



USE OF INFORMATION TECHNOLOGY IN COURTROOM: MERITS AND CHALLENGES

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1.0 Introduction

The word “Technology” has been defined as referring to applications of scientific knowledge [1], and Information Communication Technology (ICT) is an umbrella term that includes all technologies for the manipulation and communication of information. ICT is therefore taken to encompass a wide range of computer and telecommunications technologies, including data processing (electronic retrieval, storage and management of data, document imaging); data management and communications services (telecommunications generally, wireless, video conferencing, electronic mail, the Internet); workflow systems; and artificial intelligence. [2] ICT is concerned with the storage, retrieval, manipulation, transmission or receipt of digital data. Thus, the scope of ICT covers any product that will store, retrieve, manipulate, transmit or receive information electronically in a digital form such as personal computers, digital television, email, and robots [3].

The main business of the judiciary is to hear and determine cases in a fair and timely manner at reasonable cost. In doing so there are processes that lead to the conclusion of the cases before the courts. These processes must be efficient, effective, and equitable.

The processes must be efficient in the sense that they provide value for money. The resources so employed must be utilised in a non-wasteful manner leading to the most optimum allocation and utilisation of the same. The system can not be engaged in an abstract search for the truth alone, oblivious of all other factors, like cost, efficacy, and equity. The modern approach calls for balancing of various objectives of the justice systems, given the scarcity of resources, and the competing demands for the limited resource envelope available, particularly in the resource strapped societies, as in our region.

Secondly the processes must be effective in the sense that they are able to achieve that which is sought. For instance is the system able to ensure accountability for the wrongs committed against the society. Or is the relief sought and obtained able to compensate the injury complained of? Going to court is not simply an academic exercise, though in some instances, the nature of matter at hand may be somewhat academic, but nevertheless necessary to be addressed.

The process must be equitable in that all those who ought to have access to the justice system and seek access to it do have access to it. The process must not lock out sections of the community. Neither should it be discriminatory, or show partiality to a class of litigants or some areas of subject matter.

The use of technology in the judicial process has increased tremendously. Our country has come a long way since the first initiative for implementing its ICT policy in April 2001 after the Federal Executive Council approved it by establishing the National Information Technology Development Agency (NITDA), the implementing body. [4]

2.0 Merits of using Information Technology in Courtrooms

IT can be a useful tool in the following areas: (1) text creation, storage and retrieval; (2) Improved Access to the Law; (3) Recording of Court Proceedings; (4) Case Management and producing data for administrative purposes; (5) Communication; (6) Tele-Justice.

2.1 Text Creation, Storage and Retrieval

Apart from the hearing function, judges have to produce written judgements, rulings, and reasons for the decisions that they continuously make. After the advent of the typewriter, the judge often wrote decisions in long hand, and the secretaries or typists would then type the same out in typescript. It is now possible

for the judge to type out the decision directly on the computer. And there are many reasons now why the judge should be familiar with word processing skills. A judge is able to produce a decision much faster that way. And because of the ability to manipulate different documents through copy, cut and or paste, or working from templates, or using micros, it is now much easier to produce a document with the information you want included into it. On the same computer or other storage medium, it is possible to store the document, and retrieve it very fast, call up other documents, without having to move from your work station. In the result judgements, decisions and or rulings can be produced much faster in final form for release to the parties. Simultaneously the said decisions, judgements or rulings can go into a court system database to which judges and other people may have access should they need to use the same for whatever purpose. IT definitely makes production and release of decisions much more efficient than was previously the case.

Most of the documents in our case files be they from advocates or the court, are generated on computers. This means that copies of the same are available electronically as they are produced digitally. And even if they have been produced manually, and only hard copies are available it is possible to scan them and convert them into digital format. This creates an opportunity of creating and maintaining an electronic copy of case file that would eliminate problems of loss of the physical file which plagued our courts in Nigeria for quite sometime in the past. The courts have the capacity to acquire the necessary hardware for this purpose. If an electronic version of the court file was maintained it would speed the cost of preparing a record for appeal purposes, thus eliminating one of the bottlenecks to the speedy delivery of justice.

2.2 Improved Access to the Law

In many jurisdictions the law applicable is often found in different sources. These include Statute Books for legislation; Law Reports for case law and Oral Tradition for Customary Law. The medium for storage of the legislation and case law was, previous to the advent of the current information technology, only available through hard copy in book form or printed or typescript. The traditional approach in some jurisdictions was regularly to produce an up-to-date version in the form of one edition of the laws in force at a particular time.

It is now possible to keep both legislation and law reports, not only in hard copy and book form, but also in digital format, on CDs and other storage media, online (Internet/Intranet), or on standalone machines making it much easier for a judge or member of the public to search and obtain the provisions of the law or previous court decision that one desires. With the use of the Internet, it is possible to seek for and obtain comparative and persuasive jurisprudence from other jurisdictions while seated at one's work station.

