



INTERNATIONAL JOURNAL OF CREATIVE RESEARCH THOUGHTS (IJCRT)

An International Open Access, Peer-reviewed, Refereed Journal

Future Prospects And Reforms For Virtual Courts In India

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Abstract: The legal industry is undergoing a revolutionary change as more and more virtual court sessions are being used to improve judicial systems' accessibility, efficiency, and openness. This paradigm change is not without difficulties, though. This study focused on the legal and constitutional ramifications of the Chief Justice's Practice Direction while examining the use of virtual court sessions in India. Although there are potential benefits to digitizing judicial procedures, significant issues remain, including concerns about privacy, technology inequality, and the protection of due process rights. The study used a recent legal case to support its conclusion that Indian laws do not cover administrative and practice guidelines. The paper analyzed and suggested a solution framework to maintain virtual court systems in India using the Innovation Diffusion Theory as a lens. The study's conclusions included the virtual court hearing's implementation strategy's inconsistency with the current legislative framework for upholding citizens' fundamental rights and due process. A balanced strategy that recognizes the benefits of technology and the conventional legal system is needed to find the answers. The tactics that address implementation and legitimacy issues, improve the security of virtual court technology's compliance with the current legal framework and practices, and guarantee long-term adherence to constitutional standards should be of utmost importance if virtual court hearings are to be sustained. To guarantee seamless implementation, substantive laws and regulations, including pertinent constitutional revisions, could be required.

1. INTRODUCTION

The Indian legal system introduced the idea of virtual courts for the examination and resolution of minor offenses in the context of the present e-courts project. To reduce time and costs, virtual courts do away with the need for plaintiffs and counsel to physically appear in court. It exercises its jurisdiction across the state and has broader authority than the actual courts. Only minor offenses for which summonses may be given out by Section 206 are currently covered by this provision.¹ These courts are used to decide issues involving traffic tickets under the Motor Vehicles Act of 1988 and the CrPC. Judges in these courts can decide cases virtually; they are not required to be physically present in the courtroom. 24 x 7. Twenty states and union territories currently have twenty-five courts. Another feature offered by virtual courts is the option to file a complaint online rather than in person, which is more economical and ecologically beneficial. It also makes it possible to pay fines and court costs online. The judiciary's load has become greatly lighter thanks to these courts. Our Legal and Judicial Affairs Ministry and the legal system are periodically taking further steps to ensure that the judiciary is equipped with the newest technological advancements.

¹ [https://www.indiacode.nic.in/show-](https://www.indiacode.nic.in/show-data?actid=AC_CEN_5_23_000010_197402_1517807320555§ionId=22601§ionno=206&orderno=234)

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Make the switch to virtual courts

E-courts, a notion founded on the National Policy and Action Plan for Information and Communication Technology (ICT) Integration in the Indian Court System, 2005, were used to establish courts online as a component of the e-Government Plan. It was implemented in three stages. From 2011 to 2015, the first stage computerized 14,249 district and subordinate courts and enabled virtual conferences (VC) in 493 courts and 347 prisons. In the second phase (2015–2023), 18,735 district and subordinate courts were computerized, and 1272 prisons and 3240 courts were permitted to use VC. Additionally, it used WAN to link 99.4% of courts. The Supreme Court and High Courts began to transmit live content. It has launched a webpage offering free copies of orders and judgments, as well as a judgment search. All court records were digitized in Phase Three (2023). It put into practice "smart courts" powered by AI for transcription and translation services. Additionally, it broadened the use of virtual courts.

