LIVE STREAMING OF COURT PROCEEDINGS IN INDIA: A STEP TOWARDS STRENGTHENING THE ACCESS TO A TRANSPARENT AND AN ACCOUNTABLE JUDICIARY

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ABSTRACT

Objectives: The objective of this research is to analyze the efficacy of the adoption of Court Proceedings’ Live Streaming in India as a means to strengthen access to a transparent and accountable Judiciary. The research also aims to examine existing global frameworks concerning court proceedings’ live streaming.

Methods: This research utilizes a comprehensive analysis approach, examining the implementation and impact of Court Proceedings’ Live Streaming in India and globally. It involves reviewing existing literature, legal frameworks, and case studies to understand the various dimensions and implications of live streaming in the legal and judicial field.

Results: The analysis reveals that Court Proceedings’ Live Streaming has significant potential to enhance transparency and accountability within the judiciary. It allows real-time access to courtroom proceedings, aligning with the open justice principle. However, it also highlights various concerns such as balancing the right to privacy of parties involved, addressing copyright ownership issues, mitigating cyber security threats, and preventing the dissemination of false information. The research identifies potential safeguards and measures to address these concerns effectively.

Conclusion: In conclusion, Court Proceedings’ Live Streaming represents a significant development in the legal and judicial field, providing unprecedented access to courtroom proceedings. While it has the potential to enrich constitutionalism and empower the masses, it also necessitates careful consideration of various legal and ethical concerns. By implementing appropriate safeguards and measures, live streaming can contribute to a more transparent and accountable judiciary while ensuring the protection of rights and interests of all parties involved.

Keywords: Judiciary, SC, Human Rights Council, Social Council.

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TRANSMISSÃO AO VIVO DE PROCESSOS JUDICIAIS NA ÍNDIA: UM PASSO PARA FORTALECER O ACESSO A UM JUDICIÁRIO TRANSPARENTE E RESPONSÁVEL

RESUMO

Objetivos: O objetivo desta pesquisa é analisar a eficácia da adoção da transmissão ao vivo de processos judiciais na Índia como meio de fortalecer o acesso a um Judiciário transparente e responsável. A pesquisa também visa examinar as estruturas globais existentes relativas à transmissão ao vivo de processos judiciais.

Métodos: Esta pesquisa utiliza uma abordagem de análise abrangente, examinando a implementação e o impacto da transmissão ao vivo de processos judiciais na Índia e no mundo. Envolve a revisão da literatura existente, dos quadros jurídicos e dos estudos de caso para compreender as várias dimensões eimplicações da transmissão ao vivo no campo jurídico e judicial.

Resultados: A análise revela que a transmissão ao vivo de processos judiciais tem um potencial significativo para aumentar a transparência e a responsabilização no sistema judiciário. Permite acesso em tempo real aos processos judiciais, alinhando-se com o princípio da justiça aberta. No entanto, também destaca várias preocupações, como o equilíbrio do direito à privacidade das partes envolvidas, a abordagem de questões de propriedade de direitos de autor, a mitigação de ameaças à segurança cibernética e a prevenção da disseminação de informações falsas. A investigação identifica potenciais salvaguardas e medidas para abordar eficazmente estas preocupações.
Live Streaming of Court Proceedings in India: A Step Towards Strengthening the Access to a Transparent and an Accountable Judiciary

Conclusão: Em conclusão, a transmissão ao vivo de processos judiciais representa um desenvolvimento significativo no campo jurídico e judicial, proporcionando acesso sem precedentes aos processos judiciais. Embora tenha o potencial de enriquecer o constitucionalismo e capacitar as massas, também necessita de uma consideração cuidadosa de várias preocupações legais e éticas. Ao implementar salvaguardas e medidas adequadas, a transmissão em direto pode contribuir para um sistema judicial mais transparente e responsável, garantindo ao mesmo tempo a proteção dos direitos e interesses de todas as partes envolvidas.


