



Research article

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Effectiveness of the Administration of Justice in Nigeria Under the Development of Digital Technologies

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Abstract

Objective: the traditional Nigerian judicial system has long been associated with a conservative approach and traditional methodologies of justice administration. As a developing country, Nigeria has benefited immensely from the advancement of digital technology, especially in the legal field. This is due to the fact that modern digital technologies are being rapidly adopted in Nigeria's judicial processes for effective justice administration. However, despite the promise of digital technology, there are legal and socio-economic challenges in Nigeria that may affect its successful utilization in legal proceedings. This justifies the focus of the study – to identify the legal and socio-economic challenges of digitalization of court proceedings in Nigeria.

Methods: the study combines doctrinal and non-doctrinal approaches. The former ensures theoretical understanding of the conceptual issues

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and prospects of court proceedings virtualization. It also allows exploring, based on primary and secondary sources (laws, monographs, research articles and internet resources), the legal and socio-economic challenges of the use of digital technologies in court proceedings. The non-doctrinal approach consists in polling, describing and analyzing the results of a sociological survey. The survey was conducted among Nigeria residents to reveal their attitudes towards innovations in digitalization and virtualization of court proceedings as well as the challenges posed by these processes.

Results: the study revealed that the use of digital technologies in court proceedings in Nigeria has several prospects of ensuring effective justice administration and accurate recording and storage of information. Along with the benefits, challenges are shown that may reduce the effectiveness of court proceedings digitalization.

Scientific novelty: consists in investigating the use of digital technology in Nigerian court proceedings and identifying the prospects of improving the efficiency of justice administration in Nigeria under digitalization, as well as the challenges arising from this trend.

Practical significance: the study will enable stakeholders in the Nigerian legal sector to identify legal and socio-economic challenges that may adversely affect and render ineffective the use of digital technologies in legal proceedings. In addition, the article offers practical recommendations to address these challenges.

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Introduction

Digital technology has become a significant tool in the legal profession that promotes and enhances the judicial system globally through efficiency, effective and quick access to the information for dispensation of justice (Meredith et al., 2021). In developed countries, advancements in technology have markedly refined and expedited judicial procedures (Machado et al., 2018). This is concerning the fact that most of these developed countries have a well enhanced and effective use of digital technology in the administration court proceedings. However, the traditional Nigerian judicial court system has long been associated with its conservative approach and conventional methodologies in the dispensation of justice (Olubukola & Abimbola, 2022). This situation over time has proved to be unfavourable to the judicial system in Nigeria coupled with the volume of cases before courts that needed to be decided on and other socio-economic challenges affecting the dispensation of justice (Olubukola & Abimbola, 2022). In this regard, it suffices to state that in light of the ever-evolving global technology, there exists a pressing necessity to enhance the efficiency and efficacy of Nigeria's court proceedings. Consequently, integrating virtual court proceedings into the judicial system of Nigeria has become imperative, offering a pathway to enhanced access to electronic case management and court sessions.

Concerning the above, to surmount the existing challenges of the Nigerian physical court proceedings, a directive was issued by the Attorney General of the Federation, Abubakar Malami, and the National Judicial Council, that courts should resort to digital virtual court proceedings (Olubukola & Abimbola, 2022). Flowing from the directives given, some states like Lagos, Abuja, and Rivers state resorted to remote court proceedings. For instance, Lagos State signed the Lagos State Judiciary Remote Hearing of Cases Practice Direction that came into effect on the 4th of May, 2020 (Mohamad & Sule, 2021). The purpose of making practice directions to accommodate digital virtual hearing is to hear cases that are not

urgent and time-bound via video or audio-conferencing platforms, such as Zoom, Skype, Google Meet or any of the platforms as may be approved by the court (Mohamad & Sule, 2021). Borno State was the first to use this medium where the judgment was delivered via online sitting in criminal matters, while other states are yet to witness this new development.

Though this new development is laudable and imperative in a world where technology is permeating all fields of endeavour (Granot et al., 2018; Goethe et al., 2021), especially in a situation that necessitated its emergence, its constitutionality has become a subject of contention in Nigeria (Tait & Tay, 2019). Some have argued that the extant provision of the Constitution which demands public trials though with some exceptions is not given full expression as stated under sections 36(1), (3), and (4) of the 1999 Constitution of the Federal Republic of Nigeria as amended. This category of persons has concluded that unless the Constitution is amended, the same cannot accommodate virtual court proceedings in Nigerian courts (Thornburg, 2021). The proponents of digital virtual court proceedings, on the other hand, have argued why the amendment of the Constitution is not necessary to give effect to virtual proceedings in Nigeria while proving its originality from the same Constitution (Winter et al., 2018).

It is concerning the above, that this study embarks on doctrinal and non-doctrinal examination of the prospect of digital virtual court proceedings in Nigerian courts. The study will also robustly discuss the legal issues surrounding digital virtual proceedings in Nigerian courts. The study will further discuss possible challenges to the use of technology in court sittings in Nigeria, and suggest some recommendations to salvage the identified challenges.

As for the research methodology, concerning the effective actualization of this study, a hybrid method of study (consisting of a doctrinal and non-doctrinal research method) was adopted. The essence of adopting the doctrinal method consists in enabling the researcher to theorize the conceptual issues and development of virtual court proceedings. Furthermore, it helps to examine the legal and socio-economic issues concerning digital virtual court proceedings. Hence, the study utilizes primary and reliable secondary sources such as laws, textbooks, articles in journals, and online articles.

Furthermore, the non-doctrinal method of research enabled the researchers to examine the respondents residing in Nigeria on the prospect and challenges of digital virtual court proceedings. In this regard, a questionnaire was generated through the use of Google form and distributed to a diverse audience. The data generated were analyzed using a descriptive and analytical method.

