



Digital delivery of legal notices: Legality and limitations of Email and WhatsApp communications in Indian Jurisprudence

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Abstract

In an era increasingly shaped by digital transformation, the legal system in India faces the pressing need to adapt traditional modes of service of notice to modern electronic platforms. This article critically examines the evolving legal recognition of email and WhatsApp as valid modes of serving legal notices, especially in the context of civil, commercial, and criminal proceedings. Drawing from statutory provisions, judicial pronouncements, and comparative international practices, the research explores whether these digital tools satisfy the fundamental principles of natural justice and procedural fairness. Particular attention is paid to landmark judgments such as *Kross Television India Pvt. Ltd. v. Vikhyat Chitra Production*, *Bharti Airtel Ltd. v. Union of India*, and *Indian Bank v. Satyam Fibres (India) Pvt. Ltd.*, which have acknowledged the evidentiary and procedural value of electronic communications. The paper also analyzes regulatory frameworks such as the Information Technology Act, 2000 and the Civil Procedure Code (Amendment) rules regarding electronic service. While digital delivery increases efficiency and reduces delay, the paper highlights critical limitations such as issues of authentication, proof of receipt, and data privacy. The paper concludes by suggesting a robust statutory mechanism to regulate and validate such service modes in line with constitutional guarantees and due process requirements.

Keywords: Digital notice, email service, whatsapp communication, Indian Judiciary, electronic evidence, civil procedure code, it act, natural justice, due process, legal tech

Introduction

Digital delivery of legal notices, such as through email or WhatsApp, is generally considered valid in India, especially with the increasing acceptance of electronic modes of communication in legal proceedings. However, the specific rules and requirements can vary depending on the court and the nature of the legal matter.

Having a structure in place to appropriately handle any legal issues that may occur is crucial in today's society. For this reason, it is critical to understand the various channels via which legal notices can be sent in India. In India, it has been standard practice to send or receive a legal notice by post. The phrase "legal notice" is one that is frequently used when initiating a legal action. This generation has seen a new method of legal communication, reducing its dependence on postal services which used to be the only preferred method of forwarding a legal notice, and making communication through the internet a more preferred choice. One important legal provision that establishes a mandatory requirement to give notice prior to filing a lawsuit against the government or public officials for actions taken in their official capacity is Section 80 of the Civil Procedure Code (CPC) in India. This clause serves as a basic procedural protection, ensuring that public servants and government agencies are properly notified of impending lawsuits against them.

In recent decades, there has been a noticeable shift in legal communication from traditional methods to electronic means. This shift is driven by the advantages that electronic communication offers over traditional methods of delivery. One such advantage is the increased reliability and efficiency of electronic methods. Unlike traditional postal services or hand delivery, electronic communication, such as email, provides a clear and time-stamped record of delivery, ensuring proof that the notice was sent and received. This helps to establish the validity and authenticity

of the notice in legal proceedings. Moreover, electronic communication allows for immediate delivery, reducing the risk of delays and ensuring the timely receipt of important legal documents. This is particularly critical in legal matters where time is of the essence.

Another key factor contributing to the rising acceptance of electronic methods is the cost-effectiveness and efficiency they offer. Sending legal notices via email eliminates the need for postage and reduces the labour-intensive nature of manual delivery, making it a more economical option.

Significance of Legal Notice in the Indian Legal Process

A legal notice serves as a critical preliminary step in the adjudicatory and dispute resolution process under Indian law. It acts as both a formal communication and a safeguard of the principle of *audi alteram partem* a fundamental component of natural justice. Whether it pertains to contractual disputes, tenancy matters, consumer grievances, or statutory obligations under laws such as the Negotiable Instruments Act, 1881 or the Industrial Disputes Act, 1947, the issuance of a legal notice ensures that the recipient is made aware of the impending legal consequences and is afforded an opportunity to respond or settle the matter amicably before the initiation of formal legal proceedings.

Courts have time and again held that proper service of notice is not a mere procedural formality but a substantive right linked to fair hearing. An invalid or improperly served notice can render subsequent proceedings null and void, leading to dismissal of cases or retrial, thereby affecting judicial economy and access to justice.