RETRANSMISIÓN EN DIRECTO DE PROCEDIMIENTOS JUDICIALES EN LA INDIA: UN PASO HACIA EL FORTALECIMIENTO DEL ACCESO A UN PODER JUDICIAL TRANSPARENTE Y RESPONSABLE

RESUMEN

Objetivos: El objetivo de esta investigación es analizar la eficacia de la adopción de la transmisión en vivo de procedimientos judiciales en la India como medio para fortalecer el acceso a un poder judicial transparente y responsable. La investigación también tiene como objetivo examinar los marcos globales existentes relacionados con la transmisión en vivo de los procedimientos judiciales.

Métodos: Esta investigación utiliza un enfoque de análisis integral, examinando la implementación y el impacto de la transmisión en vivo de procedimientos judiciales en la India y a nivel mundial. Implica revisar la literatura existente, los marcos legales y los estudios de casos para comprender las diversas dimensiones e implicaciones de la transmisión en vivo en el campo legal y judicial.

Resultados: El análisis revela que la transmisión en vivo de los procedimientos judiciales tiene un potencial significativo para mejorar la transparencia y la rendición de cuentas dentro del poder judicial. Permite el acceso en tiempo real a los procedimientos judiciales, en consonancia con el principio de justicia abierta. Sin embargo, también destaca varias preocupaciones, como equilibrar el derecho a la privacidad de las partes involucradas, abordar las cuestiones de propiedad de los derechos de autor, mitigar las amenazas a la seguridad cibernética y prevenir la difusión de información falsa. La investigación identifica posibles salvaguardas y medidas para abordar estas preocupaciones de manera efectiva.

Conclusión: En conclusión, la transmisión en vivo de procedimientos judiciales representa un avance significativo en el campo legal y judicial, brindando un acceso sin precedentes a los procedimientos judiciales. Si bien tiene el potencial de enriquecer el constitucionalismo y empoderar a las masas, también requiere una cuidadosa consideración de diversas cuestiones jurídicas y éticas. Al implementar salvaguardas y medidas adecuadas, la transmisión en vivo puede contribuir a un poder judicial más transparente y responsable, al tiempo que garantiza la protección de los derechos e intereses de todas las partes involucradas.

Palabras clave: Poder Judicial, SC, Consejo de Derechos Humanos, Consejo Social.

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1 INTRODUCTION

The open justice principle embodied in the maxim “Justice must not only be done but be seen to be done” brought into common parlance nearly 100 years ago by Lord Chief Justice Hewart in R v Sussex Justices ex parte McCarthy,[1] is a central feature of justice administration in any legal system for it serves as an instrument of motivating public confidence in fair justice administration by assuring transparency and accountability [2]. It holds a

prominent position in a liberal democracy as a fundamental and highly revered component of
the nation's Constitution and also the judicial system. For centuries, the open justice principle
is accommodated by the provision of public galleries, allowing individuals to observe court
proceedings in person and see justice being delivered thereby, strengthening the principles of
the rule of law and access to justice. However, with the march of time, the expression “seen” in
the phrase “Justice must not only be done but be seen to be done” has manifested itself in its
most literal form i.e. from video conferencing of the court proceedings to the Live- telecast/
broadcasting of the court proceedings [3]. Courtroom proceedings’ live streaming is a branch
of the open court principle, which brings with it, an immense potential to deliver access to
justice to every nook and corner of the nation while assuring transparency, accountability and
accessibility. Most importantly, it minimises and obliterates the public’s dependence on
secondary accounts to acquire data about the Court’s vital judgments thereby allowing not only
litigants but also the public to form rational and sophisticated views about the courts’
functioning and its orders – thus reducing misunderstanding and misinformation concerning the
judicial procedure which then reinforces public confidence in the judicial system.

