

Tilting the Scales in Favor of e-Justice: Philippine e-Courts and the e-Filing System in the Post-Pandemic World

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The Philippine government has recently made significant steps in automating public services, such as online payment of taxes, setting up of online applications for registrations, permits and licenses, and customer service hotlines. However, the judiciary lagged behind in adopting these innovations and was still largely paper-based until the emergence of the coronavirus disease 2019 (COVID-19) pandemic. This article discusses the development, importance and implications of electronic courts (e-courts) and the electronic filing (e-filing) system in a pre- and post-pandemic world. Gleaning from a review of secondary data, official documents and reports, jurisprudence, and case studies on other legal jurisdictions and international courts that make use of electronic systems, this study identifies the following benefits of the e-court and e-filing system: (a) efficient use of paper and cost savings in hiring judiciary personnel; (b) remote online access to court services and remote storage of court records and information; and (c) convenience through submission of pleadings and legal papers beyond the close of business day. The study also highlights the risks and stumbling blocks in the e-court and e-filing system: (a) cost of infrastructure and manpower; (b) integrity of files, and (c) digital privacy of litigants. Judicial administrators are called to formulate e-court and e-filing strategies that take into account the need for free access to courts and speedy trial, as well as health-related safeguards in litigation and pleading submission. With the emergence of critical junctures, such as the COVID-19 pandemic, the judiciary's efforts in incorporating technological innovation in the dispensation of justice have been accelerated and finetuned to suit the needs of the litigating public in the time of the "new normal."

Keywords: *e-governance, e-court, e-filing, electronic judicial administration*

The judicial branch of government derives much of its power from the Constitution and from public support and respect. The public perception of courts and the legal profession plays a vital role in the success of the justice system as a government institution. In the Philippine judiciary, local trial courts are the first points of contact for litigants who seek redress for wrongs and injuries against them or enforce rights under the law. Most cases start at trial courts, which examine pieces of documentary evidence and determine their credibility, genuineness, and due execution. The trial courts also examine witnesses and the litigants. Strictly speaking, oral arguments, presentation of evidence and

testimony, and filing of papers are physically done in court, since hearings are traditionally held in person and not virtually or remotely (Supreme Court, 1997, Sec. 2, Rule 135).¹

Information and communications technology (ICT) has made it possible for the state to improve the delivery of public services through electronic governance or “e-governance.” In the judicial branch, courts are moving ahead and embracing technology to enhance their work practices (Dillon & Beresford, 2014). The concept of electronic courts, or “e-courts,” arises in discussions among judges, lawyers, and court employees who foresee the impact of technology on procedural aspects of the litigation process.

The idea of installing e-courts has enticed judicial administrators around the world striving to improve the delivery of services. Ideally, an e-court should provide “24/7 remote online access to court services, relevant records, and information... audio and videoconferencing capabilities, electronic disclosure, and digital presentation features, together with support for the automated electronic processing of high-volume cases” (Dillon & Beresford, 2014, p. 3). Prior to the COVID-19 pandemic, the farthest the Philippine courts had come in terms of ICT-based service delivery was the digitization of court calendars by providing information kiosks outside courtrooms. All hearings were then held in court; no fully paperless e-filing mechanism existed.

Beginning the first quarter of 2020, the spread of the coronavirus disease 2019 (COVID-19) prompted countries to impose lockdowns and close their borders to international travel. Following the advice of the World Health Organization (2020) regarding the nature and mode of transmission of the COVID-19 virus, governments have imposed the so-called “social distancing” approach, more aptly known as physical distancing, to help contain the spread of the disease (Center for Disease Control and Prevention, 2020). Health protocols (e.g., non-contact temperature checks and wearing of facemasks) and disease management mechanisms (e.g., contact tracing, quarantine, and travel restrictions) were also enforced (Research Institute for Tropical Medicine [RITM], 2020). These measures presented new challenges in managing occupancy in business establishments, government offices, and other public spaces, including courts. After lockdowns, sending employees back to physical offices proves to be challenging as safety concerns have to be considered, such as managing occupancy levels and floor plans, adjusting air ventilation/filtration systems, installing acrylic window barriers in transactional office spaces, procuring non-contact thermometers, and retraining staff and security personnel (Tranel, 2020).

With the emergence of the COVID-19 pandemic, judicial administrators in the Philippines started rethinking the necessity of in-court hearings and paper-based filing of pleadings and other legal submissions due to travel constraints and

health-related threats associated with the traditional in-court litigation. In its guidelines on conducting hearings through videoconferencing, the Supreme Court sought to reduce in-court, person-to-person contact between persons deprived of liberty (PDLs), judges, lawyers, litigants, and court personnel (Administrative Circular 37-2020). Electronic filing of pleadings and court submissions was also implemented (Microsoft Philippines Communications Team, 2020). An in-depth study and review of innovative court administration techniques, such as the e-courts and e-filing system may benefit regulators and court administrators in improving judicial services at the grassroots level.

Drawing from secondary data and case studies from various jurisdictions employing e-courts and e-filing system, this article compares the e-courts and e-filing system in the Philippines before and during the COVID-19 pandemic. The article also discusses selected case studies of international courts and foreign jurisdictions employing e-courts and e-filing systems, which may guide similar applications in the Philippine judiciary. The benefits and challenges in implementing e-courts and e-filing in Philippine trial courts are also discussed in detail. The article concludes that the automation of court processes through the e-court and e-filing system will impact the accessibility of services by the litigating public and the resilience of the judiciary, especially in these trying times. It offers policy recommendations for improving e-court and e-filing systems in Philippine trial courts.

