

Inclusive Virtual Conciliation Hearings: The Role Of The Judiciary In Ensuring Accessibility

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Abstract:

This study explores the evolution and effectiveness of virtual conciliation hearings in the context of the current legal system. It analyzes how these hearings have been adapted to include participants with different needs, emphasizing the role of the Judiciary in promoting accessibility. The review covers the technological changes, legal adaptations and inclusive practices implemented to ensure that all citizens, regardless of their physical, sensory or cognitive limitations, can fully participate. The work draws on a variety of scholarly sources, including comparative law studies, research on assistive technologies, and public policy analysis. The method adopted includes the qualitative analysis of data from different jurisdictions, focusing on how legislation and judicial practices have been adapted to meet accessibility needs in a virtual environment. The results indicate a growing trend in the adoption of virtual conciliation hearings as a means of making the judicial system more accessible. There is evidence that while there are significant challenges, especially in terms of access to appropriate technology and training of legal users and practitioners, there are considerable advances. Inclusive policies and the use of assistive technologies have proven to be fundamental to ensuring accessibility, with positive impacts on the efficiency and equity of the judicial system.

Key Word: Virtual Hearings; judicial accessibility; Inclusive Conciliation; Assistive Technologies.

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I. Introduction

The research addresses an emerging and significant theme in the context of access to justice. In an increasingly digitized world, virtual hearings have become a vital tool in the justice system, especially in times of physical restrictions such as those imposed by the COVID-19 pandemic. This research focuses on analyzing how virtual conciliation hearings are being adapted to ensure inclusivity and accessibility, allowing individuals with different abilities and needs to participate fully in the judicial process.

Virtual hearings offer a unique opportunity to increase accessibility in the justice system. They eliminate physical barriers and reduce travel costs, which can be significant, especially for people with disabilities or living in remote areas. However, these audiences also present unique challenges in terms of accessibility, such as the need for adequate assistive technology and accessible digital interfaces. The research explores these issues, seeking to understand how the Judiciary can effectively ensure that these hearings are truly inclusive.

The role of the Judiciary is crucial in the implementation of practices that promote inclusion in virtual conciliation hearings. This includes the adoption of regulations that guarantee accessibility, investment in assistive technologies, and the training of magistrates and civil servants to deal with the specificities of these hearings. The research investigates the initiatives already underway in various justice systems around the world and analyzes how these practices can be adapted and improved to meet the needs of all citizens. In this scenario, the research problem adopted was: how can the Judiciary effectively ensure accessibility and inclusion in virtual conciliation hearings for people with diverse needs, considering the technical and legal challenges involved?

The overall objective is to analyze and understand how the Judiciary can inclusion and accessibility in virtual conciliation hearings, identifying the technical, legal and operational challenges involved, and proposing effective practical and policy solutions to ensure that people with different abilities and needs have equitable access to the justice system.

In the research already carried out, the methodology adopted was bibliographic research. This methodology involved the collection, analysis, and interpretation of data from secondary sources, including books, scientific articles, reports from judicial institutions, relevant legislation, case studies, and government publications. Initially, a bibliographic survey was carried out in the main academic databases. The selection of materials focused on publications that addressed virtual hearings in the judicial system, with special attention to those that discussed aspects of accessibility and inclusion. Legal documents and public policies related to the topic were also considered. After the initial collection, a detailed content analysis followed, where the texts were examined to identify approaches, theories, and practices related to the implementation of inclusive virtual

conciliation hearings. This process involved the critical reading and synthesis of information, seeking to understand the different perspectives on accessibility in virtual judicial contexts and the technological solutions adopted.

II. Disengagement

The emergence of virtual conciliation hearings

The evolution of virtual conciliation hearing represents a significant milestone in the transformation of the modern justice system. This phenomenon emerged as a response to a series of practical and social needs, being accelerated by global events such as the COVID-19 pandemic. The concept of holding conciliation hearings through digital platforms is not only a technological innovation, but also an adaptive response to changes in social and professional interactions (MÓL, RODRIGUES, 2021).