Traditional Modes vs. Digital Delivery

Historically, the service of legal notices in India has relied on conventional means such as registered post with acknowledgment due (RPAD), courier services, and

personal delivery through process servers. While effective in many cases, these modes often result in logistical delays, evasion of service, and procedural inefficiencies especially in remote or fast-paced commercial environments.

With the advancement of digital technologies, particularly mobile communication and internet-based messaging platforms, stakeholders in the legal system have increasingly turned to email and WhatsApp as tools of expedient communication. The 21st century's digital shift accelerated further by the COVID-19 pandemic has prompted Indian courts to acknowledge, in certain instances, the validity of service through email and even WhatsApp, provided that proof of delivery or acknowledgment exists.

In the landmark case of *Kross Television India Pvt. Ltd. v. Vikhyat Chitra Production* (Bombay High Court, 2017), the court took judicial notice of the double blue ticks in WhatsApp messages as prima facie evidence of receipt. Similarly, several courts have upheld the sufficiency of email communication, particularly in commercial litigation and arbitration matters. However, despite these progressive trends, ambiguity persists regarding the legal sanctity, evidentiary value, and procedural adequacy of such digital service modes.

Scope and Purpose of the Study

This article aims to critically examine the evolving legal recognition of email and WhatsApp communications in the service of legal notices in India. It explores the intersection between procedural law, technological advancements, and the constitutional principles of fairness and due process.

The study undertakes a doctrinal analysis of:

1. statutory provisions under the Code of Civil Procedure, 1908, the Information Technology Act, 2000, and the Indian Evidence Act, 1872;
2. judicial decisions that validate or contest digital service;
3. and comparative legal approaches in jurisdictions such as the UK, USA, and Singapore.

Furthermore, the paper identifies key challenges such as authentication of sender identity, confirmation of receipt, admissibility of electronic evidence, and the absence of uniform procedural rules. The purpose is not merely to map current judicial trends but to propose a structured legal framework for the future, ensuring that the transition from paper to pixels preserves both efficiency and the rule of law.

Legal Framework Governing Service of Notices in India

The effectiveness of legal notice delivery is intrinsically linked to the procedural and statutory framework governing service in India. The legislative scheme has traditionally emphasised physical service through post or in-person delivery, but with technological advancements, courts have gradually interpreted existing laws to accommodate electronic means of communication. This section explores the principal legislative instruments that govern the service of legal notices namely the Civil Procedure Code, 1908, the Information Technology Act, 2000, and various sector-specific statutes.

1. Civil Procedure Code, 1908: Sections and Orders on Service

The Code of Civil Procedure, 1908 (CPC) lays down the general procedural law applicable to civil litigation in India. The primary provisions relating to service of summons and

notices are found in Order V and Order III of the First Schedule of the CPC. Under Order V Rule 9, service of summons may be affected by registered post, speed post, courier service, fax, email, or any other means as the High Court may direct. The 2002 Amendment to the CPC marked a crucial turning point by statutorily recognising electronic means as legitimate forms of service, albeit subject to judicial satisfaction of delivery.

Further, Order XXIX Rule 2 allows for service on corporations through electronic communication if expressly permitted. Similarly, Order III Rule 6 provides that a pleader may accept service on behalf of a party through any prescribed method, implicitly allowing electronic forms where appropriate.

While these provisions reflect procedural flexibility, their application depends on judicial discretion and administrative rules framed by High Courts. Not all jurisdictions uniformly accept WhatsApp or email as default modes of service unless ordered by the court.

2. Information Technology Act, 2000: Recognition of Electronic Records and Evidence

The Information Technology Act, 2000, enacted to provide legal recognition to electronic communications and transactions, plays a pivotal role in enabling the digital service of legal documents. The relevant provisions include:

1. **Section 4:** Grants legal recognition to electronic records. It states that where a law requires information to be in writing or printed, the requirement is satisfied if it is rendered in an electronic form and accessible for future reference.
2. **Section 5:** Confers legal validity on electronic signatures, equivalent to physical signatures under specific conditions.
3. **Section 65B of the Indian Evidence Act, 1872 (as amended by the IT Act):** Deals with the admissibility of electronic records. It establishes conditions under which electronic communications, including email and messaging services like WhatsApp, may be used as evidence in legal proceedings.

