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TOPIC
Transition from Manual to Digitalised Court Processes
The Migration to ECCMIS

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1 Introduction

- Digital technology has been transforming the operation of public services in several countries and regions. The ability of IT officers working in judicial institutions to embrace the digital transformation of African regional and sub-regional courts through the digitalization of court processes depends on the strategies identified as efficient in their organization's geographic region (ACHPR, 2015). The digitalization of court processes refers to the use of technology-based solutions such as machine learning, case management systems, process automation, online conflict resolution, and data visualization to build a more innovative justice system (Cordella & Contini, 2020; International Development Law Organization, 2020). The lack of strategies for digitalizing court processes exposed the African regional and sub-regional courts to new risks that are specific to digital environments and not present in the paper-based world. IT officers working as assistant computer system analysts (ACSAs), computer system analysts (CSAs), and heads of IT (HITs) in African regional and sub-regional judicial institutions must use clear policy goals with well developed procedures, all based on -

2 Introduction

efficient strategies to drive the digitization of their organizations' court processes (Mukiibi, 2022).

- The purpose of this presentation is to explore the prospects and challenges of migration to ECCMIS by the Ugandan Judiciary as part of its strategic plan to integrate ICT in court processes by transition from manual to digitalised court processes. The first section of this presentation presents a background to ECCMIS and the whole concept of e-justice globally, regionally, sub-regionally and nationally.

3 Background

- In reaction to the huge development Information Communication and Technology (ICT) is bringing into the world, the Judiciary of Uganda has migrated from paper-based filing system to Electronic Court Case Management Information System (ECCMIS), herein after to be referred to as ECCMIS (Mukiibi, 2022). In some jurisdictions like Malawi, it is called the Electronic Case Management System (ECMS). Notwithstanding the nomenclature, the system accords everyone from judges, lawyers and parties to a case an opportunity to track case progress through an integrated national e-justice system that streamlines processes, eases administration and, most importantly, supports citizen access to a most transparent robust back-end system (Ndau, 2016). ECCMIS is the key success factor in the judicial system. The systematic, efficient and organised case records provide comprehensive information for courts to guarantee unbiased decisions (Watson, 2014). Transparent information system and good case management indirectly hinder the misuse of power or corruption, case postponement and delayed decision (Satirah, Saman, & Haider, 2012). It also reflects the good image of judicial system and upholds the rights of individual and society at large.

4 Background

- The establishment of the ECCMIS is one of the major reforms that have taken place in the administration of justice by the judiciary of Uganda.
- Juma (2013) quoting the then Malawi Chief Justice Dr. Anastasia Msosa (Senior Counsel) as she presided over a sherry party in Blantyre which took place on 30th September, 2013 states that:
- “The establishment of the computerized system is part of the ongoing efforts and innovations being implemented by the judiciary of Malawi to bring about establishing a computerized case management system to replace the manual one which has been used by the courts for decades and that this system is aimed at bringing about efficiency in the administration of cases, and improve service delivery by the courts”.
- Watson (2014) observed that ECCMIS, is intended to form a baseline for daily support of the judiciary's business operations, thus enhancing the sector and improving the country’s justice system, in particular on access to justice for all.

Background

- Electronic justice (e-justice) systems transform and provide more accessible, transparent, and efficient justice systems to communities (Shah & Gupta, 2017). As Bajandas and Ray (2018) observed, government stakeholders undertake the digitization of court processes to improve the productivity, consistency, case flow, and quality of e-justice systems.

- The digitalization of court processes for an e-justice system requires the participation of critical stakeholders such as IT officers, judicial and legal practitioners, and the citizens of the concerned community (Manker, 2015). The role of the IT officer is critical in the evaluation of the stakeholders' needs and the development of strategies to maximize the quality of e-justice systems.

- "E-justice" connotes the use of Information Communication Technology (ICT) to facilitate citizen access to justice and effective judicial action, which consists of dispute settlement or the imposition of criminal sanctions.

