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COVID-19, COURT HEARINGS AND AUTOMATED DECISION-MAKING

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COVID-19: A VERY DANGEROUS VIRUS

The first report of what was later named the COVID-19 novel coronavirus was published in Wuhan, China, in November 2019 when a cluster of early manifestations of an influenza-like virus was traced to patients with connections to the Wuhan wet market. Local authorities in Wuhan immediately tried to supress "panic" reports and to threaten whistle-blowers. However, by the last day of 2019, China officially reported a new a-typical severe pneumonia of unknown cause to WHO. By then, acting with stern measures and admirable speed, China posted on the internet the genetic make-up of the virus. This helped launch a large number of global efforts to find a vaccine and a cure, not yet successful. From this small beginning the coronavirus pandemic, later named COVID19, spread rapidly around the world.

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* This text has been updated by revision of a schedule on Australian Court requirements. The author acknowledges the assistance of Tara Walsh, UTS student. Based in part on a presentation given at the launch of the 40th Anniversary of the NSW Society of Computers and the Law and the launch of the Australian Society of Computers and the Law (by Microsoft Teams, 14 July 2020); and at the webinar led by Professor Richard Susskind and monitored by Professor Tania Sourdin, 14 August 2020.; and at a talk for The Sydney Institute, Sydney, on 19 August 2020.

** Justice of the High Court of Australia (1996-2009); Patron of NSW Society of Computers and the Law (2980-2020); Chair of the OECD Expert Group on Transborder Data Barriers and the Protection of Privacy (1978-80).

Total confirmed cases of infection to this time have been:

Global: 22,515,213

Australia: 24,236

Total deaths

Global: 789,825

Australia: 463

Total recovered

Global: 14,381,048

Australia: 17,851

The total numbers of confirmed cases of infection and deaths in selected countries to this time include:

United States: 5,199,444 (165,617)

United Kingdom: 316,367 (41,358)

Italy: 252,809 (35,234)

France: 183,804 (30,223)

Spain: 342,813 (28,617)

Russia: 912,823 (15,498)

India: 2,268,675 (45,257)

CORONAVIRUS' IMPACT ON GOVERNMENT

In default of immediate therapeutics or an effective vaccine, WHO and local health authorities focused on the advice they could give for infection control, to reduce the spread of the COVID-19 virus. As in the early days of HIV, this led to a close study of the modes of transmission

of the virus; the identification of specially vulnerable groups exposed to infection; and the specification of precautions that should be taken to minimise the impact of the virus amongst those exposed to it.

Groups especially vulnerable to HIV included people often stigmatised in their own environments: gay men, transgender women, sex workers, injecting drug users, prisoners and other detainees. The major target for COVID-19 containment became care for older persons; for persons in aged-care facilities; and for people travelling from places of high infection to low infection. In Australia, and most other developed countries, legislatives and courts have been busy in response to COVID-19.

CORONAVIRUS' IMPACT ON JUDICIAL HEARINGS

The 1919 encounter with the Spanish Flu demonstrates the capacity of history to repeat itself in such matters.[1] All of the courts in Australia (from the High Court of Australia to Local and Magistrates Courts) have introduced significant procedural changes to reduce the number of ordinary hearings involving judicial officers, lawyers, parties and witnesses together in a traditional courtroom; to provide new procedures for hearings to be conducted by audio visual links (AVL).

In the High Court of Australia, after late March 2020, the Court has conducted all its hearings using AVL technology to reduce the risks of infection arising from close proximity to those who have been infected. The Justices have generally appeared from courtrooms in their home States. For decades, reaching back to before my appointment in 1996, the High Court and Australia has regularly conducted special leave

[1] *Sydney morning Herald*, 19 February 2019, 11; *Armidale Chronicle*, 19 February 1919, 4.

hearings requiring oral hearings by video link technology beamed to federal court facilities in Brisbane, Adelaide, Perth, Hobart, Darwin and occasionally Melbourne and Sydney. The High Court's earlier experience in video hearings has prepared it for switching in the hearings of appeals, applications and special leave cases to AVL technology. Justices and practitioners quickly adapt to this new technology.

