

THE ROLE OF TECHNOLOGY IN RECALIBRATING THE LEGAL PROFESSION TO MEET THE ENTREPRENEURAL EXIGENCIES OF MODERN LEGAL PRACTICE IN NIGERIA

***Tarms Isreal Kagbala (Esq.), ¹Okpomu Bethel and ²Kurotimi Maurice Fems**

Centre for General Studies Federal Polytechnic Ekowe, Bayelsa State
School of Management Science, Federal Polytechnic Ekowe, Bayelsa State
Corresponding Author Email: Tarmskagbala@gmail.com

Abstract: Law the study, development and application of legal principles is the cardinal and focal crux of the legal profession world over. It is a noble profession that is traditionally conservative and critically resistant to change. Although many has argued that it is relatively universal to be resistant to change, the legal profession has been particularly and intolerable resistant to the dynamics of change. One of the reasons for this is that the legal profession strictly adheres to precedents. The high reliance and premium placed on precedents which in itself is the very nature and penchant of the practice of law. The Nigerian legal system is largely built around case laws or interpretation of legislative intent. The use of precedents in the drafting of memos and others processes has contributed in no small measure to this rigidity. Again, another critical factor that has contributed to the change resistance that has been witnessed is the legal educational system and its straight jacketed curriculum pattern that has not evolved to take into full consideration the development that now permeates our era. Technology and the business side of law are overlooked; instead emphasis is on advocacy and little of alternative dispute resolution mechanisms instead of the competencies lawyers need to be successful in the fast pacing society we now find ourselves, such skills like data analysis, coding, statistics and marketing are a far cry. It is undisputable that technology has become the driver of modern development all over the world and has contributed in no small measure to professional development and professionalism. The legal profession obviously is not an exception. This paper therefore seeks to explicate the impact of technology on the legal profession and legal services.

Keywords: Technology, Recalibrating, the Legal provision, legal services

Citation: **Tarms Isreal Kagbala Esq,** Okpomu Bethel and Kurotimi Maurice Fems. 2018. The Role of Technology in Recalibrating the Legal Profession to meet the Entrepreneurial exigencies of Modern Legal Practice in Nigeria. Int. J. Rec. Innov. Acad. Res., 2(4): 36-44.

Copyright: **Tarms Isreal Kagbala Esq,** Okpomu Bethel and Kurotimi Maurice Fems, **Copyright © 2018.** This is an open-access article distributed under the terms of the Creative Commons Attribution License, which permits unrestricted use, distribution, and reproduction in any medium, provided the original author and source are credited

1.0 Introduction

It is a celebrated fact that all over the world, the legal profession ranks among the most noble, the most attractive and the most interesting of all professions. It is also one of the most competitive professions in the world. There is a perpetual increase in the number of people trying to come into the legal profession.

The reason for this mass attraction is not farfetched. Law is an essential element in any society. According to William P. Alford Geoffrey, Sawyer Mary and Ann Glendon “The legal profession has always had an ambiguous social position. Leading lawyers have usually been socially prominent and respected-the sections of the profession so favored varying with the general structure of the law in the particular community. The family status of early Roman jurists may have been more important than their legal expertise in securing such a position, but by the time of the principate it was their legal eminence that made them respected. The English serjeants lived magnificently, especially in Elizabethan times, and the French *Ordre des Avocats* was established (14th century) by feudal aristocrats in circumstances reminiscent of early Rome-including an insistence on receiving gifts rather than fees. The early Italian doctors of civil and common law (12th-15th centuries) were revered throughout Europe. In England and the countries influenced by its system, the highest prestige gradually came to be conferred on the judges rather than on the order of serjeants, of which the judges were members; even now, the judges of high-level courts in liberal-democratic common-law countries tend to enjoy appreciably greater respect than their brethren at the bar. In the Romano-Germanic systems it is the notaries and the advocates who have come to be most trusted or admired, the judiciary being more closely identified with the civil service (www.encyclopedia.britanica.com).

