
EVALUATING IN THE OPEN: THE OPPORTUNITIES AND CHALLENGES OF TELEVISIONING INDIAN COURT TRIALS

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ABSTRACT

The paper explores the effects and obstacles of live streaming court proceedings from its beginning. It addresses its current status, future possibilities, and the gaps that require attention. Starting with the landmark ruling in *Swapnil Tripathi v. Supreme Court of India*, where the Supreme Court acknowledged live streaming of court proceedings as a right to access justice under Article 19(1)(a) - the Right to freedom of speech and expression, and Article 21 - the Right to Protection of Life and personal liberty. Nevertheless, only a small number of High Courts have taken steps to adhere to the Supreme Court's ruling. This situation underscores the gaps and noncompliance of lower courts in relation to the Supreme Court of India. The paper also examines the theoretical and constitutional frameworks that pertain to concepts associated with live streaming, such as open court and access to justice. Additionally, it discusses instances where live streaming of court proceedings has been pivotal in the administration of justice.

The study continues by explaining judicial accountability and the necessity for public trust in the judiciary to ensure effective justice delivery. It also highlights a global comparative analysis with countries like the USA and Brazil, emphasizing the need for a comprehensive legislative framework to protect this process. Live streaming is not without its challenges; it has disadvantages as well, but these can be mitigated with appropriate adjustments in the process. In conclusion, broadcasting court proceedings live represents a significant step forward in modernizing India's justice system, fostering democratic participation, and strengthening the rule of law in the digital era.

1. Introduction

“Five years after Supreme Court judgment, only 9 out of 25 High Courts live stream proceedings”¹. *Swapnil Tripathi v. Supreme Court of India* marked a fundamental moment by recognizing live streaming of court proceedings as the right to access to justice. Despite this, as of 2025, only 11 high courts in India have practically adopted and implemented the guidelines by the Apex Court. This shows insubordination and gaps between judicial verdicts and their pragmatic implication. In this age of technology, transparency and accessibility have become foundation stone of uncensored governance. Judiciary, also the third pillar of democracy, is not exempted from it. Justice system aims at openness and transformation from the conventional age.

2. Status and Societal Implications of Live Streaming

Isn't it amusing that even after the Supreme Court has recommended live streaming of court proceedings, only 11 High Courts out of 25 have taken the initiative to follow the advice? What could be the reason behind this - the lack of infrastructure or the judiciary's reluctance to make the process transparent? There may be several reasons for this like lack of infrastructure which is required for technological investment, the judicial hesitancy for maintaining the courtroom decorum, the footage could be misused, etc. It is right that Live streaming of court proceedings will help maintain transparency and accountability as it will make the process feasible to watch in the comfort of people interested in having an opinion and knowledge about the law. Students, Professors or Research Scholars, not just from the field of law but from different streams of education, may yield benefit from this facility. It will also be beneficial for the courts to maintain visual-audio records of the proceedings for educational or evidential use.

3. Theoretical and Constitutional Foundations

3.1 Open Justice and the Principle of Visibility

“Justice must not only be done but be seen to be done”², These words by Lord Chief Justice Hewart in *R v Sussex Justices ex parte McCarthy* perfectly align with the intention that the

¹ Soibam Rocky Singh, Only 9 out of 25 High Courts live stream proceedings, THE HINDU (May 27, 2023), <https://www.thehindu.com/news/national/only-9-out-of-25-high-courts-live-stream-proceedings/article66900989.ece>

² *R. v. Sussex Justices; Ex parte McCarthy*, 1 K.B. 256, 259 (C.A. 1924)

Supreme Court had behind the initiative to live stream such pivotal process. The **Open Court principle** traces back its origin from English Common Law by Lord Chief Justice Hewart. He emphasized on the importance of publicity and transparency in the judicial proceedings. Open court system helps the judiciary to get public confidence in a democratic country. Transparency in the Judiciary holds utmost importance as it makes the people of India believe in the power, honesty and dignity of the Courts. The Decision was given by a bench constitution the former Chief Justice D.Y. Chandrachud among others. In modern days, the open court system has got technological backing that makes the process of open court quite manageable and accessible to a large number of people. *Article 145 - Rules of court, etc.* of the Constitution of India establishes and supports open justice by empowering the supreme court to from rules and guidelines for procedure and practice of live streaming in the courts.

3.2. Freedom of Speech and Right to Know

The Birth of Live streaming of the court proceedings started in 1991 in the Supreme Court case of *Naresh Shridhar Mirajkar v. State of Maharashtra*, 1991 SCC OnLine SC 10, it was said the under the purview of article 19(1)(a) of the Constitution of India, it is the right of the journalists to write and publish about the court proceedings but with reasonable restrictions and failing to comply with those might result in Contempt of court. This judgement without a legislative backing may result in arbitrary discretion of courts while deciding matters relating to the contempt of court regarding live streaming and reporting subsequently. Additionally, the article by Centre for Communication Governance (NLU Delhi) on “Right to Know and Open Courts”³ perfectly encapsulates the importance and key benefits of Open courts and virtual hearings. It has broadened Article 19(1)(a) of our constitution and has shed the light on right to access to the courts.

