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## **Modularising the adjudicative encounter: Procedural differentiation and institutional continuity in Chinese online litigation**

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### **Abstract**

Online adjudication is often analysed through contrasts between physical and remote participation, or through the coexistence of online and offline modes. This article examines a more granular institutional transformation: how procedural rules make components of the adjudicative encounter separately configurable while preserving their legal continuity. Using a theory-informed socio-legal documentary analysis of Chinese online-litigation rules from 2018–2022, the article identifies three linked patterns: regulated separability across participants and procedural stages; bounded temporal separability for selected activities; and selective institutional reconstitution through authentication, spatial and role qualification, procedural classification, and common records. These findings support the concept of the modularisation of adjudicative space. Modularisation is distinguished from hybridity and procedural-justice evaluation: it identifies the rule-governed relationship between procedural differentiation and institutional continuity. China is used as a theory-revealing institutional case, not as a universal model of digital justice.

### **Key words**

Online adjudication, modularisation, courtroom presence, procedural configuration, China.

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## Resumen

La resolución de litigios en línea suele analizarse a través de la contraposición entre la participación presencial y la participación a distancia, o mediante la coexistencia de los modos en línea y fuera de línea. Este artículo examina una transformación institucional más detallada: cómo las normas procesales permiten configurar por separado los componentes del proceso judicial, al tiempo que preservan su continuidad jurídica. Mediante un análisis documental sociojurídico de las normas chinas sobre litigios en línea de 2018 a 2022, guiado por la teoría, el artículo identifica tres patrones interrelacionados: la separabilidad regulada entre los participantes y las fases procesales; la separabilidad temporal limitada para determinadas actividades; y la reconstitución institucional selectiva a través de la autenticación, la calificación espacial y de funciones, la clasificación procesal y los expedientes comunes. Estos hallazgos respaldan el concepto de modularización del espacio judicial. La modularización se distingue de la hibridación y de la evaluación de la justicia procesal: identifica la relación, regida por normas, entre la diferenciación procesal y la continuidad institucional. Se utiliza China como un caso institucional que revela la teoría, no como modelo universal de justicia digital.

## Palabras clave

Resolución de litigios en línea, modularización, presencia en la sala de audiencias, configuración procesal, China.

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## 1. Introduction

Courtroom presence has become harder to take for granted as adjudication moves online. The socio-legal literature no longer treats remote hearings simply as poorer copies of physical proceedings. Mulcahy showed that leaving the physical courtroom changes not only location but also the material and symbolic ordering of adjudication (Mulcahy 2008, 2011). Rowden and Wallace traced related changes in the image and practical role of the judge, and Rossner examined what remote hearings do to the rituals of co-presence (Rowden and Wallace 2018, Rossner 2021). Work on remote defendants and procedural justice has pushed the inquiry further, towards whether participants can follow proceedings, communicate effectively and exercise voice (McKay 2018, Belloni *et al.* 2025). On this account, the relevant contrast is no longer a simple one between an authentic physical courtroom and an inferior virtual substitute.

These arguments come from different institutional settings. They include British work on courtroom materiality and digital justice, Australian research on video-mediated judging and distributed courts, and recent European studies of remote communication and procedural justice. I use them as theoretical interlocutors, not as though they formed one comparative dataset. Read together, they point to a common problem: once adjudication is no longer tied to a single shared setting, the important question is how participation is arranged, rather than merely whether a participant is physically or remotely present.

That problem becomes sharper once remote technology is built into procedure itself. Much of the literature starts from a recognisable hearing and asks what changes when one defendant, witness, judge or party appears through video. Work on hybrid justice rightly adds the possibility that physical and digital modes coexist. But formalised online procedure permits a further step. Within one case, participants may use different modes; one stage may be online and another offline; and some acts may be completed without everyone acting at the same time. The issue is therefore not adequately captured by asking whether a proceeding is physical, virtual or hybrid. It is whether parts of the courtroom encounter that were ordinarily held together can be separated institutionally and still belong to the same legal process.

China is useful for examining that question because its rules make the internal arrangement of online litigation unusually explicit. The point is not that remote adjudication is uniquely Chinese; digital and virtual hearings have developed elsewhere as well. Rather, successive Chinese rules specify how online procedure can be divided and recombined. The 2018 Internet Court rules adopted an online default while permitting particular stages to return offline. Nationwide guidance in 2020 regulated online hearings in ordinary courts. The 2021 Online Litigation Rules then authorised online procedure for some or all stages, allowed different parties in the same proceeding to use online and offline modes, permitted switching between those modes, and recognised specified asynchronous activities (Supreme People's Court 2018, 2020, 2021a). The 2022 Online Operation Rules carried these possibilities into a common digital case infrastructure (Supreme People's Court 2022).

Gao and Xu describe this arrangement as a hybrid model of access to justice because online and offline mechanisms are institutionally combined (Gao and Xu 2025). That description captures an important feature of Chinese digital justice, but it leaves another

question open. What, exactly, is being combined inside a single adjudicative encounter? Coexistence of physical and digital modes does not show whether the proceeding still operates as one bundled unit. In the Chinese rules, participant mode, procedural stage and temporal arrangement can each vary while the case itself continues.

I use modularisation of adjudicative space to name that pattern. The term is not a synonym for hybridity. Hybridity tells us that online and physical modes coexist or are combined; modularisation asks which parts of a proceeding can be configured separately and then recombined under rules. One party may appear differently from another, one stage may be online while the next is physical, and synchronous and asynchronous acts may still belong to the same case. Their unity rests less on shared location than on legal rules and digital infrastructures that link identity, evidence, authority, participation and procedural sequence.

Against this background, the article asks: How do China's institutionalised online-litigation rules disaggregate and recombine the spatial, temporal and procedural components of the adjudicative encounter, and what does this reveal about the modularisation of adjudicative space under digital conditions? The article addresses this question through a theory-informed socio-legal documentary analysis of publicly available rules and institutional materials governing online adjudication in China. Its unit of analysis is the rule-defined procedural configuration: an institutional arrangement specifying how particular participants or procedural activities are situated across online and offline, synchronous and asynchronous, settings. The analysis does not measure litigant satisfaction, perceived fairness or case outcomes. It reconstructs how these configurations are legally organised and examines what they reveal about the changing composition of adjudicative space.

