



The Administration of Justice in Nigeria in the Digital Age: A Critical Appraisal of Virtual Court Proceedings, Electronic Filing and Their Impact on the Right to Fair Hearing.

Ahmed Olasupo Bada¹; Oyinkansola Oluwatosin Olaluwoye²

¹B.Sc (Hons) (Unilag), LL.B (Hons) (UI), BL, LL.M (UI), PhD (BU), Legal Practitioner and Notary Public,

²LL.B (Hons) (OSU), BL, LL.M (UI), PhD (BU), Legal Practitioner, Lecturer, Department of Private and Business Law, Ajayi Crowther University, Oyo State

DOI: <https://doi.org/10.47772/IJRISS.2026.100700730>

Received: 28 July 2026; Accepted: 03 August 2026; Published: 11 August 2026

ABSTRACT

The migration of adjudication from the physical courtroom to the digital environment has become one of the defining features of contemporary judicial administration in Nigeria. What began as an emergency response to the disruption occasioned by the COVID-19 pandemic has hardened into a durable programme of reform, culminating most recently in the mandatory electronic filing regime introduced at the Supreme Court in July 2026 and the electronic filing platform launched at the Federal High Court earlier in the same year. This article critically appraises that transformation through the lens of the constitutional guarantee of fair hearing under section 36 of the Constitution of the Federal Republic of Nigeria 1999 (as amended). It argues that virtual proceedings and electronic filing are not, in themselves, antithetical to fair hearing; rather, their compatibility depends on how faithfully the twin requirements of an open, public hearing and a genuinely equal opportunity to be heard are preserved in the digital setting. Drawing on the constitutional text, judicial authority, the reforms introduced by the Evidence (Amendment) Act 2023, recent empirical evidence on the attitudes of legal practitioners, and comparative practice in Singapore, the United Kingdom, Australia and Kenya, the article identifies the fault lines that most threaten fair hearing, namely the digital divide, infrastructural deficiency, the unresolved treatment of certified true copies of public documents, and the persistent absence of an express constitutional footing for virtual sittings. It concludes with a set of targeted reforms designed to align Nigeria's digital justice architecture with the enduring demands of due process.

Keywords: administration of justice, digital justice, electronic filing, fair hearing, virtual court proceedings, Nigeria

INTRODUCTION

The courtroom has long been imagined as a physical place. Its architecture, the elevated bench, the dock, the witness box, the public gallery, carries a symbolic weight that is inseparable from the idea of justice being done and being seen to be done. Yet the practical business of adjudication has never been wholly bound to bricks and mortar, and the past half-decade has tested that assumption more severely than at any point in Nigeria's legal history. The outbreak of the COVID-19 pandemic in early 2020, and the public-health restrictions that followed, forced courts across the world to confront a stark choice: suspend the administration of justice altogether or reconstitute it through technology.¹ Nigeria, like most jurisdictions, chose the second path, and in doing so set in motion a reform trajectory whose implications for the constitutional guarantee of fair hearing are still unfolding.

¹For a comparative overview of how different jurisdictions responded, see A Sanders, 'Video Hearings in Europe Before, During and After the Covid-19 Pandemic' (2021) 12(2) International Journal for Court Administration 1, DOI: 10.36745/ijca.379.



The response was swift. On 6 April 2020, and again through subsequent guidance, the National Judicial Council directed the heads of the various courts to issue practice directions enabling the conduct of proceedings on virtual platforms.² Within weeks the Lagos State Judiciary, the High Court of the Federal Capital Territory, the Federal High Court and the National Industrial Court had each issued practice directions to that effect.³ What had been an experimental novelty became, almost overnight, an operational necessity. Six years later, the trajectory has not reversed. The Evidence Act 2011 has been amended to accommodate electronic records and digital authentication, the Court of Appeal has harmonised remote-hearing provisions into its rules, and, in the space of a few months in 2026, both the Federal High Court and the Supreme Court have moved decisively towards electronic filing.

This article offers a critical appraisal of that transformation. Its organising question is not whether the digital turn is desirable, that debate has largely been overtaken by events, but whether, and on what conditions, virtual court proceedings and electronic filing can be reconciled with the right to fair hearing entrenched in section 36 of the Constitution of the Federal Republic of Nigeria 1999 (as amended).⁴ The enquiry matters because fair hearing is not merely one procedural entitlement among many. It is a fundamental right, and its breach in any proceeding renders the resulting decision a nullity regardless of the apparent correctness of the outcome.⁵

The argument proceeds in eight further parts. Part 2 sets out the conceptual and constitutional framework of fair hearing, distinguishing its two limbs, the right to be heard and the right to an open and public hearing, because the digital turn stresses each limb differently. Part 3 traces the evolution of virtual proceedings and electronic filing in Nigeria from the emergency measures of 2020 to the statutory and institutional reforms of 2023 to 2026. Parts 4 and 5 appraise, respectively, the compatibility of virtual proceedings with the open-court principle and the implications of electronic filing for equal access. Part 6 examines the practical stress points, infrastructure, the digital divide, the assessment of witness credibility, and confidentiality, on which fair hearing is most likely to founder. Part 7 draws comparative lessons from Singapore, the United Kingdom, Australia and Kenya. Part 8 offers recommendations, and Part 9 concludes.