Methodology

Much of the findings presented in this article is culled from a review of secondary data, official documents and reports, jurisprudence and case studies on foreign jurisdictions and international courts that use e-courts and e-filing systems. The article also draws its analysis from related literature on the benefits and challenges involved in the implementation of e-court and e-filing systems. The pace of ICT reform policies related to the establishment of e-court and e-filing systems in the Philippines is analyzed in the light of critical junctures such as the COVID-19 pandemic.

The case study design allowed for in-depth, multi-faceted investigation of complex issues in the practice of judicial administration. The study reviews institutional reforms in the judiciary, particularly in the implementation of e-courts and e-filing systems and its impact on constitutional rights to speedy trial and free access to courts. Consequently, this study makes policy recommendations for future improvements of the e-courts and e-filing system.

e-Court Systems in International and Foreign Courts

Even before the COVID-19 pandemic, international and foreign courts around the world have put in place e-court and e-filing systems. Private businesses, government offices, and court administrators faced logistical burdens and challenges in implementing the system during the pandemic. Nonetheless, COVID-19 ushered in a critical juncture that challenged old ways of doing things and offered a new paradigm for litigation and delivery of legal and judicial services.

International Courts

In 1993, the International Criminal Tribunal for the former Yugoslavia (ICTY) began to devise an e-court to administer evidence submitted by parties involved in the various humanitarian crimes committed during the Yugoslav wars. At that time, most high courts did not have e-courts that broadcast criminal trials, nor did they translate their proceedings to multiple languages. When it held its first trial in 1996, the ICTY had a state-of-the-art courtroom where reporters transcribed proceedings using a software that produces transcripts in real time. Multiple cameras were also installed inside the courtrooms. The confidentiality of the proceedings was protected, having due regard to distressed or protected witnesses, whose faces may be pixelated or voices distorted to prevent reprisals and danger to their security (United Nations International Residual Mechanism for Criminal Tribunals, n.d.).

In the case of United Nations (UN) courts, electronic filing is practiced in first-level courts and appeals tribunals. The United National Appeals Tribunal, the dispute tribunal of the UN Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), and the standing committee of the UN Joint Staff Pension Board (UNJSPB), among others, implement electronic filing of appeals through an e-filing portal system (United Nations Appeals Tribunal, n.d.).

The Permanent Court of Arbitration (PCA), an arbitral tribunal that resolves disputes arising from treaties, international agreements of states-parties, international organizations, and private parties, also allows e-filing in a limited sense. Although submissions are generally done through paper-based filing, electronic submissions are likewise allowed. The court is equipped with electronic databases that can handle submission of voluminous records in complex cases (United Nations Conference on Trade and Development [UNCTAD], 2003).

E-filing is also implemented in international organizations that provide alternative dispute resolution for specialized legal concerns. The World Intellectual Property Organization (WIPO), which provides arbitration, mediation services, and expert determination in settling domestic or cross-border commercial and intellectual property disputes, allows requests for arbitration to be filed through

e-mail or the WIPO Intellectual Property (IP) portal form. The respondents' answers may be filed in the same e-mail format (World Intellectual Property Organization, n.d.). The Singapore International Commercial Court also provides web-based services through online filing of and full access to court submissions, as well as case management through e-mail and SMS reminders, and electronic calendaring and hearing management modules (Singapore International Commercial Court, 2019).

Foreign Courts

By 1997, at least 50 high-technology courtrooms operated in various countries around the world (Schofield & Mason, 2012). In the United States, federal courts have moved to the case management/electronic case files (CM/ECF) system, which facilitates document management. Lawyers may file pleadings, motions, petitions, and exhibits online. Plaintiffs are able to serve defendants via email, especially when a particular defendant cannot be located or reached by standard means. The e-court system allows real-time access to the documents filed. State courts are likewise moving swiftly to this system (Donald & Teeple, 2014). Consequently, more than 31 million cases are on the federal filing system, and more than 320,000 attorneys and others have filed documents in federal court through the internet in 2005. In the same year, some 86,000 cases were eligible for e-filing in the New York state court system, but only a small fraction was actually filed online. In some California courts, however, e-filing is mandatory (Marcus, 2008, pp. 1835-1836).

In South Korea, the integration of ICT to court processes began as early as the 1970s. ICT integration started with a simple information tool for judges on the cases they were handling. The tool later expanded to a case management system in 1986. In the late 1990s to early 2000s, a client-based case management system and judge support system was installed. These systems were later merged into a web-based network to form part of the Korean judicial information system. Subsequently, the Korean Supreme Court added into its e-court system additional features such as digital signatures, public key infrastructure (PKI) and digital certificates. The Korean Supreme Court periodically reviews and recalibrates its court processes through business process reengineering-based information strategic planning (BPR/ISP), ensuring that its e-courts comply with global standards (Chongthammakun, 2014).

