

USING INFORMATION TECHNOLOGY TO EFFECTIVELY RUN JUDICIAL PERFORMANCE MANAGEMENT AND EVALUATION PROCESS

The 8 point Millennium Development Goals (MDG) are objectives which developing economies are urged to attain, not only by their own efforts but by leveraging on internal and external factors to achieve these objectives.

The 8th MDG proposes a Global Partnership for Development and it is our opinion that existence of and upholding the Rule of Law is fundamental to achieving this objective.

The question one then asks is – who is saddled with the task of upholding the Rule of Law in Nigeria or any other country perhaps? The thunderous answer, without any doubt is THE JUDICIARY.

The judicial arm of government represented principally by the Court system and the Judges who adjudicate on matters brought before the court have long been responsible for sustaining order in modern society whilst interpreting the legal framework for breaking new frontiers. Without the existence of the Rule of Law being provided by men and women of competent education and capable skills rightly addressed as Honourable Judges, life in human society would have been, as espoused by eminent Philosopher, Thomas Hobbes, nasty, brutish and short, a survival of the fittest contest.

Within a local context, the Supreme Court of Nigeria is the highest court of justice in Nigeria, headed by the Honourable Chief Justice of the Federation in the person of Hon. Justice Miriam Aloma-Muhktar. The Supreme Court consists of a total of 21 (twenty -one) Justices of the Supreme Court.

Next in hierarchy is the Court of Appeal consisting of 89 (eighty-nine) Justices of the Court of Appeal sitting in 16 (sixteen) divisions strewn across the entire Federation. Thereafter follows the following courts:

- The Federal High Court;
- The National Industrial Court;
- The High Court of the Federal Capital Territory, Abuja;
- The State High Court;
- The Sharia Court of Appeal of the Federal Capital Territory, Abuja;
- The Sharia Court of Appeal of a State;
- The Customary Court of Appeal of the Federal Capital Territory, Abuja; and
- The Customary Court of Appeal of a State

All the above listed courts constitute the Superior Courts of Record in Nigeria as stated by Section 6 of the Constitution of the Federal Republic of Nigeria 1999 (as amended).

It is pertinent to point out that apart from these Superior Courts of Record, there are lower courts such as the Magistrate Courts (consisting of various grades of Magistracy), the Sharia Court (various grades) and the Customary Courts in all the 36 States of the Federation including the Federal Capital Territory.

All the above listed courts constitute the bastion of hope of justice for the citizens of Nigeria, who used to approach the courts with great expectation. But we are all aware that the confidence of the average man in Nigeria, in our court system is at an abysmal low point, thereby giving rise to increased occurrence of “jungle justice” being meted out on suspected persons on our streets and in local communities. The appalling and gut-wrenching killing of the University of Port Harcourt students, notoriously known as Aluu 4 is still fresh in our memories.

There are two questions agitating my mind, pleading for answers and these questions are: Who is responsible for monitoring the performance of judicial officers, in other words, who do we hold responsible for the performance or otherwise of judicial officers and **what are the critical tangible indices involved in the evaluation of judicial officers?**

Whilst one might easily answer the first question by alluding to the role of the National Judicial Council (NJC) as the principal body responsible for the evaluation of Judges, it doesn't appear to be an easy task answering the second question regarding the critical and tangible indices engaged in measuring judicial performance.

However, the responsibility of monitoring the lower courts such as the Magistracy falls squarely within the purview of the Chief Judge of the State or the FCT. So what indices does the Honourable Chief Judge use in measuring the performance or otherwise of the Magistracy?

With your kind permission, I would like to take us on an imaginary adventure. To the best of my knowledge, each of the courts earlier mentioned in this paper sit and hold proceedings in various divisions of their respective Courts across all 36 States of the Federation.

Without being clairvoyant, one can only imagine the magnitude of information and data pouring into and coming out of these courts as applications, writs, motions, rulings, judgments or appeals. For example, in Italy, the Ministry of Justice which has oversight functions over the Judiciary, works hand in hand with the Italian National Institute of Statistics (INSTAT) to collect, collate and analyse data from the court systems in terms of number of cases filed, how many have been resolved, the nature of the cases filed, the time it took to resolve these cases etc.