Together, these provisions form the legislative backbone for recognising electronic service of notices. Courts increasingly rely on Section 65B certificates to admit WhatsApp screenshots, email correspondences, and digital timestamps as evidence of service.

However, challenges persist regarding the authentication of sender identity, proof of delivery, and ensuring that the recipient actually read the message, rather than merely received it.

3. Contractual Notices and Statutory Notices

Apart from procedural statutes, numerous sector-specific laws and contractual frameworks mandate the issuance of legal notices. The mode of such notice service may be prescribed either by statute or by the agreement between the parties. Notable examples include:

a. Negotiable Instruments Act, 1881

Under Section 138(b), service of notice for dishonour of cheque is mandatory. Courts have allowed notices under this provision to be served via email or WhatsApp, provided proof of service is demonstrable. In *K. Bhaskaran v.*

Sankaran Vaidhyan Balan [(1999) 7 SCC 510], the Supreme Court emphasised that the notice must be sent to the correct address, irrespective of the medium used.

b. Arbitration and Conciliation Act, 1996

Section 3 of the Act permits notice “by any means which provides a record of the sending,” including email. The Delhi High Court and other forums have upheld service of arbitration notices via email as valid and binding. The recognition of e-notices has gained traction, especially in cases involving international commercial arbitration.

c. Indian Contract Act, 1872

Under Section 10 and Section 73, contractual obligations may include agreed modes of communication. Increasingly, contracts now incorporate clauses allowing service via email or instant messaging, which courts have upheld as enforceable provided mutual consent is evident.

4. Admissibility of Electronic Evidence under the Indian Evidence Act, 1872

With the increasing reliance on digital modes of communication—such as email, WhatsApp, and other electronic platforms the Indian legal system has had to adapt its evidentiary framework to ensure that electronic records are not only relevant but also legally admissible. The Indian Evidence Act, 1872, originally enacted in the colonial era, was amended by the Information Technology Act, 2000 to incorporate provisions addressing electronic evidence. The key provisions in this regard are Sections 65A and 65B.

Section 65A: Special Provisions for Electronic Records

Section 65A introduces a special rule of evidence for electronic records. It clarifies that the contents of electronic records may be proved in accordance with the procedure laid down in Section 65B. This section is essentially procedural in nature and serves as a gateway to ensure that digital records are treated distinctly from traditional documentary evidence.

Unlike physical documents, electronic records are susceptible to tampering, duplication, and manipulation. Section 65A thus recognises the unique characteristics of digital data and mandates the application of a specific evidentiary rule to ensure its authenticity.

Section 65B: Conditions for Admissibility of Electronic Records

Section 65B outlines the mandatory requirements for the admissibility of electronic records, such as emails, WhatsApp messages, computer files, and digital images. As per this section, electronic records may be admitted as secondary evidence, provided they meet the following conditions:

1. The record was produced by a computer during regular use;
2. The information fed into the computer was in the ordinary course of activity;
3. The computer was operating properly at the time;
4. A certificate under Section 65B(4) is furnished, confirming the integrity and origin of the data.

This certificate must be signed by a person in a responsible official position, and it should describe the manner in which the data was produced and affirm that the system was functioning properly.

Judicial Interpretation and Application

The Indian judiciary has consistently grappled with the implementation of Section 65B, especially in the context of rapidly evolving communication tools such as WhatsApp and email.

1. In *Anvar P.V. v. P.K. Basheer* [(2014) 10 SCC 473] ^[7], the Supreme Court held that electronic evidence is admissible only if accompanied by a 65B certificate, overruling earlier liberal interpretations that allowed for circumstantial admission.
2. In *Shafhi Mohammad v. State of Himachal Pradesh* [(2018) 2 SCC 801] ^[8], however, the Court diluted the rigid requirement by stating that a party not in possession of the device from which the electronic record was generated cannot be expected to furnish such a certificate.
3. More recently, in *Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal* [(2020) 7 SCC 1] ^[9], a Constitution Bench reaffirmed the strict applicability of Section 65B (4), reinstating that the certificate is a pre-condition for admissibility and not a matter of procedural convenience.

