

СТАТЬИ

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China's mode of electronic reform for court records*

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The development of information technology has made the electronic reform of court records possible. As a new type of court records media, audio-video recordings have attracted attention worldwide. Driven by the National Informatisation and Internet Power strategies, China has formed its own operational paradigm in this regard. According to Several Provisions of the Supreme People's Court on the Audio-Video Recordings of Courts Trials by the People's Courts, electronic reforms for court records in China currently follow a quasi-parallel paradigm, in which audio-video recordings may replace traditional trial transcripts within the scope of summary procedure with the consent of the parties involved. This mode of reform is consistent with China's tradition of gradual reform. It is not only affirms the application of information technology in the court record system but also considers differences in procedures. However, it is more similar to a "prudent attempt" at electronic reforms made under the existing legal framework of litigation, representing a bridge between legislation and judicial practice, and has not responded to the impact of information technology on the court record system to the maximum extent. From the theoretical perspectives of essentialism and functionalism, the standard mode of electronic reform for court records needs to be prioritised by the courts by considering the rights of litigants. A parallel paradigm can then be constructed, whereby audio-video recordings hold the same legality as trial transcripts. Furthermore, this reform process should strengthen the coordination mechanisms between the development of legality, system coordination, and a balance of interests to effectively guarantee electronic reforms for court records.

Keywords: audio-video recording, trial transcript, court record, online litigation, online court, information technology.

1. Introduction

Electronic reform of court records has gradually become a worldwide trend, with adaptation to developments in information technology representing an important part of a country's legal system. China has started to incorporate these reforms relatively late.

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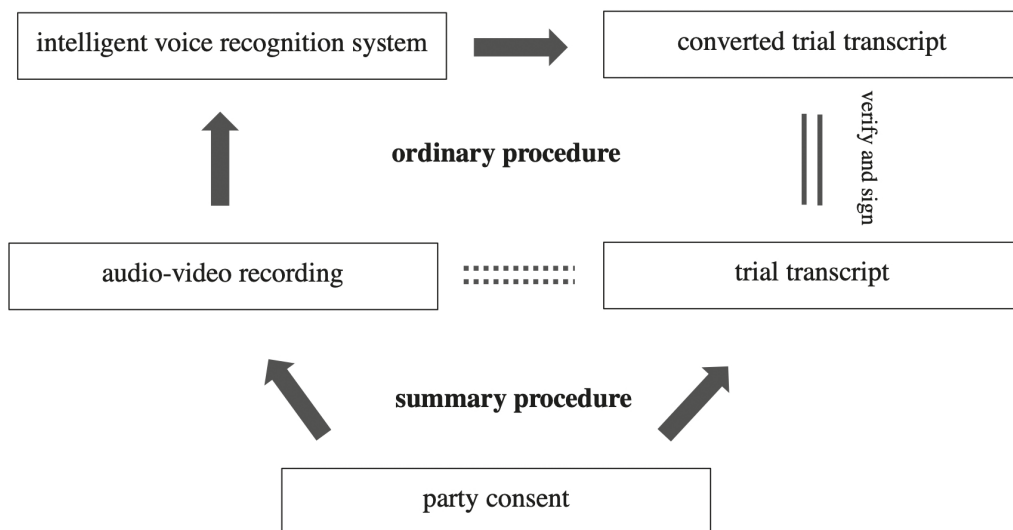


Fig. 1. The relationship between audio-video recordings and trial transcripts in China

However, the momentum for implementing such reforms has grown considerably under the vigorous promotion of a new national policy related to the subject. Since the Supreme People’s Court of the People’s Republic of China has proposed the promotion of science and technology courts (specifically in the document in 2013, *Several Opinions on Promoting the Construction of Three Platforms for Judicial Transparency*), local courts in China have enacted various electronic reform proposals related to court records, continuously pushing for a shift from relying on trial transcripts to utilising audio-video recordings.