Background

- E-justice is a key element in the modernization of judicial systems aimed at improving access to justice, increasing cooperation between legal authorities, strengthening the justice system and improving legal institutions and the overall administration of law…[it] can increase productivity and diminishes transaction costs within a system that is highly information intensive; reduces the duration of procedures, thus saving both time and money, and puts systems for document handling and processing within the reach of Judges and courts; provide the best information available and a better understanding of both the way the courts work and the legal instruments that citizens have to ensure recognition of their rights; facilitate improved control over cases and allow a better qualitative and quantitative evaluation of outputs (Mukiibi, 2021).
- The Judiciary in Uganda launched and rolled out ECCMIS in selected courts majorly in Kampala and surrounding areas. The system was launched last year and implemented by pilot courts effective 01 March 2022. ECCMIS is a fully-featured digital system that automates and tracks all aspects of a court case life cycle.

7 Background

- ECCMIS has dealt away with the traditional Court Case Administration System (CCAS) - a paper docket system (Mukiibi, 2021).

- This presentation highlights the prospects and challenges of ECCMIS in Uganda's adjudication processes. Although ECCMIS is still at its infancy in Uganda (close to one year old since implementation), multiple challenges have been experienced by different stakeholders including judicial officers, legal practitioners, court staff, IT staff attached to courts, staff working with law firms (specifically court process servers) and the litigants. The next section discusses the prospects of ECCMIS drawing examples in judiciaries of different countries but putting more emphasis on Uganda.

The Use of Electronic Case Management System in different countries

- Whereas ECCMIS has just been implemented in Uganda, it has been in existence in some countries including African judiciaries and has existed for more than a decade. Many countries have embraced Information Technology use in their court systems. Transparency and effectiveness are emphasized as two positive consequences of the use of ECMS in courts. It has expanded the possibilities of access to information and judicial decisions any time of the day of the week (24/7) (Mbugua, 2010). This section presents how ECCMIS or ECMS has been applied in some judiciaries globally.

- **Australia**

  Australia has a federal system of government, and thus its judicial system is made up of 10 separate but interrelated systems; the commonwealth, six states and three self- governing territories.

The Use of Electronic Case Management System in different countries

The use of ECMS in the justice system in Australia begun in 1980s and has been improving over the years. The system performs several functions among them; Litigation support, Evidence presentation, Electronic courtrooms, Knowledge management, Electronic filing, Electronic search, E-courts and Integrated justice (FCA, 2009).

- **California**

Gartner (2009) found that ECMS is deployed in all trial courts in California and hosted at the California Courts Technology Center Cases & Courtrooms and that the ECMS application manages civil, small claims, probate, criminal, traffic, family law, juvenile dependency, and juvenile delinquency cases.

Gartner (2009) wrote that ECMS services include the following: Case Initiation, Case Management, calendaring, Filings Judicial notices, monitoring of cases, Rulings and judgments, probate notes, hearings/courtroom events, exhibits storage, register of actions on each file, disposition of cases and appeals.

The Use of Electronic Case Management System in different countries

- **Lesotho**

  Molomo (2013) discusses that the ECMS implemented by the High Court of Lesotho, the Maseru Magistrate Court, and the new Commercial Court, was customized from a configurable, Commercial-Off-The-Shelf tool supplied by Synergy International Systems. Molomo however was quick to point out that many of the court staff have never even worked professionally with computers.

  Molomo further explained that the ECMS helps to reduce backlog of cases, improve management of files, tracking movements of files, ensure timeous and comprehensive reporting of cases and accelerate the case processing time, faster delivery of judgments and ensure data on all cases is readily available.

The Use of Electronic Case Management System in different countries

- **Kenya**

  Mbugua, (2012) noted that the commissioning of ECMS in Kenya on 15th day of February 2011, indicated great transformation prospects in an organ of government that has been perceived as conservative and insular. The court can now electronically manage a case from the filing state to its final disposition, while providing information to litigants, advocates and the public through web-based and mobile phone application. Mbugua further states Eldoret Court station was the first in Kenya to implement ECMS and that now it boasts of the successful implementation and reap the benefits of this project. Some of the benefits include; efficiency of service, job satisfaction among staffs, information security and reduced fraud and corruption in the delivery of court services.