WhatsApp and Email as Evidence

Indian courts have increasingly acknowledged the evidentiary value of WhatsApp messages, particularly when supported by metadata such as timestamps, sender details, and screenshots. In *Kross Television India Pvt. Ltd. v. Vikhyat Chitra Production* (Bombay High Court, 2017), the Court accepted a WhatsApp message with double blue ticks as prima facie proof of receipt, although not conclusive proof of actual notice.

Similarly, email correspondences have been admitted in civil and commercial litigation, arbitration, and consumer cases, provided that the 65B certificate is filed or the original device is produced in court.

However, admissibility does not automatically imply evidentiary weight. Courts may still scrutinise the authenticity and reliability of the electronic record, especially in cases involving manipulation or denial by the recipient.

Admissibility of Electronic Evidence under the *Bharatiya Sakshya Adhiniyam, 2023*

With the increasing reliance on digital communication platforms such as email, WhatsApp, and cloud-based messaging, the Indian legal system has evolved to address the complexities of electronic evidence. The *Bharatiya Sakshya Adhiniyam, 2023* (BSA 2023), which replaces the colonial-era Indian Evidence Act, 1872, brings greater clarity, structure, and emphasis on electronic records and digital admissibility, keeping pace with modern technological realities.

1. Continuity and Reform: From Section 65B to Section 61

Under the Indian Evidence Act, 1872, Section 65A and Section 65B dealt with the admissibility of electronic records. These provisions are now reorganised under Chapter V of the BSA 2023, particularly Sections 61 to 65, which govern electronic records, digital evidence, and their admissibility. The statutory framework retains the core principles of the earlier law but incorporates more contemporary language and clearer requirements for authentication.

2. Section 61: Special Provisions for Electronic Records

Section 61 of the BSA 2023 serves a similar purpose to the erstwhile Section 65A—it establishes a special rule of evidence for electronic records. It states that contents of an electronic record may be proved in accordance with Section 62, which outlines the procedure for proving such records. This reflects the legislature's recognition that digital evidence is inherently different from traditional documentary evidence and must be treated with tailored safeguards.

The inclusion of this provision ensures that electronic records—often susceptible to manipulation, alteration, and duplication—are subjected to a rigorous but fair evidentiary threshold, maintaining both legal integrity and technological relevance.

3. Section 62: Conditions for Admissibility

Section 62 of the BSA 2023 lays down the mandatory conditions for the admissibility of electronic records, analogous to the earlier Section 65B of the Indian Evidence Act. It states that:

1. The electronic record must have been produced by a computer in the ordinary course of its operation;
2. The data input into the system must be in the regular course of activities;
3. The system must have been functioning properly at the time of generation;
4. A certificate must be submitted as per sub-section (4), affirming the authenticity and accuracy of the record.

This digital evidence certificate must be issued by a person in a responsible official capacity and must detail:

1. The process of production;
2. Device integrity;
3. Compliance with system standards;
4. Date, time, and context of data generation.

This ensures not only the technical integrity of the digital record but also its chain of custody and evidentiary reliability.

4. Judicial Interpretation and Continuity under BSA 2023

Even prior to the enactment of BSA 2023, Indian courts had developed significant jurisprudence on the admissibility of electronic evidence under Section 65B. These principles remain relevant and are expected to guide the interpretation of the new provisions:

1. In *Anvar P.V. v. P.K. Basheer* [(2014) 10 SCC 473]^[7], the Supreme Court held that a Section 65B certificate is mandatory for admissibility of electronic evidence.
2. In *Shafhi Mohammad v. State of Himachal Pradesh* [(2018) 2 SCC 801]^[8], the Court allowed a relaxation of this requirement for parties who did not have control over the original device.
3. The Constitution Bench in *Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal* [(2020) 7 SCC 1]^[9] reaffirmed the mandatory and strict application of the certificate requirement, restoring clarity and consistency.

These landmark cases will likely continue to influence the application of Sections 61 and 62 of BSA 2023, especially regarding evidence by third parties, public authorities, or private messaging apps.

