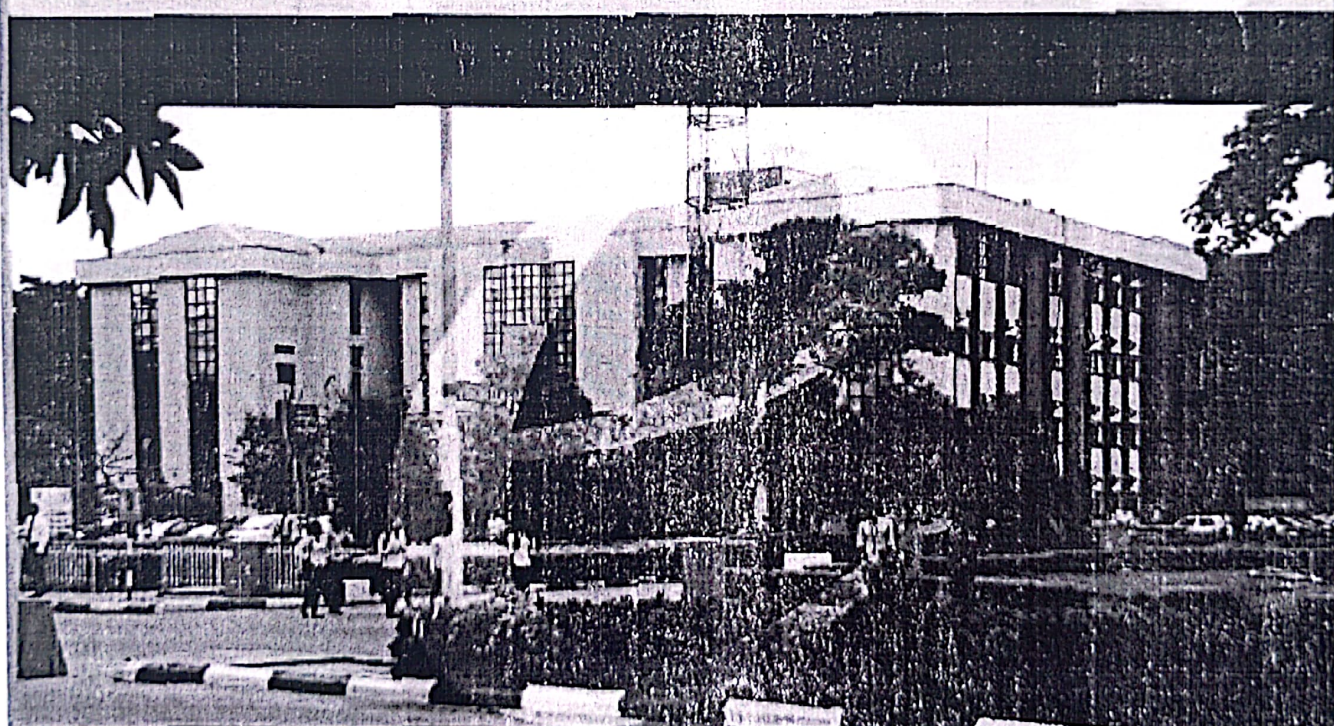


ISSUES AND CONCEPTS OF E-GOVERNANCE IN NIGERIA - A READER



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CHAPTER THIRTEEN

E- Path to Effective Justice Delivery: The Nigerian Courts in Perspective

Adelowo Stephen Asonibare & Halimat Tope Akaje

Introduction

The world as a whole, Nigeria inclusive, is a dynamic one and, as the world moves on, it changes shape and perspective. Where the situation is such that every other thing gets sharpened by the dynamism of the society, the courts and its arbiters ought not to be left behind even if they are not at the forefront of the movement for change. As Yusuf (2010) notes, "a law that does not change with the society which it was meant to regulate becomes relevant only for the people that lived in yesteryears and not the present day people, thereby leaving people in the present completely without a law" (p. 129). The increasing nature and advancement of information and communication technology (ICT) due to technological innovations unfolds a new opportunity to significantly improve justice delivery, thereby proffering solutions to the nagging issue of delay in justice delivery in the Nigerian courts which is associated with the conventional method. Undoubtedly, the use of ICT will enhance rapidity, accessibility, accountability and transparency, with the resultant effect of helping the judiciary to provide adequate and quality services.

