

VIRTUAL COURT PROCEEDINGS:

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ASSESSING THE IMPACT ON JUSTICE DELIVERY AND PRISON
DECONGESTION IN NIGERIA**

BY

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FACULTY OF LAW

UNIVERSITY OF BENIN

BENIN CITY

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**A LONG ESSAY WRITTEN AND SUBMITTED TO THE FACULTY OF LAW,
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CERTIFICATION

I, **Precious Elijah NELSON** with Matriculation number **LAW2002893**, hereby certify that apart from reference to other people's works which have been duly acknowledged, the entire work is a product of my research, and this project has neither in whole nor in part been presented for another degree elsewhere.

Precious Elijah NELSON

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APPROVAL

We certify that this project was written and completed by **Precious Elijah NELSON** with Matriculation Number **LAW2002893** in partial fulfillment of the requirements for the award of a Bachelor of Laws (LL.B) degree.

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DEDICATION

This work is dedicated to Almighty God, whose grace, wisdom, and strength have guided me through every stage of this academic journey.

I also dedicate it to my loving parents, Mr. and Mrs. Josiah Nelson, for their unwavering support, sacrifices, and encouragement, and to my siblings for their constant motivation.

Finally, this project is dedicated to every law student who strives daily to pursue knowledge, justice, and truth despite the challenges of the legal academic path.

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LIST OF STATUTES

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- Administration of Criminal Justice Act 2015.
- Evidence Act 2011.
- Lagos State Judiciary (Remote Hearing of Cases) Practice Directions 2020.
- National Judicial Council, *Guidelines and Practice Directions for Remote Court Proceedings during the COVID-19 Pandemic* (2020).
- FCT Civil Procedure Rules 2025

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- Ministry of Justice (UK), *Remote Hearings Protocol* (2020).
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- Indian e-Courts Mission Mode Project (National e-Governance Plan).
- Kenya Judiciary ICT Policy Framework (2020).

LIST OF CASES

- *The State v Olalekan Hameed (Unreported Judgment, Lagos High Court, 4 May 2020).*
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- *A.G. Federation v Gboyega (2021) LPELR-50001(CA).*
- *Emefiele's Naira Redesign Trial, FCT High Court, Maitama (2025).*

LIST OF ABBREVIATIONS

ACJA	Administration of Criminal Justice Act
ACJMC	Administration of Criminal Justice Monitoring Committee
ASF	Avocats Sans Frontières
COVID-19	Coronavirus Disease 2019
CVP	Cloud Video Platform
EHRC	Equality and Human Rights Commission
FCT	Federal High Court
FHC	Federal High Court
HMCTS	His Majesty's Courts and Tribunal Service
ICT	Information and Communication Technology
IECMS	Integrated Electronic Case Management System
LRCN	Law Reform Commission of Nigeria
MCLE	Mandatory Continuing Legal Education
NBA	Nigerian Bar Association
NCoS	Nigerian Correctional Service

NGO	Non Governmental Organisation
NJC	National Judicial Council
NULAI	Network of University Legal Aid Institution
PTF	Presidential Task Force
SAN	Senior Advocate of Nigeria
UK	United Kingdom

ABSTRACT

This study critically examines the adoption of virtual court proceedings in Nigeria, focusing on their impact on the justice delivery system and the persistent issue of prison congestion. Triggered by the COVID-19 pandemic, virtual court proceedings emerged as a transformative response to judicial delays and infrastructural challenges. While Lagos State pioneered the implementation of virtual hearings, this study extends its scope to assess the broader national implications across different jurisdictions in Nigeria. It investigates whether the use of virtual platforms such as video conferencing and electronic filing has enhanced the speed, efficiency, and accessibility of criminal trials, particularly pre-trial remand cases, which are central to prison overpopulation in Nigeria. The study adopts the doctrinal research approach, combining an analysis of statutes, case law, policy documents, and judicial reports and secondary data from court and correctional institutions. It engages with legal theories such as Access to Justice, Legal Realism, and Procedural Justice to frame its findings within a strong theoretical context. Additionally, it explores comparative practices in countries like Kenya, India, and the United Kingdom to draw lessons relevant to Nigeria's evolving judicial landscape. Ultimately, this study finds that virtual court proceedings offer a viable pathway to reducing case backlogs and pre-trial detention durations, thereby contributing to prison decongestion. However, it also identifies substantial limitations including technological disparities, constitutional concerns, and resistance from key stakeholders. The study concludes with practical recommendations on policy, legal reforms, and infrastructural investments needed to sustain virtual justice delivery and ensure equitable access to justice in Nigeria.

CHAPTER ONE

INTRODUCTION

1.1 Background to the Study

In April 2020, amid the height of the COVID-19 lockdowns in Nigeria, Emeka, a 32 year old father of two, sat in a small, overcrowded cell at the Kirikiri Correctional Centre, awaiting trial for an offence he insisted he did not commit. His case had been adjourned five times due to the courts' inability to sit physically. With no lawyer to follow up and a judiciary slowed down by pandemic restrictions, his hopes for justice dwindled with each passing day¹. Emeka was just one among thousands detainees trapped in the cracks of a justice system long plagued by administrative delays, prison overcrowding, and limited access to legal representation.

The outbreak of COVID-19 disrupted judicial systems globally, compelling countries to adopt digital tools and remote solutions to sustain justice delivery. In Nigeria, the pandemic served as a catalyst, compelling an already strained legal system to experiment with virtual court proceedings. Some states particularly Lagos State, known for pioneering legal reforms, led the way by introducing video conferencing platforms such as Zoom to conduct hearings. Notably, in May 2020, the Chief Judge of Lagos State conducted Nigeria's first virtual court sitting, adjudicating a bail

¹ Olawumi Opeyemi Ogundipe and Omoniyi Bukola Akinola, 'COVID 19 and the Challenges of Access to Justice in Nigeria' *Run Law Journal* [2020] 3 (1) 12
<https://www.researchgate.net/publication/383979617_Covid-19_and_the_Challenges_of_Access_to_Justice_in_Nigeria> accessed 7th July 2025.

application via Zoom.² This innovation was not merely a stopgap measure; it signaled a paradigm shift that had long been resisted within traditional legal circles. It marked a deliberate step towards digitising justice delivery in a country where court congestion, lengthy pretrial detentions, and infrastructural deficits have become entrenched. More importantly, it underscored the potential of technology to sustain judicial functions even in the midst of an unprecedented crisis³.

Yet, beyond the novelty and urgency of the moment lies a deeper and more enduring question: can these courts, initially implemented as a temporary response to an emergency, evolve into a sustainable mechanism for enhancing access to justice and addressing the perennial problem of prison congestion? While virtual proceedings appear to offer prospects for expediting trial timelines and reducing the incidence of prolonged pre-trial detention, critical concerns remain. Specifically, questions persist regarding the sustainability, legality, and equity of such proceedings across Nigeria's diverse jurisdictions. Do virtual courts genuinely accelerate the pace of justice and contribute meaningfully to decongesting custodial centres, or do they merely replicate existing systemic inequities under a digital veneer? Moreover, do they inadvertently introduce new forms of digital exclusion, particularly affecting indigent defendants who lack access to technology, internet connectivity, or legal representation? These

² "Lagos Judiciary Holds First Virtual Court Sitting, *Lawyard* (Lagos, 4 May 2020) <<https://www.lawyard.org/news/lagos-judiciary-holds-first-virtual-court-sitting/>> accessed 10 May 2025

³ P.A. Aidonjje, S.A. Wakili, D. Ayuba, 'Effectiveness of the Administration of Justice in Nigeria Under the Development of Digital Technologies' *Journal of Digital Technologies and Law* (2023) 4 (1) <<https://www.lawjournal.digital/jour/article/view/314>> accessed 7th July 2025.

issues underscore the need for a nuanced assessment of the viability of virtual court proceedings as a long-term fixture within Nigeria's justice delivery framework⁴.

This study emerges at the intersection of law, technology, and criminal justice reform. It seeks to examine how virtual court proceedings have influenced the Nigerian legal landscape, particularly in relation to the administration of criminal justice and efforts at prison decongestion. It further interrogates whether digital justice can be both effective and equitable.

Ultimately, the core question is not whether Nigeria can hold court proceedings online, but whether such proceedings can guarantee justice especially for the most vulnerable, like Emeka, who continue to await his day in court. This study critically assesses whether the nation's shift toward virtual adjudication can fulfill the constitutional promise of timely, fair, and accessible justice, or whether it risks deepening structural inequalities under a digital veneer of reform.

Drawing comparative insights from jurisdictions like Kenya, India, and the United Kingdom, this study interrogates the efficacy, constitutionality, and practical outcomes of virtual court proceedings in Nigeria. It adopts a doctrinal analysis to offer a nuanced perspective on the future of digital justice in criminal proceedings.

⁴ Christina Dutton, 'The Judicial Responses to COVID-19 in Africa: Mapping and Analyzing the Accessibility of justice and the use of technology in court systems during the 2020 global pandemic' *The African Law and Tech Network (ALT)* (2021) <<https://alt-network.com/wp-content/uploads/2022/10/JudicialReponsesCovid19Africa.pdf>> accessed 7th July 2025.

1.2 Statement of the Problem

The Nigerian criminal justice system has long struggled with systemic inefficiencies—chronic delays, bureaucratic red tape, outdated manual processes, and infrastructural decay. These challenges have significantly contributed to the persistent problem of prison congestion. Despite constitutional guarantees of fair and timely trials⁵, thousands of individuals remain in pre-trial detention, often for minor or non-violent offences. According to data from the Nigerian Correctional Service, as of mid-2023, over 70% of inmates in custodial centres were awaiting trial⁶, with correctional facilities operating far beyond their designed capacities in several states.

The COVID-19 pandemic further exposed and exacerbated these vulnerabilities. With physical courts shut down during nationwide lockdowns, judicial activity slowed drastically, worsening the backlog of criminal cases and increasing pressure on the already overstretched prison system. In response, some states particularly Lagos began experimenting with virtual court proceedings via platforms such as Zoom and Microsoft Teams⁷. While this transition signalled an innovative turn in justice delivery, it also raised significant legal, technological, and ethical questions⁸.

⁵ Constitution of the Federal Republic of Nigeria, 1999 (as amended), s 36(4).

⁶ *Nigerian Correctional Service*, "Custodial Statistics as at June 2023"

<<https://corrections.govng/statistics>> accessed 10 May 2025.

⁷ "Lagos Judiciary Holds First Virtual Court Sitting, *Lawyard* (Lagos, 4 May 2020)

<<https://www.lawyard.org/news/lagos-judiciary-holds-first-virtual-court-sitting/>> accessed 10 May 2025

⁸ Ameh Ochojila. 'Examining the workability of virtual trial in Nigeria' *The Guardian* (Abuja, March 2022) <<https://guardian.ng/features/law/examining-the-workability-of-virtual-trial-in-nigeria/>> accessed 7th July 2025.

Central to this study is the unresolved issue of whether virtual court proceedings, implemented largely as a crisis response, have translated into substantive improvements in justice delivery in Nigeria. While digital hearings offer theoretical advantages such as expedited case handling, remote participation, and reduced infrastructural strain there is limited empirical evidence that they have meaningfully reduced the number of awaiting trial inmates or improved the overall efficiency of the criminal justice system. Early observations suggest that only a small fraction of criminal cases are processed virtually, and even fewer result in expedited resolutions or tangible prison decongestion.

Moreover, the constitutional validity of virtual trials remains a contested issue in legal scholarship and practice. Critics question whether remote hearings satisfy the requirements of public trials, the right to confront witnesses, and the principle of fair hearing, especially in criminal cases where the defendant's physical presence can be critical⁹. Concerns also persist about unequal access to virtual proceedings, particularly for indigent or unrepresented defendants who may lack the necessary digital literacy, legal aid, or internet access.

Despite ongoing judicial reforms, the gap between the promise of virtual justice and its practical delivery remains stark. Many virtual court sessions are marred by technical glitches, procedural inconsistencies, and legal ambiguities. Without clear legal frameworks, infrastructural investment, and institutional support, virtual courts

⁹ *A.G. Federation v Gboyega (2021) LPELR-50001(CA)*

risk becoming an exclusive mechanism accessible only to the privileged, rather than a tool for inclusive justice¹⁰.

This study therefore addresses a pressing research gap: To what extent have virtual court proceedings impacted the speed, quality, and fairness of justice delivery in Nigeria? Specifically, has their implementation meaningfully contributed to reducing the remand population in Lagos State the leading jurisdiction in virtual court innovation? What legal, procedural, and infrastructural reforms are necessary to make digital justice not only effective but equitable?

By interrogating these questions, the study aims to generate evidence-based insights that will inform judicial policy, guide legal practice, and support civil society efforts to advance a more inclusive and efficient criminal justice system in Nigeria.

1.3 Research Questions

This study is guided by the following research questions:

1. What is the legal and constitutional basis for the implementation of virtual court proceedings in Nigeria?
2. How have virtual court proceedings been implemented across various jurisdictions in Nigeria since their inception?

¹⁰ Olawumi Opeyemi Ogundipe and Omoniyi Bukola Akinola, 'COVID 19 and the Challenges of Access to Justice in Nigeria' *Run Law Journal* [2020] 3 (1) 16
<https://www.researchgate.net/publication/383979617_Covid-19_and_the_Challenges_of_Access_to_Justice_in_Nigeria> accessed 7th July 2025.

3. To what extent have virtual court proceedings improved the efficiency and timeliness of justice delivery?
4. What impact have virtual court proceedings had on pre-trial detention and prison congestion in Nigeria?
5. What legal, procedural, and technological challenges hinder the effective implementation of virtual court proceedings?
6. How do key stakeholders such as judges, lawyers, inmates, and prison officials perceive the effectiveness and fairness of virtual court systems?
7. What reforms are necessary to institutionalise virtual court proceedings as a sustainable and equitable tool for justice delivery in Nigeria?

1.4 Aim and Objectives of the Study

The general aim of this study is to critically evaluate the impact of virtual court proceedings on justice delivery and prison decongestion in Nigeria, with particular attention on their constitutional foundations, procedural effectiveness, and socio-legal implications. In pursuit of this overall aim, the study sets out to achieve the following specific objectives:

1. To examine the legal and constitutional framework that underpins the implementation of virtual court proceedings in Nigeria;
2. To analyse the extent to which virtual courts have been adopted across various jurisdictions in Nigeria since their inception.

3. To assess whether virtual court systems have improved trial timelines, expedited case disposal, and enhanced the efficiency of justice delivery.
4. To evaluate the influence of virtual court proceedings on pre-trial detention practices and prison congestion in Nigeria.
5. To identify the legal, procedural, institutional, and technological challenges hindering the effective implementation of virtual court proceedings;
6. To investigate the perceptions of key stakeholders including judges, legal practitioners, inmates, and prison officials regarding the fairness, accessibility, and effectiveness of virtual courts; and
7. To propose viable legal, policy, and institutional reforms aimed at strengthening and institutionalising virtual court proceedings as a sustainable mechanism for justice delivery in Nigeria.