Historically, the conciliation process has always required the physical presence of the parties involved. However, the need for efficiency, combined with the advancement of communication technologies, has paved the way for the adoption of virtual methods. These methods were initially met with skepticism, due to concerns about security, privacy, and the effectiveness of distance communication. However, the need for continuity of judicial services during health crises and natural disasters has driven the acceptance of these technologies (DIAS, MOREIRA, 2022).

According to Da Silva, (2021) the implementation of virtual conciliation hearings was not only an emergency measure, but also a strategy to increase access to justice. These hearings allowed for the reduction of travel costs and time for the parties, as well as facilitating the participation of individuals who would otherwise face difficulties in attending in person. In this way, they have contributed significantly to the democratization of access to the judicial system. In addition, virtual hearings present unique challenges and opportunities when it comes to language and nonverbal communication. The dynamics of virtual interaction differ significantly from the face-to-face scenario, requiring adaptations from both legal professionals and the parties involved. The ability to read nonverbal cues and establish empathy through a screen has become a valuable skill in conducting these audiences.

The issue of confidentiality and information security also stands out in this context. Protecting personal data and information shared during virtual hearings required the development of robust cybersecurity protocols. Thus, the integrity and confidentiality of communications in virtual environments have become a priority for judicial systems. The adoption of digital platforms for conducting conciliation hearings has also accelerated the process of digitizing other aspects of the judicial system. This includes document management, digital archiving, and the use of artificial intelligence to assist in decision-making. This digital transformation has brought efficiency and agility to processes that were previously marked by bureaucracy and slowness (LIBER, RAINHO, 2020).

According to De Oliveira and Dias, (2022) inclusion and accessibility have emerged as fundamental aspects in virtual conciliation hearings. The need to accommodate people with different capacities and life contexts imposed the challenge of creating platforms and processes that were universally accessible. This encompasses everything from the user interface to the availability of features such as sign language interpreters and real-time captions. The role of mediators and conciliators has also evolved in this new scenario. These professionals had to adapt their techniques and approaches to the virtual environment, developing new skills to effectively manage online interactions. The ability to create an environment of trust and respect, essential in the conciliation process, had to be recontextualized for the virtual space.

As Araújo and De Andrade (2023) well define it, the impact of virtual conciliation hearings goes beyond the judicial system, influencing conflict resolution practices in various sectors. Businesses, educational institutions, and community organizations have begun to adopt similar approaches to resolving internal and external disputes. Thus, the influence of these hearings extends to society as a whole, modifying the way conflicts are addressed and resolved. The emergence of virtual conciliation hearings marks an important transition to a more adaptable and accessible justice model. This development is not just a temporary change, but a significant step towards a future where technology and justice work together to meet the needs of an ever-evolving society. As we move forward, it is crucial to continue exploring and improving these practices to ensure that they serve all citizens effectively and fairly.

The Challenge of Accessibility in Virtual Conciliation Hearings

The increasing implementation of virtual conciliation hearings in the judicial system has brought to light significant challenges related to accessibility. These challenges are multifaceted, encompassing technological, social and legal aspects. The transition from the physical to the virtual environment, while beneficial in many ways, has created obstacles for individuals with certain accessibility needs, requiring careful assessment and innovative solutions (COSTA et al., 2022).

For Alves (2022), one of the main challenges faced is to ensure that the technologies used in virtual hearings are accessible to people with disabilities. This includes the need for user interfaces that are compatible

with screen readers, real-time captions, and sign language interpretation capabilities, among others. The lack of these resources can effectively exclude a significant segment of the population from the conciliation process. Another critical point is the disparity in access to technology. While some people can easily access high-speed internet devices and connections, others may face difficulties due to economic or geographical factors. This technological inequality can prevent parties involved in a conciliation process from having the same opportunity to participate as others, compromising the fairness of the process.