In the context of various practices, to standardise the court record practices of local courts and consolidate reform achievements in the early stage, the Supreme People’s Court of the People’s Republic of China has revised their initial judicial interpretation on the matter, namely, the *Several Provisions of the Supreme People’s Court on the Audio-Video Recordings of Courts Trials by the People’s Courts*. This revision has established a unified model for reform that is applicable to the entire country. In general, China has conditionally affirmed the legal status of audio-video recordings. Specifically, audio-video recordings have the same legality as trial transcripts within the scope of the summary procedure with the consent of the parties. In the ordinary procedure, however, audio-video recordings cannot automatically replace trial transcripts. Instead, audio-video recordings need to be synchronously converted via the intelligent voice recognition system. The converted trial transcripts shall then be regarded as trial transcripts for management and use after the judges, court clerks, and litigation participants affix their signatures upon verification (see Fig. 1). This mode of reform is consistent with China’s tradition of gradual reform. It not only affirms the application of information technology in court record system, but also considers the differences in procedures.

The electronic reform of court records has steadily but surely moved forward. However, this progress has been slow owing to the required adherence to China’s civil procedure law. According to the *Civil Procedure Law of the People’s Republic of China*, court recordings follow the ordinary procedure. As such, allowing audio-video recordings to replace trial transcripts in a summary procedure does not conflict with current China’s laws¹.

¹ See: *Li S. Understanding and Application of Judicial Interpretation of Audio-video Recordings in the Supreme People’s Court*. Beijing: People’s Court Press, 2017. P. 82–84.

Rather, it is similar to a “prudent attempt” at electronic reforms made under the existing legal framework of litigation, representing a bridge between legislation and judicial practice, even though the court is yet to fully utilise information technology. For judicial reform to follow explicit goals and direction, a clear understanding of the basic laws that build the foundation of judicial activity is required. Research on such judicial reform must not only focus on advantages and disadvantages, but also on a careful analysis of the basic theoretical issues and rational reflections².

In view of this, the first section of this study introduces the structure of the relationship between judicial power and litigation rights in the specific context of electronic reforms for court records in China, and reflects on the appropriate driver of such reforms. The second section introduces the scope of application of electronic reforms for court records, reflecting on the effects of such reforms and the procedures needed therein from the perspective of functional theory. The third section explains the insufficiency of the traditional systematic considerations of electronic reforms for court records in China, presenting a coordination mechanism for these reforms using the safeguard theory. The introduction of China’s mode for electronic reforms in court records and a demonstration of such a mode will contribute theoretically and pragmatically to the study of court conduct worldwide.

2. Who Should Steer the Electronic Reform for Court Records

Article 8 of the Several Provisions of the Supreme People’s Court on the Audio-Video Recordings of Courts Trials by the People’s Courts stipulates that audio-video recordings used in the summary procedures may replace trial transcripts with the consent of the parties involved. Accordingly, the status quo for such reforms in China is that the initiative for reform is directed towards the parties who decide whether such audio-video recordings can replace trial transcripts. This situation can be clearly differentiated from those found in Germany³, Japan⁴, United States⁵, and other countries or regions in the world, where courts exert judicial power to lead reform. This difference begs the fundamental question, “What is a court record?”

Based on this fundamental view of court records, electronic reforms must be guided by the courts using judicial power, and mandatory consent of the parties involved is not required. The relationship is characterised by the leading role of a court’s judicial power, while considering the litigant rights of these parties.

2.1. The Leading Role of the Court’s Authority

A court record is rooted in judicial justice. The modern conceptualisation of judicial justice requires that a trial process should be just, and that justice should always be presented in a visible, transparent manner. A court record is a medium of this visibility. A clerk

² See: *Chen R.* The nature of jurisdiction: An analysis of criminal judicature as an example // Chinese Journal of Law. 2000. No. 5. P. 31.