3.3. Access to Justice under Article 21

In 2017, the court also incorporated technology into its functioning when a law student Swapnil Tripathi was facing difficulty in entering the SC due to the crowd and filed a writ petition. This extract is taken from *Swapnil Tripathi v. Supreme Court of India*, (2018) 10 SCC 639 : 2018 SCC OnLine SC 1667 at page 651 “2. *Indeed, the right of access to justice flowing from Article 21 of the Constitution or be it the concept of justice at the doorstep, would be meaningful only*

³ Shrutanjaya Bhardwaj, *A Fundamental Right to Virtual Court Hearings*, CCG BLOG (Jan. 27, 2022), <https://ccgnludelhi.wordpress.com/2022/01/27/a-fundamental-right-to-virtual-court-hearings/>.

if the public gets access to the proceedings as it would unfold before the courts and in particular, opportunity to witness live proceedings in respect of matters having an impact on the public at large or on a section of people. This would educate them about the issues which come up for consideration before the Court on real time basis."⁴ The Swapnil Tripathi Judgement also emphasized the importance of Open Justice and public opinion, the SC stated that there needs to be publicity in the judgement so that the people of India and the society can know about the latest ruling of the apex court and be aware of it as Ignorance of the law is no excuse. This 2018 judgement is only followed by less than half of the High Courts in India, even the Supreme Court also live streams only Constitutional matters. The Court held that the ability to view live broadcasts of the Supreme Court proceedings flowed from the right of access to justice in the Constitution, but said that this right should not be absolute and provided a set of Model Guidelines which should govern the courts' discretion on when such broadcast should be used.⁵ Landmark cases like Electoral Bonds, Same-sex marriage recognition, etc, were widely watched on YouTube and it also made the process of administering justice transparent by which people can form an opinion about supporting or criticising the judgement.

4. Landmark Cases That Emphasized the Need for Live Streaming

There are several cases where Media Trials and public opinion played a crucial role through Live streaming of the court proceedings.

1. ***Vanshika Yadav Vs. Union of India and Ors.***⁶, Famously known as the NEET UG Scam Case, where the candidates appearing for the NEET UG Exam 2024 had alleged the malicious practice in scoring some candidates. 23,33,297 candidates appeared for the examination and needed to be well informed and updated regarding the case status and delivery of justice, therefore Live streaming played an important role in being transparent to the people and being accountable for its process and actions.
2. ***Supriyo v. Union of India***⁷ This was one of the longest-heard cases by the constitutional bench where the petitioners had filed to acquire recognition for same-sex marriages in

⁴ Swapnil Tripathi v. Supreme Court of India, (2018) 10 S.C.C. 639 (India)

⁵ *Tripathi v. Supreme Court of India*, Global Freedom of Expression, Columbia Univ. (Sept. 26, 2018), <https://globalfreedomofexpression.columbia.edu/cases/tripathi-v-supreme-court-india/>

⁶ *Vanshika Yadav v. Union of India*, MANU/SCOR/76714/2024 (India)

⁷ *Supriyo v. Union of India*, 2023 SCC OnLine SC 1348 (India)

India; It made it easier for law students to be a part of the crucial judgement as if they were physically present.

3. There were over 2 lakh viewers in the live-streaming of *Aishat Shifa (Hijab Case-2 J.) v. State of Karnataka*⁸, where the Karnataka High Court upheld the ban on wearing hijab in educational institutions making the case a topic of discussion in the entire country.
4. In the latest case of *Alleged Rape & Murder Incident of a Trainee Doctor in R.G. Kar Medical College & Hospital, Kolkata & Related Issues*⁹ where the Supreme Court took Suo Moto Cognizance and ordered for constituting a ten-member National Task Force for providing guidelines to the institutions for safety and security of the doctors in the workplace. The Case was widely followed by the entire country leading to nationwide protests for justice.

5. Judicial Accountability and Public Confidence

All the cases discussed above show that if the judiciary is transparent, people tend to engage more in the process of administration of justice. Also, the Judiciary can be held accountable by being questioned by the public at large whenever they think the judgement is partial or biased, this helps in fair functioning of the judiciary. The judges won't act biased or arbitrarily while administering justice because of being watched by the entire country. Public Confidence plays a key role in judiciary because the laws are meant for the betterment of the humankind and therefore the legal system needs to have the confidence and trust of the public. In a democratic country, judiciary is one of the four pillars that tend to protect the rights of the citizens and maintaining efficacy is important. Judiciary is held accountable for its actions by the public through their support to the judgements or showing disapproval or criticism when the decisions are unjust, unfair or irrational, thereby enhancing the transparency and responsibility towards the duty.

