
**VIRTUAL COURT SYSTEM: EFFECTIVENESS TO RIGHT TO SPEEDY JUSTICE
AND GREATER EFFICIENCY IN SPEEDY DISPOSAL OF CASES**

- Ms. Tilaka N.S.¹ Mr. Abhishek M. Y.²

“Convergence of technology and the judicial system is the need-of-the-hour. We need to go digital and adopt online analysis of legal cases. Dissemination of legal knowledge to the common man will also go a long way in improving the law and order situation in the country”.

- Narendra Modi

ABSTRACT

Administration of justice must not just remain as a sovereign function, but evolve as a service to the common man in any situation without any excuse or delay. In the era of digitalization, establishment of virtual court system is the ray of hope for Self reliant India. Major transformation of court rooms into virtual platform is a step forward for Indian Judiciary and big push for the self reliant model of India. It must lead to transparency and should be achieved in a holistic way. In this regard this research paper helps to understand how we can improve the court’s working system, how it can help in speedy disposal of cases, how a common man can avail right to speedy justice through digitalized court system, how the digital court system can be said as the better option to be used in ancillary with the traditional court system, How do we integrate virtual courts and digital justice delivery into the broader legal ecosystem of India.³

Keywords: *Justice, E-courts, Virtual Platform, Digitalization, Self-reliant.*

INTRODUCTION

Necessity is the mother of invention; Onset of pandemic has been the occasion for the states worldwide to come up with digitalization and the use of digital/virtual platform without any excuse and delay. The fundamental principles of open justice are an established part of common

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law. In order to ensure open access justice the judicial system should be made more accessible, understandable and affordable to the common man.

The countries including our own have realized the need for digitalization to the extent and how much it can help in administration of state including the courts of law. The urgency for developing some methodology or procedure by means of virtual courts and digital justice delivery system has gained new relevance in the wake of the COVID-19 pandemic. The virtual court system is the excellence initiative which encourages creativity and demands accountability. A new legal shift in the adjudicating mechanism is the glimpse of self-reliant India.

PARADIGM SHIFT IN INDIAN JUDICIAL SYSTEM

Virtual Courts is a good beginning, welcome move and hope for Self-reliant India. Outbreak of COVID-19 pandemic has led to paradigm shift in functioning of the courts. Closing the courts was not an option, and the court system needed to make dramatic changes in the way it operated. Making the courts more inclusive and intuitive through technology has become the necessary equipment in the modern day. We're now at the crossroads where the right technological injection along with reengineering of court processes can realize a future of democratized access to justice.

Given the large, diverse and constantly evolving needs of different users and the constant evolution of technology, administration of justice must not just remain as a sovereign function, but evolve as a service: to mitigate, contain and resolve disputes by the courts and a range of public, private and citizen sector actors. By such digitalization it can help in disposal of the pending cases rapidly. Technology can have a wide array of applications in court proceedings and even facilitate an end-to-end comprehensive process can be considered as judicial information management device.

The edifice of technological infrastructure in Indian courts is a transition from a development prospect to a necessity. Virtual court enhances greater efficiency in speedy disposal of cases; manage to deliver quality justice. Virtual process of adjudication reduces the backlog of cases and minus the complexities of ordinary judicial system aims at safeguarding the rights of individuals and promotes justice.

The infusion of technology in adjudicating process is the paradigm shift in judicial institution and a step forward to Indian judiciary. In order to institutionalize judicial innovation, focus ought to be on transforming the process through standardizing the use of ICT to the maximum is the necessity.

One of the earliest references to Virtual Courts can be found in the works of Professor Frederick I Lederer who is currently the Director, Centre for Legal and Court Technology, United states. He wrote in 1997- ‘The Courtroom is a place of adjudication, but it is also an information hub. Outside information is assembled, sorted and brought into the Courtroom for presentation. Once presented, various theories of interpretation are argued to the fact finder who then analyses the data according to prescribed rules (determined by the judge through research, analysis and interpretation) and determines a verdict and result.