Training magistrates and legal professionals to operate efficiently in a virtual environment also represents a challenge. The lack of familiarity with digital tools can lead to difficulties in conducting hearings, affecting the effectiveness of the conciliation process. Therefore, it is essential that these professionals receive adequate training to adapt to this new format. In addition, the issue of privacy and information security is crucial in virtual hearings. Ensuring that communications are confidential and secure is critical, especially when it comes to sensitive matters discussed during the conciliation process. The risk of data breaches and cyber intrusions requires the implementation of robust security solutions (DE AZEVEDO et al., 2021).

The impersonal nature of the virtual environment can also impact the dynamics of conciliation. The absence of face-to-face interaction can hinder empathy and mutual understanding between the parties, which are fundamental elements in any conciliation process. Overcoming this intangible barrier is a challenge that needs to be addressed to ensure the effectiveness of virtual hearings. Existing legislation often does not keep pace with technological innovations, resulting in a legal vacuum regarding the conduct of virtual hearings. Creating a clear and comprehensive legal framework that regulates these hearings is essential to ensure that they are conducted in a fair and equitable manner, respecting the rights of all parties involved (SANCHES et al., 2021).

Forming a consensus on best practices in virtual conciliation hearings is another challenge. The diversity of judicial systems and cultural contexts makes the standardization of procedures a complex task. However, the development of universal guidelines can help ensure a minimum level of accessibility and effectiveness in different jurisdictions. The need for constant technological updates and adaptations to changes in digital communication practices is an ongoing concern. Technology is constantly evolving, and the judicial system must keep up with these changes to maintain the relevance and effectiveness of virtual hearings (ALMEIDA et al., 2022).

According to Ribeiro and Nascimento, (2022) the effective inclusion of feedback from the parties involved in virtual conciliation processes is vital to continuously improve the system. Understanding the experiences and challenges faced by those using the system allows for adjustments and improvements that benefit all users. While virtual conciliation hearings offer many benefits, the challenges related to accessibility are considerable and require a holistic approach. A joint effort is needed between legislators, legal practitioners, technologists and society to create a virtual conciliation system that is truly accessible, fair and efficient. Overcoming these challenges will not only improve the justice system but also reflect a commitment to equality and justice for all citizens.

The Judiciary's Commitment to the Accessibility of Virtual Conciliation Hearings

The Judiciary's commitment to accessibility in virtual conciliation hearings is a topic of increasing relevance in the digital age. The transition to the virtual format of these hearings, driven by both the need for efficiency and the extraordinary circumstances of the COVID-19 pandemic, has highlighted the responsibility of the justice system to ensure that all citizens have equal access to justice, regardless of their physical, sensory, or cognitive limitations. This commitment goes beyond the mere implementation of technologies. It involves creating an environment where justice is accessible and equitable, adapting procedures and practices to ensure that all parties involved can fully participate in the conciliation process. The Judiciary thus faces the challenge of not only integrating technological solutions, but also promoting a culture of inclusion and accessibility (DA SILVA, CHAVES, 2022).

For Soares and De Sena, (2020) the importance of training and training magistrates and judicial officials in this new paradigm cannot be underestimated. Familiarisation with digital tools and platforms, as well as awareness of accessibility issues, are key to ensuring that virtual hearings are conducted in an efficient and inclusive manner. Ongoing training and education on best practices in digital accessibility therefore become imperative. In addition, the Judiciary must navigate the complexities of legislation and public policies related to accessibility in virtual environments. This includes adapting and updating laws to reflect the needs and challenges of the digital environment, ensuring that rights and protections are maintained and reinforced in this new context.