Azerbaijan courts also greatly benefited from automation. In a case study by the World Bank Group on Azerbaijan courts, the Azerbaijani judiciary saw between 2012 and 2015 a swelling of cases filed in court from utility companies against defaulting clients. The number of claims rose from 20,964 cases in 2010 to 165,343 cases in 2015. This deluge of cases heavily clogged Azerbaijan's courts. When the judiciary subsequently introduced an automated system for dealing

with cases, more than 16,000 cases had been processed by the end of May 2018. The system's automatic processing of uncontested claims mitigated the inflow of cases and relieved the judges' caseloads. In embracing this automated system, "judges really supported this [system] because they realized it would relieve their workload. They then have much more time to focus on adjudication of simple cases" (Brezovar, as cited in Beschel et al., 2018, p. 138).

E-filing systems are also implemented in some countries in Southeast Asia. Malaysia's e-court system, established in 2011, contains an online calendar of cases that may be accessed by all judicial staff, court officers, and judges. It also maintains a queue management system that ensures the attendance of lawyers in videoconferencing hearings on a first-come, first-served basis. Courts located in geographically isolated or distant states, such as Sabah and Sarawak, conduct trials through videoconferencing to reduce travel costs. Case proceedings are recorded and transcribed electronically. Requesting parties may procure a copy of the recordings in a compact disk (CD) free of charge for subsequent reference, particularly during the appeal stage (Hassan & Mokhtar, 2011). Saman and Haider (2012), in their study on electronic records management system in Malaysia's Shari'a courts, revealed that streamlining IT infrastructure into court processes increased the case disposal rate tremendously. Fifty-eight percent of cases in Shari'a courts were deemed disposed within one month after implementation of e-court systems.

Singapore's e-court and e-filing systems, introduced in 2000, paved the way for a shift from document-centric to case-centric electronic litigation system, particularly in lower courts, such as family courts. In this system, the lawyers draft the court documents and convert them into appropriate formats for uploading into machine-processible information. This approach reduces the time and effort spent in manual data processing. Singapore's e-court system also provides for digital transcription of court records. These records are processed by a third-party vendor, which is paid by courts and litigants (Prakash, 2009).

In Thailand, the government has mandated the implementation of e-court systems that facilitate electronic filing, case management, and litigation (Charmonman & Mongkhonvanit, 2016). As of 2016, two of 240 courts began implementing an e-court system (Jullamon, 2016).

Implementing e-Court Systems in the Philippines

Free access to courts and legal assistance (Sec. 11), as well as the right to speedy trial and/or disposition of cases (Sec. 14), are constitutionally-mandated rights offered to all litigants, persons deprived of liberty (accused), and the public (Art. III, 1987 *Constitution*). In a case decided by the Supreme Court, these

constitutional rights impose “a duty on the judicial branch of the government which can cannot be taken lightly” (*People of the Philippines v. Rio*, 1991, para. 10). These rights need to be safeguarded regardless of socioeconomic status or other circumstances affecting the persons concerned (Batongbacal et al., 2020). Ideally, under Philippine law, cases ought to be decided by our courts within limited time frames. Section 15(1), Article VIII of the 1987 Constitution sets the limit within which cases must be decided by the following courts:

- Supreme Court: 24 months
- Lower collegiate courts (Court of Appeals, Court of Tax Appeals, and the Sandiganbayan): 12 months
- Trial courts (regional and municipal): 3 months

However, case disposition and clearance rates in the Philippines in 2019 indicate delays in court processes and clogging of court dockets (Table 1). These problems undermine public trust in the justice system and deter socioeconomic development (Caparas & Feliciano, 1987). Often, delays are caused by the court’s inability to act in a speedy manner on matters concerning actions filed therein. Caparas and Feliciano (1987) explain these delays as a problem of organization, management and coordination, manifested in poor trial calendar management, piecemeal litigation of issues, sheer laxity by court judges and personnel, delay in judicial writing, and inadequacy of support staff in courts as well as court facilities. Consequently, despite the high incidence of clearance and accomplishment rates of old backlogs in lower courts, the inflow of new cases negatively affects the disposition rate of the courts (Supreme Court, 2019). Based on the data in Table 1, it would appear that the appellate courts, while boasting impressive clearance rates vis-à-vis new cases, have below-average disposition rates for pending cases. On the other hand, and quite inversely, trial courts, while having impressive disposition rates vis-à-vis pending cases, appear to have average to below-average clearance rates for new cases. However, the Supreme Court report does not define what constitutes “new” cases. In 2019, the Supreme Court registered a backlog of 8,746 pending judicial cases, 6,014 newly filed judicial cases, and four reinstated cases, adding to a total of 14,764 cases. Among them, 5,792 cases were disposed of (Supreme Court, 2019). In *GIOS-SAMAR, Inc. v. DOTC* (2019), the Supreme Court admitted to mounting pressures in its backlog of cases, ruling that:

[w]hile reflective deliberation is necessary in the judicial process, there is simply no ample time for it given this Court’s massive caseload. In fact, we are not unaware of the proposals to radically reform the judicial structure in an attempt to relieve the Court of its backlog of cases. Such proposals are, perhaps, borne out of the public’s frustration over the slow pace of decision-making. With respect, however, no overhaul would be necessary if this Court commits to be more judicious with the exercise of its original jurisdiction by strictly implementing the doctrine of hierarchy of courts. (Section II-H, para. 16)