Federal Court of Australia: Similar arrangements governing hearings during COVID-19 have been adopted by the Federal Court of Australia. It already has excellent video conference facilities used for occasional hearings and also for the frequent internal conferences of the judges inter se. By mid-March 2020, in response to the pandemic, the Federal Court started conducting hearings remotely using the technology of *Microsoft Teams*. On 31 March 2020, Chief Justice Allsop published a *Special Measures Information Note*, outlining the Court's response to COVID-19 and the ways in which the Court had modified its practices and procedures in order to minimise in-person attendance at court premises.[2]

Since mid-April 2020, the Federal Court has been operating at 80% of its courtroom capacity. This has largely been because of its adoption of *Microsoft Teams* technology for judicial hearings. The only matters that are not presently proceeding by *Microsoft Teams* before the Federal Court are those involving self-represented litigants who are unable to use *Microsoft Teams* or certain matters that are deemed to involve security risks that must be heard in person.

[2] Federal Court of Australia, 'Special Measures in Response to COVID-19 (SMIN-1) Special Measures Information Note', Updated 31 March 2020; https://www.fedcourt.gov.au/law-and-practice/practice-documents/practice-notes.

State Courts of Appeal: In the highest courts of the States and Territories of Australia similar arrangements have been made, with remarkable speed and adaptation. A recent case in the NSW Court of Appeal concerning an alleged jurisdictional error was heard by a bench comprising 3 Judges of Appeal. The presiding judge was sitting alone in a courtroom. The second judge participated from his chambers. The venue of the third judge was not announced but may also have been his chambers. The two judges participating remotely were dressed in lounge suits. Counsel participated from his solicitor's office in a Sydney suburb. His opponent participated from a public lawyer's office. The only problem arose when the connection with the AVL technology dropped out periodically. As well there was episodic electronic interference during the hearing.

By contrast, a recent criminal appeal before the NSW Court of Criminal Appeal took place from the Sydney Banco Court. All 3 participating judges were sitting together in full judicial dress in the same courtroom. Barristers on both sides appeared by AVL technology linked to the Banco Court. Like the judges, the advocates on this occasion were wigged and gowned online.

Court	**General COVID-19 Information**	**Relevant Practice Directions or Announcements**
Family Court of Australia	http://www.familycourt.gov.au/wps/wcm/connect/fcoaweb/about/covid/	**Joint Practice Direction 2 of 2020** - Special Measures in Response to COVID-19 (Last update - 3 August 2020) http://www.familycourt.gov.au/wps/wcm/connect/fcoaweb/about/covid/covid-profession/jpd022020
NSW	http://www.supre	**Protocol – Court Operations – COVID-19** (Last update -

Supreme Court	mecourt.justice.nsw.gov.au/Pages/coronavirus_covid19_announcement.aspx	9 June 2020) http://www.supremecourt.justice.nsw.gov.au/Documents/Home%20Page/Announcements/Protocol_v4_09_June_2020.pdf
Victoria Supreme Court	https://www.supremecourt.vic.gov.au/news/coronavirus-information	**Joint Statement: Victorian Courts and VCAT** (Last Update 7 September 2020) https://www.supremecourt.vic.gov.au/news/joint-statement-victorian-courts-and-vcat
Western Australian Supreme Court	https://www.supremecourt.wa.gov.au/	**Supreme Court of WA Updated Public Notice - COVID-19** (Last update - 15 May 2020) https://www.supremecourt.wa.gov.au/_files/Speeches/2020/COVID-19NoticeUpdate6-15May2020.pdf The aforementioned document makes reference to the **Public Notice** (from 18 March 2020) continuing to apply, unless otherwise stated. This document can be found here: https://www.supremecourt.wa.gov.au/_files/Speeches/2019/COVID-19UpdatedNotice(including%20Court%20of%20Appeal)18March2020.pdf
Queensland Supreme Court	https://www.courts.qld.gov.au/courts/supreme-court/covid-19-response-supreme-court	**Notice to legal practitioners in relation to the COVID-19 pandemic** (Last update - 18 March 2020): https://www.courts.qld.gov.au/about/news/news233/2020/notice-to-legal-practitioners-in-relation-to-the-covid-19-pandemic
South Australia Supreme Court	http://www.courts.sa.gov.au/Information/Pages/Coronavirus-Information.aspx	**Communication from the Supreme Court Revocation of COVID-19 Practice Changes** (Last update - 1 September 2020) http://www.courts.sa.gov.au/Information/Pages/General-News-Release.aspx?IsDlg=1&Filter=84%20.