The claim is deliberately limited. Earlier scholarship has already identified the spatial, symbolic and participatory consequences of remote justice. My argument is that institutionalised online litigation reveals another feature of that transformation: some elements of adjudicative space can be configured independently even though legal and infrastructural devices continue to hold them together procedurally. Access, symbolism and order are used here in the same limited way. They are not new procedural values and do not displace procedural-justice, open-justice or access-to-justice frameworks. They identify recurring institutional work within modular arrangements: controlling entry and participation, making judicial authority intelligible, and structuring authorised interaction.

The argument proceeds as follows. Section 2 places the problem within debates on presence, courtroom materiality, procedural justice, digital disadvantage and hybrid adjudication. Section 3 explains the Chinese setting, the documentary design and the criteria used to identify rule-defined procedural configurations. Sections 4–6 examine participant- and stage-specific separability, temporal separability, and the devices that reconnect distributed acts within one proceeding. Section 7 returns those findings to the international literature. Section 8 states the contribution of modularisation and the limits of the claim.

## 2. From presence to configuration: Remote adjudication and the institutional form of the courtroom

Three strands of scholarship frame the problem addressed here: work on physical presence and courtroom materiality; research on remote participation and procedural justice; and studies of the ways technology reorganises legal procedure. Together they establish that remote justice has spatial, symbolic and participatory consequences. The point that remains unsettled is narrower. When procedural rules allow elements normally joined within the courtroom encounter to vary independently, by what means are those elements kept within one adjudicative process?

### *2.1. Materiality, ritual and the contingency of presence*

Mulcahy's work on the virtual trial is foundational because it treats courtroom space as more than a venue. Moving away from physical co-presence changes the material relations through which hierarchy, legal roles and participation are made visible (Mulcahy 2008, 476–486). Her later study of legal architecture develops the point through questions of visibility, exclusion and due process in physical court space (Mulcahy 2011). The courtroom matters, on this view, because spatial relations help make both legal roles and institutional authority intelligible.

Rowden and Wallace extend this argument from courtroom architecture to technologically mediated judicial authority. Their three-year study of remote judging shows that video links affect the image and role of the judge: framing, camera positioning and the organisation of remote sites influence how judicial presence is communicated, while practical control becomes dependent on technological systems and court personnel (Rowden and Wallace 2018). Judicial authority is therefore neither simply preserved nor simply lost online. The conditions through which it is performed are reorganised.

Rossner shifts the analysis towards ritual. Her account of remote court rituals asks how the symbolic and interactional work associated with physical co-presence is translated into virtual settings (Rossner 2021, 345–353). Flower similarly examines the transition between physical and virtual justice rituals, including architecture, dress, ceremonial symbols, sensory experience and atmosphere (Flower 2025). Branco *et al.* extend the spatial question toward digital justice and experiments with metaverse hearings, showing that the future of the courthouse itself is now contested rather than assumed (Branco *et al.* 2025). The cumulative point is not that virtualisation eliminates courtroom symbolism, but that the material and symbolic resources through which adjudication becomes recognisable must be reorganised.

The literature also gives good reason to resist nostalgia for physical presence. Rossner and Tait's work on distributed courts shows that configuration matters within remote and physical settings alike. A distributed court can organise visibility and participation quite differently from a conventional courtroom in which a single remote participant appears at the edge of the hearing (Rossner and Tait 2023). Physical co-presence, in other words, does not by itself secure meaningful participation.

Turner complicates the picture further by asking what physical presence is for. Drawing on constitutional doctrine and empirical work on virtual proceedings, she separates the

purposes historically attached to courtroom presence and considers when remote appearance may satisfy them (Turner 2025, 25–28). That approach redirects attention from the abstract value of bodily presence to the legal and procedural functions it is expected to serve. I do not claim that functional distinction as new. The question pursued here is different: how do procedural rules distribute forms of presence across participants, stages and, more narrowly, temporal arrangements within one continuing case?

Recent work in *Oñati Socio-Legal Series* makes the same contingency visible from another angle. Dubuc and Sobański show that the International Criminal Court does not treat remote participation identically for witnesses and accused persons. Judges attach different institutional purposes to presence depending on who is appearing (Dubuc and Sobański 2026, 8–14). Presence is therefore not simply a bodily condition that technology either preserves or removes. Its legal meaning changes with participant, function and procedural setting.

A tension follows from this literature. Physical presence carries material, ritual and relational qualities, yet those qualities do not operate independently of configuration. It would add little to say only that remote adjudication changes courtroom symbolism or ritual; that point is already established. The more specific issue is what follows when differentiated forms of presence are no longer exceptional accommodations but become ordinary, rule-authorised options within procedural design.

## 2.2. *Procedural justice, effective participation and digital disadvantage*

A second body of work asks less about location than about the quality of participation. Procedural-justice scholarship makes clear why formal attendance is an inadequate measure of legal participation. Voice, neutrality, respectful treatment and trustworthy authority are central concerns (Tyler 2006). In court proceedings, those concerns translate into practical questions about whether participants can understand what is happening, put their position forward and respond to others.

Remote-justice research has increasingly brought those concerns into the study of courtroom technology. De Vocht and Jacobs argue that formal compliance with fair-trial guarantees is not enough to assess remote criminal proceedings, because communication technologies can reshape the interactions through which those guarantees are exercised (de Vocht and Jacobs 2024). Belloni *et al.* examine the issue through voice, respect and meaningful participation in online court communication, and the evidence they review is mixed rather than uniformly adverse (Belloni *et al.* 2025).

This distinction matters for the argument here. Procedural justice evaluates the fairness and quality of a participant's experience; modularisation identifies the institutional arrangement within which that experience occurs. The two inquiries therefore operate at different levels. A modular configuration might support voice in one setting and frustrate it in another. Nothing in the concept of modularity implies that the resulting procedure is fair.