The Constitutional Framework of Fair Hearing

Section 36(1) of the Constitution provides that, in the determination of a person's civil rights and obligations, that person is entitled to a fair hearing within a reasonable time by a court or other tribunal established by law and constituted so as to secure its independence and impartiality.⁶ Section 36(3) adds that the proceedings of a court or tribunal, including the announcement of its decision, shall be held in public, while section 36(4) guarantees to a person charged with a criminal offence a fair hearing in public within a reasonable time, subject to narrowly drawn exceptions permitting exclusion of the public in the interest of, among other things, public safety, public morality and the protection of minors.⁷

Two distinct but complementary guarantees are embedded in these provisions. The first is the right to be heard, expressed in the twin common-law maxims that no person shall be a judge in his own cause (*nemo iudex in causa sua*) and that both sides must be heard (*audi alteram partem*).⁸ A hearing is fair, in this sense, where every

²National Judicial Council, Circular No NJC/CIR/HOC/II/656 (2020); see also the guidance issued by the Chief Justice of Nigeria on preventive measures against the spread of COVID-19 and the protection of justices, judges and staff of courts, dated 6 April 2020.

³Practice Direction for Remote Hearing of Cases in the Lagos State Judiciary 2020 (issued 4 May 2020, updated 15 May 2020); High Court of the Federal Capital Territory, Abuja COVID-19 Practice Direction 2020; Federal High Court of Nigeria Practice Direction for Sitting During COVID-19 Period 2020; National Industrial Court of Nigeria Practice Direction and Guidelines for Court Sitting 2020.

⁴Constitution of the Federal Republic of Nigeria 1999 (as amended), s 36 (hereafter 'the Constitution' or 'CFRN 1999').

⁵The principle is long settled: a decision reached in breach of fair hearing is void, irrespective of whether the same conclusion might have been reached had the breach not occurred. See *Adigun v Attorney-General of Oyo State* (1987) 1 NWLR (Pt 53) 678 (SC); *Kotoye v Central Bank of Nigeria* (1989) 1 NWLR (Pt 98) 419 (SC).

⁶CFRN 1999, s 36(1).

⁷CFRN 1999, s 36(3) and (4). The exceptions in s 36(4)(a) and (b) are strictly construed and, far from authorising secret trials, they underscore the general rule that proceedings must be conducted openly.

⁸On the content of fair hearing generally, see *Ariori v Elemo* (1983) 1 SCNLR 1 (SC), where the Supreme Court explored the meaning of a hearing 'within a reasonable time'; and *Kotoye v Central Bank of Nigeria* (1989) 1 NWLR (Pt 98) 419 (SC).



reasonable and impartial observer of the proceedings would conclude that the court has been even-handed as between the parties, that each party has had a genuine opportunity to present its case and to answer the case against it, and that the tribunal has approached the matter without bias. The test is one of substance, not form; the question is never whether injustice was in fact done, but whether the party entitled to be heard was given a real opportunity to be heard.

The second guarantee is the requirement that proceedings be held in public. This open-court principle rests on the premise that publicity is the surest safeguard against arbitrariness: a hearing conducted in the full view of the community is far less likely to be tainted by partiality or caprice than one conducted behind closed doors. Nigerian courts have enforced this requirement rigorously. Where a matrimonial cause was heard in the private chambers of the trial judge, to which members of the public had no ordinary access, the proceedings were declared a nullity even though neither party had objected.⁹ A civil judgment delivered in chambers was similarly set aside on appeal, the court affirming that access to the venue of adjudication is a public right belonging to every citizen and that the doors of the court must be open to anyone who presents himself for admission.¹⁰ The Court of Appeal has reiterated that the requirement of a hearing in public is a constitutional requirement designed to preclude the hearing of causes in private or in secret, and that it attaches from the filing of process through the calling of evidence to the pronouncement of judgment.¹¹

A third element, easy to overlook, is woven through both limbs: section 36 guarantees a fair hearing within a reasonable time. Delay is itself a species of injustice, and the Supreme Court has long recognised that the reasonableness of the time within which a matter is heard is measured against the whole circumstances of the case.¹² This element is significant for the present enquiry because it points in the opposite direction from the open-court anxieties that dominate the debate: to the extent that digital tools reduce adjournments, accelerate the movement of files and shorten the interval between filing and hearing, they serve fair hearing rather than threaten it. The constitutional appraisal of the digital turn must therefore hold two truths together, that technology may imperil the publicity and equality limbs of fair hearing while simultaneously advancing its timeliness limb, and a reform that improves one at the cost of another has not necessarily improved fair hearing overall.

It is the second guarantee that the digital turn most directly implicates, and the interpretive difficulty lies in a single word. Section 36(3) requires proceedings to be held in public, but the Constitution nowhere defines 'public'. The framers, writing in 1999, plainly had in contemplation a physical courtroom. Whether the word can accommodate a hearing conducted over a video-conferencing platform, accessible to anyone with an internet connection but to no one who merely walks through the courthouse door, is the central constitutional question raised by virtual proceedings, and it is to the evolution of those proceedings that the analysis now turns.

The Digital Turn in Nigerian Adjudication

From emergency measure to entrenched practice

The infusion of technology into Nigerian legal practice did not begin in 2020. Electronic filing and service, the presumption of delivery of electronically transmitted documents, provision for electronic signatures, and the admissibility of computer-generated evidence all pre-dated the pandemic, scattered across the Evidence Act 2011 and various rules of court.¹³ What the pandemic supplied was not the technology but the compulsion to use it at scale. The practice directions issued in the wake of the National Judicial Council's 2020 circular authorised

⁹Oviasu v Oviasu (1973) 11 SC 187; see also Edibo v State and the line of authority holding that a trial conducted otherwise than in open court offends s 36(3).

¹⁰Nigeria-Arab Bank Ltd v Barri Engineering (Nig) Ltd (1995) 8 NWLR (Pt 413) 257 (SC) at 273. The requirement of a public hearing was described as a public right of every citizen.

¹¹Chukwu v State (2012) LPELR-15360(CA); Ezeama v State (2014) LPELR-22504(CA).