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Digitalisation of Processes

- The digitalization of processes, also known as digitization, refers to the use of digital technologies to change a business model and create more value (Salkute, 2019). Fleer (2018) stated that in governments, the digitalization of administrations consists of changing the administrative organization and providing standards to manage and administer the rights, duties, and preferences of the citizens. According to Buck and Eder (2018), the vulgarization of computers and digital information in administrations evolved into hybrid administrations that function with both analog and digital systems. Parviainen et al. (2017) indicated that the literature describes digitalization as digital transformation and the ability to transform products or services into digital variants. However, Fleer (2018) stated that the question of how IT can support administrative processes has now evolved into how digital information processes can replace administrative processes, with the possibility of process automation.

Digitalisation of Processes

- Kayikci (2018) noted that digitalization in logistics includes six main concepts, which are cooperation, connectivity, adaptiveness, integration, autonomous control, and cognitive improvement. Kayikci also noted that the latter all contribute to making information and communication available anywhere, anytime, in a particular context using a digital device and based on a set of data access rules.

Perspectives and Prospects on Digitalizing Court Processes

- The digitalization of judicial systems offers, in several cases, an increase in productivity, transparency, access to justice, a reduction of transaction costs, and trial length (Drossos et al., 2018). This increase in efficiency indicates that IT and e-justice systems contribute to the reduction of court case backlogs by improving productivity and access to justice. Muscalu and Hulpus' (2016) research on the digitalization of court processes in developed European countries revealed that electronic workflows in courts enable faster clearance rates of cases and easier access to the judicial system. Singh et al. (2018) noted that the planning and designing of e-justice systems require ICT infrastructure and ICT training. Digitalization of court processes generally consists of deploying electronic systems for the administration of justice with various perspectives and prospects, which includes one or more of the following components or features:

Perspectives and Prospects on Digitalizing Court Processes

- **Electronic Case Filing**

  Over the years, the manual procedures of filing in courts have illustrated several limits and risks such as human error, corruption, misplaced files, and transmission delays. According to Mohamad et al. (2019), the introduction of e-filing provides several advantages, such as a tremendous increase in the speed of applications and transmission of court documents for faster disposal of cases. E-filing provides the possibility to file anytime in a day, 7 days a week, with the instant filing receipt and allocation of application number. In addition, the e-filing system automatically checks the information provided in the electronic application over the internet before saving the latter in an approved standard format in the platform's database for future review. Shah and Gupta (2017) stated that the use of e-filing and internet service allows fewer paperwork burdens and better connectivity between case stakeholders for an improved administration of justice. However, e-filing also enables court clerks to work more efficiently as it considerably reduces the time and efforts spent to manage bundle cases.

Perspectives and Prospects on Digitalizing Court Processes

Furthermore, e-filing reduces file storage, record retrieval time frames, docketing, scheduling, and paper utilization, while providing transparency during proceedings. According to Mohamad et al. (2019), the adoption of an e-filing system and a case management system in the Malaysian justice system contributed to increasing the transparency, productivity, and efficiency of the courts, which helped in decreasing the backlog of cases. In Uganda, e-filing has already been embraced using ECCMIS. Figure 1 illustrates how the e-filing using ECCMIS is done in Uganda;.

