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## Virtual Courts and the Open Court Principle in India

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*This paper examines how the emergence of virtual courts in India is reshaping the traditional principle of open courts and redefining the administration of justice in the digital age. It analyses the transition from physical courtrooms to online judicial platforms, particularly accelerated during the COVID-19 pandemic, and evaluates its impact on transparency, accessibility, public participation, and procedural fairness. The study explores the constitutional and jurisprudential foundations of the open court principle and assesses whether virtual hearings adequately preserve the essence of open justice. While virtual courts have significantly improved efficiency, reduced delays, and enhanced access for litigants and lawyers across geographical boundaries, the paper also highlights critical challenges such as the digital divide, limited public scrutiny, technological barriers, data privacy concerns, and unequal access to digital infrastructure. Adopting a doctrinal research methodology, the paper relies on constitutional provisions, judicial precedents, parliamentary reports, policy documents, and government materials to argue for a balanced and inclusive integration of technology within the Indian justice delivery system.*

**Keywords:** *open courts, virtual courts, access to justice, transparency, digital divide, justice system*

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### INTRODUCTION

Legitimacy of a judicial system is not only based on how correctly decisions are made but also on the transparency of the processes of decision-making. With the growing move towards digitally provided courtrooms and the abandonment of the physical, lively, and publicly accessible area more and more, a very serious question arises: could justice administered online

be considered truly transparent and open to everyone? This problem highlights the need for public access to justice, which is key to a transparent legal system. The open court principle mandates that judicial proceedings remain public, ensuring accountability, transparency, and public oversight of justice, though it allows for reasonable limitations.<sup>1</sup> The principle of open courts guarantees judicial accountability and transparency through public scrutiny, directly enhancing access to justice.<sup>2</sup>

The crisis of the COVID-19 pandemic has essentially disrupted the Indian judicial procedure and has forced people to switch to the digital platform instead of the traditional courtroom session. To this, the Supreme Court of India, via its *In Re: Guidelines for Court Functioning through Video Conferencing during COVID-19 Pandemic*, gave the go-ahead to the use of video conferencing in court sessions and, thus, ensured the seamless continuity of the delivery of justice.<sup>3</sup>

The virtual courts allow stakeholders to engage with the court system without travelling to a courthouse.<sup>4</sup> Nonetheless, virtual courts present serious threats to the principle of open courts, especially in the context of ensuring transparency and sufficient access to the public. Unlike physical galleries, allowing easy observation, virtual hearings can limit public access and create technological barriers that obstruct active engagement. In the same vein, the paper aims to examine the possibility of having virtual courts in India in line with the principle of open courts and the issues and consequences associated with the paradigm shift.

## **OPEN COURT PRINCIPLE IN INDIA**

Open courts refer to the courts where trials are held in an open and thus accessible location by the masses under the coverage of spatial and reasonable limitations. This principle is an essential part of the Indian judicial system that ensures the transparency of the adjudicative process and its accessibility. To maintain public confidence, the doctrine of open justice mandates that judicial proceedings remain visible to the public and litigants, reinforcing the idea that justice must be witnessed. Open Courts are important towards enhancing transparency and

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<sup>1</sup> *Naresh Shridhar Mirajkar and Ors v State of Maharashtra and Anr* AIR 1967 SC 1

<sup>2</sup> Constitution of India 1950, art 145(4)

<sup>3</sup> *In Re: Guidelines for Court Functioning through Video Conferencing during COVID-19 Pandemic* (2020) SCC OnLine SC 355