Because access to justice was hard during the tough pandemic times, the Supreme Court took suo moto cognizance in *Re: Cognizance For Extension Of Limitation* for the difficulty experienced by citizens nationally to submit their claims, appeals, or petitions within the permitted time. The statute of limitations for the period from March 15, 2020, to March 14, 2021, was omitted by the court. In addition, the Honorable Supreme Court mandated virtual hearings on all major issues throughout the outbreak. The first virtual court was established on July 26, 2019, at Delhi's Tis Hazari Court. Then came the High Courts of Punjab and Haryana

Virtual Courts are essential

The epidemic, which replaced the time-consuming physical court system with a virtual one that is time-saving, is the primary driver behind the necessity for virtual courts. Virtual courts are necessary for many other reasons, including the necessity for a rapid trial, which is protected by Article 21 of the Indian Constitution as a result of the 1978 case *Hussainara Khatoon and Ors. v. The State of Bihar*². The Court established several guidelines in this case that are necessary to guarantee prompt trials.

1. **Lawsuits must be resolved promptly:** The Court ruled that the state is required under the Constitution to make sure that lawsuits are resolved in a fair amount of time.
2. **Prompt investigation:** The Court also decided that matters have to be investigated as quickly and effectively as possible.
3. **Sufficient judicial infrastructure:** To guarantee prompt trials, the Court emphasized the need to have a sufficient number of courts and judges.
4. **Virtual courts:** The Court acknowledged that using virtual courts might speed up the trial procedure. The necessity for parties and witnesses to appear in person in court can be reduced by using virtual courts, which enable remote hearings and processes.
5. **Streamlined processes:** To expedite the trial process, the Court also advocated for the use of technology and streamlined procedures.

The Indian criminal justice system has been significantly impacted by the *Hussainara Khatoon* ruling. Numerous improvements aimed at guaranteeing prompt trials have resulted from it. For instance, to handle cases more quickly, the government set up fast-track courts. In recent years, the use of virtual courts has also been investigated, especially during the COVID-19 epidemic. Trials might be more accessible and efficient with the use of virtual courts, particularly when witnesses or defendants are situated in far-off places. One of the most significant defenses against arbitrary imprisonment and extended pretrial custody is the right to a prompt trial. It is also necessary to guarantee the trial's fairness.

The Indian right to a prompt trial has been ensured largely due to the *Hussainara Khatoon* ruling. This ruling outlined a specific procedure to ensure that disputes are resolved promptly. One important aspect is the open court principle, which is covered by Section 327 of the CrPC, Section 153B of the CPC, and several other statutes. The Hon'ble Supreme Court's constitutional bench extensively examined this issue in *Naresh Shridhar Mirajkar Ors vs. State of Maharashtra Anr. (1966)*. Virtual courts offer open court sessions, allowing all parties

² 1979 AIR 1369

and witnesses to participate simultaneously from a convenient location at no cost or time commitment. Currently, virtual courts are exclusively used to handle cases involving minor offenses for which a summons may be issued under Section 206 of the CrPC, as well as other traffic challan matters under the Motor Vehicle Act of 1988. Another important aspect is the resolution of ongoing cases. Currently, 25 virtual courts and over 455 have processed over 3.76 crore cases. Up till September 30, 2023, 12 crore penalties were realized in over 43 lakh instances. These numbers demonstrate the significant impact virtual courts have had on resolving pending cases and generating revenue for the government.

Discussions about expanding the use of virtual courts have been prompted by their successful implementation in India. Some experts suggest that virtual courts could be used for a wider range of legal proceedings, including criminal trials and civil disputes. However, there are concerns about the potential impact on the right to a fair trial, particularly in cases involving complex legal issues or the need for witness testimony. The function of virtual courts is probably going to change as the Indian legal system continues to adjust to the shifting environment. It is crucial to adopt a well-rounded strategy that protects the rights of all parties and the core values of justice while maximizing the advantages of virtual courts.

