

# Exploring the Realistic Dilemmas in China's Online Court Hearing Practice

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## Abstract

As a product of the deep integration of information and network technology with judicial proceedings, online court hearings offer significant advantages in enhancing litigation efficiency, reducing litigation costs, and facilitating party participation. However, given that online court hearings in China are still in their early stages of development, they face numerous practical challenges in implementation. This paper systematically examines the core concepts, characteristics, and value of online court hearings, focusing on the major issues in areas such as legal provision, platform development, judicial transparency and privacy protection, and information system security. Based on this analysis, the paper proposes that efforts should be made to promote the standardized and systematic development of the online court hearing system by improving relevant legal regulations, establishing a unified online litigation platform, enhancing the transparency of court proceedings, and strengthening security measures.

## Keywords

Online court proceedings; judicial informatization; litigation efficiency; judicial transparency; information security

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## 1. Core Concepts and Explanation of Online Court Hearings

### 1.1. Definition of Online Court Hearings

In current legal practice, there remains some controversy regarding the definition of civil online court hearings. Some scholars argue that online court hearings are synonymous with online litigation; however, upon closer examination, online court hearings are in fact a core stage within the online litigation process. Online litigation encompasses the entire litigation process, whereas online court hearings specifically refer to the stage where a judge renders a judgment following full debate among the parties. Given that court hearings directly influence judicial rulings and the rights of the parties, they occupy a pivotal position within online litigation and are hailed as the “jewel in the crown.” Online court hearings utilize internet transmission technology to enable remote proceedings for parties in different locations, thereby enhancing litigation efficiency, facilitating party participation, and reflecting

advancements in modern legal technology.

## **1.2. Characteristics of Online Hearings**

As an emerging form of judicial practice, online hearings exhibit significant differences and unique characteristics compared to traditional hearing methods. This hearing model primarily relies on advanced electronic devices such as computers as its medium; judges, parties, and other litigation participants do not need to interact face-to-face but instead participate in and complete all hearing activities through online platforms.

### **1.2.1. Convenience for the People**

China's tradition of judicial convenience for the people originates from the rural-oriented legal tradition of the last century, symbolized by figures like Ma Xiwu. This tradition emphasizes meeting the needs of the masses and adhering to the "mass line" in judicial philosophy, which has had a profound influence on China's subsequent civil trial work[1]. With its broad applicability and the convenience of remote online participation, online trials have significantly enhanced the accessibility of judicial services. Regardless of whether a case is filed online or offline, parties may choose online trials as long as they meet the statutory conditions. Courts respect the parties' wishes when initiating online hearings and will not proceed without their consent. By leveraging internet technology, online hearings allow parties to participate remotely without having to gather at a specific location, thereby saving time and costs while providing them with greater choice and flexibility. The "screen-to-screen" model breaks down spatial barriers and, particularly during the pandemic, demonstrated the advantages of contactless proceedings, becoming a highlight of judicial practice.

### **1.2.2. High Degree of Technological Dependency**

Compared to traditional in-person hearings, online hearings exhibit a significantly higher degree of technological dependency, stemming from their deep integration with modern information technology. In online trial practice, litigants rely on smart devices and the internet to conduct litigation activities. They use technologies such as remote audio-visual communication and electronic signatures to carry out debates, file transfers, and evidence presentation, ensuring a complete record of the entire trial process. However, this reliance also brings potential risks, such as equipment malfunctions or network issues that may disrupt the trial proceedings, or even be maliciously exploited by parties to interfere with the trial.