<sup>4</sup> 'About Virtual Court' (*Virtual Courts*) <<https://vcourts.gov.in/virtualcourt/>> accessed 17 March 2026

accountability of the judicial system. They also permit outside control of the judicial performance and judgment by letting the process be observed by the public. This is a measure to prevent arbitrariness and power abuse whereby the judicial authorities are held accountable for their actions. The availability of court proceedings to the citizens encourages democratic monitoring of the judiciary; it enables the citizens, researchers, and the media to monitor and study judicial operations, and hence promotes informed popular discourse and enhances the credibility of the judicial system. The judiciary has realised the importance of the open-court principle in *Naresh Shridhar Mirajkar v State of Maharashtra*,<sup>5</sup> in which the Supreme Court stressed that transparency and confidence of people in the judicial process require that people are informed through public hearings. Similarly, in *Swapnil Tripathi v Supreme Court of India*, the Court emphasised the need to stream proceedings in court in order to make it more open and accessible during the digital age<sup>6</sup>. Open courts make a great contribution to the overall goal of access to justice by making legal processes more visible and understandable. This transparency allows people to interact more with the judicial system and increase confidence in the results of the courts. In India, open courts are well embedded in both the constitutional and statutory law and not a mere procedural custom.

The constitution provides in article 145(4) that the decisions of the Supreme Court should be announced in an open court, thus supporting transparency in the judicial processes.<sup>7</sup> In line with these, Section 153B of the Code of Civil Procedure, 1908, acknowledges that proceedings at civil courts ought to be held in court as a rule, with certain exceptions being made.<sup>8</sup> All these provisions provide a strong legal basis for ensuring transparency and accountability in the courts. As the virtual courts become more widespread, it has raised the question of whether the principle of openness could be implemented successfully in the digital context has been raised. The barrier of technology and limited access can hinder public participation, and this leaves the question of whether transparency can be maintained in virtual proceedings.

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<sup>5</sup> *Naresh Shridhar Mirajkar and Ors v State of Maharashtra and Anr* AIR 1967 SC 1

<sup>6</sup> *Swapnil Tripathi v Supreme Court of India* (2018) 10 SCC 639

<sup>7</sup> Constitution of India 1950, art 145(4)

<sup>8</sup> Code of Civil Procedure 1908, s 153B

## VIRTUAL COURT IN INDIA

Virtual courts are a form of digital adjudication where judicial procedures are presided over online (especially in video conferencing), and thus the system allows judges, litigants, and counsel to attend a traditional courtroom virtually without their physical presence. The conceptualisation had existed earlier, but the need to do so became more tangible during the COVID-19 outbreak because there was a range of restrictions on movement imposed, requiring the implementation of technological solutions to ensure the smooth functioning of the judicial system.<sup>9</sup>

The evolution of virtual courts in India is fundamentally tethered to the overarching framework of the e-Courts system, making them inseparable components of the same digital transformation. This transformation formally came into being in the year 2005 when the National Policy and Action Plan on the Implementation of Information and Communication Technology (ICT) was promulgated, and the strategic goal was to further increase access to justice and improve effectiveness.<sup>10</sup> This has since been reinforced by the launching of the e-Courts Mission Mode Project in 2010, which was focused on the computerisation of district and subordinate courts throughout the country.<sup>11</sup> The initial phase of the project laid the foundation of the digital economy, which resulted in over 14,000 courts becoming computerised before 2015 and the introduction of Case Information Software and Internet-based court portals. The second stage, which opened in 2015, expanded digital infrastructure and added video conferencing, thus improving accessibility and limiting delays. One of the most significant stages in this flow was the opening of the first virtual court at Tis Hazari Court in Delhi in July 2019.

It is further institutional and statutory support that, during the pandemic, the endorsement of virtual courts got additional support. According to the 103rd Report on the operation of virtual courts issued by the Parliamentary Standing Committee, their role in maintaining continuity in the delivery of justice was recognised, and their possible effectiveness in efficiency and cost reduction. Also, under its prerogatives under Article 142 of the Constitution, the Supreme Court,

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<sup>9</sup> Department-related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice, *103rd Report on Functioning of Virtual Courts/Court Proceedings through Video Conferencing* (2020)

<sup>10</sup> E-Committee, Supreme Court of India, *National Policy and Action Plan for Implementation of Information and Communication Technology in the Indian Judiciary* (2005)