Within a local context, availability of and access to data could lend credence to the opinion held in some quarters regarding the varied geographical, ethnic and commercial colouration of Nigeria as well as the propensity to entertain certain types of matters peculiar to one region or part of the country in comparison to others. For example, there is the school of thought that argues that commercial/cosmopolitan cities such as Lagos, Port Harcourt, and Kano would have

more commercially-flavoured disputes as against agrarian towns such as Ife, Abakaliki or Gusau.

The National Judicial Council (NJC) is the constitutionally recognized body saddled with the responsibility of recommending for appointment, promotion, transfer, or termination the appointment of any Justice, Judge or Grand Kadi of a superior court of record in Nigeria.

It is common knowledge that judicial officers of Courts of Superior record are required to file periodic returns with the NJC who then, based on these reports evaluate, recommend or reprimand Judges as deemed necessary. For judicial officers in the Magistracy, their returns are submitted to the Chief Judge of their respective States.

However, the significantly manual method of collation, collection and analysis of the magnitude of information pouring into and out of the courts has made it profoundly difficult to introduce project management competencies, SMART (Specific, Measurable, Articulate, Realistic and Time-bound) work targets, efficient monitoring systems and robust data collection and analysis techniques in the workings of the judicial system in Nigeria.

The demands of modern society and indeed of the Nigerian society present an argument for fast, efficient and prompt administration of justice system that is transparent in its workings, easy to understand and evaluate, that rewards hard work or reprimands slothfulness.

Furthermore, there is a crucial need for administrative and constitutional Heads of Courts to have a bird-view of the scope and extent of work being undertaken by judicial officers within their immediate jurisdiction and possibly State-wide in order to have cogent and definite basis of comparison.

Moreover, the exigency of business also demands quick resolution of disputes by the Courts or provision of faster alternative dispute resolution mechanisms which must be monitored for efficiency and enhanced productivity.

These are all in tandem with the provisions of S. 7 (a) – (c) and S. 8 of the National Judicial Policy of September 30th 2013 under the hand of the Honourable Chief Justice of Nigeria, Aloma Maryam Mukhtar GCON.

Those sections provide thus:

- S. 7 (a) The Judiciary should adopt measures designed to promote flexibility in the handling of cases while reducing costs, delays and other unnecessary burden to litigants in the adjudication of cases.

- S. 7 (b) It will be essential to also **fix time frame** for the disposal of civil and criminal cases...

- S. 7 (c) Courts in Nigeria should therefore develop a **Case Flow Matrix** as well as a **Case Tracking Register...to ensure effective management of the flow of cases** within their respective jurisdictions. The Case Flow Matrix and Case Tracking Register could be manual, **electronic** or both.
- S. 8 (a) There is the need to appoint more judicial officers in Nigeria considering the large population. The number of judges to be appointed should be commensurate not only to the population but also the workload in that State or Court as the case may be.

In direct and unequivocal adherence to the foregoing sections of the National Judicial Policy, I am pleased to introduce to this august gathering a locally developed and designed electronic Case Management System which serves as a conduit to a Management Information System for the Judiciary.

In response to all the foregoing demands, LAW Pavilion has developed and designed the highly advanced but intuitive **Case/Court Management Software with Judicial Reporting and Performance Evaluation Solution (JuRePES)**.

An attempt will be made to enumerate some of the extant features cum benefits of this unique solution being introduced into the Nigerian Judicial Industry space;

A. **Comprehensive and Coherent Data on the Nigerian Court System**

As earlier demonstrated above, the number of Superior Courts of Record and the lower courts in Nigeria is quite extensive going by the relevant provision of the 1999 Constitution of the Federal Republic of Nigeria.

For instance, each State High Court is broken into divisions; each division could have as many as 20 court rooms, each courtroom being presided over by an individual Judge. In a State like Lagos State, home to about 20 million Nigerians, it is staggering to imagine how many cases are pending in each of these court rooms. One could go further to ponder on the magnitude of cases in the Magistrate courts which are closer to the grassroots and responsible for handling simple offences, misdemeanours and some civil matters.