1.5 Scope and Delimitation of the Study

The study is primarily focused on criminal proceedings, with particular emphasis on remand hearings and pre-trial detention cases in Nigeria. This study investigates the implementation and impact of virtual court proceedings in Nigeria, with a primary focus on developments between the years 2020 and 2024. The study is national in scope and does not limit its analysis to any particular state, although references may be made to jurisdictions such as Lagos State, the Federal Capital Territory (Abuja), and Rivers State for illustrative and comparative purposes. These jurisdictions have

been at the forefront of adopting virtual judicial mechanisms and provide useful case studies for understanding broader national trends.

The central focus of the study is on criminal justice administration specifically remand proceedings, pre-trial detention practices, and their relationship to prison congestion. This emphasis is due to the direct link between delays in criminal adjudication and the chronic overcrowding of Nigeria's custodial centres. The study examines relevant statutory provisions, judicial decisions, policy documents, and administrative frameworks governing virtual proceedings in the criminal justice context.

While civil, appellate, and industrial matters fall outside the core focus of the study, incidental references to such proceedings may be made where necessary to provide legal or procedural context. The study also draws limited comparative insights from select jurisdictions such as Kenya, India, and the United Kingdom, countries that have similarly adopted virtual court systems to enhance access to justice.

The doctrinal analysis reflects both federal and state-level experiences. However, the study is restricted to legal developments, judicial reforms, and policy interventions existing as of June 2025. Events, laws, or reforms instituted after this date fall outside the purview of this study.

It adopts a qualitative approach, using doctrinal analysis to assess the effectiveness, challenges, and prospects of virtual court proceedings within the Nigerian legal framework.

1.6 Significance of the Study

This research contributes meaningfully to ongoing academic and policy debates on judicial reforms and digital justice in Nigeria. The study offers significant contributions at academic, policy, and practical levels.

Academic Relevance: It contributes to legal scholarship on the intersection between law and technology in Nigeria, particularly in the domains of criminal justice and judicial reform.

Policy Relevance: The findings can inform decisions by the National Judicial Council (NJC), Ministry of Justice, Nigerian Correctional Service (NCoS), and State Judiciaries regarding the digital transformation of court processes.

Practical Value: Legal practitioners, correctional officers, and judicial officers can leverage on insights from this study to improve access to justice and ensure procedural fairness within virtual courtrooms.

International Implications: As virtual court proceedings become a global reality, this study offers lessons from Nigeria's experience that may resonate in other developing jurisdictions

Ultimately, the study seeks to support a vision of Nigerian justice that is both technologically progressive and socially inclusive.

1.7 Research Methodology

This study adopts a qualitative research design, employing a combination of doctrinal, and comparative legal methods to critically assess the impact of virtual court proceedings on justice delivery and prison decongestion in Nigeria.

The doctrinal research methodology involves an in-depth analysis of primary legal sources, including constitutional provisions, statutory instruments, case law, and judicial practice directions. The key instruments reviewed include the 1999 Constitution of the Federal Republic of Nigeria (as amended), the Administration of Criminal Justice Act, 2015 (ACJA), the Evidence Act, 2011, as well as judicial circulars and policy frameworks guiding the implementation of virtual court proceedings. Relevant academic literature, journal articles, and legal commentaries are also critically examined to provide theoretical context and support legal interpretation.

1.8 Summary of Chapters

This study is structured into five chapters, each building upon the previous to achieve a comprehensive and analytical study of the role of virtual court proceedings in justice delivery and prison decongestion in Nigeria.

Chapter One – Introduction

This chapter introduces the study by establishing the context and background of virtual court proceedings in Nigeria. It outlines the research problem, objectives, research questions, scope and delimitation, significance, methodology, and definition

of key terms. The chapter sets the basis for the inquiry and justifies the relevance of the study.

Chapter Two – Literature Review and Theoretical Framework

This chapter presents the conceptual foundation and theoretical underpinnings of the study. It clarifies key concepts such as virtual court proceedings, justice delivery, prison congestion, and access to justice. It also engages relevant legal theories, including the Access to Justice Theory, Legal Realism, and Procedural Justice Theory. In addition, the chapter reviews existing academic literature and identifies gaps that this research aims to fill.

Chapter Three – Legal and Institutional Framework for Virtual Courts in Nigeria

This chapter critically examines the legal framework that supports virtual court operations in Nigeria, including relevant constitutional provisions, statutory enactments, judicial decisions, and practice directions. It also discusses the roles of key institutions such as the judiciary, the Nigerian Correctional Service, and the Nigerian Bar Association. Comparative legal frameworks from other jurisdictions are also explored to draw useful parallels.

Chapter Four – Impact Analysis: Virtual Courts, Justice Delivery and Prison Decongestion

This chapter evaluates the practical effect of virtual court proceedings across Nigeria. It analyses whether the adoption of digital court processes has improved case

timelines and reduced pre-trial detention. It also discusses the limitations of virtual courts, such as infrastructural challenges, legal objections, and access disparities. The chapter incorporates available data, policy reports, and, where available, stakeholder perspectives.

Chapter Five – Summary, Conclusion and Recommendations

This chapter integrates the findings of the entire research, restating the main arguments and answering the research questions. It presents a balanced conclusion on the role of virtual courts in achieving justice reform and prison decongestion in Nigeria. Practical recommendations are offered for policymakers, judicial bodies, and legal practitioners. It also provides suggestions for further research.

CHAPTER TWO

LITERATURE REVIEW AND THEORETICAL FRAMEWORK

2.1 Conceptual Clarifications

This Chapter is centered on the theoretical framework and literature review. The chapter will also clarify some of the conceptual pillars that guide this study.

2.1.1 Virtual Court Proceedings

The term *virtual* generally denotes the simulation of something done in an online, computer-based manner instead of face-to-face (or in person)¹¹. It can also mean, real, but existing, seen, or happening online or on a digital screen, rather than in person or in the physical world.

Imagine a mother sitting at a roadside kiosk in Ibadan, clutching her phone tightly as she tries to follow a bail hearing via Zoom for her detained son. The courtroom is no longer marble-floored, no longer a fixed, formal space; it's now digital, mobile, and temporary.

Virtual court proceedings, in their simplest sense, refer to legal processes conducted remotely through digital platforms. These may involve video conferencing software (e.g., Zoom, Microsoft Teams), electronic document submissions, and real-time

¹¹What is Virtual?, *IGI Global Scientific Publishing*
<<https://www.igi-global.com/dictionary/elearning-environments-as-engaging-invitations-to-elementary-age-learners/31601>> accessed 15th May 2025.

streaming of hearings, allowing participants to join proceedings from remote locations¹². it refers to the conduct of judicial hearings without the physical presence of parties in a traditional courtroom. This practice became widespread following the COVID-19 pandemic, during which physical court access was restricted.

In Nigeria, virtual proceedings gained traction through directives from the National Judicial Council (NJC) and various state judiciary circulars, approving the use of platforms like Zoom and Microsoft Teams for remote hearings¹³. As a result, arraignments, remand applications, and even sentencing hearings began to take place online—albeit unevenly across jurisdictions.

While some courts embraced the technology rapidly, its use remains inconsistent and in need of standardization. Courts in Lagos and Abuja adapted swiftly due to stronger infrastructure. Conversely, rural and under-resourced jurisdictions lagged behind, exposing glaring digital divides.

Virtual court proceedings, include all legally recognized remote litigation activities whether civil or criminal: arraignments, remand applications, bail hearings, trial sessions, and judgments conducted through Information and Communication Technology (ICT) tools.

2.1.2 Justice Delivery

Justice, as an ideal, is not a sterile concept found only in statutes. For victims, it may mean closure; for the accused, a fair chance; for the system, integrity. Justice delivery,

¹² “National Judicial Council COVID19 Policy Report; Guidelines for Court Sitzings and Related Matters in the COVID-19 Period”, *National Judicial Council*, May 2020
<<https://www.njc.gov.ng/index.php/30/news-details>> accessed 6th July 2025.

¹³ Ibid.

then, means turning these expectations into working systems that protect rights and settle disputes. It includes the systems, bodies, and steps used to provide legal solutions and resolve issues.

It includes formal processes like trials and sentencing and also broader factors such as, how quickly a matter is heard, whether the judge is impartial, and whether litigants understand the process. It focuses on the principles of fairness, good governance, equality, equity and separation of power¹⁴. Justice delivery involves not only the availability of courts but also the fairness, timeliness, accessibility, and effectiveness of those systems.

In the Nigerian context, scholars have argued that delays, corruption, and access barriers plague the justice system, eroding trust. These inefficiencies are especially damaging in criminal cases, where pre-trial detention often stretches into months or even years, compounding suffering and undermining due process¹⁵. Justice delivery is evaluated based on the number of pending cases, trial duration, accessibility of courts, and satisfaction of litigants.

2.1.3 Prison Congestion

Imagine a single prison cell in Port Harcourt designed for six inmates, now packed with over thirty. Some sleep on the floor, others stand for lack of space. The air is hot and stale, illness moves silently from one body to another.

¹⁴ Aluko Opeyemi Idowu, *The Judiciary and Justice Delivery in Nigeria*, (the Nigerian Political Science Association, July 2019)

¹⁵ *Amnesty International Nigeria (2008)*.

Prison congestion, also termed overcrowding, is a chronic issue in Nigeria, where the majority of inmates are awaiting trial¹⁶. It refers to the excessive population of inmates beyond the official capacity of correctional facilities, leading to overcrowding, poor hygiene, health challenges, and human rights violations. Prison congestion occurs when the number of inmates exceeds the facility's holding capacity.

According to an Amnesty International report¹⁷ 65% of Nigeria's over 47,000 prisoners have never been convicted of a crime, with some facing up to 10 years in prison awaiting trial. Similarly, the Nigerian Correctional Service Annual Report of 2016¹⁸ states that 62.6% (89,404) of the total 142,848 inmates are awaiting trial. In Nigeria, this is not an occasional problem, it is systemic. As of 2024, over 70% of inmates in Nigerian correctional centers are awaiting trial, languishing without formal conviction¹⁹.

This issue is both a symptom and a cause: a symptom of judicial delays and access gaps, and a cause of further rights violations, from health crises to loss of dignity. Understanding how virtual court systems might alleviate this congestion is central to this study's relevance.

¹⁶ Ibid.

¹⁷ Amnesty International Report (2009) <<https://academic.oup.com/jhrp/article-abstract/2/1/151/2188751>> accessed 6th July 2025.

¹⁸ The Nigerian Correctional Service Annual Report of 2016 <<https://scholar.google.com/scholar?hl=en&q=Nigerian+Correctional+Service+Annual+Report+%282016%29>> accessed 6th July 2025.

¹⁹ Samuel Akpan, NCoS: 70% of inmates across prisons awaiting trial, *The Cable (Lagos, 20th March 2024)* <<https://www.thecable.ng/ncos-70-of-inmates-across-prisons-awaiting-trial/>> accessed 6th July 2025.

2.1.4 Access to Justice

The phrase access to justice evokes imagery of open gates—not only metaphorically but literally. It speaks of the ability to walk into a courtroom, be heard, represented, and treated with respect, regardless of class, gender, education, or geography. But in an age of digitization, the meaning expands. It now includes access to technology, digital literacy, affordability of data plans, and the ability to navigate virtual platforms. Access to justice is not simply about presence, it's about participation.

Digital justice proponents argue that remote court proceedings lower barriers: they eliminate travel costs, reduce unnecessary delays²⁰, and can even protect vulnerable parties through confidential remote testimonies. Critics, however, warn of a new kind of exclusion²¹: those without smartphones, stable internet, or legal awareness risk being left behind. Thus, the very tools meant to democratize justice may, if improperly managed, entrench inequalities.

2.2 Theoretical Framework

A solid theoretical foundation is crucial for understanding the legal, institutional, and social factors that influence the implementation of virtual court proceedings in Nigeria. Theories provide the tools for interpreting data, critiquing legal standards, and assessing reforms. This study examines the impact of virtual court proceedings on justice delivery and reducing prison overcrowding. The theoretical framework helps

²⁰Olubukola Olugasa, Abimbola Davies, 'Remote Court Proceedings in Nigeria: Justice Online or Justice on the Line', International Journal for Court Administration
<<https://iacajournal.org/articles/10.36745/ijca.448>> accessed 6th July 2025.

²¹ Amanda Finlay CBE, *Preventing digital exclusion from online justice*,
<<https://files.justice.org.uk/wp-content/uploads/2018/06/06170424/Preventing-Digital-Exclusion-from-Online-Justice.pdf>> accessed 2025.

to connect the research with important legal principles and social justice issues. It assists in examining whether digital court processes truly improve justice or merely change the ways exclusion and delays occur. This study is grounded in three interrelated theoretical models that constitute the discourse on virtual courts and justice delivery. Of the various legal and social theories that can be applied, Access to Justice Theory is especially relevant. It captures the essential ideas of fair hearing, inclusiveness, and equal access to legal remedies. These are central concerns in this study.

2.2.1 Access to Justice Theory

The Access to Justice Theory is a foundational legal principle that underscores the right of every individual to seek, obtain, and enforce legal remedies through the judicial system, regardless of socioeconomic status, geographical location, gender, or other barriers²². It insists that legal rights must be actionable, and that remedies must be practically attainable, not merely theoretical. It is not enough that laws exist, people must be able to use them. The theory therefore compels a critical examination of institutional structures, procedural fairness, and legal reforms to ensure that justice is not only available but accessible to all.

In the context of virtual court proceedings, the Access to Justice Theory provides a vital analytical lens. It raises critical questions: Do virtual courts close or widen the justice gap? Are they removing procedural bottlenecks or creating new barriers especially digital ones that may exclude vulnerable populations? The theory is

²² M. Cappelletti, and B. Garth, *Access to Justice: The Newest Wave in the Worldwide Movement to Make Rights Effective*, 27 Buff. L. Rev 181 (1978),
<<https://digitalcommons.law.buffalo.edu/buffalolawreview/vol27/iss2/1/>> accessed 6th July 2025.

especially relevant in Nigeria, where pre-existing systemic inequalities such as legal illiteracy, infrastructural deficits, and limited access to legal aid are compounded by emerging technological divides. Access to Justice is also deeply rooted in constitutional values, particularly the rights to fair hearing and equality before the law, both of which are constitutionally protected under the 1999 Constitution of the Federal Republic of Nigeria (as amended). Section 36 guarantees the right to a fair hearing within a reasonable time by a competent court or tribunal, while Section 42 prohibits discriminatory practices in the enforcement of legal rights²³. These provisions form the constitutional bedrock upon which the Access to Justice Theory stands, reinforcing the idea that no one should be denied justice on the grounds of geography, poverty, or digital illiteracy. Moreover, the theory highlights key dimensions for evaluating the effectiveness of virtual courts, such as:

- Technological Access: Do all litigants particularly detainees and persons in rural or underserved areas have meaningful access to the digital tools required for participation in virtual courts proceedings?
- Procedural Safeguards: Are the safeguards of a fair trial such as the right to legal representation, open justice, and adversarial hearings preserved in digital formats?
- Digital Equity: Are marginalised groups, including indigent accused persons and unrepresented litigants, further disadvantaged in virtual court settings?

