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Prospects for Implementing Digital Technologies in the Administration of Justice in Zimbabwe

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Keywords

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automation,
court,
digital documentation,
digital government,
digital justice,
digital technologies,
judicial proceedings,
judicial system,
law

Abstract

Objective: an intensive discussion is currently going on globally on digitalization and automation of providing services in public institutions, which corresponds to the technological development of the Fourth Industrial Revolution. The use of digital technologies is crucial to create an optimized service delivery system. In African countries, attention is increasingly paid to the automation and digitalization of judicial activities, due to concerns about the risks of influencing justice systems. In light of this, the article is aimed at forming a promising model for the introduction and implementation of digitalization in Zimbabwe courts.

Methods: the research is based on the methods of scientific analysis and synthesis, deduction and induction, legal modeling, formal legal and comparative legal methods.

Results: the article provides an overview of the measures taken to digitalize the system of administration of justice in various states. It also examines best practices and reveals the essence of digitalization in the judicial system in Zimbabwe. The authors identify the main existing and promising directions of the impact of digitalization on the judicial system of Zimbabwe and show the ways to promptly and effectively convert the system of justice administration into a digital format. The article

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identifies the advantages of digital data processing in judicial bodies and obstacles to the use of digital systems in the administration of justice. The latter result in the insufficient optimality of the Integrated Electronic Case Management System (IECMS).

Scientific novelty: the study builds an optimal model for the introduction of digital technologies into the judicial system in Zimbabwe, aimed at improving the efficiency of courts digitalization and transforming the justice administration system. The authors proved that the crucial factors of achieving this goal are the auxiliary infrastructure of information and communication technologies, the level of education and awareness of citizens, and the ongoing state and legal policy.

Practical significance: it is expected that the proposed model to implement digitalization in Zimbabwe courts and improve its efficiency will allow for the comprehensive and uninterrupted implementation of IECMS.

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Content

Introduction

In the 21st century, there has been a significant transformation in public service delivery through the introduction of Information and Communication Technologies (ICTs). These technologies are at the core of the Digital Governance Paradigm (DGP), which emphasizes the central role of technology in service delivery. Improving the efficiency of courts has become the goal of most judicial innovations and reforms (Krishna, 2018). Even so, the procedural inconvenience of the manual paper-based courts in Zimbabwe and other countries of the world and burden of pending and ongoing court cases has posed challenges for judicial systems worldwide. To address this, some countries have turned to Information Technology (IT) as a means to revitalize their justice administration. The digitalization of courts gained momentum upon recognition that it is a crucial component of e-governance (Monga, 2008). Courts have attracted negative descriptions due to delayed justice (Poshai & Vyas-Doorgapersad, 2023) and allegations of capture, emblematic partiality (Hanzi & Baeyens, 2021) and mutilation of judicial independence by the state in Zimbabwe (Tembo & Singh, 2023). Adopting digital technologies to flash out the morass of case backlogs provides hope for a solution that outlasts all previous attempts at reinventing the justice administration sector. Digital innovations are therefore seen as possessing the potential to renovate the justice delivery sector.

However, the implementation of electronic court systems encounters numerous challenges. The use of ICTs in courts was initially met with scepticism, and the costs associated with creating electronic case files and training judiciary staff on new skills proved to be obstacles (Deming, 1985; Fleer, 2018; Poshai & Vyas-Doorgapersad, 2023). Despite these challenges, countries like Britain swiftly overcame the hurdles by establishing the necessary infrastructure and mandating the use of technology across all judiciary sectors (Deming, 1985). The argument was that technology enables courts to efficiently disseminate, analyze, store, transfer, and retrieve information (Fleer, 2018). In Russia, advances towards integrating Artificial Intelligence (AI) in managing the activities of courts is already visible and confirms the forward-thinking ICT posture of the Russian Federation (Dneprovskaya & Abramitov, 2020). More specifically, Russia discovered that efficient e-justice delivery, document circulation, time and resource savings can be achieved through digital courts. In the United States, the government recognized the enhanced security that electronic courts provide for classified information, leading to the introduction of e-courts nationwide. In the Lake County Florida, electronic records management

emerged as a viable option to attack restrictions to access to public records such as court proceedings (Parrish & Courtney, 2007). However, the lack of standardized approaches and models posed a challenge during the early stages of electronic court systems (Chipeva et al., 2018). In Canada, the implementation of automated system s and electronic communication facilities in the Supreme Court of Canada noticeably improved the efficiency and effectiveness of its administrative operations (Goulard et al., 1991). Similar trends were recorded in other continents.

Asian countries such as Malaysia and Singapore were among the early adopters of electronic court systems, with Malaysia starting with electronic case filing and Singapore focusing on electronic case recording (Cassim, 2017). In Europe and Latin America, electronic case management systems gained prominence for their fairness, efficiency and prompt case handling (Rooze, 2010). The adoption of these systems in countries like Italy, Austria, Poland, and South Korea allowed for the clearance of backlogged cases and prevention of data loss. In Africa, Kenya led the way in advocating for electronic court systems, followed by Tanzania, South Africa, Egypt, Algeria, and Morocco (Alami, 2015). Tanzania and South Africa progressed faster due to their existing infrastructure, while South Africa's system proved more organized (Kabir et al., 2015; Naidoo, 2017).

The positive impact of ICTs in transforming public service delivery, as highlighted by previous studies (Nzaro & Magidi, 2014; Mawela et al., 2017), influenced the adoption of ICTs in judicial systems globally. In Zimbabwe, the formal use of e-court systems was initially slow due to inadequate infrastructure, although the use of laptops, video cameras, phones, and voice notes for evidence was visible. However, the Covid-19 crisis accelerated the adoption of ICTs in Zimbabwean courts. The pandemic disrupted general business and specific court operations, leading to the need for strategies to ensure business continuity (Muparadzi & Rodze, 2021) and continuous access to justice and prevent case backlogs. In response, Zimbabwe introduced the electronic court system, aligning with World Bank recommendations to improve judicial operations and address the backlog of cases (Wallace, 2019).

In the following segments, this article interrogates the influence of digitalization in Zimbabwean courts and how rapid digitization of the entire justice delivery system can be achieved. It seeks to answer key questions, including the understanding of digitalization in the court systems of Zimbabwe, the benefits of digitalizing the courts, the effectiveness of digitalization on service delivery, obstacles to effective digitalization, and the best model for adopting and utilizing digital systems in justice service delivery.

1. Research Results

1.1. Statement of the Problem

The use of ICTs in improving service delivery in the public sector is a global trend (Zhurkina et al., 2021). The implementation of e-government systems in Zimbabwe's justice delivery sector aims to optimize justice delivery services. With technological advancements like IECMS, court cases can be presented in a more organized and presentable manner. In Zimbabwean courts, the adoption of electronic systems was timed with precision due to the presence of case backlogs and difficulties in file management as well as the complicated difficulties presented by Covid-19 on the operational efficacy of the old face to face court system. This initiative is part of the government's efforts to improve service delivery and combat corruption (Poshai & Vyas-Doorgapersad, 2023)[1]. Even so, the challenges affecting digitization and use of digital systems have not disappeared.