Table 1
Disposition and Clearance Rates of Philippine Courts in 2019

Court	Disposition Rate ^a	Clearance Rate ^b
Supreme Court	39%	96%
Court of Appeals	38%	93%
Court of Tax Appeals	34%	111%
Sandiganbayan	29%	471%
Second-level courts (regional trial courts and Shari'a district courts)	122%	43%
First-level courts (metropolitan trial courts, municipal trial courts, municipal circuit trial courts, and Shari'a circuit courts)	104%	70%
Family courts	104%	42%

^aRate of disposed cases vis-a-vis total number of pending cases
(total case output/total case input x 100)

^bRate of disposed cases vis-a-vis new cases (total case output/new cases x 100)
Source: Supreme Court (2019)

Apart from the inundation of new cases in the trial and appellate courts, several factors also come into play in the clogging of court dockets in the Philippines. Among them is the propensity of Filipinos to pursue litigious actions than amicable settlements elsewhere. Disini et al. (2002) argue that Filipinos, as a people, are litigious in nature. They surmise that:

[t]his perception is based on the heavy case inflow in the first and second level courts, which means a high number of cases filed by parties for the period of 1995 to 2000. Further, losing parties in those cases decided by the lower courts pursue their appeals all the way to the Supreme Court, which accounts for heavy caseload even in the review courts. (Disini et al., 2002, p. 5)

Contributing to the problem of clogged court dockets is the lackadaisical attitude of some court personnel and judges in handling cases. A number of judges and court personnel have been found by the Supreme Court to have violated both the Constitution and the Code of Judicial Conduct when they failed to decide cases and resolve motions within the deadline set by law and the Rules of Court. The Supreme Court considered these failures as gross inefficiency, which warranted administrative sanctions (*OCA v. Judge Garcia-Blanco*, 2006; *Tamondong v. Pasal*, 2017). Moreover, Tadiar (1999) asserts that strict requirements for proof

of service of pleadings, judgments, and other papers to be delivered in physical form, as well as discontent in the country's postal service, are major causes of delay in the litigation of cases.

Pre-Pandemic e-Court System

One of the goals outlined in the Philippine Development Plan (2017-2022) is “pursuing fair and swift administration of justice” (National Economic and Development Authority [NEDA], 2017, p. 79). With this goal in mind, the Philippine government is working to improve civil, criminal, commercial, and administrative justice systems through measures that promote real-time justice (NEDA, 2017).

In recent years, the Philippine government has strived to establish a judicial infrastructure to comprehensively monitor cases as one of its strategies to speed up disposition of cases and decongest court dockets. In 2000, the Supreme Court began implementing the Action Program for Judicial Reform (APJR) to improve court services and de-clog court dockets. This program entailed, among others, the automation of case flow management and monitoring systems for lower courts (Supreme Court, 2008). In 2013, the Supreme Court pilot-tested the first e-court system at the Quezon City Regional Trial Court. Lower courts in Quezon City were tasked to complete the mandatory encoding of all case information to be included in the e-courts project. Judges in these courts were required to suspend court hearings to expedite the mandatory encoding of case information (Office of the Court Administrator Circular No. 52-2013). Later, e-courts were rolled out in the trial courts in the cities of Angeles, Lapu-Lapu, Tacloban, Davao, Cebu, Makati, Pasig and Mandaluyong, such that “by the end of 2016, e-courts were already in place in 287 trial courts handling about 30% of the total caseload of the Philippine court system” (Supreme Court, 2017, p. 6).

The e-court system established by the Supreme Court is meant to organize and control case workflows from filing to implementation. Through this system, judges and court personnel are able to monitor, manage and process cases more efficiently. Court administrators are also able to monitor court performance (National Competitiveness Council, 2015).

In 2016, the Supreme Court vowed to hire 635 court decongestion officers as part of its *Hustisyeah* project, which seeks to assist courts inundated by heavy caseload. Under the program, the inventory of cases in these courts would be carried out by a team from the Office of the Court Administrator (OCA) with the help of a team from The Asia Foundation. The latter provided additional manpower for manual encoding of case information to the system (Public-Private Partnership Center, 2016).

E-Court System during the Pandemic

As early as 13 March 2020, the Supreme Court formed a task force to monitor the condition of justices, judges, and court personnel as well as the physical courts amid the rising cases of COVID-19 infection and to explore measures to avert the spread of the pandemic (Memorandum Circular No. 26-2020).

In compliance with Administrative Circular No. 26-2020, access to physical courts were limited, such that only persons with official businesses are allowed within court premises and subjected to non-contact thermal scanning. Visitors and court personnel were required to fill up health declaration forms. Frequent sanitation and cleaning of all court premises was directed. Subsequently, Administrative Circular No. 27-2020 ordered hearings to be reset for the disinfection of courts.

With the declaration of the community quarantine on 15 March 2020, all courts in the country operated through a skeleton staff. All justices and judges were put on standby to hear only urgent matters (Administrative Circular No. 30-2020). In line with Administrative Circular No. 31-2020, from 16 March to 15 April 2020, all courts nationwide saw a drastic reduction of operations. All in-court hearings were suspended, except only those that pertain to petitions, motion and pleadings on bail and *habeas corpus*, judgments of acquittals, reliefs by arrested and detained persons during the quarantine period, and other related actions. As of 23 March 2020, all physical courts were shuttered and could only be reached through their respective hotlines, email addresses and Facebook accounts (Administrative Circular No. 32-2020).

