

**Use of Technology in Courts (E-Courts): Legal, Practical, and Constitutional Issues in
Digitizing the Justice System in Pakistan**

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ABSTRACT

The justice system of Pakistan has reached a conclusion stage of computerization. E-filing portals, case information on-line and video-link hearings are not some experimental concepts anymore, but they are being codified in the procedures and do play a role in real disputes. However, the same fact continues to reoccur: technology gives access to some litigants and silently leaves out others, and can accelerate some steps and introduce new delays to others. The present paper contends that Pakistan already has relevant statutory and doctrinal permission of e-courts, in the form of legal status of electronic records and signatures, accommodation of new devices of evidence by the judge, and such doctrines in theory as do legitimize virtual attendance. Implementation is the difficult issue. The disparity in infrastructure, high level of digital divide, poor data governance, fragmented court system, change resistance within legal culture, and constitutional trepidation of fair trial, open justice, privacy, and equality are some of the causes that form the enforcement gap. In the paper, the first push towards e-justice and the post-pandemic normalization of remote proceedings are framed. It subsequently grounds the debate on Islamic legal-ethical premises that are sympathetic to credible record-keeping, elimination of distress, and timely justice, but which demand due process and decency. It then examines the Pakistani legal system, particularly the Electronic Transactions Ordinance 2002, the Qanun-e-Shahadat Order 1984, and the Supreme Court Rules 2025; and the best judicial reasoning on video-link evidence and the virtual attendance. The last sections chart practical obstacles and constitutional hazard, and suggest reforms to create a rights-sensitive digital judiciary: similar guidelines, user-friendly design, system audits, training, and understandable safeguards against privacy and fair trial.

Keywords: E-courts; Pakistan; digitization; e-filing; virtual hearings; Article 10A; open justice; electronic evidence; Electronic Transactions Ordinance 2002; Qanun-e-Shahadat; Supreme Court Rules 2025.

INTRODUCTION

Courts are not buildings only. They are procedures. They are habits too. And in Pakistan they were made of paper: of paper files, paper cause lists, paper notices, paper certified copies. The system was reduced to a state of paper dependency, which impacted all aspects of it, even speed, transparency, access, and even daily dignity of litigants.

Digitization will be a relief. It can cut travel. It has an ability to minimize lost time through adjournments made by files that are missing. It can enable the lawyers to file at night rather than wait in queues in the morning. It is also capable of making the court schedules predictable. These are not make-up benefits. They touch real life.

But the promise has a shadow. When the courts are computerized the gate may shift. It can leave a desk of a clerk, physical queue, and informal discretion, to an outage of a server or an inconspicuous algorithmic order. The fact that a litigant, who is unable to read English on a portal, or unable to afford consistent internet, or unable to authenticate digitally, may lose access in an insidious manner, where he or she does not even understand which step has broken.

There is one central claim that this paper makes, and that is that Pakistan is not primarily the victim of the lack of legal authority to digitize. The greater issue is design and implementation. There are lawful safeguards. The judicial doctrine has been opened. Even methodical regulations are being updated. Nonetheless, user experience, particularly to the common litigant, is often weak.

The conversation is done in a systematic order. Then context follows: why the e-courts are acceleration seekers and what the search will address. Then there is an Islamic legal-ethical view since Pakistani legal legitimacy often acts on the background of Islamic constitutional identity. Subsequently, the paper proceeds to discuss the legal environment in Pakistan and the most significant court cases that have influenced the development of virtual attendance and the use of technology as evidence. Then there is a change to the barriers: practical, institutional, and constitutional. It concludes with reforms which make e-courts a rule-of-law project, rather than an IT project.

METHODOLOGY

The approach in this paper is doctrinal and policy-implementation. To begin with, it conducts doctrinal scrutiny of enabling legislations in Pakistan on electronic records and signatures, and rules of evidence that allow contemporary modes of evidence. Second, it assesses the current procedural reformation, such as the rule-making that increases digital filing and video-link hearings. Third, it uses constitutional analysis in terms of fair trial and due process, equality of access, dignity and privacy, and the openness of judicial proceedings. Fourth, it resorts to case-law arguments to determine the ways in which the Pakistani courts have defended the adoption of technology, in attempts to safeguard procedural fairness. Lastly, it applies an implementation prism to chart obstacles: infrastructure, capacity, institutional coordination, cyber security and the human factor within courts and the legal profession. It is not about glorifying technology or denying it, but demonstrating what circumstances are required to make e-courts reinforce legitimacy instead of undermining it.

BACKGROUND: THE REASON WHY E-COURTS BECAME A SERIOUS AGENDA IN PAKISTAN

The litigation environment in Pakistan is characterized by procrastination. Delay has numerous fathers: backlog, understaffed courts, and recurrent adjournments, lost records, delayed service of notices, and a culture in which no case may pass without some informal follow-up. Delay in the course of time ceases to be accidental. It becomes structural.