Despite the adoption and implementation of the electronic case management system (IECMS), the justice delivery system still faces challenges such as case backlogs and delays, which hinder effective justice service delivery in Zimbabwe. That cases are still being filed manually in a digitalized environment is a problem (Procopiuck, 2018). Added to that, allowing a rule which permits litigants to choose to have either a virtual or face to face trial in a fully digitalized court system betrays underlying problems with the IECMS in Zimbabwe. These challenges stem from an unreliable system and innovation failing to live up to expectations and causing courts to fall back on traditional paper-based court management systems, which are slow and inefficient. These shortcomings highlight underlying omissions in the design and implementation of the IECMS and capacity issues that impede the optimal utilization of e-governance systems in the justice delivery system. It also remains uncertain whether the digitalization of Zimbabwean courts can truly enhance access to justice because of stubborn impediments confronting the smooth operations of the IECMS such as lack of requisite infrastructure, lack of system capacity, persistent digital divide issues, ICT illiteracy (Poshai & Vyas-Doorgapersad, 2023), bureaucratic foot dragging and lack of literature on digitization of courts in Zimbabwe with the exception of the recent and prominent work by Poshai and Vyas-Doorgapersad (2023). Again, if the digitization of the entire Zimbabwean justice administration system is not quickened, court systems in Zimbabwe will remain stuck at the tail end of digital justice administration in Africa. This study therefore poses the question: what are the fundamental requirements for successful implementation of digitalization projects in the justice administration sector in Zimbabwe. In the end, this study proposes ideas that can encourage effective and successful digitalization within the justice delivery sector while preventing the total collapse of the recently introduced Electronic Case

[1] Malaba, L. (2022). Digital transformation of judiciaries in Africa and experiences in the face of the COVID-19 pandemic. The Judicial Service Commission of Zimbabwe. https://clck.ru/3Eufbq

Management System (ECMS). The research methodology used to answer the research question above is outlined in the following segment.

1.2. Research Methodology

This section outlines the research methodology employed in the study, drawing guidance from Creswell (2009, 2013, 2014) and Sekaran and Bougie (2010). The researchers adopted a qualitative research approach, which was deemed most suitable for addressing the research questions and understanding how the digitalization of the justice delivery system enhances court operations in Zimbabwe. This approach facilitated an interpretive understanding of digitalization in Zimbabwean courts and aimed to develop a suitable model for improving justice administration. By enlisting perspectives from earlier research the study gained detailed insights into how digitalization of courts is perceived in terms of its potential to enhance justice service delivery.

To achieve this objective, the study employed a case study research design, following the recommendations of Neuman (2014) and Davies (2007). This design facilitated an in-depth examination of Zimbabwean court digitalization, emphasizing the understanding of government-led justice service improvements. Cohen et al. (2007) suggest that a case study design ensures data specificity, enhancing its reliability in the selected area. Yet, it is vital to recognize that this research design's results are mainly relevant to the specific case study.

The combination of diverse views from different scholars provided assorted perspectives that contributed to a comprehensive understanding of the digitalization of courts, its benefits to the justice delivery system in Zimbabwe, and the challenges associated with its implementation.

The use of books, journals, government publications, newspaper articles, and online documents was chosen for its ready availability of data, time-saving nature, and provision of background information (Ahmed, 2010). Content analysis was applied to examine the documentary evidence. Each relevant section in a book, book chapter, journal article, newspaper article, and government publication was thoroughly reviewed, and relevant data were extracted for further analysis. The documentary evidence and the theoretical framework served to corroborate or challenge the key findings of the study. The use of multiple data sources rather than mixed methods also permitted the researchers to collect the required information and critically analysing the findings as explained by Bans-Akutey and Tiimub (2021) and Carter et al. (2014). This convergence of information from different sources (data source triangulation) allowed the researchers to validate research results presented at the end.

While the study relied on secondary data, it had limitations. The authors discovered that there are very few studies on the digitization of courts in Zimbabwe hence reliance on perspectives from varied scholars and regions was considered useful to fill that gap. However, despite these limitations, this study is a bold attempt at unpacking Zimbabwe's

experience with digitalization projects in the justice administration sector and provides insights that can be used for further research.

1.3. Theoretical Framework

1.3.1. Technology Acceptance Model (TAM)

The study relied on the lenses of the Technology Acceptance Model (TAM) to aptly explain technology acceptance and use in Justice administration in Zimbabwe as proposed by Fred Davis in 1989 (Ajibade 2018). TAM is an approach to predict and explain the use and acceptance of information systems and technology by individual users (Kim & Crowston, 2011). TAM prescribes that user acceptance of technology depends on perceived usefulness (PU) and perceived ease of use (PEOU) as well as the presence of facilitating conditions. In line with (Davis et al., 1989), this research investigated how the assumption of improved efficiency will translate to enhanced court efficiency, reduced delays and improved case management. Added to that, this construct permitted a thorough analysis of present and absent facilitating conditions in the digitization of courts in Zimbabwe. Again, TAM facilitates the adoption of digital technologies and the study related this construct to the anticipated increase in access to justice administration even by marginalised groups and individuals. Streamlining justice administration processes is one of the goals of adopting digital technologies in the Zimbabwean Court systems and TAM was found useful in explaining how court processes can potentially be optimized by reducing paperwork and automating routine tasks. In addition, increased transparency, realizing cost savings, improved data management and the introduction of virtual courts are some of the goals of digitalization in the justice administration system. Finally, raising judicial productivity and advancing overall digital transformation in the justice administration system are other important goals of ICT adoption in the Zimbabwean court system. Accordingly, TAM was useful in explaining how digital technologies enhance transparency and accountability in court proceedings, effective management of court data, adoption of virtual courts, reducing the workload of court staff and modernizing the justice system in Zimbabwe. Figure 1 summarizes the Technology Adoption Model as perceived by (Davis et al., 1989).

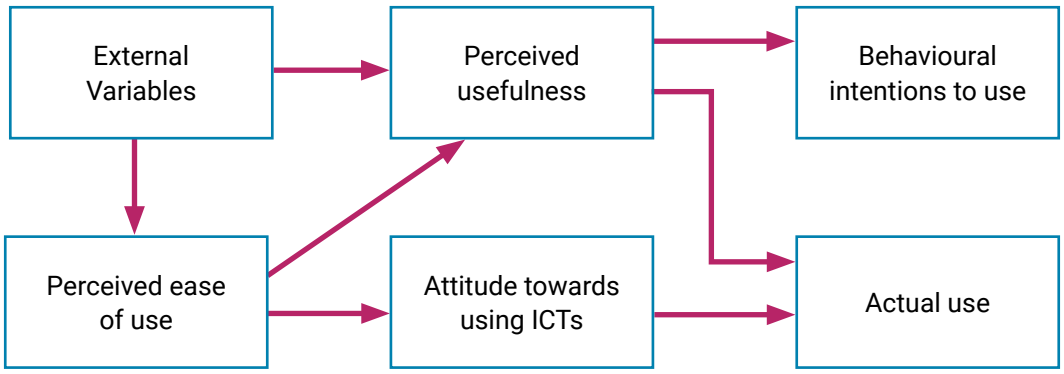

Figure 1: Technology Acceptance Model

Source: (Davis et al., 1989).