³ According to the German Code of Civil Procedure, courts may use audio recording as a temporary record Whether audio recording is taken and what kind of temporary record method should be taken are decided by presiding judge. The parties may not raise objections or appeal. See: *Zhou C.* Temporary audio recording and utilization in German civil litigation // People’s Court Daily. 2015. June 24.

⁴ According to the Japan Civil Procedure Rules, with permission of the presiding judge, a clerk may use audio recordings, video recordings, or other forms instead of trial transcripts to record statements of witnesses, parties, and identification experts. At the time when presiding judge makes a permit, the parties involved may state relevant opinions.

⁵ In the United States, courts can proactively select the appropriate medium for court records based on the complexity of the case, the probability of appeal, and other factors. See: *Deng, Jinfeng.* Synchronized audio-video recordings system for extraterritorial courts // People’s Court Daily. 2017. March 31.

records the activities of court trial; these court records highlight judicial justice, thereby assisting judicial trials, seeking procedural stability, and facilitating legal supervision. In essence, the court record works much like an official document. The nature of court records determines its realization in a specific case, as decided by the court according to its authority. Court records must also be a comprehensive, accurate, and true reflection of trial activities, rather than the will of any specific party or individual.

To fulfill such requirements, China's mode for court recordings has undergone a shift from judges' records to clerks' records, from handwritten records to stenograph, and then finally, digital records. In the information age, the development of information technology provides a space for the improvement of the judicial system. The court should take this opportunity to guide the upgrading of court records to maximise the function and value of court records, which is the meaning of the law of judicature. However, at present, China has transferred the initiative for reform to the parties involved, aiming to ensure the legitimacy of the reform through their consent. As scholars on litigation mode theory have observed, this process is indicative of 'hollowing out' judicial reform⁶.

With China's shift from an authoritarian to an adversary litigation mode, the parties can influence the process and outcome of litigation. However, whether reforms depend on party consent or are promoted by courts according to their authority depends upon the determination of the nature of specific litigation action. As mentioned above, the court record is an act of authority with public attribute. The legitimacy of court records in a case has little to do with whether the parties involved agree, but rather revolves around whether the court records impair the interests of judicial justice. If electronic reforms are aimed towards creating more comprehensive, accurate, and realistic evaluation indices, the dominant position and leading role of the court's judicial power in enacting such reforms needs to be affirmed without being restricted by the conditions of party consent.

2.2. Consideration of the Litigation Rights of the Parties

Emphasising the leading role of the court in the reform does not imply excluding the litigant rights of the parties involved. Power always comes from right and serves right, and power is restricted by right⁷. The court record, as an official document, generates legitimacy with a presumption of the truth of what is recorded, which creates a self-evident effect on the rights and interests of the parties involved. This is especially the case in the Chinese judicial context, wherein substantive trials are pursued constantly. Consequently, the impact of court records on the rights and interests of these parties is enhanced. As legal maxims go, without records, there is no existence. This is also true for procedural matters. Court records may be the only notarised certificates of how the procedure was conducted⁸. As court records are inseparable from the rights and interests of the parties, electronic reform for court records must respect the litigant rights of all parties involved.

The litigant rights of all parties involved do not lie in the choice of procedure as to whether audio-video recording is applicable, but in the right to learn the truth, right to consultation, and right to use audio-video recordings. This requires the court to make careful considerations on procedural matters regarding the right of any party to know of, access, and utilise court records when it comes to electronic reform. Specifically, these considerations can be addressed through the following three practices. First, it is necessary to ensure that the parties are aware of any future or ongoing reforms to clarify their legal-

⁶ See: *Liu Z.* Methodological significance and the application of the Theory of Civil Litigation Mode // *Contemporary Law Review*. 2016. No. 3. P. 19.

⁷ See: *Zhang W.* Right and Human Right. Beijing: Law Press China, 2011. P. 85.