1. Conceptual Nature of Digital Virtual Court Proceedings in Nigeria

Various research endeavors have highlighted the confinement of Nigeria's judicial system within the traditional confines of courthouses (Mohamad & Sule, 2021; Banded & Feigenson, 2021). These spaces include lawyers' chambers, reception areas, lounges, conference rooms, and law libraries brimming with printed resources (Bannon & Keith, 2021). Furthermore, areas designated for administrative assistants and paralegal offices are integral to the conventional

structure. Regrettably, this conventional approach has resulted in a surge of pending cases, protracted resolution processes, and a heightened challenge in accessing effective judicial services (Sanson et al., 2020). Furthermore, ensuring public access to judicial proceedings and safeguarding fundamental freedoms, as outlined in domestic legislation and international accords, has emerged as a pivotal concern within Nigeria's judicial milieu. In this regard, it suffices to state that though the Nigeria physical court proceedings have their merits, they are also fraught with challenges and these challenges are as follows:

1. Nigeria's vast geographical landscape poses challenges for individuals to physically access courtrooms, especially in rural and remote areas. This limits access to justice and disproportionately affects marginalized populations.

2. The Nigerian judicial system is burdened with a high volume of cases, leading to congestion in courts and significant delays in the administration of justice.

3. Attending physical court proceedings can be financially burdensome for many individuals, involving expenses related to transportation, accommodation, and time away from work.

4. Also, in some cases, the physical presence of parties involved in litigation can lead to security risks, intimidation, or coercion.

However, in developed countries, advancements in technology have markedly refined and expedited judicial procedures (Rossner, 2021). Conversely, given the challenges often encountered in physical court proceedings in Nigeria, the progress of legal service-related technology is gradually developing. Consequently, integrating virtual proceedings into the Nigerian judicial system has become imperative, offering a pathway to enhanced access to electronic case management and court sessions.

Concerning the above, the term "digital virtual court proceedings" as operated in Nigeria refers to court proceedings conducted online, wherein judges, legal representatives, court staff, witnesses, security personnel, and other involved parties attend the proceedings via digital platforms or communication tools like Zoom, Google meeting, Skype, and similar computer/internet devices (Nir & Musial, 2022). In this context, "digital virtual technology" denotes an artificial or computer-generated reality as opposed to a physical, absolute presence. Furthermore, "Zoom, Skype, and Google meeting" refers to a digital virtual or video conferencing session. Participants can join these meetings using webcams or phones (Derksen et al., 2020). A "Zoom, Skype, and Google meeting room" is the physical setup that enables individuals to initiate Zoom meetings, facilitating telecommuting and interaction (Legg & Song, 2021). Similarly, they are also a unified communications platform that integrates various business communication channels, such as online meetings, instant messaging, video conferencing, and more (Hwang et al., 2021).

In this regard, it suffices to state that digital virtual legal proceedings in Nigerian courts involve the utilization of digital platforms to conduct legal activities like hearings and trials

(Elek et al., 2012). This approach aims to improve accessibility, efficiency, and convenience by leveraging technology, allowing participants to engage in legal processes remotely (Bandes & Feigenson, 2020). This includes presenting evidence and making legal arguments without the need to be physically present in a physical courtroom (Bild et al., 2021). The implementation of virtual proceedings necessitates careful consideration of technological infrastructure and security measures, and ensuring that the legal processes remain fair and transparent (Bandes & Feigenson, 2020).

Furthermore, virtual court hearings can take two forms: hybrid or fully virtual (Fauville et al., 2021). In the hybrid approach, some parties are physically present in a specific location, while others participate online (Feigenson, 2010). This could involve scenarios where the judge, clerk, and witnesses are physically present in an open court, while other participants join virtually (Bunjavec, 2020). Alternatively, the judge, clerk, and lawyers might be present in open court, with witnesses joining remotely (Bailenson, 2021). On the other hand, the fully virtual method involves all parties participating from separate locations, including the judge, lawyers, witnesses, and clerks (Hans, 2022).

Concerning the above, it is apt to reiterate that the adoption of digital virtual court proceedings possesses several prospects which could enhance the practice of the Nigerian legal profession. In this regard, lawyers and those requesting justice must adapt to changing circumstances by adopting digital technology to enhance the administration of justice in Nigeria.

2. The Prospect of Digital Virtual Court Proceedings in Nigeria

The importance and prospects of virtual court proceedings in Nigeria can overcome the myriad of challenges of regular and physical convention court proceedings (Mohamad & Sule, 2021). The commencement of virtual court proceedings in Nigeria prompted extensive debates, with proponents and opponents expressing their viewpoints (Olubukola & Abimbola, 2022). These discussions underscored the advantages of implementing virtual court proceedings in Nigeria, while also addressing the challenges that must be resolved for the effective operation of such proceedings (Olubukola & Abimbola, 2022). Supporters of virtual court proceedings in Nigeria emphasized the convenience and prospect it tends to provide to the administration of justice in Nigeria's legal profession (Mohamad & Sule, 2021). Some of the prospects of digital virtual court proceedings as highlighted by these legal scholars are as follows:

- it is convenient;
- it saves unnecessary time wastage of traveling to physically attend court proceedings;
- it emphasizes the principles of fair hearing as stipulated in Nigeria's Constitution;
- it is cheaper and cost-effective;
- it rids of the challenge of distance which could serve as a barrier;
- it enables accurate records and storage of court proceedings;
- it reduces the workload of the judge and lawyers in taking record.

Flowing from the above it is with confidence in the face of shortcomings that may come with virtual proceedings to say that, it is a tool we embrace into the Nigerian court system fully, as this will enhance effective delivery and transparency in our judiciary and therefore restore the hope of the masses in our court system.