Davis et al. (1989) diagram depicts TAM's key elements. External factors affect perceived usefulness and ease of use, influencing attitudes towards electronic court systems. These factors, including social, economic, and political influences, impact the adoption of digital systems in justice delivery. TAM suggests a link between intention to use technology and e-justice system benefits. The study aims to assess if digital justice systems adoption aligns with this model.

2. Literature Review

2.1. Benefits Linked to Digitalization of Courts and Anticipated Benefits from the Adoption of the IECMS in Zimbabwe

Poshai and Vyas-Doorgapersad (2023) highlight the expected benefits of IECMS in Zimbabwe, while literature explores digitalization advantages extensively. According to Poshai and Vyas-Doorgapersad (2023), the highly publicized advantages of the IECMS in Zimbabwe encompass increased efficiency, enhanced accessibility, and modernized judiciary operations. Again, IECMS also remove operational bottlenecks, eliminate corruption, improve filing of court documents and evidence, increase public trust in the judiciary, create a more responsive and resilient judiciary, and increase transparency. Their view agrees with observations by Munyoro[2], Gatsi[3], Tshuma[4], Malaba[5] and Machaya[6]. While these scholars do not exhaust all the benefits linked to digitalization, scholars such as Muparadzi et al. (2024), Muparadzi (2024), Bwalya (2018), Bannister (2015), Undi-Phiri and Phiri (2022), and Twizeyimana and Anderson (2019) acknowledge the diversity of benefits that ICTs and e-government systems place at the disposal of government institutions that include increased capacity, decentralized governance, automated and transmuted work processes, swift delivery of public services, improved productivity and competitiveness, improved public decision making, and modified organizational structures. Clearly, ICTs are an indispensable driver of organizational and social change.

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2 Munyoro, F. (2022, February 7). Zimbabwe: Virtual court to be commissioned today. AllAfrica. https://clck.ru/3EqaSY

3 Gatsi, D. (2022, August 11). Rights lawyers challenge judicial amendment bill – Says provisions may hinder right to fair trial. New Zimbabwe. https://clck.ru/3EqaUD; Machaya, P. (2023). Zimbabwe's labour, administrative courts go digital. https://clck.ru/3EqaWK

4 Tshuma, M., (2022). IECM to be launched. Sunday News. https://goo.su/S4u8

5 Malaba, L. (2022). Digital transformation of judiciaries in Africa and experiences in the face of the COVID-19 pandemic. The Judicial Service Commission of Zimbabwe. https://clck.ru/3Eufbq

6 Gatsi, D. (2022, August 11). Rights lawyers challenge judicial amendment bill – Says provisions may hinder right to fair trial. New Zimbabwe. https://clck.ru/3EqaUD; Machaya, P. (2023). Zimbabwe's labour, administrative courts go digital. https://clck.ru/3EqaWK

The digitization of courts has shown that the traditional manual filing procedures in courts have various limitations and risks, including human error, corruption, misplaced files, and delays in transmission. This has made digitization of courts urgent in order address these challenges. Turner (2002) underlines that electronic filing dramatically changed the way courts function. Similarly, Muhammad et al. (2023) emphasizes that digitalization has significantly increased speed in applications and transmission of court documents, leading to faster case disposal. Shah and Gupta (2017) highlight that e-filing and internet services reduce paperwork burdens and improve connectivity between case stakeholders, thereby enhancing the administration of justice. Research indicates that digitalization enables court clerks to work more efficiently by reducing the time and effort required to manage cases. It also reduces file storage, record retrieval time frames, and paper usage while promoting transparency during proceedings.

In the Malaysian justice system, the digitalization of court processes and case management systems contributed to increased transparency, productivity, efficiency, and a decrease in case backlogs (Haider, 2013). More specifically the Malaysia system boasts of four integrated systems that are the Electronic Filing System (EFS), the Case Management System (CMS), Court Recording and Transcribing (CRT) and Queue Management System (QMS). Similarly, the Rwandan judicial system is credited for being the best and most functional digital court system with superior document filing and storage capabilities[7] (Poshai and Vyas-Doorgapersad, 2023). Clearly, the power of ICTs cannot be doubted in this regard

It is crucial for courts to harness the potential of information and communication technology (ICT) to ensure uninterrupted access to justice. This argument resonates with the argument of Svitlychnyy et al. (2023) that electronic justice acted as a comprehensive remote mechanism during the COVID-19 pandemic proving its effectiveness even in crisis times. In fact, the role of ICTs in supporting business continuity is also aptly captured by Poshai and Vyas-Doorgapersad (2023) and Muparadzi and Rodze (2021). Therefore, the digital transformation of the court system could provide Zimbabwe with a software solution that integrates various courts under one technology umbrella, streamlining the entire case lifecycle from filing to disposition and appeal. However, while it is already known that the Zimbabwean justice delivery system can benefit from the application of electronic justice systems, the sustainability of the recently introduced system remains in doubt. There is limited detailed research on Zimbabwe in this field while existing research mainly focuses on other countries, such as South Africa. A latest study by Poshai and Vyas-Doorgapersad (2023), though useful, does not provide conclusive

[7] Nkusi, F. (2017, July 16). Rwanda's electronic case management system and SDG, The New Times. https://clck.ru/3ErSz2

insights into the use of IECMSs and this study aims to provide further detailed knowledge about digital court systems.

Many judicial systems worldwide lack a comprehensive case management platform that can reflect existing processes, interact with related systems, and ensure reliable accessibility. This hinders the effective processing and resolution of cases in a timely manner (Drossos et al., 2018; Adeola & Evans, 2020). Digitalization of courts introduces new tools for real-time analysis, monitoring performance, and evidence-based decision-making, which has become even more crucial during the COVID-19 pandemic. It is now evident that citizens and businesses demand access to justice at any time and from anywhere in what Caserta (2022) acknowledges as the emergence of online legal platforms. Optimizing and improving processes through digital transformation using technology and best practices can lead to increased productivity, transparency, access to justice, reduced transaction costs, and shorter trial lengths (Drossos et al., 2018; Kudo, 2015). Again, electronic workflows in courts enable faster clearance rates and easier access to the judicial system (Muscalu & Hulpus, 2016). Scholars, including Adeola and Evans (2020), Bajandas and Ray[8], and Drossos et al. (2018), agree that the general benefits of digitalization in the justice delivery system are real. It is the researchers of this study's opinion that Zimbabwe is clearly yet to realize some of these benefits.