From direct interaction with Judges of the High Court across the Federation, it was established that it is a herculean task for individual Judges to actually fathom the total number of cases assigned to his courtroom. It has equally proven challenging to ascertain how many of those pending cases were resolved within a designated time frame. It goes without saying that if a Judge cannot easily ascertain the number of cases pending before his court, it is near impossible for such Judge to proactively allocate time and resources to dispose promptly of such cases.

Similarly, the average age of many cases pending before the Court is unknown, with many cases lingering on the case track for several years without effective resolution within a reasonable time.

The absence of a timing record keeper further compounds the precarious situation of being unable to ascertain how long a matter has lingered in court, right from when the case was filed in court and assigned to a Judge for resolution.

Without any doubt, a manual approach to getting these figures across the various divisions of State High Courts alone would cost appreciable volumes of man-hours. Even costlier would be the resources required to analyse the collected figures.

It is therefore pleasing to point out that using the new LAW Pavilion Case & Court Management System with JuRePES shaves light years off the pursuit of this **daunting task of ascertaining the “litigation/dispute resolution” strength of the Nigerian Judiciary.**

The LAW Pavilion Case & Court Management System with JuRePES comes with a timer, which is activated once a case file is called up from the system. Once the matter is commenced in court, the timer records how much time the Court and Counsel spent on both sides on that case. Once the case is adjourned, the timer is stopped.

Using the best technology which searches through the algorithms of each case, the LAW Pavilion Case & Court Management System compiles all the cases, computes the lifespan of each case and calculates the total time spent so far on each case on a trimester basis. This makes it easy to know which matters or cases have taken the most time, the nature of those cases and possibly the causes of the delays that have beset such cases.

It becomes possible to plan and mitigate against unnecessary delays occasioned by frivolous requests for adjournments and applications brought by Counsel. Judges can indeed begin to manage cases proactively and dispense justice speedily. This is in tandem with the provisions of S. 8(c) of the National Judicial Policy (Supra)

S. 8 (c) The Judge should take firm charge of his court and should be proactive in dealing with interlocutory applications and must not bend to the whims and caprices of counsel.

B. Efficiency and Performance Marker

Another beautiful innovative approach embedded in the LAW Pavilion Case & Court Management System is “efficiency marker”. The Efficiency Maker is the result of the earlier computation of lifespan of each case. The Efficiency Maker aggregates all the lifespan of cases in a particular judiciary and generates an average number of years required to resolve various categories of cases.

Using the average generated by the Efficiency Maker, the system automatically categorises active files into those that fall below the average number of years for resolving those case types and those that have exceeded the average score, thereby

notifying individual Magistrates, Judges and of course the Chief Judge of each State about this. For example, in calling up a particular case, the system automatically displays the age of the case, the number of sittings on the case, cumulative time spent during sittings, etc. It even colour codes the cases that are already older than the average/expected age of case and alerts the Judge accordingly.

It is our belief that access to this intricate and often overlooked yet critical information will certainly assist individual Judges to proactively track and monitor their own performances, in accordance with the stipulations of the National Judicial Policy referred to above.

Moreover, the Chief Judges of States can easily and quickly view the average performance in their jurisdictions and also compare with a nationwide view using the Efficiency Maker on the LAW Pavilion Case & Court Management System with JuRePES.

C. SMART Targets for Deliverable

In order to properly assign tasks and set achievable and realistic targets, it is imperative to have empirical data about the volume of cases that come into the judicial system on a daily, weekly, monthly or quarterly basis. This is in combination with cases that were already commenced within the court system and have been pending on the Case Track for extensive periods.

Armed with the knowledge of how many existing and new cases are active within a State's jurisdiction, whether at Magistracy or High Court levels, judicial administrators in charge of assigning cases as well as the Chief Judge of High Courts or Presiding Justice of the Court of Appeal and perhaps the Chief Justice of the Federation can then know with just the click of a button how much work is pending before the entire Judiciary at State and National levels.