5. WhatsApp and Email as Evidence under BSA 2023

The admissibility of WhatsApp messages and email correspondences has become increasingly significant in civil, criminal, and commercial litigation. Under BSA 2023, such electronic records are admissible only upon compliance with Section 62:

1. Courts now routinely accept screenshots, chat logs, and timestamps, especially when corroborated by metadata, device information, and server delivery confirmation (e.g., double blue ticks).
2. In *Kross Television India Pvt. Ltd. v. Vikhyat Chitra Production* (Bombay HC, 2017), WhatsApp messages with double blue ticks were considered prima facie proof of receipt—though not conclusive proof of service.
3. Emails have been accepted as evidence, especially in contractual and arbitration matters, provided that either the original device is produced or the digital certificate under Section 62 is filed.

However, it must be emphasised that admissibility is distinct from evidentiary value. Courts may still examine the authenticity, intent, and context of such communications. Where the contents are disputed or alleged to have been tampered with, additional technical scrutiny or forensic analysis may be required.

International Comparative Perspective on Electronic Service of Legal Notices

As the global legal community increasingly embraces digital communication, various jurisdictions have reformed their procedural laws to accommodate electronic service as a legitimate and efficient method of delivering legal documents. Comparative insights from jurisdictions such as the United Kingdom, United States, Singapore, and Australia reveal diverse approaches to balancing technological advancement with procedural safeguards. These models serve as useful references for the Indian legal system as it moves towards formally integrating email and messaging platforms like WhatsApp into its procedural regime.

1. United Kingdom: Civil Procedure Rules (CPR)

The UK Civil Procedure Rules (CPR) provide one of the most comprehensive frameworks for electronic service in civil litigation. Under Rule 6.3(1)(d) and Rule 6.20, service of documents by electronic means including email and fax is permissible, provided that the recipient has indicated in writing a willingness to accept service via that method.

Key Provisions

1. Practice Direction 6A further elaborates that a party must specifically provide an email address for service, and consent is presumed to be limited to that address alone.
2. The sender must ensure that the document is sent to the correct address, and may be required to prove both the act of sending and the ability of the recipient to access the document.

In *Brown v. Innovatorone Plc* [2011]^[16] EWHC 3221 (Comm), the High Court accepted email service as valid when the parties had conducted prior communications through email and had contractually agreed to its use.

This cautious yet modern approach underscores the importance of consent, certainty, and auditability in electronic service.

2. United States: Federal Rules of Civil Procedure

The Federal Rules of Civil Procedure (FRCP) in the United States have adopted a flexible and evolving stance on e-service, particularly in the context of international and commercial litigation.

1. Rule 4(f)(3) allows service on foreign defendants by “means not prohibited by international agreement,” which courts have interpreted to include email, social media, and other digital platforms, especially where traditional methods are impractical.
2. In *FTC v. PCCare247 Inc.* (2013 WL 841037, S.D.N.Y.)^[18], the U.S. District Court allowed service of process via email and Facebook, marking a significant evolution in judicial acceptance of modern communication tools.

Domestic service via email may also be accepted in certain contexts, such as:

1. Where the parties have contractually agreed to service via email; or
2. Where the defendant is deliberately avoiding personal service.

Importantly, electronic service must still comport with due process, requiring that it be reasonably calculated to inform the defendant of the proceedings.

3. Singapore: Courts’ Digital Embrace of E-Service

Singapore stands as a global leader in digital judicial reform, and its courts have actively embraced e-service in both civil and commercial proceedings.

1. Under Order 6 of the Rules of Court 2021, Singapore courts allow service by electronic means including email, mobile messaging (e.g., WhatsApp), or court-managed digital platforms with leave of the court.
2. The State Courts Practice Directions also explicitly mention service via electronic platforms where the identity and receipt by the defendant can be reasonably verified.

In *SM Integrated Transware Pte Ltd v. Schenker Singapore (Pte) Ltd* [2005]^[20] SGHC 58, the Singapore High Court upheld email service where traditional means were unsuccessful and where there was evidence of regular email correspondence between the parties.

Singapore’s system is underpinned by its Tech.Court and eLitigation platforms, which provide a structured environment for filing, serving, and managing court documents electronically.

4. Australia: Flexibility with Court Approval

Australia permits electronic service of legal documents across several jurisdictions under both federal and state procedural rules, particularly when consent is given or court orders service through digital means.

1. Under Rule 10.24 of the Federal Court Rules 2011, service may be affected by electronic communication, including email, where the court is satisfied that it is reasonably likely to bring the document to the attention of the person.