Learning from Bajandas and Ray[9] and Poshai and Vyas-Doorgapersad (2023), the digitalization of courts offers an opportunity to improve filing procedures, evidence submission, record maintenance, and overall court processes. It promises increased productivity, streamlined case flow, reduced processing time, and better quality. Through the ECMS and e-filing systems, a unified e-justice or e-court management system can be established, replacing individual failing systems and automating manual court processes. This results in reduced data input and retrieval time while facilitating data sharing across courts and partners. However, the handling of electronic evidence, requires specialist training (Insa, 2007) but the scarcity of computer forensics experts and absence of standards on handling electronic evidence in Zimbabwe is worrying.

Additionally, the digitalization of courts has implications for archive management. Papagianneas and Junius (2023) and Rooze (2010) state that archival protocols should ensure the authenticity, reliability, integrity, and usability of archive content within the judicial system. Workflow court systems play a central role in archiving practice by defining validation steps for executing court processes.

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8 Bajandas, F. F., & Ray, G. K. (2018, May 23). Implementation and use of electronic case management systems in Federal Agency adjudication: Administrative Conference of the United States. https://clck.ru/3Eug67

9 Ibid.

2.2. The Impact of Digitalization on Access to Justice

The discussion of the benefits and challenges arising from the digitalization of court processes cannot be considered in isolation (Aaltonen and Tammela, 2019). It is crucial to assess their impact on access to justice. Therefore, it is important to evaluate the current efforts in digital transformation against access to justice standards at domestic, regional, and international levels (Adeola & Evans, 2020). Access to justice encompasses various human rights, including the right to seek redress, access courts, information, a fair trial, privacy, equality, and non-discrimination and has its roots in national constitutions (Poshai and Vyas-Doorgapersad, 2023).

Article 7 of the African Charter on Human and Peoples' Rights states that every individual has the right to have their cause heard, which includes the right to access courts and seek redress. The digitalization of the justice system is continuously changing the operation of courts (Maseh, 2015). Previously, documents in the High Court were filed in print, but the introduction of e-filing requires court users to adapt to submitting documents through digital platforms. However, it is important to consider the realities faced by court users. Digital interactions necessitate devices like smartphones or laptops for filing court documents (Yin, 2009; Maseh, 2015). Additionally, accessing digital platforms requires internet access. It remains unclear whether the Zimbabwean courts have the necessary digital systems to implement the e-justice system, raising questions about the country's readiness for digital transformation. Previous studies by Muparadzi (2024) and Zinyama and Nhema (2016), Rajah (2015), Heeks (2002), Mukonza (2014) and Muparadzi et al (2019) underline that successful digitalization is premised on governance, institutional, culture, infrastructure, political, and leadership readiness (e-readiness) among other factors. It is the view of researchers in this paper that the adoption of digital innovations in Zimbabwe's court systems may have negative implications for the marginalized rural communities.

The digital transformation of court systems has negatively affected access to justice, particularly in the realm of virtual court proceedings, which are becoming more prevalent (Chipeva et al., 2018). While digitalization can facilitate virtual court hearings, reducing travel time and costs for litigants, many individuals in Zimbabwe may lack the necessary devices and internet access to participate virtually (Poshai & Vyas-Doorgapersad, 2023). Sung (2020) precisely states that e-courts may become unfriendly and unaffordable for the ICT have nots seeking access to justice. This directly impacts the right to access justice (Maseh, 2015; Adeola & Evans, 2020; Cordella & Contini, 2020). Similarly, the production of digital evidence may exclude those without access to devices and internet connectivity (Cassim, 2017). The quality of internet available also affects the ability to produce evidence effectively, with broadband being necessary for uninterrupted interaction and evidence presentation in virtual settings. The potential positive or negative impact of Zimbabwe's

adoption of digital systems on the justice delivery system remains uncertain, and this study aims to provide answers.

Regarding judicial transparency, the judiciary has an obligation to conduct its proceedings openly and publicly. This principle stems from the notion that justice must not only be done but must also be seen to be done (Cordella & Contini, 2020; Oakes & Davies, 2016; Poshai & Vyas-Doorgapersad, 2023)[10]. Transparency within the court system enhances public knowledge, fosters judicial accountability, reduces the risk of corruption, and enables the public to challenge perceived improper or incorrect decisions. However, virtual court hearings have posed challenges related to transparency and arbitrary and obscure decision making which open courts sort to address (Meyerson, 2015; Cordella & Contini, 2020). Unlike in-person hearings where the public and press can observe proceedings, virtual hearings are often limited to the involved parties, occurring outside the public eye. Without a comprehensive strategy to ensure accessibility and transparency of virtual courts, the transparency of the judicial process may be compromised[11]. The capacity of electronic systems to improve judicial transparency in developing country contexts has not been definitively established, motivating this study to explore the specific benefits and limitations within the context of the Zimbabwean judicial system.

2.3. Challenges Affecting Digitalization of Courts and Implications for Access to Justice

In the realm of justice accessibility, online court systems have emerged as potent tools (Sung, 2020). However, the evolution of digital courts encounters a myriad of challenges encompassing infrastructure, IT literacy, policy, organization, structure, and power supply (Sousa & Guimaraes, 2017; Pillot et al., 2019; Poshai & Vyas-Doorgapersad, 2023). In Zimbabwe, the deficiency in infrastructure stands as a formidable barrier to digitalization efforts (Poshai & Vyas-Doorgapersad, 2023), underscoring the importance of digital readiness prior to the implementation of e-government projects (Muparadzi et al., 2024) and offering an opportunity to ICT equipment countries to exploit this investment opportunity ceteris paribus.

The foundation of successful court digitization lies in appropriate infrastructure. In many developing nations, including Zimbabwe, insufficient infrastructure obstructs the deployment of electronic services (Masenya & Ntengenyane, 2022). While some

[10] Malaba, L. (2022). Digital transformation of judiciaries in Africa and experiences in the face of the COVID-19 pandemic. The Judicial Service Commission of Zimbabwe. https://clck.ru/3Eufbq

[11] Bajandas, F. F., & Ray, G. K. (2018, May 23). Implementation and use of electronic case management systems in Federal Agency adjudication: Administrative Conference of the United States. https://clck.ru/3Eug67

countries have leveraged public service centers to mitigate the costs of acquiring IT infrastructure for digitalization, many developing nations still lack the necessary infrastructure to support electronic services within the judiciary, a challenge that persists in Zimbabwe, hindering the realization of a digitized justice system.