### **1.2.3. Diminished Sense of Presence and Ceremoniality**

For litigants, the experience of traditional court hearings differs markedly from that of online hearings. Traditional hearings, with their strong sense of presence and ceremoniality, create a solemn and serious atmosphere for participants, as if silently emphasizing the gravity of judicial proceedings and requiring everyone to maintain

due respect. In contrast, online hearings are often perceived as less effective than their traditional counterparts. Research has found that maintaining order in online trials is more difficult, and they lack the sense of presence and solemnity found in traditional trials; these factors collectively contribute to the shortcomings of online trials in terms of effectiveness[2]. During online trials, litigants often fail to experience the strong sense of presence and solemnity characteristic of traditional trials, making it difficult to fully convey the dignified and solemn image of the judiciary in an online setting. This weakening of presence and ritual reduces the psychological restraint that court proceedings exert on litigants, thereby undermining the authority of the court and the judge. In online hearings, participants cannot read each other's expressions and body language as they would in traditional in-person proceedings; for example, attorneys cannot gauge the judge's inclinations through microexpressions and questioning, and judges find it difficult to discern whether parties are making false statements.

### **1.3. The Value of Online Hearings**

#### **1.3.1. Optimization of Litigation Costs**

In traditional court proceedings, parties must personally appear at the court with jurisdiction to file their complaints. Once a case is filed, subsequent mediation or court hearings require the parties to be physically present, regardless of their location. This requirement often forces parties to weigh the costs of litigation against the expected benefits, as long-distance travel can impose significant financial and time burdens. Similarly, witnesses—who typically possess knowledge of the facts but have no direct stake in the case—play a crucial role in helping judges ascertain the truth. However, in traditional court settings, witnesses often choose not to appear due to the costs associated with testifying in person. The introduction of online trial technology has greatly resolved this challenge. Through internet technology, parties can conveniently file cases and participate in online hearings without the need for long-distance travel. By logging into the designated online trial platform within the specified timeframe, they can smoothly complete the trial process. This model significantly enhances the flexibility and convenience of trials, providing parties and witnesses with a more accessible and cost-effective means of participation[3].

#### **1.3.2. Innovation in Trial Efficiency**

Online trials, leveraging internet platforms, have completely overcome spatial constraints, allowing for flexible scheduling of hearings based on the availability of parties and judges. This enables more efficient resolution of disputes and significantly enhances trial efficiency. The asynchronous trial model in internet courts further breaks through time constraints, enabling the non-synchronous processing of all stages of a case on the trial platform. Parties and judges need only

log in to the platform within the specified timeframe, without the need for real-time synchronous communication. Asynchronous proceedings not only optimize resource allocation but also effectively improve trial efficiency by utilizing the fragmented time of judicial personnel. At the same time, the application of high-tech solutions plays a crucial role, particularly voice recognition and intelligent document correction systems, which free court reporters from the burden of extensive transcription, allowing them to focus on verification and proofreading, thereby significantly enhancing trial efficiency and the accuracy of records. Furthermore, online trials have introduced electronic signatures and real-time transcript display features, ensuring accurate records that are easy for parties to verify. Compared to paper records, electronic records are easier to retrieve and review; relevant case materials can be quickly accessed by entering a case number or case details, greatly improving work efficiency.

## **2. Practical Challenges of Online Hearings**

### **2.1. Insufficient Legal Framework**

In the practice of online hearings, although legal documents such as the Rules of the People's Courts on Online Litigation and the Civil Procedure Law provide guidance, we still face the problem of a lack of higher-level legislation and potential conflicts among existing legal provisions. There is a certain degree of inconsistency in the content of these legal documents. While Article 16 of the Civil Procedure Law acknowledges the legitimacy of online litigation—that is, the feasibility of conducting litigation activities via internet platforms—other provisions do not provide in-depth regulations addressing the specific characteristics of online trials, and there is a lack of higher-level laws to provide solid legal support. While the “Rules of the People's Courts on Online Litigation” exhaustively enumerate various scenarios that may arise during online hearings, they lack logical coherence in their legal provisions. For example, Article 2 of the Rules emphasizes that courts should respect the parties' right to choose the procedure, yet Article 5 grants courts the authority to decide whether to continue applying online litigation based on the actual circumstances of the case. Such inconsistencies between legal provisions may not only cause confusion in judicial practice but also adversely affect the authority and credibility of the legal framework for online litigation.