The Courtroom is thus the centre of a complex system of information exchange and management. Ultimately because lawyers and judges deal continuously with ‘data’, high technology Courtrooms exist and Virtual Courtrooms are possible.’ Lederer, as far back as in 1997, with an impressive degree of foresight, predicted how digital technologies transform the legal landscape in future. Given the pace and the degree of digital incursion into almost all facets of human activity, it is clear that technology will become an omnipresent feature of the Courtroom.⁴

The concept of digitalization of the judiciary was not alien as this task was formally started in the year 1990 by the National Informatics Centre (NIC), which began digitalization of courts through specially designed applications like COURTIS: court information's system which enabled computerization of information related to cases and JUDIS which provided the complete text of cases.⁵ With a vision to transform the Indian Judiciary by enabling ICT in the courts, Supreme Court of India constituted e-Committee in the year 2004. The committee made an action plan for the ICT Empowering of the Judicial Institutions. The e-courts Project was conceptualized on the basis of the “*National Policy and Action Plan for Implementation of Information and Communication Technology (ICT) in the Indian Judiciary – 2005*”. The e -

⁴ Rajya Sabha, Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice, 103rd Report on Functioning of Virtual Courts/Courts Proceedings through Video Conferencing 3 (Sept. 11, 2020), p.01.

⁵ Shalini Seetharam and Sumathi Chandra Shekran, E-Courts in India from Policy Formulation to Implementation, VIDHI LEGAL POLICY (2016), https://vidhilegalpolicy.in/wpcontent/uploads/2019/05/eCourtsinIndia_Vidhi.pdf.

courts Mission Mode is a Project by Pan-India, monitored and funded by Department of Justice, Ministry of Law and Justice, Government of India for the District Courts across the country. The project visualizes accessible, understandable and affordable judicial system.

Phase-I- In 2007, eCourt concept was launched officially; Computerization court has been started with uploading cause list, making judgment available in the website....etc., On 7th August 2013, Hon'ble the Chief Justice of India launched the e-Courts National portal ecourts.gov.in of the eCourts Project. In the year, 2015 Phase-II covered the courts are provisioned for additional hardware with (1+3) systems per Court Room, the uncovered Courts of Phase-I and the newly established Courts with (2+6) systems per Court Room and the Court Complexes are provisioned for hardware, LAN etc. It provides for Judicial Knowledge Management System including Integrated Library Management System and use of Digital Libraries.⁶

In the outbreak of corona virus pandemic, The Supreme Court has detailed the measures to ensure continuity of administration of justice and passed directions to hold virtual court hearings. Video conferencing was used in the court since 1990 for recording evidences. But virtual hearing is just a beginning...It's a good move but there are several challenges to meet. By virtue of plenary power under Art 142, The Supreme Court directed all high courts to frame a mechanism for use of technology during the pandemic. The Apex Court in the PIL case of *Swapnil Tripathi v Supreme Court of India* held that the live audio-video streaming of court proceedings is merely an extension of the 'open court' principle which is a well-accepted principle in India. Justice Chandrachud also opined that digitalization of court including e-filing must be standardized across the country.

Virtual Court is an improvement over traditional Court. Virtual court system has been started by infusion of technology in Indian judiciary. According to the 'Virtual Courts,' the meaning connotes virtual courtroom to be a judicial forum where litigants and lawyers are not required to be present physically. In contrast, judicial services are rendered electronically by using the technology.⁷

⁶ <https://ecommitteesci.gov.in/project/brief-overview-of-e-courts-project/>.

⁷Chitranjali Negi, Virtual Courtrooms: Concept & Overview, SSRN ARTICLE (Apr. 16, 2016), <http://dx.doi.org/10.2139/ssrn.2765766>.

Virtual Courts is a concept, aimed at eliminating the presence of litigant or lawyer in the court and for adjudication of cases on a virtual platform. The concept has been evolved in order to efficiently utilize court resources and to provide litigants with an effective avenue to settle petty disputes.