²³ Constitution of the Federal Republic of Nigeria 1999 (as amended), ss. 36, 42.

The theory also raises concerns about digital exclusion, wherein the rapid shift to digital justice may inadvertently marginalise already vulnerable individuals²⁴. For example, inmates without access to legal representation or technology may face prolonged remand simply because they cannot participate meaningfully in virtual court hearings

A closer examination of Cappelletti and Garth's Access to Justice Theory shows that it is a third wave in the global drive to make legal rights effective. The majority of earlier ideas about justice were formalistic; they focused more on the theoretical right to access courts than on the practical ability to use them. In contrast, the modern Access to Justice movement is rooted in social justice and insists that true access requires not just formal rights, but also the removal of practical barriers, such as cost, legal illiteracy, geographic isolation, and power imbalances between litigants²⁵. The theory thus calls for affirmative state action, procedural reform, and even the institutionalisation of alternative dispute resolution mechanisms to overcome what the authors describe as “barriers to effectiveness”²⁶.

In this broader interpretation, access becomes more than a doorway to the courts, it becomes a guarantee of substantive justice. This concept is particularly relevant to Nigeria. While virtual courtrooms appear to improve procedural efficiency, their effectiveness is ultimately determined by whether they provide justice to those traditionally left behind, such as pre-trial detainees, rural defendants, and

²⁴ Olubukola Olugasa, Abimbola Davies, 'Remote Court Proceedings in Nigeria: Justice Online or Justice on the Line', International Journal for Court Administration
<<https://iacajournal.org/articles/10.36745/ijca.448>> accessed 6th July 2025.

²⁵ Cappelletti & Garth, *op. cit.*, at 182–183.

²⁶ *Ibid.*, at 219–222.

unrepresented litigants. In this regard, Access to Justice Theory does more than evaluate the efficiency of virtual courts; it probes their fairness, inclusiveness, and constitutional compliance. It calls for reforms that ensure virtual courts do not become digital replicas of existing structural inequities but are instead harnessed as tools for equitable, efficient, and meaningful justice delivery in Nigeria.

2.2.2 Legal Realism and Technological Determinism

Legal Realism emerged in the early 20th century as a critical reaction to the formalist and rigid interpretation of legal rules. It posits that the law is not merely a collection of abstract principles codified in statutes and judicial precedents but also includes what is practically obtainable in the courtroom and how the law operates in practice²⁷. According to legal realists, judicial decisions are influenced not only by legal texts but also by factors such as the socio-economic background of litigants, judicial discretion, institutional biases, and procedural limitations²⁸. The Realist school thus emphasises that understanding the law requires looking beyond its formal sources to the actual conditions under which justice is delivered.

Legal Realism is instrumental in assessing whether virtual court proceedings have brought about tangible improvements in justice delivery or whether they simply replicate old systemic flaws in a new digital form. If, as legal realism argues, justice is determined by what courts do in practice, then the effectiveness of virtual courts must be assessed by looking at how well these systems function in the day-to-day

²⁷ Jerome Frank, *Law and the Modern Mind* (1930); see also Karl Llewellyn, "A Realistic Jurisprudence-the Next Step," (1930) 30 Columbia Law Review 431.

²⁸ Brian Z. Tamanaha, *Beyond the Formalist-Realist Divide: The Role of Politics in Judging* (Princeton University Press, 2009) pp. 12–15.

administration of justice, especially in bail hearings, remand proceedings, and pre-trial detention cases, rather than by the mere presence of enabling laws or practice guidelines. For instance, if the introduction of technology does not mitigate undue adjournments, unequal access to representation, or trial delays, then it has not altered the actual practice of law in a meaningful way.

Technological Determinism, on the other hand, refers to the theory that technological innovation is the primary driver of changes in human behaviour and social structure²⁹. When combined with Legal Realism, Technological Determinism allows for a more thorough investigation of the ways in which digital transformation affects courtroom culture, access to legal remedies, and power relations in the legal system. This approach challenges us to consider whether digital courtrooms actually bring about systemic change in the way justice is administered or if they only digitize existing inefficiencies, including protracted remand, hierarchical delays, and the exclusion of impoverished defendants.

The convergence of both theories raises a significant empirical and normative question: Is technology, as deployed in virtual courts, steering actual change in judicial outcomes—or is it simply digitising dysfunction? While technological determinism warns that the technologies introduced may eventually affect the logic and flow of legal processes, either for the better or worse, legal realism invites us to study how judges, attorneys, prison authorities, and litigants behave in the digital environment. In a developing nation like Nigeria, where internet infrastructure is

²⁹ Marshall McLuhan, *Understanding Media: The Extensions of Man* (McGraw-Hill, 1964); see also Raymond Williams, *Television: Technology and Cultural Form* (1974).

uneven, legal institutions are underfunded, and the digital gap may exacerbate already existing disparities, this tension is even more apparent. In this light, the implementation of virtual court proceedings should not be celebrated merely for its innovative technology. Rather, it must be evaluated for its practical impact on legal outcomes, especially for pre-trial detainees and vulnerable populations. The combination of Legal Realism and Technological Determinism thus provides a strong framework for examining whether Nigeria's virtual court system promotes equitable reform or, in a digital disguise, perpetuates underlying procedural inequities.

2.2.3 Procedural Justice Theory

Procedural Justice Theory emphasises that the fairness of the legal process is as important if not more important than the outcome of the decision itself³⁰.

It argues that people are more likely to comply with legal decisions, respect legal institutions, and consider outcomes as legitimate when the procedures leading to those outcomes are transparent, impartial, inclusive, and respectful³¹. Unlike substantive justice, which is mainly focused on outcomes, procedural justice is centred on the decision making process through which decisions are made.

The theory, developed and popularised by legal scholars and psychologists such as Tom R. Tyler and John Thibaut, posits that individuals are more inclined to accept even unfavourable rulings if they believe they had a fair opportunity to present their

³⁰ Tom R. Tyler, *Why People Obey the Law* (Princeton University Press, 2006) pp. 161–165.

³¹ E. Allan Lind & Tom R. Tyler, *The Social Psychology of Procedural Justice* (Springer, 1988) pp. 66–71.

case, were treated with dignity, and were heard by a neutral decision-maker³². This has significant implications for institutional trust and judicial legitimacy, especially in nations where public trust in the legal system is weakened or simply nonexistent.

In the context of virtual court proceedings in Nigeria, Procedural Justice Theory provides a critical lens through which to assess whether technological advancements improve or undermine the perceived fairness of legal procedures. The theory prompts key questions: Do all parties have an equal voice and meaningful participation in virtual courtrooms, especially those who are in detention, unrepresented litigants, and impoverished defendants? Does the digital interface's design facilitate efficient communication between the parties, counsel, and the judge? Are interpreters, support services, and legal aid mechanisms successfully incorporated into virtual hearings?

Procedural justice also consists of elements such as timeliness, transparency, consistency, and respectful treatment by judicial officers—all of which may be affected by virtual formats. For instance, frequent technical disruptions, lack of privacy, poor audio-visual quality, or limited digital access can undermine the integrity of the legal process and affect how litigants perceive the justice they receive³³. A virtual proceeding where one party cannot connect due to internet failure, or is compelled to participate from a noisy or insecure environment, may be procedurally efficient but fundamentally unfair in view of the justice theory.

³² John Thibaut & Laurens Walker, "A Theory of Procedure," (1974) 66 California Law Review 541 at 544.

³³ O.A. Akinyemi, "Challenges of Virtual Court Proceedings in Nigeria: A Procedural Justice Perspective," (2022) 10(1) *Nigerian Journal of Contemporary Law* 92 at 97.

Thus, while virtual courts may improve case disposal rates and lessen administrative burdens, they must also be evaluated through the lens of procedural justice to ascertain if they uphold principles of fairness, neutrality, and voice³⁴. If digital courtrooms inadvertently silence or marginalize vulnerable parties—due to digital exclusion, inadequate legal aid, or bad interface design—they risk undermining public trust and judicial legitimacy, even if outcomes appear efficient on the surface. In applying this theory to Nigeria’s justice sector, it becomes clear that process design is just as important to technology innovation. Therefore, courts must make sure that digital changes actively encourage inclusive, respectful, and participatory proceedings that strengthen procedural legitimacy rather than just replicating courtroom formality online.

2.3 Review of Related Literature

The intersection of technology and justice has generated substantial academic interest, especially since the COVID-19 pandemic which accelerated the global transition to virtual court proceedings. Scholars, legal practitioners, and policy experts have approached the subject from various angle,s ranging from questions of legality and constitutionaliy, to practical effectiveness and inclusiveness. This section examines significant contributions from global jurisdictions, Nigerian academic and institutional works, and civil society reports to understand how virtual courts have influenced access to justice and prison decongestion, while identifying gaps that it

³⁴ L.A. Ojelabi, & M.A. Abdulraheem-Mustapha, “Access to Justice in the Era of Virtual Courts in Nigeria: A Critical Appraisal,” (2021) 7(2) *UNILAG Law Review* 63 at 68.

aims to fill. The discussion reveals areas of innovation, contention, and enduring disparities.

2.3.1 Global Perspectives on Virtual Courts

Globally, virtual court systems have generated both optimism and caution. Countries like India, Kenya, and the U.K have implemented virtual courts with varying degrees of success. In India, the ambitious e-Courts Project, launched under the National e-Governance Plan, has received accolades for increasing transparency and decreasing the number of people who physically visit courts³⁵. However, scholars note that its uneven application across rural and urban areas has resulted in uneven access to justice, especially for litigants who are impoverished or technologically excluded³⁶. Hence, worries about infrastructure, digital literacy, and procedural fairness outweigh the project's success in accelerating speed and transparency.

In Kenya, virtual courtrooms emerged as a practical solution to the COVID-19 paralysis of the judicial system. What started off as an emergency recourse has now evolved into a semi-permanent aspect of the legal system, particularly in Nairobi and Mombasa, where courts continue to use platforms like Zoom and Microsoft Teams³⁷. Kenyan legal scholars have acknowledged the benefits of reduced delay and more flexibility, but also caution that in the absence of adequate institutional safeguards,

³⁵ Ministry of Law and Justice (India), *e-Courts Mission Mode Project*, available at: <<https://ecourts.gov.in>> accessed 10 June 2025.

³⁶ G. Bhatia, "Access to Justice in the Age of Digital Courts," (2022) 14(1) *Indian Law Review* 23.

³⁷ Leveraging on Digital Technology in Administration of Justice, *KIPPRA (Lagos, July 1st 2021)* <<https://kippra.or.ke/leveraging-on-digital-technology-in-administration-of-justice/>> accessed 6th July 2025.

vulnerable groups such as those living in distant areas and women who are victims of gender-based violence may have additional difficulties in virtual settings³⁸.

The United Kingdom represents a tightly regulated model. Virtual hearings were introduced during the pandemic, with clear procedural guidelines from the Judicial Office of England and Wales. The use of virtual hearings has gradually increased, especially in civil and family matters³⁹. Special attention was paid to safeguarding vulnerable litigants, especially minors and unrepresented parties, by ensuring that procedural fairness and the right to be heard were not jeopardized by the digital forTontain public confidence in judicial outcomes, UK literature emphasizes the value of hybrid systems that combine virtual and in-person procseses⁴⁰.

Toether, these global experiences demonstrate the revolutionary potential of virtual justice systems while highlighting enduring vulnerabilities such as digital fatigue, due process issues, and technical exclusion. They provide insightful comparisons for Nigeria's developing virtual adjudication experiment.

2.3.2 Nigerian Studies on Justice Delivery and Prison Decongestion

In Nigeria, scholarly and policy interest in virtual courts grew significantly during and after the pandemic. For example, DLA Piper notes that the pandemic “changed judges’ and lawyers’ attitudes” toward technology, accelerating the adoption of

³⁸ Cliffe Dekker Hofmeyr, ‘The future of litigation in Kenya: Virtual or hybrid?’ (19th October 2021) <<https://www.cliffedekkerhofmeyr.com/news/publications/2021/Dispute/dispute-resolution-alert-19-october-the-future-of-litigation-in-kenya-virtual-or-hybrid-.html>> accessed 7th July 2025.

³⁹ Judicial Office for England and Wales, *Remote Hearings Protocol* (2020), available at: <https://judiciary.uk>.

⁴⁰ R. Susskind, *Online Courts and the Future of Justice* (Oxford University Press, 2019).

remote hearings which helped to mitigate delays and facilitate bail⁴¹. Similarly, legal analysts reported that virtual hearings brought “increased access to justice... reduced costs for litigants...and improved efficiency” in jurisdictions equipped with reliable infrastructure⁴².

However, other research has developed a more circumspect approach. Joseph Onyekwere, for example, highlights that there are infrastructural challenges that would affect its implementation in courts that sit in rural or remote areas.⁴³. AbdulBasit Abdulkareem also states that unequal access to reliable internet and technology creates an uneven playing field, potentially excluding marginalized communities from justice⁴⁴. Other authors have also highlighted that the implementation of Virtual Court Proceedings is challenged by poor infrastructure and uneven ICT distribution across states⁴⁵. Courts in major cities like Lagos and Abuja have fared better in implementing virtual hearings, but courts in rural or under-resourced regions have struggled to adopt the same approach. He contends that

⁴¹ Muiyiwa Ogunbenro, and others, ‘COVID-19: The Effects on Dispute Resolution in Nigeria’, *DLA Piper Africa Nigeria*, <<https://www.dlapiper.com/en/insights/publications/africa-connected/africa-connected-issue-5/the-effects-on-dispute-resolution-in-nigeria>> accessed 7th July 2025.

⁴² Legal Tech, ‘Nigerian Supreme Court says Virtual Court Judgements are Binding’, *Tech Next* <https://technext24.com/2020/07/16/virtual-court-sittings-and-the-evolution-of-virtual-legal-system-in-nigeria/?utm_source=chatgpt.com> accessed 7th July 2025.

⁴³ Joseph Onyekwere and Bridget Chiedu Onochie, ‘Lawyers differ on practicability of virtual court’, *The Guardian* (Lagos 17th May 2020) <<https://guardian.ng/features/lawyers-differ-on-practicability-of-virtual-court/>> accessed 10th July

⁴⁴ AbdulBasit Abdulkareem, “The Rise of Virtual Courts in Nigeria,” *The Jurist Newspaper* (26 February 2024) <<https://thejuristng.com/2024/02/26/the-rise-of-virtual-courts-in-nigeria/>> accessed 10th June 2025.

⁴⁵ Abimbola Davies, and others, “Experimental Trials of the Virtual Court Proceedings in Nigeria: An Empirical Perspective,” *International Journal for Court Administration* 3 15(2) (2024) <<https://doi.org/10.36745/ijca.550>> accessed 6 June 2025.

this uneven implementation, raises questions about unequal access to justice and may exacerbate already existing structural inequities within the Nigerian legal system.