Power supply issues present additional hindrances to the operation of computing systems globally. Zimbabwe, alongside nations like South Africa, Zambia, and India, grapples with severe electricity supply challenges, resulting in delays in the digitization of court processes (Vasista, 2018). The significance of these electricity supply challenges in impeding the effective implementation of digital systems in the justice delivery sector is evident, as noted by Muparadzi et al. (2024). For Zimbabwe, it is a prominent view of the researchers that the current electricity infrastructure is significantly limited in its capacity to support a robust e-court system.

Technological illiteracy among court officials poses a significant challenge to the digitalization of court processes (Bosire et al., 2017; Poshai & Vyas-Doorgapersad, 2023). To address this, training programs are imperative to facilitate knowledge transfer and ensure the proficient use of ICT tools in digitized court processes (Bosire et al., 2017; Cassim, 2017). The lack of IT literacy, particularly in Zimbabwe, impacts government ICT projects across various sectors. Despite training initiatives by the Judicial Services Commission (JSC) for court officials, the deficiency in competent ICT skills persists, leaving ordinary citizens excluded from essential systems like the IECMS (Poshai & Vyas-Doorgapersad, 2023). Understanding the functionality and transformative potential of ICT applications in the justice sector is critical to fully harnessing the benefits they offer (Zhang et al., 2024).

Africa's policy landscape has also faced criticism for being rife with failures (Cloete, 2005). The absence of robust laws supporting technological integration in the justice system acts as a barrier to the digitalization of court processes (Thalib et al., 2017). Policy reforms are essential to bolster digitalization efforts, involving key stakeholders such as judges, court staff, and lawyers (Weers, 2016). In Zimbabwe, a pertinent policy framework is imperative to enhance the efficacy of e-justice systems, necessitating updates to the existing ICT policy framework to drive consistent e-government development (Muparadzi et al., 2024; Mukonza et al., 2016).

Structural challenges further impede the digital transition of court processes in Zimbabwe and other African nations. Issues such as inadequate organizational plans for record management, deficiencies in records and archive management knowledge, and the absence of legislation and policies to guide record management hinder the shift to digital systems (Maseh, 2015). The security and confidentiality of data within the

e-justice system are paramount concerns, necessitating the implementation of access control rules and adherence to security standards (Han et al., 2024). Safeguarding user privacy amid digital data and communications requires stringent measures, highlighting the need for comprehensive and effective organizational and national internal policies governing information use within Zimbabwe's justice delivery system.

2.4. Empirical Evidence on Digitization of Justice Administration Systems in Selected Countries

2.4.1. Key Lessons from E-Justice Service Delivery in the United Kingdom

In the United Kingdom (UK), the transition from alternative dispute resolution (ADR) to online dispute resolution (ODR) demonstrated that technology primarily functions as a tool to support dispute resolution, even in crisis situations (Sourdin, 2020), rather than an independent system capable of automatically processing and settling disputes (Morison & Harkens, 2019). Prescott (2017) explains that UK courtrooms have implemented digital courtroom systems, incorporating technologies like video conferencing for remote testimonies, online form completion, triage services, mobile access, and online case resolution systems. Additionally, Donoghue (2017) highlights that the successful use of pre-recorded videotaped trials in the UK, which prompted the integration of emerging technologies such as laptops, computers, and video recorders, led to the nationwide adoption of pre-recorded cross-examinations. The success of digital court systems in the UK can be attributed to the availability of IT infrastructure and digital literacy, which facilitated the implementation of reform initiatives. This suggests that when a country possesses the necessary IT infrastructure, the digitalization of court systems tends to proceed smoothly. Developing countries like Zimbabwe can learn from this experience and work towards operationalizing digital systems in their court systems to enhance the efficiency of justice delivery.

2.4.2. Key Lessons from E-Justice Service Delivery in South Africa

South Africa, among other Southern African countries, has relatively effectively implemented digital court systems to enhance its justice delivery. Embracing new, efficient methods, the country has digitized court processes, converting paper-based systems to digital formats (Cordella & Contini, 2020). Satirah & Haider (2013) emphasizes South Africa's digitalization efforts, like sending court hearing notices via mobile SMS instead of paper. Online tools are utilized for document filing, hearings, signing, and outcome transmission, enhancing justice system accessibility.

The introduction of an electronic case management system in South Africa has bolstered file security and efficiency, streamlining tracking and retrieval[12]. Virtual courts, especially during the pandemic, prevented case backlogs, ensuring timely resolutions (Sourdin et al., 2020)[13]. Hassan et al. (2016) mention the country's electronic court systems, beginning with the Electronic Case Filing System (ECFS) for civil cases and later expanding to patent cases. Despite challenges like case backlogs and power supply issues, South Africa's Judiciary has effectively embraced digital court management[14].

2.4.3. Key Lessons from E-Justice Service Delivery in Rwanda

Rwanda is acclaimed as the role model of e-justice service delivery in Africa (Poshai & Vyas-Doorgapersad, 2023). Rwanda's IECMS is the single entry point to all justice delivery institutions. Rwanda's justice sector no longer relies on manual paper based case processes. Notable features of Rwanda's IECMS include its ability to connect justice administration institutions in Rwanda that include the Judiciary, the Ministry of Justice, the National Public Prosecution Authority, the Criminal Investigation Department[15] and the Rwanda Correctional Services[16], its capability to automate court documentation, eliminate duplication of case information, its ability to allow timeous and convenient opening and closure of cases, its ability to provide instant communication to parties in the litigation process and the added advantage of a digital dashboard that provides access to court reports and judgements. To reach this stage, Rwanda invested massively in ICT infrastructure and Internet connectivity.

All in all, the dominant view held by researchers in this paper is that the United Kingdom, South Africa and Rwanda have made significant progress in implementing e-justice delivery systems. Their experiences highlight the importance of ICT infrastructure, digital literacy, and consistent with the views of Li and Peng (2023), the integration of technology in court processes for efficient and accessible justice delivery. Developing countries can draw valuable lessons from these examples as they strive to enhance their own court systems through digitalization.

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12 Bajandas, F. F., & Ray, G. K. (2018, May 23). Implementation and use of electronic case management systems in Federal Agency adjudication: Administrative Conference of the United States. https://clck.ru/3Eug67

13 Ibid.

14 Department of Justice and Constitutional Development. (2024). Judiciary Annual Report. Pretoria: Department of Justice and Constitutional Development.

15 Ibid.

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3. Analytic and Detailed Discussion of Findings

3.1. The Notion of Digitalization of Court Systems in Zimbabwe

The study aimed to understand the concept of digitalization in court systems by exploring different perspectives on the digitalization of courts in Zimbabwe through examining literature on Zimbabwe. The findings reveal a consensus among scholars regarding the understanding of digitalization in court systems. It emerged from the findings that digitalization involves using Information Communication and Technologies (ICTs) to enhance the delivery of justice and move towards a paperless court system. This clearly links the adoption of ICTs to improved operational efficiency, consistent with the recommendation of the TAM. Again, the digitalization of courts in Zimbabwe is viewed as encompassing different forms, that include electronic case filing and Electronic Case Management Systems (ECMs). There is general consensus that electronic case filing replaces manual filing, reducing errors, delays, and corruption and it enables 24/7 filing, generates case numbers and receipts, and streamlines the court process. ECMs handle cases using application and reference numbers, leading to backlog clearance, improved case management, and timely proceedings. Automation of case management systems through digitalization therefore enhances productivity, cash flow management, and reduces delays.