Access requires the same care. In socio-legal work, access to justice reaches far beyond gaining physical or digital entry to a hearing. It includes the capacity to invoke rights, obtain assistance and representation, and secure an effective remedy (Cappelletti and

Garth 1978, Genn 1999). I use “access” more narrowly here, to refer to the institutional thresholds for entering and participating effectively in a particular adjudicative configuration. It is therefore one site at which access-to-justice problems may appear, not a replacement definition of access to justice.

Research on remote defendants and vulnerable participants shows why connectivity alone cannot satisfy that threshold. Poulin identified the remote defendant as a distinct procedural problem, and McKay’s work on prison video links traces the effects of remoteness on communication, representation and the relational position of detained participants (Poulin 2004, McKay 2018). The problem is not confined to courtrooms. The European Union Agency for Fundamental Rights (FRA) has documented how digital public services can exclude older people through limited digital skills and the disappearance of offline alternatives (FRA 2023).

Mulcahy and Tsalapatanis press the point by reversing the usual language of digital inclusion. They ask whether keeping some cases or participants offline may itself be necessary for meaningful inclusion (Mulcahy and Tsalapatanis 2022). Their later book, *Digital Justice: Engineering Disadvantage?*, connects digital disadvantage with procedural justice, due process, ritual and institutional design (Mulcahy and Tsalapatanis 2024). That work means that this article cannot plausibly claim novelty simply from bringing space, participation and disadvantage into the same discussion.

Publicness illustrates why access, symbolism and order should not be treated as an exhaustive catalogue of normative values. Open justice, privacy, dignity and effective participation remain analytically distinct concerns. A remote observer’s ability to enter a digital hearing raises an access question; the presentation of the proceeding affects institutional symbolism; and rules governing recording and dissemination concern procedural order. Access, symbolism and order are therefore treated here as recurring institutional functions rather than as competing substitutes for procedural justice, open justice or access-to-justice theory.

### *2.3. Technology, hybridity and procedural configuration*

A third strand turns from participant experience to institutional organisation. Its starting point is that digital technology does not merely transport an otherwise unchanged legal procedure across distance.

Dumoulin and Licoppe make this point through videoconferencing in the French judiciary. They treat remote communication as a way of organising trials whose effects depend on the policy, managerial and judicial arrangements surrounding it, not as an isolated technical device (Dumoulin and Licoppe 2016). Contini and Reiling make a related argument through “double normalization”: alongside procedural law, digital working environments structure what judges, lawyers and clerks can do (Contini and Reiling 2022). The platform thus becomes part of the organisation of procedure rather than a neutral channel for executing legal rules.

Recent *Oñati Socio-Legal Series* articles push that institutional account in several directions. Hedler analyses algorithms in courts through institutional risk rather than technical performance alone (Hedler 2024). Esko’s Finnish case study shows how judicial information systems meet legal work practices, organisational boundaries and

professional expertise (Esko 2025). Dubuc and Sobański reach a comparable institutional conclusion from remote participation, where the legal significance of technology depends on differentiated understandings of presence (Dubuc and Sobański 2026, 8–14). The objects differ, but the shared premise is clear: technologies acquire legal significance through institutional arrangements.

This body of work rules out a broad claim that earlier scholarship treated technology as merely neutral. The narrower issue is the form of institutional change at stake. Hybrid adjudication captures the coexistence or combination of physical and digital modes, but “hybrid” can still conceal how a proceeding is organised internally. Knowing that remote and physical forms coexist does not, by itself, tell us whether participation mode, procedural stage or temporal coordination may vary independently within the same case.

Modularisation isolates that internal question. It shifts the analysis from mode to configuration: which elements may vary separately, which remain tied together, and which rules preserve their legal continuity? Modularity is a matter of degree rather than an all-or-nothing status. A mainly physical trial with one witness on video is hybrid but may involve little internal modularisation. By contrast, modularity becomes more pronounced where participants use different modes, stages move separately between online and offline settings, or recognised procedural acts occur asynchronously within the same proceeding.

The gap is therefore a limited one. Work on materiality and ritual explains why courtroom configuration matters; procedural-justice and digital-disadvantage research shows why presence must be judged through the quality of participation; and institutional studies demonstrate that judicial technology can alter procedural possibilities and organisational constraints. Less clearly specified is what happens when procedural rules themselves permit parts of the adjudicative encounter to vary independently and then provide means for reconnecting those parts within one legal process.

### **3. Research design: A bounded documentary case study of online adjudication**

The study uses a theory-informed socio-legal documentary case study. It is not an evaluation of Chinese online courts and does not attempt a general history of judicial digitalisation in China. The inquiry is deliberately narrower: how do rules allow participants, stages, locations and temporal arrangements to be configured differently while still treating the resulting acts as parts of one judicial process?

#### *3.1. Chinese court context and case selection*

Online adjudication in China sits within a longer institutional history of courts, authority and public presentation. Scholarship on Chinese courts has repeatedly shown that procedure is embedded in arrangements that communicate as well as exercise authority. Trevaskes’ work on criminal courts and “law on display” shows how proceedings have served expressive alongside adjudicative functions, making the presentation of judicial authority part of the setting in which procedure works (Trevaskes 2004, 2007). Ahl and Tieben similarly connect the architecture and spatial organisation of modern Chinese

courthouses to the public representation and legitimation of judicial authority rather than treating buildings as neutral containers for adjudication (Ahl and Tieben 2015).

This institutional context also cautions against assuming that general theories of courtroom participation operate identically in China. Drawing on surveys and interviews with litigants in a basic-level court in southern China, He and Feng show that procedural-justice evaluations are shaped by participants' understandings of, and familiarity with, the Chinese civil justice system (He and Feng 2021). These findings do not supply an evaluative framework for the present documentary study, but they reinforce the need to distinguish institutional design from assumptions about how Chinese participants experience that design.