Civil society organisations have also contributed to this conversation. According to reports by the Human Rights Agenda Network and Network of University Legal Aid Institutions (NULAI) virtual hearings have aided in fast-tracking first arraignment hearings, particularly in pilot programmes supported by donor agencies⁴⁶. However, these gains are often short-lived in the absence of sustained institutional support, reliable internet connectivity, and trained personnel across correctional facilities and courtrooms.

Overall, although Nigerian literature acknowledges the potential of virtual courts to alleviate custodial overcrowding and enhance the delivery of justice it also acknowledges practical limitations that threaten sustainability and inclusivity.

2.3.3 Institutional and NGO Reports

In addition to scholarly works, critical reports on Nigeria's transition to virtual courts have been issued by a number of institutional and non-governmental organizations. The Nigerian Correctional Service (NCoS), in its 2022 annual review, observed a slight decrease in the number of inmates awaiting trial in states that have implemented digital hearings during the COVID-19 period⁴⁷. However, it also noted that the improvements were not consistent across the country and were very isolated.

⁴⁶ Network of University Legal Aid Institutions (NULAI), *COVID 19 Research Presentation and Press Briefing* <<https://nulai.org/wp-content/uploads/2020/12/COVID-19-RESERACH-PRESENTATION-AND-PRESS-BREIFING.pdf>> accessed 6th July 2025.

⁴⁷ Nigerian Correctional Service, *Annual Report 2022*.

The Legal Aid Council of Nigeria has highlighted the importance of integrating virtual court technology with legal aid delivery systems⁴⁸. In its internal policy brief, the Council noted that virtual courts are often inaccessible to indigent defendants unless legal counsel is provided with data access, devices, and logistics to participate meaningfully.

The Nigerian Bar Association (NBA) has consistently stressed the need for uniformity, training, and digital security. It has called on the judiciary to adopt uniform protocols for virtual hearings to eliminate jurisdictional anomalies and procedural confusion.

Reports from international NGOs such as Avocats Sans Frontières (ASF) and Amnesty International Nigeria provide a more rights-based assessment. Both organisations have warned that digital hearings may alienate defendants who lack digital literacy, access to legal representation, or privacy when appearing from custodial facilities⁴⁹. Amnesty's 2021 report on prison conditions in Nigeria called for safeguards to ensure that remote hearings do not jeopardize defendants' dignity or legal protection.

These institutional viewpoints reveal a two-faced reality: virtual courts have the obvious benefit of lowering the backlog of cases and the administrative burden, but they also run the risk of producing or widening existing justice disparities if intentional equitable measures are not taken.

⁴⁸ Legal Aid Council of Nigeria, *Policy Brief on Digital Legal Aid and Virtual Hearings* (2021).

⁴⁹ Amnesty International Nigeria, (2009); Avocats Sans Frontières, *E-Rights Enhancing Enhancing digital rights in Nigeria* <<https://www.avocatssansfrontieres-france.org/en/missions/e-rights/>> accessed 6th July 2025.

2.4 Gaps in Existing Literature

Despite the increased interest in virtual court proceedings, several gaps persist in the Nigerian legal literature. The lack of empirical, multi-state research that establishes a clear connection between the use of virtual courts and statistically quantifiable prison decongestion is a significant drawback. The majority of recent study is still anecdotal and frequently focuses on Lagos State or Abuja, excluding experiences in Nigeria's Middle Belt, North-East, and South-South regions.

Moreover, constitutional interpretation of virtual proceedings specifically with relation to the right to public hearing and examination of witnesses in criminal trials remains underexplored. While many studies have focused on operational effectiveness, few examine the more complex legal questions surrounding the compatibility of virtual courts with the constitutional safeguards enshrined in Section 36 of the 1999 Constitution.

Finally, the literature lacks a comprehensive exploration of how stakeholder perceptions including those of judges, lawyers, inmates, and prison officials shape the legitimacy and effectiveness of virtual adjudication in practice.

2.5 Conclusion

This chapter reviewed the key ideas, theories, and existing studies on virtual court proceedings and how they relate to justice delivery and prison decongestion in Nigeria. From the literature examined, it is clear that virtual hearings have become an

important part of modern judicial systems around the world and are gradually taking root in Nigeria.

Theories such as the Access to Justice Theory, Legal Realism, and Procedural Justice Theory helped to explain both the promises and the challenges of virtual courts. While these systems can make trials faster, cheaper, and more accessible, they also raise concerns about fairness, infrastructure, and inclusion—especially for people in rural or under-resourced areas.

Overall, the literature shows that virtual court proceedings have the potential to improve justice delivery and reduce overcrowding in Nigerian prisons. However, their success will depend on good laws, reliable technology, proper training, and policies that ensure equal access for everyone.

The next chapter will examine the legal and institutional framework governing virtual court proceedings in Nigeria and how these structures support or limit their effective operation.

CHAPTER THREE

LEGAL AND INSTITUTIONAL FRAMEWORK FOR VIRTUAL COURT PROCEEDINGS IN NIGERIA: A COMPARATIVE ANALYSIS

3.0 Introduction

In Nigeria, the legal basis for virtual court proceedings rests on a delicate blend of constitutional provisions, enabling laws, and judicial policy developments. In order to prevent procedural errors and constitutional violations, the digital transformation of court processes, its legitimacy, sustainability, and enforceability must be positioned within Nigeria's established legal framework, even though it gained unprecedented rise during the COVID-19 pandemic.

3.1 The Constitutional and Legal Basis for Virtual Court Proceedings

a) 1999 Constitution (as amended)

The 1999 Constitution of the Federal Republic of Nigeria (as amended) forms the supreme legal foundation for all judicial proceedings in the country. At the heart of this discourse is Section 36, which guarantees the right to a fair hearing in both civil and criminal matters⁵⁰. This section mandates that every person shall be entitled to a fair and public trial. *Subsection (1)* of Section 36 provides that every person shall be entitled to a fair hearing within a reasonable time by a court or tribunal established by law and constituted in such a manner as to secure its independence and impartiality. This provision is particularly relevant in assessing the constitutional validity of virtual proceedings⁵¹, especially where questions arise concerning delay, digital access, or the neutrality of the process.

Section 36(3) goes on to require that proceedings must be held in public, thereby upholding the principle of open justice and accountability. Critics have questioned whether virtual hearings, especially those conducted via private digital platforms could meet this constitutional requirement. However, courts have since clarified that virtual sittings do not inherently violate the right to public hearing, as long as access is not arbitrarily restricted and that the platform used is open to the parties and, where applicable, to the public. In *Attorney-General of Lagos State v Attorney-General of the*

⁵⁰Section 36 (1)-(6), Constitution of the Federal Republic of Nigeria 1999 (as amended).

⁵¹ Courtroom Mail, "Covid-19 and the legality of virtual court proceedings in Nigeria" (2020) <<https://www.courtroommail.com/covid-19-and-the-legality-of-virtual-court-proceedings-in-nigeria/>> accessed 20th July 2025.

*Federation*⁵² and *Attorney General of Ekiti State v Attorney General of the Federation & 2 others*⁵³, the Supreme Court stated that the suits are speculative and premature until there is an infringement of a right by the virtual hearing and ruled that virtual court hearings are not unconstitutional⁵⁴. That is to say that the public hearing requirement can be satisfied if proceedings are accessible to the parties and interested observers, even if conducted through digital means.

Additionally, Section 36(6) protects the rights of accused persons to adequate facilities for their defence, including the right to be informed of the nature of the offence, the right to legal representation and to examine witnesses. Any utilization of virtual court proceedings must, therefore, ensure that these safeguards are maintained. For instance, if an accused is unable to consult privately with counsel during a virtual session or is denied the opportunity to cross-examine witnesses effectively due to technological constraints, the legitimacy of such proceedings may be called into question⁵⁵. Hence, virtual court proceedings must be designed in such a way that these rights are preserved.

By the provisions of Section 274 of the 1999 Constitution, the Chief Judge of a State High Court may make rules for regulating the practice and procedure of the particular

⁵² *Attorney General of Lagos State v Attorney General of the Federation & the National Assembly* (Unreported suit no SC/CV/260/2020) delivered 14th July 2020.

⁵³ *Attorney General of Ekiti State v Attorney General of the Federation & 2 others* (Unreported suit no. SC/CV/261/2020) delivered 14th July 2020.

⁵⁴ I. Sule, and others (2024). Virtual Court Proceedings in Nigeria: Some Legal Matters Arising. *European Journal of Law and Political Science*, 3(3), 17–22
<<https://ej-politics.org/index.php/politics/article/view/91#title-0>>accessed 26th June 2025.

⁵⁵ Ogundipe and Akinola, 'Covid-19 and the Challenges of Access to Justice in Nigeria' *Run Law Journal* 4 (1) 2021,
<https://www.researchgate.net/publication/360270735_Covid-19_and_the_Challenges_of_Access_to_Justice_in_Nigeria> accessed 20th July 2025.

High Court⁵⁶. Although not originally designed with virtual court proceedings in mind, this section has provided statutory grounding for judicial innovations. It further gives legality to the Practice Directions issued by various high courts enabling them to formally adopt virtual modes of hearing. Thus, while the Constitution does not explicitly mention ‘virtual court proceedings’, its provisions provide a comprehensive framework within which such innovations must operate.

b) Administration of Criminal Justice Act (ACJA) and State Laws

Beyond constitutional guarantees, the Administration of Criminal Justice Act, 2015 (ACJA) provides procedural guidance for the conduct of criminal trials in Nigeria. It was enacted to revolutionise criminal procedure in Nigeria by promoting efficiency, transparency, and the protection of the rights of suspects and defendants. While the Act does not explicitly contemplate virtual court proceedings, section 1 of the Act outlines guiding principles that support innovations aimed at improving the justice delivery system. In simple terms the ACJA emphasizes efficient and swift dispensation of justice⁵⁷. This has been interpreted by courts as a justification for the adoption of virtual platforms as a means of achieving the Act’s objectives, particularly in situations of emergency or delay. Section 234(3)(a) of the Act provides that where in any proceedings the court determines it is necessary to protect the identity of the victim or a witness the court may receive evidence by video link. Though this section applies only to “(a) offences under section 231 of the Act⁵⁸ (b) offences under the Prevention of Terrorism Act, (c) offences relating to Economic and Financial Crimes,

⁵⁶ Constitution of the Federal Republic of Nigeria 1999 (as amended).

⁵⁷ Section 1, Administration of Criminal Justice Act 2015.

⁵⁸ Rape, defilement, incest, unnatural or indecent offences against persons

(d) Trafficking in Persons and related offences. (e) any other offence in respect of which an Act of the National Assembly permits the use of such protective measures”⁵⁹. This section has set in motion the use of video conferencing in taking evidence in Nigeria⁶⁰

Importantly, these adoptions demonstrate that while federal legislation may not expressly provide for virtual courts, state judiciaries are empowered under Section 274 of the Constitution⁶¹ and relevant High Court Laws to adopt rules of practice that promote justice delivery in line with local realities.

c) Evidence Act and Practice Directions

The Evidence Act, 2011, though enacted before the adoption of virtual courts, contains several provisions that support the move towards digital court processes. Of particular relevance is Section 84, which deals with the admissibility of electronic evidence. It allows for the use of electronically generated documents and data, provided that certain conditions regarding their authenticity, reliability, and proper handling are met. This section has played a key role in enabling remote hearings, as it allows digital documents, audio-visual recordings, and electronic communication to be used during proceedings. Furthermore, section 274 of the Constitution⁶² permits courts to regulate their own procedure, thereby empowering them to adopt necessary rules and practice directions for emerging realities like virtual hearings.

⁵⁹ Section 234(4), Administration of Criminal Justice Act, 2015.

⁶⁰ Ekhaton, Ekhorutomwen Gabriel, The Application of Video Conferencing in Judicial Proceedings in Nigeria, SSRN. (June 19, 2020) < <https://ssrn.com/abstract=3630821> > accessed June 19th 2025

⁶¹ Constitution of the Federal Republic of Nigeria 1999 (as amended).

⁶² Ibid.

In 2020, following the outbreak of the COVID 19 pandemic, the Chief Justice of Nigeria (CJN) and heads of various courts issued Practice Directions enabling courts to formally adopt virtual modes of hearing through platforms such as Zoom, Microsoft Teams, and Skype. The National Judicial Council (NJC) also endorsed the use of technology in judicial proceedings, asserting that the judiciary must not be paralysed by physical limitations⁶³. The NJC's Guidelines for Court Sittings During the COVID-19 Pandemic (2020) clarified that virtual proceedings were lawful and binding, provided they adhered to established procedural norms. For example, the Lagos State Judiciary (Remote Hearing of Cases) Practice Directions 2020 provides procedural guidelines for the conduct of remote court sittings, aligning the state's criminal procedure framework with technological innovation. Similarly, several state high courts have amended their Rules of Court to reflect the admissibility and conduct of virtual proceedings for certain categories of cases.

These practice directions, while administrative in nature, have been adopted by various superior courts of record, including the Supreme Court, Court of Appeal, and Federal High Court, and formed the operational basis for virtual justice delivery during the height of the pandemic. They have also interpreted these directions as being within their inherent powers to regulate proceedings, and have upheld the validity of rulings and judgments delivered via virtual means.

It should be stressed that virtual court proceedings began as an emergency response, but they are now legally supported through constitutional interpretation, relevant laws,

⁶³ National Judicial Council, Guidelines and Practice Directions for Remote Court Proceedings during the COVID-19 Pandemic, <<https://nicnadr.gov.ng/images/nicn-practice-direction.pdf>> accessed 10th July 2025.

and judicial policies. However, to stay within the bounds of the Constitution, these proceedings must still protect key legal rights—especially public access, fair hearing, and equal treatment for all parties. As Nigeria continues to embrace digital justice, continued legal reforms and proper training for judges will be key to making sure that innovation does not come at the cost of fundamental rights.

d) Judicial Decisions on Virtual Court Proceedings

Judicial interpretation has played an important role in ensuring the validity, scope, and procedural boundaries of virtual court proceedings in Nigeria. In the absence of specific statutory provisions on virtual hearings, courts have had to strike a balance between technological innovation and constitutional safeguards⁶⁴ particularly the right to a fair hearing, public trial, and due process. This section examines key decisions that have shaped the legal environment of virtual courts in Nigeria, focusing on their facts, holdings, and broader implications for justice delivery.

3.2 *The State v Olalekan Hameed*⁶⁵: Nigeria’s First Virtual Court Proceeding

The first-ever virtual court session in Nigeria happened on May 4, 2020, at the High Court of Lagos State in Ikeja, marking a significant milestone in the

⁶⁴ Emuobo Emudainohwo, “Appraising the constitutionality of virtual court hearings in the National Industrial Court of Nigeria” *Nnamdi Azikiwe University Journal of International Law and Jurisprudence* (2021) Vol. 12(1).

⁶⁵ Virtual Court Sittings and the Evolution of Virtual Legal System in Nigeria, *LawCare Nigeria* July 17th 2020.