The availability of web services, the possibility of consulting on-line legislation and case law, the use of electronic filing, the electronic exchange of legal documents, are only some examples that are spurring the judicial administration around the world to rethink their current functions and activities. ICT can be used to enhance efficiency, access, timeliness, transparency and accountability, helping the judiciary 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 its legitimacy (Velicogna, 2007).

Considering the importance and nature of the judiciary as an arm of the government, due process, impartiality and independence should be carefully taken into account (Velicogna). The adoption of electronic means to aid justice delivery cuts across e-filing, e-probate, e-archives, e-recording and so on. E-justice system will enhance minimum use of paper from the moment

a case is filed until its disposal. It will make information to be captured and passed on digitally, data exchange will not be fragmented and case histories will be completed and ready on demand. With e-justice system, case management will be automated, correspondences will be exchanged electronically, payments of fees will be made through dedicated websites and forms that simplify and streamline court proceedings will be available to court users online (Vilquin & Bosio, 2015). Following the electronic path will also reduce storage space and facilitate easier archiving of documents. It is important to note that in Nigeria, the adoption of e-justice has not gained much prominence. An attempt was made in 2013 by Lagos state to introduce same, but not much has been done in respect of it. However, the adoption of electronic justice in Nigeria presents its challenges; this is due to the fact that the infrastructures and measures that will facilitate its smooth usage are not substantially available. Issues like epileptic electricity power supply, lack of IT skills, and virus/hackers are part of the constraints to electronic justice in Nigeria. Despite these constraints however, the Nigerian justice system cannot very well play the ostrich as other societal processes are becoming automated and digitalized. This is why we explore in this chapter the implications of the advances in ICT for the justice system in the country. But first, we present an overview of how the Nigerian process itself works to understand how digitalization can facilitate it. While the notion of justice is universal, we cannot assume that its execution is the same everywhere.

Conventional Method of Justice Delivery and its Constraints

It is pertinent to state that the judicial proceeding starts long before a case reaches the courtroom. The administrative personnel of the courts file and keep registers and documents in compliance with codes of procedure, laws and regulations. For example, a civil action is commenced when a plaintiff (or a plaintiff's lawyer) files a writ of summons or a plaint with the clerk of court in any manner prescribed by law, while a criminal cause is commenced by preferring a charge or filing information, as the case may be. Series of actions are linked to such procedures, such as the collection and formal control of the filed documents by the clerk, the documentation at the time of collection, the registration on a court register of the event and the issuance of a receipt. All these actions require time and resources (Vilquin & Bosio, 2015)

Parties sometimes may be dissatisfied with decision(s) reached by the court in the course or at the end of the proceeding and consequently decide to go on appeal. To start with, such party is expected to file a notice of appeal within the time prescribed by the rules; after which the record of appeal is expected to be compiled and transmitted to the appellate court. Such appeal would not be deemed to be properly before the appellate court until the

record of appeal has been properly transmitted. This position has been restated through a plethora of decided cases. For example in *Governor of Zamfara State & 3 Ors v Alb. Suleiman Moh'd Gyalange & 12 Ors*, 2013: 848, Paragraphs F-G, the Supreme Court dismissed an appeal for failure to compile and transmit the records. (See also *Shodehinde & Ors v The registered Trustees of the Ahmadiyya Movement -in -Islam* (2001) FWLR (58) 1065@1073, Paras B-C.) It is to be noted that the conventional method of justice delivery makes it practically difficult to compile such record within the stipulated time (absence of court personnel, sometimes the litigants would have to tip the court officials to fast-track the work). For instance, a valid record of appeal is expected to contain the judgment of the trial court which may not be available on time as a result of administrative lapses. Also, by conventional method, a litigant may wish to apply for a copy of court proceedings, rulings or judgment. The usual method is to apply to the court through the court's Registrar. Notwithstanding the purpose for which such document is needed, the applicant will have to wait for such to be prepared (typed, proofread and re-typed) having paid the necessary fees. This unfortunate scenario and unwarranted delay are the routine in the Nigerian justice system.