Advantages of Virtual Courts

- The finest choice taken during the epidemic has turned out to be the use of virtual courts, which has greatly benefited parties, advocates, judges, and the government.
- Because virtual courts are affordable and eliminate travel costs and other associated costs for parties, they provide simple access to justice for all. These courts avoided paying astronomical costs for staffing, infrastructure, security, court buildings, and record-keeping.
- Why Because these courts are open around the clock, fewer cases are pending in the courts, which speeds up the process of delivering justice to everyone.
- There is less foot traffic in courtrooms, and parties do not have to physically be there. Parties were able to file their pleadings in limitation by using an online gateway to file the complaint and pay court costs, which eliminated the need for them to repeatedly appear in court for minor issues.
- Witnesses' testimony—including that of women, children, and victims—is now less traumatizing, which eventually leads to the efficient administration of justice.
- The weight of pending cases and keeping court records has decreased as a result of quicker justice delivery.
- With online case status updates and anywhere, anytime access to live case streaming, the legal system has become increasingly open.
- Real-time case adjudication and data exchange with other courts are also made possible by virtual courts, which help courts decide cases quickly and efficiently.

Virtual Courts' Drawbacks

As we have seen, these courts have significantly altered the system; nonetheless, these courts still confront several issues that need to be resolved.

- Since many district courts lack adequate broadband access, virtual courts require fast internet and broadband connectivity. If an improper connection is the cause of the disruption, it impedes a fair trial.
- Numerous technical failures have also been seen to result in poor connection, echoes, and other disturbances. It tampers with the adjudication process as a whole.
- Judges and advocates are not adequately trained to utilize the software that powers virtual courts.
- The government has significant challenges in implementing virtual courts and e-courts because they need substantial financial support and extremely sophisticated technologies to safeguard court data from hackers and cyberattacks.
- When adopting virtual courts, it's important to prioritize protecting individuals' data security and privacy while also striking a balance between their right to privacy and their right to knowledge.
- Keeping up with electronic case records is difficult as well since not all court staff members are familiar with new technology. The court personnel have to be well-trained and educated on e-courts and virtual court technologies.

Physical Courts versus Virtual Courts

Online courts, sometimes referred to as virtual courts or e-courts, are distant courtroom procedures carried out via the Internet or other technological methods. Physical courts are conventional hearing places where the judge, attorneys, witnesses, and defendants are all present in the same room during court procedures. The major distinctions between physical courts and virtual courts are numerous.

Location: The use of virtual courts does not necessitate a physical presence in any one place. There is no need to travel, which saves money on lodging and transportation because participants may access the proceedings from any location with an internet connection.

Technology: To let participants communicate and work together, virtual courts significantly rely on technology. Platforms for video conferences provide in-the-moment communication, and safe web gateways give users access to case files and other pertinent data.

Accessibility: For people who might find it difficult to attend in-person court proceedings, virtual courts can improve their access to justice. This includes persons who are confined to isolated locations, have restricted movement, or have impairments.

Efficiency: The judicial system could become more efficient by using virtual courts. Automated technologies can reduce the amount of time needed for some legal proceedings by speeding up processes like scheduling, filing, and distributing documents.

Openness: Public access to court proceedings and transparency can be enhanced via virtual courts. Online access to recordings of hearings and other procedures can help the general public observe and understand the judicial system.

Security: Virtual Courts incorporate security features to safeguard private data and ensure the fairness of proceedings. Encryption and other security measures are used to protect data and prevent unauthorized access.

Virtual courts do, however, have distinct drawbacks.

Technical difficulties: Reliable internet access and adequate infrastructure are crucial for virtual courts. Participants may experience difficulties accessing proceedings if they have poor internet connections or lack the necessary equipment.

Absence of interpersonal communication: Unlike real courtrooms, virtual courts lack the same level of face-to-face communication or nonverbal clues. This can make it difficult for judges to fairly review the evidence and determine the credibility of witnesses.

Potential for prejudice: Concerns exist about potential discrimination and bias due to the use of artificial intelligence and equitable treatment for all parties involved in virtual court proceedings.

Digital Divide: Restricted access to technology and the internet may hinder participation in virtual courts. Efforts must be made to ensure inclusion and address this issue. Virtual courts are generally more convenient, accessible, and efficient than real courts in several ways. To guarantee the efficiency and equity of virtual court procedures, addressing obstacles related to technology, security, and inclusivity is important.