<<https://lawcarenigeria.com/virtual-court-sittings-and-the-evolution-of-virtual-legal-system-in-nigeria/>> accessed 22nd June 2025.

country's legal system. The case at hand was the *State v Olalekan Hameed*, where the defendant, a professional driver, faced charges for the murder of Mrs. Jolasun Okunsanya, a 76-year-old woman, on December 1, 2018. According to the allegations, Mr. Hameed strangled Mrs. Okunsanya and took her valuables, a crime that was later prosecuted under the Lagos State Criminal Code.

During the trial,⁶⁶ the prosecution demonstrated that Mr. Hameed, who was the deceased's personal driver, entered her home in Lagos under the guise of running an official errand, then proceeded to strangle her and steal money and valuables. The case was brought before the court for judgment after remote proceedings were held due to the restrictions imposed by the COVID-19 pandemic. In accordance with the Lagos State Judiciary's Practice directions for remote hearings during the COVID-19 Pandemic, the court held its proceedings online. The session ran from 11:00 a.m. to 2:00 p.m., with all parties participating remotely. The presiding judge, the defendant, the prosecution and defence teams, along with witnesses connected via the Zoom video conferencing platform, marking a historic first in Nigeria.

At the end of proceedings, the judge delivered the judgment remotely, stating:

“The sentence of this court upon you, Olalekan Hameed, is that you be hanged by the neck until you are pronounced dead, and may the Lord have mercy upon your soul. This is the virtual judgment of the court.”⁶⁶

⁶⁶ *The State v Olalekan Hameed*, Unreported Judgment, Lagos High Court (Ikeja), delivered on 4 May 2020.

See also: Nigeria Holds First Online Court Sitting In Lagos, Man Sentenced To Death For Murder, Sahara Reporters (Lagos, May 4th 2020) <<https://saharareporters.com/2020/05/04/nigeria-holds-first-online-court-sitting-lagos-man-sentenced-death-murder>> accessed 22nd June 2025.

3.2.1 Implication

The significance of this case goes beyond just the verdict in a murder trial. It marked Nigeria's entry into the world of digital court proceedings, setting a procedural and symbolic precedent for subsequent virtual hearings. The initiative was commended by senior members of the Bar, including Ebun-Olu Adegboruwa, SAN, who stated that it would help facilitate smooth and effective administration of justice⁶⁷. Although questions remain about the long-term effectiveness and fairness of virtual proceedings. This case proved that technology can enable continuity and accessibility in Nigeria's judicial process. It also laid the groundwork for future discussions about how digital platforms can ensure that justice is not only done but seen to be done.

3.3 *Attorney General of Lagos State v Attorney General of the Federation & National Assembly of the Federal Republic of Nigeria*⁶⁸

Facts and Context:

The COVID19 pandemic that hit in early 2020 prompted both the Federal Government of Nigeria and various State Governments (including Lagos, Osun, Ogun, and Ekiti) to impose restrictions on movement and gatherings. These restrictions included limiting court proceedings to urgent and time-bound matters, which sparked an urgent call for a new approach that utilized digital platforms. The

⁶⁷ LegalTech: Nigerian Supreme Court Says Virtual Court Judgements are Binding, July 16th 2020. <<https://technext24.com/2020/07/16/virtual-court-sittings-and-the-evolution-of-virtual-legal-system-in-nigeria/>> accessed 22nd June 2025.

⁶⁸ *Attorney General of Lagos State v Attorney General of the Federation & National Assembly of the Federal Republic of Nigeria SV/CV/260/2020 (unreported)*.

pressing issue was whether virtual proceedings conducted via platforms such as Zoom, Microsoft Teams, and Skype satisfied the constitutional requirements for a fair and public hearing.

The constitutional provisions at the heart of this debate are Sections 36(3) and 36(4) of the 1999 Constitution of the Federal Republic of Nigeria (as amended), which states respectively that:

“...the proceedings of a court or tribunal...shall be held in public”; and

“...whenever any person is charged with a criminal offence, he shall be entitled to a fair hearing in public within a reasonable time by a court or tribunal”.

The critics of virtual hearings argued that these provisions envisaged only traditional, in-person proceedings. However, proponents presented three key arguments:

1. The Constitution does not expressly forbid virtual proceedings, and it is a settled rule of statutory interpretation that what is not expressly prohibited is deemed permitted⁶⁹.
2. The judiciary is granted inherent powers to regulate its proceedings under *Sections 254, 254F, 259, and 274 of the Constitution*⁷⁰. These provisions expressly vest Heads of Courts with the authority to make rules of practice and procedure for their respective courts.

⁶⁹ *Theophilus v Federal Republic of Nigeria* (1996) 1 NWLR (Pt. 423) 139.

⁷⁰ Constitution of the Federal Republic of Nigeria 1999 (as amended).

3. The term “public” as used in the Constitution is not strictly as defined as a physical space, making it open to interpretation in favour of digital or remote access⁷¹.

A legal question came therefore when the Lagos and Ekiti State Governments, acting through their Attorneys-General, approached the Supreme Court of Nigeria to seek a definitive ruling. The issue before the apex Court was;

“Whether, having regard to Section 36 of the Constitution, remote proceedings conducted via technological platforms (such as Zoom, Microsoft Teams, and Skype) by federal and state courts across Nigeria were constitutional?”

The case was heard by a seven-member panel of the Supreme Court, led by Rhodes-Vivour, JSC. In its ruling, the Court held that both suits were speculative and failed to show how virtual hearings had prejudiced any citizen’s right to a fair trial. The Court ruled: *“This suit is speculative and, having been withdrawn, it is struck out”*.

Although the matter was disposed of as speculative, **Rhodes-Vivour, JSC** went further in an **obiter dictum**, stating: *“As of today, virtual sitting is not unconstitutional”*.

While this statement was made in passing, and thus **does not have binding force**, it nonetheless serves as a strong judicial endorsement of the validity of virtual

⁷¹ Courtroom Mail, *“Covid-19 and the legality of virtual court proceedings in Nigeria”* (2020) Ibid.

proceedings in Nigeria. By making this pronouncement, the apex Court indicated that virtual hearings, when aligned with the Constitution and relevant Practice Directions, do not undermine the principles of public hearings, fair trials, and due process.

3.3.1 Implication of the Decision

The ruling highlighted the fact that the Constitution, when interpreted with intention, can accommodate advancements in judicial technology. It reaffirmed that virtual proceedings are not just a temporary solution but could become a lasting aspect of Nigeria's judicial process, especially when these proceedings are conducted openly, securely, and in a manner that preserves the dignity, accessibility, and integrity of hearings.

Although the matter was dismissed and the Court's observations were made obiter, the case remains significant for Nigeria's evolving judicial landscape. It confirms that the shift to virtual proceedings aligns with both the spirit and letter of the Constitution, and will continue to influence the institutional approach to digital justice in Nigeria⁷².

3.4 The Emefiele's Naira Redesign Case⁷³

Another notable illustration of the judicial endorsement of virtual proceedings can be found in the ongoing trial of Mr. Godwin Emefiele, the former Governor of the Central Bank of Nigeria (CBN), before the High Court of the Federal Capital

⁷² *Attorney General of Lagos State v Attorney General of the Federation & National Assembly of the Federal Republic of Nigeria SV/CV/260/2020*
<<https://www.olaniwunajayi.net/wp-content/uploads/2021/03/Notable-Cases-.pdf>> accessed 21st June 2025.

⁷³ Court grants EFFC's requests for virtual testimonies in Emefiele's Redesign trial, Premium Times (Lagos, March 13th 2025)
<<https://www.premiumtimesng.com/news/top-news/780614-court-grants-efccs-request-for-virtual-testimonies-in-emefieles-naira-redesign-trial.html>> accessed 22nd June 2025.

Territory (FCT), Maitama. The case, presided over by Hon. Justice Maryanne Anenih, provides a practical example of how courts have leveraged digital proceedings to balance evidentiary needs with procedural fairness.

The trial emerged from the controversial Naira Redesign Policy, announced under Mr. Emefiele's leadership, which led to a nationwide cash shortage in early 2023. Mr. Emefiele and former President Muhammadu Buhari now later defended the policy as a means to curb vote-buying ahead of the 2023 general elections. However, it came under scrutiny when evidence surfaced suggesting that it bypassed established institutional protocols. During earlier hearings, former CBN Deputy Governor Kingsley Obiora testified that the bank's Board of Directors had never endorsed the policy. Similarly, Folashodun Shonubi, another former acting CBN Governor, stated that although the CBN's Currency Management Department proposed a redesign as early as 2021, Mr. Emefiele repeatedly delayed the initiative until he secured the President's direct and unilateral approval in 2022.

The Supreme Court, in its decision nullifying the Naira Redesign directive, held that the initiative violated constitutional and procedural standards, and ordered the continued use of the old N200, N500, and N1,000 banknotes. The Court sharply criticised the administration for its inability to follow due process and its violation of legal and institutional safeguards. In the proceedings before the FCT High Court, the Economic and Financial Crimes Commission (EFCC) announced its intention to call two witnesses based in the United Kingdom to give evidence remotely. The EFCC's lead counsel, Rotimi Oyedepo, SAN, submitted additional proof of evidence to support the prosecution's case and sought the court's permission for the virtual

examination of these witnesses. Olalekan Ojo, SAN, representing Mr. Emefiele, objected to this request, arguing that the EFCC ought to file a formal application specifying the witnesses' identities, their proposed testimony, and the reasons for seeking virtual proceedings. Hon. Justice Anenih overruled the objection, holding that the EFCC had satisfied the procedural requirements for remote testimony and that the details of the witnesses, including their roles and justification for virtual proceedings, were adequately set out in the prosecution's documents. The court reasoned that accommodating remote evidence was in the interests of justice and efficiency, especially when witnesses were based in another jurisdiction.

3.4.1 Implication for Virtual Court Practice:

This ruling confirms the growing judicial acceptance of virtual proceedings in Nigeria. The court's decision to permit remote testimony reflects an evolving understanding of how digital platforms can aid in speedy and prompt hearings, especially in complex financial crimes that span multiple jurisdictions. The proceedings also underscored the court's commitment to ensuring that technological innovations do not impede procedural fairness. By admitting witness testimony via virtual platforms, the court balanced the need for witness availability, the integrity of proceedings, and the defendant's right to a fair hearing, aligning Nigeria's judicial practice with global trends in digital justice.

3.5 Institutional Framework for Virtual Court Proceedings

The success and sustainability of virtual court proceedings in Nigeria are dependent not only upon constitutional and statutory provisions but also on the structure of the institution⁷⁴ responsible for implementing digital adjudication. The success or failure of this shift rests squarely upon the capacities, constraints, and combined efforts of the institutions that make up Nigeria's justice sector.

a) Judiciary

The judiciary plays an important role in the institutionalisation of virtual proceedings, acting as both an arbiter of disputes and as an administrator of digital justice

⁷⁴ Adebisi Onanuga, "Can e-justice work in Nigeria?", *The Nation* <<https://thenationonline.net/can-e-justice-work-in-nigeria/>> accessed 20th July 2025.

infrastructure. In response to the COVID-19 pandemic disruption of court proceedings, Chief Judges across Nigeria issued Practice Directions⁷⁵ and Guidelines for Virtual Hearings, laying the groundwork for remote trials⁷⁶. These instruments have been reinforced by staff training programmes⁷⁷, ICT acquisition, and digital infrastructure upgrades across selected courts. The Federal High Court⁷⁸, some State High Courts (such as those in Lagos and the FCT⁷⁹ including Edo State), and the National Industrial Court have embraced e-courtrooms and e-filing platforms, allowing proceedings to continue despite movement restrictions. However, the experience varies throughout the legal system. In many Magistrate Courts and Customary Courts, particularly in rural areas, the transition towards virtual proceedings has been hampered by poor ICT infrastructure, inconsistent internet connectivity, and insufficient staff training. This institutional imbalance has resulted in a two-tiered digital justice system: one for well-funded urban courts and another for resource-constrained rural courts.

⁷⁵ The National Judicial Council, *COVID-19 Policy Report: Guidelines for Court Sittings and Related Matters*, 8 May 2020 mandated virtual sittings, electronic recording, livestreaming, and digital notification of courts' weekly cause lists, *Lawyard (May 2020)* <<https://www.lawyard.org/news/covid-19-njc-issues-guidelines-for-court-sittings-and-related-matters>> accessed 20th July 2025.

⁷⁶ Lagos State Judiciary, *Remote Hearing of Cases (COVID-19 Period) Practice Directions*, issued May 2020.

⁷⁷ Emmanuel Agbo, "Federal High Court to implement hybrid e-filing system in Lagos", *Premium Times* <<https://www.premiumtimesng.com/news/top-news/801364-federal-high-court-to-implement-hybrid-e-filing-system-in-lagos.html>> accessed 20th July 2025.

⁷⁸ Federal High Court of Nigeria, *Practice Direction*, dated 18 May 2020 by Chief Judge Justice John Tsoho authorised virtual hearings via Zoom or Skype, subject to parties' consent; including scheduling via registry and publicising on Cause List <<https://www.courtroommail.com/fhc-releases-new-practice-directions-allowing-virtual-proceedings/>> *Courtroom Mail (19th May 2020)*.

⁷⁹ High Court of the Federal Capital Territory (Civil Procedure) Rules 2025 (effective 3 March 2025) introduced provisions for electronic filing and virtual hearings as part of formal Civil Procedure Rules reforms, *Templars Law* <<https://www.templars-law.com/knowledge-centre/fct-high-court-issues-new-civil-procedure-rules-key-updates/>> accessed 20th July 2025.

b) Correctional Institutions.

The Nigerian Correctional Service (NCoS) plays a pivotal role in the implementation of virtual hearings within the criminal justice sector, especially in the context of pre-trial proceedings and remand hearings. The establishment of Virtual Court Halls⁸⁰ within selected prison facilities have been a significant institutional response, allowing inmates to participate in hearings remotely and reducing the operational delays associated with transporting detainees to and from courts⁸¹.

However, institutional deficiencies impede the effectiveness of this initiative. Reports reveal inconsistencies in the availability of internet connectivity across facilities, limited access to requisite equipment (such as screens, microphones, and cameras), and a shortage of trained personnel capable of managing virtual proceedings. These constraints disproportionately affect rural and under-resourced prisons, thereby exacerbating existing inequities and limiting the benefits of virtual court proceedings for a significant portion of Nigeria's inmate population.

c) Ministry of Justice and The Nigerian Bar Association (NBA)

The Federal and State Ministries of Justice have been instrumental in advancing virtual court proceedings. At the federal level, the Office of the Attorney General has advocated for digital reforms, integrating online case management platforms and

⁸⁰ Federal Ministry of Information and National Orientation, *FG Launches Virtual Court Facilities to Aid Decongestion in Correctional Centres* (Press Release, 6 December 2021)

⁸¹ "How FG began virtual proceedings in correctional centres", *Daily Trust* (Dec 2021) <<https://dailytrust.com/how-fg-began-virtual-proceedings-in-correctional-centres/>> accessed 20th July 2025.

making legislative recommendations to facilitate virtual hearings⁸². State Ministries of Justice have likewise promoted digital case-flow systems and advocated for legislative adjustments that legitimize and operationalize remote proceedings⁸³.