In relation to probate, an applicant/petitioner for the grant of probate or letter of administration of the estate of a deceased person will apply to the Probate Registrar at the High court. Such an applicant will have to personally complete certain forms manually and return same to the probate Registry. These forms are: application for grant of probate/letter of administration, inventory, schedule of debts due by the deceased and schedule of funeral expenses, oath for executors/administrators, bank certificate and affidavit of freehold/leasehold property left by the deceased. After the forms are returned, the probate registrar is required to calculate and assess the estate duty payable on the real and personal properties of the deceased. Whatever sums arrived at after calculation and assessment will be paid by the legal representatives of the deceased before probate/letter of administration can be granted (Fashakin, 2007). The procedure does not end upon completion and return of the said form to the probate registry. For instance, where the deceased has bank account(s), the applicant will have to come back to the probate registry to personally collect a letter for onward delivery to the bank to confirm the status of the said account(s). All these processes are cumbersome and time consuming. They increase the use of papers, time spent and cost of service of processes. This is because, all the court processes are filed and served on papers. A litigant or lawyer may be precluded from filing his or her case where court personnel in charge are not available. The cause lists and other register books of the court are also placed in the clerk's offices and just one office worker at a time can work with it.

Indeed, officials in some courts have made it a tradition not to allow filing of court processes beyond 2 p.m. They can also deny litigants access to the

registry to file processes once it is 2pm, a convention not provided for in the rules of Court. The implication is that filing of processes becomes impossible even where the litigants come from a far distance thereby frustrating many cases. The conventional method is characterized by inadequate working tools. Judicial officers still write with pens in long hands. They have not kept pace with developed countries of the world which make use of electronic equipment to record court proceedings. Since writing in long hands is slow and tedious, it in turn slows down the administration of justice and is prone to errors (Olopade, 2004).

The system is also hampered by inadequate manpower. As a result of cumbersome method in conducting activities in the Nigerian courts, the number of judicial officers to man the court does not match the large number of cases before them. The problem here in the actual sense is not that of manpower, but the system adopted, hence, the need for digitalizing.

The issue of insecurity of court documents is another serious concern. Most court documents are kept manually and as a result, they are not well secured. A fire incident can destroy all the documents and there would be no back up for such. It is also easier for anybody (Court's Staff inclusive) to tamper with some vital documents and such can be fatal to the smooth administration of justice. Although, some judges now adopt the system of having a complementary file wherein extra court processes are being kept in the event of loss of the original file, such additional files are not safe because they are still kept manually in the same court premises. In addition, there are cases of loss of old case files which makes retrieval of judgments or proceedings difficult after some years.

Furthermore, lack of transparency is also associated with the method because only the trial judge, litigants and counsel have access to the case file. Interested parties may be denied access. More so, it is easier for court documents to be tampered with, for example, where a counsel files a defective process and the other counsel had filed an objection to such process upon being served, it is possible and even common nowadays for the counsel who filed such defective process to withdraw such from the court's file and exchange same with a proper process with the connivance of the court's clerk without the knowledge of the judge and the other counsel who will be taken by surprise whenever he or she moves the objection. In addition to these constraint are the issues of inadequate and dilapidated court rooms, inadequate funding, and poor condition of service (Olopade)-all of which may or may not be addressed by the integration of ICTs in the administration of justice.

Advantages of Digitalization of Court Processes

Without being overly technological determinist, we argue that technology can solve many of these problems. As occurs in many other sectors, ICTs facilitate transparency, security, access to information, values that are most vital to the administration of justice in any society. We will review each of these advantages.

Transparency: Adopting electronic system will foster transparency in the delivery of justice by making the decided cases available and accessible to the public. This allows lawyers and court users to better understand case laws and it increases legal predictability. It also helps in putting judges on their toes and more accountable because anyone can comment on and assess the quality of their decisions. In the United States of America, case information including docket sheets and filed documents, are provided online for viewing and downloading by attorneys and the public at any time from locations other than the court house (Vilquin & Bosio). Although, something similar is in operation in Nigeria, as there exist some private ICT companies (e.g. Law Pavilion and Legalpedia) whose primary business is to make judgments delivered by superior courts available online immediately upon delivery. In addition, it is not an overstatement to say that corruption has crept into every facet of the Nigerian system and the Nigerian judiciary is not an exception. Some businesses, if not all, are becoming increasingly difficult to transact in court without first having to give court officers some money. Electronic system will help in reducing corruption where the conventional method is streamlined and lawyers and parties file fewer documents in person. There will be less influx or traffic in the court's registry, thereby reducing opportunity for bribery. Of no less importance is the fact that the issue of sharp practices will be reduced if not totally eradicated.

