

ELECTRONIC CASE MANAGEMENT SYSTEM AND ADMINISTRATION OF JUSTICE: EXPANDING THE FRONTIERS OF CASE MANAGEMENT TO MEET 21ST CENTURY JUSTICE NEEDS IN NIGERIA

By

Dr. C. O. Oba*

Abstract

The 21st Century is a technology driven age and for the Nigerian judiciary to overcome the myriads of problems bedeviling its case management system ranging from delay in administration of justice to lack of transparency and public confidence, it must embrace technology. This paper found that although the need to overhaul Nigeria's judicial architecture had been obvious and several steps which had not achieved the level of results needed had been taken in the past, the Covid-19 pandemic acted as a catalyst to awaken stakeholders in the sector to the stark reality that the Nigerian judiciary was fast nose diving into irrelevance and public odium. It changed the narratives from adherence to stereotypes and rigid approaches to the challenges to possibilities of embracing innovative and effective electronic case management systems and virtual court hearings capable of putting Nigeria in the map of global relevance in justice delivery. The work posited that adopting and implementing an electronic case management system that integrates the operations of relevant institutions in the justice delivery sector and virtual court hearings in suitable cases will reposition the judiciary and put it on a prime pedestal where it can compete favourably with other judiciaries in the world.

Keywords: *Electronic Case Management System, Virtual Court Proceedings, Nigeria, Justice Sector, ICT.*

* PhD; BL; Director of Academics, Nigerian Law School; Email: caroline.oba@nigerianlawschool.edu.ng

1. Introduction

The Covid -19 pandemic, which took the whole world by surprise, brought about a situation where nations of the world had to lockdown various components of their social-economic life and the justice sector was not spared. With the passage of time, it became evident that the situation was not likely to change within a short period. The need to continue rendering services in the midst of the pandemic came to the front burner. One of such sectors where there was need to continue to deliver services to the public was the justice sector. The need to dispense justice cannot be put on hold. The enforcement of fundamental rights of citizens, the right to personal liberty of persons held in detention for one alleged crime or the other, prison inmates awaiting trial and conclusion of their trials or appeals, litigants waiting for the determination of their dispute to enable them know the next step to take, the list is endless. These cannot be put on hold indefinitely. There has to be a way for the justice sector to run even in a pandemic. For some nations of the world, this did not pose much of a challenge. This was because the structures needed to continue to deliver justice despite the pandemic were already in existence. Many of these countries had leveraged on the use of technology to enhance justice delivery. The areas where the judicial sectors of some countries have used technology for more effective justice delivery germane to this work are electronic case management and virtual court proceedings. Electronic case management is a technology enhanced case management system while virtual court proceeding is the conduct of a court proceeding in electronic media platforms like Zoom, Google Meet, Microsoft Team, Skype and other audio or visual platforms.

The judicial sectors in some countries of the world are yet to embrace technology enhanced case management system and virtual court proceedings and were caught unprepared to deliver justice in the wake of the pandemic. Emergency responses had to be taken to salvage the situation and save the judiciary from a situation of total

failure to deliver on its mandate. Nigeria is one of the countries that were caught napping by the pandemic situation.

This paper set out to examine the prospects and challenges of adopting and implementing in Nigeria an electronic case management system and virtual court hearings that synergizes the operation of all segment of justice delivery in Nigeria ranging from the police, the court, the correctional centers, etc. The paper is divided into six parts. Part two discusses the current prevailing method of case management in Nigeria ranging from filing of cases down to execution of court judgments. This part also discusses the current prevailing ways court proceedings are conducted. It further discusses the challenges bedevilling these current systems. Part three examines attempts before the coronavirus pandemic at introducing an electronic case management system in some courts in Nigeria. Part Four examines the prospects of using an electronic case management system and virtual court proceedings to enhance justice delivery in Nigeria. Part five discusses the likely challenges to the effective implementation of an electronic case management system and virtual court proceedings in Nigeria. The author concludes the paper and makes recommendations on how to effectively deploy electronic case management and virtual court proceedings methodology in the Nigerian judicial system in part six. The posture of this work is that when these recommendations are carried out, it will properly position the Nigerian judiciary to meet the justice needs of the nation in the 21st Century.

2. Case Management and Conduct of Court Proceedings Before Covid-19 Pandemic in Nigeria

In most courts in Nigeria prior to the coronavirus pandemic, case management was generally manually done. A party files court processes by taking the documents physically to the registry of the court where the matter is to be filed. The procedure from accessing of the documents for appropriate filing fees to the service of the

documents on all relevant parties by the designated court officials are manually done.

Where a party wants information on the position of a case filed at this stage, the party would have to go to the registry to make enquiries. The next stage is for the case to be assigned to a specific judge. The head of the court¹ or the administrative Judge in a particular judicial division is in charge of assigning cases. At this point, the parties get information about the case from the Registrar of the Judge to whom the case is assigned by either going physically to the registry or placing a call through. Sending of hearing notices are done physically. After judgment is given in a case, the parties apply to obtain hard copies. This also applies to records of proceedings to prosecute any intended appeal.

