should be ready for the urgencies. In considering a legal framework for virtual courts, we will need to update the existing legal provisions for easing filing of softcopies of the plaint or petition, FIR, complaint, charge sheet etc. in the court instead of the present provisions of filing hard copies, introducing e-cause list, e-payment of court fees, swearing virtual affidavits, e-service of summons/notices, virtual appearance of the parties to the litigations including accused, witnesses and lawyers before courts, digital signature or e-signature of lawyers, parties, judges, and court-officials, trial through video conferencing, online pronouncement of judgments and judicial orders, issuing certified digital copies of the judgments and judicial orders, e-record management, etc (Sattar and Chayon, 2020);
- Using different cameras, especially the evidence camera which can instantly convert a paper document or physical exhibit to an e-image should be ensured;
- Court record room should be modified with Online Database System (ODS) and case Management System (CMS) as well;
- Adequate budget should be allocated for the judiciary;
- Proper steps should be taken to tackle the risks of hacking;
- As Bangladesh has lack of essential technologies, advance technologies, services, experts should be exported;
- Beside this, national and sub-national committee must be formed to control and utilize the whole scheme and to hear the grievance of the people and People must be made aware of and cooperative to use the e-judiciary;
- Litigants public should not only be made aware but also necessary assistance shall be ensured for adapting with virtual judiciary;
- There should be coordination between the government agencies and the Supreme Court Special Committee for Judicial Reforms. The Supreme Court may also come up with a short-term, mid-term, and long-term action plan to make our virtual courts sustainable;
- Concrete national policy and action plan should be adopted for implementing e-judiciary in light of examples of other developed countries;
- Finally, mindset and willingness to use technology is a must. There has to be a change in the mindset of the judiciary from a paper-pushing culture to a paperless culture.

## 9. Conclusion

Information and communication technologies (ICTs) are today considered to be an indispensable tool for both case management and efficient delivery of judicial services. The introduction of virtual court system undoubtedly marks the onset of a historic era for our judiciary. Surely, it has opened the closed door of access to justice systems in pandemic situation and must bring about efficiency in the core workings of the judiciary. Whether the system can live up to its potential, and maximise delivery of justice for those who need it the most, very much depends on our recognising it as not only a temporary solution for the present but also the permanent solution for the future. In order that the system is effective, it would consider aspects of confidentiality as much as it would satisfy the requirements of the right to information. Those days are not far for the judiciary of Bangladesh when it should all start with a mere click of the mouse. Virtual Court System is a leap forward and an opportunity to develop a system that is not only future proof but addresses the needs of the administration of justice from the first court appearance to the end. The work of transforming the country into a digital Bangladesh is a bit ahead with the new legislation. However, we have to stress the importance of exploiting technology as a tool for positive change and transforming the justice sector.



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