⁸ See: *Zhang W.* On the legalization of the trial transcript // *Peking University Law Journal*. 2015. No. 4. P.903–915.

ties, scope of procedures, and specific applications. Second, the parties must be taught standardised methods for receiving, obtaining, consulting, and utilising the novel medium of audio-video recordings. Third, it is necessary to ensure the convenience, smoothness, safety, and effectiveness for all parties' right to know, consult, and use these new tools.

3. Defining the Scope of Application in the Electronic Reform for Court Records

Internationally, the scope of application in electronic reforms for court records can be categorised into three paradigms. The first is alternative, which provides an audio-video recording with a formal legal effect, in which court recordings are simultaneously made in audio-video, whereby these records completely replace trial transcripts. Hong Kong Special Administration Region, China's legal system, serves as an example of this paradigm. The second is parallelism in which audio-video recordings have the same legality as trial transcripts do, and a judge can freely decide the way in which a court record is used. This system is practiced in Japan and the United States. The third is auxiliary, which does not affirm the legal status of audio-video recordings as an acceptable method for court records. In such a system, audio-video recordings can only be considered temporary records. A clerk is still required to produce a derivative trial transcript. This is common practice in countries such as Germany.

According to the Several Provisions of the Supreme People's Court on the Audio-Video Recordings of Courts Trials by the People's Courts, audio-video recordings can be used with the same legality as trial transcripts within the scope of summary procedure in China. In addition to this procedural requirement, Chinese courts still demand such records to be presented in written form. This status quo has clear Chinese characteristics. First, China's reforms adopt a quasi-parallelism paradigm, wherein a conditional fusion between the 'parallel' and 'auxiliary' paradigms manifests. Second, the influencing factors in the scope of application for the reforms are dualistic; they not only consider the validity between audio-video recordings and trial transcripts, but also consider the relationship between ordinary procedure and summary procedure. Namely, it is a superposition of the scopes of effectiveness and procedure. However, from a functional perspective, audio-video recordings, as an advanced recording medium, is also feasible for ordinary procedures. When compared with the quasi-parallel paradigm, the parallel paradigm is more in line with such electronic reform.

3.1. Effectiveness Scope of Audio-video Recordings

The ability of information technology to serve justice depends entirely on the value function of its utilisation in the practices of litigation⁹. When compared with the trial transcript, whether audio-video recordings can become an independent medium for court records needs to be judged by the theory of functional equivalence. According to this theory, audio-video recordings must be at least identical in function to trial transcripts. If the application of audio-video recordings detracts from the existing functions of the trial transcripts, they should not be used as an independent medium for court records.

In China, court records must adhere to standards of comprehensiveness, accuracy, and authenticity, regardless of their medium of transmission. First, trial transcripts are limited by the professional skills of any clerk. Records can only be derived from inductive shorthand, and risks of omission or error exist in both formal and substantive aspects.

⁹ See: *Wang F.* E-Court: From internal to external construction // *Contemporary Law Review*. 2016. No. 5. P.27.

This requires parties to confirm or correct the contents of a trial transcript, without delay, after a trial. However, there is no basis for correcting trial transcripts. As such, what often emerges is the phenomenon of 'arbitrary correction' or 'no correction', which further impairs the accuracy and authenticity of court records. Second, trial transcripts are limited by the speed of a clerk. The trial process is often interrupted by a clerk's needs regarding records, thus affecting litigation negatively. For example, the immersion and continuity of an impassioned statement by the parties regarding the facts of the case may be interrupted by the court's need for record if the clerk's recording speed cannot keep pace with the speed of the parties' narration. Third, trial transcripts are also limited by the role of the clerk. In China, a clerk functions as a judicial assistant. Chinese clerks are often subject to a judge in the process of making trial transcripts, and this process does not foster effective internal supervision, which is therefore not conducive to procedurally securing the rights and interests of the parties involved.