Justice can be dissipated through open courts in India as envisaged by the constitution,
Criminal Procedure Code [4], and the Civil Procedure Code [5]. The Indian Supreme Court
(SC) has reiterated open courts’ importance on several occasions. A very significant judgement
in this context dates back to 1996 when in Shridhar Mirajkar v State of Maharashtra [6],
Hon’ble Chief Justice Gajendragadkar observed that “It is well settled that in general, all cases
brought before the courts, whether civil, criminal, or others, must be heard in open court.
Public trial in open court is undoubtedly essential for the healthy, objective and fair
administration of justice.”[7] Thus, the idea of open courts is not only crucial to ensure public
confidence in the administration of justice but it places a check against judicial caprice or
vagaries as well [8]. It was the surge of the Pandemic in the year 2020, that provided a major
thrust to the digitisation of courts in India and made them reassess and harness new technologies
available in the modern age for the continuation of their commitments towards the
administration of open justice, as court buildings across nations had to close necessitating the
legal proceedings to be conducted almost entirely via video and audio technologies. However,
today, the digitalisation of courts is not by chance but has become a matter of choice
demonstrating the government’s readiness to embrace technological progress.

In this context, it is worth mentioning that The Bharatiya Nagarik Suraksha Sanhita
(BNSSS), 2023 which has repealed the Criminal Procedure Code, 1973 in India and is proposed
as the main legislation on procedure for the administration of substantive criminal law in India,
provides for digitalization of all facets of trials, inquiries, and proceedings, including the recording of evidence, examination of parties, issuance, service, and execution of summons and warrants, as well as various other related processes [9]. Further, it also enables Magistrates to serve notices online [10]. Similarly, it also contains provisions pertaining to the supply of police reports and other investigation-related documents digitally. [11] Hence, the interaction across technology and law has facilitated the rapid distribution of legal information, enabling citizens to actively participate in the operations of state institutions and enhance the authorities' accountability. This has resulted in significant convenience for the general public.

2 LIVE STREAMING / BROADCASTING OF COURT PROCEEDINGS ACROSS THE GLOBE

Broadcasting / live streaming of legal proceedings across the globe comes in various forms and is employed in varying degrees. Though, the practice of telecasting of court proceedings can be tracked straight to as early as the 90’s (New Zealand), the global development in this regard began taking root and gained pace only within the last few years. For instance, Kenya allowed live-telecast of the proceedings in 2016 of selected cases of public interest, constitutional importance and significant public impact on the news channels. It must be appreciated and acknowledged that Kenya in its endeavour towards accessibility and inclusivity, in some of its broadcasts, engages a sign language interpreter. This is a measure, perhaps, every nation can profit from on their journey towards strengthening of justice in its truest form by accommodating even the communication needs of deaf individuals and their involvement with the criminal justice system.

In the United Kingdom (UK), the SC allows for hearings to be live-streamed on its website with a deferral of around one minute and also possesses a YouTube channel which shows selected broadcasts from the live court proceedings telecasted on the UK SC website. Similarly, most cases from the Court of Appeal (Civil Division) are live-streamed on the UK judiciary’s YouTube channel. It is apposite to mention that Live-streaming of selected cases in the UK began in 2019 to improve public access to and understanding of, the courts’ work. [12] Notably, it also features a Judge’s profile playlist and another one called “Ask a magistrate” [13] Several Crown Courts over the years have trialled broadcast of proceedings. Talking about the United States, it was in 1955 when an audio recording of oral arguments began. Today, many state courts allow photography or broadcasts from their courtrooms, with varying procedural requirements. Federal courts, nevertheless, have remained more resistant with only
pilot programs allowing cameras in civil cases, but not criminal cases. [14] Also, the U.S. SC till date has never allowed its public oral arguments or decision announcements to be televised, videotaped, or photographed.[15] Therefore, only audio recordings of each oral argument heard by the SC are posted on its website directly on the same exact day by case name, docket number, and the date of oral argument and that can be downloaded or heard by the public. [16] Mexico, which started live streaming during the pandemic decided to continue with the live stream of oral arguments and provides the link on its official website’s homepage. [17] In South Africa as well, the SC of Appeal has permitted the media to live broadcast all courts’ proceedings since 2017. Similarly, Australia allows television cameras directly into its courtrooms and the High Court (HC) of Australia provides for the publication of audio-visual recordings of Full Court hearings on its website.[18] Australia’s Federal Court also permits the media to regularly broadcast hearings and also releases films including specific judgement summaries on its official website. However, one can note variations in permissions pertaining to the broadcast given by the SCs. For instance, the Queensland SC permits a live or even delayed broadcast of only ‘judgement remarks’ whereas in certain SCs like New South Wales, along with Northern Territory, Western Australia and Tasmania, Filming of court proceedings is permissible only after receipt of an application by the chairing Judge or even to the registrar in certain situations [19]. So far, Trial Courts are concerned they do not broadcast their proceedings.