This system aims to make legal processes easier and more users friendly.

- Efficient & time-bound by improving the court processes in order to give citizen centric services.
- To enhance use of ICT, computerization, install & implement decision support systems in courts.
- To ensure the processes to provide transparency in accessibility of information to the common man.
- To enhance judicial productivity, both qualitatively & quantitatively to the public domain.
- online environment and an Information and Communication Technology (ICT) enabled infrastructure
- To make the justice delivery system affordable, accessible, cost effective, predictable, reliable and transparent.
- Remote courtrooms or virtual courts would grant wider access to justice as enshrined under Article 39A of the Constitution, because of the reach of internet in general.
- Cut short the undue delay

Virtual Court can be administered by a Judge over a virtual electronic platform whose jurisdiction may extend to the entire State and function 24X7. Neither litigant nor Judge would have to physically visit a court for effective adjudication and resolution. Communication would only be in electronic form and sentencing and a further payment of fine or compensation would also be accomplished online. These courts may be used for disposal of cases where there may be proactive admission of guilt by the accused or proactive compliance of the cause by the defendant on receipt of the summons in electronic form. Such matters may be treated as disposed of after the payment of the fine.⁸

⁸ <https://ecommitteesci.gov.in/service/virtual-courts/>

VIRTUAL COURTS AND ACCESS TO JUSTICE

Access to Justice is a Fundamental Right guaranteed to citizens by Article 14 & 21 of the Constitution of India. A sound justice delivery system is a sine qua non for the efficient governance of a country wedded to the Rule of Law. The online legal system proposed constitutes the first step toward accommodating the court system to the innovative reality of the Internet Age, in a manner which is both systematic and controlled. The aim is to streamline existing legal proceedings and to make all legal services accessible, with the overarching ideal of “justice for all” as the guiding principle.⁹

While the need of the hour requires such steps to be taken, it is imperative that free and fair administration of justice is not disrupted. The use of virtual platform for Court hearings poses challenges for the principle of open justice and public access to courtrooms. “Public trial in open court is undoubtedly essential for the healthy, objective and fair administration of justice”.¹⁰ But in the live Streaming of Court Proceedings Case¹¹ –reported in (2018) 10 SCC 639, a three-judge bench of the Supreme Court has said that the principle of open justice encompasses several aspects that are central to the fair administration of justice and the rule of law.

Virtual court hearing – Law not made by the parliament but made by the Supreme Court by passing SOP, Which now has become new procedural law to conduct hearing online. “Virtual Courts hearings will not replace or be a substitute to physical court.” It emphasizes lot on importance of physical court in administration of end justice delivery system.¹² But the onset of COVID19 led the Supreme Court to adopt virtual hearings to ensure safety of lawyers, litigants & public.

However, noting importance of virtual court hearing, “*virtual courts hearings will not replace open court instead It will ensure to conduct judicial proceedings online.*” It emphasizes lot on importance of more accessibility and affordability in administration of end justice delivery system to the common man. Now it is possible to broadcast the proceedings live to the public

⁹ Doron Menashe, “A CRITICAL ANALYSIS OF THE ONLINE COURT”, Penn Law: Legal Scholarship Repository, 2018, p.921.

¹⁰ *Naresh Shridhar Mirajkar v. State of Maharashtra*, (1966) 3 SCR 744,

¹¹ *Swapnil Tripathi v. Supreme Court of India*,

¹² Hon’ble Supreme Court Justice DY Chandrachud has opined that in an webinar organized by Nyaya Forum of National Academy of Legal Studies & research while talking on “Future of Virtual Courts & access to justice”.

and even provide the transcripts online. Adoptability of virtual system reduces their reliance on in-person hearings and hard copy documents, particularly for case management purposes, even after the pandemic. Practicing good virtual hearing practices now is likely to pay significant dividends in the future. A well-functioning judicial system is required to keep up with the demands of modern democratic society.