Audio-video recordings, on the other hand, can effectively make up for the inadequacies presented by relying on trial transcripts, and are more in line with the demands of court records. Audio-video recordings offer synchronous and mirrored recordings for trial activities, which guarantees complete accuracy and comprehensiveness in court records. This kind of traceable panoramic presentation recording not only reduces urgency for parties to confirm content, but also facilitates judges as well as parties in reviewing the trial concretely to guarantee justice. Furthermore, audio-video recordings can ease the demands made of a court's clerk. This not only improves the efficiency of a trial, but also encourages the litigating parties to focus on the controversial points of case in an environment free of external interference. Finally, audio-video recordings utilise an objective carrier, which guarantees authenticity and objectivity in recorded content, thereby enhancing the effectiveness of trial supervision.

In summary, audio-video recordings can achieve not only functional equivalency, but also functional optimisation, when compared with the traditional medium of trial activities. Indeed, in practice, the judicial application of audio-video recordings inevitably leads to some new problems, such as the difficulty in identifying dialects, inconvenience of searching databases, increase in security risks, and demands for expanded storage, all of which present considerable hurdles to progress. However, these problems are mainly technical in nature and can be alleviated with greater development and emerging technologies.

As audio-video recordings meet the fundamental requirements of courts, the auxiliary paradigm is too conservative. However, the alternative paradigm is too radical. On one hand, the application of audio-video recordings requires higher levels of hardware and technology. As China covers a vast territory, differences in trial conditions at local courts invariably present themselves. As such, it is not consistent with the current state of Chinese system of courts to require audio-video recordings as a full replacement for trial activities. On the other hand, when a judge hears a special case, such as cases involving state secrets and privacy, it is necessary to use discretion in audio-video recordings or trial activities. Therefore, adopting the parallel paradigm in the scope of effectiveness for such reforms is relatively consistent with China's actual capabilities and interests.

3.2. Procedure Scope of Audio-video Recordings

Based on the scope of effectiveness, it must be determined whether it is necessary to superimpose the scope of procedure and use summary procedure to impose procedural restrictions on parallelism. This is not considered often in the debate on electronic reform for court records in other countries. In terms of the original intentions of China's mode, summary procedure is mainly used to try simple cases with clear facts, clear rights and obligations, and little controversy. Such cases occupy a considerable proportion of

Chinese judicial practice. Summary procedure focusses more on efficiency, representing low risks and a high profit on limited resource investment. The trial process for summary procedure is relatively simple. In other words, it is easier to deal with the technical obstacles of contemporary audio-video recordings mentioned above. Additionally, the utilisation of audio-video recordings does not conflict with the current litigation law, which easily resolves the problems regarding legitimacy.

Thus, the decision to establish a quasi-parallel paradigm system was based primarily on external factors, which did not consider the logical relationship between ordinary and summary procedures. A summary procedure is built on legal and economic thinking, and it can be viewed as institutional manifestation of the value of litigation efficiency¹⁰. However, the implementation of summary procedure for litigation efficiency is relative to the ordinary procedure, and needs to be specifically regulated by law. According to legislative theory, as a summary procedure for special judicial procedures, the provisions for ordinary procedure should be applied to matters that are not specially prescribed by law. This point has been neglected in such reforms.

More importantly, the benefits of litigation through summary procedure are not unlimited. The judiciary accepts efficiency only when it is fair, implying that a summary procedure must comply with a principle of minimum procedural guarantee¹¹. Specifically, this requires that open trials, court debates, and other elements of trials in an ordinary procedure are essential for a summary procedure. As there is a court trial process, it needs comprehensive, accurate, and authentic court records to materialise the trial procedure, supervise the court's authority, and protect the basic procedural interests of the parties. In other words, in terms of the content of court records, there are differences between ordinary and summary procedures. However, in terms of the functions and standards of court records, ordinary procedures are consistent with summary procedures. Therefore, ordinary and summary procedures need similar operating procedures to ensure their comprehensiveness, accuracy, and authenticity in court records. As electronic reforms in China affirm that audio-video recordings can be used in the scope of summary procedures, the scope should be specified explicitly for ordinary procedure. The previously mentioned quasi-parallel paradigm relies on summary procedures and is overly cautious. Moving from a quasi-parallel to parallel paradigm and embracing information technology demands a more effective path of development.