2. In *Knott v. Wild* [2002] NSWSC 138, service via email and text message (SMS) was accepted where personal service was impractical and where the defendant had a history of using those means of communication.

Australian courts have also recognised the use of social media for substituted service in exceptional cases, as seen in *MKM Capital Pty Ltd v. Corbo & Poyser* [2008] VSC 588. This liberal approach highlights Australia’s commitment to substance over form, ensuring that the goal of notice is achieved regardless of the medium.

Limitations and Challenges in Digital Delivery of Legal Notices

While the adoption of email and messaging platforms like WhatsApp has introduced efficiency and speed into legal communications, the transition from traditional to digital delivery is fraught with legal and technical complications. Despite growing judicial recognition of electronic service, the lack of a codified, uniform framework has left critical issues such as authenticity, consent, privacy, and enforceability unresolved. This section examines the key limitations and challenges associated with digital service of legal notices in the Indian context.

1. Authentication and Identity Verification

A fundamental challenge in digital service lies in verifying the identity of the sender and recipient. Unlike physical service, where acknowledgment or a signature serves as evidence of receipt, electronic communication often lacks robust verification mechanisms.

1. Email addresses and WhatsApp numbers can be easily spoofed or reassigned.
2. Courts often rely on circumstantial evidence (e.g., prior communication, metadata) to establish authenticity, which may not always be conclusive.
3. In the absence of digital signatures or secure verification protocols, it becomes difficult to conclusively prove that the intended recipient actually received and read the notice.

This concern is heightened in cases involving unauthorised use, shared devices, or inactive accounts, making identity verification a key legal vulnerability.

2. Proof of Delivery and “Receipt”

One of the most contentious issues is determining whether the digital notice has not only been sent but also actually received and understood by the recipient.

1. Courts have accepted WhatsApp’s double blue tick as indicative of delivery and possible reading (*Kross Television India Pvt. Ltd. v. Vikhyat Chitra Production*), but this is not foolproof as users can disable read receipts or automate responses.
2. Similarly, email delivery reports or server acknowledgments may confirm transmission but not the actual opening or reading of the message.
3. There is also ambiguity over the time of receipt, which can affect the computation of limitation periods and deadlines for response.

In traditional modes, acknowledgment cards or personal affidavits serve this evidentiary function. In digital modes, the reliance on platform-specific features raises concerns about standardisation and reliability.

3. Issues of Privacy, Data Protection, and Consent

The digital service of legal notices raises serious privacy and data protection concerns, particularly in light of India's emerging Digital Personal Data Protection Act, 2023.

1. Sending sensitive legal content via unsecured or third-party messaging platforms may compromise the recipient's right to privacy under Article 21 of the Constitution.
2. WhatsApp, for instance, is end-to-end encrypted, but the content remains vulnerable if the recipient's device is shared, lost, or hacked.
3. Consent becomes critical especially in civil and commercial matters where the parties may not have expressly agreed to be served through email or messaging applications.

Moreover, the risk of breach increases in cases involving corporate entities, whistleblower complaints, matrimonial matters, and others where confidentiality is crucial. The absence of a legal mandate on encryption standards, retention policies, and cross-border data flow regulation further complicates the use of such tools in legal contexts.

4. Risk of Service Failure

The assumption that digital communication is always more reliable than traditional methods is misleading. Service failures both technical and user-induced pose serious risks:

1. Emails may land in spam folders or be blocked by firewalls.
2. Messaging accounts may be deactivated, uninstalled, or suspended without notice.
3. Cloud-based services may suffer outages or data losses.
4. Changes in contact details, especially in case of litigation avoidance, can render digital service ineffective.

These risks are not hypothetical. In practice, proof of attempted service is often undermined by the inability to conclusively show why or how the communication failed. In the absence of platform-certified proof of delivery or judicially recognized digital logs, courts are left to rely on inference and presumptions, which may not satisfy procedural fairness.

Emerging Trends and Pandemic-Era Reforms

The COVID-19 pandemic marked a watershed moment in the Indian legal system's transition from traditional paper-based procedures to digitally enabled processes. With courts physically closed and procedural timelines suspended, the judiciary and legal practitioners were compelled to adopt and normalize electronic communication—including the digital service of legal notices, summons, pleadings, and interim applications. This period catalyzed several notable shifts, laying the groundwork for long-term procedural reforms in the Indian legal framework.