The understanding of digitalization in court systems also extends beyond different definitions and encompasses various manifestations. The Integrated Electronic Case Management System (IECM) was identified as a comprehensive package that covers the entire case process. Its adoption in Zimbabwe introduced digitalization strategies for timely justice delivery through online scheduling and transparency. ICTs clearly play a pivotal role in digitalization efforts within the justice sector, addressing service delivery challenges in Zimbabwe's courts.

The adoption of electronic case filing and ECMs is seen as a bold step towards improving efficiency in the justice delivery system. The IECM, for example, serves as a comprehensive solution, covering the entire case life cycle. Despite being in the early stages of implementation, digitalization efforts in Zimbabwe's courts show promise in addressing service delivery challenges. Integration of technology, particularly ICTs, offers advantages in terms of efficiency, transparency, and improved connectivity among entities involved in the justice sector.

3.2. Benefits Associated with Digitalization of the Court Systems

The study also interrogated the rewards of implementing digital court systems. The study discovered multiple benefits linked to the digitalization of court systems in Zimbabwe. These benefits are outlined below.

Firstly, the study's findings indicate that implementing digital systems in Zimbabwe's court systems has the potential to enhance efficiency and effectiveness and help courts to overcome the pressure arising from case overload despite limited resources. In that regard,

electronic court systems contribute to improved efficiency by eliminating unnecessary delays in case filing, management, and docketing. Paper-based systems are outdated and the adoption of information technology allows for secure storage of information on cloud systems, addressing these challenges. The time saving nature of ICT adoption in court system is aptly captured by Wallace (2019). The considered view of researchers in this paper is that IECMS should permit all functionalities from the comfort of user's homes and office but the problem remains that some functions continue to give users a bad experience with the system.

One major discovery is that the Integrated Electronic Case Management (IECM) systems in Zimbabwe incorporates electronic docketing and case scheduling, bringing benefits such as accountability, transparency, minimized corruption, and facilitated information transfer, storage, and retrieval. The positive impact of digital systems on court operations is widely accepted hence the automation of courts in Zimbabwe is an ongoing project initiated by the Judicial Service Commission (JSC) and implemented in phases. The initial phase focuses on key courts, and subsequent phases cover other courts. The introduction of digital court systems is calculated to enhance the efficiency and effectiveness of the justice delivery system but with complications manifesting at every stage of migrating manual systems to online systems.

The study's findings also revealed that the full implementation of digital court systems in Zimbabwe has the potential to enhance public confidence in the judicial systems. The scholars cited in the study generally agree that the introduction of digital systems improves public trust and confidence in the courts. Our firm view is that the traditional paper-based system caused significant delays, leading people to withdraw their cases or not follow up on them. The use of ICT is therefore widely seen as a means to ensure that citizens are well-informed about court operations, procedures, daily case proceedings, and online access to case decisions, thereby increasing public confidence. Our other noted view is that delays caused by paperwork could result in unethical conduct during the handling of certain cases, leading to a gradual erosion of confidence in the system. Thus, the introduction of digital systems in justice service delivery holds the promise of instilling greater confidence in the delivery of justice in the country.

Findings further show that the utilization of digital court systems enhances access to service delivery, which, in turn, improves people's confidence in the system. A significant takeaway from the findings is that the digitalization of courts not only promises a more transparent and efficient judicial system but also addresses the challenge currently undermining transparency and confidence in the judiciary.

Analysed scholarly views suggest that the digitalization of Zimbabwean courts has the potential to enhance the quality of decision-making in judicial cases. IT adoption in court systems allows for quick and efficient transfer, retrieval, and storage of information, addressing the challenges of timely case organization and information

loss. This saves time for trials and the rendering of judgments. Another notable view made in this study is that it is now very quick to obtain court orders as the system simply extracts your draft order if there are no changes. Technology also enables the capture of videos and audio recordings as primary evidence, bolstering the quality of decisions. However, mechanisms need to be developed to address contempt of court arising from falsification or manipulation of such evidence including through deep fake videos and text evidence. These findings align with Wallace (2019), who emphasizes that electronic case management systems improve service delivery and reduce delays, leading to timely decisions and enhanced decision quality. By allocating more time to hearings, investigations, and evidence presentation, administrative tasks are minimized, allowing for a focus on the core aspects of the cases.

Earlier research shows that the adoption of electronic court systems is a means to realize access to justice. Access to justice is considered crucial and the use ICT in courts potentially quickens access to justice. Court automation facilitates information sharing, case tracking, and monitoring, eliminating the barriers created by unnecessary court procedures and delays. It is expected that citizens can check the status of their cases, receive notifications about hearings, and review judgments once digitalization is fully implemented. However, researchers in this study caution that it is difficult to carry out full trials via video in Zimbabwe due to connectivity challenges and lack of supporting gadgets for ordinary people and this further pushes the ordinary people to the peripheries of access to justice.

The findings of the research also indicate that the use of digital systems in Zimbabwean judicial systems enhances transparency and accountability. Digitalization improves transparency by eliminating manipulation of manual systems and case tracking, reducing delays and corruption. It also allows for the recording of court proceedings, providing data for policymakers and facilitating performance management. This promotes transparency and enables public scrutiny of judicial officials, allowing citizens and oversight bodies to assess the delivery of expected results. The argument is supported by USAID (2021), which agrees that court automation promotes transparency and accountability. Random case assignment through digital systems helps combat corruption by removing pecuniary interests from manual allocation. Again, technology enables citizens to access sensitive information online, holding judges accountable for their actions. It fosters interconnectedness between stakeholders and facilitates service delivery through a network governance structure. Citizens are encouraged to report maladministration, and oversight bodies can hold the judiciary accountable for their performance as already noted by Poshai and Vyas-Doorgapersad (2023), and Wallace (2019).

Finally, there is general consensus among scholars that the digitalization of court systems improves access to data, which benefits citizens and stakeholders in policymaking. By providing timely and secure access to data, digital systems support evidence-based policymaking. For example, data from courts can inform policies related to gender-based

violence or robbery by providing evidence of the number of recorded cases. The adoption of digital systems in Zimbabwean courts enhances transparency, accountability, and access to data, ultimately improving the delivery of justice.

