



Judicial roundtable discussions: Technology in the new world

Thursday 11 March 2021 (starting at 07:30 EST, 12:30 GMT, 16:30 GST, 20:30 SGT and 23:30 AET)

Third Meeting

Please note a pre-recorded contribution is available for preparation ahead of this discussion. The two SIFoCC COVID-19 memoranda (May 2020 and March 2021) may also be useful.

Objectives:

1. To examine the use of technology as an enabler.
2. To consider issues arising from the use of technology e.g. open justice, transparency and security, problems and opportunities presented by data, ethical and regulatory issues arising from artificial intelligence (AI).
3. To prepare for the procedural, evidential and substantive questions that will face commercial courts in the age of technology in commerce e.g. understanding smart contracts, receiving evidence of what is on a blockchain, intervening in a contract that is self-executing.

Narrative:

The second SIFoCC meeting in New York in 2018 addressed the existing use of technology by courts. Before the COVID-19 pandemic, many courts were beginning to use telephone and video hearings for interlocutory matters and, in certain circumstances, received evidence over live video. Some courts had or were implementing electronic case filing systems.

The pandemic has shown the rapidly growing benefits technology can have. Integrating what has been learned from this period into the long-term will be a crucial challenge. The trust, consent and

commitment to the justice process, given by society and by those involved in litigation requires particular attention as change of the nature that technology involves is made.

The pandemic has damaged economies and had a wholesale change in business. In legal systems, pre-existing problems are more acute and can include: dispute backlog in some areas, further damage to some parts of the legal profession and increased calls for better access to justice for those without means. The new world of technology, including its potential to improve efficiency, access and cost effectiveness, may be more important than ever. As the court's use of technology grows, courts can also expect to be resolving more disputes about technology.

Fundamental to the administration of justice is its independence, openness and transparency. Technology may enable greater public access to hearings and decisions or judgments and may provide an overdue opportunity to use data to show what is and what is not working in a justice system. At the same time, security and respect for privacy and personal data all require close attention.

The future of technology includes the further development of AI. The implications of this need to be identified, understood and addressed.

Potential points for discussion:

- What problems call most of all for technology? How do we use technology as an enabler?
- How do we continue to achieve the trust and confidence of society, open justice, transparency and security?
- What are the problems and opportunities presented by data?
- How do we prepare for the procedural, evidential and substantive questions that will face commercial courts in the age of technology in commerce?
- What is the true scope for AI in an adjudicative setting? What are the ethical issues and values involved with AI in a justice system and how is a legal and ethical framework to be provided?