¹²The phrase 'within a reasonable time' in s 36(1) was examined at length in Ariori v Elemo (1983) 1 SCNLR 1 (SC), where the Court emphasised that reasonableness is to be assessed contextually rather than by any fixed measure.

¹³Evidence Act 2011, s 84 (admissibility of computer-generated statements), s 93 (proof of signature and electronic signature), and s 153 (presumption regarding electronic messages). See also Order 6A of the High Court of Rivers State Practice Direction No 1 of 2019 and the National Industrial Court (Civil Procedure) Rules 2017, both of which contemplated electronic filing and service.



the use of audio-visual links for hearings, prescribed etiquette for virtual sittings, and provided for the recording of proceedings, thereby converting a dormant capacity into everyday practice.

The constitutional anxiety that this provoked surfaced almost immediately. Senior members of the bench and bar questioned whether virtual sittings could satisfy the open-court requirement of section 36, and the Attorneys-General of Lagos and Ekiti States separately approached the Supreme Court for authoritative pronouncements that virtual proceedings did not offend the Constitution.¹⁴ The suits were ultimately struck out as speculative and premature, no concrete dispute having crystallised, but not before the Court had intimated that virtual hearings were not, at that time, unconstitutional.¹⁵ That guarded observation left the matter unresolved as a question of principle, and an attempt to place virtual proceedings on an express constitutional footing failed when the relevant alteration bill did not survive the legislative process in 2022.¹⁶

Statutory consolidation: The Evidence (Amendment) Act 2023

If the constitutional question stalled, the statutory framework advanced. At the state level, the Administration of Criminal Justice (Amendment) Law of Lagos State 2021 expressly recognised virtual proceedings in criminal trials,¹⁷ and the Court of Appeal (Civil Procedure) Rules 2021 absorbed the remote-hearing provisions that had previously lived only in practice directions.¹⁸

The most consequential development, however, was federal. On 12 June 2023 the President assented to the Evidence (Amendment) Act 2023, which recalibrated the law of evidence for the digital age.¹⁹ The Act inserts new sections 84A to 84D, extending the admissibility regime beyond 'computer-generated' documents to 'electronic records' broadly defined, and dispensing, subject to prescribed conditions, with the requirement to produce the original of a document.²⁰ It recognises the digital signature, defined as an electronically generated signature attached to a transmitted document to verify its contents and the sender's identity, and establishes criteria for the reliability of such signatures and of electronic authentication techniques more generally.²¹ Crucially for the conduct of virtual proceedings, the Act amends sections 108 to 110 and 119 to permit affidavits to be deposed to electronically and oaths to be administered through audio-visual means, and it recognises the electronic gazette as a valid mode of official publication.²²

The amendment is a genuine advance, but it is an incomplete one. It conspicuously left untouched section 90(1)(c) of the principal Act, which continues to provide that the only admissible form of secondary evidence of a public document is a certified true copy, and no copy of such a copy.²³ In a courtroom that files, serves and tenders documents electronically, the survival of a rule insisting on a physical certified true copy is an anomaly

¹⁴Attorney-General of Lagos State v Attorney-General of the Federation (Suit No SC/CV/260/2020, unreported); Attorney-General of Ekiti State v Attorney-General of the Federation (Suit No SC/CV/261/2020, unreported).

¹⁵The Court declined to make the declarations sought, holding the questions to be hypothetical. The practical effect was to leave the practice directions in force while resolving nothing of the underlying constitutional question, which remains open.

¹⁶The bill to amend the Constitution to accommodate virtual court hearings failed to secure passage; see 'Bill for Virtual Court Hearing Fails at Senate' Ripples Nigeria (1 March 2022).

¹⁷Administration of Criminal Justice (Amendment) Law of Lagos State 2021, s 12(2).

¹⁸Court of Appeal of Nigeria (Civil Procedure) Rules 2021.

¹⁹Evidence (Amendment) Act 2023, assented to on 12 June 2023, amending the Evidence Act 2011.

²⁰Evidence (Amendment) Act 2023, ss 2 and 3, inserting ss 84A-84D into the principal Act. An 'electronic record' is defined to include data generated, image or sound stored, received or sent in electronic form or microfilm.

²¹Evidence (Amendment) Act 2023, ss 84C-84D and s 10 (interpretation); the amendment also revised s 93 of the principal Act to embrace the digital signature.

²²Evidence (Amendment) Act 2023, ss 5 to 8, amending ss 108, 109, 110 and 119 of the principal Act; the Act also introduced recognition of the electronic gazette and, in its interpretation section, defined terms such as 'audio-visual communication', 'cloud computing' and 'electronic record'.

²³Evidence Act 2011, s 90(1)(c), unamended by the 2023 Act. On the strictness of this rule, see *Minister of Lands v Azikiwe* (1969) 1 All NLR 49 and *Omisore v Aregbesola* (2015) 15 NWLR (Pt 1482) 205 at 333.



with real consequences for the party who must prove a public document virtually, a point examined further below.²⁴

The electronic filing turn of 2026

The reforms of 2020 to 2023 addressed the conduct of hearings and the reception of evidence; the reforms of 2026 addressed the paperwork. In late April 2026 the Federal High Court launched an electronic filing system in its Lagos Division, its Chief Judge declaring an end to what he termed the era of paper antiquity.²⁵ The platform generates a verifiable digital record and audit trail for every filing, integrates electronic payment of filing fees, and removes the working-hour limitations of the registry, so that processes may be filed at any hour rather than only before the registry's customary early-afternoon closure.²⁶