What makes the situation even much more promising is that document production now is digital making it easy to copy and distribute information at very little cost. It is now possible therefore for the law to be available in an easier, more convenient and most accessible format. It makes it simpler to research and incorporate the results of the research into new documents being produced. IT has the potential to tremendously improve access to the law, improving the productivity of the consumers of the same, and possibly both the quality and quantity of what they produce, thus increasing both the efficiency and efficacy of the their product.

It may be noted that the Justices of the Supreme Court, Court of Appeal, and the Judges of Federal High Court, or at least the majority of them, do have computers

and are connected to the internet. A number are known to make use of the internet for electronic legal research. A significant number too is known never to switch on these computers too!

2.3 Recording of Court Proceedings

For a long time here in Nigeria and elsewhere court proceedings were recorded in long hand by the judge/magistrate. In some jurisdictions court reporters recorded the proceedings using stenographic machines using shorthand, and later produced a record of the proceedings. In other jurisdictions recording was by way of tape recorders recording voice and the record later being transcribed into a typed record. There have been new developments. Voice recognition technologies are being tested but are as yet to be perfected. It is now possible to have digital audio recordings of voice on the computer, allowing the judge capacity to annotate this record and listen to whatever portion he may want to listen to later. The record so recorded would have to be transcribed into a hard copy format (for as long as a hard copy file is maintained), of which e-versions would be available too. It is also possible to have instantaneous recording of proceedings by court reporter which can be viewed by the judge and counsel at their respective desks as the proceedings continue. The advantage of the digital format is that it is easy to manoeuvre whether it is text, voice (sound) or images.

With the use of IT the pace of proceedings may be speeded up considerably. The quality of the record is enhanced immensely as it is far more accurate. Cases ought to be resolved faster, both at trial, and on appeal. This would be the result of the easy availability of the record of the trial. With Judges freed from the task of recording proceedings, they can pay more attention to the function for which they are hired. And that is judging.

2.4 Case Management

Computing has greatly enhanced our capacity to capture study and manipulate data producing reports and other records that one might be interested in. It is possible using programmes that can be developed to track events and cases with a view to availing the decision maker information in a timely manner. Computing is able to do so in considerably much less time than if the same were done manually. Equipped with this information, it is possible for the decision maker to take appropriate action, to move a case forward, or to assign it, list it for trial or take whatever action is appropriate. One is able to follow both the large picture in terms of the aggregate of cases and the small picture, in terms of a single case. Productions of forms and other repetitive processes can be automated. In Nigeria this has been embraced with the development of NCMS (Nigerian Case Management System).

2.5 Communication

It is both in the interests of the Judiciary and in the public interest that the public gets to know and understand what is going on the Judiciary in relation to its mandate. The public ought to know what problems the judiciary is having and what it is doing to tackle them. The public ought to know what the judiciary is doing with the resources entrusted to them in carrying out its mandate. The judiciary does not often have the same platforms as other organs of government. It does not control the purse strings of government or the coercive machinery of government in the manner that both the legislature and executive do. The authority of the judiciary ultimately rests on the confidence that the public has in the services it offers to the public. It is therefore important that the judiciary is able to communicate to the public. One of the easier means of doing so is to go online with the requisite information about activities, problems, and solutions taken to tackle the same in the form of timely reports and updates. Because of the

limited access of our people to online resources, the audience may be limited. Nevertheless because of the possibility of reuse of that information by media houses, and other people it is possible it would still reach a wider audience than initially anticipated.

IT affords the courts not only an opportunity to communicate with the public through the internet, but also affords an opportunity to allow for internal communication within the organisation through Intranets and electronic mail. There may be information to which the public may not be privy too which could be kept on intranets accessible only to relevant category of officers in the organisations. At the same time paperless communication using email programmes is possible between Justices/Judges and other judicial personnel in and outside of the judiciary is possible at very little cost, and almost instantaneously. All over the world email lists for judges and other professionals exist on which judges are able to share information of a professional nature or merely only recreational. [5]

2.6 Tele-Justice

Tele-justice, simply put, involves the use of IT services in the field of judicial administration. It includes a simple telephone call, using satellite technology to communicate between people in two countries, using video-conferencing equipment or intranet technology. Today, video conferencing is used by many judicial officers daily and is connected to prisons. Similarly, intranet technology is being used in many courts.

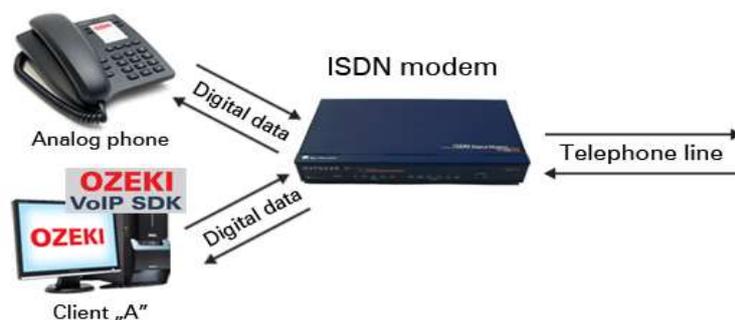
With tele-justice, the accused can now be present in a court through a video link, established on ISDN lines, between the prison and the court.