3. Legal Framework Concerning Virtual Proceedings in Nigeria Court

Concerning the legal framework of digital virtual proceedings in Nigeria Court, the statement Honourable Justice Kashim Zannah, Chief Judge of Borno State in his paper entitled "Advancements in Technology: Signpost or Requiem to Legal Practice" is very apt. According to him, the future of our legal market cannot be immune from the technology that will inevitably permeate the socio-economic fabrics of our society. His Lordship further argued that in the same way as dinosaurs went into extinction, paperwork in legal practice will follow suit.

Given this, the mixed reactions, and argument for and against the practice of virtual proceedings in Nigeria Court can be put to rest by a thorough examination of the provisions of the Nigerian law. This is concerning the fact that the most surfacing question since the inception of the adoption of digital virtual court proceedings, is hinge on the legality within the Nigerian legal ecosystem. This question stemmed from the belief of all time that you cannot put something on anything and expect it to stand. So some legal pundits do not welcome digital virtual court proceedings of any form, on the ground that Nigerian law does not support digital virtual proceedings thus any practice of this sort is unconstitutional and illegal. Those in this category, further opined that for the virtual hearing to be legal in the Nigerian court, the Nigerian Constitution must be amended to accommodate it. While to others it is a welcome development and it is to them constitutional and legal. They maintained that the Constitution need not be amended.

Concerning the above, it suffices to state that the legality of digital virtual court proceedings in Nigeria is recognized and provided for in the Nigerian constitutional, statutory and judicial authorities. It serves as the legal framework for digital virtual court proceedings and is therefore examined as follows.

3.1. The Nigeria Constitution Recognition of Digital Virtual Court Proceedings

The 1999 Constitution of the Federal Republic of Nigeria (As Amended) is Nigerian's number one law. It is the Supreme law of the land to which every other law traces its validity. This concerns the fact that section 1(3) of the Nigeria Constitution stipulates that any law that is inconsistent with the provisions of the Constitution will be declared null and void to the extent of such inconsistency. In this regard, the relevant section as it concerns digital virtual court proceedings is as provided for in Section 36(3) and (4). These provisions of the Constitution set a template as they relate to the validity of digital virtual court proceedings in Nigeria. Section 36(3) of the Nigerian Constitution provides that the proceedings of a court or any

tribunal shall be held in public. Furthermore, Section 36(4)(a) provides that a person charged before the court or tribunal shall be heard in public.

Concerning the above, it suffices to state that the combined reading of the above provisions of the Nigerian Constitution reveals that the major requirement for any proceedings to be valid or term court proceedings under the Nigerian Constitution is that such proceedings are held "in public". The emphasis is on the word "public". Furthermore, from the wordings of Sections 36(3) and (4), the contents of the subsections are a deliberate adventure that shows that it is mandatory for a court proceeding to be held in public. Once those requirements are met then such proceedings are qualified to be termed as Court proceedings. In confirming the legality of digital virtual court proceedings, it is very apt to state that the Nigerian Constitution never refers to a room, building, or place (as a physical location) to mean a court. By this, it is submitted that court is more of a service than a place accessible to the public. In this regard, it suffices to state that digital virtual court proceedings are open to the public, thus; court proceedings contemplated by the Nigerian Constitution. Though digital virtual court proceedings are not expressly mentioned by the Nigerian Constitution, but implied by the interpretation of Section 36(3) and (4) of the Nigerian Constitution. Commenting on the word "public" as used in Section 36 of the Nigerian Constitution, the court Per Muhammad JCA in *Kosebinu & Ors v Alimi*¹ opined that all that is required for a place to qualify as public as used under Section 36(3) of the 1999 Constitution of the Federal Republic of Nigeria is that the place should be accessible to the members of the public and not so accessible only on the permission or consent of the judge. Instructive in this regard, is the case of *NAB Ltd v Barri Eng. Nig. Ltd*, the Court, Per Belgore JSC posited that hearing in public entails a situation where the public is not barred.

Concerning the above, it suffices to state that though the Constitution does not expressly mention or provide for digital virtual court proceedings, but impliedly permits it, since a digital virtual platform can also be considered an even better public forum for court proceedings. Furthermore, it is a trite principle of law as judicially credited by the Nigerian Supreme Court in the case of *Anyeabosi v. R.T Briscoe Ltd*² that what is not prohibited is permitted. Also, the court held in *Theophilus v FRN*³ that the basic principle or canon of statutory interpretation states that what is not expressly prohibited by statute is impliedly permitted. The court further stated that the court lacks interpretative jurisdiction or powers to interpret a statute to mean what it does not mean nor to interpret a law to not mean what it means. Furthermore, the Supreme Court, Per Obaseki JSC, in *Attorney General of Bendel State v Attorney General of the Federation*⁴; remarked and warned that the words

¹ (2005) LPELR 11442 (CA).

² (1987) 3 NWLR (Pt. 59) 108; *Alhaji Ibrahim Hassan & Anor v Jafar Abubakar & Ors* LER (2015) SC 732/2015.

³ (2012) LPELR 9846.

⁴ (1981) 10 SC 1.

of the Constitution should not be read with stuffing narrowness. For the sake of purposive interpretation of statutes therefore the court in *FRN v Fani-Kayode*⁵ followed suit and restated the need for the court to adopt a proactive approach to the interpretation of law as well as the need for the court to avoid accepting disabilities not so imposed by law.

Thus, it is submitted in the light of the above authorities that the Nigerian Constitution does not prohibit digital virtual court proceedings in any of its provisions, and rather it impliedly permitted the use of digital technology in court proceedings. Furthermore, the Constitution in Section 36(3) (4) did not refer to any physical room or building so the word “court” is not restricted to a physical setting or building. In this regard, the meaning of the phrase “public hearing” as used in Section 36(3) and (4) of the Constitution is simply that it is accessible to the members of the public. Digital virtual court proceedings meet this requirement because it is accessible to the public; on this basis, it is arguable that digital virtual court proceedings in the Nigerian Court are legal and constitutional.