More recent scholarship has begun to examine the digital courtroom itself. Wang and Chew's analysis of a 2021 Chinese online criminal trial treats videoconferencing as a multimodal institutional environment in which visual organisation, participant positioning and communicative practices shape the presentation of judicial roles and power (Wang and Chew 2025). Gao and Xu, examining the wider development of Chinese online courts, characterise the emerging system as a hybrid model in which online and offline mechanisms are institutionally combined (Gao and Xu 2025). These studies establish that Chinese digital adjudication is already situated within debates about courtroom form, participation and hybridity.

This study takes a different unit of analysis from that literature. It does not attempt to characterise Chinese judicial culture, evaluate litigants' experiences or offer another general account of the country's smart courts. The focus is the rule-defined procedural configuration. China is useful because the shift from specialised Internet Courts to nationwide online-litigation rules states with unusual clarity when participant mode, procedural stage and, to a lesser extent, temporal participation may be differentiated within one case. The case is used to examine configurability and continuity, not to present China as either a universal model of digital justice or an exceptional national system.

### *3.2. Document retrieval and corpus construction*

The temporal focus is 2018–2022, capturing the transition from specialised Internet Court experimentation to nationally institutionalised online procedure. The documentary search was verified on 9 August 2026 using the Supreme People's Court website and Gazette and official Beijing Internet Court materials. The Chinese-language search terms, transliterated here into Hanyu Pinyin, included combinations of *hulianwang fayuan* (Internet Court), *zaixian susong* (online litigation), *zaixian tingshen* (online hearing), *zaixian yunxing* (online operation), *xianshang xianxia* (online/offline), *fei tongbu shenli* (asynchronous adjudication) and *dianzi susong tingshen guifan* (electronic-litigation hearing norms). Chinese-language texts were treated as controlling; official English translations were used where available to check terminology.

Ten institutional materials were identified as potentially relevant and assigned one of three analytical roles. Four national normative texts form the core corpus: the 2018 Supreme People's Court Provisions on Several Issues Concerning the Trial of Cases by Internet Courts; the 2020 Notice on Strengthening and Regulating Online Litigation during COVID-19; the 2021 Online Litigation Rules of the People's Courts; and the 2022

Online Operation Rules of the People's Courts (Supreme People's Court 2018, 2020, 2021a, 2022). The 2019 White Paper on Internet Judiciary provides institutional context; the Beijing Internet Court's 2020 Electronic Litigation Hearing Norms provide supplementary local implementation material; and the Supreme People's Court's 2021 official explanation provides interpretive assistance (Supreme People's Court 2019, Beijing Internet Court 2020, Supreme People's Court 2021b).

Three materials were excluded from core coding. The 2021 consultation draft was superseded by the final Online Litigation Rules; the Online Mediation Rules principally regulate mediation rather than adjudicative participation; and the 2025 Internet Court Jurisdiction Provisions principally revise subject-matter jurisdiction rather than the configuration of courtroom participation. The corpus is therefore purposive rather than exhaustive. Purely administrative provisions concerning filing, payment, general court management or electronic service are considered only where needed to explain how continuity between differently configured adjudicative activities is maintained.

### *3.3. Unit of analysis and operationalising modularisation*

The unit of analysis is the rule-defined procedural configuration: one provision, or a linked set of provisions, specifying how an adjudicative activity is organised across participants, procedural stages, spatial settings or temporal modes. Relevant provisions were first extracted descriptively rather than coded as examples of "access", "symbolism" or "order". The extraction matrix recorded the source and provision; procedural actor; activity or stage; participation mode; temporal mode; spatial or environmental condition; consent or decision rule; allocation or switching rule; and mechanism preserving legal or procedural continuity.

The extracted configurations were then examined through four diagnostic criteria. M1, separability, asks whether one component can be configured separately from another—for example, one participant online while another remains offline, or one stage online while another is physical. M2, intra-procedural recombination, asks whether the differently configured components remain parts of the same continuing process. M3, rule-governed allocation or switching, asks whether differentiated modes are authorised by legal or institutional rules rather than produced by ad hoc technical improvisation. M4, continuity mechanisms, asks how distributed activities remain legally attributable and recognisable as parts of one proceeding through identity authentication, records, evidentiary rules, attendance classifications or related devices.

M1–M4 function as diagnostic questions, not as a scoring scale. Their purpose is to separate modular configurations from the simple presence of digital technology. Only after a configuration has been identified in this way is it read through access, symbolism and order. Here, access concerns thresholds for participation; symbolism concerns whether judicial authority remains institutionally intelligible across distributed settings; and order concerns the organisation of attendance, evidence, voice and sequence. These are interpretive functions, not categories imposed on the documents in advance.

### *3.4. Analytical procedure and limitations*

The analysis had four stages. I first reconstructed the core and supplementary materials chronologically, tracing the move from specialised Internet Court experimentation to

nationwide regulation. I then entered relevant provisions in the descriptive extraction matrix and left genuinely ambiguous provisions unresolved rather than treating them as evidence of modularity. Third, each extracted configuration was examined through M1–M4. Frequency was not used as a measure of prevalence because the documents differ in legal status, scope and institutional purpose. Finally, the resulting patterns were interpreted through access, symbolism and order and placed back into the international literature on presence, procedural justice, courtroom ritual, digital disadvantage and hybrid adjudication.

These choices also mark the study's limits. Rules show what institutions formally permit, require or organise; they do not show how often a configuration is used or how it is experienced by participants. I therefore do not infer that modularisation improves or worsens procedural fairness, access to justice, legitimacy or case outcomes. Those claims would require observation, interviews, surveys or case-level evidence. The Beijing Internet Court material is additionally limited because it is local implementation evidence, not national law, and the publicly available account is not equivalent to a complete national normative text. Finally, the concept is developed from one institutional setting. China is useful because participant-, stage- and time-specific configuration is unusually explicit in the rules, but any claim to transferability requires later comparative research.

#### **4. Participant and stage separability: Reallocating the mode of adjudicative participation**

The first pattern concerns the level at which procedural mode is assigned. Across the documents, online or offline participation becomes progressively less attached to the case as an indivisible whole. The 2018 Internet Court framework allowed individual stages to depart from an online default. By 2021, the national rules allowed mode to vary not only between stages but also between participants within the same stage. The 2022 operating framework then incorporated these mixed arrangements into court infrastructure. What emerges is not simply more remote adjudication, but regulated separability among proceeding, stage, participant and mode.