		The changes they revoked, to a limited extent, are the **COVID-19 Practice Changes** (20 March 2020) which can be found here: https://www.lawsocietysa.asn.au/pdf/CJ20.pdf?utm_source=HigherLogic&utm_medium=HigherLogic&utm_campaign=HigherLogic&_zs=XmVdl&_zl=Lkmm1
ACT Supreme Court	https://courts.act.gov.au/supreme/about-the-courts/news/response-to-the-covid-19-virus	**Supreme Court of the Australian Capital Territory - Practice Direction 2 of 2020 - Special Arrangements in response to COVID 19** (Last updated 10 September 2020) https://courts.act.gov.au/__data/assets/pdf_file/0006/1626342/10.09.2020-Practice-Directon-1-of-2020-Special-Arrangements-in-response-to-COVID-19.pdf
Tasmanian Supreme Court	https://www.supremecourt.tas.gov.au/publications/covid-19-information-for-court-users/	**Supreme Court of Tasmania - Practice Direction – Resumption of Face to Face Court Proceedings** (Last updated – 10 June 2020) https://www.supremecourt.tas.gov.au/wp-content/uploads/2020/06/Practice-Direction-No.4-of-2020-Resumption-of-Face-to-Face-Court-Proceedings.pdf
NT Supreme Court	https://supremecourt.nt.gov.au/about/whats-new/2020/courts-and-tribunals-covid-19-response#Supreme%20Court	**Notice 6 to Practitioners, Litigants and the VIsiting Public COVID-19** (Last Updated - 25 May 2020): https://supremecourt.nt.gov.au/about/whats-new/2020/supreme-court-and-local-court-of-the-northern-territory-notice-6

UK Supreme Court: Changes to remote court hearing arrangements during the COVID-19 pandemic are by no means confined to Australian courts. The Supreme Court of the United Kingdom and the Judicial

Committee of the Privy Council (JCPC) held their last physical hearings in a traditional courtroom in March 2020. Where a matter is listed for a day, as is common, four separate video meetings are potentially arranged. These allow for separate video meetings for the participating justices alone before and after the main hearing. There are also a morning and afternoon session for the hearing linking the participating judges, advocates, parties and court officers provided with access to livestreaming.[3]

Adapting to AVL: It follows that most appellate courts of our tradition in Australia and elsewhere have adapted quite rapidly to AVL technology. Similarly, courts undertaking trials in civil jurisdiction before single judges, sitting alone, have also adapted. Most such trials are now proceeding remotely. Problems reportedly arise (1) from occasional technical interruptions to visual images; (2) from difficulties in access for the public and interested persons, so as to uphold the principle of openness of judicial proceedings; (3) from the viewpoint of prisoners having access in some cases from prison; (4) from the availability of the images of all of the judges participating on screen in multimember courts; and (5) from the complaints of some advocates that remote hearings appear to diminish the impact of their oral persuasion and that participating by AVL technology adds noticeably to the fatigue normal after long periods of concentration in physical courtroom settings.

PRE & POST COVID-19 INEFFICIENCIES

Hayne Critique: The law and judicial procedures, are always under scrutiny, a desirable characteristic that public hearings are supposed to

[3] R Susskind, "The Future of Courts" (paper for the Center on the Legal Profession, Harvard Law School 6 *The Practice* (Issue 5) (2020), 2 at 8.

encourage. This scrutiny did not begin with COVID-19. However, some of the innovations introduced to permit distance hearings seem bound to continue and indeed to expand as a result of COVID-19 adaptations.

Before AVL technology came to be available, a knowledgeable critic and former Justice of the High Court of Australia, Hon. Kenneth Hayne, published a critical article enumerating what he saw as the causes for widespread dissatisfaction with the Australian judicial system.[4] He identified "time and cost" as lying at the heart of dissatisfaction with the present judicial system. Justice Hayne propounded a number of changes to judicial practice that would save time and cost: (1) the encouragement for writing shorter reasons for judgment; (2) the restoration of judicial primacy for bringing disputes to trial rather than to 'judicial management'; (3) limiting discovery orders for the production of huge masses of photocopied or electronic material; (4) limiting the tender of expert evidence; (5) fixing or capping some costs; (6) and deterring and even penalising the ever increasing attitude to 'leave no stone unturned'. This attitude adds greatly to the size, duration and costs of contemporary litigation at a marginal cost that often exceeds the marginal utility.[5]

Susskind Critique: A leading proponent of turning the post-COVID-19 hearing process into a fresh model for future litigation is Professor Richard Susskind OBE. He is the chief advisor on technology to the judiciary of the United Kingdom. He can draw on an unequalled familiarity with the relevant technology now available to the courts. He is

[4] K M Hayne, "The Australian Judicial System: Causes for Dissatisfaction" (2018) 92 ALJ 32.
[5] Id, 44-46.

