journals.unizik.edu.ng/index-php/jcpl ISSN: 2736-0342
NNAMDI AZIKIWE UNIVERSITY, AWKA
JOURNAL OF COMMERCIAL AND PROPERTY LAW

ICT in the Administration of Justice: Challenges and Prospects for Labour and Productivity

Chineze Sophia Ibekwe*
Chiugo Onwuatuegwu**

Abstract

The use of ICT is considered one of the key elements to significantly improving the administration of justice. The availability of internet services, the possibility of consulting online legislation and case law, the use of electronic filing, the electronic exchange of legal documents and conducting hearings by video conference are only some examples that are spurring the judicial administrations around the world to rethink their current functions and activities. This article seeks to provide an overview of the ICT developments that have been applied in the administration of justice, their prospects and challenges. Instances of the use of ICT by other jurisdictions in the administration of justice will be examined and relevant lessons drawn for ways in which ICT can enhance the justice system in a country like Nigeria where illiteracy, insecurity, corruption, lack of training and lack of access to justice are all problems facing the justice system. The paper concludes that ICT is not only vital to enhanced efficiency in the administration of justice but also promotes public confidence and access to justice.

Key Words: Information Communication Technology (ICT), administration of justice, access to justice, computer literacy, cyber crimes, efficient court processes.

Introduction

Communication and the information that goes with it is the basis of all social order. Law, being an index of societal values depends greatly on the flow of information. Consequently, the form and content of law has continuously changed to conform to the communicative device available at any particular time.[1]The legal systems and contemporary judicial structures in place today are a result of centuries of development, with the prevailing communicative structure of each era influencing both the form and

* PhD, CIArb, Head, Department of Commercial and Property Law, Faculty of Law, Nnamdi Azikiwe University, Awka, nezibekwe@gmail.com, cs.ibekwe@unizik.edu.ng.
** LL.M, B.L, Lecturer, Department of Commercial and Property Law, Nnamdi Azikiwe University, Awka, Nigeria, co.onwuatuegwu@unizik.edu.ng.
[1]The Federalist Papers: No. 17, The Avalon Project, avalon.law.yale.edu/18th_century/fed17.asp (last accessed Jan. 17, 2021)

content of law.[2] The end of the 20th century marked the appearance of Information and Communication technology (ICT)[3] which represents the start of a new era. The use ICT is considered one of the key elements to significantly improving labour productivity. The rapid development of technology opens up new opportunities that were unthinkable only a few years ago.

Around the world, several statutory reforms have been introduced to allow the use and the exchange of electronic data and documents within national judicial systems and also between them.[4] The availability of internet services, the possibility of consulting online legislation and case law, the use of electronic filing, the electronic exchange of legal documents and conduct of court proceedings by way of video are only some examples that are spurring the judicial administrations around the world to rethink their current functions and activities. ICT can be used to enhance efficiency, access, timeliness, transparency and accountability, helping the judiciaries to provide adequate services. New possibilities are emerging for the integration and automation of court procedures and practices. In addition, the use of the internet, can offer the chance to open the judiciary to the public, providing both general and specific information on its activities, thereby also increasing legitimacy.

Labour productivity measures the efficiency of the people in a country or organization. To calculate it, you divide the total value of the goods and services produced by the total number of hours worked.[5] A country's labor productivity is enhanced when it embraces technological innovation, human capital development and structured capital investment. Increased efficiency in the justice system will translate into better access to justice, faster and fairer judicial outcomes and hence, better compliance to laws and regulations. A more law abiding citizenry improves the economy by not only increasing the volume of people employed but also improving the quality of work they do. For example, high labour productivity is often associated with high levels

[2]Agusti Cerrillo and Pere Fabra, E-Justice: Using Information Communication Technologies in the Court System, xii (2008), https://www.igi-global.com/book/justice-using-information-communication-technologies/312 (last accessed Jan. 17, 2021)