4. Promoting Coordination Mechanisms in the Electronic Reform for Court Records

At present, the primary focus for court record reforms in China is to obtain legitimacy on the premise of the consent of the parties involved, and to bridge the gap between contemporary procedural law and practice by considering the scope of summary procedure. However, while retaining the essence of court records, electronic reform should change from party-led to court-led; accordingly, the reform paradigm should transform from quasi-parallel to parallel. Invariably, as the reforms are rolled out, their shortcomings will be revealed. Currently, audio-video recordings are a legitimate medium for court records within the scope of summary procedure in China, and there are clear guidelines on how judges and parties are to understand and use audio-video recordings. However, these efforts are not sufficient, and some measures need to be reconsidered. To ensure the smooth progress of reforms, it is necessary to strengthen the construction of coordination mechanism.

¹⁰ Zhang W. *Civil Procedure Law*. Beijing: Law Press China, 2016. P.327.

¹¹ Fu Y. Separation between complexity and simplicity and procedural guarantee // *Chinese Journal of Law*. 2003. No. 1. P.6.

4.1. Current Situation of Coordination Mechanism

First, there is insufficient legitimacy. The Several Provisions of the Supreme People's Court on the Audio-Video Recordings of Courts Trials by the People's Courts presents a judicial interpretation, but one that is relevant only to the application of the law. Regarding legal effectiveness, such judicial interpretations are subordinate to the basic law of a country. At present, China's civil procedure law does not adjust for court record systems. In other words, from the perspective of the basic law, the trial transcripts continues to hold sway. The absence of amendments to China's basic law means that the legality of the reform is put into doubt. The court record represents a court's authority, and a court's exercise of authority needs to abide by the provisions and procedures of the law in the strictest manner. The legality of this reform is insufficient, leading to the lack of a legal basis of audio-video recordings. Thus, the reform's relevant subjects for litigation exhibit hesitation towards applying the reform in practice.

Second, the standardisation of the reform is also insufficient. For example, on the topic of making audio-video recordings, the Several Provisions of the Supreme People's Court on the Audio-Video Recordings of Courts Trials by the People's Courts requires that, except for special circumstances, audio-video recordings must be made throughout a trial's proceedings, be synchronised, and be entirely uninterrupted, and that this process must be examined objectively by the persons responsible for making audio-video recordings. However, the exact method for inspection is not clearly defined. In Chinese judicial practice, such methods typically include superimposing synchronised recording times, superimposing head and tail information, applying digital watermarking encryption, and hash checking. This diversity of available methods creates a similar diversity of standards, which hinders standardisation and integration.

Third, the reform is simply inadequate as is. Electronic reforms for court records will inevitably have a great impact on China's existing litigation system and trial methods. In China, court records are not only a record of trials, but also an important basis for judgments that are made by the courts. These trial transcripts play a significant role in the judgment given. When a court record is presented in the way of audio-video recordings, a clerk is exempted from the work, and judges are forced to review a trial by repeatedly playing back audio-video recordings. This increases the trial burden, increasing hesitation for the judges who choose to apply audio-video recordings to their work.

Fourth, electronic reforms, while having advantages for the public, tend to compromise private interests. Moving from trial transcripts to audio-video recordings exposes the problem of protecting private interests. Questions regarding how the law can work to protect private interests and how the law can strike a balance between enhancing public advantages and protecting private interests appropriately, emerge as problems faced by the courts in the process of applying the reform. However, China has considered the issue.