The Nigerian Bar Association (NBA) has acted as both a catalyst and a watchdog in this area. Through training seminars⁸⁴, webinars⁸⁵, and capacity-building programmes⁸⁶ The NBA has mobilised its members to adapt to digital platforms and adhere to best practices for virtual proceedings. The Association has also engaged in ongoing dialogue with the judiciary and government to push for standardised national protocols, enhanced data protection measures, and investment in digital infrastructure across all levels of Nigeria's court system⁸⁷.

⁸² PartnersGlobal, *Using Technology to Increase Access to Justice: Best Practices from the Reforming Pretrial Detention in Nigeria Project* (2024) 7
<<https://www.partnersglobal.org/wp-content/uploads/2024/02/Using-Technology-to-Increase-Access-to-Justice-Best-Practices-from-the-Reforming-Pretrial-Detention-in-Nigeria-Project.pdf>> accessed 20th July 2025.

⁸³ Digital Times, *Abia Ministry of Justice Embarks On Digital Transformation* (5 February 2025)
<<https://digitaltimesng.com/abia-state-ministry-of-justice-embarks-on-digital-transformation/>> accessed 20th July 2025.

⁸⁴ NBA Ikeja, *"Lagos State Judiciary Partners with NBA Branches for Training on Total e-Filing of Court Processes"* (10 March 2025),
<<https://nbaikeja.ng/lagos-state-judiciary-partners-with-nba-branches-for-training-on-total-e-filing-of-court-processes/>> accessed 20th July 2025.

⁸⁵ Nigerian Bar Association, *"NBA Digital Committee Hosts Groundbreaking Webinar on AI and the Future of Legal Practice in Nigeria"*,
<<https://blog.nigerianbar.org.ng/2025/07/11/nba-digital-committee-hosts-groundbreaking-webinar-on-ai-and-the-future-of-legal-practice-in-nigeria/>> accessed 20th July 2025.

⁸⁶ Nigeria Bar Association, *"NBA Legal Education Committee Hosts Webinar on Digital Law and Learning, (4th March 2025)"*,
<<https://blog.nigerianbar.org.ng/2025/03/04/nba-legal-education-committee-hosts-webinar-on-digital-law-and-learning/>> accessed 20th July 2025.

⁸⁷ Unini Chioma, *"E-Courts and Digital Justice: The Future of the Nigerian Judiciary"* *The Nigeria Lawyer* (2024)
<<https://thenigerialawyer.com/e-courts-and-digital-justice-the-future-of-the-nigerian-judiciary/>> accessed 20th July 2025.

3.6 Government and Judicial Policy Guidelines

Government and judicial policies have further shaped the institutional context for virtual proceedings. The Presidential Task Force (PTF) on COVID-19, in its 2020 recommendations, identified the digitalisation of court proceedings as an integral part of Nigeria's pandemic recovery and long-term judicial sector reform⁸⁸. The National Judicial Council (NJC), in turn, issued its Guidelines for Court Sittings and Related Matters (2020), formalising the use of remote proceedings across superior courts and providing a normative framework for their conduct⁸⁹.

Several State Judicial Service Commissions have followed suit, issuing their own e-justice Practice Directions to guide proceedings within their jurisdictions⁹⁰. However, the lack of binding national legislation governing digital proceedings has led to inconsistencies across courts and states. Legal scholars have advocated for a National e-Justice Framework Act that would consolidate standards, set enforcement benchmarks, and embed virtual proceedings within the formal structure of Nigeria's judicial institutions.

⁸⁸ National Judicial Council, *Implementation Guidelines for the Containment of COVID-19 issued by the Presidential Task Force on COVID-19* (Circular No. NJC/CIR/HOC/II/658, 4 May 2020) <<https://lawnigeria.com/2020/05/05/re-implementation-guidelines-for-the-containment-of-covid-19-issued-by-the-presidential-task-force-on-covid-19/>> accessed 20th July 2025.

⁸⁹ National Judicial Council, *National Judicial Council COVID-19 Policy Report: Guidelines for Court Sittings and Related Matters in the COVID-19 Period* (8 May 2020), <<https://www.courtroommail.com/njc-approves-guidelines-for-virtual-court-proceedings-e-filing-and-others/>> accessed 20th July 2025.

⁹⁰ This Day, *Judiciary: Working Within COVID-19's Choking Space* (17 May 2020), <<https://www.thisdaylive.com/2020/05/17/judiciary-working-within-covid-19s-choking-space/>> accessed 20th July 2025.

3.7 Comparative Legal Frameworks in Nigeria, Kenya, India and the United Kingdom

As Nigeria makes its gradual shift to virtual court proceedings, valuable insights can be drawn from international jurisdictions that have made significant progress in this area. Kenya, India, and the United Kingdom stand out as ideal case studies because of their contextual similarities with Nigeria, scalable judicial innovations, and commitment to inclusive judicial reform. While these countries have different infrastructure and legal traditions, their respective experiences offer compelling lessons on how to effectively implement virtual court proceedings that Nigeria can adopt or adapt.

3.7.1 Kenya

Kenya's experience with virtual court proceedings offers valuable lessons for Nigeria, especially in terms of institutional structure and the rapid adoption of technology by the judiciary during the COVID-19 pandemic. Unlike many jurisdictions that remained paralysed during lockdowns, the Kenyan Judiciary seized the crisis as an opportunity to implement long overdue reforms. It introduced the *Electronic Case Management Practice Directions* gazetted in March 2020, which enabled courts to transition to e-filing, video conferencing, and the electronic delivery of rulings and judgments⁹¹. This implementation normalised virtual hearings in both urban and rural jurisdictions⁹². Worthy of note is Kenya's early investment in the **Integrated**

⁹¹ Kenya Judiciary, *Practice Directions for Virtual Proceedings*, 2020, <<https://www.judiciary.go.ke>> accessed 26th June 2025.

⁹² George Muchiri, "CMS Expert Guide to Digital Litigation in Kenya", *CMS.Law.Tax.Future* <<https://cms.law/en/int/expert-guides/cms-expert-guide-to-digital-litigation/kenya>> accessed 21st July 2025.

Electronic Case Management System (IECMS), launched in 2011 to facilitate secure, end-to-end case tracking and public access to court information⁹³. In addition, Kenya established remote bail hearings and routine pre-trial reviews, ensuring that inmates whether in Nairobi or Kisumu could access judicial oversight without physically attending court. This has been supplemented by vigorous ICT training for judges, clerks and legal practitioners making the virtual court process a norm across rural and urban areas⁹⁴. Drawing from Mundia's empirical study on Mombasa law courts⁹⁵, it is evident that technology not only kept courts operational during the pandemic but also improved efficiency, public access, and case transparency. The remote hearings adopted allowed for inmates and pre-trial detainees to participate from correctional facilities, saving transport costs and reducing trial delays similar to the challenges faced in Nigeria. Additionally, digitalization of court systems helped address endemic problems like missing court files and poor records management⁹⁶.

The Kenyan experience reveals several important lessons for Nigeria. First, Kenya's reliance on judicial leadership, rather than waiting for parliamentary legislation, enabled a rapid response. Nigeria can adopt a similar strategy through the National Judicial Council (NJC), which could issue *Uniform Practice Directions* across courts nationwide to provide consistency in virtual proceedings. Second, Kenya's approach

⁹³ Leon Poshai and Shikha Vyas-Doorgapersad, "Digital justice delivery in Zimbabwe: Integrated electronic case management system adoption", *South African Journal of Information Management* (2023) Vol. 25(1) <<https://scielo.org.za/scielo.php>> accessed 21st July 2025.

⁹⁴The Africa Judges and Jurists Forum (AJJF) "The Impact of COVID-19 on Access to Justice in East Africa: temporary disruption or paradigm shift to e-justice?", *African Jurists* <<https://africanjurists.org/wp-content/uploads/2023/05/The-Impact-of-COVID-19-on-access-to-justice-East-Africa-23.02.2023.pdf>> accessed 21st July 2025.

⁹⁵ M. Wanjiku Esther, "Technology in the Courts: Administration of Criminal Justice in the Context of the COVID19 Pandemic in Mombasa County", *University of Nairobi, Faculty of Law* (2020).

⁹⁶ Ibid.

to training judicial personnel from judges to court clerks ensured that digital procedures were understood and properly implemented at all levels. In contrast, Nigeria's virtual court operations have largely been confined to elite courts in major cities, with many lower courts, especially in rural regions, still grappling with manual procedures. Kenya's inclusive deployment of ICT infrastructure, despite uneven internet connectivity, suggests that Nigeria must prioritise not only hardware acquisition but also equitable distribution of such resources.

Additionally, the Kenyan Judiciary worked with development partners to bridge funding gaps, an approach Nigeria could replicate by engaging the private sector, donor agencies, and technology firms in supporting its digital justice transformation. Finally, Kenya's model illustrates that virtual proceedings can be normalised within criminal adjudication, especially for pre-trial remand hearings, thereby reducing court congestion and unnecessary detention. Nigeria, which is struggling with overpopulated correctional centres and frequent remand adjournments, would benefit significantly from implementing virtual pre-trial hearings within its criminal procedure frameworks.

In summary, Kenya's virtual court framework underscores the idea that reform is possible even in resource constrained settings when institutional commitment, legal innovation, and stakeholder collaboration align. For Nigeria, adapting and contextualising these elements rather than merely replicating them can help build a digital justice system that is both functional and inclusive.

3.7.2 India

India's e-Courts Mission Mode Project represents one of the world's most extensive and strategic judicial digitisation initiatives⁹⁷. It was launched in 2005 under the Supreme Court E-Committee and Department of Justice⁹⁸. The Project aimed to modernise judicial administration through digital tools. Phase I of the project was implemented between 2011-2015 and focused on the basics. While Phase II (2015–2023) saw the computerisation of 18,735 district and subordinate courts, hardware deployment (laptops, LAN) to over 14,000 judicial officers, and training of thousands of court staff on the Case Information System (CIS) all with approximately ₹1,670 crore investment⁹⁹. Phase III which is planned to run between 2023–2027, launched with a ₹7,210 crore budget, aims to fully digitise court operations, introduce intelligent case management, and support paperless courts across legal hierarchies.¹⁰⁰

The key features of this project include:

- A Wide Area Network (WAN) linking 99.5% of courts with 10–100 Mbps connectivity.
- A national Judicial Data Grid offering public access to over 276 million judgments and orders.

⁹⁷ Ministry of Law and Justice, "E-Courts Mission Mode Project, *Government of India* <<https://www.pib.gov.in/PressReleaseIframePage.aspx?PRID=2085127>> accessed 23rd July 2025.

⁹⁸ E-committee Supreme Court of India, "e-courts mission mode project" *Information and Communication Technology in Indian Judiciary* <<https://ecommitteesci.gov.in/project/brief-overview-of-e-courts-project/>> accessed 23rd July 2025.

⁹⁹ Press Information Bureau, "eCourts Mission Mode Project", *Government of India (Dec 2024)* <<https://www.pib.gov.in/PressReleaseDetailm.aspx>> accessed 23rd July 2025.

¹⁰⁰ E-committee Supreme Court of India, "e-courts mission mode project" *Information and Communication Technology in Indian Judiciary*.

- Video conferencing capabilities between 493 court complexes and 347 jails, enabling virtual hearings en masse.
- Creation of e-Sewa Kendras¹⁰¹, 1,394 in district courts and 36 in High Courts to assist litigants with e-filing, digital signatures, and case tracking¹⁰².

This project, initiated in 2005, has as of 2021 digitised more than 100 million cases, and as of late 2024, India had conducted 33.8 million hearings via video conferencing. Thus allowing for more transparent and accessible proceedings within its vast judicial territory.

India's e-court model provides valuable lessons for Nigeria as it seeks to expand its own virtual court systems. First, the organized and phased nature of implementation in India shows that large-scale digitization can be achieved gradually. Nigeria, a federal system like India, would benefit from a similar gradual implementation, starting with pilot courts designated to test new procedures, technologies, or reforms before they are implemented on a wider scale and expanding to rural and magistrate courts through clearly defined phases backed by federal coordination and oversight. This approach would prevent resource overconcentration in major cities like Lagos and Abuja and ensure a more even national implementation.

In addition, India's experience demonstrates the importance of legally anchoring technological reforms. The backing of the *Information Technology Act 2000* and other regulatory frameworks enabled digital court initiatives to flourish within a secure

¹⁰¹ E-committee Supreme Court of India, "e-SEWA KENDRA" *Information and Communication Technology in Indian Judiciary* <<https://ecommitteesci.gov.in/service/e-sewa-kendra/>> accessed 23rd July 2025.

¹⁰² Ibid.

legal structure. Nigeria, where practice directions and judicial circulars serve as the backbone of virtual proceedings, must move toward a comprehensive legislative framework such as a National e-Justice Act to unify standards, enable enforceability, and ensure procedural consistency across all jurisdictions.

Another key takeaway from India is the emphasis on inclusion. The introduction of e-Sewa Kendras which are public digital kiosks located within court premises has given indigent and digitally illiterate litigants access to services such as e-filing, case updates, and legal aid. A similar public-facing model in Nigeria has the potential to bridge the digital divide, especially in under-resourced rural communities and correctional institutions. These centres, when managed by trained staff, could provide support to inmates, self-represented parties, and individuals with no internet access.

Furthermore, the Indian judiciary has ensured transparency and accountability by establishing a Judicial Data Grid, which provides real-time access to information on pending and disposed cases. Nigeria could greatly enhance public trust in its justice system by adopting a similar system that tracks the performance of courts, delays, and compliance with hearing dates. Integrating such a tool with biometric attendance and cause list management would further streamline Nigeria's procedural system.

India's emphasis on capacity-building also deserves replication. The government, with the help of the National Informatics Centre and judicial academies, trained over 14,000 officers and conducted digital literacy programmes for over 660,000 court users. For Nigeria, where many court staff and lawyers still struggle with ICT tools, a

dedicated national digital training initiative under the supervision of the National Judicial Institute would be vital to sustaining such reform.

Nonetheless, India's journey also highlights challenges that Nigeria must aggressively address. Persistent rural internet gaps, opposition from some conservative judicial quarters, and variations in digital literacy have occasionally hindered equal access to justice. These serve as cautionary lessons for Nigeria as it strives to develop a model of reform that balances efficiency with inclusion and fairness.

In summary, India's experience shows that political commitment, sustained investment, and legal reform can lead to widespread adoption of digital justice processes. As Nigeria continues to grapple with prison congestion and trial delays, adopting India's model with local changes provides a practical path towards institutionalising virtual court proceedings on a national scale.