Consequently, the importance of paperless e-filing is underscored by the government's policy to prevent the spread of COVID-19 pandemic. While the pre-pandemic e-filing and e-court system was hinged on the need for efficient use of paper and conservation of resources (Administrative Matter No. 11-9-4-SC), the post-pandemic system aimed to protect public health and safety. This system is relatively new, as litigating practitioners, judges, and court personnel are still in the process of adjusting, retraining, and finetuning the system.

By the end of March 2020, the Supreme Court allowed e-filing of criminal complaints and information² together with supporting documents. In deference to the defendants' right to speedy disposition of cases, judges must act within three days from the electronic filing of the complaint or information, which may include (a) dismissing the case outright if the judge finds no probable cause, or (b) issuing commitment orders or warrants of arrest upon finding of probable cause. When in doubt, judges may order the prosecutor to electronically file additional evidence. If there is probable cause and bail is a matter of right, a release order may be approved and electronically transmitted to the court upon submission

of documentary requirements for bail. The order is likewise electronically transmitted to the executive judge, who then orders law enforcement authorities to release the detained person (Administrative Order No. 33-2020).

By way of Administrative Circular No. 37-2020, the Supreme Court ordered the pilot-testing of electronic hearings involving persons deprived of liberty (PDLs) through videoconferencing in selected courts. The videoconferencing approach applies to criminal cases covering all stages of trial, including arraignment, pretrial and bail hearings, trial proper, and promulgation of judgment. During videoconferencing, witnesses need not step into physical witness stands, and may instead testify online (Administrative Circular No. 37-2020). Raffle of cases are likewise made electronically or through videoconferencing (Administrative Circular No. 39-2020; Administrative Circular No. 43-2020).

In a bid to supplement and revise the 1997 *Rules of Civil Procedure* amid the pandemic, the Supreme Court released new amendments, which took effect on 1 May 2020 (Administrative Matter No. 19-10-20-SC). According to the amended rules, filing of pleadings and court submissions in civil cases may also be made electronically. Section 3, Rule 13 states that:

[t]he filing of pleadings and other court submissions shall be made by:

- (a) submitting personally the original thereof, plainly indicated as such, to the court;
- (b) sending them by registered mail;
- (c) sending them by accredited courier; or
- (d) *transmitting them by electronic mail or other electronic means as may be authorized by the Court in places where the court is electronically equipped.*

In the fourth case, the date of electronic transmission shall be considered as the date of filing. [emphasis added]

The new Rules of Court also allowed receipt through electronic means (Section 5, Rule 13), provided that parties consent to electronic service (Section 9, Rule 13). For purposes of determining the completeness of electronic service, the rules prescribe that “at the time of electronic transmission of the document, or when available, at the time that the electronic notification of service of the document is sent,” the service is deemed complete (Section 15, Rule 15). The court may also issue court orders and notices electronically to all parties. The paper copy of the order or notice may be kept or retained and attached to the records in the court (Section 18, Rule 15).

In courts where a general community quarantine (GCQ) was imposed, appellate courts (e.g., the Courts of Appeals, Sandiganbayan, Court of Tax Appeals and the Supreme Court) started receiving petitions and pleadings filed electronically. Pleadings and court submissions may be electronically transmitted to the concerned trial courts, provided the trial court branch has an official email

address. Otherwise, electronic submissions may be transmitted to the Office of the Clerk of Court, which shall forward said submissions to the concerned branches where cases are pending (Supreme Court Administrative Circular No. 40-2020).

Because of the limited operation of national postal service system, paper-based filings through registered mail were still functional, albeit limited, during the various lockdown periods. With the imposition of enhanced community quarantine (ECQ), employees of the Philippine Postal Corporation (PhilPost) were mandated to operate at a capacity necessary to maintain the prompt delivery of services (Inter-Agency Task Force for the Management of Emerging Infectious Diseases [IATF], 2020a). Thus, PhilPost employees are exempted from the implementation of ECQ, “without prejudice to the requirement of strict social distancing measures in their establishments” (IATF, 2020b, p. 3). In a public advisory dated 6 April 2020, the PhilPost (2020a) announced that delivery post officers are open only three times a week and limited only to four hours of operation a day. Door-to-door delivery service of mails was also limited based on priority (e.g., vital communications, parcels containing medicines, perishable goods, among others). In another public advisory (PhilPost, 2020b), the Philippine Postal Corporation apologized for the temporary delay of deliveries, as it prioritized minimum health standards for its employees and other stakeholders.

Because of the operational limitations in paper-based filings through registered mail and the physical closure of courts, e-filing became a pragmatic alternative to filing of court submissions. During the lockdowns imposed from March to May 2020, and sometime in August of 2020, lawyers and party-litigants were constrained to electronically file pleadings and court submissions. In this way, pleadings were seasonably submitted. When these respective lockdowns were lifted, hard copies of e-filed pleadings may be subsequently filed by the parties-litigants or their lawyers, particularly when required by the court. As a result, case dockets would contain the original copies of pleadings signed by lawyers in fresh ink as well as any attachment/annex consisting of original or certified true copies of documents.

Gleaning from the new Rules of Court and related administrative circulars from the Supreme Court, the e-filing system currently exists side-by-side with, and in addition to, paper-based filing systems (e.g., personal filing, filing through registered mail, and filing through an accredited courier). When physical courts or post offices are temporarily closed, making personal filing or filing by mail impossible, lawyers and party-litigants may resort to e-filing of pleadings.