This structure was responded to by digitization. The early computerization of courts was on cause lists and simple case tracking. Subsequently, the push extended to online portals, scanning and workflow tools. After that, there was the period of pandemic, which altered the expectations. Distance attendance was made possible. Other institutions normalised video conferencing. This shift could not be completely disregarded by the courts.

The push can now be seen at even the level of the apex court itself. The Supreme Court of Pakistan has the portal of the case information online and the path of the video link request, which means that technology,

is being introduced into the habitual process and is not considered an exception. That is important since institutional practices are formed at the peak.

Simultaneously, digitization is not homogenous. Various provinces and levels of courts embrace various tools. Some become semi-paperless. Others remain fully manual. The result is fragmentation. The justice system is not being experienced by litigants and lawyers. They experience islands.

This establishes a fundamental tension in this paper, namely that e-courts have the potential to enhance access and efficiency, but only when constructed as a stable public service enjoying constitutional protection. Otherwise they are another stratum of inequality, quick to the well-connected, slow to all the rest.

THE ISLAMIC VIEW ON JUSTICE, RECORDS-KEEPING, AND REMOVAL OF HARDSHIP OBLIGATION

A Pakistani debate on how to digitalize justice can remain technical. Courts are ethical institutions as well. Administration of Justice (qada) is intimately connected in the Islamic legal thought to the need of fairness (adl), trust (amanah), and protection of rights (huquq). Courts fail not merely when there is a procedural failure. It is ethical.

In Islamic literature, the belief in justice in judgment and confidence in the state power is reinforced over and over again. The Quranic prescription to administer justice and grant trust to those to whom it is due offers a normative foundation of a justice system that is approachable, truthful and objective. This supports reform. It does not resist it.

Another Islamic subject is record-keeping. Qur 2:282- with its elaborate guidance on recording transactions- has an indication that there is a wider legal worth: sound records minimize conflicts. They protect weaker parties. They make rights provable. In that regard, electronic records can match an Islamic goal that is enhancing evidence, mitigating fraud, and diminishing strife.

Nevertheless, the Islamic legal ethics also cautions against evil. That matters here. Technology is a form of exclusion in case digitization is an issue of the poor, the rural, the elderly or the not connected. That exclusion is against the Islamic ethic of eliminating hardship (raf al haraj) and safeguarding those who are vulnerable.

The Islamic ethics also takes the dignity of persons into consideration. A litigation procedure that degrades litigants, through interminable waiting, unintelligible procedures or inexplicable treatment, does not meet this criterion. The e-courts can minimize the humiliation through minimization of unnecessary traveling and frequent appearances. However, they may also generate new indignities in case the system is bewildering, unreliable, or prejudiced against the ones who are already powerful.

So the Islamic point of view is not a slogan. It is a filter. Technology is desirable when it is used to bring out justice, maintain rights and decrease suffering. This is not acceptable when it closes its doors to people who are most required by the courts.

This is connected to the constitutional analysis. The Constitution of Pakistan also addresses the justice system as a right delivery system rather than a dispute processing system.

LEGAL FRAMEWORK IN E-COURTS IN PAKISTAN

The facilitative legal framework of e-courts in Pakistan consists of three pillars: (1) legal acceptance of electronic records and signatures, (2) evidentiary accommodation of new devices and methods, and (3) procedural rule making, which encompasses digital practice through embedding within court procedure.

1. Electronic Transactions Ordinance, 2002: the permission structure

The Electronic Transactions Ordinance (ETO) 2002 is also fundamental since it accepts electronic form as a legal one. It solves the traditional objections which have traditionally exclusively barred e-courts: it must be written, it must be original, it must be signed.

Ideally, ETO enables legal standards of writing and signatures to be met electronically provided that the electronic record is available to be used later and integrity requirements are maintained. This favors e-filing, digital notification and retention of records electronically.

However, ETO is not an exhaustive operating manual. It informs the law that electronic form is possible. It does not specify the methodology of authenticated users by all courts, protection of records, maintenance of chain-of-custody, and addressing attempts to tamper with records. It is that gap where implementation, and subsequent litigation, starts.

2. Qanun-e-Shahadat Order, 1984: evidence of the age of devices

Technology comes to reality in evidence law. In theory, e-filing can be accepted in the courts, but without the possibility of the reliable demonstration of e-evidence, a justice system will collapse.

Article 164 of the Qanun-e-Shahadat Order (QSO) is traditionally said to be the gateway provision to the contemporary evidence because the issue permits the courts to take into account the evidence that emerges as a result of contemporary devices and techniques. This space has been occupied by Pakistani courts to implement video evidence, digital records, and processes that involve technology but the courts still require reliability.