President of the Society of Computers and the Law of the United Kingdom. He detects a greater willingness amongst judges, officials, lawyers and court users to undertake judicial and court work in ways very differently in the future when compared to the ways of the past.

In a review article on remote courts, Richard Susskind identifies three long-standing challenges, presented by the traditional way litigation has been conducted in common law countries and also direct challenges arising out of the nature of the COVID-19 virus.[6] The first challenge, immediately presented by the pandemic, was to maintain a sufficient level of service to the legal profession and the public whilst the traditional court facilities were closed. The second challenge was to find new ways to tackle the backlog accumulating during the pandemic because of limited acceptable facilities. The third challenge was, as he put it:[7]

> "… The longstanding one [which] flows from an alarming truth – that even in justice systems that we regard as the most advanced, dispute resolution in the public courts generally takes too long, costs too much and the process is unintelligible to all but lawyers… [This is] the "access to justice problem". Lawyers everywhere should be ashamed of these impediments."

To deliver a more speedy, accessible, understandable and inexpensive access to justice, Richard Susskind urges: (1) permanent adoption of remote courts in as many circumstances as possible; (2) availability of video hearings, times and places beyond the hours of 10am to 4pm

[6] Susskind, above n. 20.
[7] Susskind, id, 3.

usual for conventional courts; (3) improvement of the AVL technology to ensure uninterrupted, congenial, accessible and multi-image visuals to bring satisfaction to all engaged in the new process; and (4) introduction of the broader concept of online courts with radically simplified "decision trees" and "diagnostic systems" that can help court users, especially those who are self-represented, to understand their entitlements and obligations (if any), to formulate their arguments, and, where appropriate, to settle their differences not as a "private sector offering but as an integral part of the public court service."[8]

According to Professor Susskind, the judiciary of the future would be kept to more complex matters or those not suitable to more informal online procedures that he suggests as the more economical and user friendly first ports of call.

Professor Susskind is not unaware that ideas advocating such radical reforms would probably quickly attract powerful opponents. He says: [9]

> "The door has opened [following COVID-19] if only slightly at this stage, to very different ways of resolving disputes. But the winds of conservatism blow briskly through the legal world, and I am aware that many judges and litigators are hankering after a complete return to physical courts. The status quo may serve the wealthy well enough; but it is lamentably inaccessible to the majority of individuals and organisations."

[8] Ibid, 11.
[9] Susskind, above n. 20, 15-16.

REFORM AND ISSUES TO ADDRESS

Systematic reform: My earlier experience (1975-84) as inaugural chairman of the Australian Law Reform Commission (ALRC) taught me to be openminded about reform, including radical procedural reform. For most people, even moderately well off, the option of engaging in civil litigation in Australia today is so risky, uncertain and expensive, that all but the foolhardy will abandon the prospect. Certainly they will do so after putting a toe in the water and discovering the horrendous costs they will face if they go ahead to uphold a legal right given to them in legislation or in the books of the common law and fail. So Professor Susskind is definitely onto a most significant and justifiable critique of our legal system.

There was, however, always an alternative system of legal decision-making on offer. This was the system devised after the French Revolution and codified in France, initially by Napoleon's codifiers. The legal tradition of France put much more power and functionality in the inquisitorial judge. He or she would not have the same very high professional and social status as the neutral English judge who was empowered to make the ever-expanding rules of the common law. The civil law judge was just a worker in the engine room running a very different (inquisitorial) trial system not the cost-intensive adversarial system of the common law. This alternative system had special problems, from the point of view of common lawyers, for criminal trials. But there are undoubted advantages in the case of non-criminal trials and especially in cases where the litigant has not secured representation by a trained advocate.

A senior German judge who visited Australia in the 1980s told an Australian judicial conference that we had inherited from Britain a "Rolls Royce system" of justice. Germany had no more than a "Volkswagen" system, adapted from France and other countries of Europe. But the German jurist asked: How many citizens can afford a "Rolls Royce" and how many can afford a "Volkswagen"? [10]

Nevertheless, history, including the ill-reputed Court of Star Chamber (1487-1640), left an indelible mark on the memory of English-speaking people. They preferred their judges to be as neutral as possible and independent from the executive. They saw serious dangers of bias in mixing up executive and judicial functions. They did not like the idea of inquisitorial trials.

