

Digitising the world's courts—China

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Dispute Resolution analysis: Susan Finder, distinguished scholar in residence at Peking University's School of Transnational Law and founder of the Supreme People's Court Monitor, explains the reasons behind China's move towards an 'intelligent court system' and how it is already seeing increased access to justice and a higher rate of enforcement of court judgments.

What plans are there for the digitisation of the courts in mainland China? What types of cases are covered?

The Supreme People's Court has issued two five-year plans on the informatisation of the Chinese court system, the current one issued in July 2016. These are linked to national economic plans on informatisation. Each provincial level court system has issued its own plan to implement the national plan. The previous plan was focused on infrastructure, computer applications, and integrated management of data, while the current plan is focused on creating an 'intelligent court system' in the era of big data. Because of regional disparities in economic development, some local courts still lack the infrastructure and computer applications that were among the targets in the previous plan.

What has been the motivation for moving towards a more digitised system?

The intent is to improve the efficiency of the courts, as they are flooded with large numbers of civil cases. It is also linked with seeking to become a twenty-first-century court that can take its place among other world-leading institutions. There have been experiments with e-courts, particularly in Zhejiang Province, in collaboration with Alibaba, relating to e-commerce. Online measures are increasingly being used in situations such as parole hearings, where it would be difficult to bring one of the parties to the courtroom.

What developments have taken place so far?

Several of the most important developments include:

- the creation of a single database from which court judgments and rulings can be accessed (with some limitations)
- an electronic platform for litigants to access the status of their cases
- an electronic platform for applications for parole, etc by prisoners, and
- an electronic platform with disclosure of information concerning judgment debtors

In 2016 this was supplemented by a more robust platform for broadcasting trials online, as well as an electronic platform for bankruptcy and restructuring.

What has gone well and what challenges have there been? How have these developments been received by practitioners and their clients?

The case database and the judgment debtor database are the developments most talked about both inside and outside of China. The case database has court judgments, but not settlements, from all levels of courts throughout the country. Courts in more developed areas upload more cases than in some of the less developed areas of the country. Lawyers and other legal professionals search the case database for a variety of reasons—judges will do so to see how other courts have ruled on similar issues—lawyers do so as part of their litigation strategy, and often submit judgments to a court to support their argument. The judgment debtor database is linked to the creation of the social credit system, much talked about inside and outside of China. Under this system, judgment debtors are prevented from making some 'high-end' purchases, such as high-speed rail or aeroplane tickets, and financial institutions are prohibited from lending to them—there are many other related restrictions. The enforcement database shares information with many other government departments.

What is planned for the future? How do you see this area developing over the coming years?

The Chinese government takes the digitisation of the courts seriously. Among the innovations underway are:

- the greater use of electronic case files
- online or remote case filing
- the greater use of online dispute resolution
- further integrating the judgment debtor database, and
- using big data to evaluate judges

There are concerns relating to all these, particularly for people in rural areas who may have less access to the internet.

Has any return on investment been seen so far?

As mentioned above, the case database and litigation information platforms have been well received. The judgment debtor database has led to a higher rate of enforcement of court judgments, although there are privacy concerns about the use of debtors' personal information.

How has digitisation improved access to justice?

In my view, the most important recent development to improve access to justice is the inauguration of the case filing system in 2015. The case database provides additional clarity to the legal profession on how cases are being decided. Other innovations include broadcasting cases online, but this has not attracted broad public attention, with a few exceptions. Another important innovation is the moving of judicial auctions online. It had been an area of corruption and judicial auctions in many areas are carried out through Taobao and other online platforms. The concern is that digitisation may leave the poor and uneducated users with less access to the judicial system.

What costs savings or efficiencies do you envisage will be or have been generated?

Moving to e-filing will generate significant efficiencies, but it will be some time until this is put into place nationwide. Moving court hearings online will also generate efficiencies. Online judicial auctions will similarly be more efficient than using a traditional auction house.

What is the feedback from court users?

Reactions to each innovation differ. As mentioned above, the case database is generally recognised to be extremely useful. Judges surveyed did not favour broadcasted trials, although lawyers did. E-filing is likely to be welcomed by the legal profession, as is electronic service of process.

Interviewed by Jenny Rayner.

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