But it must be noted that the legal profession is a very conservative one and sticks tenaciously and jealously to its traditional tenets. In buttressing this position Thomas Reuters noted that “While it is relatively universal to be resistant to change, the legal profession has been particularly resistant. The economic distress of the past decade, combined with the rise of new technologies and a generation of millennial lawyers who grew up using technology, are transforming the practice of law. We will explore lawyers’ resistance to embrace change and innovation, and highlight why lawyers must adapt, or risk being left behind (www.legalsolution.com)”. Outlining the reasons for the change resistance nature of the legal profession Thomas Reuters further added that “One underlying reason may be the legal profession’s focus on precedent. The very nature of the practice of law, and the legal system as a whole, largely rests on guidance from previous case law or interpretation of legislative intent. Additionally, the practice of law is inherently risk averse; lawyers are known for writing long memos that issue warnings of what might potentially go wrong, and transactional attorneys often draft from precedent, rather than creating documents from scratch (Supra)”.

Another factor, is that technology and the business side of law is overlooked; law schools continue to emphasize litigation and the Socratic method of instruction, instead of the competencies lawyers need to be successful in this changing environment, such as skills in data analysis, coding, statistics and marketing.

The cautious approach to changing legal education underscores the nature of the practice of law, which may draw people with certain traits or tendencies. A traditionally risk-averse profession may attract those who are more linear in their thinking and process-oriented. It may also appeal to people who like finding a solution that is undoubtedly right. All of these factors have contributed to the conservative and change resistant nature of the legal profession.

At the home front the legal profession in Nigeria has been besieged by myriads of problems which no doubt calls for a recalibration of the profession to meet the exigencies of our time.

Unini Chioma in the introduction to her article titled “Shaping the future of the Legal Profession” quoted– A.B Mahmoud, SAN thus “...The current regulatory framework underpinning the legal profession in Nigeria is obsolete and cannot address emerging trends and challenges in the legal services industry...(www.thenigerianlegal.com)”.

To underpin the need for the recalibration of the legal profession on the 24th of January, 2017, the President of the Nigerian Bar Association, Abubakar Balarabe Mahmoud, SAN, inaugurated a Legal Profession Regulatory Review Committee. Bullets from their terms of reference include: To review the regulatory architecture of the legal profession; To determine whether the Nigerian Bar Association (NBA) can retain both its regulatory and representative functions; To review the role of the Body of Benchers, the General Council of the Bar, the Council of Legal Education, the Supreme Court of Nigeria and the NBA in the regulation of the legal profession; To determine the current composition of the Body of Benchers; To review the current standards for admission into the Nigerian Bar, and recommend changes, etc. It is on this premise that this paper finds expression on the need to reorder the Nigerian legal atmosphere to accommodate the impact of technology on the legal profession and legal services.

Technology in Legal Domain

There are diverse and many forms of technology ranging from the simple to complex that can be deployed by lawyers and legal practitioners in the day to day running of a law firm and interaction with clients. Consider some of such simple technology below:

1.1.2 A comprehensive practice management system: Law practice management system comprises of software used by lawyers to manage case and client records, important files, schedules and appointments, deadlines, billing and accounting, and more. These solutions have many benefits, and can also be utilized to meet compliance requirements such as with the electronic filing processes of courts as well as document retention policies. The law schools do not teach students the requisite skills to operate a law office. Therefore, many law practices use this type of software to help new lawyers learn the ropes and to reduce clerical errors. There are several you can choose from, depending on your firm’s needs. Ask other lawyers you trust what system they use, how long they have used it, and why they like it. Also ask what most frustrates them about that system. Some of these practice management systems include: PracticePanther, Clio, Bill4Time, MyCase, Firm Central, ActionStep, Cosmolex, Alt Legal, LexRex, Legal Track.

1.1.3 A website built with an interactive client portal: Static websites are a thing of the past. Today’s modern service firms, including law firms, should offer a designated client portal into which clients can enter and interact with your firm. Perhaps they have a legal concern at two o’clock in the morning, or have a question they want to pose after your office has closed. In today’s world, a client portal offers secure, instant (and round-the-clock) access to you firm, even if you are not there at that moment.