1. Courts' Responses During COVID-19

During the national lockdowns of 2020 and 2021, courts across India were forced to function in virtual mode, prompting urgent adaptations in procedural norms. In a series of suo motu and case-specific directions, both the Supreme Court and High Courts endorsed the service of legal documents through email, WhatsApp, and other digital platforms, particularly where traditional means were not feasible.

1. In *In Re: Cognizance for Extension of Limitation*, [(2020) 19 SCC 10], the Supreme Court of India not only extended limitation periods but also permitted the use of electronic means for filing, service of notices, and communication of judicial orders.
2. Courts such as the Delhi High Court, Bombay High Court, and Kerala High Court explicitly allowed email and WhatsApp service of notices in urgent civil and commercial matters, especially when parties were in quarantine or unreachable via physical means.

These developments reflected a growing judicial recognition that form must not defeat substance as long as the respondent received sufficient notice and opportunity to be heard, the medium of delivery could be flexible.

2. Use of Email and Messaging Apps in Urgent and Interim Reliefs

The pandemic period witnessed the increased use of email and messaging apps such as WhatsApp, Telegram, and Signal for initiating urgent legal actions, including injunctions, stay applications, and contempt notices. In several instances, courts passed interim orders based on service demonstrated via digital screenshots, delivery receipts, or counsel affirmations.

1. In *Rakesh Kumar v. State of UP* (2020), the Allahabad High Court allowed WhatsApp service of a habeas corpus petition in an emergency situation where physical service was impossible.
2. The Delhi High Court, in *Bright Enterprises Private Ltd. v. MJ Bizcraft LLP* (2021) ^[13], acknowledged service of an ex parte interim injunction order through email and WhatsApp, observing that urgency and exceptional circumstances warranted a more pragmatic approach to service.

These examples illustrate the judiciary's pragmatic shift towards technology-enabled access to justice, particularly for time-sensitive matters.

3. Guidelines Issued by Bar Councils and Courts

In response to the operational challenges posed by the pandemic, several judicial and quasi-judicial bodies issued guidelines to streamline and legitimise digital processes.

1. The Supreme Court E-Committee, under the leadership of Justice D.Y. Chandrachud (then Chairman), issued a Model Rules for Electronic Filing and Service in 2021, which included protocols for the use of email addresses and digital contact details in pleadings and notices.
2. The Bar Council of India (BCI), while initially conservative, later encouraged digital literacy and training for advocates, emphasizing the importance of embracing digital service tools in legal practice.
3. High Courts such as those in Delhi, Bombay, Karnataka, and Kerala issued Standard Operating Procedures (SOPs) for e-filing, e-service, and virtual hearings. These SOPs legitimised service of notices and pleadings via email, with some even permitting WhatsApp and SMS delivery as temporary or supplementary methods.

Additionally, courts encouraged litigants and lawyers to furnish verified email addresses and mobile numbers for every party involved in a proceeding, paving the way for systematic integration of digital contact information in case management systems.

Recommendations and Legal Reform

The judiciary's proactive acceptance of electronic service mechanisms during the pandemic revealed both the promise and fragility of digital legal communication in India. While isolated judgments and administrative directions validated the use of email and WhatsApp for delivering legal notices, the absence of codified, uniform, and enforceable legal standards continues to create uncertainty. To ensure procedural consistency, legal predictability, and constitutional safeguards, there is a pressing need for comprehensive legal and institutional reform.

1. Codification of Digital Service Mechanisms under Procedural Laws

The Code of Civil Procedure, 1908 and Criminal Procedure Code, 1973 should be amended to expressly include email, WhatsApp, and other secure digital platforms as recognised modes of service. While post-2002 amendments to the CPC allow for "electronic means," this reference is vague and insufficient.

- 1. Recommendation:** Introduce a new provision or sub-rule under Order V of the CPC explicitly defining permissible digital modes, verification standards, and presumptive proof of delivery.
- 2. Rationale:** Codified norms would provide clarity to litigants and courts alike and reduce reliance on judicial discretion alone.

