Peace, Justice and Inclusion in the Pandemic

Sharing country experiences

PATHFINDERS FOR PEACEFUL, JUST AND INCLUSIVE SOCIETIES

Courts and COVID-19 Lockdowns and Social Distancing Measures

The COVID-19 pandemic has forced courts around the world to operate under lockdowns, social distancing and other public health measures. By mid-May, about 165 countries had adopted such measures and in many countries, courts were not—or not immediately—deemed to be providing essential services that needed to be exempt.

Courts play a relatively small, but critically important role in resolving people's everyday justice problems. Yet their operation has been particularly impacted by COVID-19 measures, since it relies heavily on in-person interactions. Also, ceremonial aspects of their operations are part of their role and legitimacy. The "*All rise!*" – when the judges enter, is tied to the physical space of the court room and not easily replicated in a virtual environment. Similarly, trustworthiness of witnesses, or the sincerity of intentions of parties to a conflict, are much harder to pick up on via phone or online.

Before the pandemic, many courts were experimenting with technological innovations. Very few of these initiatives had yet transformed mainstream courts' operations, and more radical rethinking of delivering justice services in the 21st century was even more sporadic. The pandemic has dramatically increased the urgency of these innovations.

> *"Using new technology is something that justice systems should seriously consider. Not just during times when movement is restricted, but as an inexpensive option for delivering and administering justice"*
>
> *-Hina Jilani (An Elder, Co-chair of Task Force on Justice)*

Increasing Innovation and Learning in Courts

Formal legal systems, and the way people view them, are changing. Measures related to COVID-19 have forced courts to embrace innovations more rapidly and to rethink how they can use virtual communications to perform their functions.

- At least 40 countries have taken steps to make court services remote since the pandemic began.
- In England and Wales, communications by telephone or videoconference are now part of 90% of all hearings.

There are many questions: How to best meet people's demand for justice? How to adapt procedures to fit with new modes of delivery? Are innovations further excluding those without access to technology or marginalized groups? And after the pandemic: which changes to roll back and which to keep? Courts, lawyers, legal aid providers and grassroots justice defenders are finding the answers to these questions in this period of rapid innovation and learning.

Emerging country responses

Providing Justice Remotely	• The Indian Supreme Court is expanding rural legal aid programs such as the Nyaya Mitra program and the Tele law scheme, reaching more people during the pandemic for a wider variety of uses. • The Supreme Court of China is relying on technologies such as the Artificial Intelligence (AI) Micro-court system and the Internet Court, which are quickly being converted for further use, and are being promoted in the absence of physical courtrooms and judges. • While some courts have cancelled certain court fees, or made them payable over the phone or online, a sheriff's department in Louisiana has turned an old bank into a drive-through to pay court fees while observing social distancing measures. • In many countries, like Uganda, legal aid and legal services are categorized as essential services, and funding from the COVID-19 response is being allocated to courts and legal aid.
Moving Court Sessions Online	• In response to COVID-19, courts all over the world in countries like Bangladesh, Australia, UAE, and Peru have made virtual meetings, from hearings to mediations, the new norm. • Other countries like Mexico and South Africa have hosted high-level Supreme Court hearings over videoconference. • As an alternative to physical meeting spaces, many countries like Malaysia have begun streaming cases for the first time. Chile hosted a criminal hearing online and aired it on their official Supreme Court YouTube Channel. • In extreme cases, courts have had to be even more flexible in order to communicate remotely, like Singapore, which has begun to accept hearings over email.
Becoming More User-Friendly	• In Argentina, courts are crafting user-friendly materials to help people navigate the court system. Like the step-by step guide produced by the Judiciary of Buenos Aires or the expanded materials and online calendar in the Corrientes Province. • Several countries and municipalities like India and Lagos, have adopted streamlined e-filing and information sharing systems for judicial documents, to assist remote work. • In countries, like Russia, courts have authorized alternative, accessible communication methods for judges to communicate with parties, such as email or WhatsApp. • Courts in cities and countries, from Chicago to Brazil, are creating well designed and easy to use apps, guides, and one-stop-shops helping users navigate their appointments, cases, and the judiciary during the pandemic. • Large-scale, innovative apps like the American Bar Association's pro bono portal are helping more clients respond to COVID-19-related legal issues. • Researchers at the Legal Innovation & Technology Lab, are developing mobile court options offering people-centered justice issues, garnering international support.

Other Resources:

- Seven key guidelines to ensure that justice systems are not paralyzed by COVID-19, from UN OHCHR
- Global overview on Remotecourts.org and Online Courts and the Future of Justice by Richard Susskind
- The Courts and COVID-19 from the International Commission of Jurists
- COVID related measures and decisions by courts from over 25 member countries of the Council of Europe
- OECD Background Brief on the Impact of COVID-19 on Access to Justice (Forthcoming)
- Justice for All and the Public Health Emergency