### **2.2. Diversity of Litigation Platforms and Integration Challenges**

The rise of online hearings has revolutionized the litigation environment, breaking free from geographical constraints. Under the current model, parties can participate in hearings remotely. However, the development of online litigation platforms in China still needs to be strengthened; there is insufficient technical investment, and a unified national standard platform is lacking. As courts across the country promote

online litigation, differences in technology, economics, and public acceptance have led to a proliferation of diverse platforms.

For example, Shandong Province has the “Shandong Court Electronic Litigation Service Network,” Beijing uses the “Beijing Court Electronic Litigation Platform,” and Jilin Province has adopted the “Jilin Electronic Court.” Even within the same province, such as Sichuan, there is the “Sichuan Online Litigation Platform (Tianfu Smart Litigation),” while the Chengdu region has established the “Chengdu Court Electronic Litigation Platform.” Additionally, although there is a unified name, “Mobile Micro Court,” the platform interfaces and operational procedures vary, increasing the difficulty for parties to use them. Second, the mutual independence and isolation of different litigation platforms may lead to issues such as inconsistent standards and difficulties in interoperability and compatibility between systems[4]. The redundant development of litigation service platforms with similar functions undoubtedly constitutes a significant waste of development resources. This phenomenon of redundant development is particularly pronounced in regions with relatively lagging economic development. Due to a shortage of talent and technological backwardness, the level of development and utilization of online litigation service platforms in these regions is generally low, thereby exacerbating the “digital divide.” Furthermore, the development of current online litigation platforms often relies on third-party technologies or directly utilizes third-party platforms to conduct court hearings. However, ensuring the security of these third-party technologies and preventing the tampering or leakage of sensitive judicial information involved in case proceedings has become a major challenge we must address.

### **2.3. Balancing Judicial Transparency and Personal Privacy**

As a core principle of modern judicial systems worldwide, judicial transparency primarily serves to oversee judicial activities, prevent judicial corruption, and enhance public confidence in the judiciary. Generally speaking, judicial transparency encompasses two key aspects: the transparency of the trial process and the public disclosure of judicial rulings. With the deepening advancement of the central government’s judicial informatization strategy, people had originally hoped to realize the vision of “transparent justice” –that is, after cases are heard online, the public would be able to easily and conveniently observe every stage of the trial. However, judging from the current online trial models implemented across various regions, the original intention of using “judicial digitization” to promote “transparent justice” has not been fully realized. In actual online trial proceedings, typically only parties to the litigation can enter the trial room using a provided access code, while members of the general public who have no direct connection to the case face numerous restrictions when attempting to observe the proceedings. These members of the public often need to go through cumbersome online

application or pre-registration procedures to obtain observer status, which undoubtedly increases the difficulty and barriers to their participation in court proceedings, significantly diminishing the actual effectiveness of judicial transparency. Observation is only possible through the following two channels:

First, members of the public may choose to apply to the court to observe the online hearing in person at the physical courtroom corresponding to the online session. However, unless a case attracts significant public attention or is of great importance, judges often prefer to hear cases in their own office environments rather than in traditional courtrooms. Therefore, arranging for members of the public who have applied to observe the hearing to be present in the judge's office is clearly impractical. More importantly, one of the original purposes of online trials is to improve judicial efficiency and reduce costs. Requiring the public to attend in person would undoubtedly contradict this original intent and undermine the benefits of online trials.