<sup>11</sup> 'E-Courts Mission Mode Project' (*eCommittee, Supreme Court of India*)

<<https://ecommitteesci.gov.in/project/brief-overview-of-e-courts-project/>> accessed 17 March 2026

in an order dated 6 April 2020, provided legal recognition to virtual court proceedings and so made it possible to use video conferencing in all High Courts, with the procedures established by their respective High Courts.<sup>12</sup>

Virtual courts have, in practice, repackaged the operation of the judicial process. Basic processes, including filing of complaints, vakalatnama, and written submissions, are executed through the use of electronic methods, but the hearings and arguments are done through virtual means. The submissions of evidence are made in electronic form, with decisions of courts being promulgated remotely, and this represents a wholesale shift towards online adjudication. This system has helped to enhance efficiency by reducing delays and the time of disposing of the case, especially in routine and procedural cases.

However, despite these virtues, virtual courts face significant problems. The issue of the digital divide has remained a topical issue because the unequal access to internet connections and technology resources limits the engagement of many people, particularly in rural areas<sup>13</sup>. Problems related to technological infrastructure, cybersecurity and restricted access by the general population make it even more difficult to effectively operate virtual courts. These issues provoke the emergence of critical questions about inclusiveness, equity, and the ability of virtual courts to address the key postulates of justice.

## **EVALUATING THE TENSION BETWEEN VIRTUAL COURTS AND OPEN JUSTICE**

The transition to virtual hearings has transformed the traditional, physical ‘open court’ concept, fundamentally altering how transparency and public access to justice are understood and practised. The idea of transparency in a traditional courtroom environment is executed by the mere existence of the population, consequently making it easier to witness a court directly. However, in a virtual situation, this transparency is not always achieved completely. Even though

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<sup>12</sup> *In Re: Guidelines for Court Functioning through Video Conferencing during COVID-19 Pandemic* (2020) SCC OnLine SC 355

<sup>13</sup> Akhilesh Kumar Pandey, ‘Access to Justice Through Virtual Courts in Current Indian Scenario’ (2023) 8 South Asian Law & Economics Review  
<[https://www.researchgate.net/publication/370861953\\_Access\\_To\\_Justice\\_Through\\_Virtual\\_Courts\\_In\\_Current\\_Indian\\_Scenario](https://www.researchgate.net/publication/370861953_Access_To_Justice_Through_Virtual_Courts_In_Current_Indian_Scenario)> accessed 17 March 2026

digital platforms supposedly have the potential to make proceedings more open, in reality, access will often be limited to the parties involved, and restrict more people and their ability to probe.<sup>14</sup>

Virtual courts undoubtedly improve access to justice by overcoming geographical hurdles and removing the necessity for physical attendance. This has made participation more convenient both to the litigants and the legal practitioners. However, this increased accessibility does not exist evenly in all constituencies. The long-standing digital divide, which is especially acute among rural and disadvantaged groups, remains a barrier to successful involvement in virtual hearings. As a result, inasmuch as virtual courts are claimed to create a feeling of inclusivity in theory, they can simultaneously contribute to the existing inequity in access to justice.

Furthermore, efficiencies that virtual courts create in terms of e-filing and online hearings have to be evaluated against the issues related to the element of procedural equity. The quality of judicial proceedings may be undermined by technical failures, lack of digital literacy, and limitations of a successful cross-examination. These issues raise some serious questions about whether or not the speed and expediency provided by the virtual court are being attained at a cost of fairness. Besides, the reduced visibility of court activities in a virtual environment can have consequences for the trust of the legal system among citizens.

Open courts traditionally serve as a defence against whims by making sure that the actions of the judiciary are already subject to the scrutiny of the masses. In case of such attenuation, it can create an impression of a lesser degree of transparency and accountability.<sup>15</sup> Thus, as much as virtual courts denote a major milestone in the judicial system of the modernised society, their agreement with the concept of the open court is an issue that deserves close consideration.