It is worth mentioning, that amongst the nations that live telecast court proceedings, Brazil is a step ahead of the other jurisdictions as it not only allows for audio and video broadcasting but also permits cameras into conferences where Judges deliberate. In Brazil video proceedings of the SC and the superior court of Justice are telecasted live on TV Justica and audio proceedings are broadcasted on a separate radio channel, which is Radio Justica. However, Trial Courts do not broadcast their proceedings.

In India, it also joins the list of countries such as South Africa and Germany, along with Canada and Australia, the UK, New Zealand, Brazil, and China where Court cases’ live-streaming is permissible. Presently, eight (8) HCs in India including the HCs of Gujarat, along with Guwahati, Patna, Orissa, along with Karnataka, Jharkhand, MP and Delhi are currently live streaming their proceedings in addition to incorporating the technology into their day-to-day modus operandi. As stated supra, it was the Covid-19 restrictions which provided a major thrust to the digitisation of Indian Courts resulting in the adoption of e-filing of urgent matters and the conduction of hearings over video conferencing. [20] In the midst of this epidemic, the SC issued an order to all lower Courts instructing them to make extensive use of video-conferencing for judicial proceedings and thus, many cases in India were heard online through
the utilisation of video conferencing and electronic case-filing during the pandemic. This shift in the operation of courts from traditional physical courtrooms to online though was taken to maintain the status quo such as limitation periods, Interim orders, and grant of injunctions.

In fact, even when we look at the International Organisations, they too are making various efforts to broadcast as many proceedings and cover as many agencies as possible. For instance, the United Nations through its platform UN WEB TV provides uninterrupted coverage of meetings of the Security Council, Media Stakeouts, General Assembly, Press briefings, Economic and Social Council, Human Rights Council, UN Conferences and Special events and is in the process of expanding its coverage and include other UN Offices and Agencies on the platform.[21] Hearings and trials before the International Court of Justice (ICJ) are also streamed on UN WEB TV. The web stream of the hearings begins a few minutes before the sitting is scheduled. The links are also provided on the ICJ website homepage. [22]

As elaborated, Broadcasting/live telecast of legal proceedings comes in various forms and is employed in varying degrees. Regardless of the natural asymmetries in the manner and stage of adoption, one can witness a movement and desire towards the inculcation of broadcasting as a measure to strengthen contemporary legal systems. The trends across the world towards the adoption of live-telecast of judicial proceedings leads to the inevitable conclusion, that it would in fact be a significant feature of the legal systems across the globe in times to come. In fact, this trend of adoption of live-telecast of judicial proceedings would also open up opportunities for Collaboration amongst Nations for exploring the ways in which cultural and social factors may influence and impact the adoption of broadcasting of legal proceedings while keeping in view that the needs and requirements of every legal system are unique and thus, processes and systems must be devised to suit the requirements of their judicial systems.
3 LIVE STREAMING OF COURT PROCEEDINGS IN INDIA