Second, the general public can watch the trial and adjudication process through live streaming of court proceedings. Currently, there are various models for live streaming in China, including a nationwide unified streaming system, a province-wide unified streaming model, and a model where courts collaborate with media outlets for live streaming. Although these models provide convenience to the public, courts exhibit a certain degree of bias when selecting cases for live streaming, and not all cases are broadcast. Furthermore, Chinese law has yet to establish clear provisions regarding the types of cases suitable for live streaming, the applicable legal procedures, or remedies available to parties whose requests for live streaming are denied. This lack of clarity leads to a degree of arbitrariness and uncertainty in the implementation of live streaming. Consequently, the public still faces numerous challenges and uncertainties when attempting to observe and oversee the adjudication process of online cases through live streams.

#### **2.4. Information System Security Challenges in Online Trials**

Online trials operate within a virtual and complex network environment, and a typical characteristic of networks is that they are easy to attack but difficult to defend[5]. Compared to traditional in-person trial models, the core challenges of online trials are significantly concentrated on cybersecurity issues.

First, regarding the identification and authentication of legitimate litigation participants, as the trial process moves online, parties must rely on usernames, passwords, or trial codes to access the system. However, these authentication credentials are at risk of being illegally obtained, potentially allowing unauthorized participants to access the system. Although courts can verify the identities of online participants by comparing facial images with ID information, judges have relatively limited direct perception of participants during online proceedings, which constitutes a major obstacle to identification and authentication.

Second, ensuring that online court proceedings are protected from cyberattacks and operate stably is a significant challenge. Unlike physical courtrooms, online trial systems are more vulnerable to cyberattacks from various sources, and attackers can launch disruptions at any time and from anywhere. Although online trials offer convenience to participants and reduce costs, if the stable and orderly conduct of proceedings cannot be guaranteed, the judicial transparency and fairness that online trials aim to achieve will be impossible, and the original intent of improving judicial efficiency will be rendered meaningless.

Third, online trials also face the risk of information leaks. This risk can manifest in various ways, including the leakage of personal information during public hearings, as well as the potential disclosure of state secrets, trade secrets, and personal privacy during closed-door proceedings. Due to the digital nature of online trials, their systems are more vulnerable to external intrusion and face higher security risks. If cybersecurity measures are inadequate, the information of all parties involved in online trials may be at risk of being stolen.

### **3. Improvements and Refinements to Online Court Hearings**

#### **3.1. Refining Relevant Legal Provisions**

A well-established legislative system is an indispensable support for the sustained and stable advancement of policies. Addressing the deficiencies highlighted during the operation of online hearings requires systematic adjustments and optimizations at the legal level. Currently, China's legal norms for online hearings remain scattered and have not yet formed a unified, high-level legal framework, which to some extent restricts the widespread implementation and application of online hearings nationwide. To comprehensively promote the development of online hearings, first, it is necessary to base on core legislative principles, clarifying that the introduction of online hearings aims to optimize the allocation of judicial resources while enhancing the accessibility of judicial services to the people. In the legislative process, we should both respect and inherit traditional litigation culture and make necessary amendments and improvements to elements of traditional litigation culture that are unsuitable, based on the characteristics and needs of online hearings. Second, to achieve the standardization and unification of online hearings nationwide, we urgently need to formulate specialized online litigation laws and supporting judicial interpretations. These legal norms will provide clear and detailed operational guidelines for online hearings, ensuring fairness, efficiency, and standardization in their operation, thereby further promoting the widespread implementation and healthy development of online hearings nationwide.

#### **3.2. Building a Unified Online Litigation Platform**

In academic discussions regarding the standardization of online litigation platforms,

a phased and systematic strategy must be adopted. Currently, courts across the country have established diverse online litigation platforms based on regional characteristics and practical needs, resulting in models with distinct local features. These platforms do, to a certain extent, align with local economic development levels and adapt to the current state of local information and network technology. However, maintaining this diverse model over the long term may exacerbate disparities in judicial services between regions. This is particularly true in relatively economically underdeveloped regions, where the development of litigation platforms often cannot match that of more developed areas, thereby affecting the overall fairness and quality of judicial services. Furthermore, the fact that local courts currently develop litigation platforms independently or in collaboration with third parties has led to diverse technical standards and difficulties in the transfer and sharing of case materials. These issues directly impact the convenience and efficiency of online hearings, hindering the rational allocation of judicial resources and the efficient advancement of litigation processes.