The more significant problem is not admissibility in itself. It is integrity. A video is simple to create, simpler to edit and difficult to dispute by a layman. Courts therefore have to develop norms of verification, metadata, support of forensic and disclosure to the other party. When the standards are informal, technology can enhance falsehood as opposed to truth.

3. Rule making, Supreme Court, 2025

Reform is binding in the procedural rules. The Supreme Court Rules, 2025- published to replace the older rules- is an indicator of institutional dedication to modernization. These Rules are reported to be released publicly and also by way of official communication, toward digital filing, digital issuance of notices and orders and authorization of video-link hearings.

This is a big move since it makes technology normalized in the very process of the apex court. It also puts the pressure on the lower tiers to keep up. But it also raises a new constitutional issue as well: by making the Supreme Court accessible digitally, but lower courts unreachable, physically and socially, does digitization increase inequality between courts?

CONSTITUTIONAL PROBLEMS: FAIR TRIAL, OPEN JUSTICE, EQUALITY, AND PRIVACY

The concept of digitization is not neutral to the constitution. It transforms the experience of rights.

1. Article 10A: fair trial and due process

The anchor is article 10A of the constitution. It safeguards fair trial and due process in the establishment of civil rights and criminal proceedings. The e-court query is made feasible: does technology reinforce the right or not?

E-filing may improve due process because it will minimize time wastefulness and will be delivered promptly. Video hearings are potentially beneficial in supporting due process when adjournments cannot occur unjustly and witnesses could be able to testify without fear or travel inconvenience. However, technology may also serve as a disadvantage to due process when the connection fails at critical moments of submitting a key, the accused is not able to speak privately with an attorney, or even the site is a barrier to effective cross-examination.

Fair trial does not possess an outcome. It is concerning the quality of participation.

2. Capacity and legal culture

Judges and staff need training that goes beyond “how to click.” They need workflow redesign: digital case management, digital evidence handling, and digital hearing discipline. Lawyers need adaptation too. Some will resist because paper allows informal maneuvering. Some will resist because they genuinely lack the tools.

Capacity is not only technical. It is cultural.

3. Cyber security, tampering, and chain of custody

E-courts create high-value targets. Sensitive data, high-stakes disputes, and political cases attract digital attacks. If audit logs are weak, tampering allegations will multiply. And once parties believe the record is manipulable, litigation becomes nastier.

4. Language, usability, and litigant-facing design

Most e-court platforms are built with lawyers in mind. But a justice system also serves self-represented litigants. If the interface is not multilingual, not mobile-friendly, and not supported by facilitation desks, it becomes a professional tool rather than a public service

RECOMMENDATIONS: THE DEVELOPMENT OF RIGHTS-RESPECTING E-COURT SYSTEM

Reform must be even-tempered and gradual.

1. Consistent national minimum requirements regarding e-filing, e-service, digital orders and record format at all levels in the court system.

2. Equal access hybrid: maintain physical filing options in the meantime, but construct kiosks and guided facilitation centers on the court premises.
3. Specific principles on how virtual hearings can be accessed publicly: maintain open justice by restrictive access and recorded exceptions.
4. Effective audit trails: any activity performed online must leave traces of tamper-evident records. This minimizes controversy on manipulation.
5. Data governance: categorize case information, limit sensitive information, and embrace retention and access practices in line with dignity and privacy.
6. Continuing judicial education in the form of training: not a workshop. Associate training with performance and case flow results.
7. Digital evidence protocols: guidelines and procedures in evaluating authenticity, metadata management and forensic escalation.
8. User-friendly design: Multilingual and regional languages support, mobile support, low bandwidth mode, and SMS notifications.
9. Autonomous monitoring and feedback mechanisms: regular reports by the population on their uptime, success on filing, and resolving of complaints.

In simple terms, the main concept is to construct e-courts as an institution, not an application, which is constitutional.

CONCLUSION

The trend towards e-courts in Pakistan is no longer at will. It is already taking place via portals, video-link proceedings, as well as procedural reforms. There are foundations in statutes. Courts have approved technology by doctrine like virtual attendance and procedural rules are also being revised to incorporate digital filing and communication.

Nevertheless, implementation is where the battle is won. Fragmentation, infrastructure gaps, weak data governance, unevenly trained, and digital divide may make digitization a novel form of exclusion. That would be a loss. A policy loss, a constitutional loss.

The Islamic legal-ethical framework endorses modernization where it promotes justice, fortifies records and eliminates suffering. It cautions against injury as well as marginalization. The Constitution requires equality, dignity and fair trial. The e-courts should thus be designed to increase the rights in practice and not just in theory.

When Pakistan considers digitization as a rights project, it will be able to minimize the time lag and promote trust. Given that it approaches digitization as a procurement project, it is in danger of creating glittering generalities that silently collapse on the individuals that require the courts the most.

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