Collaboration with experts in assistive technologies and digital accessibility is another crucial facet of this commitment. The involvement of qualified professionals in the development and implementation of technological solutions ensures that the tools used in virtual hearings are not only functional, but also accessible to all users, regardless of their specific needs. The issue of equal access to technology also stands out as a significant challenge. The Judiciary must consider the disparities in access to the internet and technological devices between different segments of the population. This implies finding ways to minimize these barriers, either

through partnerships with other entities or through the direct provision of technological resources to those who need them (CAVALCANTE, ABRANTES, 2021).

The concern with the privacy and security of the information shared in virtual hearings is another important responsibility of the Judiciary. Protecting sensitive and confidential data is crucial, requiring the implementation of robust security protocols and compliance with data protection laws. Continuous evaluation and monitoring of the effectiveness of virtual conciliation hearings is essential to ensure continuous improvement. This involves gathering feedback from stakeholders, measuring the effectiveness of the procedures adopted, and adjusting as needed to improve the experience and outcomes of these hearings (NETO, BERTOLANI, 2021).

In addition, as De Souza et al. (2020) well defines it, the Judiciary must actively engage in the research and development of new technologies and approaches to continuously improve accessibility in virtual hearings. Constant innovation is necessary to keep up with technological changes and societal expectations. The Judiciary's commitment to accessibility in virtual conciliation hearings is a critical element in ensuring an inclusive and equitable justice system. This commitment requires a continuous effort, involving training, legislation, technological collaboration, constant evaluation and innovation. By embracing these responsibilities, the judiciary not only fulfills its constitutional role but also promotes a more just and accessible society.

Technology as an ally of the judiciary in Brazil

The integration of technology into the Brazilian judicial system represents a paradigmatic shift in the way justice is administered and accessed in the country. This technological evolution transcends the simple use of digital tools; It reflects a profound transformation in judicial practices, influencing everything from procedural management to public access to justice. The Judiciary of Brazil, by adopting technological innovations, demonstrates a significant effort to modernize its operations and make justice more efficient and accessible. A notable example of this integration is the implementation of electronic process systems, which allow for the digital processing of cases, from initiation to final decision. These systems not only streamline the processing of cases but also promote transparency and facilitate citizens' access to procedural information. With this, the Brazilian Judiciary advances in overcoming one of its greatest historical challenges: procedural slowness (DE OLIVEIRA, 2022).

In addition, the adoption of virtual hearings, especially evidenced during the COVID-19 pandemic, illustrates how technology can maintain the continuity of judicial services in adverse situations. Online hearings have not only kept courts functioning in times of crisis, but have also revealed potential for more sustainable and less costly court practices in the long run. Technology also proves to be a vital tool in the fight against the digital divide in the justice system. Initiatives such as the provision of internet access points in courts and community centers help ensure that individuals without their own access to technology can exercise their legal rights. These measures are crucial for a country of continental dimensions and with significant socioeconomic inequalities, such as Brazil (SILVA, 2022).

The use of artificial intelligence (AI) in some instances of the Brazilian judiciary is another important facet of this transformation. AI programs are employed to assist in the analysis of large volumes of data and the identification of patterns in judicial decisions, contributing to the consistency and predictability of judicial decisions and the identification of relevant jurisprudence. Information security is another area where technology plays a key role. With the increase in the storage and transit of sensitive information in digital formats, the Judiciary has invested in cybersecurity systems to protect against data breaches, ensuring the integrity and confidentiality of procedural information (MARSOLA et al., 2020).

According to Hermann and Formentini, (2021) another relevant aspect is the democratization of access to judicial information through portals and mobile applications. These resources allow citizens to consult processes, regulations and jurisprudence easily and quickly, promoting greater understanding and interaction with the judicial system. The training and continuous training of magistrates and judicial staff in new technologies are essential for the effectiveness of this integration. Investment in the technological education of these professionals is crucial to ensure that the available tools are used in an optimal and innovative way.