Specifically, for criminal matters, from the arrest of the suspect by the police, filing of the charge/information by the prosecutorial authorities, arraignment and subsequent incarceration in the correctional center in the case of a person convicted, there is no central data-sharing platform for the different institutions involved. Where the court needs to have an accurate data of inmates serving time and those awaiting trial at the various correctional centers, it will have to depend on the authorities at the Correctional Centers to provide such information which may take months to obtain. The situation is the same at the various police cells where information about the number of suspects detained and the length of time they had spent is not compiled in a coordinated and transparent manner. To try and put some semblance of normalcy to the chaotic situation that can only be the end product of the situation in the correctional centers, the Chief Judges of States in Nigeria and the FCT, Abuja

¹ The Chief Judge of the Federal High Court, the Chief Judge of the High Court of the Federal Capital Territory, the Chief Judge of High Courts in the various states in Nigeria, etc.

are empowered to conduct prison visits. ²At such visits, inmates who are awaiting trial and have spent close to or more than the time they would have spent if they were convicted of the offence alleged against them are released and set free, those incarcerated for a long time without any charge brought against them are also released pending when charges are brought. As helpful as this procedure is, its impact is infinitesimal in the sea of the problem of prison decongestion occasioned by the poor case management technique deployed by the justice sector.

With regards to conduct of court proceedings, the Constitution of the Federal Republic of Nigeria requires that the proceedings of any court or tribunal in Nigeria including the announcement of the decisions of courts or tribunal be held in public. ³Although, the term public is not defined by the constitution, it has been held that a court proceeding is held in public when members of the public are allowed unhindered access to the courtroom. ⁴This presupposes the existence of a courtroom in a physical building. As a result, the conduct of court proceedings is done in a physical building wherever the court decides to sit. Parties, their legal representations, witnesses and the court officials must all be physically present in the courtroom to satisfy the constitutional requirement. It must be noted that the Nigerian Constitution makes provision for exceptions to proceedings being held in public in certain criminal proceedings which includes where the interest of defence, public safety, public order, public morality will be served or the welfare of persons who have not attained the age of 18 years is in issue, or the protection of private lives of the parties is concerned.

² Criminal Justice (Release from Custody) (Special Provision) Act Cap C40 Laws of the Federation of Nigeria (LFN) 2004, Section 1.

³ Constitution of the Federal Republic of Nigeria 1999 (As amended), Section 36(3)(4).

⁴ *Oviasu v Oviasu* (1973) 11 SC 315, *Edibo v State* (2007) AFWLR (Pt 384) 192.

The foregoing case management procedure and conduct of court proceedings in Nigeria have its associated challenges. These have bedeviled the Nigerian judiciary for a long time and contributed greatly to the disillusion of consumers of justice delivery in the country. Chief amongst the challenges is that it occasions undue delay in the administration of justice. Parties have to travel long distances and spend enormous amount of time to file court processes. A lot of time is also wasted in the process of assigning the cases to judges who will hear them. There is delay in communications between litigants and the registry of the court and impede the time for necessary action to be taken. It can take months between when a matter is filed and when the case file is assigned to a judge. This can be quite frustrating for litigants. Court proceedings are adjourned severally to enable witnesses who are public servants including prosecutors who have been transferred from jurisdictions where the case is heard to other jurisdictions to attend court hearings. Simple applications such as applications for order of substituted served that could have been heard and granted with a telephone call put to the Judge can take months to be heard and granted because the court had not been able to physically sit for one reason or the other. Service of court processes can also drag on for months as the process server may have difficulties reaching the party to be served.

There is the issue of corrupt practices in the physical filing of court processes. This ranges from allegations of inserting earlier dates on processes, tampering with case files, proof of service without actual service, etc. This has created a lot of distrust for the system. This is because well managed records serve as control mechanisms that reinforces auditing processes and invariably provide a track record to identify any irregularities that could undermine the credibility of a system.⁵ There are also issues with accountability in the revenue from payments of filing fees. Some courts tried to solve the issue of

⁵ M. Palmer "Records Management and Accountability Versus Corruption, Fraud and Maladministration Records Management Journal 2000, Vol 10 No 2, 61-72.

accountability with payments of filing fees by directing that payments be made in designated banks and the payment tellers produced as evidence of payment.

As earlier stated, there were attempts at addressing some of these challenges in some courts. For example, the Lagos State judiciary made efforts to introduce e filing but this did not appear to have been fully implemented before the coronavirus pandemic. The Supreme Court of Nigeria has also made efforts in this regard. These will now be discussed in the next segment.