Federal necessities: In the federal systems of government that sprang up as the British Empire began to recede in dominion,[11] the judiciary was entrusted with the large power of neutral decision-making in contests between the constitutional players. This is why the idea of going back to the drawing boards and completely redrafting the arrangements for public institutions identified as "courts" present special difficulties for us in countries operating under written constitutions. Written constitutions tend to be, in part at least, rigid. Courts cannot usually be converted into a mass production. It is not easy to convert courts into a "helping" agency of the executive government. According to our preference, courts must be separate from the Executive. They decide important contests by authoritative orders. They quell disputes and contests. As

[10] W. Zeidler, "Evaluations of the Adversary System: As Comparison, Some Remarks on the Investigatory System of Procedure" (1981) 55 ALJ 390.
[11] In USA, 1776-90; Canada 1867; Australia 2001; India 1950; Nigeria 1960 etc.

such, they exist to decide disputes authoritatively; they are not well designed to be helpful rather than authoritative.

In Australia, in a separate chapter of the federal Constitution called “The Judicature”, it might seem a good idea to make lower branches of the judiciary much more user-friendly; less magisterial and more advisory; with more creative functions.

At least so far as Australia is concerned, it would be possible to create commissions or tribunals within the Executive Government that could perform functions to help litigants to resolve issues outside the courts. But generally speaking, Australians are suspicious of those who come from the government and declare that they are here “to help us”. Moreover, experience has taught that tribunals and commissions are rarely as helpful or cost conscious as their originators hope.

In the aftermath of COVID-19 I see no difficulty in courts of the common law tradition, including in federal constitutional settings, continuing to use audio visual technology to supplement or replace the attendance in a regular courtroom by proceeding in virtual courtrooms. They may do this by technologically linking different venues by telephone or audio-visual technology such as *Microsoft Teams* or *Zoom,* so long as this is compatible with the mode of trial concerned

However, it would, in my view, be a mistake to exaggerate the importance of introducing AVL technology to courts. Or to overstate the willingness that adopting such a change suggests for the adoption of other truly radical elements at the core of traditional courts and their procedures. Essentially the embrace of AVL technology and virtual

courtrooms address the first two of Professor Susskind's challenges: substituting digital for traditional court hearings and tackling the initial backlogs occasioned by the advent of COVID-19. Of themselves, however, as presently organised, the changes we have already adopted would not have much impact on Professor Susskind's third challenge concerning access to justice. It would present to Australian courts no major constitutional challenge that I can foresee. However, there are at least three further problems that may need to be addressed in giving effect to Professor Susskind's more radical proposals. Potentially, they travel far beyond distance transmission of communications. So I turn to those challenges:

Courthouse and community: In the tradition of the common law, it is generally extremely difficult to persuade judges to close courts; to limit attendance of people who wish to see them at work; to limit access to particular parts of the evidence or argument; to proscribe reportage of proceedings; or to restrict access to the transcript of reasons.[12] Understandably, many citizens and public media are sensitive to the proliferation of control orders or prohibitions on reportage of what goes on in resolving legal disputes.[13]

Although, today, communities can be informed about court trials through electronic media, the internet and social networks, these reports tend to be selective or lost in the huge mass of online material available today.

[12] *Raybos Aust Pty ltd v Jones* (1985) 2 NSWLR 47 (CA*); John Fairfax & Sons Ltd v Police Tribunal of NSW* (1986) 5 NSWLR 465 (CA).
[13] I Cunliffe, "Witness K is in the Dock but Institutions Vital to Australia's Democracy are on Trial, https://www.theguardian.com/commentisfree/2020/aug/17/witness-k-is-in-the-dock-but-institutions-vital-to-australias-democracy-are-on-trial?CMP=share_btn_link

Having to lodge an application for access to an electronic record of a court case is an impediment to general public access. In Soviet Russia, there were no telephone books. Requesting a telephone number for contact was the first step towards government control over free communications between citizens. It is possible that the present limitations on public access to AVL technology will be overcome by improved technology. But bringing court resolution of significant disputes into the vicinity of the community affected, and making such court proceedings generally available to the public is a longstanding common law principle. With a traditional court facility access was, almost always, available as of right. Interposing a need to inform a public official and to secure the requisite code to permit such access, burdens the public's right to access to courts. How can that be done by virtual courtrooms with the same freedom as was the case in traditional courtrooms?;

Dissent and adjustment: Another strong principle of the common law is the right and duty of judges to express dissent from the opinions of others about the content of law or about the evidence that they are called upon to apply. This is not a universal feature of civil law systems. Some Australian judges and lawyers are also not very welcoming to this idea.