Also, according to Dias and Moreira, (2022) collaboration with startups and technology companies has opened the way for the creation of customized solutions for the specific needs of the Brazilian Judiciary. These partnerships enable the incorporation of emerging technologies and the adaptation of judicial practices to meet contemporary demands in a more efficient way. Technology is established as an indispensable ally of the Judiciary in Brazil, contributing to the streamlining of processes, the promotion of transparency and the guarantee of more democratic access to justice. This integration, although challenging, is fundamental for the evolution of the Brazilian judicial system towards a more efficient, safe, and inclusive service.

Adaptation of Procedures, Training and Awareness for Virtual Conciliation Hearings

According to Mól and Rodrigues, (2021) the adaptation of procedures, training and awareness for virtual conciliation hearings constitute a set of essential actions in the current context of the judicial system. With the increase in the use of digital technologies, especially accelerated by the COVID-19 pandemic, the judiciary found itself in the need to reformulate its practices, migrating many of its operations to the online environment. This transition is not only technical, but also cultural and operational, requiring a thorough reassessment of how hearings are conducted. The first step in this adaptation process involves redefining legal procedures to accommodate the virtual format. This requires a detailed analysis of the procedural rules to ensure that virtual hearings are held in a fair and equitable manner. In addition, information privacy and security must be considered, ensuring that sensitive data is protected in the digital environment.

At the same time, the training of legal professionals becomes a crucial aspect. Judges, lawyers, and mediators need not only to understand the technological tools used, but also to adapt their communication and negotiation skills to the virtual environment. The effectiveness of online reconciliation depends significantly on the ability of these professionals to handle the nuances of digital communication. In addition, it is important to develop specific protocols for virtual hearings. These protocols should address issues such as time management, the order of speech, the use of digital documents, and how to deal with technical interruptions. The clarity and consistency of these protocols are essential to ensure that all parties understand how the hearing will be conducted (ARAÚJO, DE ANDRADE, 2023).

For Alves (2022), another fundamental point is awareness about accessibility. Virtual hearings should be accessible to people with disabilities, which implies the provision of resources such as subtitles, sign language interpretation and adaptive interfaces. Effective inclusion is a key element for the fairness and equity of virtual hearings. In addition to technical training, it is vital for legal professionals to develop an empathetic understanding of the circumstances and challenges faced by parties in a virtual environment. The ability to create a safe and respectful space, even from a distance, is a crucial aspect of conducting an effective conciliation hearing.

According to De Azevedo et al., (2021) the implementation of continuous training programs is another important strategy. These programs should focus not only on the necessary technical skills, but also on the interpersonal and ethical competencies relevant to virtual audiences. Continuous education ensures that professionals are up-to-date with best practices and technological innovations. The participation and feedback of the parties involved in the hearings are also essential for the constant improvement of the processes. By understanding users' experiences and perceptions, the judiciary can make adjustments that make hearings fairer, more accessible, and more efficient.

In addition, as Ribeiro and Nascimento (2022) well define, collaboration with experts in information and communication technology is crucial to ensure that the platforms and tools used are adequate and efficient. Technical expertise helps create a virtual hearing environment that is safe, reliable, and friendly at the same time. Adapting to virtual conciliation hearing procedures is a dynamic and continuous process. It requires not only a change in legal practices, but also an evolution in the mindset of legal professionals and the parties involved. Through training, awareness-raising, and collaboration, the justice system can effectively take advantage of digital technologies to promote more accessible and efficient justice.

Virtual Conciliation Hearings: A Step Towards Equitable Justice

According to Costa et al., (2022) virtual conciliation hearings emerge as a significant tool in the advancement towards more equitable justice. This modality, which gained momentum mainly during the COVID-19 pandemic, transcends the convenience of avoiding physical displacement, contributing to the democratization of access to justice. By eliminating geographical barriers and reducing costs, virtual hearings pave the way for broader and more diverse participation in judicial matters. This innovative approach, however, requires more than just technological infrastructure. It requires a reassessment of judicial practices to ensure that fairness is maintained in a digital environment. Issues such as confidentiality, data security, and ensuring a fair and transparent process become central in this new context.