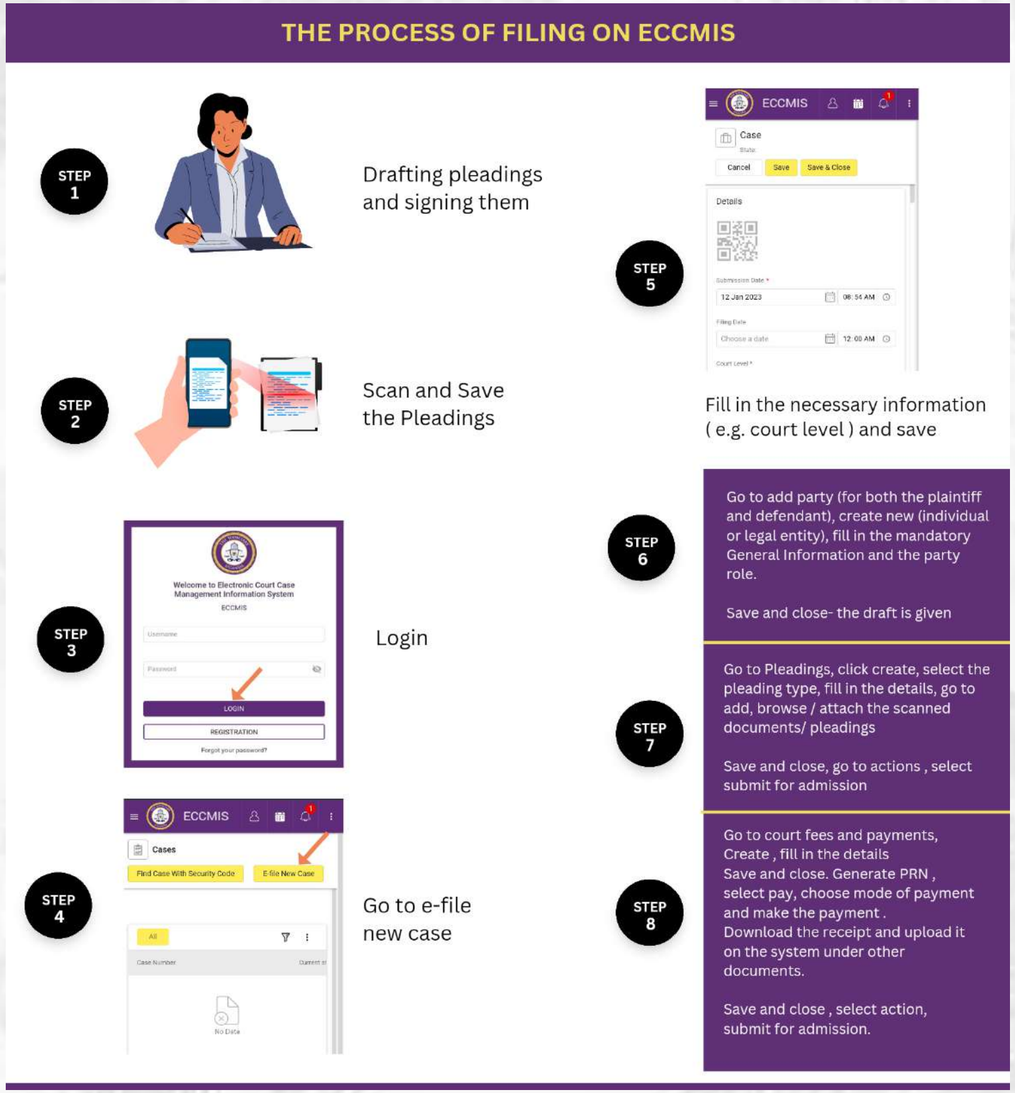

Figure 1 **Source:** Paul Mukiibi, 2023

Perspectives and Prospects on Digitalizing Court Processes

- **Electronic Case Management System**

  According to Singh et al. (2018), ECMS refers to a platform that allows handling case procedures securely and systematically for the parties, court staff, officers, and judges. The purpose of the ECMS is to ensure the prompt and efficient treatment of cases. It has the ability to provide important case-related information such as the number and status of pending cases, decisions yet to be issued, the number of completed or not completed trials, statistical reports, and the status of completed cases and archives.

  Mohamad et al. (2019) stated that ECMS allows the automation of case processes and includes a planner to manage cases using the case application references and dates. Mohamad et al. noted that ECMS also offers the possibility to perform various tasks concurrently and speedily, facilitating the treatment of case backlogs until the complete clearance of queue. The strategies used for the digitization of court processes aim to respond to judicial institutions' primary goal, which is the administration and delivery of justice.

Perspectives and Prospects on Digitalizing Court Processes

According to Weers (2016), ECMS required the collective efforts of several researchers and the visit of civil law countries of Austria, Belgium, Czech Republic, Estonia, Finland, Germany, Italy, the Netherlands, Portugal, Slovenia, Spain, and Sweden with a focus on the following areas:

- legislative measures for timeliness in civil proceedings;
- judicial case management;
- performance management;
- Use of ICT in court proceedings; and
- EU cross-border disputes

ECMS usually operates with an integrated electronic calendar or side-by-side with electronic docketing and scheduling systems that are crucial in managing case processes. Vasista (2018) argued that another critical factor in deploying an ECMS that offers significant value is the possibility to replace failing systems in courts as ECMS relies on predefined and approved optimized processes and workflows.