##### *4.1. From an online proceeding to separable procedural stages*

The 2018 Internet Court Rules began from a strongly aggregated model. Article 1 provided that filing, service, mediation, evidence exchange, pre-hearing preparation, hearing and judgment should generally be completed online. Yet the same article allowed the court, on a party's application or because of the needs of adjudication, to decide that particular procedural stages should be completed offline. Article 12 made the separation especially visible for hearings: although Internet Courts were to conduct hearings by online video, a hearing could move offline where identity, original documents or physical objects required examination in person, while other procedural stages remained online (Supreme People's Court 2018, arts 1, 12).

The effect was to separate the mode of the case from the mode of a particular stage. Taking one stage offline did not turn the rest of the proceeding into an offline case. Other rules kept the two settings legally connected: acts on the platform had legal effect, accounts were tied to verified identities, online non-attendance and unauthorised

departure were mapped onto established procedural categories, and electronic records linked digital acts to the continuing case (Supreme People's Court 2018, arts 5–6, 14, 19–22).

The 2020 nationwide guidance is useful as a contrast. It provided nationwide guidance for online hearings in ordinary courts, but its mode architecture remained comparatively integrated. Online hearings were required to use synchronous video, judges were ordinarily expected to conduct them from a courtroom, and the main question remained whether the hearing as an event was suitable for online conduct (Supreme People's Court 2020). The contrast separates diffusion of online adjudication from modularisation. A hearing system may become widely digital without substantially changing the level at which procedural mode is allocated.

#### *4.2. From stage separability to participant-specific allocation*

The 2021 Online Litigation Rules alter this structure more fundamentally. Article 4 links online procedure to the choices of particular parties and particular stages. Where some parties agree to online litigation and others do not, the consenting parties may participate online while the others participate offline. Agreement to use online procedure for one stage is not treated as agreement for every other stage (Supreme People's Court 2021a, art 4). The Supreme People's Court's official explanation confirms that fully online proceedings, partly online proceedings, and arrangements involving some parties online and others offline all fall within the institutional concept of online litigation (Supreme People's Court 2021b).

Article 5 makes the stage-specific logic clearer. If a participant lacks the ability or technical conditions for online participation, or if a particular stage is not suitable for online handling, that stage may be moved offline without changing the mode of the case as a whole (Supreme People's Court 2021a, art 5). The unit to which mode attaches is therefore no longer the entire proceeding. Different stages may follow different modes, and participants within one stage may also be placed differently, while the case continues.

This is more than a choice between an online and a physical version of the same case. The Rules allow both modes to operate within one continuing proceeding. They do not, however, create an unlimited right to choose a mode. Consent, procedural suitability and judicial assessment continue to constrain the arrangement. "Regulated separability" captures that combination of differentiation and constraint better than unrestricted procedural choice.

#### *4.3. Operationalising mixed modes without fragmenting the proceeding*

The 2022 Online Operation Rules reinforce the same pattern at the level of court infrastructure. They provide that litigation and related stages may move from online to offline or from offline to online and that some participants may use online modes while others participate offline (Supreme People's Court 2022, art 33). The significance is operational: mixed and switchable modes become arrangements that the online court system is expected to sustain.

A change of mode does not break the case record. Materials created or submitted offline may be added to the electronic case file, so acts performed in different settings remain attached to the same judicial process (Supreme People's Court 2022). The documents establish that such configurations are formally available; they do not show how frequently courts use them.

The first finding is therefore regulated separability. The legal unit at which mode is allocated becomes progressively smaller—from the proceeding, to the stage, and ultimately to the participant—without turning those differentiated modes into separate cases. That is the first documentary basis for modularisation. The next issue is whether the same kind of separation reaches beyond place and mode to the organisation of time.

## **5. Temporal separability: Bounded asynchrony within online adjudication**

The second pattern concerns time. A hearing can be spatially distributed and still occur simultaneously: participants may sit in different places while joining the same live event. The 2021 rules make clear that this need not always be so. Some procedural activities may remain part of one case even when participants complete them at different times. The permission is carefully bounded, and asynchronous trial is subject to much tighter conditions than asynchronous evidentiary activity.

### *5.1. Spatial distribution without temporal separability*

The 2020 nationwide guidance provides a useful baseline because it separated place but not time. Online hearings had to proceed through synchronous audiovisual communication rather than written or audio-only exchanges, and judges were ordinarily expected to sit in a courtroom (Supreme People's Court 2020). The parties and lawyers could therefore be physically dispersed while still sharing one hearing moment. Remote adjudication, on this model, did not itself entail temporal modularity.

### *5.2. Evidence exchange and the separability of procedural time*

Article 14 of the 2021 Online Litigation Rules introduces a different temporal arrangement. It expressly distinguishes synchronous from asynchronous online evidence exchange. Under the synchronous form, parties log into the platform at the time specified by the court. Under the asynchronous form, they may log in separately within a court-defined period and examine and respond to evidence without being simultaneously present (Supreme People's Court 2021a, art 14).

The important change is institutional, not simply a matter of convenience. Parties may act at different times and still be participating in the same evidence exchange. Their contributions are connected by a court-defined period, a shared evidentiary record and an ordered opportunity to respond rather than by one common moment. Article 14 also sets a limit: if the parties agree to online evidence exchange but not to its temporal form, the synchronous method governs. Asynchrony therefore depends on joint acceptance rather than operating as the default.

Article 20 extends formal recognition of non-simultaneous participation. With the parties' consent, the court may designate a period within which participants separately log into the platform to undertake mediation, evidence exchange, investigation and inquiry, and other specified activities (Supreme People's Court 2021a, art 20).

Asynchrony does not eliminate sequence; it substitutes rule-governed sequencing for simultaneous interaction.

### *5.3. Asynchronous court trial as the boundary case*

Court trial exposes the limits of temporal separability most clearly. Article 20 formally recognises asynchronous court trial, but additional conditions apply (Supreme People's Court 2021a, art 20). The case must fall within small-claims procedure or civil or administrative summary procedure; simultaneous online participation must genuinely be difficult; one party must submit a written application and all parties must consent; and prior online evidence exchange or investigation and inquiry must have left no dispute over the principal facts and evidence (Supreme People's Court 2021b).