3. Attempts to Introduce Electronic Case Management in Nigeria Before Covid-19 Pandemic

In Nigeria there have been attempts at introducing some form of electronic case management system in the justice sector. In 2013, Lagos State in the South Western part of Nigeria and the legal hobnob in the country launched the electronic case filing system. The E filing system introduced by Lagos State in 2013 set the ball rolling for electronic filing of court processes in Nigeria. Under this system, a lawyer takes his prepared processes to the appropriate section of the High Court registry. There the processes are assessed and the appropriate filing fees are paid after the processes have been stamped by the registrar and the Commissioner for Oaths where it is necessary. The processes are then taken to the E filing section where they are scanned and uploaded electronically. The first time a lawyer is uploading processes electronically, a username and password is provided for the lawyer or the law firm the lawyer represents. The lawyer with this information can through the portal of the website of the Lagos State judiciary monitor the progress of his case from start to the end. Under this system, the court communicates with the litigants and their legal representatives through emails and text messages. This system in my view appears to be a hybrid of both manual system of filing court processes and an electronic filing system. This is because, the litigants still have to take the processes

physically to the courts registry and file them before they are scanned and uploaded on the courts portal. Like every new innovation, this system encountered several challenges. There was no capacity building of the judicial staff and legal practitioners that are required to drive the process and most persons in this category were not IT savvy. The process was unduly slow before many of the stages where is still manually driven. Stages such as payment of filing fees, assessment of court processes by the designated officers, and assignment of cases to judges were manually done. Internet connectivity in Nigeria is still at the budding stage and this invariably slows down the process. Moreover, stable power supply is still a mirage in Nigeria and this affects negatively any electronic process.

The Supreme Court of Nigeria on its part on the 2nd of February 2018 launched an electronic mailing system called the Supreme Court E-mail Communication System (SECS) and gave a deadline of July 18, 2018 for physical filing of court processes at the Supreme Court. This mailing system allows litigants and their counsel file and serves their processes online without the necessity of a physical visit to the registry of the Supreme Court. Despite the deadline given for the take of this initiative, for a long time afterwards, processes at the Supreme Court of Nigeria are still being filed manually. The closest to electronic case management at the supreme court of Nigeria is that counsel filing matters before the court are required to supply their legal email address on the process submitted for filing for the purpose of service of hearing notice.⁶

In addition, there are provisions in the recent civil procedure rules of some court that enhances electronic case management in certain respect. The High Court Civil Procedure Rules of the Federal

⁶ C Unini ‘Supreme Court notice on legal email system registration to lawyers having cases with the apex court’ (16 August 2018) the Nigeria lawyers available at < <https://www.nigerialawyer.com>> accessed on 28 September 2020.

Capital Territory, Abuja 2025 allows for service of processes other than originating processes to be served by email where the parties are represented by counsel.⁷ It also allows for substituted service of court processes by email or any other electronic means that the court may consider appropriate.⁸ In addition, the High Court Civil Procedure Rules of the Federal Capital Territory, Abuja provides that hearing notices may be served on parties by email, Telegram, WhatsApp, SMS and/ or any electronic means that the judge approves.⁹ On its part, the Lagos High Court Civil Procedure Rules 2019 make provision for substituted service by way of electronic mails and hearing notices to be served by mail or SMS.¹⁰ The courts have also given judicial backing to service of processes through text messages. In *C.M. & E.S. Ltd v Pazan Services Nig. Ltd*¹¹ the Supreme Court of Nigeria held that based on the technological age we are in, it will be foolhardy for parties in an action to insist on receiving hard copies of hearing notices before they can be said to have been served with such notice. The Supreme Court of Nigeria went further to hold that once the parties receive the notice through the phone numbers submitted by them to the court, it is sufficient service of such notice.

In the administration of criminal justice, recent procedural legislations have introduced some form of case management procedure. For example, the Administration of Criminal Justice Act (ACJA) 2015 which is an Act of the National Assembly of the Federal Republic of Nigeria applicable to all federal courts there are specific case management provisions. Section 15 (1) ACJA provides that where a suspect is arrested whether with or without a warrant and taken to the police station or other arresting agency, specific information of the suspect shall be recorded in a prescribed form.

⁷ The High Court Civil Procedure Rules Abuja, 2025, Order 9 Rule 16.

⁸ The High Court Civil Procedure Rules Abuja 2025, Order 9 Rule 11 (2)(d).

⁹ The High Court Civil Procedure Rules Abuja 2025, Order 9 Rule 17.

¹⁰ The High Court Civil Procedure Rules Lagos 2019, Order 9 Rule 5(1).

¹¹ (2020) 1 NWLR (Pt 1704) 70 SC.

These information include, the offence the suspect is alleged to have committed, the date and circumstances of the arrest, the full name, occupation and residential address of the suspect, his height, photograph, full fingerprints impressions or any other means of identification. The information must be recorded within 48 hours of the arrest of the suspect.¹² Any further action in respect of the suspect is entered in the record of arrest.¹³ ACJA also established at the Nigerian Police a Central Criminal Records Registry and at every state police command a Criminal Records Registry, which shall keep and transmit all such records to the Central Criminal Records Registry.¹⁴ A duty is placed on State police commands or that of the Federal Capital Territory (FCT), Abuja as the case may be to ensure that the decisions of courts in criminal trials are transmitted to the Central Criminal Records Registry within thirty days of such decisions.¹⁵ An officer in charge of a police station or agency authorized to arrest is under obligation to make a report to the nearest Magistrate of all cases of suspects arrested without a warrant stating whether the suspects have been admitted to bail or not. This report is to be made every last working day of every month.¹⁶ On receipts of this report the Magistrate forwards them to the Criminal Justice Monitoring Committee who upon analysing the reports shall advise the Attorney General of the Federation as to the trends of arrest and issues associated with it. This report shall be available upon request to bodies like the National Human Rights Commission, the Legal Aid Council or non –governmental bodies. Where there is failure on the part of an officer in charge of a police station to make this report, the Magistrate shall forward a report to the Chief Judge of the State or FCT, Abuja and the Attorney General

¹² ACJA 2015, s 15(2).