According to the Several Provisions of the Supreme People's Court on the Audio-Video Recordings of Courts Trials by the People's Courts, in principle it is only the court that can make an audio-video recording of a trial. Without the permission of the court, no person may take audio-video recordings of the trial or record, copy, delete, or transfer any such audio-video recordings. Moreover, only relevant parties, defence lawyers, and litigation representatives can consult, duplicate, or transcribe audio-video recordings. Finally, the courts may play audio-video recordings according to the need for judicial transparency, but only in publicly heard cases. Electronic reforms for court records in China either overprotect private interests of the parties involved, or overemphasises public advantages with a focus on judicial transparency. In fact, the right to consult and use court records is not only enjoyed by the relevant parties to a trial, but also by other relevant principals.

However, as judicial transparency demands necessary limits to protect private interests, this unbalanced approach must be reconciled.

These deficiencies in the electronic reforms for court records in China must be addressed. Such reforms are not isolated, and coordination mechanisms for these reforms must be established across multiple dimensions. Simultaneously, electronic reforms for court records need to be developed and implemented gradually and must be steadily and consistently advanced in various aspects.

4.2. Improvement of Coordination Mechanism

Strengthening the legality of the reform is the first step in addressing these shortcomings. The plan for building up legality should focus on the revision of civil procedure law in China. The legal provision that audio-video recordings have the same legal standing as trial transcripts should be added in the basic law for litigation. With basic law as a precedent, operational norms for the judicial application of audio-video recordings can be established through judicial interpretation.

Second, the court clerks' duties must be better guided. On one hand, clerks still need to seek comprehensiveness, authenticity, and integrity in audio-video recordings. Although audio-video recordings liberate clerks from excessive labour, such records will be fundamentally unable to replace the witness value of a clerk. Participation of a clerk in trial proceedings is not simply playing the role of recording, but also a medium for highlighting the attributes of official documents for audio-video recordings, as well as to cope with technical snags that may come up, to ensure the effectiveness of the records. On the other hand, a system of court notes also needs to be established. Specifically, court notes are trial transcripts of key points and important matters in a complicated case which are taken by a clerk, under the guidance of a judge. Court notes do not require recording the entire minutiae of a trial, but only the critical points of the trial, and their function is not to supervise a judge, but rather to assist a judge. Court notes are only transferred inside the court, and do not require any signatures. In applying audio-video recordings, the standards of comprehensiveness, accuracy, and authenticity are guaranteed by objective information technology. Under the guidance of the judge, the clerk records any relevant points of a trial for the purpose of reference. This effectively resolves the deficiencies inherent in audio-video recordings from a perspective of systems, and prevents such electronic reforms from making a trial a mere formality.

Third, a mechanism for balancing between the advantages of the public and private interests must be established. This balancing mechanism must primarily demand that any interested parties may consult audio-video recordings within the court, but may not record, copy, delete or transfer them. Otherwise, an offender must be prosecuted for legal responsibility. Moreover, owing to the need to maintain private interests, the parties may be permitted to request the court for duplicating the audio recordings or transcribing the audio-video recordings, while other interested parties may transcribe the audio-video recordings with the court's permission. Finally, courts may play audio-video recordings, if these cases are to be publicly tried, while the interested parties must be given the right of objections.

5. Conclusion

Electronic reforms of court records, characterised best by contemporary integration of audio-video recordings in court records, is an important manifestation of information technology's influence on the practice of procedure law. This study has focused on interpreting and reflecting on China's mode of electronic reform regarding court records that may influence similar reforms in other countries worldwide. More specifically, this study

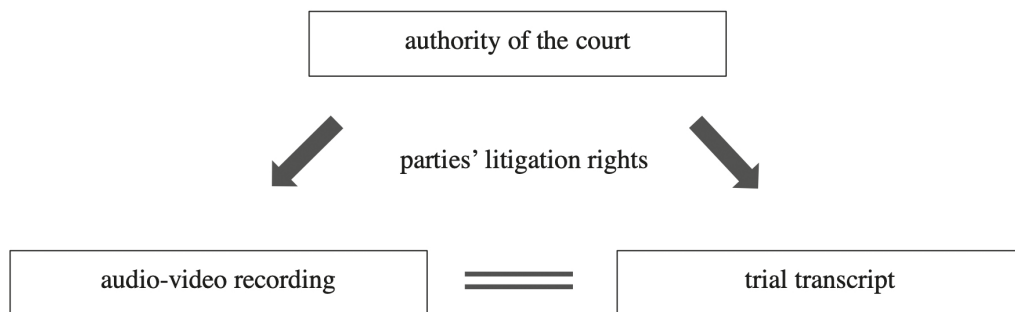


Fig. 2. An ideal relationship between audio-video recordings and trial transcripts