3.3. Challenges to the Digitalization of Courts in Zimbabwe

This section delves into the challenges and practical implementation of digital court systems in Zimbabwe. The digitalization of courts holds the promise of enhancing transparency, accountability, and access to justice. However, several key challenges hinder the effective implementation of digital systems as already acknowledged by Poshai and Vyas-Doorgapersad (2023). The foremost challenge lies in the lack of adequate infrastructure, encompassing limited access to Wi-Fi, internet connectivity, computers, tablets, and other essential devices within courtrooms. Additionally, the unavailability of funding poses a significant obstacle to the successful adoption of digital technologies (Watson et al., 2017). Furthermore, the issue of erratic power supply exacerbates the challenges faced in the digitalization process. Despite these hurdles, it is essential to explore the practical steps that can be taken towards implementing digital systems in Zimbabwean courts. This section examines the identified challenges and sheds light on the practical strategies that can be adopted to navigate the complexities of digitalizing court systems in Zimbabwe.

The findings of this study further stress that lack of adequate IT infrastructure is a persistent problem. The research revealed that essential resources such as Wi-Fi, internet access, computers, tablets, and other devices necessary for connecting to the internet are lacking within courtrooms. The view of the researchers is that the current situation perpetuates a monopoly of justice for those who can afford online access, leaving the majority unable to benefit, thus hindering access to justice.

The inadequacy of IT infrastructure in Zimbabwe's judiciary is confirmed by experts and reports, including those by Malaba[17] and Weers (2016). Malaba's report reveals that the phased implementation of electronic court systems is due to anticipated challenges and the lack of necessary infrastructure. Vasista (2018) argues that developing countries often face hurdles in implementing electronic court systems due to insufficient infrastructure. As such, it is not far-fetched to assume that the digitalization of courts in Zimbabwe is not immune to these challenges.

The study findings highlight that the lack of adequate funding is a significant obstacle to the effectiveness of digitalizing the judicial systems in Zimbabwe. The crucial role of funds in implementing IT in the courts cannot be discounted. Our held view is that the judiciary in Zimbabwe is overzealous in pursuing digitalization without considering the financial constraints it faces. The study also revealed that electronic court systems in Zimbabwe are still in their early stages, lacking full functionality and accessibility. Consequently, the implementation of digital systems has excluded poor citizens

[17] Malaba, L. (2022). Digital transformation of judiciaries in Africa and experiences in the face of the COVID-19 pandemic. The Judicial Service Commission of Zimbabwe. https://clck.ru/3Eufbq

from accessing justice, despite the intention to broaden access through technology. Tonn et al. (2012) also confirms that inadequate funding is a major obstacle that hampers the effectiveness of digitalization in the justice delivery system. It is crucial for the implementation of digital systems to be supported by sufficient funding to ensure the successful adoption, operationalization and upgrading of e-justice in Zimbabwe.

The research findings indicate that the lack of sufficient electricity supply is a significant challenge that affects the adoption and effectiveness of digitalizing court systems in Zimbabwe. a firm view of the researchers is that persistent frustrations with the system will remain as long as electricity supply challenges are intact. This is consistent with the views of Muparadzi et al. (2024) that electricity poverty still persists in Zimbabwe. ICT devices used in electronic court systems require a constant power supply for their proper functioning. Researchers in this paper hasten to point out that power outages and intermittent supply disrupt end to end court processes, a scenario which leads to abrupt stoppages of court proceedings. Power supply obstacles therefore need urgent attention for successful digitalization of courts in Zimbabwe to be realized.

3.4. Practical Implementation of IECMs in Zimbabwe

The study explored strategies to enhance the implementation and adoption of digital systems in Zimbabwe's justice service delivery. The findings emphasized the need for requisite infrastructure to ensure successful IT implementation. Muhammad et al. (2023) highlight that developing countries often fail in policy implementation due to inadequate infrastructure. Likewise, the research participants stressed the importance of elementary infrastructures such as IT, electricity, and internet gadgets, along with an enabling legal framework. Stakeholder engagement was also identified as a crucial success factor. The involvement of multiple stakeholders creates an ecosystem for effective implementation, promoting collective decision-making and local buy-in. Malaba[18] indicated that the Judicial Service Commission (JSC) engaged various stakeholders, including governmental bodies, the judiciary, and citizens. Furthermore, the slow adoption of technology necessitated extensive education and awareness campaigns. Training programs were initiated by the JSC to address the literacy gap among judicial stakeholders[19]. This paper suggests that this can be complemented by the creation of online platforms, such as a YouTube[20] channel, for instructional videos, as well as a toll-free helpline and help desk for inquiries and feedback. These customer-centric measures align with the principles of digital governance. Lastly, the findings

[18] Malaba, L. (2022). Digital transformation of judiciaries in Africa and experiences in the face of the COVID-19 pandemic. The Judicial Service Commission of Zimbabwe. https://clck.ru/3Eufbq

[19] Ibid.

[20] The foreign person owning the YouTube informational resource violates the legislation of the Russian Federation.

underscore the importance of infrastructure development, stakeholder engagement, and comprehensive education initiatives for successful implementation and adoption of digital systems in Zimbabwe's justice delivery.

4. Proposed Model for Effective Digital Transition in Justice Administration

The model (Fig. 2) outlined above delineates seven crucial stages for developing a digital court system. Adapting each stage's requirements from manual to digital courts is essential for a successful transition. Emphasizing the understanding of court functions and the political landscape is pivotal to mitigate resistance to change and ensure system efficiency.