¹³ Ibid 15(3).

¹⁴ Ibid 16 (1)(2). This provision has been replicated in the Nigeria Police Force (Establishment) Act 2020, Section 67(1)(2).

¹⁵ ACJA 2015, s 16.

¹⁶ ACJA 2015, Section 33. This provision has been replicated in the Nigeria Police Force (Establishment) Act 2020, Section 69.

of the State or Federation as the case may be. The law also requires the Chief Magistrate or any Magistrate designated by the Chief Judge for the purpose within a police division to at least every month conduct an inspection of police stations or other places of detention within the Magistrate's territorial jurisdiction other than the correctional center.¹⁷ The Magistrate conducting this inspection is empowered to call for and inspect the record of arrests, direct the arraignment of the suspect, where bail had been refused by the police grant bail where appropriate. The officer in charge of the police station been inspected is under obligation to make available to the inspecting Magistrate the full record of arrest and bail, applications and decisions on bail made within the period and any other facility that the inspecting Magistrate may require. Where the arresting body was an agency of the Federal government other than the police, the inspection shall be undertaken by a Judge of the High Court. Failure of an officer in charge of a police station or arresting agency to make available the required information is treated as misconduct, and such officer shall face disciplinary action.¹⁸

Despite these attempts at case management in Nigeria, not much of the desired effects appear to have been made. The prosecution of cases still take a long time to conclude, urgent applications are not dispensed with the speed needed, the correctional and detention centers are still overcrowded, there is no synergy between the various institutions in the justice sector, collection of data is done manually and this take a lot of time to achieve and is not done transparently as it should and there is a general dissatisfaction with the justice sector. There is an obvious need to rejig the system for better efficiency and result. The disillusion and frustration of consumers of the justice delivery system is palpable. The popular cliché 'that the judiciary is the last hope of the common man' was

¹⁷ ACJA 2015, Section 34. This provision is replicated in the Nigeria Police Force (Establishment) Act 2020, Section 70 (1)-(4).

¹⁸ ACJA 2015, ¹⁸ Sec 34 (5). This provision is replicated in the Nigeria Police Force (Establishment) Act 2020, Section 70 (5).

being replaced with new ones such as ‘the common man is the last hope of the judiciary’. However, despite this obvious need, there appears to be apathy on the part of the drivers of the sector to take deliberate and concrete steps to address these issues. The coronavirus pandemic served as the needed thunderbolt to wake them up from the seeming slumber. Some emergency steps had been taken to address some of the issues during the long down period and in the next part these steps will be discussed with a view to x-raying their impact and the need for a more comprehensive and futurist approach.

4. Prospects of Electronic Case Management and Virtual Court Proceedings in Nigeria

The dynamism of the world we live in has brought about changes that make for faster, easier and more efficient ways of doing things. Information technology in the 21st century has changed the way things are done in practically all spheres of life all around the world, Nigeria inclusive. The need to improve the effectiveness and efficiency of the judicial system has necessitated the use of modern information and communication technology (ICT). As earlier mentioned the conventional method of justice delivery in Nigeria is marred with avoidable delays in the dispensation of justice, corruption, forgery, tampering with case files, lack of accessibility of court records and general lack of transparency. It is the position of this work that embracing and integrating ICT into the justice delivery system in Nigeria can to a great extent solve these problems.

It must be noted that the concept of electronic case management and virtual court proceedings is not novel to the world. Long before the coronavirus pandemic, some countries have incorporated electronic case management systems and virtual court proceedings into their mainstream administration of justice systems. Countries like the USA, Australia, South Korea, Rwanda, Tanzania, Kenya, etc. have

all adopted these in many areas of their judicial systems though the procedure in these jurisdictions is still evolving.¹⁹

In Rwanda, an integrated electronic management system was put in place in 2015. The system records all information on cases from the point of filing to when judgment is delivered (with respect to civil matters) or from the time of when a defendant is arrested to when the sentence of a court against the defendant is executed.²⁰ This system in Rwanda allows efficient sharing of information among all relevant sector institutions. This is achieved by the system automating the existing work flow processes in the justice sector and providing the relevant institution with a configured interface with which such institutions can perform their individual functions with access to the platform restricted based on the user's roles, permission and case status.²¹

The advantages of this introduction are numerous. The various players in the judicial sector in Rwanda could see with the press of a button a comprehensive overview of cases currently in the courts and the case backlog aggregate. With this type of information readily accessible, the various authorities in the relevant institution can generate a strategic plan for such institutions and resources can be distributed to address identified areas of needs. As such in

¹⁹ A S Asonibari & H T. Akaje "e –path to effective justice delivery: the Nigerian courts in perspective' Available at <<http://eprints.covenantuniversity.edu.ng> > accessed on 8 August 2020.

²⁰ Adam Watson, Regis Rukundakuvuga, Khachatur Matevosyan, 'Integrated Justice: an Information Systems Approach to Justice Sector Case Management and Information Sharing-Case Study of the Integrated Electronic Case Management System for the Ministry of Justice in Rwanda" International Journal for Court Administration, Special Issue, Vol 8, No3, July 2017 available at <<http://www.iacejournal.org> > accessed on 21 September 2020.