Perspectives and Prospects on Digitalizing Court Processes

ECMS provides a self-service approach for case management and processing, which allows for the speedier treatment of cases. According to Vasista (2018), the integration of ECMS and e-filing systems within a unique e-justice or e-court management system provides value in two critical areas, which are (a) having a system that replaces individual filing systems in courts and (b) having an automated system to replace massive manual court systems. Automating manual court processes reduces data input and retrieval time while sharing data across courts and partners.

- **Electronic Case Record Management System**

  Electronic records management is a crucial element in the digitization of court processes procedure as it allows the court to generate, maintain, and operate based on the digitized records and information. Virtucio et al. (2017) argued that the failure to locate any court case documents during court proceedings results in the impossibility to proceed, which is responsible for case backlogs and delays in the delivery of justice due to lack of evidence in the form of records.

Perspectives and Prospects on Digitalizing Court Processes

Many kinds of literature support that digitalization has changed how government institutions operate, generate, and manage records. According to Satirah et al. (2013), the combination of an electronic case record management system with ECMS allows better management of the whole lifecycle of physical and electronic documents or records for the following purposes:

- support the creation, editing, and management of electronic documents;
- improve the execution of processes and the organizational workflows; and
- create and maintain the link between the appropriate contextual information and the existing records to support their operation as evidence.

Perspectives and Prospects on Digitalizing Court Processes

- **Electronic Docketing and Scheduling System (Tracking)**

  According to Satirah et al. (2013), the electronic docketing and scheduling system is part of the ECMS and aims to make all case files and dockets accessible from any allowed remote location by the judges, lawyers, jurors, and involved parties. Satirah et al. noted that ECMS allows lawyers to file a case from a remote location over the internet to create docket entries.

  Aaltonen et al. (2015) stated that in the Finnish judicial system, it is possible to book 20 courtrooms using browser-based information systems that are accessible through the concerned court intranet on a centralized electronic calendar. In 2011, the Finnish government envisioned a pretrial system that would entirely rely on an electronic system, in which an automated list would handle the prosecutor's task load management.

Perspectives and Prospects on Digitalizing Court Processes

Aaltonen et al. (2015) noted that the scheduling system for pretrial investigation allows non-complex cases in a click within an accelerated process, which offers the possibility to resolve cases in 1 to 3 days. Aaltonen et al. specified that, on the other hand, all the parties receive the docket and case scheduling-related information via electronic calendars and assistants' scheduling, offering an overlapping of suitable timeslots. During the court sessions of scheduled cases, the courtroom technology services and legal database information are available to the parties via a secured wireless network, allowing faster retrieval of information and making paper files obsolete.

- **Courtroom Technology**

  The management of court processes through the traditional manual system involves the use of massive amounts of paper and hard copies of files. Court processes cut across the two main phases of judicial procedures, which are the written and oral phases. According to Donoghue (2017), as the oral phase occurs in courtrooms, the introduction of courtroom technology helped to improve the administration and management of cases and the delivery of justice.

Perspectives and Prospects on Digitalizing Court Processes

Singh et al. (2018) stated that the use of different types of technologies in courtrooms worldwide gradually allowed expediting court processes and also improved the delivery of justice. The digitalization of court processes in courtrooms involves using technologies such as digital audio and video recording systems, electronic exhibit (e-exhibit) systems, and video display systems.

Morison and Harkens (2019) stated that in the United Kingdom (UK), the evolution from alternative dispute resolution (ADR) into online dispute resolution (ODR) revealed that technology mostly acts like a tool that assists in dispute resolution and not an autonomous system that can automatically process and settle disputes by itself.

According to Donoghue (2017), the successful use of pre-recorded videotaped trials in the UK triggered the integration of emerging technologies such as laptops, computers, video recorders, and many other IT hardware and software and promoted the rollout of pre-recorded cross-examination nationally.

Perspectives and Prospects on Digitalizing Court Processes

Prescott (2017) stated that the United States (US) courtrooms also implemented digital courtroom systems that involve using technologies such as video conferencing systems for remote testimonies, online form completion, triage services, mobile access, and online case resolution systems.

Despite the several prospects associated with ECCMIS, the system has numerous challenges. African judiciaries have struggled and are still struggling with the system to make it better. Uganda's judiciary is among the victims. The next section presents the challenges of digitalising court processes in African regional, sub-regional and national courts.