The Rules treat asynchronous activities differently according to what is being done. Evidence exchange may proceed asynchronously under comparatively light conditions, while taking the trial itself out of shared time is reserved for a narrower class of cases and requires stronger safeguards. Even then, participants submit recorded contributions in the procedural order of the trial. Simultaneity is relaxed, but sequence is not abandoned.

The documents cannot tell us how often courts use this mechanism or whether participants find it easier, fairer or more difficult. They show only the authorised form and the conditions attached to it. On that evidence, temporal separability is graduated: asynchronous evidentiary and preparatory activity is permitted more readily than asynchronous court trial.

### *5.4. Finding: Bounded temporal separability*

The second finding is bounded temporal separability. Shared time is no longer required for every adjudicative activity, but the degree of separation depends on the activity and narrows as the process approaches trial. The 2020 framework distributes participation across space while retaining temporal coupling. The 2021 Rules go further by making temporal mode configurable for selected activities and by admitting asynchronous trial only under a tightly defined set of conditions.

Continuity across this temporal separation is produced institutionally. Courts define the periods in which parties may act; platform records link contributions made at different times; evidentiary responses remain attached to the same record; and asynchronous trial still follows an authorised sequence. Modularisation is therefore not a licence for free-form procedure. It reveals where separation is allowed and which safeguards make that separation recognisable as adjudication.

## **6. Reconstituting the adjudicative encounter: From distributed participation to institutional continuity**

Sections 4 and 5 show two kinds of separation: mode can differ by participant or stage, and some activities can also be spread across time. That separation creates a practical legal problem. If the proceeding no longer rests on one shared combination of participant, place, mode and time, how does the institution decide whose acts count, which spaces count as participation in court, and how dispersed acts remain parts of one

case? The documents answer these questions through three recurring techniques: legal attribution, institutional qualification, and procedural translation coupled with continuity.

### *6.1. Legal attribution: Connecting remote conduct to procedural actors*

Distributed participation first creates a problem of legal attribution. Article 7 of the 2021 Online Litigation Rules addresses this through real-name registration and identity authentication. Online participants receive exclusive platform accounts after verification, and acts performed through those accounts are ordinarily treated as acts of the authenticated account holder, subject to evidence of account theft or system error. Identity may be verified again for important stages such as evidence exchange and court trial (Supreme People's Court 2021a, art 7).

The rule does more than regulate cybersecurity. It creates a legal bridge between remote person, platform identity and procedural act. A digitally performed act counts as the act of a party because a rule-governed authentication process attaches it to a recognised procedural actor. The Beijing Internet Court's 2020 norms reveal the same institutional concern at a local level: their public explanation treated the dedicated account and password as identity markers and prohibited another person from appearing through the account (Beijing Internet Court 2020).

This also sharpens the limited meaning of access used here. Entering a digital platform is not the same as participating institutionally. The participant must enter through an authorised identity, connect that identity to the relevant case and comply with the conditions attached to the chosen mode. Once physical appearance no longer anchors identity in the same way, authentication performs part of that linking work.

### *6.2. Institutional qualification: making distributed places and roles count as courtroom participation*

A second set of rules determines when distributed participation counts as adjudicative participation. Article 24 requires the online courtroom to display basic elements of judicial authority, including the national emblem and an appropriate on-screen arrangement for judges and table signs. Remote participants must join from spaces that are relatively enclosed, quiet and technically adequate, and that do not undermine transmission or the solemnity of trial; a court may require a designated location where necessary (Supreme People's Court 2021a, art 24).

These requirements show that online adjudication does not abolish the significance of place. It changes the relationship between place and courtroom status. A home, office or remote facility becomes part of the adjudicative arrangement only under institutional conditions concerning visibility, privacy, technical reliability and solemnity. The Beijing Internet Court's 2020 norms illustrate the same logic through rules on clothing, environment and etiquette and through the proposed "virtual courtroom" displaying the national emblem, gavel and courtroom positions (Beijing Internet Court 2020). These materials are local implementation evidence, not national law.

Role differentiation is reconstructed similarly. Article 26 requires online witnesses to be placed in conditions that prevent them from observing the remainder of trial or being

disturbed by others; courts may designate specific locations or online witness rooms, and may require offline testimony where justified (Supreme People's Court 2021a, art 26). Publicness provides another boundary example. Article 27 preserves public hearing where required by law but separately prohibits unauthorised recording, interception and dissemination of online-hearing materials (Supreme People's Court 2021a, art 27). Digital accessibility does not collapse observation into unrestricted reproduction.

The common pattern is institutional qualification: once a single room no longer supplies a common boundary, rules determine which environments, symbolic forms, participant positions and forms of observation count as parts of the adjudicative setting. Symbolism enters as a function of institutional intelligibility, not as an autonomous claim that online symbols reproduce the experience of physical authority.

### *6.3. Procedural translation and continuity: Making digital events count as court acts*

A third group of rules addresses conduct within the distributed setting. Article 25 translates digital-interface events into recognised procedural categories. Except where network failure, equipment damage, power interruption or force majeure has been confirmed, unjustified failure to join an online hearing may be treated as failure to appear; unauthorised departure after reminder and warning may be treated as leaving the courtroom during proceedings (Supreme People's Court 2021a, art 25).

What matters here is the legal translation of interface events. A failure to log in or a loss of audiovisual presence becomes procedurally meaningful only because the Rules classify it. The exceptions make the point especially clear: network failure and other technical disruption must be distinguished from unjustified non-appearance. A frozen screen and an intentional departure may look similar on an interface yet have different legal consequences. Article 28 likewise connects deliberate breaches of online-hearing, witness and publicity rules with existing law on obstruction of justice (Supreme People's Court 2021a, art 28).