It is vital to note that it was the commencement of the 21st century that prioritized the founding of e-courts across the Nation and the digitization of Court records. Consequently, E-courts were introduced in the year 2006 as a portion of the National e-Government Plan (NeGP) prepared by the SC of India’s e-Committee in the year 2005 providing for the employment of the e-Courts Project in three phases, wherein Phase-I provided e-Courts Project to be approved by 2010 and computerization of 14249 courts directly at the District level up till 2015. Adoption of the Core-Periphery model of Case Information Software according to the requirement of each HC, connecting Court Complexes with Jails and Desktop Video Conferencing and setting up of Kiosks for every Court Complex was set up as the agenda under phase II and phase III to usher seamless and paperless interface between Courts, the litigants and other stakeholders rather than simply replicating offline processes digitally taking gains from phase I and II. The significance of the right to access justice, as preserved in the philosophy of "access and inclusion" as outlined in the Constitution’s Article 21, is undeniable. However, for this right to be truly meaningful, it is imperious that the public is granted access to the proceedings as they would transpire before the Courts. Specifically, the public should be afforded the prospect to witness live proceedings pertaining to matters that have a broad impact on the general public. The Right to know and also collect information is a central aspect of Article 19(1)(a) of the Constitution. Consequently, the public has the right to see court proceedings that pertain to matters that affect the general populace or a specific group of people. The right to access information and be educated is supported by the notion of human dignity. The provision of court hearings’ live streaming would be advantageous for litigants engaged in a substantial number of outstanding cases nationwide.

Focusing on India, it is worth acknowledging that it features among the few courts across the world that live stream its proceedings, carving a place for itself in global leadership on the issue. Following its experience with technology during the pandemic of e-courts and e-filings, it was quick to include live streaming as its legal system’s part though it is still in the phase of development. In “Swapnil Tripathi v. Union of India [23]” the court, when presented with a petition arguing for court proceedings’ live streaming, clearly indicated its inclination towards adopting live streaming as a routine practice. It held that live-streaming proceedings are part of the right to seek justice as per the Constitution’s Article 21. However, the ruling remained unimplemented. Subsequently, in September 2020, a parliamentary standing committee in its 103rd report on “Functioning of Virtual Courts / Court Proceedings through
“Video Conferencing” underscored the role of livestreaming in endorsing openness along with transparency, thus strengthening public confidence in the judicial system [24]. Later, in June 2021, the SC drafted the Model Rules for Court Proceedings’ Live-streaming and Recording to regulate court proceedings’ live streaming [25]. Major developments in this regard materialised in September of 2022 when the SC of India took the first step and live-streamed its proceedings before the Constitutional bench for the first time on YouTube which had over 800,000 views.

The Gujarat HC was also the first to broadcast live streaming of court proceedings. At present, besides the SC, Eight HCs across the Nation live-streamed their proceedings (Jharkhand, Karnataka, Madhya Pradesh, Orissa, Patna, Delhi and Gujarat), while other HCs are in the process of formulating guidelines for the same based on the model rules for court proceedings’ live-streaming recording of formulated by the Hon’ble SC [26]. While formulating the Model Rules for Court Proceedings’ Live-Streaming and Recording, suggestions were invited by the SC’s e-committee from the public.

The Indian Draught Model Rules stipulate the requirement for video recording of proceedings from a minimum of five perspectives: one facing the bench, two facing the advocates involved in the case, four facing the accused, and five facing the witnesses. The presiding judge on the bench is equipped with a remote-control device that allows them to pause or halt the live streaming at any given moment. Additionally, the regulations stipulate a 10-minute delay in streaming, which can be modified as per the Court’s instructions. Advocates, accused individuals, witnesses, or any other individuals authorised by the Bench are required to utilise suitable microphones when presenting their arguments before the Court. In relation to the storage of recordings, the proposed regulations stipulate that the courts will be responsible for the archival of all recordings. [27] These Draft model rules also touch upon the technical requirements such as the hardware-control and placements of cameras, requisitioning and also positioning of human resources, manner of recording, storage and access, etc. [28]