Despite inclusion of e-filing of pleadings as a mode of filing and its full operationalization during the pandemic, there are some limitations to this approach. In the following instances, paper-based filing remains the primary mode

of filing and service. Section 14, Rule 13 of the new Rules of Court enumerates the types of pleadings and court submissions which may not be subject of e-filing, as follows:

[n]otwithstanding the foregoing, the following orders, pleadings, and other documents *must be served or filed personally or by registered mail when allowed, and shall not be served or filed electronically*, unless express permission is granted by the [c]ourt:

- (a) initiatory pleadings and initial responsive pleadings, such as an answer;
- (b) subpoena, protection orders, and writs;
- (c) appendices and exhibits to motions, or other documents that are not readily amenable to electronic scanning may, at the option of the party filing such, be filed and served conventionally; and
- (d) sealed and confidential documents or records [emphasis added]

The COVID-19 pandemic has likewise allowed courts to rethink the conduct of in-court hearings. Starting 14 May 2020, videoconferencing hearings were allowed in both newly-filed and pending cases (Administrative Circular No. 39-2020). The Supreme Court considered videoconferencing in courts an “initial success.” More than 7,000 videoconferencing hearings were done in a month alone and more than 22,000 PDLs were consequently released during lockdown (Supreme Court of the Philippines Public Information Office, 31 May 2020, “Videoconferencing hearings to continue in GCQ areas”). As such, videoconferencing hearings for both criminal and civil cases were slated to continue during the GCQ period. From 4 May 2020 to 7 August 2020, a total of 47,676 videoconferencing hearings have been conducted by authorized courts. This translates to a success rate of 85% (OCA Circular No. 130-2020). In a circular dated 22 September 2020, the Office of the Court Administrator allowed remote appearance of parties in hearings to continue (OCA Circular No. 158-2020).

Benefits of e-Courts and e-Filing

Efficient Use of Paper and Labor Cost Savings

In the long run, e-court and e-filing systems may facilitate the efficient use of paper and would result in savings that otherwise will be spent procuring paper and printing equipment. For instance, in South Korea, the implementation of an e-court system saved the judiciary USD221 per e-filing. The money saved on e-courts resulted from “reduction in the use of paper, the time spent in court, the need for storage space, as well as easier archiving of documents and a general streamlining of processes and services” (Doing Business, 2014, p. 66).

Moreover, by digitizing and e-filing court records, the cost of hiring judiciary personnel can be considerably reduced. In the United States, the state

of Utah is expected to have gross staff savings amounting to 8% to 16% upon full implementation of the e-courts system (Cunningham, 2015).

Remote Access and Storage to Case Files and Information

With e-courts, litigants and lawyers may easily access court files in real time even on weekends and beyond office hours. E-courts thus reduce the transaction and transportation costs in going to physical courts to follow up on the status of their cases.

In Chicago courts, paper-based filing took five days, while e-filing only took four seconds to accomplish. Associated costs that can be reduced with e-filing also include maintenance of file storage facilities. In the United States, it costs USD360,000 to construct and USD18,000 annually to maintain a 20x60-foot file room. In comparison, a 150-GB hard drive, which has a storage capacity equivalent to 70 file cabinets, only costs less than USD100 (Doing Business, 2014).

Convenience in Filing Pleadings

Ideally, an e-filing system provides 24/7 remote online access to court services, relevant records, and information to all parties. With this technology, law firms and litigants would have seamless, real-time access to their records, ensuring that lawyers can write and file their pleadings anytime, anywhere in the country, as long as they are connected to the internet.

Risks and Stumbling Blocks in e-Courts and e-Filing

When litigating cases, personal information in pleadings and court submissions (e.g., contact numbers, residence address, tax information, and bank account information) may be provided by the parties concerned. Litigating family cases (e.g., annulment of marriage, legal separation, or adoption) includes providing confidential information, such as family history, information pertaining to personal relationships, sexual history, and medical and psychological history. Thus, storing information electronically or online may put the digital privacy of parties-litigants as well as the virtual integrity of the e-court system at risk. Building and maintaining e-courts and e-filing systems also come with infrastructure and manpower requirements.

Infrastructure and Manpower Requirements

Historically, the costs of building e-courts in the United States have been varying (Cunningham, 2015). The functional capacity of an e-court depends on the

caseload of a given court. To defray costs of rolling out and maintaining an e-court system, the Supreme Court may charge lawyers and/or litigants reasonable fees for the maintenance of the system through a secured e-payment portal, as judicial administrators did in other jurisdictions. For instance, in Malaysia, law firms must pay via electronic banking an annual fee for the digital certificate provided by a private outsourced company which maintains the e-court and e-filing system (Hassan & Mokhtar, 2011, p. 242). In Singapore, the e-filing system automates the calculation of e-court-related fees, which may be charged to the law firms' or lawyer's accounts with the system. In doing so, fee payments are cashless and convenient (Prakash, 2009, p. 10). Online payment systems reduce red tape in court cashier offices where the payment of docket fees and other related fees are still largely cash-based. Ultimately, the private and public sector may share in the costs and returns of funding the e-court system.