Furthermore, the legal framework on virtual proceedings in Nigeria Court can be stretched beyond the provisions of Section 36(3) and (4) of the Constitution and the judicial authorities. This is concerning the fact that by Sections 236, 248, 254, 259, 264, 269, 274, 279, and 284 of the Nigerian the Constitution of Nigeria, heads and Presidents of various courts are empowered to make rules known as the rules of Court for the practice and procedures to be observed in their respective courts as it seems best to them to achieve justice. In this regard, the provisions of Section 274 of the Constitution stipulate that the Chief Judge for each of the 36 Nigerian States is to make rules to regulate the practice and procedures of the High Court in their respective states. It was in keeping with this power and in exercising the same that some states in Nigeria have made rules that allow for digital virtual proceedings in their state.

Concerning this, there has been an arisen issue as to whether or not the practice direction made by the Chief Judges of these states on digital virtual court proceedings in their respective states is inconsistent with the provisions of Section 36(3) and (4) of the Nigerian Constitution, given the provisions of Section 274 of the Constitution among others that empower the Chief Judges of states to make rules for the regulations of practice and procedures in the State High Courts. The position of the law is that the Constitution is supreme and by Section 1(3) of the Nigeria Constitution any law that is found to be inconsistent with the provisions of the Constitution, the Constitution should prevail and such law should adjudge void to the extent to which it is inconsistent. In keeping with this, the court in *Buhari v INEC*⁶ held that any practice direction that is found to be inconsistent with the provisions of Section 36(3) and 4 of the 1999 Constitution of the Federal Republic of Nigeria (As Amended) shall be null and void. But then, is the practice direction that makes for the practice of virtual proceedings in Nigeria Court inconsistent with the provisions of Section 36(3) and (4) of the Constitution

⁵ (2010) 14 NWLR (Pt.1214)481 at 503.

⁶ (2008) 3NWLR 465.

to make it qualify to suffer the fate of the consequence provided for under Section 1(3) of the Constitution and the authority in *Buhari v INEC* (Supra) thereby making it unconstitutional? In answering this question, the decision of the Supreme Court in the recent unreported case of *Lagos State v Ekiti State Government*⁷ is instructive. In this case, the court had to determine whether having regard to the constitutional requirement that court proceedings, save for some exceptions, must be held in public and whether court hearings by the use of technology, by remote hearings of any kind, whether Zoom or WhatsApp, Microsoft Teams, Skype or any other audio-visual or video-conference platform are constitutional. The Supreme Court in resolving this issue described the matter as premature and speculative, dismissed the case and stated that by the current position of law in Nigeria digital virtual court proceedings are constitutional. This *locus classicus* case endorses digital virtual court proceedings in Nigerian Courts. This effort by the court was applauded by some legal luminaries including the former vice president of Nigeria, Prof. Yemi Osibanjo, SAN in a speech delivered at a webinar on Media Coverage of Virtual Court Proceedings in Nigeria. The learned Silk who described this decision as a welcoming development submitted in his speech that it has been years since the idea of computerization of court proceedings was considered, hence the endorsement of virtual court proceedings by a Supreme Court ruling is wise. He further stated that it has saved our system of justice from another catastrophic round of technical decisions around the constitutionality of digital virtual court proceedings among other issues.

Concerning the above, having established that virtual proceedings in Nigeria Court are legal and constitutional, it should be noted that apart from the Constitution and judicial authorities there are rules of the Court that provide for digital virtual court proceedings in Nigeria. The rules of the Court and practices directions that are of particular interest here are those of the National Industrial Court and the Lagos State High Courts.

3.2. The National Industrial Court of Nigeria Practice Directions and Guidelines, 2020

The National Industrial Practice Direction and Guidelines came into operation on the 18th of May 2020. The essence of the Practice Direction and Guidelines is aimed at ensuring access to speedy disposal of cases and justice. Furthermore, it was also aimed at seeking to keep with the lockdown directives that were meant to help control Coronavirus (Covid-19). However, it suffices to state that the Practice Direction sufficiently provides the procedure where court proceedings were done virtually through the use of electronic devices. This covers the entire court process from filing of processes to rulings. In this regard, Section 4(1) of the National Industrial Court of Nigeria Practice Directions and Guidelines for Court sitting provides for the filing of court processes electronically. It states that all documents that a party seeks to file must be scanned or converted to PDF format and sent

⁷ SC/CV/260/2020 (Unreported).

to the Court's registry through an electronic mail address or WhatsApp dedicated for that purpose. It further instructs that the counsel must sign and seal the process they seek to file. Subsection 2 of Section 4 of the Practice Direction, however, provides for physical means of filing where electronic filing becomes impracticable. Section 4(4) of Practice Direction provides that where a process is filed electronically, the parties and the counsel must drop an email or phone by which they can be reached. Section 5 of the Practice Direction, 2020 takes care of the payment of filing fees. Section 5(1) of the PD 2020 states that payment of filing fees should be electronically through remittal. Furthermore, Section 6 of the Practice Direction provides for the service of court processes as well as hearing notice/ electronic mode of service. Section 6(2), (3) and (4) provides that parties in all their process filed must indicate the contact address with email or phone number by which the court process is to be served on them both by the court officers and by the other party. This contact address is also required to notify the parties about the hearing notice. By Section 6(6) of the Practice Direction service is considered completed, delivered, and proper once the electronic device used for that service shows notice of delivery.