Security of Court Documents: The adoption of electronic method will enhance adequate security of court documents such as processes, record of court proceedings, rulings, judgments and other vital documents. Risks such as loss of documents, cases of missing files and archives destruction can be significantly reduced or eliminated (Vilquin & Bosio). The use of a central database for storage of documents will improve the security and confidentiality of archives. It would also be easy to restrict access to the archives to authorized persons, though that also has the potential of creating demi gods out of the gatekeepers thus defeating the goals of transparency and free access to court documents. Digitalizing is expected to facilitate easier and faster round the clock access to information. With the nature of electronic method, one can access any information from anywhere and anytime. Electronic retrieval of archives will be easier. Litigants and counsels

could apply for court's judgments, rulings and court proceedings regardless of how old the case was.

Cost- and space- saving: Electronic method guarantees cost reduction in terms of money spent, time and energy used. For instance, transportation costs will reduce drastically. It will enhance minimum use of paper from the moment a case is filed until its disposal. Less time will be used in conducting activities in court because most work is done online. Lawyers will no longer have to dissipate energy in going to courts and as well as exchanging processes manually. The electronic path will save space by eliminating expensive and expansive storage spaces. All documents and archives will be electronically stored and the government will not have to build magnificent storage facilities for court archives. Even by comparison, 150 gigabytes hardware has storage capacity equivalent to 70 filing cabinets (Vilquin & Bosio). Most Nigerian courts, especially lower courts now have to keep some of their files in cabinets outside the courtroom as a result of lack of space, hence the need to go the electronic way.

Quick Dispensation of Justice: Undoubtedly, there are some inherent delays associated with the conventional method(s) which ordinarily are avoidable when electronic path is adopted. For instance, administrative bureaucracy; loss of documents (occasioned by fire incidence and other unforeseen circumstances) in the court files which entails the court having to improvise. While all these are going on, the cases are stalled and the litigants have no option but to wait irrespective of the urgency of their cases. The quick dispensation of justice is not limited to litigation alone. Even in the area of probate, the use of electronic probate will enhance quick grant of probate/letter of administration. The system will enable applicants to complete and submit necessary forms electronically and the probate registry will be able to make a quick decision.

Notwithstanding these advantages however, the workability of the electronic system in Nigeria has its own constraints a major one being the epileptic electricity supply. The state of electricity in the country has affected almost all facets of Nigerian economy including the courts. It will also affect the success of the adoption of electronic method in Nigerian courts, since most ICT infrastructure depend on electricity to function. There is also the problem of lack of IT skills. From observation, it appears that many judges, lawyers, courts staff, and staff of law offices lack IT skills. It is possible that they did not have the opportunity to be trained in ICT while in their various tertiary institutions. Given how long it takes to become a judge, for instance, current judges probably went to school at a time when computerization were not so pervasive in the society.

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Other constraints include network dysfunction, virus and hackers, inadequate or relevant legal and regulatory framework and funding. While the

telecommunication sector has made enormous progress in recent years, there are many connectivity issues particularly concerning the Internet. The success of a digitalized justice system will depend the availability of good Internet connection. However, the network in Nigeria is such that even in the cities, one may not have Internet access as a result of network fluctuation. Then there is the issue of network security which is often sabotaged by viruses and hackers. There are more than 50,000 different types of computer viruses, Internet malicious program and Trojans (Goyal, Pandey & Batra). These viruses can be introduced into a court's website or the database with the intention to destroy vital information. A major obstacle to the implementation of e-justice in Nigeria is really the legal and regulatory framework which has been slow in catching with advances in ICT. The relevant laws and rules of court in Nigeria are not fashioned for the electronic system. Most of the extant laws were made several years back and they do not envisage ICT innovation. Most of the various rules of the courts which are meant to regulate proceedings in courts are not better either. However, quite recently, Section 84 of the Amended Evidence Act, 2011 has now recognized computer generated documents. Unfortunately, by the same said Act the requirement for the admissibility of such documents is quite cumbersome, and this in a way still makes for a setback on the issue of electronic evidence. There is a more recent development in the Court of Appeal (Fast Track) Practice Directions 2014. On electronic service and signatures, Paragraph 14 of the said Practice Directions provides thus:

- A requirement that a document should be signed is satisfied if the signature is printed by computer or other mechanical means.
- A document served by electronic means is deemed to have been signed by the person who owns or subscribes to the electronic source account if its signature appears on the document or its cover message as the sender.
- Examples of electronic source accounts are email addresses and fax numbers.