One of the stumbling blocks to the implementation of e-court technology in the Philippines lies in its internet connectivity. The country is not yet 100% connected to the Internet. In a 2019 survey by the Social Weather Stations (SWS, 2019), a meager 46% of Filipinos have access to the Internet. In rural areas, only 38% of Filipino adults have internet access. Hence, rolling out such a project would require funding the physical and virtual infrastructure that would serve as the backbone of the country's e-court and e-filing system.

With the benefits of streamlined court operations and access to records, on the one hand, and the risks to privacy of private parties, on the other, courts must determine whether public interest may be safeguarded by some other less restrictive measures. Another main issue is the need to constantly upgrade information technology (IT) infrastructure for file storage, sharing, and access. Government institutions, therefore, need to keep the records up to date to provide better services to all litigants, lawyers, and court employees (Hartmann & Steup, 2015).

Digital Privacy of Data and Litigants

Elefant (2000, as cited in Marcus, 2008) observes that sensitive personal information would likewise be easy to access and share together with electronic court files stored in the Internet. Thus, while e-filing allows easy access to court files, there are conceivable intrusions on the litigants' private lives. However, these potential intrusions are negligible, since court records, as a matter of policy, have always been open to the public (Marcus, 2008). Stanfield (1997) suggests that, in managing information through cyber courts, "[t]here is a need for procedures and policies to be put in place to preserve security... guidelines need to be developed for archival and retrieval of such information" (p. 260).

Identity theft of litigants and protecting personal information that may compromise litigants' privacy and reputation is another overarching consideration in the setting up of e-courts. Some pleadings expose the address, contact information, and personal identification numbers (e.g., tax identification number or social security number, credit and debit card numbers) of the litigants. In cases involving personal injury or sex-related offenses, the names, addresses, and contact information of the victims may also be exposed.

Legal safeguards exist to protect personal information from being exposed once they are entered into an e-court system. Practicing lawyers submitting pleadings and documents, as well as judicial administrators, may redact information in the pleadings and supporting documents when these may contain personal information deemed sensitive and confidential.

When legal proceedings concern minors and family cases, Section 12 of Republic Act No. 8369, otherwise known as the *Family Courts Act of 1997*, provides that all proceedings (hearings and conciliation), which necessarily includes pleadings, court submissions, and pieces of evidence filed during these proceedings, are strictly confidential. In *People of the Philippines v. Cabalquinto* (2006), the Supreme Court underscored the confidentiality of the identities of victims and their immediate family members/household members in a sexual abuse case:

the Court shall withhold the real name of the victim-survivor and shall use fictitious initials instead to represent her. Likewise, the personal circumstances of the victims-survivors or any other information tending to establish or compromise their identities, as well those of their immediate family or household members, shall not be disclosed. (para. 16)

Virtual Integrity of the System

Tan and Ang (2003) explained that the constant threat of hacking besieges the e-government's integrity as an instrument of public policy. These security issues are no different from the issues in commercial establishments in dealing with sensitive trade or client data. Tan and Ang also explained that efforts to make e-government services more secure need to be backed by policy for them to effectively deter or respond to cybercrime and security breaches.

Moving Forward: Litigation and Judicial Management in the New Normal

Due to lockdown and quarantine measures, courts were forced to install remote processes of administering justice. Responding to the health crisis, the Supreme Court instructed all courts to implement work-from-home (WFH)

schemes, skeleton staff arrangements, and measures that sanction e-filing and videoconferencing in lieu of in-court hearings and paper-based filings. It was reported that during the first nine days of pilot videoconferencing hearings, a total of 4,683 PDLs were released. These statistics represented 125% of normal daily release. Six weeks prior to the implementation of the Microsoft 365 in videoconferencing hearings, a total of 9,731 PDLs were also released (Microsoft Philippines Communications Team, 2020).

On 31 May 2020, the Supreme Court Public Information Office (2020) announced that, considering the initial success of videoconferencing hearings, which numbered 7,000 in a month, and more than 22,000 PDLs freed or released during lockdown, videoconferencing hearings were to continue during the implementation of GCQ measures in the Philippines. Any party to a case may request that his/her case be heard through videoconferencing in a proper motion in court. This option is available to both civil and criminal cases.

An examination of the Supreme Court circulars and announcements pertinent to the COVID-19 pandemic would reveal that current judicial policies underscore the interests of public health and safety in implementing the e-filing of pleadings and court submissions as well as videoconferencing of trials. Since the new Rules of Court only added e-filing as one of the modes of filing pleadings and court submissions, paper-based filing still exists along with e-filing. However, as of this writing, the Supreme Court has not yet ordered the reversion to pre-pandemic and non-electronic means of litigation. It can be deduced from this development that e-filing and videoconferencing are part of the new normal in judicial administration.

Batongbacal et al. (2020) recommended solutions for implementing alternative court procedures and alternative approaches for resuming court proceedings, in view of public health and safety during the pandemic. The policy alternatives being recommended by Batongbacal et al. are cumulative, incremental, and progressive policy approaches or actions, which gradually phase out paper-based filing systems towards a completely electronic, cloud-based system.

Amid health and travel-related constraints linked to the pandemic, as well as limited government resources, it is appropriate to roll out policy strategies in layers or tranches, rather than overhaul the system at once. Batongbacal et al. (2020) surmise that a fully automated court system and court process may be ideal. However, it may take years to design and implement a fully functional e-court and e-filing system. Thus, a tier-based approach (i.e., transitioning from short-term to mid-term to long-term approaches) would prove prudent and realistic.