²¹ Adam Watson, Regis Rukundakuvuga, Khachatur Matevosyan, 'Integrated Justice: an Information Systems Approach to Justice Sector Case Management and Information Sharing-Case Study of the Integrated Electronic Case Management System for the Ministry of Justice in Rwanda" International Journal for Court Administration, Special Issue, Vol 8, No3, July 2017 available at <<http://www.iacejournal.org> > accessed on 21 September 2020.

Rwanda, institutions that make up the justice sector such as the police, the courts, the public prosecutors and the correctional institution have resources allocated to them based on the strategic plan, which was generated from the information gathered through the integrated electronic case management system. This system speeds up proceedings of court as the delays occasioned by person-to-person communication are cut off. The system has also been known to eliminate duplication of functions amongst the different agencies in the justice sector. As a result of this, less time is spent in transmitting document from one agency to the other. Due to the fact that lapses by any agency in performing their function can be easily deciphered, the integrated electronic case management system in Rwanda helps to ensure compliance with procedure across the various institutions that make up the justice sector. Consumers of legal services access the platform on equal footing, as nepotism and favouritism cannot be accommodated in the integrated electronic case management platform. They also benefit from the provision of electronic filing of court processes, easy payments of filing fees through the online platform, automated reminders of hearing dates and free access to summons and judgments of courts.

The benefits of an electronic case management system enunciated above are urgently needed in the Nigerian judicial sector and as such electronic case management should be adopted in Nigerian courts. Modern realities require that e case management be incorporated into the mainstream administration of justice system. If Nigerian courts must meet the justice need of the country and measure up with the rest of the world in the era of the fourth industrial revolution, incorporating ICT into the administration of justice machinery cannot be overemphasized. The role of the judiciary in a developing economy like Nigeria is far reaching. A vibrant judicial sector where justice is dispensed timeously is a major factor in attracting foreign investment to a country. This position is buttressed by the World Bank report citing the international recognition of the justice sector in Rwanda, which was catalysed by the effective implementation of

automated case management system in the country as the primary factor in the country's high ranking in the enforcing contract section of the Doing Business Report.²² The state of the justice delivery system in Nigeria has been far from satisfactory for a very long time without deliberate and purposeful steps taken to reposition it to deliver on its mandate. It has been said, "the Nigerian judiciary was on a swift downward spiral to ceremonial irrelevance".²³ In the wake of the Covid 19 pandemic and the consequential lockdown it occasioned, courts in Nigeria were shut down. It became obvious as the days went by that the justice delivery sector couldn't afford to be shut down indefinitely. It became obvious that there was an urgent need for the courts to put in place measures to guarantee continued access to justice and expeditious disposal of cases while minimizing the risk of transmission of the coronavirus.

The heads of various courts through the use of Practice Directions made provisions titling towards electronic case management and adoption of virtual court hearings during the pandemic. There is need at this point to look at some of them.

To ensure that the business of dispensing justice continues during the coronavirus pandemic, the Chief Judge of Lagos Stat issued the Lagos State Judiciary (Remote Hearing of Cases Covid 19 Pandemic) Practice Direction 2020. The Practice Direction amongst other things allows for e filing and service of court processes and virtual hearing in specific matters. This will be discussed shortly.

The National Judicial Council which is the body saddled with the responsibility amongst others of regulating the Nigerian judiciary on its part at its 91st Meeting held on the 22nd day of April 2020 constituted a committee whose mandate was to devise guidelines

²² World Bank Group 'Economy profile Rwanda doing business 2020' available at <<https://www.doingbusiness.org>> accessed on 29 September 2020.

²³ C A Candide-Johnson, 'law and justice in Nigeria after Covid 19' available at <<https://www.dnllegalandstyle.com>> accessed on 7 May 2020.

and measures to enable safe court sittings during the Coronavirus Pandemic and areas of necessary cooperation with the Office of the Attorney-General of the Federation and others in meeting the challenges. This gave rise to the National Judicial Council Covid-19 Policy Report: Guidelines for Court Sittings and Related Matters in the Covid-19 period. Several heads of court following this guideline have followed the footsteps of Lagos State and released their own practice directions.²⁴

For the purpose of convenience, the discussion shall be centered on the e filing system in Lagos State as provided for under the Lagos State Judiciary (Remote Hearing of Cases Covid 19 Pandemic) Practice Direction 2020 and reference will only be made to similar Practice Directions of the Federal High Court of Nigeria, the High Court of the FCT, Abuja, the National Industrial Court, and the Court of Appeal. This is more so that the e filing system as provided for in the Practice Directions of other courts and jurisdictions are similar to that of Lagos in form and content.

It has earlier been pointed out that in the year 2013, Lagos State had introduced e filing system for court processes although it was still at the budding stage. In the wake of the coronavirus pandemic this system was upgraded in June 2020 by adding an e-payment platform that permits payment of relevant filing fees to be made electronically. Support help lines and emails were provided for the various judicial divisions to provide guidance for lawyers and litigants to navigate the process seamlessly.