Inadequate Funding: There is no disputing the fact that resources at the disposal of the government are limited. The judiciary as the third arm of government competes with the other two arms (legislative and executive) in relation to provision of funds to execute its projects. Over the years, the judiciary has not been given the necessary priority by successive governments in terms of funding (Olopade, p.11). This poses a serious challenge to the realization of the electronic method, because the implementation of ICT will involve huge funds for procurement of infrastructure, training and re-training of judicial staff. There has been serious agitation for judicial autonomy in recent times and one of the arguments for this protest is due to poor funding

of the third arm of government. It is expected that judicial autonomy will guarantee its adequate funding.

Conclusion and Recommendation

Although, Nigeria is a developing country and as such, is not yet advanced in ICT innovation, but such may not prevent the adoption of electronic method of justice delivery. The electronic method will facilitate transparency, security of court's documents, and quick dispensation of justice, among other benefits. However, the successful implementation and adoption of electronic method may be challenged by epileptic electricity supply, network dysfunction, lack of IT skills, and absence of relevant legal framework.

The starting point in the bringing technology to the court system may not be in acquiring computers and Internet subscriptions. The first would be to work on the electricity, a sector that affects every sector in Nigeria. Everyone needs electricity to perform effectively. The next step would be in the driving IT literacy. It may require a policy or condition for entry to the profession for lawyers and other judicial workers to have some ICT proficiency perhaps by taking an on-the-job courses and passing a test or taking classes in a classroom environment. Training in ICT could be incorporated into various programmes organized both by the Nigerian Bar and the Bench. This is achievable, for instance, through the inclusion of same as one of the courses to be taken during the mandatory continuing legal education. When more members of the judiciary are ICT literate, amending the various laws and rules to accommodate electronic method will not meet much resistance from the practitioners.

As the court system begins the gradual digitization of its processes, it is hoped that the other obstacles will be addressed. Indeed, these obstacles such as poor connectivity, cybersecurity, cost (to users) and funding are not unique to the judiciary sector. There are the general factors that may hinder the application of ICTs in all sectors of the society and economy if they are not addressed by the various stakeholders – government, private sector and civil society.

References

- Fashakin, Y. (2007). Probate and Administration of Estate. In Afolayan A.F. & Okorie, P.C. (Eds.), *Modern Civil Procedure Law*. (pp 529-562). Lagos, Nigeria: Dee-Sage Nigeria Ltd
- Governor of Zamfara State & 3 Ors v Alh. Suleiman Moh'd Gyalange & 12 Ors (2013) ALL FWLR. (658)821@848, Para F-G,
- Goyal, V., Pandey, U.S., & Batra, S. (2012). Mobile Banking in India: Practices, Challenges and Security Issues. *International Journal of Advanced*

Trends in Computer Science and Engineering, 1,56-66. Retrieved from <http://www.warse.org/ijatcse/info.html>

Olopade, O. (2004). Access to Justice- Factors militating Against and Solutions Thereto (A paper presented at the 18th international conference of the international society for the reform of criminal law-keeping justice system just and accountable: A principled approach in challenging times, at Hotel Omni Mont-Royal, Montreal, Quebec, Canada, from 8-12 August. Retrieved from <http://www.isrcl.org/papers/2004/2004/Olopade.pdf>

Shodehinde & Ors v The registered Trustees of the Ahmadiyya Movement – in –Islam (2001). FWLR (58) 1065@1073, Paras B-C.

Velicogna, M. (2007). Justice Systems and ICT: What can be learned from Europe? Retrieved from <http://www.utrechtlawreview.org/Volume3issue1>.

Vilquin, J. & Bosio, E. Improving court efficiency: the Republic of Korea's e-court experience. Retrieved from <http://www.doingbusiness.org/~media/GIAWB/Doing%20Business/Documents/Annual-Reports/English/DB14-Chapters/DB14-Improving-court-efficiency.pdf>

Yusuf, O.A. (2010). The Nigerian Evidence Act & Electronically –Generated Evidence: A Need to Fast Track the System. *Contemporary Issues in the Nigerian legal Landscape*. A Compendium in Honour of Prince Lateef Fagbemi, SAN. pp. 66-99