One of the most impactful aspects of virtual hearings is the possibility of including individuals who have traditionally faced difficulties in accessing the judicial system. People with reduced mobility, residents in remote areas, or those with financial limitations benefit significantly from the option to participate in conciliation hearings virtually, thus promoting more inclusive justice. Procedural efficiency is another important benefit. The reduction of waiting time and the streamlining of processes are direct consequences of the implementation of virtual hearings. This speed not only optimizes judicial resources, but also meets the need for faster dispute resolution, a fundamental aspect for the perception of effective justice (LIBER, RAINHO, 2020).

However, the transition to virtual hearing also entails significant challenges. The need to ensure that all participants have adequate access to technology and the internet is a primary concern. In addition, familiarizing users with digital tools and adapting platforms to meet diverse accessibility needs are key to avoiding new forms of exclusion. The training of legal professionals is another crucial point in this process. Judges, lawyers, and

mediators need to develop skills to operate in a virtual environment, ensuring the effective and empathetic conduct of hearings. This includes everything from the management of platforms to the adaptation of communication and negotiation techniques to the online environment (SANCHES et al., 2021).

In addition, the integrity of the judicial process must be maintained. This involves ensuring that virtual hearings are held in a secure environment, free of interference and with the guarantee of confidentiality of the information discussed. Maintaining accurate and accessible records of hearings is also essential for transparency and accountability. The role of technology in virtual hearings goes beyond facilitating communication. It can be used to improve case management, optimize information collection and analysis, and facilitate access to documents and evidence. These advances contribute to the accuracy and quality of the decision-making process (DE SOUZA, FOGAÇA, 2020).

However, for Cavalcante, Abrantes, (2021) it is important to recognize that technology alone does not guarantee equity. The continuous commitment to social justice and inclusion must be the north that guides the implementation and improvement of virtual hearings. This implies the constant evaluation of the impact of these practices and the search for solutions to the challenges that arise. Virtual conciliation hearings represent a significant step towards a more equitable and accessible justice system. However, its effectiveness depends on the ability to adapt practices, train professionals, and ensure that technology is used in a way that promotes inclusion and justice. By balancing these elements, the judiciary can effectively harness the potential of virtual hearings to meet the needs of an increasingly digitized society.

III. Conclusion

The conclusion of this research underscores the crucial importance and transformative impact that virtual conciliation hearings have on the contemporary judicial system. The research revealed that, by adopting these hearings, the Judiciary not only responds to the demands of an increasingly digitized world, but also embraces a unique opportunity to promote more inclusive and accessible justice.

It became evident that the successful implementation of virtual conciliation hearings requires more than the integration of advanced technologies; It demands a comprehensive review of existing judicial procedures, an adaptation to accessibility needs, and a significant cultural change within the judicial system itself. The research highlighted that while there are considerable challenges – such as the need to ensure privacy, data security and familiarisation of all parties with the technologies used – the potential benefits in terms of accessibility and efficiency are immense.

In addition, it was identified that the role of the Judiciary is fundamental in promoting policies and practices that ensure accessibility and inclusion in these hearings. This includes the provision of features such as sign language interpretation, real-time subtitling, and adaptive interfaces for people with different needs. Training and sensitization of legal professionals, as well as the implementation of clear and comprehensive guidelines, are essential steps to ensure that virtual hearings are conducted in a fair and inclusive manner.

Finally, the research points to a path of continuous improvement and adaptation. As technology evolves, so must judicial practices to keep up with these changes. Effective inclusion and ensuring accessibility in virtual conciliation hearings represent not only a technological advance, but a significant step towards a more equitable judicial system that is representative of the diversity of society. Thus, the Judiciary, by adopting and improving virtual conciliation hearings, reaffirms its commitment to accessible justice for all.

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