

Medicine and Society

Establishment of a tele-evidence facility at the Post Graduate Institute of Medical Education and Research, Chandigarh: A unique initiative

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ABSTRACT

Doctors are duty bound to assist the delivery of justice by providing expert opinion/evidence in a court of law. However, the time spent in doing so comes at the cost of patient care. The healthcare sector and the judiciary are seized of the matter, and the use of technology as an avenue to ease the process is desirable. Tele-evidence or testimony through video conference can be that breakthrough. The Post Graduate Institute of Medical Education and Research (PGIMER), Chandigarh, has institutionalized the mechanism of tele-evidence with the concurrence of the High Court of Punjab and Haryana. This was made possible after many permutations and combinations were tried, because the existing information technology infrastructure of the stakeholders was not compatible. The desired solution was achieved, and other institutions working to establish similar facilities can learn from the experience of PGIMER to achieve faster results.

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INTRODUCTION

Doctors are often summoned as professional or expert witnesses to give their testimony in courts of law. To comply with the summons and to expedite the delivery of justice, they do so by taking time out from their patient care schedules in the hospital. The precious time of the already scarce number of medical professionals in the healthcare centres of the country is spent in commuting to various courts and attending court proceedings. The total time away from work may sometimes be 2–3 days, especially for healthcare professionals of tertiary care institutes where patients do come from distant places. This results in a loss of ‘physician days’ and not only affects patient care in their respective healthcare centres/hospitals but also is a drain on the state exchequer in terms of fuel and maintenance of a vehicle for this purpose; it also increases the carbon footprint. According to Aggrawal,¹ as many as 650 specialist hours/day may be spent in district and sessions courts only, and the numbers will be much larger if attendance at lower courts is taken into consideration.

Doctors at the Post Graduate Institute of Medical Education and Research (PGIMER), Chandigarh, receive a large number of summons every year from courts located in various districts of the states of Punjab, Haryana and Himachal Pradesh, as well as

other neighbouring states. Doctors would then travel either by a vehicle provided by PGIMER as per policy, use their own vehicle or a public transport facility. There was a felt need to explore options to smoothen this legal duty of medical professionals and save time spent in making a physical appearance at a court.

The Punjab and Haryana High Court in CRM No. 18934 of 2013 in MRC No. 8 of 2007 titled ‘State of Punjab v. Mohinder Singh’ ruled that a video conference facility should be provided to doctors in government hospitals in Chandigarh for recording medical evidence and laid down the process of recording of evidence through video conferencing (VC).

In a related development in November 2013, in reference to case RCNo. 15 of 1990 titled ‘CBI v. Col B.S. Goraya’, the Special judge, CBI Court, ordered recording of evidence of an ailing witness through VC using the facility available in the telemedicine department at PGIMER, Chandigarh.

Again, in November 2013, in another case, a panel of four doctors, including a female senior resident in the Department of Hospital Administration, was summoned to appear before a court in the distant district of Mewat in Haryana for giving testimony in a case at short notice. In that case, the panel appeared in court through the VC facility at the telemedicine department.

The admissibility of evidence through VC was accepted by the Supreme Court of India while deciding a plea, *vide* ‘State of Maharashtra v. Dr. Praful B. Desai’, Appeal (Crl.) 476 of 2003 on 1 April, 2003. This has been reinforced by numerous subsequent judgments of various courts *vide* Liverpool And London Steamship ... v. M.V. ‘Sea Success I’ And Anr. (Bombay High Court on 16/06/2005), Poulse v. Arulraj, CRL.R.C. No.405 of 2006 and M.P. No. 3032 of 2006 (Madras High Court on 5/12/2006) Milano Impex Private Ltd. v. Eagle Footwear Pvt. Ltd. And Ors, CS(OS) No. 676/2007 (Delhi High Court on 25/05/2011), R. Sridharan v. R. Sukanya, C.R.P. (PD) No. 284 of 2011 and M.P.No. 1 of 2011 (Madras High Court on 30/03/2011). The National Policy and Action Plan for Implementation of Information and Communication Technology in the Indian Judiciary, prepared by the E-Committee of Supreme Court of India and released on 1 August 2005, envisaged the setting up of VC facilities in the courts as well as prisons in a phased manner to expedite court cases as well as enhance interaction between judicial officers and other stakeholders. Guidelines for VC have been issued by various high courts, for example Delhi High Court.² However, the primary focus has been on VC between the courts and prisons.³ Tele-evidence or witness deposition through VC is allowed in many developed countries according to their own guidelines, including the USA⁴ and Singapore, and attempts are being made to rationalize its use for transnational cases.⁵ Each

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country has developed its own set of requirements for equipment as well as procedures, for example, Australian courtrooms use Tandberg VC units over ISDN to make one-to-one or point-to-point connections at line speeds of up to 384 kbps (www.fedcourt.gov.au/services/videoconferencing-guide).

In the backdrop of the above, the Department of Hospital Administration, PGIMER, formally approached the Punjab and Haryana High Court seeking permission to allow its doctors to give medical testimony through VC, as all district courts in the two states and the telemedicine department at PGIMER, Chandigarh, had a VC facility.

The Punjab and Haryana Court accepted the proposal and directed the stakeholders to coordinate the modalities and feasibility of conducting VC for recording of evidence under the guidance of joint registrar (information technology and computerization) at the High Court. A coordination meeting was held at the office of the joint registrar involving representatives from the Department of Hospital Administration, PGIMER; telemedicine facility, PGIMER; National Informatics Centre (NIC) Punjab; NIC Haryana; NIC Chandigarh; Department of Governance Reforms; State Electronics Development Corporation and BSNL.