In France, adhering to its view that law is entirely objective and that dissent is unacceptable because it implies the legitimacy of the influence of individual judicial opinions, the legislature has recently forbidden

publication of any such analysis of trends in decisions of particular judges.[14]

In re-ordering a nation's court system in Australia, it is important for the reformers to remember that courtrooms in our tradition are more than factories that turn out large numbers of cheap, efficient and predictable decisions. The recent mass protests of citizens in Hong Kong that confronted the proposed substitution of security trials in the People's Republic of China where acquittals in criminal matters are extremely rare in place of trial in Hong Kong, suggests that the Hong Kong community values elements of the inherited common law courtrooms beyond the criteria of efficiency and predictability alone.

The *Mabo* decision of the High Court of Australia would never have emerged from unyielding automated decision-making based on algorithms derived from 150 years of Australian and British court decisions on Indigenous land rights. Sometimes it is essential to sever the algorithms and to feed in entirely new legal principles of human rights or new anthropological understandings that challenge and vary the data received from the past.

Accusatorial trial and values: There are many particular peculiarities in the system of the common law, especially criminal law, that have developed for strong policy reasons. They may not always be efficient in an objective sense. However, they may have social purposes that need to be weighed before the old rules are abolished or changed.

[14] J. McGill and A. Salyzyn, "Judging by Numbers: How will Judicial Analysis Impact the Justice System and its Stakeholders?" (2021) 44:1 Dalhousie LJ (forthcoming). The French law is LOI no. 2019-222 du 23 mars 2019 de programmation 2018-2022 et de réforme pour la justice, article 33.

The consequence of all these elements in our present legal system is that law reform is not a task for the faint hearted. It requires robust and speedy attention to old ways of delivering law and justice which are shown to be seriously inefficient, prohibitively expensive or out of kilter with currently available technology.

By the same token, law reform cannot be performed successfully without a deep knowledge of our legal history; an appreciation of its values that extend beyond efficiency and cost saving; and an understanding of the role of the courtroom in the whole-of-government institutional context.

The Australian Law Reform Commission deserves congratulation for pushing its way into the issues of access to justice and technology – including the possibilities of future automated decision-making. Exceptionally, it has done so, without, at this stage, a reference from the Federal Attorney-General giving it authority to commence work on these topics.[15]

LAW REFORM LEARNING FROM COVID-19

Professor Susskind has shown the defects of our present approach to courtrooms and judicial decision-making. Judges, lawyers and citizens need to consider the proposals he has made to go beyond the creation of virtual courtrooms by the use of AVL technology.

The COVID-19 pandemic has been a grim and frightening time for Australia and the wider world. The only substantial ray of sunlight so far has been the demonstrated willingness of Australia's politicians to rely

[15] Australian Law Reform Commission, *The Future of Law Reform: A Suggested Program of Work 2020-25* (Brisbane 2019) see "Automated Decision-making and Administrative Law", pp 24-30.

on, and publicly to discuss and justify, their decisions by reference to the best available expert advice.

This methodology, in dealing with a pandemic, has helped to keep Australia's COVID-19 infection rate and mortality levels by world standards. The same methodology in Australia, teaches judges, lawyers and policy decision-makers a lesson about the way ahead for improving the delivery of justice in our society. Explaining continuously and before the public the nature of the challenges we are confronting. Describing transparently the technology and science that are available to tackle the problems that need to be engaged as efficiently and as successfully as possible. Fleshing out and articulating the complexities of the problems to be resolved. Admitting to mistakes and responding with flexibility to the human dimensions of reform. And, keeping our eyes on the wider objectives of preserving human rights and human dignity, both in public and health services and the administration of justice for all. Australia has basically done well with COVID-19 because our governments went about tackling the problem in a new way. We need to embrace a similar methodology in tackling the delivery of justice in our society in ways more economical and efficient that the procedures of the past.