[3] Information and Communication Technology (ICT) refers to processing of data via computer: the use of technologies from computing, electronics, and telecommunications to process and distribute information in digital and other forms

[4] Marco Velicogna, Justice Systems and ICT - What can be learned from Europe? (2007) https://www.researchgate.net/publication/26463184_Justice_systems_and_ICT_-_What_can_be_learned_from_Europe (last accessed Jan. 17 2021)

[5] Accounting Tools, 'How to Calculate Labour Productivity' https://www.accountingtools.com/articles/how-to-calculate-labor-productivity.html (last accesses January 12, 2021).

of human capital development indicating a prioritizing of education and training policies. Labour productivity is therefore an important determinant of economic performance.[6]

2. Precedents of ICT Use in the Administration of Justice

The World Bank identified three factors that motivate leaders of developing countries to embrace and encourage the use of ICT in their countries. These factors are; the potential of ICT as a solution to economic and social problems, the risk of being isolated from other countries if they fail to embrace ICT, and the integration of ICT into development or aid programs by international leaders and foreign donors.[7] ICT, particularly the internet has made the world a global village. This connection makes sharing of knowledge and information very easy from any part of the world. This is important because sharing is knowledge is vital to development.

Many countries have embarked upon statutory reforms in order to accommodate the adoption of technological measures that promote the rule of law and strengthen democratic principles. Venezuela for instance, has introduced in-house networks and web based applications into court governance through systems that support the tasks of Judges. Other improvements include the publication of court decisions, a streamlined administrative management system, and applications for user information centers.[8] Also, ICT based pilot programs were introduced at the lower courts to test the implementation of the newly introduced court management structure.[9] In Guatemala, judges and their support staff now enjoy internet based distant learning, while both Argentina and Mexico have programs that update legislative records and informs on reform initiatives and studies.[10] In Mexico, ICT is used by judicial officials to learn from the experiences of other states by sharing information and gauging the success of the applications being used in those states.[11] Chile is managing and coordinating its criminal justice system with the aid of information systems, while the telecommunication reform in El Salvador has presented an opportunity for the introduction of modern technologies in the court system.[12] Other countries like Colombia, Dominican Republic, and Costa Rica have similarly invested in ICT to develop their justice system. In Africa, Kenya is a success

[6] ILO, 'Labour Productivity' (2020), https://www.ilo.org/ilostat-files/Documents/description_PRODY_EN.pdf
[7] Southern, African Development Community - World Economic Forum Consultation Report On E-Readiness, WORLD ECONOMIC FORUM, 8 available at http://info.worldbank.org/etools/docs/library/57493/sadc.pdf
[8] Waleed H. Malik, E-Justice: Towards A Strategic Use Of ICT In Judicial Reform The World Bank, 1 (2002), available at ftp://pogar.org/LocalUser/pogarp/judiciary/wmalik/ejustice.pdf
[9] *ibid*
[10] *ibid*
[11] *ibid*
[12] *ibid*

story with regards to the influence of the Internet and its uses in empowering the public.[13] Tanzania and Rwanda have also made remarkable efforts in improving their court systems using ICT. With the support of donor funds, both countries now have electronic filing systems, electronic records management systems, and legal information portals.[14] Nigeria is not left out, most Federal courts in Nigeria have adopted the system of recording court proceedings as opposed to recording in long hand.

Although ICT is a vital key to development, the Internet still remains inaccessible in most rural areas in Nigeria and Africa at large. However, the tide is changing due to the influx of affordable smart phones and constant expansion of telecommunications companies and operations. As access to the Internet increases, more people are able to learn about their rights and the justice system. Again, professionals are able to polish their skills and also learn about current global trends and best practices in all areas of development.[15]

3. Prospects of ICT in the Administration of Justice

The Legal and Judicial Process essentially entail various levels of information gathering and communication between stakeholders; filing and service of processes, exchange of documents and a lot of paper work which makes the conventional practice and procedure prone to undue and avoidable delays in justice dispensation. The judicial power of courts to decide and pronounce judgments and carry it into effect between any parties before it carries with it, enormous responsibilities as it involves the resolution of disputes involving social and moral questions of great importance to society. The public therefore expects an effective judicial system that can meet the demands of modern democratic society. It is believed that the efficacy of any judicial system is determined by its capacity to provide timely and appropriate justice to parties in a dispute.[16] This is unfortunately not so in the Nigerian judicial system because hearing and determination of cases takes too long and is also very expensive. There's a backlog of undecided cases and more cases keep piling up.