The Lagos State Judiciary (Remote Hearing of Cases Covid 19 Pandemic) Practice Direction 2020 (Covid- 19 Practice Direction) made clear provisions as to how e filing of processes is to be done.

²⁴ This includes the National Industrial Court of Nigeria Practice Directions and Guidelines for Court Sitting 2020, The Federal High Court of Nigeria Practice Direction 2020 for the Covid 19 Period, the High Court of the Federal Capital Territory, Abuja Covid 19 Practice Direction 2020, etc.

It is my humble view that this is an improvement on the existing structure. By Paragraph 5 of the Covid-19 Practice Direction, the parties or counsel in an action have a duty to ensure every document filed electronically has the email address and mobile telephone number of the counsel or contact person where parties are not represented by counsel. The Registry will receive documents for filing electronically. All documents to be filed must be scanned or converted to an appropriate PDF format and forwarded to the Registry through a designated email address or WhatsApp.²⁵ Where counsel files documents, each process shall be signed and sealed by such counsel.²⁶ The Chief Registrar of the High Court of Lagos State shall designate appropriate officials who shall assess the fees payable by parties and communicate same to them by email, WhatsApp or text message. The Parties can then pay the assessed fees by electronic transfer into the bank account of the Court. After payment is made a copy of the electronic receipt issued shall be scanned and sent for verification. When the Court verifies the payment, the processes are deemed filed. The Practice Direction however provides that during the Covid-19 period, where it is impracticable to make e-payment, payment can be made at the Registry of the court. The email address and contact telephone number of the Registry is mandatorily made available on the Judicial Information System (JIS) and the Judiciary Website. The practice direction also makes provision for electronic service of the processes filed by providing that service of court processes may be effected by email, WhatsApp or as otherwise directed by the Court. Such electronic service when made is regarded as good and sufficient service.²⁷ Service of processes shall be proved by filing an affidavit exhibiting a printout from the electronic device used in sending the process and showing the date and time of receipt of the

²⁵ The Lagos State Judiciary (Remote Hearing of Cases COVID 19 Pandemic) Practice Direction 2020, Paragraph 6.

²⁶ *Ibid.*

²⁷ The Lagos State Judiciary (Remote Hearing of Cases COVID 19 Pandemic) Practice Direction 2020, Paragraph 11.

processes by the opposing party. Where an electronic mode of service is employed, time shall prima facie begin to run from the date the process was sent. Similar provisions are provided in the Practice Directions of other court earlier referred to. Except for Lagos State which already had the platform for monitoring of the progress of cases through the judicial portal, all the Practice Direction were silence on the possibility of stakeholders monitoring the progress of cases electronically. The reason for the obvious gap may be that since the Practice Direction was meant to cover just the Covid-19 period, its provisions were ad hoc and only addressed immediate needs. They do not address the need for an efficient electronic case management system that will integrate the various institutions involved in the justice sector for more efficient justice delivery in Nigeria. It is conceded that these Practice Directions could serve as the enzymes that will snowball into a full-scale electronic case management system in all courts in Nigeria. The Nigerian justice sector cannot go back to the position it were before the pandemic but rather must use the temporary structure of electronic filing of cases put in place during the pandemic as a spring board to launch an e case management system in all court such as will integrate the operations of all the institutions involved in justice delivery in Nigeria.

More recently, the High Court of the Federal Capital Territory Civil Procedure Rules 2025 has made provision for e filing.²⁸ By these Rules, all processes to be filed in the court can now be filed and served on parties by electronic means. This is however, consequent upon the Chief Judge of the Court establishing an E-filing Unit which shall be responsible for the maintaining of a designated online site for electronic filing of processes and documents. It is hoped that the establishment of the unit will take place quickly and that this will not remain a provision on paper only.

²⁸ High court Civil Procedure Rules 2025, Order 3 Part 1 rules 1-11.

4.1 Virtual Proceedings in Nigeria

It can be stated without fear of contradiction that there had been no virtual court proceedings in any court in Nigeria prior to the coronavirus pandemic. The first virtual court proceedings in Nigeria was held in Lagos on May 4, 2020. This was at the Ikeja High Court, Lagos in the case of the State of Lagos v Olalekan Hameed. In line with the Lagos State Judiciary Remote Hearing of Cases Covid-19 Pandemic Period Practice Direction, the court session was held online via Zoom app, between the hours of 11am and 2pm. The Judge, the defendant, his legal team, the prosecution counsel, and all witnesses participated in the session remotely from different locations via the Zoom app. At the conclusion of the session, the judge gave the following verdict “The sentence of this court upon you, Olalekan Hameed, is that you be hanged by the neck until you are pronounced dead and may the Lord have mercy upon your soul. This is the virtual judgment of the court”.²⁹

After this maiden virtual court proceeding, there have been several others in several courts including the Supreme Court. Recently, a judge of the High Court of the Federal Capital Territory, Abuja granted an application for two of the prosecution witnesses who were in the United Kingdom to testify virtually in the case of FRN v Godwin Emefiele.³⁰ The various Practice Directions earlier referred to made provisions for the conduct of a virtual proceeding in the various courts. Again for the purpose of convenience I shall be referring only to the Lagos State Judiciary (Remote Hearing of Cases Covid 19 Pandemic) Practice Direction 2020. The Practice Direction restricts virtual proceedings to new cases where there is urgency and in pending cases involving urgent or time bound interlocutory applications such as fundamental rights matters where the applicant is in custody. It also applies to adoption of written addresses, delivery

²⁹Adebusoye, O. LegalTech: Nigerian Supreme Court Says Virtual Court Judgments are Binding, <<https://technext.ng>> Accessed on 8 August 2020.