1.1.4 A system that allows you to clearly define the client processes: A program that allows you to define many of the processes of how your law firm works with clients can be a valuable tool for those who work in your office (full-time, part-time, ad-hoc). Every firm has its individualized style as to how it prefers to operate, and yours should deploy a system that best represents yours. Be sure to include very specific instructions, as that will make life easier for your staff.

1.1.5 A document drafting system: Standard legal documents that are regularly used with clients can live anywhere including in a cloud-based software library. It should offer templates for a wide variety of documents. Such templates, however, must be automatically updated when rules and laws change so that they are always current when you need to pluck them and tailor them for a client's situation.

1.1.6 Video conferencing software: Explore the many options for utilizing an online videoconference solution. Adding a capability that, for example, allows you to videoconference live with your client in Lagos, while you are in Port Harcourt, is just a smart use of technology to drive efficiencies. This does not mean you are running a "virtual" law firm. Instead it solves the challenge of having to meet with both spouses simultaneously to discuss certain matters, or having to fly across the country to meet with the trustee of an estate. Are you, or your clients, short on time? Who isn't? Videoconferencing allows for a brief lunchtime chat without either of you leaving your office. These can be easily recorded for permanent retention.

1.2 Functions and Impact of Technology on the legal Profession and Legal services

It is important to note that advances in technology have changed both the types of cases that lawyers encounter as well as the way that they litigate. The speed and efficiencies of business processes that are gained from the use of various forms of technology are often offset by the increase in digital crimes. Modern lawyers must be familiar with these types of crimes to perform their jobs effectively. It just so happens that Lawyers now use technology more frequently to prepare their cases.

Wade Stewart in his article the "Impact of Technology on Legal Services" noted the ways Technology has impacted on legal services to include:

1.2.1 Forensic Audits

Many legal professionals work with accountants, law enforcement and other government agencies to defend or prosecute people who are accused of white collar and financial related crimes. The audit process is more important than the tools used to conduct these comprehensive investigations. However, business people who perform these types of crimes normally use technology as tools. A lawyer must understand and demonstrate how these computer based crimes are committed to make a strong case in their client's defense or to prosecute someone in court. These technology skills also extend to asking the right questions about evidence that is gleaned from associated computers. Lawyers who work on cases involving personal injury, family law, insurance and financial services law cases often use the described technology as a problem solving skills.

1.2.2 Data Analysis

Harnessing data for marketing efforts has increased the sales for many companies and helped them to provide a greater level of customer service. However, this same data can be used to catch unethical business people who are involved in money laundering schemes and other fraudulent activities. For example, knowledgeable lawyers can use data analysis software to detect financial discrepancies resulting from company executives who misrepresent their companies' assets during mandatory reporting periods to skew business valuation data. Technological data analysis tools are also used to determine the level of income available for child and spousal support payments in family law cases.

1.2.3 Research and Administration

Legal professionals who do not work on forensic audit and fraud cases still utilize technological tools in their daily job tasks. Legal documents and government statutes have been slowly ported to web enabled data bases so that frequent trips to law libraries are unnecessary. For example, lawyers and paralegals can subscribe to legal research repositories like LexisNexis to find the latest information about case law relating to specific industries and businesses. The electronic search feature of these types of databases helps legal professionals gather relevant data very quickly which leaves more time for analytical activities and court case preparation. Paralegals and legal assistants also electronically submit the legal documents that are required by courts to process cases (www.stewartandson.com).

According to Audu Echono developments and advances in technology have had important impact on education and teaching and how it may be harnessed by law teachers. He further stated that the development and deployment of advanced computer assisted learning systems such as Law Courseware and IOLIS have changed dramatically the way students learn, creating vast opportunities and ease in information, storage, retrieval and dissemination and facilitating collaborative activities. The information Technology platforms and their possible uses in Nigeria and other parts of the globe include:

E-mail communication: Through it, resources and questions may be posted to students and obviate the necessity for them to physically go for such resources and their responses returned in like manner. The criticism is however made that, it removes the values derived from social contact among students and staff, as well as the absence of face-to-face discussions, etc.

Diverse Electronic Discussion Forums: Forums such as Facebook, Twitter and various chat rooms enables participants pose questions and articulate views on diverse academic issues. This is invariably very suitable for large class academic activities and has the potential to go beyond teachers and students.