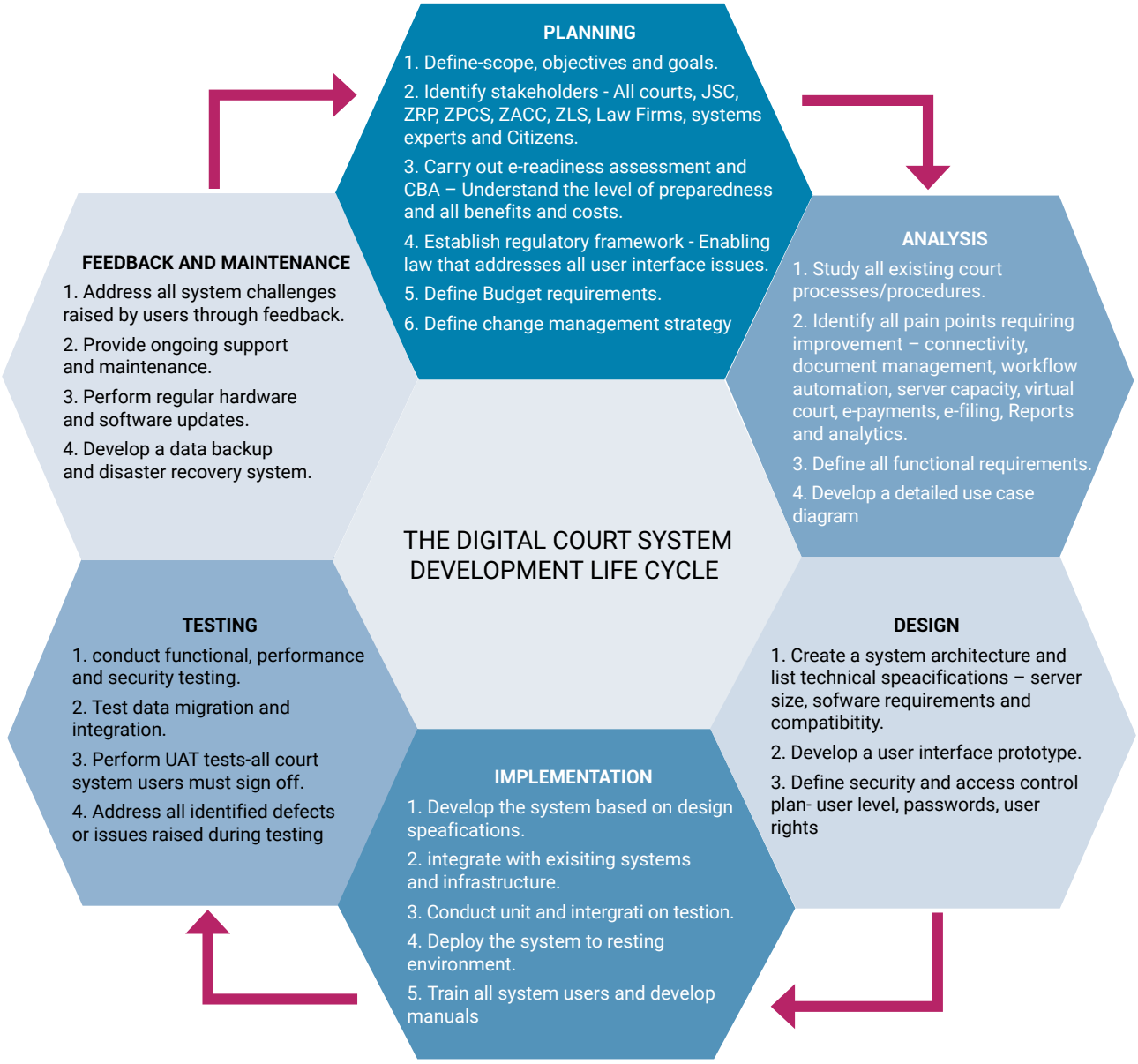

Fig. 2 The Digital Court System Development Life Cycle

Source: Adapted from the Systems Development Life Cycle

In Zimbabwe, initiating the process entails a comprehensive e-readiness assessment focusing on user, institutional, and system needs. User assessment targets ICT skills, literacy, and training requirements, while institutional evaluation encompasses organizational dynamics, infrastructure, leadership, ICT policies, change management, peer learning, and funding. System development hinges on hardware, software, upgrades, licensing, and contractor selection. Testing in the user environment involves user login, functional tests, document handling, case tracking, information access, report formats, and analytics. Evaluating outcomes like transparency, efficiency, and user experience precedes incorporating feedback for continual system enhancement prior to final deployment, with feedback guiding ongoing improvements and upgrades.

Conclusion

Overall, the study's findings provide valuable insights into the understanding and implementation of digitalization in Zimbabwean court systems, highlighting the importance of ICT integration to enhance case management, reduce delays, and improve justice delivery. The findings highlight the potential of digital systems to improve court operations in Zimbabwe as well as the potential of digital systems to enhance decision quality and increase access to justice in Zimbabwe. Again, the findings further highlight that digital systems enhance transparency and accountability in Zimbabwean judicial systems. They enable public scrutiny, combat corruption, promote accountability of public officials, and improve access to data for evidence-based policymaking. However, the findings also underscore the lack of adequate IT infrastructure as a major challenge in the digitalization of courts in Zimbabwe. The absence of necessary resources limits the implementation and effectiveness of digital systems, hindering access to justice. In addition, the much hyped about IECMS has not sustained its credibility as an advanced technological innovation for courts in Zimbabwe due to intricate challenges that remain and may result in the total collapse of the digitalization initiatives adopted and implemented to date. Adopting practical digitalization implementation approaches is therefore recommended to guarantee the success of e-justice administration in Zimbabwe and the proposed model may be ideal for quickening digitalization of courts in Zimbabwe.

Areas for further research

This study lacked in-depth empirical analysis from diverse regions, relying on secondary data. A comprehensive comparative study using primary data is warranted. The model above, developed solely on qualitative data, requires expansion with quantitative data showcasing the correlations between digital court advancements in Zimbabwe and key success factors.

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Перспективы применения цифровых технологий в системе отправления правосудия в Зимбабве

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Ключевые слова

автоматизация,
отправление правосудия,
право,
суд,
судебная система,
судопроизводство,
цифровые технологии,
электронное правительство,
электронное правосудие,
электронный документооборот

Аннотация

Цель: в настоящее время в глобальном масштабе идет интенсивное обсуждение цифровизации и автоматизации предоставления услуг в государственных учреждениях, соответствующей технологическому масштабу Четвертой промышленной революции. Применение цифровых технологий имеет решающее значение для создания оптимизированной системы предоставления услуг. В африканских странах все больше внимания уделяется вопросам автоматизации и цифровизации судебной деятельности, что обусловлено опасениями по поводу рисков влияния на системы отправления правосудия. В свете этого целью данной статьи стало формирование перспективной модели внедрения и реализации процесса цифровизации в судах Зимбабве.

Методы: исследование базируется на методах научного анализа и синтеза, дедукции и индукции, правового моделирования, формально-юридическом и сравнительно-правовом методах.

Результаты: в статье представлен обзор принятых мер по цифровизации системы отправления правосудия в различных государствах, исследован передовой опыт. Выявлена сущность цифровизации судебной системы в Зимбабве, определены основные существующие и перспективные направления влияния цифровизации на судебную систему Зимбабве, показаны способы оперативного и эффективного перевода системы отправления правосудия в цифровой формат. Установлены преимущества цифровой обработки данных в судебных органах и выявлены препятствия на пути использования цифровых систем

✉ Корреспондирующий автор

при отправлении правосудия, вследствие чего сохраняется недостаточная оптимальность Интегрированной электронной системы ведения дел (Integrated Electronic Case Management System, IECMS).

Научная новизна: в исследовании выстраивается оптимальная модель внедрения цифровых технологий в систему судопроизводства в Зимбабве, направленная на повышение эффективности цифровизации судов и преобразование системы отправления правосудия. Обосновывается, что для достижения этой цели решающее значение имеют вспомогательная инфраструктура информационно-коммуникационных технологий, уровень образования и осведомленности граждан, а также проводимая государственно-правовая политика.

Практическая значимость: ожидается, что предложенная в работе модель внедрения и повышения эффективности цифровизации судов Зимбабве позволит осуществить комплексное и бесперебойное внедрение IECMS.

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