³⁰ Suit No: FCT/HC/CR/577/2023

of rulings and judgment and any other matter as the Chief Judge may approve.³¹ How a remote hearing is conducted is provided for in Paragraph 18 -24 of the Lagos State Judiciary (Remote Hearing of Cases Covid 19 Pandemic) Practice Direction 2020.

By these provisions, parties and Counsel are required to liaise with the Court's Registry for the purpose of scheduling a virtual hearing of their case. The Practice Direction makes hearing of a matter virtually to be with the consent of the Parties. Parties or their Counsel may indicate voluntary participation in the Remote Hearing through the official email of the Court. It provides for remote hearings to be done by Zoom, Skype for business or any other video communication method that may be approved by the Court. Before ordering a remote hearing, the Registry will liaise with all counsel on record to ensure that suitable facilities are available. The Court shall thereafter direct an appropriate remote communication method for the hearing or where this is not possible make an order of adjournment of the matter. Notice of a remote hearing shall be stated on the cause list and the judiciary website and shall be communicated to the counsel and/ or parties by e-mail, WhatsApp or any other electronic means as the court may direct. During the virtual proceedings, the court gives directions to the parties on the use of video and audio during the proceedings. Counsel appearing before a virtual court is required to dress appropriately and the parties are also to be properly dressed for court proceedings.

The Practice Direction empowers that the court shall record the proceedings of the remote hearing but recording of the proceedings by counsel and/or the parties shall only be with the leave of the court.³² Certified True Copy of proceedings of the remote hearing

³¹ See the preamble to the Lagos State Judiciary (Remote Hearing of Cases Covid 19 Pandemic) Practice Direction 2020.

³² The Lagos State Judiciary (Remote Hearing of Cases Covid 19 Pandemic) Practice Direction 2020, ³² Paragraph 21 & 22.

shall be made available upon request. Adoption of Written Addresses in a virtual hearing shall be in compliance with the provisions of the Rules of Court, provided that oral argument thereof may be dispensed with by agreement of parties. With regard to delivery of ruling or judgment, the court shall, through the Registry notify counsel and/ or parties by email or WhatsApp of the date reserved for the delivery of Judgment and/ or Ruling.

As great as these provisions are, they are at best temporary and makeshift provisions to cater for the immediate and urgent need of getting the courts to work and render service even in the pandemic period. There is need for a holistic legal framework providing for all issues pertaining to E filing and virtual court proceedings to meet the justice need of the nation. The High Court of the Capital Territory Abuja Civil Procedure Rules 2025 has incorporated virtual court proceedings in the High Court Rules. Court proceedings can be held virtually upon application of a party or by the direction of the court.³³ The Chief Judge by the rules is empowered to make Practice Direction for the conduct of virtual proceedings. The issue however, is whether providing for virtual court proceedings in the High Court Civil Procedure Rules would allay the fears that the practice is unconstitutional. I will be discussing the constitutionality of virtual court procedures in the next segment.

4.2 The Constitutionality of Virtual/Remote Hearings in Nigeria

Court proceedings are required by the 1999 Nigerian Constitution to be conducted in public.³⁴ The question then is does remote hearings satisfy this requirement? Is the cyber space a public place to satisfy the constitutional requirement? The Practice Directions requires that notice of a remote hearing shall be stated on the cause list and the

³³ High Court of the Federal Capital Territory Abuja, Civil Procedure Rules 2025, Order 3 Part 11 rules 1-2.

³⁴ The 1999 Constitution of the Federal Republic of Nigeria as amended, Section 36 (3).

judiciary website.³⁵ What this means is that members of the public are free to join and witness the online proceedings. However, there are argument raising questions like many Nigerians are internet savvy? How many Nigerians can afford to pay for the data required to be part of such remote hearings? These arguments are neither here nor there as not all Nigerian can access the physical court building even if they want to for reason of limitation of space, convenience and hygiene. The Supreme Court of Nigeria in the cases of *Attorney General of Lagos State v Attorney General of the Federation*³⁶ and *Attorney General of Ekiti State v Attorney General of the Federation*³⁷ has held that virtual court sittings is not unconstitutional although the cases were struck out as been speculative. The Attorneys General of Lagos and Ekiti State had approached the apex court on the issue of the constitutionality of virtual court proceedings. Although the decision of the Supreme Court of Nigeria was not given after hearing the cases on the merit for one to authoritatively state that it forms the stare decisis on the issue, it can safely be state that it has for now laid to rest the issue of the constitutionality of virtual court hearing as even the apex court has conducted many proceedings virtually since the outbreak of the coronavirus pandemic.