The apex court followed within weeks. On 1 July 2026 the Chief Justice of Nigeria inaugurated the Nigerian Case Management System and brought into force the Supreme Court (Mandatory Upload of Electronic Copies of Processes, Records of Appeal and Other Matters) Practice Directions 2026.²⁷ Implementation is to proceed in phases: the first phase mandates the upload of electronic copies of processes and records of appeal in pending matters, while the second will introduce full electronic filing, allowing appeals to be filed and managed online.²⁸ Tellingly, the inauguration was accompanied by a warning against the uploading of forged, altered or unauthorised documents, an acknowledgement that the integrity of a digital record depends ultimately on the honesty of those who create it.²⁹

These developments are significant not only for their content but for their provenance. Where the reforms of 2020 were reactive, defensive and improvised under the pressure of a public-health emergency, the reforms of 2026 are presented as deliberate institutional policy, championed from the apex of the judiciary as an alignment of Nigerian courts with global standards. The digital turn has, in other words, matured from expedient to programme. That maturation makes the fair-hearing appraisal in the parts that follow more urgent, not less, because a permanent architecture demands a firmer constitutional and practical foundation than a temporary one.

Virtual Proceedings and The Open-Court Requirement

The central objection to virtual proceedings is that a hearing conducted over a video link is not a hearing held 'in public' within section 36(3). The objection has been pressed with force. On one view, the constitutional command that proceedings be held in public presupposes a physical location to which members of the public enjoy free and unfettered access, and a video conference, entry to which is controlled by a host who admits participants selectively, is the functional equivalent of a sitting in chambers, precisely the vice condemned in *Oviasu and Nigeria-Arab Bank*.³⁰

²⁴The difficulty is that a scanned or cloud-stored copy of a certified true copy is not itself a certified true copy within s 90(1)(c). Until the provision is reformed or public offices routinely lodge certified copies on accessible platforms, the tendering of public documents remains a friction point in virtual proceedings. See A Davies, O Olugasa and D A Odunaike, 'Experimental Trials of the Virtual Court Proceedings in Nigeria: An Empirical Perspective' (2024) 15(2) International Journal for Court Administration, art 4, DOI: 10.36745/ijca.550.

²⁵Federal High Court Launches E-Filing System in Lagos' Lawyard (28 April 2026); 'Federal High Court Launches E-Filing System in Lagos' Premium Times / allAfrica (28 April 2026).

²⁶The reported features include automatic generation of verifiable digital records to deter backdating, integrated electronic payment channels, and the elimination of the registry's traditional closing time. The resilience benefits were dramatised by the 2024 Maiduguri flood, during which court documents stored in the cloud survived the destruction of the physical registries. Several states, including Borno, Bayelsa, Delta, Niger and Taraba, were reported to have adopted comparable systems.

²⁷Supreme Court Launches Digital Case System, Makes E-Filing Mandatory' The Guardian (Nigeria, 1 July 2026); 'Supreme Court Launches Electronic Case Filing System' Daily Trust (1 July 2026).

²⁸The Chief Justice explained that the system is designed to reduce reliance on manual filing, improve case tracking and record retrieval, and furnish a secure electronic repository and comprehensive audit trail for court documents.

²⁹The Chief Justice cautioned that technology is only as reliable as those entrusted with its use, and that the uploading of forged or altered documents would attract legal, regulatory and disciplinary sanctions.

³⁰This is essentially the position associated with the practitioners who argued that virtual sittings, absent a constitutional amendment, breach s 36(3) and (4); see the discussion in A M Chinyere and W E Onyedi, 'The Constitutionality Conundrum on Virtual Court



The competing view fixes on the fact that the Constitution requires a hearing in public, not a hearing in a building. On this reading, 'public' denotes accessibility rather than physical location: a proceeding is public where members of the public are not barred from observing it, whether they observe it from the gallery or through a screen. The point is reinforced by the classic definition, drawn from the writing of Fidelis Nwadialo, that a trial is sufficiently public if members of the public may have access to where it is taking place, the actual presence of the public not being necessary.³¹ If accessibility is indeed the touchstone, a virtual hearing may serve the open-court principle at least as well as, and sometimes better than, a physical one: a litigant, journalist or curious citizen in a distant town who could never realistically travel to a courtroom may join a hearing from a mobile telephone. There is, on this argument, no place more public than the internet.

The disagreement is genuine, but it is capable of being narrowed. What section 36(3) protects is not the brick courtroom as such but the values the open courtroom serves: the deterrence of partiality, the accountability of the judge, the education of the public, and the confidence of the community in the administration of justice. A virtual hearing can vindicate each of these values, but only if it is genuinely open. The constitutional difficulty arises not from virtuality as such but from the way virtual hearings are administered. Where access requires an invitation from the court, where the hearing is not published or streamed, where the link is shared only with the parties and their counsel, the hearing is not public in any meaningful sense; it is a private hearing conducted at a distance. Where, by contrast, the court publishes the means of access, admits observers as of course, and treats the requirement of publicity as a default rather than a matter of discretion, the objection loses much of its force.

This distinction has a practical corollary that Nigerian law has not yet fully internalised. In the comparative jurisdictions surveyed below, publicity in the virtual setting tends to be treated as a matter for the court's permission: an observer must apply to join. Treating access as discretionary in this way subtly inverts the constitutional presumption, for anything that requires permission may be refused.³² If virtual proceedings are to satisfy section 36(3), the burden must lie the other way: openness must be the rule, and any restriction must be justified by reference to the narrow exceptions the Constitution itself permits. The empirical evidence suggests that the Nigerian legal profession is, in fact, broadly persuaded that virtual hearings can be constitutional, with a clear majority of surveyed practitioners rejecting the proposition that virtual hearings as presently constituted are unconstitutional.³³

Two features of virtual practice, if properly deployed, can convert the open-court objection into an open-court advantage. The first is the recording of proceedings, which most of the practice directions already contemplate. A recorded and archived hearing is, in one respect, more public than a physical one: the citizen who could not attend in real time may examine the proceeding afterwards, and the permanence of the record deters the very partiality that section 36(3) guards against. The second is the hybrid hearing, in which some participants attend physically while others join remotely. The hybrid model preserves the physical courtroom, and with it the walk-in access that the traditionalists prize, while extending participation to those for whom physical attendance is impossible. Rather than choosing between the physical and the virtual, Nigerian courts might treat the two as complementary, retaining the open courtroom as the anchor of publicity while using the virtual channel to widen, not replace, access to it.