### **REIMAGINING OPEN JUSTICE IN THE ERA OF VIRTUAL COURTS**

The shift to virtual spaces of traditional courtrooms has radically changed the image of open justice in India. Previously, the openness was provided by physical access, with people being able to observe proceedings in person. Nevertheless, under the e-Courts project, openness is being redefined in a digital sense, as virtual courts are being adopted. This change can be seen as a wider change of the judiciary that tries to become a technology-based framework that can

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<sup>14</sup> *Swapnil Tripathi v Supreme Court of India* (2018) 10 SCC 639

<sup>15</sup> *Naresh Shridhar Mirajkar and Ors v State of Maharashtra and Anr* AIR 1967 SC 1

enhance efficiency and transparency. Virtual courts have increased the availability of justice, as the geographical limits are eliminated, and the courts can be accessed wherever they are at any time of day.

An online filing system and video conferencing have digitised the judicial processes, and hence, litigants do not have to be present in the legal system. Meanwhile, the research notes that the purpose of such technological integration is to decrease the number of cases in the backlog and enhance efficiency in the delivery of justice in general. The introduction of virtual courts has also helped in the modernisation of judicial administration due to the simplification of the procedures used in the judicial system, which includes the filing of cases, documents and hearings. Government records show that virtual courts enable litigants to file cases electronically, pay fines via the internet and keep track of the case proceedings without necessarily having to visit courts to save time and justice resources. This revolution brings out the importance of technology in streamlining the justice delivery system and making it more accessible.

Although these developments take place, virtual courts have been pivotal in creating serious issues when it comes to the maintenance of the open court principle. The lack of transparency and scrutiny by the people may be limited due to the inaccessibility of the virtual hearings to people, reliance on technology, and inadequate digital infrastructure.<sup>16</sup> The scholarly literature has also indicated that the digital divide, which is defined by disproportional access to the internet and technology, has been an exclusion factor in some of the sectors in society, hence compromising the principle of equal access to justice.

Although virtual courts are efficient and convenient, the successful development in the long-term is based on the necessity to preserve the balance between technological advances and the main principles of judicial work. The difficulty is to make sure that the digital transformation does not affect the transparency, the fairness of the process, and the trust people put in the judicial system. Researchers state that in order to make sure that virtual courts remain well aligned with the overriding principles of open justice, proper protection, infrastructure creation, and regulations are required.

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<sup>16</sup> *Swapnil Tripathi v Supreme Court of India* (2018) 10 SCC 639

## CONCLUSION

The adoption of virtual courts represents a landmark digital transformation in India's judicial landscape, enhancing efficiency and accessibility. This development, which was first established as a need during the COVID-19 pandemic, has increasingly grown into an important part of the justice delivery framework. Through online hearings, the virtual courts have made the legal processes much easier, reduced the time delays in the processes, and increased the overall efficiency of operations, which has made access to justice much easier for individuals and even for those who are far away, as far as the physical courts are concerned. However, this transition comes with its fair share of challenges. Transparency and people's participation have always been regarded as being closely related to the principle of open courts. In an electronic setting, this openness is often undermined. Limited internet and digital resources, combined with low technological literacy, restrict substantive public participation in virtual hearings. This issue is particularly topical in India, where an important percentage of the population still does not have fair access to technology. The virtual court cannot completely replace the traditional courtrooms, and it must not do so. The best path is to have an optimum combination of the two modalities. Leveraging cyber-physical systems guarantees both optimised performance and total operational transparency. Enhancing virtual infrastructure, expanding public access, and establishing clear protocols for virtual hearings are crucial to making the system more accessible. To sum it up, the idea of virtual courts seems to be a new step in the right direction; however, their effectiveness will depend on whether they are able to persist in adhering to the most fundamental values of fairness, accessibility, and transparency on which the concept of justice is built.