4.3 Effect of an Electronic Case Management System and Virtual Court Proceedings on the Administration of Justice in Nigeria

It is the position of this work that the effect of deploying ICT in justice delivery in Nigeria will be far reaching and is the bedrock for driving a judiciary that is efficient, available, transparent and accessible and can occupy a prime place globally in this digital age. It holds the potential of easing the communication system between

³⁵ The Lagos State Judiciary (Remote Hearing of Cases COVID 19 Pandemic) Practice Direction 2020, Paragraph 18.

³⁶ (2020) 12 NWLR (Pt 1738) 345.

³⁷ 2020) 12 NWLR (Pt 1738) 349.

the bar and the bench. An electronic case management system, which begins with e filing of court processes, will reduce paperwork and its incidental cost for lawyers and litigants. An e-case management system that integrates the operations of all relevant institutions in the justice sector will speed up justice delivery and therefore improve the administration of justice. With proper documentation now done over the Internet online legal databases become readily accessible and legal research would be faster and more effective. It will also curb the issue of corruption in the payment of filing and other fees in court as all such payments are now made electronically. It will eradicate corruption in the filing system of courts in Nigeria and make issues of missing files, doctoring of processes in case files a thing of the past. It will simplify and fast track case management. The compilation and transmission of records of proceedings and other vital documents for purposes of appeal will be done faster and more efficiently. A Judge from a computer with the click of a button can find out if new processes have been filed in a case before him and give appropriate directions on it.

Virtual court sittings can also eliminate huge transportation costs of moving witnesses from one part of the country to another to testify in court and this will help bring down the cost of litigation and eradicate delays in hearing of cases. It can also help to decongest the court case docket as urgent applications such as *ex parte* applications can be taking through a virtual hearing.

5. Challenges to Effective Implementation of Electronic Case Management and Virtual Court Proceedings in Nigeria

Challenges in implementing an e-case management system in any sector anywhere in the world are rife. The success story of the implementation of an integrated e case management system in Rwanda was not without challenges. Some of these challenges will

be encountered in implementing similar system in Nigeria. The challenges are however not insurmountable.

These challenges include technical manpower constraints, hardship on self-represented litigants who may not have the resources to fully participate in such proceeding especially so if they are not IT savvy and infrastructural constraints. There is also the limitation on virtual court hearings to matters proceeded upon on affidavit evidence because of the constraints of taking oral evidence in a virtual proceeding. How do you conduct examination of witnesses virtually? A lot is involved when a witness is testifying. The court needs to have a clear view of the demeanour of the witness, which may not be feasible in a virtual hearing. How do you rule out interferences with the witness testimony when the opposing counsel and the court are not physically present where the witness is testifying? However, there is a practice by the courts in South Korea where the witness to testify goes to a court in the district where the witness resides and a video conference device is set up and connected to the court where the case in which the witness is to testify is being heard. The officials of the court where the witness is testifying from put the witness on oath and the witness is then examined through the virtual platform. This takes away the fears of witnesses being tutored as to what to say in his testimony since the witness is testifying from a courtroom with court officials present.

There is also the challenge of cyber computing. There is need to ensure that the person who is appearing before a virtual court hearing is who the person claims to be. This is necessary to remove issues of fake identities that may undermine a witness testimony in a case or the appearance of a defendant in a criminal trial. This also extends to documents filed electronically. There will be the challenge of ensuring that the cyber space of the judiciary website is not hacked and the processes filed tampered with.

6. Conclusion and Recommendations

In the light of the findings and challenges identified in this work on deployment of electronic case management and virtual court proceeding in Nigeria, it is recommended that a comprehensive legal frameworks for electronic case management in Nigeria which should integrate the operations of all relevant institutions in the justice sector such that there will be an effective synergy in the operations of these institution for the overall good of justice delivery in Nigeria.

Secondly, the deployment of electronic case management systems in Nigerian courts being a very capital -intensive project; it is recommended that it be embarked upon in phases. For example, it can be implemented incrementally by starting with simpler modules like basic case tracking such as the one initiated in Lagos in 2013. This can be done from one stratum of court and progressively to other courts until all courts are covered. Then gradually more complex case management features are added to the different courts and ultimately the integration of other justice sector institutions in the case management system.

Furthermore, A legislative backing for virtual proceedings in Nigeria is imperative as the current use of Practice Directions to regulate it is problematic as practice directions has no force of law.

There is also need to put in place structures that can cater for a wider range of cases including cases where oral evidence is taken be heard through a virtual hearing. The Korean example earlier mentioned is recommended.

Capacity building of members of the judiciary, bar and officials in other relevant institutions in the justice sector is a necessity for effective electronic case management system.

There is need to upgrade the ICT infrastructural architecture of courts, registries of the Nigeria Police, Correctional Services and the Ministries of Justice in Nigeria

To safeguard the integrity of information and documents, the generation of a uniform and effective identification database system in Nigeria to check issues of identity theft and remove incidence of fake identities that can undermine taking oral evidence in a virtual proceedings is imperative and therefore recommended.

It is my considered view that an electronic case management system that can synergize the operations of all the relevant institutions in the justice sector in Nigeria is possible and such will go a long way to change the current narrative about the Nigerian justice delivery system to a justice system that is relevant and effective in dispensing justice in the 21st Century.