The Nigerian judicial system is used to the tedious and rigorous practices and procedures of carrying out judicial functions. In so many courts across the nation, for instance, Judges and magistrates still record court proceedings in long hand despite the availability of recording devices which will not only make the hearing and determination of cases

[13] Transforming The Courts: Judicial Sector Reforms In Kenya (2011-2015), PRINCETON UNIVERSITY, available at http://successfulsocieties.princeton.edu/sites/successfulsocieties/files/MG_OGP_Kenya.pdf
[14] A. Asonibare and H. Akaje, E-Path To Effective Justice Delivery: The Nigerian Courts In Perspective, African Leadership Development Centre (June 10-12, 2015)
[15]Halima Doma, Enhancing Justice Administration in Nigeria through Information and Communications Technology (2016), https://repository.law.uic.edu/cgi/viewcontent.cgi?article=1786&context=jitpl (last accessed on Jan. 18, 2021)
[16]Dele Peters, Minimizing Delays in the Administration of Civil Justice in Nigeria, VDG International, 453 (2008)

faster, but also easier, more accurate and less stressful. Courts' records are still entered on paper only and stored in the registry, these records in some cases are lost to theft, rain or even fire. Modern technology has provided us with the internet cloud which has made storing and retrieval of data and information very easy. Again, witnesses still have to travel from across the country and other times across the world to testify physically in courts even with the advent of technologies like skype, zoom, WhatsApp etc. that enables people connect and share information from any part of the world. Sometimes, it could take months and in other cases, even years to be able to get witnesses in courts to testify. It is believed that the global pandemic of AD2020 has taught us that the physical and mundane ways of doing things has been made faster and easier by ICT, as most meetings had to be conducted through the internet as opposed to the physical meetings we were used to. The courts in Nigeria during this period could not sit for months because we failed to utilize the technologies at our disposal to make judicial processes more efficient and effective.

Another cause of inefficiency and ineffectiveness of the administration of justice in Nigeria is limited access to justice. Generally, in Nigeria, the law is discriminatory, while the legal processes are expensive, slow, and complex.[17] This results in inadequate and unequal access to justice through the formal legal system particularly for the poor and vulnerable. In addition to delay and difficulty in accessing justice, other challenges include corruption, a lack of transparency and predictability in court decisions and shortages of resources. The consequential effect of these collective problems is a weak public confidence in the Nigerian judicial system.

With the new trend in efficient service delivery, deployment of ICT in the Judicial Process will help change the stereo-typed perception of our courts being conservative, slow, rigid and secretive. Application of ICT in the Judicial Process will help in making the justice delivery more efficient, faster, transparent and more user friendly thereby building more confidence in the judicial system. The deployment of ICT by the Federal Courts and few State Courts has shown the difference in service delivery, efficiency and transparency, it is therefore most appropriate to deploy ICT maximally to all levels of courts for such positive impact to be felt.

Given the work load and volumes of information and data in the judicial process, applying ICT in justice administration will increase efficiency, promote easy research and allow for easier information retrieval and in the long run, reduce stress and enhance the health of judicial administrators. Applying ICT in justice administration will reduce if not

[17]M.T. Ladan, Access to Justice and the Justice Sector Reform in Nigeria, International Institute for Justice and Development Conference on the State of Affairs of Africa (2006), available at http://iijd.org/PDF%20Files/Muhammed_Tawfiq_Ladan__Justice_Sector_Reform_Nigeria_ .pdf. (last accessed Jan. 19 2021)

eliminate inefficiency, inaccuracy, lack of transparency and integrity which are the major causes of delay in justice dispensation.