Table 2
Policy Strategies in Resuming Court Proceedings During a Pandemic

Timeline	Approach	Specific Policies
Short-term	Mixed	Current paper-based system + Technology-based measures
Medium-term	Hybrid	Some courts leave paper-based system; some continue + Transitional technology-based system
Long-term	Smart	Overhauling of trial court system towards a fully electronic, cloud-based system

Source: Batongbacal et al. (2020)

The short-term approach focuses on mixing current paper-based filing systems and technology-based measures. Electronic submission of pleadings and other court submissions may be combined with paper-based filings, the latter entailing receipt and storage at holding centers to allow the dissipation of virus particles before examination and processing by court personnel and judges. In the medium term, courts with technological facilities—especially those in city centers and urban areas where broadband internet and cellular data signal are more stable and accessible—may roll out e-court and e-filing systems at full capacity. Meanwhile, courts in far-flung districts and remote areas may still implement paper-based filings and limited in-court hearings, taking note of minimum health standards. In the long run, approaches to filing and hearings may be refitted towards a fully electronic, cloud-based system, using online-based platforms. These changes would necessitate periodical examination and analysis of all judicial and administrative machineries, budgeting, exchange of best practices at the community level, and retraining and reskilling of court personnel and practitioners in line with the new normal (Batongbacal et al., 2020).

It is hoped that e-filing and videoconferencing currently being implemented in Philippine courts will altogether serve as a stepping stone for switching from conventional filing and in-court hearings to completely electronic systems. In minimizing face-to-face interactions and paper-based filing, the COVID-19 pandemic has given public organizations, including the judiciary, the nudge towards partial and, eventually, full operationalization of e-governance in courts. Ultimately, the various methods aimed at redesigning work by which courts perform their functions in the post-pandemic world would have to be patterned from lessons in other organizations and other e-court jurisdictions.

Limitations and Implications for Subsequent Research

This article analyzed secondary data, reports, documents, jurisprudence, and case studies to draw out the benefits and challenges involved in the implementation of e-court and e-filing systems. It traced how Philippine courts recently shifted from paper-based to electronic filing of pleadings and court submissions and videoconferencing in lieu of in-court hearings amid the COVID-19 pandemic. Future research may explore primary data with regard to the effectivity of the post-pandemic e-filing and e-courts systems rolled out recently in the Philippines. These studies may validate whether e-court and e-filing systems helped ease the clogging of court dockets and facilitated hearings. However, with a lack of prior study on the effectivity of the pre-pandemic e-filing system, it may prove difficult to compare the pre- and post-pandemic systems altogether. Since paper-based and electronic filing exist simultaneously at present, future studies may compare data on the number of submissions and disposition/clearance rates according to each method of filing.

Another limitation that may be addressed by further research is the lack of primary data on attitudes, behavior, and motivation of stakeholders with respect to the e-court and e-filing system in the Philippines. Future research may be done to determine levels of acceptability and adjustment to the e-filing system and solicit recommendations and feedback loop mechanisms between judicial administrators, private practitioners, and civil society groups in sharing best practices.

Conclusion

Automation is necessary if the government intends to afford efficient, up-to-date, and paperless service to its citizens. Public policymaking and legislation must be reshaped accordingly to the changing realities in judicial administration in the Philippines. Thus, while automation creates both skepticism and adjustment, most especially to those who are not technology-savvy, the purpose of incorporating ICT in government services is to enable people to safely seek judicial redress or prosecute their cause in a timely manner during the pandemic.

The e-court and e-filing system project may be used to capture basic case information as they are filed and track subsequent documents filed at the trial court level. Several factors may help calibrate and improve in rolling out these systems. While the judiciary may decide to adopt and continue these programs, as it already did with the issuance of the new Rules of Court, clear-cut rules and protocols help provide security and privacy to the litigants, lawyers, and judicial administrators to maintain the integrity of the files and the system from any external breach.

Prior to the COVID-19 pandemic, trial courts have yet to fully operationalize the e-court and e-filing system. Back then, the identified benefits of these systems would have been a mere wish list for the intended stakeholders. Now, with the establishment of post-pandemic e-court and e-filing system, these benefits can slowly be reaped insofar as the ease of litigation and improvement of service delivery in courts are concerned. In this age of digital transformation and in a post-pandemic world, the full automation of court processes influences the fate of the justice system. Ultimately, an efficient, economical, and stable e-court and e-filing system contributes to the future of sound judicial administration in the Philippines, while ensuring the health and safety of all litigants, lawyers, judges, and court personnel.

Endnotes

¹ Sec 2. Publicity of proceedings and records. — The sitting of every court of justice shall be public, but any court may, in its discretion, exclude the public when the evidence to be adduced is of such nature as to require their exclusion in the interest of morality or decency. The records of every court of justice shall be public records and shall be available for the inspection of any interested person, at all proper business hours, under the supervision of the clerk having custody of such records, unless the court shall, in any special case, have forbidden their publicity, in the interest of morality or decency.

² An information is an accusation in writing charging a person with an offense, subscribed by the prosecutor and filed with the court. See Section 4, Rule 110 of the Rules of Court.

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