Electronic Filing and The Right to Be Heard

If virtual hearings stress the open-court limb of fair hearing, electronic filing stresses the other limb, the right of access to the court and the equal opportunity to be heard. Here the balance of advantage is, on the whole,

Sittings in the COVID-19 Period in Nigeria' (2023) 31(3) African Journal of International and Comparative Law 377, DOI: 10.3366/ajicl.2023.0454.

³¹The definition, widely relied upon in the Nigerian literature, treats accessibility rather than physical attendance as the touchstone of publicity; see F Nwadialo, cited approvingly in P Aneke, 'The Legality of Virtual Court Hearing in Nigeria: The Way Forward' (2021) Madonna University Faculty of Law Journal 56.

³²On the treatment of virtual publicity as discretionary rather than presumptive, see Davies, Olugasa and Odunaike (n above); and, for the comparative practice, the discussion in Part 7 below.

³³In the survey reported by Davies, Olugasa and Odunaike (n above), only a minority of respondents agreed that virtual court hearing as presently constituted is unconstitutional, and a still smaller minority considered that it would fail to deliver a fair trial; a substantial majority considered that virtual courts could improve the efficiency of the court system and should be retained.



favourable. A filing system that operates around the clock, that transmits a process from registry to judge's chambers in seconds rather than days, that generates an immutable audit trail, and that accepts payment of fees electronically removes several of the frictions that have historically obstructed access to Nigerian courts. The elimination of the registry's early-afternoon closing time is not a trivial convenience; it widens the practical window within which a litigant may vindicate a right, and it reduces the opportunities for the unofficial gatekeeping that has long attended manual filing.³⁴

The audit-trail feature deserves particular emphasis, because it engages fair hearing directly. A hearing cannot be fair if the record on which it proceeds is unreliable. A system that timestamps every filing, that records every action taken on a file, and that renders alteration detectable strengthens the evidential integrity of the proceedings and, with it, the confidence of the parties that the case is being decided on an authentic record. It is no coincidence that the resilience of digital records was demonstrated most vividly by disaster: when flooding destroyed the physical registries in Maiduguri in 2024, the case documents stored in the cloud survived, and the business of the court continued from the homes of the lawyers concerned.³⁵

Yet the very features that make electronic filing attractive also relocate, rather than remove, the risks to fair hearing. Three deserve mention. The first is the integrity risk that the Chief Justice herself flagged: a digital repository is only as trustworthy as the documents uploaded to it, and the ease of manipulating an electronic file is a standing temptation that must be met with authentication safeguards and disciplinary deterrence.³⁶

The second is the residual problem of the certified true copy. A litigant who must prove a public document, a certificate of occupancy, a gazette, a prior judgment, still faces section 90(1)(c)'s insistence on a physical certified true copy, which cannot easily be reconciled with a wholly electronic filing and hearing. Until public offices are placed under an obligation to lodge certified copies on accessible platforms, or the subsection is amended to admit an electronic certified copy, a party's ability to prove its case, the very core of the right to be heard, may turn on an accident of format.³⁷

The third, and gravest, is the risk of exclusion. A filing system that presupposes reliable electricity, stable internet access, a device capable of scanning and uploading documents, and the digital literacy to operate the platform will, in a country where a large proportion of the population enjoys none of these reliably, favour the connected litigant over the unconnected one. Electronic filing that is mandatory rather than optional, as the Supreme Court's regime now is for the matters it covers, converts a facility into a precondition of access. That is the point at which efficiency and fair hearing come into potential conflict, and it is examined in the next part.

The Stress Points: Infrastructure, The Digital Divide and The Assessment of Evidence

Infrastructure and the digital divide

The most frequently voiced, and the most substantiated, objection to the digital turn is that Nigeria's infrastructure cannot yet support it uniformly. The concern is not merely rhetorical. Recent empirical work surveying legal practitioners in Lagos and the Federal Capital Territory found that the lack of infrastructure was regarded as the single greatest challenge to virtual proceedings, identified by roughly two-thirds of respondents, followed by fear of the technology, lack of technological skill, and the difficulty of tendering documents.³⁸ An

³⁴The Federal High Court expressly identified the curbing of backdating and the elimination of unofficial gatekeeping among the objectives of its e-filing platform; see the sources at n above.

³⁵See n above. The episode illustrates a dimension of access to justice, continuity of adjudication through physical catastrophe, that is easily overlooked in the constitutional debate.

³⁶The Evidence (Amendment) Act 2023, in providing for secure digital signatures and detectable alteration, supplies part of the answer, but statutory provision must be matched by institutional vigilance.

³⁷The 2023 amendment's failure to address s 90(1)(c) is, in this respect, the most significant gap in the current statutory scheme; see the empirical study at n above, which identifies the difficulty of tendering documents as one of the four leading challenges to virtual proceedings in Nigeria.