The process of hearing cases in Virtual Courts

Virtual courts have been established in India to enable distant access to court hearings, especially in difficult situations like the

COVID-19 Epidemic.

1. Case registration and Filing:

- Through the court's approved e-filing portals or platforms, parties may electronically file cases.
- A distinct case number is issued as soon as the case is registered, and any necessary papers are uploaded.

2. Hearing scheduling:

- Virtual hearings are planned ahead of time, taking into account the availability of the judges, parties, and witnesses.
- All interested parties get notices that include the date, time, and detailed instructions on how to participate in the virtual hearing.

3. Technology setup:

- Access to a computer or mobile device with a dependable internet connection is required for all participants.
- The hearing is facilitated by the use of specialized virtual court software or video conferencing platforms.
- It can be necessary for parties to test and confirm that their audio-visual gadgets are functioning properly.

4. The environment of a virtual courtroom:

- Virtual courts attempt to imitate the traditional courtroom setting as closely as possible.
- Judges oversee the proceedings either in person or virtually from their chambers.
- The proceedings are recorded for future reference, and the parties can see and hear one another.

5. Identity and authentication of the parties:

- To be authenticated, the parties must present legitimate identity papers.
- Visual identification and verification of witnesses' and parties' presence is done using video feeds.

6. Argument presentation:

- Using the virtual conferencing platform, parties and attorneys can submit evidence, question witnesses, and make their case.
- Witness cross-examinations can take place virtually as long as all parties' rights are respected.

7. Decisions and discussions made by judges:

- Based on the facts offered and established legal precedents, judges consider the case.
- Orders and judgments are rendered either in real-time or at a later time during the virtual hearing.
- All parties are provided with electronic copies of the judgments.

8. Post-hearing procedures:

- Parties can electronically file appeals or post-hearing statements in virtual courts.
- If needed, other processes like appeals might also be handled remotely.

9. Public access:

- In some situations, the public may be able to watch virtual court hearings.
- It may be possible to access hearing recordings or live feeds via specific websites or platforms.

10. Security and data protection:

- To safeguard confidential data and uphold the integrity of proceedings, virtual courts use strong security protocols.
- To stop unauthorized access or tampering, authentication procedures, access restrictions, and data encryption are put in place.

In general, India's virtual courts seek to offer a practical, effective, and safe environment for holding court cases remotely, guaranteeing access to justice while putting everyone's safety and well-being first.

Objectives of the Study

- To examine how the virtual court system has transformed the Indian judiciary into an e-judiciary;
- Maintaining the fundamental requirements of digital justice for a backlog-free court and long-lasting justice system.
- Finally, to find a means to establish the digital judiciary as a long-term framework for the efficient administration of E-Justice.

Methodology

The qualitative technique was used to conduct this study, and data were gathered from primary and secondary sources. Relevant legislation and Key Informant Interviews (KIIs) with judges, attorneys, and litigants are the key sources. The secondary sources are journal articles, pertinent reports, court papers, etc.. Reputable media articles, a recent survey on virtual court processes, etc. were examined to bolster the conclusions. The data were evaluated using a descriptive narrative style.

Conclusion

In light of this, we must acknowledge that, despite the difficult circumstances, our judiciary persevered and developed a whole new framework to ensure the prompt and efficient administration. Virtual courts help everyone, including judges, advocates, parties, and new interns, by lessening the workload associated with traditional courts. These courts will also serve as a source of inspiration for the next generation of lawyers and provide invaluable information to the nation's legal system.

If these courts can get over the problems with internet access and data breaches, the nation would greatly benefit from them. Appropriate training for judges and court employees will benefit the virtual court system as a whole. It will also be beneficial to have numerous workshops on the use of virtual courts. Virtual courts, however, are not a perfect replacement for real courts.

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