Keeping in view the essence of justice and nature of proceedings, matrimonial matters, cases concerning sexual offences, gender-based violence, cases falling under the Protection of Children from Sexual Offences Act and the Juvenile Justice Act etc. are exempted from live proceedings. [29] Apart from the exceptions specified, the draft rules also facilitate the exemption of live proceedings where the court considers that it would be antithetical to justice’s administration and requires the motives to be recorded in writing. [30] Additionally the Live-Streaming Rules have also identified certain aspects of proceedings that are not to be recorded or streamed, such as judge’s instructions (for administrative officers/staff), any communication/document/message issued by the Court Master to the Bench; notes made by
judges and advocates; and advocate and client’s conversation, along with inter-se the advocates etc. [31] In such cases, the monitor will display the message: “Live-streaming paused as per applicable Rules”. [32]

As per the rules, any unauthorised utilisation of the live stream is considered a violation of the Information Technology Act, 2000, Indian Copyright Act, 1957, and other laws, including the law of Contempt. So, anyone or entity, counting print and also electronic media, alongside social media platforms, is prohibited from recording, sharing, or disseminating Live-streamed Proceedings or Archival Data, unless they are designated to do so. [33]

Further, taking into consideration the privacy and security concerns of the stakeholders. The rules require both the parties participating in the judicial case to be duly informed concerning the hearing and also its live proceedings and conferring them the right to object to it and they are at liberty to fill certain forms concerning it to the Bench with final decision on live streaming of any case to be vested ultimately in the Bench’s hands and this decision cannot be appealed. [34] The rules also facilitate maintaining anonymity in Criminal Matters by prohibiting the disclosure of real identity of the accused or even the victim and maintaining the records of victims and witnesses using dummy names, face-masking and recorded audio. [35] The recordings of the live-streamed proceedings will also be saved and stored (for at least six months) on the Court’s website. This is to be done within three days of the proceedings’ conclusion. [36]

At present, the live stream is conducted through YouTube, however, the need to have a separate and dedicated platform cannot be denied.

4 LIVE STREAMING OF COURT PROCEEDINGS IN INDIA AND VARIOUS CONCERNS TO BE ADDRESSED

The telecasting of legal proceedings indeed has numerous positive attributes however, the same also raises various concerns the first amongst all is the need to devise measures to balance the right of the public to know along with the right of privacy of the parties involved. Broadcasting of legal proceedings can be vital in promoting access to justice and transparency however, meanwhile, the challenges associated with such implementation especially issues related to technology, funding, protection of Identity of witnesses, Control of unauthorised reproduction of the proceedings and Infrastructural requirements i.e. the installation of cameras inside all courts across the country and appointment of technical experts for the further maintenance cannot be overlooked. Internet connectivity is a big challenge in implementing
courts’ live proceedings along with the obviously expected digital divide in a developing nation like India.

Further, live streaming could suppress desirable conversations within the courtroom as during such hearings judges may refrain from asking questions or making comments that may be perceived as unpopular. Lawyers, cognizant of their newly acquired audience, may opt to engage in grandstanding and cater to the audience, particularly when they anticipate will result in a loss.

Careful perusal of the Draft Rules also highlights various concerns which must be taken care of. For instance, the draft Rules provide for a ten-minute delay on the ‘livestream’. However, the rules do not specify why this delay requirement has been inserted in the Rules, though probably this could be to enable the dedicated control room and the technical experts to determine which parts of the recordings can be streamed, and which parts must be eradicated. Silence in this context can put a question mark on the genuineness of the entire process. Similarly, the Draft Rules do not prescribe any specific platform to be utilised for telecasting, thereby making provision for utilising the Court website along with additional platforms, which raises concerns regarding the necessity of data protection for each individual whose personal and also government data will be captured, particularly in the lack of a complete framework for safeguarding such data.