That crucial information about **case strength versus staff strength** is critical in setting tangible and realizable targets for individual arbiters and an entire judicial authority to achieve within a designated period. In many cases, it will become apparent whether the existing Magistrates/Judges are sufficient to effectively handle and resolve the cases within the system in reasonable time.

Our firm opinion is that this approach will significantly improve the turn-around time for cases pending in various courts as individual Judges will be able to compel legal practitioners and litigants to vigorously pursue their cases in court or be at risk of losing their position on the Case Track.

D. Deployment of Sufficient Manpower/Maximum Use of Available Resources

There is no doubt that having access to real and tangible data makes planning much easier and expected achievements are much more realistic. Access to the information provided by the LAW Pavilion CCMS/JuRePES will assist decision makers in State

and National Judiciaries to properly allocate manpower and ensure that such allocated manpower resources are put to maximal use. For instance, where it is observed that particular areas of a State or the country are prone to higher levels of disputes, the State/Federal Chief Judge/Presiding Justice/Chief Justice of the Federation can promptly facilitate the deployment of sufficient manpower or quasi-judicial officers to assist in achieving prompt delivery of justice.

Our opinion is that the perceived sluggish justice delivery system in Nigeria is significantly responsible for the quick resort to “jungle justice” by members of the public as evidenced by the incidents of jungle justice across diverse regions. The media is awash with news of jungle justice being meted out to “accused persons” even before investigations have been carried out and more often than not, such accused person is killed or maimed for an offence never committed.

E. Appropriate reward/sanction grid

By setting practicable and realizable goals and targets in judicial circles, it becomes a lot easier, quicker and more transparent to appropriately reward or sanction those who consistently are under-performing in the discharge of their official functions.

At present, the procedure for rewarding outstanding Judges is mired in secrecy and mystery as there are no definite parameters for measurement and thus achievements are somewhat skewed.

Similarly, except for petitions written by aggrieved legal practitioners or litigants, under-performing arbiters of justice could hide within the chaotic system of insufficient data to measure performance as at when due. Unconfirmed stories abound of Judges who sit for minimal hours in a day or week, thereby leaving cases to linger for extensive periods. Yet, within that same jurisdiction, there are Judges who work tirelessly to provide justice to the millions of litigants and penitents who throng the Temple of Justice.

But at present, there appears to be no tangible reward or reproof system for judicial officers who found to have either performed well ahead of set targets or far below expectation because there is no objective scale for measurement and comparison.

Certainly, the CCMS/JuRePES is a crucial tool in the hands of judicial officers to evaluate and measure individual performances against one’s peers and contemporaries in other jurisdiction.

F. Monitoring, Evaluation and Re-evaluation for Foreign Donors and Supporters of the Judicial Process in Nigeria

Access to independent and un-biased information is an essential tool for development partners to critically monitor, evaluate the impact of their funds or technical backstopping to recipient governments or agencies.

At present, many foreign agencies such as the UNODC and DFID have assisted States and some government agencies to acquire ICT tools to assist in the performance of judicial functions. Without adequate and regular monitoring to ensure that action plans are adhered to, many of these Projects stand the risk of being obliterated and discarded.

However, an independent system like the CCMS/JuRePES can be a veritable tool for these agencies and donor organizations to ensure the achievement of their set targets in embarking on those Projects in the first instance.

G. Chief Judge's View

As the administrative head of the Judiciary in respective States, it is imperative for the CJs or CJN to have a bird view of the entire Judiciary under their watch. At the close of work every day or every week, a worthy Chief Judge ought to be able to know the volume of work that has poured into the court system. It will also be necessary to know at his fingertips, the entire caseload of the judiciary at any given time.

This information will assist in knowing whether more hands are needed and in what areas those needs are most pressing. The knowledge gleaned from the CJ's view on the LAWPavilion CCMS/JuRePES is also very instrumental in approaching the Executive arm of government or foreign donor agencies for funding or technical support.

Our impetus for including this platform into our solution is simple - **a worthy shepherd needs to know the state of his flock in terms of quantity, quality and areas of improvement.**

H. A Timeless Legacy

It is our considered opinion that it has become extremely crucial and pertinent for judicial officers and administrators of the Nigerian court system to begin to put effective, efficient and timeless structures in place to preserve the landmark achievements of the Judiciary.