Because the connectivity networks were different in each state and in PGIMER (Haryana had a state-wide area network [SWAN], Punjab had a Punjab state-wide area network [PAWAN], Chandigarh had the National Informatics Centre Network [NICNET] and PGIMER the National Knowledge Network [NKN]), the issue of compatibility and feasibility of VC directly from PGIMER to various district and subordinate courts in Punjab and Haryana was raised. It was thought that necessary routing would need to be done between individual state networks and PGIMER for successful VC. It was decided that SWAN and PAWAN will allow the public IP address of PGIMER through their firewall and test for its connectivity. It was further found that though NICNET and NKN originate from the NIC offices, VC is possible from NICNET to NKN but not vice versa.

Since, these issues appeared to be difficult to resolve, it was also proposed that doctors from PGIMER may visit the NIC offices situated in Chandigarh or the VC studio in the High Court for evidence in courts situated in Punjab and Haryana.

Meanwhile, another alternative of a web-based VC was also proposed, and PGIMER was asked to liaise with the State Informatics Officer (SIO), Chandigarh, and apply for a login of the web-based VC. This was applied for and obtained from the SIO Union Territory (UT). However, the web-based system did not work because most of the courts did not have the web-based VC system.

In the meantime, a trial run of tele-evidence was initiated between PGIMER and selected courts of Punjab and Haryana, routed and facilitated through the network in the VC studio of the High Court, which was compatible with both the network at PGIMER and the courts. Guidelines for conducting testimony through VC were approved and issued by the Honourable Court, based on which a standard operating procedure (SOP) was formulated by PGIMER. A tele-evidence nodal officer was designated who was responsible for coordinating with the respective court managers and arranging the testimony through VC. The details of each district and subordinate courts, including the VC IP address and contact details of system officer and court managers as well of the PGIMER tele-medicine department and nodal officer were exchanged.

The NIC team of the High Court was also directed to prepare a VC booking module for convenient and seamless booking of the VC slot. Meanwhile, the system of booking tele-evidence was being done using the Excel sheet shared on Google Drive because the module was being worked out. Although the arrangement was operational, this was less than desirable because PGIMER could not directly make a VC call to the courts. The trials for establishing connectivity between NKN network of PGIMER and intranets of PAWAN and SWAN were being regularly attempted but were not successful.

It was then suggested to connect PGIMER and district courts of Punjab and Haryana through BSNL lease line of 2/4 mbps, and a financial estimate for the same was taken from the BSNL office of Chandigarh. The tentative cost of the 2 mbps lease line was stated to be ₹33 000 subject to the end-point for terminating the lease line and excluding the installation charges. It was further informed by the PAWAN and SWAN teams that routing equipment would cost ₹100 000 and needed to be purchased for connecting to PGIMER.

The senior technical director, NIC, pointed out that the lease line may not be required and the issue of connectivity could be resolved by proper router configuration, which would enable seamless connectivity between PGIMER, and PAWAN and SWAN networks. Subsequently, in one of the coordination meetings, the senior technical director, NIC, Punjab, also suggested that PGIMER may be given a private exclusive IP segment that was available with PAWAN, and had been allocated from the NIC. It was thought that this private IP would be able to connect with the PAWAN and SWAN networks and trials for the same could be done.

The Directorate of Governance Reforms, Punjab, had in principle agreed to release the IP segments. However, the same could not be released due to approval pending from the government. Subsequently, the IP address was arranged from the NIC and partial success was attained by configuring the router. Gradually, after some more troubleshooting, the IP addresses were configured successfully and a system was in place where PGIMER could directly connect to the district and subordinate courts without requiring routing through the VC studio of the High Court.

After successful configuration and satisfactory report from SWAN and PAWAN, the High Court, *vide* its order dated 8 July 2014, directed to gradually extend the facility in a phased manner to all the remaining district courts (some of which were till then excluded pending successful implementation). This extension of the VC facility with the district courts of Ambala, Ropar, Fatehgarh Sahib, Panchkula, Mohali, Chandigarh and subdivisional courts in the states of Punjab and Haryana and Chandigarh for recording of testimonies of PGIMER doctors was approved by the Executive Committee in its meeting held in November 2014.

Since then, most of the summons from district and subdistrict courts in Punjab and Haryana are being attended through a dedicated tele-evidence facility at the Department of Medical Records, PGIMER, Chandigarh, which has been established exclusively for this purpose. Since its inception, more than 4900 summons have been attended to at this tele-evidence facility till May 2019. A study done at PGIMER revealed that tele-evidence has resulted in financial savings, reduced carbon footprints and have been a satisfying experience for the doctors.⁶ This is probably a pioneering effort in the country where evidence through VC has been institutionalized.⁷

The model is worth emulating throughout India so that gains, in terms of person-hours, expense towards transportation and carbon footprints, achieved at PGIMER, can be replicated.⁸ Some other institutes have already started the tele-evidence facility,⁹ and it is expected that many more will do so in the future, for example the All India Institute of Medical Sciences (AIIMS), New Delhi,¹⁰ for its stated benefits and this initiative is in line with the Digital India initiative of the Central Government.¹¹

Conflicts of interest. None declared

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