³⁸Davies, Olugasa and Odunaike (n above), reporting that lack of infrastructure (approximately 65.7 per cent of respondents), fear of new technology (approximately 45.5 per cent), lack of technological skill (approximately 34.9 per cent) and difficulty in admitting documents (approximately 28.6 per cent) were the four leading challenges identified.



overwhelming majority, some eighty-five per cent, agreed that unreliable electricity supply and poor internet connectivity impede adequate virtual proceedings.³⁹

The fair-hearing significance of these figures is direct. A right to be heard that can be exercised only by those with the means to connect is not a right equally enjoyed. If a hearing proceeds virtually and a party's connection fails at the moment of cross-examination, or if a self-represented litigant lacks the device or the data to participate at all, the resulting proceeding may satisfy the form of fair hearing while defeating its substance. The digital divide is therefore not a mere implementation detail to be resolved by procurement; it is a constitutional concern, because it determines who can and cannot access the reconstituted forum of justice.

A particular casualty of an unqualified digital mandate is the self-represented litigant. A party who appears without counsel is, by definition, without the professional infrastructure, the chambers, the clerk, the familiarity with process, on which the represented litigant relies, and is correspondingly more exposed to the demands of an unfamiliar digital forum. It is instructive that Singapore, for all its advanced integration of virtual practice, generally requires self-represented litigants to attend in person, a deliberate calibration that shields the unrepresented from the additional burdens of the virtual setting.⁴⁰ A Nigerian regime that made virtual participation or electronic filing compulsory without a comparable safeguard would risk visiting the heaviest procedural disadvantage upon those least equipped to bear it, and would to that extent offend the equality that lies at the heart of the right to be heard.

Credibility, cross-examination and confidentiality

Beyond access lie subtler threats to the quality of adjudication. The assessment of a witness's credibility has traditionally been thought to depend on the trial judge's opportunity to observe demeanour at close quarters, an opportunity that a video link mediates and may distort. There is empirical reason for caution here: experimental research has found that even the quality of the audio through which testimony is heard can materially affect how favourably a witness is evaluated and how well the evidence is recalled, with poor audio producing less favourable assessments.⁴¹ If the medium itself can skew the fact-finder's evaluation, then a virtual trial conducted over a poor connection may not merely inconvenience the parties; it may compromise the reliability of the verdict.

Related concerns attend the cross-examination of witnesses, the confidentiality of communications between a lawyer and a client who are no longer physically together, and the maintenance of courtroom decorum and solemnity at a distance.⁴² Empirical study of remote criminal proceedings found to have been undertaken in J.I Turner's book found that defence lawyers are markedly more willing to appear virtually for preliminary matters than for substantive hearings, and that in-custody defendants tend to have poorer access to the technology than those at liberty, a disparity that maps onto exactly the population least able to absorb procedural disadvantage.⁴³

None of these concerns is a decisive argument against virtual proceedings. Each is, however, an argument for careful design: for insisting on adequate audio-visual standards before a contested trial proceeds virtually, for preserving a confidential channel between lawyer and client, for retaining the physical hearing as the default in

³⁹Ibid. The finding tracks the wider reality: it has been reported that tens of millions of Nigerians lack reliable access to electricity, a deficit with obvious implications for any justice architecture that presupposes connectivity. See 'Report' as cited in the study at n above.

⁴⁰Rules of Court 2021 (Singapore); the requirement that self-represented persons attend physically is a recognition that the virtual forum is not equally navigable by all classes of litigant.

⁴¹E Bild, A Redman, E J Newman, B R Muir, D Tait and N Schwarz, 'Sound and Credibility in the Virtual Court: Low Audio Quality Leads to Less Favourable Evaluations of Witnesses and Lower Weighting of Evidence' (2021) 45(5) Law and Human Behaviour 481, DOI: 10.1037/lhb0000466.

⁴²On the range of these concerns across jurisdictions, see M Rossner, D Tait and M McCurdy, 'Justice Reimagined: Challenges and Opportunities with Implementing Virtual Courts' (2021) 33(1) Current Issues in Criminal Justice 94, DOI: 10.1080/10345329.2020.1859968; and M Legg and A Song, 'The Courts, the Remote Hearing and the Pandemic: From Action to Reflection' (2021) 44(1) University of New South Wales Law Journal 126, DOI: 10.53637/ZATE4122.

⁴³J I Turner, 'Remote Criminal Justice' (2021) 53 Texas Tech Law Review 23, DOI: 10.2139/ssrn.3699045, reporting that prosecutors were generally more favourably disposed to the continuation of virtual proceedings than defence attorneys, and that access disparities disadvantaged detained defendants.



cases where credibility is genuinely in issue, and for equipping the judiciary and the bar with the skills the new forum demands. The reassuring finding of the Nigerian empirical work is that practitioners, while alert to these challenges, do not on balance regard them as reasons to abandon virtual proceedings; the challenge is to manage the risks rather than to retreat from the reform.⁴⁴

Comparative Perspectives and Lessons

Nigeria is neither the first nor the most advanced jurisdiction to confront these questions, and there is instruction to be drawn from those that have gone further. Singapore has integrated virtual proceedings into its Rules of Court, which came into force in 2022 and permit the court to conduct a hearing electronically, with processes filed and served through a dedicated Electronic Filing Service.⁴⁵ The Singaporean model is instructive precisely because it harmonises virtual practice with the ordinary rules of court rather than leaving it to stand-alone practice directions, an alignment that the Nigerian empirical literature identifies as a pressing need.