A related continuity problem arises when one proceeding contains activities undertaken through different modes and at different times. The Online Litigation Rules permit online confirmation and electronic signatures and recognise verified electronic transcripts and electronic case files (Supreme People's Court 2021a, arts 33–35). The 2022 Online Operation Rules reinforce this infrastructural continuity by requiring materials to enter a common electronic case file even when some activities occur offline (Supreme People's Court 2022). These provisions matter here not as evidence of “paperless justice”, but as mechanisms through which differently configured acts remain institutionally connected.

### *6.4. Finding: Selective institutional reconstitution*

The third finding is selective institutional reconstitution: as participation becomes distributed across participants, places and, in limited circumstances, time, rules make more explicit the mechanisms through which procedural acts are attributed to recognised actors, distributed environments are qualified as adjudicative settings, and differently configured acts remain legally continuous within one proceeding.

The word “selective” is important. The Rules do not attempt to reproduce every architectural, sensory or interactional feature of a physical courtroom, and the documents cannot establish that digital substitutes generate equivalent experiences. Instead, distributed adjudication forces certain institutional relations to be specified more expressly. Relations that a co-located hearing partly organises through shared space and routine are made visible online in rules, interfaces and records.

This is also why access, symbolism and order should not be read as three separate findings or as a new theory of procedural justice. Access appears in authenticated entry, the allocation of participant mode and public observation. Symbolism appears where courtroom identity and institutional authority have to remain recognisable. Order appears in the treatment of digital conduct, witness roles and recording practices. The documentary finding is the interaction between separability and reconstitution, not a freestanding triad of “access, symbolism and order”.

Read together, Sections 4–6 show two movements. Components once joined within the adjudicative encounter can be differentiated by participant, stage, mode and, more narrowly, time. At the same time, attribution, qualification, procedural classification and common records keep the resulting acts institutionally connected. Modularisation rests on the conjunction of those two movements.

## **7. Discussion: From hybrid presence to rule-defined procedural configuration**

The findings point to a common institutional pattern. Mode can be assigned separately to stages and participants; selected activities may be removed from simultaneous participation; and dispersed acts are reconnected through attribution, qualification and continuity rules. The theoretical issue is therefore not whether digital adjudication changes courtroom space—that is already well established. It is what these rule-defined combinations add to accounts of hybridity, differentiated presence, procedural justice and technologically mediated procedure.

The added point is one of granularity. Physical and digital forms do not simply coexist at the level of the court or the case. Rules can make particular participants, stages and temporal arrangements independently configurable inside a continuing proceeding, while other rules and infrastructures preserve the legal links among them.

### *7.1. Beyond hybridity: Identifying the unit of procedural configuration*

The closest starting point is hybridity. Gao and Xu characterise Chinese online courts as a hybrid model of access to justice, emphasising coexistence of online and offline mechanisms rather than wholesale substitution (Gao and Xu 2025). The present findings support that account but identify a more specific question: at what level does coexistence occur?

Hybridity can describe several arrangements. Physical and online courts may operate as parallel options; a physical hearing may contain one remotely appearing witness; or different participants within the same stage may occupy different modes while another stage follows a different arrangement. All can be described as hybrid, but their internal organisation differs. Sections 4 and 5 show that the Chinese rules make online or offline mode legally allocable below the level of the proceeding as a whole and, for selected

activities, make temporal mode separately configurable. The 2022 framework supports movement between modes while maintaining a common case infrastructure.

Modularisation is therefore not offered as a replacement for hybridity. It identifies something that hybrid arrangements may display to different degrees: components can be configured separately under rules and still remain within one proceeding. Nor is it enough merely to say that configuration matters. Rossner and Tait show that distributed settings produce different relations of participation and co-presence, while Dubuc and Sobański show that the legal significance of remote presence varies by participant (Rossner and Tait 2023, Dubuc and Sobański 2026, 8–14). The additional question is prior and more structural: which elements may be configured separately, and by what means are they kept legally connected?

The distinction also separates modularisation from digitalisation. The 2020 Chinese framework expanded live online hearings while preserving a largely integrated, synchronous form. More technology did not automatically create more separability. Modularisation concerns whether procedure is legally decomposable and how continuity is maintained, not how much technology a court uses.

### *7.2. Presence after Turner and Dubuc: From functions of attendance to the allocation of presence*

The literature on presence has already moved a long way beyond treating attendance as a single, undifferentiated good. Turner asks which constitutional purposes physical presence serves and when virtual appearance can satisfy those purposes (Turner 2025, 25–28). Dubuc and Sobański show, in turn, that the International Criminal Court treats the presence of witnesses and accused persons differently (Dubuc and Sobański 2026, 8–14). The argument here does not claim novelty for a functional or contextual account of presence.

The Chinese rules add a different point: presence itself can be allocated at a granular level within one proceeding. Section 4 shows that all participants and stages need not share the same mode. Section 5 shows a comparable differentiation in time, with evidence exchange more readily separated from simultaneity than court trial. The rules therefore do more than ask whether remote presence can stand in for physical presence. They specify who must be present, at which stage, in which mode and, in limited cases, at what time.

This does not diminish the importance of physical presence or suggest that its material and interactional qualities are fully substitutable. Mulcahy, Rossner, Rowden and Wallace, and McKay demonstrate why embodied and spatial conditions matter (Mulcahy 2008, 2011, McKay 2018, Rowden and Wallace 2018, Rossner 2021). Modularisation identifies the procedural location at which presence becomes divisible. It allows subsequent normative analysis to ask more precise questions: whose presence, during which activity, in what temporal form, and with what safeguards?

### *7.3. Procedural justice as evaluation of differentiated configurations*

The same discipline is needed when turning to procedural justice. Belloni *et al.* analyse online court communication through voice and respect, while Mulcahy and Tsalapatanis

show why an available online channel should not be equated with digital inclusion (Mulcahy and Tsalapatanis 2022, 2024, Belloni *et al.* 2025). Modularisation does not compete with that evaluative literature and should not be read as a theory of fairness.