It suffices to state that the most relevant provision of the National Industrial Practice Direction and Guidelines is as provided for in Section 7(1). It stipulates that for digital virtual court proceedings as against physical hearings throughout the Covid-19 period except for extremely urgent and essential matters that may not be heard by the court virtually. The matter that falls under this category however is left for the Presidents of the National Industrial Court to list out and make them available for all judges to be guided. However, it is not all matters required to hold on digital virtual court proceedings, this is concerning the fact that Section 7(2) stipulates that all non-contentious matters or all cases that do not require evidence to be tendered or taken fall within the category of matters that can be heard remotely. It is also the purport of Subsection 2 that all judgments, rulings, and directions of the court are to be delivered virtually. Section 7(3) provides for the means or digital platform by which virtual court proceedings can be done. It expressly and specifically mentions video conferencing and further stipulates that any other means or digital technology platform that is approved by the court. It is apt to state that Section 7(7) of the Practice Direction and Guideline seems to re-emphasize the provisions of Sections 36(3) and (4) of the 1999 Nigerian Constitution. This is concerning the fact that this Section stipulates that the court must ensure that virtual hearing is accessible to the members of the public, except if it involves an *ex parte* application or other proceedings required by any extant law or the rules of the Court to be conducted in chambers.

Concerning the above, it is apt to state that the practice direction and guidelines are by the provisions of Sections 36(3) and (4) of the Nigerian Constitution. Furthermore, it suffices to state the National Industrial Court Practice Directions and Guidelines 2020 seem to have provided for digital virtual court proceedings, though the practice direction and guidelines can only be enforced within National Industrial Court in Nigeria. In this regard, all other courts are not legally obligated to observe and implement the practice direction and guidelines.

3.3. Practice Direction for Remote Hearing of Cases in the Lagos Judiciary 2029

This practice direction was made and issued by the Chief Judge of Lagos State, Honourable Justice Kazeem O. Alogba. It should be stated this practice direction is made according to the provision of the Nigerian Constitution, the Administration of Criminal Justice Law, Lagos State, and Lagos State Rules of Court that empowers the Chief Judge to enact the practice direction and guidelines regulating court within the Lagos State jurisdiction. Section 5 of the Practice Direction, it is provided that all digital virtual court proceedings must adhere to the provisions of the Nigerian Constitution and all other applicable laws.

Sections 6–10 cover the filing of court processes, payment of filing process, and the service of Court process. In this regard, Section 7 of the practice direction stipulates that a document that is to be filed electronically must be scanned or converted to PDF format and conveyed to the Court registry via an email or WhatsApp consigned for that purpose. However, the proviso to Section 7 of the practice direction stipulates that where electronically filing becomes impracticable it can be filed physically at the court registry. Section 11 of the PD provides that service of court processes should be done electronically by email, WhatsApp, or by directives of the court if there are any. In this regard, Section 13 further stipulates that where service is considered electronically, the time begins to count from when it was sent and not when it was received.

The most relevant provisions of the practice directions and guidelines are Sections 14–18. These sections deal with the nature of digital virtual court proceedings, the platform to be used, and other modalities. In this regard, Section 14 stipulates that parties and counsel should meet and plan the virtual meeting with the registry. However, Section 16 of the practice direction and guidelines provide for the digital technology platform where virtual court proceedings can be held. They are: through Zoom, Skype, or any other communication method approved by the judge. Section 17 on the other hand directs that the parties and Counsel must ensure that the facilities needed for the digital virtual hearing are available. Furthermore, the section also stipulates that the notice of court hearing should be made available on the website of the judge and also be stated on the cause list. Furthermore, Section 19 of the practice direction stipulates that the court has to direct and instructs the parties and counsel on the use of video conferencing and audio during proceedings. Section 20 of the practice direction also made it compulsory that counsel appearing virtually must be appropriately dressed by the dress code of the legal profession. Concerning the recording of the digital virtual court proceeding, Section 21 empowers the court to record the court proceedings. However, Section 22 further stipulates that a counsel of parties can only record upon obtaining the leave of court.

Concerning the above provision of the Lagos State Practice Direction and Guidelines, it suffices to state that it substantially provides for virtual proceedings and is in conformity with Sections 36(3) and (4) of the Nigeria Constitution. In this regard, it will be apt to state that given the constitutional provision, statutory and judicial authority, digital virtual court proceedings are legal, constitutional, and permissible in the Nigerian Court system.

4. Legal and Socio-economic Challenges Concerning Digital Virtual Court Proceedings in Nigeria

It is apt to state that the introduction of virtual proceedings in Nigeria is a very welcoming development and is celebrated by many for its multiple benefits. However, it should be noted that this practice faces a lot of legal and socio-economic challenges in Nigeria. These challenges and the attendant issues are worth considering their amelioration so as to enjoy the smooth practice of virtual proceedings in Nigeria.

4.1. The issue of the constitutionality of virtual court proceedings in Nigeria

One major issue that followed the practice of virtual hearing is the question of constitutionality. This question is concerning the fact that there is an express mention of digital virtual court proceedings in Section 36 of the Nigeria Constitution. This is concerning the fact that Section 36(3) and (4) of the Constitution provides that the hearings by courts and tribunals must be held in public. It is in the interpretation of this subsection that a lot of issues arose. Lawyers, writers, professors of law, legal luminaries and probably even judges have divided opinions on this. While some legal scholars believe that digital virtual court proceedings are in breach of the constitutional requirement which hinges on the public hearing because the members of the public will not readily participate in the virtual court hearing. They further argued that given the requirements of the Constitution, the courts must ensure public access except in those very limited instances where public safety or public health is required. According to these scholars, digital virtual court proceedings tend to limit public participation in court proceedings, given the fact that not everyone could afford it. In this regard, they consider the practice direction and guidelines of most courts that permit and allow for digital virtual court proceedings as inconsistent with the Nigerian Constitution. However, it suffices to state that, this argument has been laid to rest by the decision of the Supreme Court in the case of Lagos State v Ekiti State Government (Supra) where the issue of the constitutionality of the virtual hearing was in issue. The Attorney General of Lagos and the Attorney General of Ekiti State approached the Supreme Court with their issues. The Court ruled to the surprise of many, yet rightly that virtual court proceedings are not unconstitutional in Nigeria and that it is by the provision of the Nigerian Constitution.