The availability of internet services, the possibility of consulting online legislation and case laws, the use of electronic filing, e-payment of filling fees, fines and taxes, and the electronic exchange of legal documents are only some examples that are spurring the judicial administrations around the world to rethink their current functions and activities. ICT is a veritable tool that can assist any judiciary to carry out its functions to the full by enhancing efficiency, increasing accessibility, and delivering quick dispensation of justice in a transparent and accountable manner.[18]The automation of court systems and the use of Internet unlock the courts to the public, thereby increasing access to its services.

ICT is a vital key to development. At present the Internet still remains inaccessible in most rural areas. However, the tide is changing due to the influx of affordable smart phones and constant expansion of telecommunications companies and operations. As access to the Internet increases, more people are able to learn about their rights and the justice system. An IT compliant judiciary will help Judicial Officers to access current global trends, share experiences and reach out globally. The advent of online legal research outlets such as Lexis Nexis, Legal Pedia and Law Pavilion has reduced the rigours of research as legal resources can easily be accessed on the Internet.

Application of ICT in courts no doubt carries with it a multitude of benefits. These benefits include;

i. A More Efficient Judicial System

The use of ICT by courts will no doubt increase efficiency and improve administration. It will also increase productivity and reduce the duration of procedures thereby saving time and money. Case Management System can be created where administrative and judicial process could be integrated. This will make case management, case tracking, court schedule and instant transcript easier and less time consuming.[19]Electronic filing will ensure the maximum security of court records as well as easy retrieval of same. Deployment of court room technology through the use of court recording and transcribing system, videoconferencing and software for working in collaboration online, etc. will reduce the work load and stress of judges and other judicial officers and also save time.

[18] Marco Velicogna, Justice Systems and ICT: What can be learned from Europe? UTRETCHT L. REV. 3, 129 (2007)

[19] M.D. Abubakar, Application of Information Technology in the Administration of Justice (2019) available at https://nji.gov.ng/wp-content/uploads/2019/03/APPLICATION-OF-INFORMATION-ECHNOLOGY-IN-THE-ADMINISTRATION-OF-JUSTICE-2.pdf (last accessed on Jan. 20 2021)

The application of ICT in the preparation and conduct of their cases will also help lawyers become more efficient.

ii. Promoting Access to Justice

One of the greatest impact of application of ICT in the administration of justice is the promotion of access to justice. The public will be provided with the best information available and a better understanding not only of the way the courts work but also more importantly of the legal instruments available to them to ensure recognition of their rights. There's a stereo-typed perception of our courts and judicial process in Nigeria as being conservative, slow, rigid and secretive. This is as a result of lack of transparency in the judicial process. The public does not understand how it works and consequently, take laws into their hands rather than going to the court and follow the due process of the law. The use of ICT will not only empower, but also educate the public on how to go about enforcing their rights or seeking redress when said rights are violated. The publishing of courts' judgments and rulings will also increase transparency and boost the confidence of the public in the judicial system.

iii. Improved Transparency

The application of ICT in the administration of justice will improve transparency of the way the judiciary works. There will be an improved control of cases and a better qualitative evaluation of outputs. This will help combat the problem of corruption in the Nigerian judicial system. For Nigeria to develop an effective legal sector, it must first subdue corruption and it is believed that ICT can help if it is utilized as a transparency tool to help foster good governance while also exposing corruption.[20]For example, ICT has been used throughout the world for fraud protection. It can also be used to educate and empower the public to act against corruption by teaching them what to look for and giving them the means to report it.[21]

It is clear that technological advancement won't be held back, and judicial powers would do well to understand this and to respond positively to the challenge, putting trust in the incorporation of technologies into their everyday work, especially in a way that is sure to guarantee core legal principles which safeguard democracy, the rule of law and the fundamental rights of citizens.[22]The reform of the management of the judicial process following the widening use of networks is very necessary and in fact compulsory, because legal efficiency and effectiveness are not only requirements but also a fundamental part of the due process.[23]This additionally implies the elimination of unnecessary delays and a more efficient management of the courts.