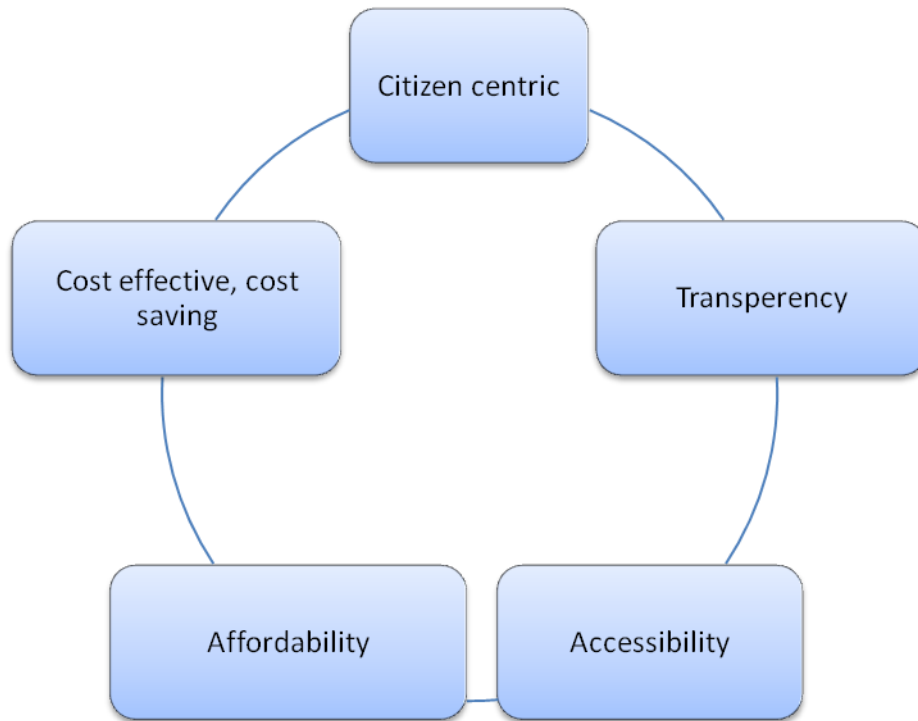
THE DIFFERENCE BETWEEN VIRTUAL COURTS, ONLINE COURTS AND ONLINE DISPUTE RESOLUTION

The Committee has observed that the terms Virtual Court, Online Court, and Online Dispute Resolution are being used interchangeably. Richard Susskind in his famous book titled ‘Online Courts and the Future of Justice’ has explained the differences among these terms clearly.

- In Virtual Courts, Plaint and other documents such as valaklatnama, written submissions are filed electronically; Court fees are paid electronically; Evidence is submitted digitally; arguments are heard over videoconferencing; witnesses give their testimony remotely over videoconferencing and Judge decides the case online either presiding from the physical Courtroom or from some other place. A copy of the Order/Judgment is made available on the website of the Court or through some electronic means.
- Online Courts constitute advancement over Virtual Courts. The only difference between Virtual Courts and Online Courts being that in the former hearing is synchronous and the latter involves asynchronous form of interaction. This means that, in Virtual Court hearings, the Judge, advocates, litigants and witnesses need to be available at the time of hearing for a case to progress. In contrast, in Online Courts, the participants need not be present simultaneously; arguments, evidence are presented to the Judge without the parties being together at the same time.
- Online Dispute Resolution refers to the use of online platforms for the resolution of disputes between parties through Alternative Dispute Resolution Mechanisms.¹³

Advantages of Virtual Court system

¹³ https://rajyasabha.nic.in/rsnew/Committee_site/Committee_File/ReportFile/18/125/103_2020_9_16.pdf, p.2



SUGGESTIONS TO STRENGTHEN PRESENT VIRTUAL COURT SYSTEM IN INDIA- A WAY FORWARD

Where changes to the justice system are made, utmost care must be taken to ensure that they are accompanied by adequate facilities, financial, technical and procedural provisions and that there will be sufficient ICT resources. Otherwise there is a risk of instability in the proper administration of justice and the public might perceive (wrongly) that any failings in administering a new system were the fault of the judiciary. That can lead to unnecessary mistrust and conflict. The virtual court should strive to retain and demonstrate its procedure and accessibility by being accountable to the public. The principal means of doing so are by providing ICT and proper connectivity in highest possible quality.