As contained in the National Judicial Policy, it has become desperately critical to enlighten members of the public within local and international circles about the work and progress of the Nigerian judicial system at all levels.

However, absence of coherent data, performance evaluation and management information to make decisions could tarnish whatever great work is being done behind the scene in judicial circles.

For the Magistrates, Judges, Chief Judges, Presiding Justice or Chief Justice of the Federation who is desirous of leaving a timeless legacy, adoption of information technology provided by the LAW Pavilion CCMS/JuRePES

Without gainsaying, adopting the use of the LAW Pavilion CCMS/JuRePES, a novel development in Nigeria, suitable and designed especially for the Nigerian judicial climate, would usher in a new and improved era in performance evaluation and information management in judicial circles in the country.

A practical demonstration of the workings of the software will lend credence to all the assertions above as to the capacity and capability of this powerful but simple to use software.

Indeed performance management, evaluation and review are the bedrock upon which performance enhancement and adoption of best practices rely upon to make it sensible and realistic.

The above are just a few of the features and benefits of this innovative solution being introduced to the Nigerian Judiciary.

Without any doubt, access to correct, comprehensive and coherent data is a necessary tool for Judges and indeed decision makers in the 21st century judicial community.

Thus, we highly recommend the adoption and extensive use of this robust ICT tool in delivering excellent service to the consumers of justice, in Nigeria.

Thank you for your attention. We will now have a showcase session during which we will demonstrate some of the work we have done with a few States and Judges who have been gracious enough to believe in us and lend their support in our drive to ensure that the Nigerian judicial system is at par with what obtains in other climes especially as it pertains to information and communication technology.

RECOMMENDATIONS

1. Procedural Rules should be amended to accommodate speedy and prompt resolution of disputes brought to court. Practice directions should be periodically reviewed to incorporate findings from data collected by the CCMS and applied to the judicial process. For example, in Denmark - Esbjerg District Court - 58% of the civil cases should be disposed within 1 year, 63% of the criminal cases should be disposed within 2 months and 95% within 6 months. (Source: CEPEJ (2006), Compendium of "best practices" on time management of judicial proceedings, CEPEJ (2006) 13, p. 7).

Finland - Supreme Administrative Court - The average processing time is set to 10 months. In addition, the aim is to process 25% of the cases in less than four weeks and 35% of the cases within 6-9 months.

These timelines stated above are strictly adhered to and monitored by judicial administrators. It is a fundamental area that judges' performances are evaluated upon.

2. More apparent involvement of NJC Members and Chief Judges in stipulating rewards/penalties for non-performing judges. For example, in Slovenia - Maribor and Novo Mesto District Court - Court rules sets a timeframe of 18 months after the case has been presented before the court. If a decision is not taken within 18 months, the case is considered delayed. The head of court may ask the judge in charge of the case to report the circumstances why a decision has not been reached.

(Source: CEPEJ (2006), Compendium of "best practices" on time management of judicial proceedings, CEPEJ (2006), 13, p. 6).

3. Introduction of Management skills and competence to Magistrates and Judges in accordance with the Bangalore Code of Conduct

4. Pro-active planning and timely intervention by presiding Judge –

Tbilisi Appeals Court - Tbilisi Appeals Court is the only court so far in Georgia which has and operates its own electronic case management system which produces number of landmarks in all types of cases. Such landmarks are: a) Time limit for admission of the case; b) Time limit for appointing the first hearing; c) Deadline for writing of the judgment. In addition, all the procedural steps and documents are registered on the web page while word documents are attached to the same page and the parties can through their passwords view the current situation with their case and download word documents.

When the time frames are exceeded the case is shown in red letters on a screen and it is easily identifiable that this case has a problem. The chairman of the court can obtain the information about the lengthy cases, their quality and their content. If the situation is very problematic a special meeting may be held discussing the situation with the lengthy cases.

(Source: CEPEJ (2011), Reports on the implementation of the CEPEJ guidelines for judicial time management in 7 pilot courts/ institutions, CEPEJ (2011) 1, p. 13).