

Post-pandemic legal practice: A brave new digital world?

Introduction

Let me start by appreciating the organisers of this Conference and especially the coordinators of this session for the opportunity to discuss this very important topic.

It is somewhat auspicious that I am discussing legal practice in a brave new digital world less than 14 days after the general elections in Nigeria that was touted to be one of the most innovative elections in the country's history on account of the role that technology ought to have played but which, like most things in Nigeria, was bungled by the organisers.

Thankfully, the scope of my presentation is limited to the legal profession, and I don't have to say more about the elections because frankly speaking I am still traumatised from the experience.

Brief overview of the impact of the COVID-19 pandemic on the legal profession

There is no disputing the fact that the Covid-19 pandemic has gone down in history as one of the most disruptive factors of the 21st century whether for good or bad. While the negative consequences of the pandemic including the thousands of deaths, the hospitalizations and the devastating effect of the global economy are well documented, the pandemic however brought some unintentional positives including transforming the digital nature of law practice. As the saying goes – necessity is the mother of all inventions. Owing to the lockdown imposed by most national governments and the difficulty or inability of people to move freely, the need arose to devise other means of legal practice especially dispute resolution before national courts.

The need for a shift to digital technologies and virtual practice

In the pre-Covid 19 era, law practice in Nigeria was characterised by a traditional approach to practice and a slowness to respond to new patterns of service delivery.

Legal practice was, and frankly speaking, is still characterised by absence of necessary infrastructure and gadgets in the courts [as a result of which the judges are still forced to record proceedings in long hands], large volumes of laws, law reports, analogue filing and documentation management system.

These conspired to cause the delay and congestion of cases in courts. For a system that is designed to serve the largest economy in Africa, everyone except perhaps the policymakers agreed that this was unacceptable.

There was also a curious reluctance on the part of Nigerian lawyers and judges to embrace technology. An example is the action of some senior lawyers when the NBA under my administration introduced online payment of annual Bar Practising Fees. This was in consonance with the attitude of some judges who are reported to have frustrated the efforts to introduce verbatim recorders for court proceedings.

There was also a near absence of regulatory framework for virtual practice in Nigeria. Indeed, when Nigerian courts started virtual sitting during the height of the Covid-19 pandemic, the courts were met with an initial resistance from some quarters and contentions that the hearings did not meet the constitutional requirements of being held in public and were therefore unconstitutional.

Following the Covid-19 pandemic, the legal profession faced an existential threat and was forced to react. Accordingly, there has been an increased shift towards leveraging digital technologies in the practice of law in Nigeria.

Virtual hearing is no longer as strange as they used to be a few years ago. In a country that is suffering from significant security issues and where inter-State travel has become perilous, this is a welcome development.

The NBA has been playing an important role in advocating for the infusion of technology in the operations of our courts and the National Judicial Council – Judicial Information Technology Committee led by Honourable Justice Kashim Zanna has done a great job in this regard. Understandably, Covid-19 played a great role.

Some States in Nigeria have also gone ahead to successfully launch solo e-filing systems including Borno State, Bayelsa State and Rivers State.

Some of the benefits include:

- ☐ Speedy dispensation of justice
- ☐ Reduced legal costs
- ☐ Improved health for legal practitioners
- ☐ The impact of virtual practice on legal education in Nigeria

Conclusion - Final thoughts

It is a new digital world yes...but in Nigeria I am not so sure we are being brave about confronting this new world. The required will...the required courage seems to be lacking with respect to pushing this effort to the finish line. The operators of the system themselves do not seem to be quite convinced about the efficacy or the utility value of tech...or they are simply afraid. With the receding of Covid it would appear that our collective resolve to embrace technology would appear to have taken a back seat.

With the new technology consciousness raised by the recent elections especially in the minds of the young people, we hope that the legal profession in Nigeria will bravely take the lead towards a digital law practice in Africa.