In light of this, it is necessary to actively advance the standardization of online litigation platforms. However, given the uneven development of internet technology across the country, this process must be implemented in phases. First, the basic functions, interface layouts, and technical standards of provincial litigation platforms should be standardized nationwide to ensure uniformity and compatibility at the foundational level across all regions. Subsequently, efforts should gradually extend to the standardization of municipal-level litigation platforms, with targeted optimizations and adjustments made according to the specific circumstances of each city. Through this phased and systematic approach, we can ensure that regional online litigation platforms align with national standards while fully accommodating regional differences. This will not only help achieve balanced and efficient judicial services but also lay a solid foundation for the construction and development of China's online litigation platforms, thereby driving a comprehensive improvement in the level of judicial informatization.

### **3.3. Enhancing the Transparency of Online Court Proceedings**

Given the potential impact of online court proceedings on judicial transparency, it is necessary to establish a rigorous and detailed set of rules to ensure that, while fully leveraging their unique advantages, online proceedings strictly adhere to the principle of judicial openness.

First, we must recognize the challenges that the unique nature of online trials poses to traditional courtroom observation models. Due to the virtual and cross-regional nature of online trials, traditional observation models clearly cannot be directly applied; therefore, new approaches must be sought to satisfy the public's right to know about judicial proceedings.

Second, as a vital supplementary measure to online trials, it is recommended that

courts establish their own province-wide or even nationwide unified online live-streaming systems. This system should be based on advanced network technology to ensure the stability and security of the live streams, enabling the public to watch the trial proceedings in real time and with clarity. Establishing such a system will not only expand the audience for trials but also enhance judicial transparency and strengthen public trust in judicial fairness. In advancing the online live-streaming system, the principle of gradual progress in judicial informatization reform should be followed. First, standardize the methods of online live-streaming across provinces, including the selection of streaming platforms and the regulation of content, to ensure orderly implementation in all regions. Second, practical experience should be actively accumulated to continuously optimize operational procedures and improve streaming quality. Once conditions are ripe, consideration should be given to expanding this system nationwide to achieve broader judicial transparency. Additionally, the scope of application for online live-streaming must be clearly defined. In principle, all cases heard in online court proceedings should be live-streamed to allow the public to understand the entire trial process. However, in specific circumstances—such as when sensitive information involving personal privacy or trade secrets is at stake—consideration may be given to suspending the live stream or partially obscuring certain elements. The establishment of this rule aims to ensure the implementation of the principle of judicial transparency while avoiding infringement upon the legitimate rights and interests of the parties involved.

Finally, to further enhance judicial transparency, it is recommended to establish a dedicated online audience system that complements online court proceedings. This system should allow the public and litigation participants to participate in the trial process in real time via an online platform, and enable them to interact and ask questions during the proceedings. To ensure the system's stable operation and security, sufficient technical support and resources must be allocated, and corresponding management systems and operational guidelines must be established. At the same time, attention should be paid to the system's capacity to ensure it can accommodate a sufficient number of online participants simultaneously.

### **3.4. Ensuring the Security of Online Hearings**

As an emerging model in the judicial proceedings, online hearings undoubtedly face more complex and diverse challenges than traditional in-person hearings in areas such as the identification and authentication of litigation participants, hearing security, and the protection of personal information. In light of this, it is particularly important to establish a rigorous, standardized, and effective set of security protocols for litigation.