4.2. The challenges of Evidentiary Issues

The subject of evidence is very important in any court proceedings. Evidence is the wheel upon which judicial proceedings ride. Cases are lost and are won on the availability or otherwise of the evidence. It is a trite law that witnesses are often called to test the evidence tendered in court. These witnesses must pass through the heat of cross-examination. While it cannot be said that this is not entirely denied in digital virtual court proceedings, its efficacy and potency

are drastically reduced and affected. Furthermore, digital virtual court proceedings also pose a challenge and issue to the court in evaluating the credibility of a witness. Also, video quality and technological failures can interfere with the court's perception of a witness's evidence. Additionally, there is manifestly the need to bring the process of tendering evidence as well as its admissibility with the practice in the traditional court system. This is concerning the fact that Sections 86 and 90 of The Evidence Act; it stipulates that evidences are required to be tendered in physical form. This implies that evidence in soft copy forms is not recognized or tender through digital platforms is admissible. There is also the discovery that a document that has been tampered with can be tendered and admitted in evidence virtually without notice. This is because the shared screen feature may not be promising enough to expose any alteration or mutilation to a document that has been tampered with. Given the lack of a defined path and directive as to how evidence is to be tendered in digital virtual court proceedings, will therefore pose legal challenges.

4.3. Enforcement of Orders

Unlike what we are used to physically, enforcing court orders, such as serving documents or ensuring compliance with judgments, could become more challenging when it comes to digital virtual court proceedings. This challenge is perpetuated by the generality of issues that bedevil the digital technology environment.

4.4. Digital Literacy and Technophobia

Digital virtual court proceedings depend largely on the robust use of digital technology. Computer and digital literacy are necessary for the parties and especially counsel to navigate through this practice. This already has disadvantaged a lot of people who are not computer literate. This includes adults who will invariably display fear of technology instead of welcoming, accepting, and using it. Furthermore, it suffices to state that older judges and legal practitioners, who throughout their lives depended on paperwork and physical appearance in court, will be disadvantaged in using digital technology in court proceedings.

4.5. Infrastructural Issues

The importance of infrastructural build-up for the smooth and effective practice of digital virtual court proceedings cannot be overemphasized. To conduct virtual proceedings smoothly, there must be stable and uninterrupted internet connectivity, electric power supply, and access to electronic devices. But it suffices to say that, this is a major challenge that faces the Nigerian system of operation of digital technology. Most places in Nigeria do not have a constant power supply, and the network has also been a major issue that interrupts online or virtual meetings, virtual proceedings are not in any way immune from these challenges.

5. Presentation and Analysis of Data

The data generated through the use of an online questionnaire distributed to the respondents is therefore presented and examined as follows.

5.1. Sample Size and Techniques

To achieve a wider and sufficient wider scope of response from the respondents in Nigeria through the use of a questionnaire, the study was conducted among the respondents residing in Nigeria. The study's sample focused on a sample size of 303 respondents residing in Nigeria's various geo-political zones. However, in identifying or selecting the respondents to respond to the questionnaire, the study utilizes a simple random sampling method. The simple random method of sampling has been adjudged to have the following advantages and relevance:

- the random sampling method is more apt in identifying audiences or respondents from heterogenous populaces or inhabitants;
- the result generated by using the simple random sampling method is free from prejudice, unbiased, and dispassionate;
- using the random sampling method to identify respondents is less demanding and devoid of complications;
- it is considered relevant and advantageous in a hybrid legal research method.

5.2. Data Analysis

The data obtained or generated from the questionnaire are therefore presented in tables 1–6 for accuracy and clarity of presentation.

Table 1 shows valid respondents' identification of the various geo-political zones they reside or live in Nigeria.

Table 1. Valid respondents' identification of their residential area in Nigeria (303 responses)

S/N	Geopolitical Zones in Nigeria	Responses of Respondents	Percent
1	North Central	35	11.6
2	North East	37	12.2
3	North West	29	9.6
4	South East	67	22.1
5	South South	79	26.1
6	South West	56	18.5
	TOTAL	303	100

Table 2 shows clarifications and valid confirmation of the prospect digital virtual court proceedings tend to provide in the administration of justice in Nigeria.

Table 2. Valid respondents' confirmation of if there are prospects in adopting digital virtual court proceedings in Nigeria (303 responses)

	Response	Percent
Valid Yes	260	85.8
Valid No	43	14.2
Total	303	100

Table 3 shows clusters of identification of the prospects and relevance of digital virtual court proceedings in the administration of justice in Nigeria.

Table 3. Valid Cluster of identification of the prospects of digital virtual court proceedings (263 responses, more than one option could be chosen)

The prospect of digital virtual court proceedings	Cluster of Response	Percentage
It is convenient	157	59.7
It saves unnecessary time wastage of traveling in physically attending court proceedings	214	81.4
It emphasizes the principles of fair hearing as stipulated in Nigeria's constitution	194	73.8
It is cheaper and cost-effective	106	40.3
It rids of the challenge of distance which could serve as a barrier	210	79.8
It enables accurate records and storage of court proceedings	131	49.8
It reduces the workload of the judge and lawyers in taking record	185	70.3

Table 4 shows valid confirmations by respondents in identifying if there are challenges concerning the adoption and use of digital virtual court proceedings in Nigeria.