In addition, the Draft Rules mandate that all cases must be streamed, with the exception of those that fall under specific restrictions or are deemed “uncivil or inappropriate”. However, the rules do not define or clarify what is meant by “uncivil or inappropriate”, and this appears to be vague and open to interpretation by the technical team in the control room, as per their own subjective understanding.

It is also pertinent to note that under the draft rules, one cannot find any guidelines for the safety and privacy of the recordings of the cases which are not live-streamed but can be recorded and made available for the exclusive utilisation of the Court and for any Appellate stages that the case may reach.

Further, a perusal of Rule 9(2)(i) read with Rule 9(2)(iii) provides for exclusive copyright to the Court in recordings and archival data and thus prohibits recording, sharing or transmitting of live streaming in any form without the prior written authorisation of the Court. However, a very apposite question that arises here is whether the Court can really claim copyright in the recording of a hearing because the definition of “Government Work” under Section 2(k) of the Copyright Act includes the works which are made or published by or under the direction of control of “any court, tribunal or other judicial authority in India” and thus the
government is the proprietor (first owner) of the copyright. Also, the term “government”, according to section 3(23) of the General Clauses Act, 1897 only states that it “shall include both the Central Government and any State Government” thus, clarity as to how rules can grant copyright to the courts when the legislatures in existence do not provide for the same is much needed as to avoid any conflict between the two.

However, despite of these concerns, it cannot be denied that it is a welcome step to boost transparency, accountability and public trust in the institution of justice and can be a meaningful contribution towards improving the legal literacy of the general public.

Protecting the right to privacy of legal stakeholders is a big concern when considering the data storage of litigants. Data aggregation cannot violate the privacy standards laid out in 2017’s landmark judgement Justice K.S.Puttaswamy(Rtd) vs Union Of India, especially since India is yet to pass legislation enacting a data protection regime. The digital divide is another concern that can impede the growth of digitisation in the judiciary, wherein a large number of advocates and litigants lack access to the basic infrastructure and high-speed Internet needed for virtual hearings.

There’s also the question of India’s overall lack of digital literacy because only 38% of households in India are said to be digitally literate. [37] The ambitions of the e-Courts program will not be realized until all stakeholders are adequately educated to make full use of the benefits. A case in point: there is hesitation from judicial staff and advocates to make use of digital services, as they themselves lack the digital literacy or infrastructure needed to do so. Given that the Indian judiciary is currently heavily dependent on human resources, many advocates also fear the creation of disparity between Courts at different levels and loss of monetary and business opportunities if technology takes over most judicial procedures.

5 CONCLUSION AND SUGGESTIONS

As discussed supra, live-streaming serves as a crucial tool for bolstering the responsibility of judicial institutions alongside anyone involved in the judicial process. Ensuring online access to judgments will not only increase the transparency of justice systems and public trust in these systems but will also contribute towards consistency in case laws. [38] Therefore, to achieve the above-mentioned goals various private and public interests involved in the court proceedings’ live streaming needs to be balanced and the following suggestions can be undertaken as under:-
India, too on similar lines needs to make its courts inclusive in consonance with the vision of the UNCPRD) incorporated under the Rights of Persons with Disabilities Act, 2016 by getting accompanied by sign language interpreters in physical as well as virtual courts in addition to the closed captioning in live telecasts which would work well in improving access to justice for persons with disabilities. (1)

While we must devise processes and systems to suit the unique needs of our legal system, yet, lessons can be learnt from the success of other nations in formulating an extensive legal framework to combat the limitations that broadcasting of legal proceedings brings along. Similarly, awareness programmes and Knowledge sharing along with experiences relative to the best practices and guidelines may also be undertaken in connection with international organisations like the Global Justice Project, International Bar Association etc.;