Asserting that a Court is more a service than a place, the Department Related Standing Committee on Personnel, Public Grievances, Law and Justice recommended continuation of Virtual Courts even after the Covid-19 pandemic gets over.¹⁴

- Representatives of the Bar expressed some reservations about Virtual Court proceedings. But the Committee concluded that "Virtual Courts have their own shortcomings, however, they constitute advancement over the existing system, and therefore, on the

¹⁴https://rajyasabha.nic.in/rsnew/Committee_site/Committee_File/Press_ReleaseFile/OTHER/1/327P_2020_9_9.pdf

overall, they are worth embracing". The Committee further stressed that "It is time, the Court room which is often regarded as the last bastion of antiquated working practices opens its doors to latest technology".

- The Parliamentary panel strongly pitched for Virtual Courts stating that digital justice is cheaper and faster besides addressing vocational and economic handicaps; ensures safety of vulnerable witnesses providing testimony; expedites processes and procedures and are an improvement over traditional Courts as they are most affordable, citizen friendly and offers greater access to justice.
- The panel noted the shortcomings relating to Virtual Courts in the form of limitations of access, connectivity and skills and urged the Government to enable necessary infrastructure for integrating Virtual Courts into the country's legal ecosystem. The Government representatives explained various initiatives being taken for putting in place a centralized Virtual Courts infrastructure and to connect the District Courts.
- The Committee has recommended that the Virtual Court proceedings be continued beyond the pandemic duration for identified categories of cases with the consent of all parties. The panel said virtual proceedings can be extended permanently to various Appellate Tribunals like TDSAT, IPAB, NCLAT etc located across the country which do not require personal appearances of the parties/advocates. It further said that permanent Virtual Courts can be held for hearing matters relating to Administrative and other Tribunals at the time of final hearing as it will cut down the cost and increase the efficiency of disposal of cases without being unnecessarily adjourned.
- The 15 recommendations made by the Committee include; setting up of ESewaKendrasin all court complexes, speedy execution of National Broadband Mission, introduction of computer course in 3/5 year law courses, developing an indigenous software platform to ensure data privacy and safety, providing WAN (Wide Area Network) facility to all, adoption of Machine Learning, Artificial Intelligence and Block Chain Technology for a transformational change in the dispensation of justice etc.
- Though, legal sanctity was given to video conferencing by the Supreme Court by its order invoking Article 142 of the Constitution on April 6, 2020 covering all the High Courts, the Parliamentary Committee recommended making necessary changes in the

concerned laws so that the virtual court proceedings are not unnecessarily questioned in the courts.

- The representatives of the bar referred to the limitations of infrastructure for virtual court proceedings and also contended that they favor tech savvy advocates besides depriving lawyers of an opportunity to present their case and change the course of arguments based on the changing dynamics of a case during the hearing. They further said that "*An advocate gets to understand the mood of the judges and stands a better chance at convincing them during physical hearings. However, online hearing creates a psychological pressure on both the advocates as well as the judges. Evidence recorded by means of video conferencing may distort non-verbal cues such as facial expressions, postures and gestures*".
- The Committee was informed that over 50% of advocates, mostly at the District and lower Courts are not having either a laptop or a computer and lack of skills required for virtual proceedings.
- The Committee noted that "*In coming times, technology will emerge as a game changer and advocates would be required to use technological skills in combination with their specialized legal knowledge and therefore, they should keep up with the changing times*".
- The Committee was informed that 3,477 Court rooms are supported with facilities for virtual proceedings while 14,443 are still to be provided with them. Virtual Court facilities have been operated between 3,240 court complexes and corresponding 1,272 prisons for conducting remand matters and to prevent movement of prisoners between Courts and jails.
- keep the system accessible
- Recommends computer course in Law courses
- Complete computerization of the court system and Website for each court
- The service should be made available 24*7 and must be user friendly, which would mean that an advocate can file a case on behalf of his client at any time of the day and on any day, regardless of whether the registry is running or not.
- Registration of cases: by auto generated unique case number
- SMS alert and e-mail notification system must be introduced to reduce court foot traffic and allow safe staggering of court visitors during in-person court appearance.