Regarding identity security, we must establish a series of rules to ensure the identity security of litigation participants. First, parties must register on the

court-designated litigation platform using their real names, ID numbers, and mobile phone numbers to obtain a dedicated account and password for the electronic litigation platform. This account and password are strictly linked to the party's personal information, aiming to remind parties to initiate litigation procedures with due caution and to prevent unauthorized individuals from filing lawsuits on the platform. Second, when formally filing a specific lawsuit, parties must upload a clear scanned copy of their identification documents as required. If a party has appointed a litigation agent, they must also upload a scanned copy of the agent's identification documents along with a power of attorney confirmed by the party's electronic signature. This measure provides more rigorous safeguards for the identity security of parties during online hearings. Third, during the hearing process, the court will employ technical means to verify the identities of the litigants. The court will utilize facial recognition technology to compare the party's image with the photo on the previously submitted identification document to ensure the authenticity of the person appearing in court. If a party has authorized a representative to appear, the court will require the representative to present their identification document and verify the power of attorney issued by the party.

Regarding trial security, we need to establish a comprehensive set of rules to ensure the stability of the trial process and the confidentiality of trial information. Trial process security primarily refers to the court's ability to conduct online proceedings in a secure, continuous, and orderly environment, while the security of trial information focuses on ensuring that all information generated during the trial is not illegally obtained or disclosed. To achieve these objectives, we can implement the following measures: First, establish a specialized online trial platform to ensure that all cases heard online operate within the court's dedicated, closed network system. As emphasized by officials from the Supreme People's Court, the specialized network configuration for trials is key to ensuring the security of online proceedings.

"The court's dedicated network is a closed wide-area network system that supports all of the court's remote operations; precisely because its construction and management are undertaken by courts at all levels, its security and reliability are beyond doubt." [6]Second, to ensure the security of online trials, courts and litigants must possess the necessary hardware and software capabilities. In terms of hardware, courts and participants should be equipped with dedicated devices capable of supporting real-time transmission of video and audio over the network to ensure uninterrupted communication during proceedings. Regarding software, advanced antivirus and cybersecurity software should be installed to ensure the stable operation of the trial system and the security of data. Furthermore, regarding the secure transmission, storage, and handling of critical evidence, all parties involved in the litigation should implement strict encryption measures. This includes not only adding digital signatures and timestamps to electronic evidence but also utilizing other advanced encryption technologies, such as encrypted data

transmission and secure storage, to ensure the integrity and authenticity of the evidence and prevent information leaks or tampering.

Regarding the protection of personal information, we need to consider two aspects. First is the protection of personal information in relatively public settings. This primarily refers to the protection of personal information of litigation participants during online trials where cases are heard publicly on the internet. For example, when recording trial proceedings, if the court captures sensitive information such as ID numbers or mobile phone numbers displayed on electronic pleadings, it may cause unnecessary disruption to the parties' daily lives. Therefore, courts should implement appropriate masking measures, such as blurring or obscuring, to prevent the disclosure of such information. Additionally, when litigation participants disclose sensitive personal information, the courtroom's public listening system should activate automatic muting or voice-masking functions to ensure the confidentiality of this information. Second, there is the protection of personal information in relatively closed environments. Such environments primarily refer to online court proceedings held in camera, as well as personal information involved when parties log in to or out of the online court system. For this type of information, we can draw on the rules for court hearing security to establish a series of corresponding protective measures. This includes ensuring that courts and litigation participants use necessary security hardware and software, such as encrypted communication tools and firewalls, to prevent information from being stolen or tampered with during transmission.

#### **4. Conclusion**

Overall, as an innovative model that deeply integrates information and network technology with judicial proceedings, online trials have demonstrated significant advantages in enhancing litigation efficiency, reducing litigation costs, and providing greater convenience for parties involved. However, given that online court proceedings in China are still in their early stages of development, certain challenges and issues have inevitably arisen during their implementation. In addressing these issues, we should maintain an objective and rational approach, conducting in-depth research and discussion to better leverage the positive role of online court proceedings in resolving disputes and safeguarding rights. Through continuous practical exploration and institutional refinement, we are confident that we can advance online court proceedings toward greater maturity and efficiency.

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