concentrated on analysing the standardised mode of such reforms in China, offering insights helpful to research on electronic reforms for court records.

In the information age, research on electronic reforms for litigation procedures need to consider that information technology has not changed the nature of litigation procedures, but can only optimise the way in which litigation procedures are conducted¹². Whether information technology is applied to litigation procedures, and how litigation procedures deal with information technology integration, are questions that must be analysed based on the nature of specific litigation procedures. The court record represents a tangible carrier for judicial justice and transparency, belonging to the domain of statutory matters and authority of the courts. It should not be unduly influenced by the individual will of the parties of a particular case. The nature of court records demands that the electronic reform for court records should be guided by the courts, using their authority, while considering the litigant rights of the parties involved. In view of the progressive significance of audio-video recordings in contemporary court records, the values of comprehensiveness, accuracy, and authenticity offered by audio-video recordings are not intrinsically changed in their utilisation between summary procedures and ordinary procedures. Therefore, such electronic reforms should follow the parallel paradigm to maximise their responses to the demands of modern justice (see Fig. 2).

In recognizing the structural relationship and scope of application of the reform, it must be realised that the process of litigation represents an organic whole, involving multiple competing interests. The electronic reform for court records is not an isolated phenomenon. Hence, the reform must be adjusted in terms of constructing legality, performing system coordination, and achieving a balance of interests.

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¹² See: Zhang X. The conceptual basis and application path of online litigation system construction // *Tribune of Political Science and Law*. 2019. No. 5. P. 118.

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Развитие информационных технологий сделало возможной электронную реформу судебных протоколов. Как новый тип судебных протоколов аудиовидеозаписи привлекли внимание во всем мире. Руководствуясь Национальными стратегиями информатизации и использования Интернета, Китай сформировал свою собственную операционную парадигму в этом отношении. Согласно «Некоторым Положениям Верховного народного суда об аудио- и видеозаписях судебных разбирательств народными судами», реформа цифровизации судебных протоколов в Китае в настоящее время следуют квазипараллельной парадигме, в которой аудио- и видеозаписи могут заменить традиционные стенограммы судебных заседаний в рамках упрощенной процедуры с согласия вовлеченных сторон. Этот способ реформирования согласуется с китайской традицией постепенных реформ. В нем не только подтверждается применение информационных технологий в системе ведения судебных записей, но и рассматриваются различия в процедурах. Тем не менее этот подход больше похож на «разумную попытку» реформ цифровизации, предпринятых в рамках существующей правовой базы судебных разбирательств, представляющих собой связующее звено между законодательством и судебной практикой, и не реагирует в максимальной степени на воздействие информационных технологий на систему ведения судебных записей. С теоретических позиций эссенциализма и функционализма суды должны уделять приоритетное внимание стандартному способу электронной реформы судебных протоколов, учитывая права сторон в споре. Затем может быть построена параллельная парадигма, в соответствии с которой аудиовидеозаписи имеют ту же законность, что и стенограммы судебных заседаний. Кроме того, этот процесс реформ должен укрепить механизмы координации между развитием законности, координацией и балансом интересов, чтобы эффективно гарантировать реформу цифровизации судебных протоколов.

Ключевые слова: аудиовидеозапись, стенограмма судебного заседания, судебный протокол, онлайн — судебное разбирательство, онлайн-суд, информационные технологии.

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