- Availability of case status: online case status right from filing of a case till it gets disposed. Generation of daily orders.
- Generation of automated cause lists
- Ensure Internet facility and network connectivity
- Proper database and Generation of automated court diaries
- Transition of online videoconferencing of both court proceedings and other communication
- Citizens must be able to avail benefits of facilities like video conferencing, e-filing, etc.
- System should maximize the usage of e-signatures or digital signatures
- Development of an automated online system for the filing and accessibility of system should be more litigant-friendly user interface can be established in the judicial system of our country by having a proper database of pending cases, orders, etc. appearance notification system must be flexible to send mass notifications to parties via letter/text/voice/email for case hearings, postponements, extensions of temporary orders of protection, juror notices and other matters.
- Digitalization of records
- Duties with respect to confidentiality must be applied in remote hearings.
- The system should provide personalized information to any advocate-on-record of cases filed by them, their own case list, specifics of pleadings filed by them and pleadings filed by others in cases in which they appear.
- Copies of Judgments: judgments will be made available through web. Implementation of a new ‘Bench View’ website, enabling judges to securely view facts and case highlights and associated documents.

At the same time, each and every person involved, i.e., the litigants, their advocates, judges, court staff, media and public are given the means to engage and understand the proceedings the trainees should be motivated to develop the ability to work in harmony with artificial intelligence and human conscience and to prepare for the challenges of changing times including data security, cyber crime etc. and also for innovations. Thus, there is a need for judicial education and awareness of technological developments and equipping technological knowledge.

CONCLUSION

Law moves with grace, taking dynamic step because it believes in transformation. Virtual court system is a step forward for the Indian judiciary and a ray of hope for self reliant India. Remote courtroom hearing practices may present a window into the future of judicial proceedings. It gave new orientation to the concept of jurisprudence that justice cannot be drowned in technicalities. It has given a rise-to-the-occasion ethos of excellence in the judicial system. In order to fulfill the critical needs of the citizenry in a time of unprecedented challenge, the third Branch of government has come up with the new virtual framework for hearing cases and to proceed even after the COVID-19 pandemic. The faith of the people is the bedrock for the judicial system and judiciary can be accountable to the society and ensure that the public perceptions of the justice system are accurate and reflect the efforts made by the judicial system. It is especially difficult to balance the open court system where greater access to public and not in virtual system need to safeguard the judicial process from distortion and pressure from pending cases matters of public interest concerning the administration of justice. The COVID-19 pandemic hammered entire world, it is to say that virtual court can be optional but not absolute. The system could opt for a mix of both physical and virtual adjudicatory systems. ‘Virtual Courts’ if implemented properly will provide time-bound and effective delivery of justice to the citizens of the country. It will make it easier for the courts to reap the benefits of the best of both worlds – increasing productivity, cutting cost and time but still maintaining fairness. Indian judiciary is still not ready for virtual court; it’s being done because of the necessity the process has begun, if we really carry forward at type reasonable cost, time probably it would be the innovative and the excellent method which results in revolution of society, moving the status quo to a whole different framework. It is a time for virtual judiciary, like all social institutions, major transformation in the adjudicatory system from open court rooms into remote courtroom is a step to achieve the goal of Self reliant India.