Legal Data Bases: This is in use in many law schools across the world to access legal resources, most common of which are LEXISNEXIS and WESTLAW. Data bases house a huge amount of data and knowledge which are available for research, teaching and practice after qualification as a lawyer. Since in large measure, legal research will be conducted by lawyers in practice, it is only appropriate that students gain the requisite experience and skills during their education and training in the university and vocational law school. Moreover, cybercrimes can better be understood and learnt through understanding technology, being the mechanism through which it is committed, as well as electronically generated evidence.

Video Conferencing: This medium holds a lot of promise in teaching and research, especially for the injection of international and comparative flavor in the curricula as it will enable guest speakers from long distances share resources. It could create a global classroom for students from several institutions to participate in the same course, through bilateral and multilateral arrangements. This medium holds even more promise for students and academics in developing countries to share resources with their colleagues in better endowed regions without having to travel and facilitate better understanding of the various legal models and standards which exist elsewhere. The advantages of technology in education include:

Developing a Technology driven Legal Labor Force: Investments in technology for legal education and practicing lawyers would certainly enhance the development of a skilled, “technology-capable” labor force that could attract direct foreign investment, as well as research and development activities. This would also engender university – private sector links that are important drivers of innovation and growth in advanced economies.

Encourage Open Communication: Along with having the potential to enhance teaching and learning in the classroom, technology in legal education has the potential to encourage open communication between and among students, faculty, and others that support active learning and knowledge construction.

Supports Academic Research: technology makes available information and resources supporting academic research that would not otherwise be accessible.

Fosters Development of Academic Materials: technology fosters development of learning materials, presentations and lectures in an interactive manner that allows faculty to deliver them to and share them with students directly.

Fosters Open Distance Learning (ODL): The flexibility and accessibility enabled by technology has fostered and encouraged Open Distance Learning (ODL), wherein the teacher is removed in space and/or time from the student and most communication is through an electronic medium (e.g., internet, radio, television or computer).

It is now imperative to note that the benefit of technology to the legal profession is unquantifiable for the fact that technology bring to mind what is now being termed “New Law.” This term is in opposition to “Big Law,” which describes large staffs, highly paid lawyers or legal professionals, heavy expenses, and lots of billed hours. On the other hand, according to Jordan Furlong New Law is “any model, process, or tool that represents a significantly different approach to the creation or provision of legal services than what the legal profession traditionally has employed.” New Law challenges this with significant disruption, using technology such as contract discovery and analytics, virtual teams, contract resources, alternative fee arrangements, and other major changes to cut costs and provide higher levels of client satisfaction. It makes perfect sense to automate manual processes in these time consuming, costly and error-prone functions. Besides the speed and efficiency of automation, there is a direct impact on customer satisfaction as well, whether it is a client of a law firm or a line-of-business stakeholder inside an organization.

2.1 Technology and the Judiciary in Nigeria

The Judiciary is one, out of the three arms of government known. It is seen as the third organ of government. It has been vested with the responsibility of interpreting and applying the laws to all cases, as well as, settling disputes in the court of law. In the judiciary, law can only be law when the judges decide it so. The main business of the judiciary is to hear and determine cases in a fair and timely manner at reasonable cost. In doing so, there are processes that lead to the conclusion of the cases before the courts. These processes must be efficient, effective, and equitable. The processes must be efficient in the sense that they provide value for money. The resources so employed must be utilised in a non-wasteful manner leading to the most optimum allocation and utilisation of same. The system cannot be engaged in an abstract search for the truth alone, oblivious of all other factors, like cost, efficacy, and equity. The modern approach calls for balancing of various objectives of the justice systems, given the scarcity of resources, and

the competing demands for the limited resource envelope available, particularly in the resource strapped societies, as in our region (www.venice.coe.int).