Australia conducts hearings through electronic courtrooms with professional recording and transcription, and treats the recording of proceedings by participants without leave as an offence, a measure that protects the integrity and solemnity of the virtual hearing.⁴⁶ The United Kingdom permits video and audio hearings under a dedicated practice direction and contemplates that media representatives may attend virtual hearings to preserve publicity, though it treats the question of publicity as one of practical arrangement rather than strict entitlement.⁴⁷ Kenya, closer to Nigeria in its infrastructural setting, provided early for electronic case management by practice direction and requires a party seeking a virtual hearing to apply and to furnish an address for electronic correspondence.⁴⁸

Three lessons emerge for Nigeria. First, durable reform requires integration: virtual and electronic practice should be woven into the rules of court and, ideally, given an express constitutional anchor, rather than left to a patchwork of practice directions whose relationship to the ordinary rules is uncertain. This is a major lesson from Singapore as the country's virtual proceedings are governed by the Rules of Court rather than emergency practice directions. Second, publicity should be engineered into the system as a default, with observers admitted as of right and restrictions confined to the constitutionally permitted exceptions, rather than left to ad hoc permission. Third, the vulnerable, the self-represented, the detained, the unconnected, require deliberate protection, whether by preserving a physical option for them or by underwriting their access, lest the digital forum entrench the very inequalities that fair hearing exists to prevent.⁴⁹ The comparative experiences of Australia, the United Kingdom, and Kenya reinforce the central argument of this study that virtual justice is most effective when supported by comprehensive procedural rules, institutional safeguards, and context-sensitive implementation strategies. Rather than transplanting foreign models wholesale, Nigeria should adapt these best practices to its constitutional framework and infrastructural realities. Such an approach would enhance access to justice, strengthen judicial efficiency, and ensure that the digital transformation of the Nigerian judiciary remains consistent with the constitutional guarantees of fair hearing, open justice, and due process.

⁴⁴Davies, Olugasa and Odunaike (n above), concluding that although practitioners recognise the existence of significant challenges, the prevailing view is that these challenges should not preclude the adoption of virtual proceedings, provided the leading obstacles are addressed.

⁴⁵Rules of Court 2021 (Singapore), made under the Supreme Court of Judicature Act (Cap 322), in force 2022, Order 3 Rule 9 and the provisions governing the Electronic Filing Service. Notably, self-represented litigants are generally required to attend in person, a calibration that protects the unrepresented from the disadvantages of the virtual forum.

⁴⁶See the Federal Court of Australia's practice guidance on technology and online hearings, and the Federal Court Rules 2011 (Cth), which regulate the recording of proceedings; unauthorised recording is prohibited.

⁴⁷Practice Direction 51Y (Video or Audio Hearings during Coronavirus Pandemic) and associated guidance, England and Wales. The English approach illustrates both the possibility and the limits of securing publicity by administrative arrangement.

⁴⁸Practice Direction on Electronic Case Management (Kenya, 4 March 2020).

⁴⁹These themes recur across the comparative literature; see, in addition to the sources already cited, O Olugasa and A Davies, 'Remote Court Proceedings: Justice Online or Justice on the Line' (2022) 13(2) International Journal for Court Administration, DOI: 10.36745/ijca.448; and A Davies and O Olugasa, 'Advancing Remote Court Proceedings in Nigeria: Lessons from Other Jurisdictions' (2022) 1(2) Current Trends in Humanities and Law Research 1, DOI: 10.61867/pcub.v1i2b.014.



Towards A Fair-Hearing-Compatible Digital Justice System

The foregoing analysis supports a coherent programme of reform, constitutional, statutory, institutional and infrastructural, directed at securing the benefits of the digital turn without sacrificing the guarantees of section 36.

At the constitutional level, the unresolved status of virtual proceedings should be settled by an express alteration recognising that the requirement of a hearing in public is satisfied by a genuinely accessible virtual hearing. The failure of the 2022 alteration bill left virtual proceedings resting on a guarded and non-binding intimation of the Supreme Court and on practice directions of contested vires. A durable, apex-driven reform programme of the kind now under way deserves a firmer foundation than that, and an express provision would lay the constitutional question to rest while enabling courts to develop the practice with confidence.⁵⁰

At the statutory level, the outstanding gap in the Evidence (Amendment) Act 2023 should be closed. Section 90(1)(c) should be amended to admit an electronic certified true copy of a public document, or public offices should be placed under a duty to lodge certified copies on accessible official platforms, so that a party's capacity to prove a public document no longer depends on obtaining a physical certified copy incompatible with a wholly electronic proceeding. The Minister of Justice's new power to make regulations addressing lacunae in the admissibility of electronic evidence should be exercised to this end.

At the institutional level, the harmonisation modelled by the Court of Appeal (Civil Procedure) Rules 2021 should be completed across all courts, so that virtual and electronic practice ceases to inhabit a separate universe of practice directions and is instead embedded in the ordinary rules of court. Publicity should be treated as a default: courts adopting virtual sittings should publish the means of access and admit observers as of right, restricting access only within the narrow bounds of section 36(4). Authentication and audit safeguards, of the kind the new filing systems already incorporate, should be reinforced by clear disciplinary consequences for the uploading of forged or altered documents, giving practical effect to the integrity warning that accompanied the Supreme Court's reform.

At the infrastructural and human level, the reforms will succeed only to the extent that access is real. Sustained investment in fit-for-purpose audio-visual equipment, reliable power and connectivity in court precincts, and, critically, measures to protect litigants on the wrong side of the digital divide, whether by preserving a physical filing and hearing option for the unconnected and the self-represented or by providing supported access points, is indispensable. Continuous training of judges and legal practitioners, delivered jointly by the judiciary and the Nigerian Bar Association, is required to dispel the technophobia and skills deficit that the empirical evidence identifies as leading obstacles.⁵¹

The manner of transition matters as much as its content. The phased approach that the Supreme Court has adopted, beginning with the mandatory upload of electronic copies before advancing to full electronic filing, is a prudent model that allows the profession and the litigating public to adapt incrementally rather than being confronted with an abrupt and universal digital requirement. That prudence should extend to the question of compulsion. For as long as the digital divide persists, an electronic option should not harden into an exclusive electronic obligation in the courts of first instance, where the unrepresented and the unconnected are most heavily represented; a preserved physical alternative is, in present conditions, not a concession to backwardness but a safeguard of access. The goal is a system in which the digital route is the default because it is better, not because the physical route has been abolished before the conditions for its abolition exist.