Table 4. Valid confirmation of if there are challenges to adopting digital virtual court proceedings in Nigeria (303 responses)

	Response	Percent
Valid Yes	259	85.5
Valid No	44	14.5
Total	303	100

Table 5 shows clusters of identification of challenges that may affect the effective use of digital virtual court proceedings in Nigeria.

Table 5. Cluster of challenges of digital virtual court proceedings in Nigeria (263 responses, more than one option could be chosen)

Challenges of digital virtual court proceedings	Cluster of Response	Percentage
Insufficient legal regulation of the use of digital virtual court proceedings	210	79.8
Its sophisticated nature could lead to permanent loss of information	201	76.4
Internet fraudsters could hack into the digital platform	149	56.7
Challenges of corruption by court officials in the manipulation of the processes	200	76
Poor and effective network	152	57.8
Epileptic power supply	141	53.6
Illiteracy and inability to operate digital virtual software by most lawyers and litigant	191	72.6

Table 6 shows valid responses of respondents in identifying possible ways in enhancing the use of digital virtual court proceedings in Nigeria.

Table 6. Valid cluster of remedies to enhance the use of digital virtual court proceedings in Nigeria (263 responses, more than one option could be chosen)

Strategy for enhancing digital virtual court proceedings	Cluster of Responses	Percentage
Review of the rules and laws of the court to adequately provide for digital virtual court proceedings	213	81
Provision of additional backup in court proceedings storage and record keeping	216	82.1
Strict prosecution of individuals involved in digital fraud	141	53.6
Sensitization and training of legal practitioners on the usage of digital virtual court proceedings	190	72.2
Enhancing the provision of an effective and stable network by network providers	161	61.2
Stable power supply	129	49

5.3. Discussion of Findings

Concerning the result of data that was generated in this study by the use of a questionnaire as presented and analyzed in the tabular format above, is therefore discussed as follows. In Table 1, 303 respondents were the sample size of the study that responded to the questionnaire and they are Nigerians who reside within the various parts of Nigeria. The essence of this is to ensure that the respondents possess the knowledge and are well-informed concerning the prospects and challenges of digital virtual court proceedings in Nigeria. Furthermore, in Table 2, 85.8 % of the respondents confirm that the adoption of digital virtual court proceedings seems to have several prospects in enhancing the administration of justice in Nigeria. In this regard, in Table 3, the respondents were able to identify some of the prospects, relevance, and advantages of digital virtual court proceedings as follows:

1. 59.7 and 81.4 % of the respondents stated that it is convenient and it saves unnecessary time wastage of traveling in physically attending court proceedings, respectively.
2. 73.8 % agreed that it emphasizes the principles of fair hearing as stipulated in Nigeria's Constitution.
3. 40.3 and 79.8 %, respectively, also stipulated that it is cheaper and cost-effective and rids of the challenge of distance which could serve as a barrier.
4. 49.8 % identify that it enables accurate records and storage of court proceedings.
5. Furthermore, 70.3 % of the respondents were of the view that it reduces the workload of the judge and lawyers in taking record.

Despite the beautiful and cogent prospect digital technology tends to provide, however, in Table 4, 85.5 % of the respondents representing the majority of the respondents confirm that there are challenges in adopting and using digital virtual court proceedings in Nigeria. In this regard, in Table 5, the respondents identify some of these challenges as follows; 79.8 %

of the respondents stated that there is insufficient legal regulation of the use of digital virtual court proceedings. 76.4 % of the respondents were of the opinion that the sophisticated nature of digital virtual court proceedings could lead to permanent loss of information. These findings showed the sophisticated nature of digital technology and poor method of operation, it could lead to loss of information and give room for internet fraudsters to intercept the smooth usage of digital platforms. 56.7 % identify that internet fraudsters could hack into the digital platform. 76 % stated that there are also the challenges of corruption by court officials in the manipulation of the processes. 57.8 and 53.6 % agreed that poor network and epileptic power supply respectively could be a major challenge. These findings also state that Nigeria is a developing country that has been unable to resolve issues of poor internet connection and electrical power supply. These have always posed challenges in the usage of digital technology in Nigeria. Furthermore, 72.6 % of the respondents stated that there is also a challenge of illiteracy and inability to operate digital virtual software by most lawyers and litigants.

However, despite the above challenges of digital virtual court proceedings in Nigeria, it suffices to state that the advantages and prospects are numerous. Furthermore, the global environment is transcending into a global digitalize village and Nigerians cannot afford to be left behind in crude methods of living. In this regard, in Table 6, the respondents suggested probable solutions to correcting the above legal and socio-economic challenges in adopting digital virtual court proceedings in Nigeria as follows:

1. 81 % of the respondents identify that there is a need for a review of the rules and laws of a court to adequately provide for digital virtual court proceedings.
2. 82.1 % stated that there should be the provision of additional backup in court proceedings storage and record keeping.
3. 53.6 % identify strict prosecution of individuals involved in digital fraud as a measure to enhance the use of digital virtual court proceedings in Nigeria.
4. Also, 72.2 % were of the opinion that there is a need for sensitization and training of legal practitioners on the usage of digital virtual court proceedings.
5. Furthermore, 61.2 % stated that there is a need in enhancing the provision of an effective and stable internet connection by network providers and stable power supply respectively.