6. Evolution and Institutionalization of Live Streaming

The first case which was live-streamed by the Supreme Court of India was *Janhit Abhiyan v.*

⁸ Aishat Shifa v. State of Karnataka, (2023) 2 S.C.C. 1 (India)

⁹ In re: Alleged Rape and Murder Incident of a Trainee Doctor in R.G. Kar Medical College & Hospital, Kolkata & Related Issues, 2024 SCC OnLine SC 2245 (India)

*Union of India*¹⁰ which ruled out its judgement regarding the reservations for EWS(Economically Weaker Section), though it was not a perfect one; the camera angle needed to be panned right to left to capture all the Justices in one frame. There were different screens for petitioners, respondents, and other important people. Gradually the technical team at the Supreme Court got a hand over the technology and started a smooth live streaming of court proceedings. Technology has paved a way for open court and access to justice. Even before the Supreme Court, Gujarat High Court in 2020 started the live streaming. Later in 2021, the Supreme Court's e-committee released draft rules on live streaming of High Court proceedings¹¹.

7. Challenges and Criticisms

The initiative has also been criticized and there have been arguments against the live-streaming of court proceedings. The details of the parties may be exposed leading to a bad reputation in society or delicate cases like rape, the details of the victim needing to be kept confidential are some of the concerns which would create a hindrance to the live streaming process. However, the E-Committee of the Supreme Court has taken necessary measures to ensure that these challenges can be overcome and no harm be caused to either party. There may be several challenges to the live streaming of court proceedings –

- a) Privacy of the litigators – People appearing before the court including the judges, lawyers or the petitioners and respondents might not be comfortable being on the camera in a public discourse and might consider it a breach of their privacy.
- b) Public Pressure and Media Trials – While some may think that being on a live camera can get increase the efficiency of the judicial and legal system, others disagree to it as the public pressure and the media trial has a high chance and risk of being a coercive factor affecting the adequacy of morality and justiciability in a matter.
- c) Misrepresentation or misuse – The legal language is a complex one for people belonging to non-legal background. In such cases the arguments by the lawyers or the

¹⁰ Janhit Abhiyan v. Union of India, (2023) 5 S.C.C. 1 (India)

¹¹ Gauri Kashyap, Two Years of Live Streaming at the Supreme Court, SUP. CT. OBSERVER (Oct. 4, 2024), <https://www.scobserver.in/journal/two-years-of-live-streaming-at-the-supreme-court/>

comments by the judges might be misunderstood or ill-perceived by those watching the live court proceedings via the internet.

- d) Technological Infrastructure Limitation – Trial courts like those at the subordinate level in rural or urban-rural areas might not have the technological infrastructure of the kind required to live stream the court proceedings.

8. Global Practices in Judicial Live Streaming

Live-streaming, though possesses minor challenges but looking at the brighter side and the advantages that it carries, the hurdles can be overcome. Many countries broadcast their court proceedings; Brazil's Supreme Federal Court was one of the first countries that started broadcasting their Court proceedings in 2002. Later in 2004 they launched their own TV channel. Between 2018-2021, the USA, South Africa and the UK among other countries started broadcasting their court proceeding; whereas the USA was initially reluctant and only broadcasted audio of the proceedings at the end of every week. Some countries do not prefer to live stream all cases, instead, they livestream only key cases whereas Canada broadcasts all the cases on the Internet. It works a great tool to compare and contrast the quality to judgement and the jurisprudential aspect behind the judgements. It can help the legal professionals and judicial officers to learn and update themselves with the global legal knowledge.

9. Need for a Comprehensive Legislative Framework

Though the process might seem too intrusive to some but public has the right to know how the judiciary is functioning and what new precedents are being set. Reforms are needed to avoid contempt of court and discrepancies. At present there is no legislative act regarding the live streaming of court proceedings. The Guidelines and framework set by the apex court or the high courts could be tailored as per their convenience without a check and balance by any other pillar of democracy therefore a separate legislation is required to govern the live streaming of court proceedings and their different aspects.

10. Conclusion

Live streaming court cases is an important move to make the justice system more open and trustworthy. When people can watch court proceedings, it helps everyone see that justice is being served. This transparency helps people understand how the law works, holds judges

accountable, and supports democracy by letting citizens see the law in action. Even though there are worries about privacy, the impact of media, and biased reporting, we can tackle these issues by creating clear rules that ensure both transparency and fairness in the legal system. In the end, live streaming helps to create a society that is better informed and more involved, highlighting the idea that justice is for everyone. Open Justice, Transparency in the judiciary, and Public access to the court will benefit the judiciary in upholding the righteousness and dignity of this part of the separation of powers.

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