Challenges of Digitalizing Court Processes in Uganda

The digitalisation of processes in Uganda, sub-regional and African regional courts involves several challenges, which include the following:

- **Infrastructure Challenges**

  The issue of insufficient infrastructure to fulfill the requirements for providing electronic services (e-services) to the citizens located in developing countries also concerns the judiciary administration (Vasista, 2018). Countries such as the Republic of Kazakhstan opted for the maximum use of public service centers (PSC) to reduce the cost of acquiring IT infrastructure for digitalising processes and services. Raikhanova et al. (2017) stated that the acquisition of ICT infrastructure for digitalising processes and services aims to provide public services to individuals and legal entities per city or region.

Challenges of Digitalizing Court Processes in Uganda

The choice of the geographical location to deploy an e-justice system depends on the availability of the required infrastructure.

The technological infrastructure currently in place to facilitate e-judiciary in Uganda is still very weak. Most of the courts lack the necessary equipment to support the system. Although some courts like Court of Appeal, Land Division (HC), Civil Division (HC), Commercial Division (HC) and Criminal Division (HC), Mengo court, most of which are pilot courts, have been equipped with technology infrastructure to facilitate e-filing, they still lack stenographers, transcribers, enough computers, to facilitate e-judiciary and e-justice in their functions (Mukiibi, 2021).

- **Electric Power Supply**

  In several regions of the world, the power supply problem represents an essential obstacle to the smooth operation of computers and networks.

Challenges of Digitalizing Court Processes in Uganda

In the Indian judiciary administration, the electric power supply problem remains a severe obstacle to the digitization of court processes and is responsible for case handling delays. Vasista (2018) stated that the Central Electricity Authority in India anticipated an energy deficit and peaking shortage of 10.3% and 12.95%, respectively, for the years 2011 and 2012, with the power available for only 6 to 8 hours per day in several states.

Power stability in Uganda is a very serious challenge. Power is always on and off. I am a live to the fact that the judiciary is soon rolling out ECCMIS to other courts rather than pilot courts. We have regions in this country where power availability is always on timetable. Backup equipment like generators, solar energy, among others. This can guarantee reliability and fair sustainability of the system.

Challenges of Digitalizing Court Processes in Uganda

- IT Literacy Challenges

  The effective digitalisation of court processes usually presents several challenges related to the rising level of corruption, low awareness of IT technologies and resources, lack of regulation implementation, and security problems (Shah & Gupta, 2017). Bosire et al. (2018) emphasized that the understanding and transfer of knowledge usually occurred through well-structured and targeted training. The training of judicial officers and staff to use IT tools deployed for digitized court processes is required to ensure quality and operational performance. The Judiciary in Uganda is experiencing IT literacy challenges by all the users of the system. The recent decision by the High Court of Uganda at Kampala (Land Division), Peace Barigye – v- Rosemary Kiiza Omamteker, HCMA NO. 2117 of 2022 (delivered on 9 January 2023), clearly demonstrates how the bench, the bar and perhaps court clerical staff are all faced with ICT literacy challenges. I must state that I am using this case to practically demonstrate the magnitude of the problem and not to cast stones to anyone. I humbly pray that we take the remarks in good faith. In this case, the application for a temporary injunction was heard while still in a draft form.

Challenges of Digitalizing Court Processes in Uganda

The applicant herein applied to have it set a side on that account because her lawyers did not oppose it by filing an affidavit in reply as it was still not yet properly filed given the fact that it was in a draft form. This case illustrates the following literacy challenges about the users of the system;

- How did the file reach the table of the learned trial judge before the application could be validated;
- Did the learned trial judge check the system before hearing the application;
- Did learned counsel for the applicant serve an application on the opposite side before it was fully registered in court (allocated an application number);
- What is the role of the registrar upon registering an application in draft;
- Are the users knowledgeable about the system? Do they properly distinguish between draft and final numbers?
- How much time does it take to validate an application or any matter that has been filed and allocated a draft number?
- Are courts using ECCMIS or still operating manually?

Challenges of Digitalizing Court Processes in Uganda

- Are system notifications functional to let users know the stage of their respective cases?
- What is the duty of the trial judicial officer upon receiving any file in manual form in this era of digitalisation?
- Do we appreciate the processes of filing using ECCMIS?