2. Development of a Centralised Court-Managed Digital Service Platform

Inspired by Singapore's eLitigation and Australia's Commonwealth Courts Portal, India should develop a unified court-managed electronic service portal integrated with the e-filing system.

- 1. Features:** The platform should support delivery via SMS, email, mobile apps (e.g., WhatsApp Business API), and secure dashboards with verified login credentials.
- 2. Authentication:** Digital delivery should be accompanied by time-stamped receipts and secure audit logs.

Such a system would ensure accountability, delivery traceability, and protection of sensitive information something private platforms alone cannot guarantee.

3. Mandatory Use of Digital Signatures and Encryption

To address concerns of identity verification and data security, courts should mandate the use of digital signatures, especially for notices served by lawyers, tribunals, or government departments.

- 1. Integration with IT Act:** Align procedures with Sections 3 and 5 of the Information Technology Act, 2000, and encourage the use of Aadhaar-based or e-authentication services.
- 2. Benefit:** Ensures non-repudiation of delivery and reinforces the evidentiary credibility under Section 65B of the Indian Evidence Act, 1872.
- 4. Presumptions of Validity and Judicial Notice**
Legislative amendments should create presumptions of delivery and receipt where certain conditions are met such

as auto-receipts, server confirmations, or double ticks on messaging apps.

- 1. Model:** Section 114 of the Indian Evidence Act already provides for presumptions under certain circumstances; similar rules may be adopted for digital service.
- 2. Judicial Notice:** Courts may be empowered to take judicial notice of platform-generated metadata or delivery receipts unless specifically rebutted.

5. Informed Consent and Privacy-Compliant Procedures

Given that service of legal notices often involves sensitive data, laws must ensure that service via digital modes does not violate an individual's right to privacy, as recognised in Justice K.S. Puttaswamy v. Union of India (2017) ^[12] 10 SCC 1.

- 1. Recommendation:** Include privacy-consent clauses in contractual frameworks, and mandate that parties be informed in advance of the mode of service to be used.
- 2. Harmonisation:** Align all service-related provisions with the Digital Personal Data Protection Act, 2023 to prevent unauthorized disclosure and misuse.

6. Training and Infrastructure for the Legal Community

Effective implementation of digital service mechanisms requires significant investment in capacity-building and digital infrastructure at all levels of the legal system.

- 1. Bar Council Initiatives:** Mandatory digital literacy training programs for advocates, with certification mechanisms.
- 2. Court Infrastructure:** Provision of secure internet access, digitisation support staff, and technical assistance for under-resourced district courts.

Conclusion

This article has examined the growing relevance of digital modes particularly email and WhatsApp in the delivery of legal notices in India. While judicial pronouncements have gradually validated these tools, especially during the COVID-19 pandemic, the absence of a comprehensive and codified legal framework continues to create ambiguity. Although provisions under the Civil Procedure Code, 1908, the Information Technology Act, 2000, and the Indian Evidence Act, 1872 provide a partial foundation, they fall short of addressing critical issues such as identity authentication, proof of actual receipt, user consent, and data privacy. Courts have, in select cases, accepted digital indicators like WhatsApp blue ticks and email confirmations as evidence of delivery, yet such acceptance remains largely discretionary and context-specific.

The transition to digital legal service, while necessary in a digital age, must be carefully balanced with the constitutional imperatives of fairness, due process, and legal certainty. Legal service is not a technical formality it is integral to ensuring that parties are adequately informed and given a fair opportunity to respond. Without robust verification standards, enforceable privacy protections, and procedural consistency, digital service risks becoming unreliable or even exclusionary, particularly for individuals unfamiliar with technology or lacking digital access.

To address these challenges, India must move from reactive judicial accommodations to proactive legislative reform. This includes amending procedural laws to clearly recognize and regulate digital service, creating secure and centralized platforms under court supervision, mandating the use of digital signatures, and aligning procedures with the Digital Personal Data Protection Act, 2023^[6]. Legal practitioners must also be equipped with training and tools to ensure effective and compliant service. Drawing lessons from advanced jurisdictions like the UK, USA, Singapore, and Australia, India has the opportunity to build a digital legal infrastructure that enhances efficiency without compromising justice. The future of legal service lies not just in embracing technology, but in embedding it within a framework that upholds both accessibility and constitutional integrity.

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