There are risks attached to transporting convicts from prison to the courts. In addition, there are also costs in the form of deployment of policemen, security charges and transportation.

Tele-justice yields considerable savings on these fronts.

Tele-justice involves two different kinds of technology:

2.6.1 Store and forward: Used for transferring digital images from one location to another. A digital image is taken using a digital camera shared, and then sent, that is forwarded by the computer to another location. Usually used for non-emergency situations. Valuable but disputed documents which could not be sent by any other means of communications without risk could be digitally imaged and thus stored and forwarded for analysis and report.



2.6.2 Two-way interactive television (IATV): Used when face-to-face consultation is necessary. Video conferencing equipment at both locations allows a 'real-time' consultation to take place.

Worldwide, tele-justice has emerged as a secure way of carrying out legal procedures. By installing a video conferencing system at the courtroom as well as the prison facility, defendants can participate in all legal procedures without law enforcement having to shoulder the dangers associated with jail-to-courtroom prisoner transport.

Video-conferencing also helps connect more than one courtroom during a trial, and enables the use of more than one application. The system provides a simple user interface, which allows non-technical users such as Justices/Judges and court staff, to easily operate and maintain the judicial video conferencing system.

The video conferencing equipment is mobile so it can be moved from room to room and connects to the court's existing data infrastructure. Through video conferencing, timely actions and decisions can be taken during a trial.

Other advantages include making specialty more accessible to rural as well as urban areas, alleviate prohibitive travel and associated costs for litigants, opening up new possibilities for continuing education for isolated or rural legal practitioners and cutting costs of legal care for those in rural areas. However, there are certain barriers that can hinder the tele-justice system from achieving its full potential. Many countries will not allow out-of-country lawyers to practice unless licensed in their country. Many private insurers will not reimburse. Another factor is the lack of appropriate telecommunications technology, especially in rural areas. The tele-justice system requires very high bandwidth which cannot be supplied by regular telephone lines. Computerization of courts has paved way for efficient handling of all matters including security concerns.



3.0 CHALLENGES TO THE EFFECTIVE USE OF ICT IN COURTROOMS

Despite efforts made to key into the global ICT revolution, the Nigerian Courtrooms are faced with numerous challenges; some of which are as follows:

1. Lack of top Judicial Administration enthusiasm to embrace ICT
2. Reluctance in supervision/ usage of the Information Systems and/or updating of information in the computer systems
3. Resistance to Change towards the use of ICT in the Judiciary
4. Inadequate awareness of the benefits of ICT
5. Untimely reporting of ICT problems
6. Insufficient funding for the maintenance of computer systems and equipment
7. Insufficient Staffing (ICT Technical, Dedicated Data Entry Clerks, Court Reporters and Transcribers)
8. Insufficient provision of facilitation for training (both for Technical staff & end Users)

The problems faced by courts, judiciary, and public seeking justice in terms of backlogs, delays and expense are well known. While there are many dimensions to these problems, improvements in operational efficiency, coordination, accessibility and speed which IT could bring about can contribute significantly towards improvement and alleviation of difficulties.

However, the present pace of development, particularly at the subordinate court level is too slow and is unlikely to have the desired impact in the near future. Massive problems need appropriately large commitments and major initiatives if a significant dent is to be made.

4.0 Conclusion

We are in the digital age. The effect and the influence of information technology are simply overwhelming.

Its advantages have been clearly felt as it has become easier for Justices/Judges, lawyers as well as litigants to participate in the process of law. It has considerably reduced the delay in the various aspects of the judicial process and brought down the amount of backlog of cases. Access to justice is well served by technology as it allows more dialogue between the citizens and public institutions. There is a new trend in the service of court processes. There is a gradual shift from the traditional method of personal service to online service. Most people have become integrated into the online community.

However, there remain plenty of hurdles that have to be overcome so that the judiciary can function to its true potential using the implementation of information and communication technology. Once our judicial system becomes completely successful in implementing the use of modern technology, justice can be properly served to all in a quick and efficient manner.

Despite its speedy growth and popularity, ICT is still in its infancy in Nigeria (when compared to more developed countries). Yet, there is no doubt that it has very great prospects for the improvement of justice administration in the country by increasing productivity in the courts, and thereby making justice administration easier. However, to explore these great potentials, a change in attitude of policy makers, court administrators, judges, court staff, and court users; is of paramount importance because the existence of an enabling environment is the only way to make ICT thrive.

Based on this conclusion, the following recommendations are therefore warranted:

1. There should be training and retraining programs organized for all stakeholders in the justice system, so as to acquaint them with up to date development relative to the utilization of ICT tools.
2. There should be adequate budgetary provision to support massive infrastructural development towards having “ICT- enhanced courtrooms in Nigeria”.
3. There should be a change in attitude of court administrators, lawyers, and judges at all levels; as to the utilization of ICT resources. [6]

5.0 References

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