Finally, the shift to electronic records intensifies the need for a robust data-protection and cybersecurity framework governing the courts. A digital repository of the nation's litigation is a sensitive asset; its

⁵⁰The point is reinforced by the empirical finding that practitioners, though largely persuaded of the constitutionality of virtual hearings, nonetheless favour proceeding with a constitutional amendment to remove residual doubt; see Davies, Olugasa and Odunaike (n above).

⁵¹The empirical study (n above) recommends precisely this combination of infrastructural investment and training by the judiciary and the Bar as the condition of sustainable virtual proceedings.



confidentiality, integrity and availability must be secured if the digital courtroom is to command the confidence that the physical courtroom has historically enjoyed.

CONCLUSION

The administration of justice in Nigeria has crossed a threshold. What was improvised in the emergency of 2020 has become, by 2026, a deliberate programme of digital reform reaching from the trial registries to the apex court. The central claim of this article is that this transformation is neither the salvation nor the subversion of fair hearing that its more enthusiastic and more anxious observers respectively suppose. Virtual proceedings and electronic filing are compatible with section 36 of the Constitution, but their compatibility is conditional. It depends on whether the open-court principle is honoured by making virtual hearings genuinely accessible rather than merely remote; on whether the right to be heard is preserved by ensuring that the digital forum does not silently exclude the unconnected; on whether the reliability of adjudication is protected against the distortions that a degraded medium can introduce; and on whether the statutory framework is completed so that the capacity to prove one's case does not turn on an accident of format.

The Nigerian judiciary has shown, in the reforms of 2023 to 2026, both the will and the capacity to modernise. The task now is to match that institutional ambition with an equally deliberate attention to the constitutional guarantees that give the exercise its purpose. Technology can widen the doors of the court or it can narrow them; whether it does the one or the other is not a matter of the technology but of the legal and institutional choices made around it. If those choices are made with the enduring demands of fair hearing firmly in view, the digital courtroom may prove to be not a diminished version of the physical one but a more open, more accessible and more resilient forum for the doing of justice.

REFERENCES

Journal Articles

1. A Sanders -For a comparative overview of how different jurisdictions responded, , 'Video Hearings in Europe Before, During and After the Covid-19 Pandemic' (2021) 12(2) International Journal for Court Administration 1, DOI: 10.36745/ijca.379.
2. A Davies, O Olugasa and D A Odunaike, 'Experimental Trials of the Virtual Court Proceedings in Nigeria: An Empirical Perspective' (2024) 15(2) International Journal for Court Administration, art 4, DOI: 10.36745/ijca.550.
3. A M Chinyere and W E Onyedi, 'The Constitutionality Conundrum on Virtual Court Sittings in the COVID-19 Period in Nigeria' (2023) 31(3) African Journal of International and Comparative Law 377, DOI:
4. F Nwadialo, cited approvingly in P Aneke, 'The Legality of Virtual Court Hearing in Nigeria: The Way Forward' (2021) Madonna University Faculty of Law Journal 56.
5. E Bild, A Redman, E J Newman, B R Muir, D Tait and N Schwarz, 'Sound and Credibility in the Virtual Court: Low Audio Quality Leads to Less Favourable Evaluations of Witnesses and Lower Weighting of Evidence' (2021) 45(5) Law and Human Behaviour 481, DOI: 10.1037/lhb0000466.
6. M Rossner, D Tait and M McCurdy, 'Justice Reimagined: Challenges and Opportunities with Implementing Virtual Courts' (2021) 33(1) Current Issues in Criminal Justice 94, DOI: 10.1080/10345329.2020.1859968;
7. M Legg and A Song, 'The Courts, the Remote Hearing and the Pandemic: From Action to Reflection' (2021) 44(1) University of New South Wales Law Journal 126, DOI: 10.53637/ZATE4122.
8. J I Turner, 'Remote Criminal Justice' (2021) 53 Texas Tech Law Review 23, DOI: 10.2139/ssrn.3699045
9. Olugasa and A Davies, 'Remote Court Proceedings: Justice Online or Justice on the Line' (2022) 13(2) International Journal for Court Administration, DOI: 10.36745/ijca.448;
10. A Davies and O Olugasa, 'Advancing Remote Court Proceedings in Nigeria: Lessons from Other Jurisdictions' (2022) 1(2) Current Trends in Humanities and Law Research 1, DOI: 10.61867/pcub.v1i2b.014.



Practice Directions

1. National Judicial Council, Circular No NJC/CIR/HOC/II/656 (2020); see also the guidance issued by the Chief Justice of Nigeria on preventive measures against the spread of COVID-19 and the protection of justices, judges and staff of courts, dated 6 April 2020.
2. Practice Direction for Remote Hearing of Cases in the Lagos State Judiciary 2020 (issued 4 May 2020, updated 15 May 2020); High Court of the Federal Capital Territory, Abuja COVID-19 Practice Direction 2020;

Statutes

1. Administration of Criminal Justice (Amendment) Law of Lagos State 2021.
2. Court of Appeal of Nigeria (Civil Procedure) Rules 2021.
3. Evidence (Amendment) Act 2023

NEWSPAPER PUBLICATION

1. Federal High Court Launches E-Filing System in Lagos' Lawyard (28 April 2026); 'Federal High Court Launches E-Filing System in Lagos' Premium Times / allAfrica (28 April 2026).
2. Supreme Court Launches Digital Case System, Makes E-Filing Mandatory' The Guardian (Nigeria, 1 July 2026);
3. Supreme Court Launches Electronic Case Filing System' Daily Trust (1 July 2026).