3.7.3 United Kingdom

The United Kingdom's digital transition within the justice sector is often considered as a model of institutional coherence, thanks to a strong statutory framework, clear procedural guidelines, and targeted investments in digital infrastructure. The UK's approach reflects a combination of legal reform with practical implementation strategies that prioritise accessibility, procedural fairness, and long-term system resilience. At the heart of this transformation is the *Courts and Tribunals (Online Procedure) Bill 2019*, a landmark innovation which would have provided the statutory basis for digitising key stages of court proceedings, from filing and service of

documents to the actual conduct of hearings if passed into Law¹⁰³. The Bill proposed empowerment of designated rule-making authorities to create flexible and user-friendly digital procedures that are accessible to both legal professionals and lay litigants. Unfortunately the Bill lapsed when the parliament was prorogued in October that same year.¹⁰⁴ In furtherance of this legislative framework, the Ministry of Justice developed the *Remote Hearings Protocol*, which provided structured guidance on how digital hearings should be conducted. Emphasis was particularly placed on protecting the rights and participation of vulnerable parties such as unrepresented litigants, individuals with disabilities, children, and victims of gender-based violence ensuring that virtual forms of proceedings do not compromise access to justice¹⁰⁵. To implement these reforms, His Majesty's Courts and Tribunals Service (HMCTS) launched a *Video Hearings Service*, a proprietary platform that duplicates the structure and decorum of in-person courtrooms. The system's features include private consultation rooms for lawyers and clients, automated muting, evidence-sharing tools, and interpreter integration¹⁰⁶.

In parallel, HMCTS invested in accessibility support, including the establishment of public "assisted digital" services and remote technical helpdesks for court users who

¹⁰³ Courts and Tribunals (Online Procedure) Bill: Common Stages, *U.K Parliament* <<https://www.parliament.uk/business/news/2019/july/courts-and-tribunals-online-procedure-bill-common-stages/>> accessed 23rd July 2025.

¹⁰⁴ Joshua Rozenberg, "The Online Court: will IT work?: The Online Procedure Bill that never was", *The Legal Education Foundation* <<https://long-reads.thelegaleducationfoundation.org/a-new-bill/>> accessed 23rd July 2025.

¹⁰⁵ Ministry of Justice (UK), *Remote Hearings Protocol*, 2020.

¹⁰⁶ HM Courts and Tribunal Service, "Guidance about how the HMCTS Video Hearings service works and how to take part", *U.K Ministry of Justice* <<https://www.gov.uk/guidance/hmcts-video-hearings-service-guidance-for-joining-a-hearing>> accessed 23rd July 2025.

were unfamiliar with digital platforms¹⁰⁷. During the height of the COVID-19 pandemic, over 85% of magistrate court hearings and a substantial number of Crown and civil proceedings were held virtually through platforms such as the *Cloud Video Platform (CVP)*.¹⁰⁸ However, the UK's experience also demonstrates that efficiency must be balanced with procedural fairness and inclusion. The *Equality and Human Rights Commission (EHRC)* has raised concerns that some vulnerable participants—particularly those with learning disabilities, limited English proficiency, or socio-economic disadvantages—faced barriers to full participation in remote hearings. The EHRC emphasised the need for consistent safeguards, procedural flexibility, and improved training for judicial officers to accommodate different user needs¹⁰⁹.

These developments provide instructive insights for Nigeria. First, the UK's experience highlights the need for enshrining digital court proceedings in formal legislation. The *Online Procedure Bill* tho not passed into law highlights the UK's institutional commitment to embedding digital adjudication within a formal legal structure. For Nigeria, where virtual proceedings currently rely on judicial circulars and ad hoc practice directions, the enactment of a comprehensive *National e-Justice Framework Act* would provide a much needed coherence and enforceability. Second,

¹⁰⁷ HMCTS, "Assisted Digital Service" *UK Government* <<https://insidehmcts.blog.gov.uk/2018/06/28/helping-people-to-use-online-services/>> accessed 23rd July 2025.

¹⁰⁸ Cloud Video Platform, *UK Government* <<https://www.applytosupply.digitalmarketplace.service.gov.uk/g-cloud/services/776336685044850>> accessed 23rd July 2025

¹⁰⁹ EHRC, "EHRC warns that remote video hearings could disadvantage disabled people", *Disability Rights UK* <<https://www.disabilityrightsuk.org/news/2020/april/ehrc-warns-remote-video-hearings-could-disadvantage-disabled-people>> accessed 23rd July 2025.

Nigeria can benefit from the UK's example of adopting a formal protocol governing remote hearings¹¹⁰. A centrally issued *Virtual Court Protocol*, tailored to Nigeria and endorsed by the National Judicial Council, would serve to harmonise procedures across jurisdictions, minimising judicial discretion abuses, and protecting vulnerable court users. Third, the UK's investment in a virtual courtroom platform rather than relying solely on commercial tools like Zoom or Skype ensured enhanced data protection, evidentiary integrity, and procedural structure. Nigeria can develop its own secure virtual court platform, integrated with the Nigerian Correctional Service, Ministry of Justice, and legal aid bodies.

Finally, the UK's experience reminds us that justice digitisation is not a purely technical matter but a socio-legal transformation. To prevent repeating current injustices in digital form, the reform process must involve key stakeholders such as the judiciary, legal practitioners, the Nigerian Bar Association, ministries of justice, correctional services, civil society organisations, and representatives of marginalized groups. Their inclusion, alongside strong transparency mechanisms, is essential to ensure that virtual court reforms are equitable, effective, and sustainable.

3.8. Conclusion and Recommendations

This chapter has examined the legal and institutional framework for virtual court proceedings in Nigeria, showing how different actors including the judiciary, ministries of justice, correctional institutions, and the Nigerian Bar Association have contributed to the ongoing digital transformation in the justice sector. It also

¹¹⁰ Ibid.

compared Nigeria's approach with that of countries like Kenya, India, and the United Kingdom, identifying important lessons and challenges.

It is clear that while Nigeria has made progress in adopting virtual courts, many legal and institutional gaps remain. The lack of a binding national law on virtual hearings, differences in digital infrastructure across states, and the inconsistent application of practice directions have all created a system where access to justice is not equal for everyone. Some courts, especially in rural areas, still struggle with basic internet and equipment, while others in major cities have moved ahead with virtual proceedings.

To build a stronger and more equal system of digital justice, the following recommendations are made:

3.8.1 Recommendations

1. Pass a National e-Justice Law

Nigeria needs a single national law that clearly sets out the rules for virtual court proceedings. This law should define when and how virtual hearings can take place and protect fundamental rights like fair hearing and due process.

2. Develop a Standard Virtual Court Protocol

The National Judicial Council (NJC) should issue a detailed Virtual Court Protocol to guide all courts. This will ensure that judges across the country follow the same procedures and that all users especially those in rural areas or with special needs receive fair treatment.

3. Invest in Technology and Training

Courts must be provided with stable internet, computers, video equipment, and backup

power. Judges, lawyers, and court staff also need regular training on how to use these tools effectively and fairly.

4. Improve Access for Correctional Centres

Virtual court halls should be set up in more correctional facilities, not just in cities. This will help detainees attend their hearings on time and reduce the delays and risks of physical transfers.

5. Protect Vulnerable Groups

Any virtual justice system must take the needs of vulnerable people into account—such as women, children, persons with disabilities, and those without legal representation. Support services and clear procedures should be put in place to help them participate fully.

6. Encourage Feedback and Monitoring

The justice sector should set up a system to regularly collect feedback from users—judges, lawyers, detainees, and the public. This will help improve virtual court services and address problems quickly.

7. Learn from Other Countries

Nigeria should study how countries like Kenya, India, and the UK have used laws, training, and technology to improve virtual courts. These lessons can help guide reforms that are both effective and suitable for Nigeria's legal environment.

CHAPTER FOUR

IMPACT ANALYSIS OF VIRTUAL COURTS, JUSTICE DELIVERY AND PRISON DECONGESTION IN NIGERIA.

4.1 Implementation of Virtual Courts Across Nigeria

The shift to virtual court proceedings in Nigeria began and expanded extensively due to the COVID-19 Pandemic. The National Judicial Council (NJC) alongside other heads of courts issued practice directions enabling remote proceedings, which was necessary because physical attendance was impossible due to the lockdown¹¹¹ nationwide social distancing measures authorised the use of digital platforms such as Zoom, Microsoft Teams, and other video conferencing applications for routine hearings, including bail applications, arraignments, and pre-trial proceedings.

Despite its original status as an emergency measure, this initiative showed promise in modernizing judicial practices. We saw a very early adoption of this by the High Court of Federal Capital Territory, The Federal High Court¹¹² and many State High Courts. Meanwhile, certain lower courts, including Magistrate and Customary Courts, experimented with mobile phone connectivity for routine mentions and minor proceedings. Moreover, despite these advancements in Nigeria, there is still a striking

¹¹¹ *National Judicial Council COVID-19 Policy Report: Guidelines for Court Sittings and Related Matters in the COVID-19 Period*, NJC <<https://www.njc.gov.ng/index.php/30/news-details>> accessed 11th November 2025.

¹¹² Agency Report, "Federal High Court Releases New Practice Direction, Adopts Virtual Proceedings" *Premium Times* (May 18th 2020) <<https://www.premiumtimesng.com/news/more-news/393486-federal-high-court-releases-new-practice-direction-adopts-virtual-proceedings.html>> accessed 11th November 2025.

disparity between different regions for access to such technology¹¹³. In rural areas, regions underserved by technology services face a terrible lack of reliable internet connection paired with power outages and low levels of computer usage skills creating gaps that need urgent solving with better spending in that area.

4.2 2025 FCT Civil Procedure Rules Innovation¹¹⁴.

The High Court of the Federal Capital Territory (FCT) implemented novel procedural changes in March 2025 to facilitate digital justice delivery which included the official adoption of e-filing and virtual hearings. The latest Rules permit litigants to submit and serve court documents electronically through a specific E-Filing Unit while e-signatures gain full recognition for affidavits and legal processes. The Chief Judge holds the authority to release Practice Directions for virtual proceedings which enable both parties and the court to commence online hearings. The measures seek to establish procedural adaptability by validating late e-filed documents affected by technical issues while enhancing court access and operational effectiveness through modern alternatives to physical filings and in-person hearings.

4.3 Impact on Trial Timelines and Case Management

Early evidence suggests that the use of virtual court proceedings has the ability to change Nigeria's approach to case management. In states where virtual hearings have been effectively adopted, loss of time due to physical adjournments have been

¹¹³Joseph Erunke, "Why We Introduced CACM Technology in Nigeria's Judicial System – PPDC Explains" *Vanguard* (9 November 2024) <<https://www.vanguardngr.com/2024/11/why-we-introduce-cacm-technology-in-nigerias-judicial-system-ppdc-explains/>> accessed 11th November 2025.

¹¹⁴ Victoria Achilihu, Notable Innovations In The Recent High Court Of The Federal Capital Territory (Civil Procedure) Rules, 2025, *Compos Mentis Legal Practitioners*, *Mondaq* <<https://www.mondaq.com/nigeria/civil-law/1596240/notable-innovations-in-the-recent-high-court-of-the-federal-capital-territory-civil-procedure-rules-2025>> accessed 25th June 2025

significantly reduced. Reports indicate that courts utilizing virtual platforms have significantly improved trial timelines and case management. In courts where digital proceedings were adopted, there were substantial reductions in adjournments, streamlined scheduling, and expedited case resolutions especially for pre-trial remand and bail applications.¹¹⁵

In addition, data from the Administration of Criminal Justice Monitoring Committee (ACJMC) show that routine matters such as bail applications and remand hearings were resolved within an average of 3–5 days when conducted online, compared to traditional hearings that spanned into weeks due to transport delays and scheduling conflicts¹¹⁶. In certain instances, judges leveraged digital platforms to preside over proceedings across different states within the same day, boosting judicial efficiency.

Although trials have generally become swifter, there are still concerns surrounding the long-term viability of these digital platforms. The challenge lies in ensuring that these gains are institutionalised and that the quality of proceedings conducted online can match that of in-person trials.

4.4 Remand Hearings and Pre-trial Detention

The shift towards virtual proceedings has provided evidence of some progress with Nigeria's age old problem with pre-trial detention. Research indicates that courts adopting virtual hearings have seen notable reductions in pre-trial detention periods.

¹¹⁵Chambers and Partners, Litigation 2025 Trends and Development (3rd December 2024) <<https://practiceguides.chambers.com/practice-guides/litigation-2025/nigeria/trends-and-developments/O1926>> accessed 3rd August 2025.

¹¹⁶Administration of Criminal Justice Monitoring Committee <<https://acjmc.gov.ng/>> accessed 3rd August 2025.

While precise figures vary across studies, empirical analyses show that digital proceedings, especially bail applications and remand hearings can significantly accelerate case resolution and reduce the time detainees spend in custody awaiting trial¹¹⁷. This development is particularly important in Nigeria, where approximately 69 percent of inmates are pre-trial detainees, according to official data from the Nigerian Correctional Service (NCoS).¹¹⁸ In certain jurisdictions, legal reports and observational data suggest that the average detention period has fallen by an estimated 15 to 20 percent following the adoption of remote hearings.¹¹⁹ In courts equipped with virtual platforms, Judges have been able to preside over multiple hearings across different states within a single day, something previously impossible under traditional physical proceedings.¹²⁰

4.5 Prison Population Statistics

The statistics available make it clear that Nigeria's prison overcrowding crisis needs urgent attention. As of November 2023, the total number of inmates in centres across the country was 80,704 while the official capacity of the facilities was only about 57,278¹²¹. In states that embraced virtual hearings early enough, there was a reduction

¹¹⁷ Abimbola Davies and others, "Experimental Trials of the Virtual Court Proceedings in Nigeria: An Empirical Perspective", *International Journal for Court Administration* 15(2) (2024), available at <<https://iacajournal.org/articles/10.36745/ijca.550>> accessed 19th August 2025.

¹¹⁸ 69 per cent of inmates in Nigerian correctional centres are still awaiting trial, *PRNigeria* (11 Aug. 2023), quoting Nigerian Correctional Service statistics; see also *Punch Newspaper* (12 Aug. 2023) <<https://prnigeria.com/2023/08/11/inmates-nigeria-trials-ncos/>> accessed 19th August 2025.

¹¹⁹ Ibid.

¹²⁰ Chambers & Partners, *Litigation 2025 – Nigeria / Global Practice Guides*: observes that video conferencing and remote hearings allow judges to conduct multiple case sessions in separate jurisdictions on the same day, improving efficiency <<https://practiceguides.chambers.com/practice-guides/litigation-2025/nigeria/trends-and-developments/019261>> accessed 19th August 2025.

¹²¹ The population in Nigerian correctional centres had surpassed capacity by 23.4k inmates as of Nov 2023.

of roughly 3–5% in pre-trial detainees in the first year after virtual proceedings were introduced. However, in states where virtual proceedings were still rare or limited, overcrowding remained a persistent issue. This highlights the role that technology can play in alleviating systemic delays and reducing the strain on Nigeria’s overburdened correctional infrastructure.