Conclusion

The study has been able to examine the viability and prospect of digital virtual court proceedings in Nigeria. Furthermore, the study also identifies the fact that the Nigeria Constitution though does not expressly provide for and regulate digital virtual court proceedings, however, a careful examination of Section 36(3) and (4) of the Nigerian Constitution reveals that there is an implied approval and recognition of digital virtual court proceedings. Furthermore, the study further observed that this position of the law has been

judicially affirmed by the apex court in Nigeria. In furtherance of the constitutional power of the head of various courts in Nigeria to make rules concerning the operation of their court, the head of Lagos State High Court and National Industrial Court has through this medium enacted their practice direction and incorporated the adoption and regulation of digital virtual court proceedings.

However, it suffices to state that while digital virtual court proceedings offer the potential for increased efficiency and accessibility in the Nigerian court system, there are some legal and socio-economic challenges identified in this study that may affect its viability. In this regard, several critical considerations and recommendations should be taken into account as follows:

1. In keeping with the right to privacy guaranteed under Chapter 4 of the 1999 Constitution of the Federal Republic of Nigeria, the court should make very strong security measures to protect sensitive information, prevent unauthorized access, and maintain the confidentiality of court proceedings.

2. The court should improve on the current practice Direction and Guidelines so that there are guidelines and standards for managing technical glitches and conducting virtual proceedings, especially rules for presenting and tendering evidence.

3. The government and persons concerned should commit to investing in robust and reliable internet connectivity as well as power supply across the country to ensure seamless virtual proceedings without disruptions.

4. The Nigerian government and judiciary should from time to time organize training programs for lawyers, judges, and court staff to enhance their digital literacy skills, enabling them to effectively use virtual proceedings platforms and tools.

5. The court conducting virtual hearings should improve on making its proceeding accessible to all parties, including those with limited resources, by dropping the link in a designated place that is open to the public and also by providing necessary technology and support to bridge the digital divide.

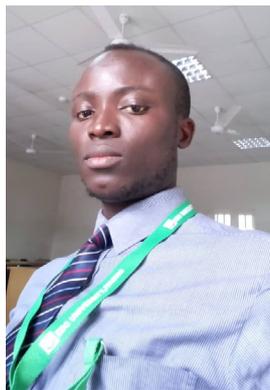
6. The court should make a deliberate effort to make procedures for remote swearing of oaths to ensure the integrity of witness testimony as it is a common practice in traditional court.

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Authors' contributions

Paul Atagamen Aidonojie provided overall guidance and set the study objectives; searched and selected the scientific literature; critically evaluated the interpretation of the study results; formulated the key findings, suggestions and recommendations; and approved the final version of the article.

Saminu Abacha Wakili analyzed the national legislation; interpreted the study findings; organized the sociological survey; and drafted the manuscript.

David Ayuba collected and analyzed literature and legislation; conducted the sociological survey; interpreted the study results; and prepared the manuscript.

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Эффективность отправления правосудия в Нигерии в условиях развития цифровых технологий

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Ключевые слова

виртуализация
судопроизводства,
онлайн-разрешение споров,
онлайн-судопроизводство,
отправление правосудия,
право,
суд,
цифровая платформа,
цифровые технологии,
электронное
делопроизводство,
электронное правосудие

Аннотация

Цель: традиционная нигерийская судебная система долгое время ассоциировалась с ее консервативным подходом и традиционными методологиями отправления правосудия. В результате развития цифровых технологий Нигерия как развивающаяся страна получила огромные преимущества, особенно в правовой сфере. Это связано с тем, что для эффективного отправления правосудия в судопроизводстве Нигерии стремительно внедряются современные цифровые технологии. Однако, несмотря на перспективы развития цифровых технологий, в Нигерии существуют правовые и социально-экономические проблемы, которые могут повлиять на успешное их использование в судопроизводстве. Этим обосновывается нацеленность исследования на выявление правовых и социально-экономических проблем цифровизации судопроизводства в Нигерии.

Методы: исследование сочетает в себе доктринальный и недоктринальный подходы. Первый позволяет теоретически осмыслить концептуальные вопросы и перспективы развития виртуализации

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судопроизводства, изучить на основе первичных и вторичных источников (законов, монографий, научных статей и интернет-ресурсов) правовые и социально-экономические проблемы использования цифровых технологий в судопроизводстве. Второй направлен на анкетирование, описание и анализ результатов социологического опроса, проведенного среди респондентов, проживающих в Нигерии, на предмет их отношения к нововведениям в области цифровизации и виртуализации судопроизводства, а также к возникающим в связи с цифровизацией проблемам.

Результаты: исследование показало, что использование цифровых технологий в судопроизводстве Нигерии имеет ряд перспектив, обеспечивающих эффективное отправление правосудия и обеспечение точного учета и хранения данных о судебных заседаниях. Наряду с преимуществами показаны проблемы, которые могут повлиять на эффективность цифровизации судопроизводства.

Научная новизна: заключается в исследовании использования цифровых технологий в судопроизводстве Нигерии, в выявлении перспективы повышения эффективности отправления нигерийского правосудия в условиях развития цифровых технологий, а также в обусловленных этой тенденцией проблем.

Практическая значимость: исследование позволит заинтересованным сторонам нигерийского юридического сектора выявить правовые и социально-экономические проблемы, которые могут негативно повлиять на использование цифровых технологий в судопроизводстве и сделать их неэффективными. Кроме того, в статье предлагаются конкретные (практические) рекомендации по устранению этих проблем.

Для цитирования

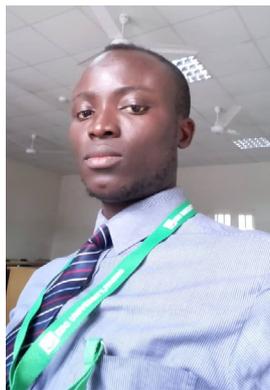
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Самину А. Вакили проводил анализ национального законодательства; выполнял интерпретацию результатов исследования; организовал проведение социологического опроса и подготовку черновика рукописи.

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