The relationship is sequential: modularisation identifies the differentiated institutional arrangement; procedural justice evaluates participation within that arrangement. A party participating remotely while the judge, lawyers and opposing party share a physical room occupies one configuration. Two parties participating from separate remote locations occupy another. A party responding asynchronously during evidence exchange occupies another still. Aggregating all of these under “online participation” risks obscuring the institutional conditions through which procedural-justice concerns arise.

Three points in the findings are especially sensitive to procedural-justice evaluation. First, allocating different modes may produce asymmetries in visibility, communication or access to counsel. Second, temporal separation may weaken immediate response even where a later opportunity to answer is formally preserved. Third, the mechanisms that make a modular arrangement legally intelligible do not, by themselves, make it legitimate. Authentication may identify the actor, symbolic rules may mark the event as judicial, and attendance rules may maintain discipline; none of those documentary facts tells us whether participants experience voice, respect or trustworthy authority. Procedural justice can test those arrangements normatively, while modularisation identifies the arrangement to be tested.

#### *7.4. From digital constraint to rule-based recombination*

The findings also contribute to scholarship on the institutional effects of judicial technology. Contini and Reiling’s account of double normalization shows that e-justice platforms add a layer of digital constraints to formal procedural law, while Esko shows how judicial IT systems enter organisational structures and professional work practices (Contini and Reiling 2022, Esko 2025). The present findings cannot claim that technology becomes institutionally constitutive only once procedure becomes modular.

The Chinese materials add a more concrete mechanism to this institutional literature. Rules and digital infrastructure make differentiation possible without allowing the proceeding to fall apart. A stage may change mode without every other stage following it; different participants may occupy different modes; and limited temporal separation is formally recognised. Authentication secures attribution, hearing rules qualify distributed spaces and roles, and electronic records carry continuity across modal boundaries. The shift is therefore from a relatively aggregated procedure to rule-based differentiation backed by continuity mechanisms.

Modularisation consists of two analytically inseparable movements: procedural differentiation, through which selected components become separately configurable; and institutional continuity, through which those differentiated components remain legally attributable and procedurally connected. This is the strongest point of distinction from a general account of hybrid or technologically mediated proceedings.

### *7.5. The contribution and limits of the Chinese institutional case*

China is analytically useful not because it invented remote hearings, and the study does not compare the effectiveness of Chinese online courts with another national system. Its value lies in the detail of the regulatory architecture. The materials examined in Sections 4–6 expressly differentiate mode by participant and stage, authorise selected asynchronous activity, regulate movement between configurations, and provide devices through which distributed acts retain legal continuity.

That regulatory detail makes China a theory-revealing case, but it does not establish a universal sequence of development. Similar configurations could arise elsewhere through procedural legislation, judicial discretion, emergency measures or platform design. Comparative research can therefore ask where other systems locate the unit of modal allocation, which forms of temporal separation they permit, who controls switching, and how continuity is preserved.

The limits are substantial. The documents establish authorised configurations, not how often judges use them, how participants experience them, or what outcomes they produce. Modularisation should therefore not be read as a general theory of digital justice or as a normative prescription for choosing between physical and online hearings. It names a particular institutional condition: selected parts of the adjudicative encounter can be configured separately while rules and infrastructures preserve attribution and continuity within the same proceeding.

The contribution is correspondingly narrow. Existing work already explains why courtroom materiality matters, why forms of presence serve different functions, why remote configurations affect participation in different ways, and why judicial technologies reshape institutional practice. The Chinese materials show something more specific: an institutionalised online-procedure regime can make elements within one case separately configurable without allowing that separation to dissolve procedural unity. Modularisation of adjudicative space names the rule-governed relation between that differentiation and the continuity that holds it together.

## **8. Conclusion**

This article asked how China's online-litigation rules separate and recombine the spatial, temporal and procedural elements of the adjudicative encounter. The answer is not captured simply by a shift from physical to virtual adjudication, or by saying that online and offline modes coexist. The rules permit selected parts of a continuing case to be configured separately while legal and infrastructural devices preserve their procedural connection.

Three findings support that answer. First, mode is subject to regulated separability across stages and participants rather than attaching uniformly to the case as a whole. Second, time is separable within limits: some activities can occur asynchronously, but the conditions tighten as the proceeding approaches trial. Third, separation is accompanied by selective institutional reconstitution. Authentication links digital conduct to recognised actors; institutional rules qualify distributed environments and roles as adjudicative; and procedural classification and common records keep differently configured acts within one proceeding.

These findings provide the basis for speaking of a modularisation of adjudicative space. The concept does not imply that physical courts disappear, that virtual participation is equivalent to bodily presence, or that every hybrid case is modular to the same degree. It identifies a narrower condition: parts of the adjudicative process may be differentiated under procedural rules while mechanisms of attribution and continuity keep them inside one legally continuous case.

The theoretical contribution can therefore be stated as a relationship between procedural differentiation and institutional continuity. Existing scholarship has already established that courtroom materiality matters, that physical and remote presence may serve different functions, that hybrid configurations affect participation differently, and that judicial technologies reshape institutional practice. The Chinese materials add a more granular account of how an institutionalised online-procedure regime can make participant, stage, mode and, more narrowly, time into separate objects of legal configuration without treating their separation as the end of procedural unity.

China matters here for the explicitness of its rules, not because remote adjudication is unique to the country or because its model should be exported. Participant-specific and stage-specific modes, limited asynchronous procedure, movement between configurations and continuity mechanisms are all formally articulated. That makes the Chinese setting a theory-revealing institutional case rather than a universal model or a matched comparison.

Those conclusions remain bounded by the research design. Documentary rules identify authorised configurations; they do not establish their prevalence or their effects on litigants, lawyers or judges. This study therefore cannot say whether modular arrangements improve access to justice, produce greater procedural fairness or recreate equivalent experiences of judicial authority. Comparative and empirical work is needed to observe how differentiation operates in practice and how particular configurations affect participation and fairness.

The central point is thus a limited one. Digital adjudication can loosen the conventional coupling among participant, stage, place and time without reducing a proceeding to a set of disconnected acts. It does so when differentiated configurations are paired with mechanisms that preserve attribution and legal continuity. Modularisation is the name given here to that rule-governed pairing of procedural differentiation and institutional continuity.

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