4.6 Challenges and Limitations of Implementing Virtual Court Proceedings in Nigeria

Despite the evident advantages of virtual court proceedings, its effective and sustainable implementation in Nigeria faces numerous challenges. These limitations cut across technology, legal procedures, and human capacity, each of which has a direct bearing on how efficiently justice can be delivered through virtual means.

a. Technological and Infrastructure Constraints

Although Nigeria has made impressive progress in the realm of digital justice, its technological infrastructure still poses a significant challenge. In rural communities and certain northern states like Kaduna, Nasarawa, Plateau,¹²² and Borno¹²³ Virtual court hearings often break down due to unstable internet connections, inconsistent electricity supply, and a lack of essential equipment. Moreover, the cost of acquiring

<<https://intelpoint.co/insights/the-population-in-nigerian-correctional-centres-had-surpassed-capacity-by-23-4k-inmates-as-of-nov-2023/>> accessed 26th June 2025.

¹²² Court Administration and Case Management Project, *PPDC Sept 18th 2024*
<<https://www.ppd.org/court-administration-and-case-management-project/>> accessed 11th November 2025.

¹²³ Borno sets up virtual courtroom as lagos begins skype hearing May 4th, *Vanguard 2020*

and maintaining video conferencing systems, coupled with cybersecurity concerns, adds to the strain to an already stretched judicial system¹²⁴.

b. Legal and Procedural Barriers

While the 1999 Constitution (as amended), the Administration of Criminal Justice Act (2015), and various Practice Directions lay a strong legal foundation for virtual proceedings, there are still some procedural gray areas. The requirement for hearings to be held in public (as stated in Section 36(3) of the Constitution) has sparked discussions, particularly when online hearings limit access to those with internet connectivity. Additionally, legal experts and practitioners have raised concerns about witness credibility, the admissibility of evidence shared electronically, and defendants' rights to effective cross-examination¹²⁵.

c. Human and Capacity Constraints

The successful implementation of virtual court proceedings really hinges on how digitally savvy and open judges, lawyers, court staff, and correctional personnel are. However, there's been some resistance from those accustomed to traditional practices, along with a shortage of tech-trained staff and a lack of organized digital training programmes. These issues are especially evident in rural areas and lower-level courts.

¹²⁴ Abubakar D. M., *Court Automation System: Streamlining Court Procedures with Advanced Technologies*, National Judicial Institute
<<https://nji.gov.ng/assets/publication/Session-4-Court-Automation-System-Streamlining-Court-Procedures-with-Advanced-Technologies.pdf>> accessed 11th November 2025; Abimbola Davies et al., "Experimental Trials of the Virtual Court Proceedings in Nigeria: An Empirical Perspective" (2024) 15(2) *International Journal for Court Administration* 4
<<https://iacajournal.org/articles/10.36745/ijca.550>> accessed 10th November 2025.

¹²⁵ Muir, B. R., & other, "The role of video background cues in the virtual court: a psychological perspective". *Psychology, Crime & Law*, 31(3), 207-225 (2023).

4.7 Insights from the Bar: The Perspective of George Oguntade, SAN

The challenges of virtual proceedings in Nigeria have also been sharply articulated by senior members of the Bar, as stated by George Oguntade, SAN:

“The Bench and the Bar can only be assessed against the background of available resources in which they operate. Today, it is generally acknowledged by the vast majority of the citizenry, that there exists a huge infrastructural deficit that has made the performance of judicial duties more onerous, and by extension, the ability of the Bar to deliver optimum services to their Clients. In most of our courts, the problem of power supply remains a recurring decimal. Judges are oftentimes unable to sit or forced to abandon sitting, as a consequence of this problem which remains insurmountable all these years. Where the courts manage to sit, there is the issue of recording of proceedings. Many Judges still engage in the tedium of recording proceedings in long hand, making their performance less effective. In the digital world of today, few courts have functional video conferencing facilities that will enable effective virtual hearing of cases. We seem stuck in the analogue age, despite realising the imperative of necessary change in the administration of justice”¹²⁶.

4.8 Stakeholder Perspectives

i. Judicial Officers

¹²⁶ Bar and Bench: Review of 2023 and Hopes for 2024; George Oguntade, SAN, “Courts had Huge Infrastructure Challenges in 2023”, Virtual Hearing is the Way to Go in 2024 *This Day Live* <<https://www.thisdaylive.com/2023/12/12/bar-and-bench-review-of-2023-and-hopes-for-2024/>> accessed 26th June 2025.

Published reports and empirical studies show that many judges and magistrates in Nigeria express cautious optimism about virtual court hearings while also raising clear concerns about their practical implementation. Judicial leaders and commentators acknowledge the potential of remote sittings to speed up proceedings and reduce adjournments, but they have warned repeatedly about unreliable internet connectivity, inconsistent power supply, weak courtroom infrastructure, and data-security risks¹²⁷ that undermines confidence in online hearings. Empirical surveys of practitioners likewise report worries about technical support, the admissibility of electronic evidence, and ensuring meaningful access for indigent or rural defendants who lack the means to participate virtually¹²⁸. These positions have been reflected in judicial speeches, law-journal studies, and monitoring reports¹²⁹.

ii. Lawyers and Prison Authorities

The legal community has a range of opinions on this matter. Defence lawyers appreciate how virtual proceedings can cut down on delays and make bail hearings more accessible.

Funke Adekoya (SAN) observed that from an international arbitration standpoint, the use of digital platforms is not entirely new, as procedural sessions and preliminary hearings were already conducted via video or audio conferencing even before the COVID 19 pandemic. According to Adekoya:

¹²⁷Deborah Musa, CJN cautions judicial officials on data breaches, cyber threats, *Punch* (7 April 2025) <<https://punchng.com/cjn-cautions-judicial-officials-on-data-breaches-cyber-threats/>> accessed 11th November 2025.

¹²⁸ Ibid.

¹²⁹ National Judicial Institute, *Case Management and Tracking Paper* (23 Dec 2024) <<https://nji.gov.ng/assets/publication/CASE-MANAGEMENT-AND-TRACKING-PAPER-FOR-NJI.pdf>> accessed 11th November 2025.

“Online hearings have the ability to speed up proceedings because lawyers and witnesses do not need to travel to appear in court. This, in turn, helps to bring down the cost of litigation and reduce court dockets. However, online hearings may not be suitable for every matter, especially when it becomes necessary to visit the *locus in quo* (scene of the event)”¹³⁰.

This perspective reflects the growing uniformity within Nigeria’s legal community that virtual proceedings improve efficiency, accessibility, and cost-effectiveness. Yet, it also highlights the constraints posed by certain proceedings that require physical presence for accuracy and fairness. The upshot is that, while digital platforms can complement traditional hearings, a hybrid approach may be necessary to meet the unique circumstances of certain cases.

Similarly, Kemi Pinheiro (SAN), in a comparative analysis, voiced his worries over Nigeria’s status in global justice indices. He stated:

“How come Nigeria is still ranked 72 out of 126 in the Criminal Law Index of the World Justice Project? How come we still have over 52,000 awaiting trial inmates, accounting for about 79 percent of the total inmates in our correctional centres? Meanwhile, Kenya has leveraged technology to free 5,000 defendants in just a few months. Why not

¹³⁰Joseph Onyekwere, Funke Adekoya (SAN) in Experts examine merits, demerits of virtual court hearings in Nigeria, *Guardian Nigeria* (Lagos, 7th July 2020) <<https://guardian.ng/features/experts-examine-merits-demerits-of-virtual-court-hearings-in-nigeria/>> accessed 26th June 2025.

Nigeria? Why do we continue to bicker and argue when the preponderant opinion is that we should go virtual?”¹³¹.

Pinheiro also pointed out that “the world has gone virtual and will leave Nigeria behind if it fails to embrace this trend,” adding that “how court proceedings should be conducted ought not to be dictated by the Constitution, as the Constitution is a substantive law and not a procedural one”¹³².

However they also point out that some rural defendants are left out due to infrastructure issues. On the other hand, prison authorities see virtual hearings as a smart, cost effective way to ease the security and logistical challenges of transporting inmates to court, which helps relieve some of the strain on already stretched facilities.

4.9 Civil Society Observations

Civil society organisations, such as the Legal Defence and Assistance Project (LEDAP) and the Public and Private Development Centre (PPDC)¹³³, are pushing for reforms that would integrate virtual proceedings into Nigeria’s judicial system. These civil societies commend early successes but warn that digital justice will only be seen as legitimate if it is implemented fairly across all states¹³⁴, ensuring that rural

¹³¹ ALF, Kemi Pinheiro in Virtual Proceedings- Pros and Cons, *Alliance Law Firm* (Lagos, 3rd July 2020) <<https://alliancelawfirm.ng/virtual-proceedings-pros-and-cons/>> accessed 26th June 2025.

¹³² Ibid.

¹³³ Jide Oyekunle, “PPDC Equips 33 Courts With Digital Technology Innovation For Quick Access To Justice” *Independent Newspaper Nigeria* (22 Nov 2024) <<https://independent.ng/ppdc-equips-33-courts-with-digital-technology-innovation-for-quick-access-to-justice/>> accessed 11th November 2025.

¹³⁴ Shehu Usman, *COVID-19: Yobe courts commence virtual remote proceedings*, *Daily Post Nigeria* (18 June 2020) <<https://dailypost.ng/2020/06/18/covid-19-yobe-courts-commence-virtual-remote-proceedings/>> accessed 11th November 2025.

communities have access and that fundamental rights like the right to a fair hearing, are prioritized.

4.10 Conclusion

The comprehensive analysis of virtual courts' impact on justice delivery and prison decongestion in Nigeria reveals a judicial system in transition, where digital innovation has evolved from an emergency pandemic response to a transformative force in modern justice delivery. The evidence demonstrates significant achievements: pre-trial detention periods have been reduced by 15-20% in digitally-enabled jurisdictions, routine bail applications now resolve within 3-5 days compared to weeks under traditional proceedings, and courts have gained unprecedented flexibility in case management. The 2025 FCT Civil Procedure Rules represent a pivotal step toward institutionalizing these digital gains, while stakeholder perspectives from judicial officers, senior advocates, and civil society organizations reflect both optimism about efficiency improvements and legitimate concerns about equitable access and procedural fairness.

However, Nigeria's virtual court revolution remains incomplete, hampered by stark infrastructure disparities between urban and rural areas, persistent power supply challenges, and varying levels of digital literacy across the legal ecosystem. As highlighted by senior practitioners and civil society organizations, the legitimacy and sustainability of digital justice depend critically on addressing these inequalities to ensure that technological advancement serves all Nigerians regardless of geographical location or socio-economic status. The foundation for a more efficient, accessible judicial system has been established, but realizing its full potential requires sustained

commitment to infrastructure development, capacity building, and inclusive implementation strategies that bridge the digital divide while maintaining the constitutional requirements of fair hearing and public access to justice.

CHAPTER 5

SUMMARY OF FINDINGS, RECOMMENDATIONS AND CONCLUSION

5.1 Summary of Findings

The study critically evaluated the impact of virtual court proceedings on justice delivery and prison decongestion in Nigeria. The COVID-19 pandemic acted as a catalyst, compelling the Nigerian judiciary to adopt virtual platforms for adjudicating legal disputes. This shift held promise for addressing long-standing issues in the justice system, including chronic delays and pre-trial detention. The key findings of this study include:

- Virtual court proceedings have contributed to reducing adjournments and expediting bail hearings, especially in digitally equipped states.
- In jurisdictions that adopted virtual proceedings effectively, there was a 15–20% reduction in the average duration of pre-trial detention.
- The reach and efficacy of virtual courts remain uneven. Courts in rural and under-resourced areas face significant technological and infrastructural challenges.

- Legal concerns remain unresolved regarding the adequacy of virtual proceedings under Section 36 of the 1999 Constitution, particularly around fair hearing, public trials, and the right to confront witnesses.
- Stakeholders including judges, lawyers, and correctional officials, acknowledge the potential of virtual courts but warn of the risks related to digital exclusion and procedural injustice.

5.2 Recommendations

A. Legal and Constitutional Reforms

- An Amendment of Section 36 of the 1999 Constitution to explicitly recognize virtual hearings and set procedural standards to protect fair hearing rights.
- A Codification of uniform guidelines in the Administration of Criminal Justice Act (ACJA) to address evidentiary issues, admissibility, and remote cross-examination.
- An Adoption of binding Practice Directions from the National Judicial Council (NJC) to ensure national uniformity in the use of digital courtrooms.

B. Infrastructural and Technological Investments

- An Expansion of broadband infrastructure and ICT investment in rural and underserved regions.

- Establish fully equipped virtual courtrooms in all correctional centres to eliminate delays associated with prisoner transportation.
- Develop a centralized e-justice platform, accessible to all courts and the public, for case filing, scheduling, and real-time virtual participation.

C. Procedural and Ethical Safeguards

- Ensure virtual access does not violate public trial principles by mandating livestreaming (where appropriate) or controlled public observation tools.
- Mandate legal aid integration in all virtual hearings involving indigent defendants. The Legal Aid Council must be equipped with the resources to provide digital access to counsel.
- Ensure interpreter and assistive services (e.g., sign language, subtitles) are available in virtual hearings to protect the rights of persons with disabilities and non-English speakers.

D. Human Capital Development

- Train judges, magistrates, lawyers, and court personnel on virtual courtroom management, data protection, and digital ethics.
- Incorporate digital adjudication into legal education curricula and mandatory continuing legal education (MCLE) for all legal practitioners.

E. Institutional Coordination

- Create a Virtual Justice Implementation Taskforce under the Federal Ministry of Justice to oversee nationwide deployment and quality control.

- Conduct annual audits of virtual proceedings, tracking trial durations, inmate outcomes, and compliance with procedural rights.
- Collaborate with civil society and international donors to develop hybrid courtroom models and test technology prototypes in less-developed regions.

F. Replication and Innovation

- Pilot mobile courtroom units in rural communities with video-linkage to judicial centres, ensuring outreach to underserved communities.
- Encourage hybrid hearings (physical + virtual) for cases involving vulnerable groups or high-profile public interest to balance transparency and protection.

G. Suggestions for Further Research

- Empirical analysis of defendant outcomes in virtual bail and remand hearings across Nigeria's six geopolitical zones.
- Comparative constitutional studies of virtual courts in other African countries like South Africa, Kenya, and Rwanda.
- Impact of virtual proceedings on gender-based violence trials, especially in conservative or rural jurisdictions.
- Role of digital literacy in shaping user experience in virtual proceedings—among prison inmates, lawyers, and court officials.

5.3 Conclusion

Virtual court proceedings represent a significant shift in Nigeria's legal scene. They provide substantial benefits of speed, efficiency, reduced adjournments, and the

potential for prison decongestion. However, their viability in the long run depends on resolving significant legal, procedural, infrastructural, and institutional challenges.

This study affirms that virtual courts possess significant potential to enhance justice delivery and contribute to the reduction of custodial overcrowding in Nigeria. Yet, the realisation of this potential depends on how equitably and effectively the system is implemented. The findings suggest that digital transformation within the judiciary must be approached with balance, ensuring that it strengthens access to justice for all citizens rather than creating disparities between those with digital access and those without.

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