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

The process must be equitable in that all those who ought to have access to the justice system and seek access to it do have access to it. Technology world over has help courts to be more effective and efficient in the dispense of justice. Accordingly, Fredrick Egonda-Ntende has outlined the advantages of technology to the court system in the discharge of their constitutional function in his article titled “The Role of Information Technology in Modernising the Courts” to include: (1) text creation, storage and retrieval; (2) Improved Access to the Law; (3) Recording of Court Proceedings; (4) Case Management and producing data for administrative purposes; (5) Continuing Education; (6) Communication. In support of the position espouse by the Fredrick Egonda-Ntende stressing the benefits of a technology driven court system which cannot be over emphasised, Adelowo Stephen Asonibare and Halimat Tope Akaje in their article titled “E-Path to Effective Justice Delivery: The Nigerian Courts in Perspective” noted the following as benefits of a technology driven court system in Nigeria

i. Transparency: Adopting electronic system will foster transparency in the justice delivery, first by making the decided cases available and accessible to the public. This allows lawyers and court users to better understand case laws and 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. 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 are less required to file 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 earlier discussed will be reduced if not totally eradicated.

ii. Security of Court Documents: The adoption of electronic method will enhance adequate security of court documents, i.e. 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. The use of technologically driven electronic archives will improve archives security and confidentiality. This is because there will be a central database for the storage of the documents and only authorized persons can access them.

iii. Easier and Faster Access to Information: Adopting electronic path will aid easier and faster access to information. Because of the nature of the electronic method, information can be accessed 24/7 without necessarily visiting the court in person. 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 will be able to apply for court's judgments, ruling and court proceedings notwithstanding the long age of the case.

iv. Cost Savings: Electronic method guarantees cost reduction in terms of money spent, time and energy used, etc. For instance, transportation costs will reduce drastically; it will enhance minimum use of paper from the moment a case is filed until its disposal; lesser time will be used in conducting activities in court because most works are done online. Lawyers will no longer have to dissipate energy in going to courts and as well as exchanging processes manually.

v. Security of Court Documents: The adoption of electronic method will enhance adequate security of court documents, i.e. 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. The use of electronic archives will improve archives security and confidentiality. This is because there will be a central database for the storage of the documents and only authorized persons can access them.

vi. Quick Dispensation of Justice: Undoubtedly, there are some inherent delays associated with the conventional method(s) which ordinarily are avoidable where 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 another file. While all these are going on, the cases are stalled and the litigants have no option than to wait until this has been sorted out irrespective of the urgency of their cases. Simply put, electronic method will serve as panacea for the above stated hitches in the dispensation of justice. 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 fill and submit necessary forms electronically and the probate registry will be able to decide on its grant or otherwise.

vii. Space Savings: Embracing the electronic path will enhance space saving, 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's archives. Even by comparison, 150 gigabyte hardware has storage capacity equivalent to 70 filing cabinets. Most Nigerian courts, especially lower courts now have to keep some of their files in 8 cabinets outside the court rooms as a result of lack of space, hence the need to go the electronic way (www.covenantuniversity.edu.ng).

3.1 Conclusion

This paper has no doubt highlighted the role of technology in legal practice and the provision of legal services in Nigeria. With the proliferation of technological tools that make legal research more efficient, legal firms are forced to reassess their entire organizational structure and become leaner's to compete with other law offices. Also, the



use of mobile computing devices extends the work place of legal professionals to virtually anywhere in the world. However, this paper is not conclusive on the benefits of adopting a technology driven legal system where processes of court and by filed and serve on line. It is therefore recommended that the regulators of the legal profession in Nigeria should flow along the technological tide as seen in other climes of the world.

References

Adelowo Stephen Asonibare and Halimat Tope Akaje: E-Path to Effective Justice Delivery: The Nigerian Courts in Perspective. www.covenantuniversity.edu.ng

Fredrick Egonda-Ntende: The Role of Information Technology in Modernising the Courts. www.venice.coe.int

Mary Ann Glendon, William P. Alford Geoffrey Sawyer: Legal profession Encyclopedia Britanica. @ www.Encyclopedia Britanica.com

Supra

Thomas Reuters: Overcoming Lawyers' Resistance to change. www.legalsolution.com

UniniChioma: Shaping the Future of the Legal Profession. www.Thenigerianlegal.com

Wade Stewart: The Impact of Technology on Legal Services. www.stewartandson.com