(2) Similar to the TJENI project, implemented by the Council of Europe and funded by Iceland, Norway, and Liechtenstein through the European Economic Area (EEA) and Norway Grants Fund for Regional Cooperation that aims to propose methodological and technological solutions for anonymisation (pseudonymisation) of judgments for their publication and categorisation, similar project can be undertaken to address concerns of privacy and technology that arise with the implementation of broadcasting of court proceedings. For instance, when proceedings are broadcasted, muting of names of the parties is one aspect of privacy that must be considered. The identity of witnesses must be protected. safeguards etc. may be discussed;

(3) The implementation of a resilient security system that safeguards safe access to case data for relevant stakeholders is crucial;

(4) Training must be imparted to the Judges and Administrative Staff to deal with this new change, as it will prepare them to handle such hearings in a more efficient manner;

(5) To address the question of digital literacy, the Department-Related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice has commended the feasibility of exploring the involvement of private agencies in taking videoconferencing equipment to the doorsteps of people who are not tech-savvy, to help them connect with e-courts. It also recommended that the judiciary consider launching mobile video conferencing facilities in remote areas.

Thus, if the above-mentioned suggestions are implemented in true letter and spirit, the adoption of live streaming in the Indian Judicial System will prove to be the road map for new judicial jurisprudence contributing towards a strong welfare democracy.
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12 R v. Lewes Prison (Governor), ex p Doyle, [1917]2 KB 254

The Code of Criminal Procedure, 1973, §.327, No. 2, Acts of Parliament, 1974 (India). §327 mandates criminal courts to be open: “[(1)] The place in which any Criminal Court is held for the purpose of inquiring into or trying any offence shall be deemed to be an open Court, to which the public generally may have access, so far as the same can conveniently contain them: Provided that the presiding Judge or Magistrate may, if he thinks fit, order at any stage of any inquiry into, or trial of, any particular case, that the public generally, or any particular person, shall not have access to, or be or remain in, the room or building used by the Court.”

The Code of Civil Procedure, 1908, §. 153-B, No. 05 Acts of Parliament, 1908 (India). §. 153-B provides that every civil court which tries a suit shall be deemed to be an open court: “s.153-B. Place of trial to be deemed to be open court. -“ The place in which any Civil Court is held for the purpose of trying any suit shall be deemed to be an open Court, to which the public generally may have access so far as the same can conveniently contain them: Provided that the presiding Judge may, if he thinks fit, order at any stage of any inquiry into or trial of any particular case, that the public generally, or any particular person, shall not have access to, or be or remain in, the room or building used by the Court.”

Shridhar Mirajkar v State of Maharashtra (1966) 3 SCR 744 (India).

Id., at para 20.

All courts in India are open to the public and function as open courts, except when the administration of justice requires public access to the court to be restricted. The principle of open courts in India recognises exceptions which are in the interest of fair administration of justice.

BNSS is Section 532.

Section 153 of BNSS

as specified in Sections 193(8) and 230 of BNSS.


Live Streaming of Court Proceedings in India: A Step Towards Strengthening the Access to a Transparent and an Accountable Judiciary


103rd report on “Functioning of Virtual Courts / Court Proceedings through Video Conferencing.”

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MODEL RULES FOR LIVE STREAMING AND RECORDING OF COURT PROCEEDINGS (hereinafter referredas (DraftRules) https://cdnbbsr.s3waas.gov.in/s388ef51f0bf911e452e8dbb1d807a81ab/uploads/2021/06/2022091599.pdf

Id. rule 2.4
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Id. rule 2.&7
Id. rule 5.2 (i-vi)
Id. rule 5.2(vii)
Id. rule 6.3
Id. rule 6.4
Id. rule 9.2
Id. rule 5.4 &5.5
Id. rule 5.8
Id. rule 7.4 &8.4

https://www.ideasforindia.in/topics/governance/the-digital-dream-upskilling-india-for-the-future.html