[20] Halima Doma, Supra
[21]*ibid*
[22]AgustiCerrillo and Pere Fabra, supra
[23]*ibid*

4. Challenges of ICT in the Administration of Justice

There are numerous challenges to contend with in the application of ICT to the Judicial Process in Nigeria. The major challenges are:

i. Obsolete Legislations

Most our statutes are not ICT proactive. In fact, some laws and rules of procedure run counter to ICT regime. These legislations have to be reviewed to accommodate the use of ICT in the day to day operation of the judiciary.

ii. Cyber Crimes

The ICT revolution brought along cyber-crimes like, issues of criminal trespass into another computer, theft of computer data, the use of internet to commit or aid in the commission of fraud which poses a serious challenge to the Judiciary. Also fake imaging and fake videos could be created to mislead the court. There are however, counter measures developed to help combat these issues. For instance, there are firewalls built to protect the system and keep out hackers and cyber-criminals.

iii. High Level of Computer Illiteracy

Majority of the Nigerian population are illiterates, and most of the educated population are computer illiterates. This will frustrate the use of ICT to improve access to justice. However, trainings could be organized from time to time to educate the public on the use and prospects of ICT. Also, the ICT medium used must accommodate the local tastes and customs of the people so that the information is easily understood. As noted by the World Bank, "judicial reform needs to be developed with local culture and traditions in mind, and activities need to be sequenced with benchmarks to show demonstrable quick results."[24]

iv. Lack of Trained Personnel

Most judicial officers and their support staff lack the requisite training to actualize the use of ICT in the justice system. This is as a result of the high level of computer illiteracy in the country. ICT however, is very vital because it will ensure that there are competent staff in the judicial system. It will serve asa useful tool for education, allowing professionals to share experiences, knowledge, and even teach others remotely.[25]

---

[24]Malik, supra note 9 at 5

[25]A.U. Nwabueze and R.E. Ozioko, Information and Communication Technology for Sustainable Development in Nigeria, University of Nebraska Lincoln (2011), available at digitalcommons.unl.edu/libphilprac/600 (last accessed on Jan. 19, 2021)

v. Inadequate Funding

The provision and maintenance of ITC infrastructure and equipment is capital intensive. The Nigerian Judiciary, particularly in the States, lack the resources to undertake the venture.

Some other challenges include; our poor maintenance culture, erratic power supply and poor capacity building.

5. Conclusion

There is no doubt that the application of ICT to the Nigerian legal system has some challenges, most of which has to do with the failure of the profession to fully embrace IT and direct for the development of ICT jurisprudence. With the world becoming a global village as a result of ICT revolution, the Nigerian Judiciary cannot afford to be left out. Though the challenges of ICT application in the judicial process are enormous, they are not all together insurmountable.

All jurisdictions across the country should be provided with ICT infrastructures and equipment. Stakeholders in the justice sector must be ready, determined and committed to embrace the ICT regime and ensure the adoption of E-Judiciary with modifications that will suit our local tastes and customs.

It has been shown that ICT can be used to combat the problems facing the administration of Justice System in Nigeria. It will undoubtedly improve the quality of organization and effectiveness by moving the judiciary away from the current paper based approach and by connecting the nation's lawyers and judicial system online. ICT will also ensure a transparent judiciary and improve access to justice. it will also facilitate distant learning that will enable judges, lawyers and other support staff to keep up to date with legal developments and global trends. ICT will increase staff competency and improve the spread of knowledge and information. The advantages of ICT especially in the administration of justice cannot be overemphasized.

However, there is an urgent need for a very robust legal and regulatory framework that will accommodate the increasing nature and advancement of ICT. There is equally the need for data protection and privacy laws to curtail the extremes of ICT.