At pg. 6 of the decision, court made the following observations;

> Before I conclude this matter, I wish to observe that thus case highlights the confusion that can result from the current configuration of ECCMIS whereby cases are first allocated draft case numbers and thereafter, allocated final case numbers.

This shows that before handling any matter, a judicial officer ought to check the system and confirms that the matter was properly filed, pleadings closed, allocated to him/her and due for hearing. In **Simba Properties Investment Co. Ltd & 5 Ors –v- Vantage Mezzanine Fund II Partnership & 6 Ors, HCMA NO. 0414 of 2022** delivered on 24 May 2022, Hon. J. Stephen Mubiru highlights the relevance of checking the system before handling a matter. At pg. 7 of his decision, he notes;

Challenges of Digitalizing Court Processes in Uganda

…Examination of the Electronic Court Case Management System (ECCMIS) of this court reveals that both at the time of hearing and at the time of writing this ruling, no such an application has been registered. In short, there are no pending proceedings in this court out of which this application arises. The application is therefore fundamentally misconceived from the outset…

This calls upon constant checking or logging on the system to check on the status of the matter as per the records of ECCMIS before proceeding with the hearing. Unfortunately, most judicial officers take the status on the manual court file as a reflection of the current status of the case file yet in most cases, it is not.

- **Organizational and Structural Challenges**

The digitalization of court processes in African regional, sub-regional and national courts presents several structural challenges. According to Maseh (2015), Eastern and Southern African courts still have multiple problems with capturing and preserving court records, which include the (a) lack of organizational plans for record management, (b) lack of knowledge in records and archive management, (c) insufficient awareness

Challenges of Digitalizing Court Processes in Uganda

on the how the record management supports the organizational efficiency and accountability, (d) absence legislation, procedures, and policies to guide the management of records (e) inadequate security and confidentiality controls, and finally (f) the inexistence or record disposal policies and strategies for records migration. ULS ECCMIS Committee will soon publish its report about the system in a period of one year of its implementation, one of the challenges highlighted is total loss of information on the system which was uploaded and properly filed on the system. This is seriously worrying.

- **Policy Challenges**

  The lack of procedures for managing electronic records, which is a crucial component in the digitalization of court processes, is a serious issue across the East African Region (International Records Management Trust, 2011). The design of processes and procedures usually relies on existing policies, and the digitalization of court processes requires an alignment between the electronic processes and the policies of the concerned judicial organization.

Challenges of Digitalizing Court Processes in Uganda

According to Maseh (2015), this alignment requires the adoption, endorsement, and promulgation of the policy across the organization before the digitalization process. Finally, the alignment with the current business needs requires regular review of policies for more quality and efficiency. I am happy to report that ULS ECCMIS Committee is compiling a report and intends to meet the Judiciary ECCMIS technical team to have a discussion and propose a way forward on some of these challenges.

- **Standardization Challenges**

  Digitalization generally requires the standardization of processes before automation or workflow designs (Salkute, 2019). Each African regional, sub-regional and national court has its specificity in the mandate, organizational structure, court processes, rules of procedures, and community law (Fon, 2019). According to Fleer (2018), digital information environments are not compatible with ambiguity and strongly require avoiding standardization bias. It is crucial to identify and establish organizational standards before processing the digitalization of business processes.

Challenges of Digitalizing Court Processes in Uganda

- **Security Challenges**

  A recent study related to the alignment of records management with ICT in East African governmental institutions such as courts revealed the existence of policies to manage existing paper records and not digital records (Maseh, 2015). The security of data and information technology services in the e-justice system guarantees the confidentiality, authenticity, and validity of the information (Salkute, 2019). According to Sovova et al. (2017), digital documents require access control rules and policies throughout the lifecycle of the document to avoid breaches of privacy and ensure compliance with security standards such as the Health Insurance Portability and Accountability Act (HIPAA), General Data Protection Regulation (GDPR), and others. In Uganda, we have a Data Protection Act, 2011. This Act predates ECCMIS, it has to be revisited and ensure that it provides sufficient safeguard on the information uploaded on ECCMIS. In my humble view it does not, however this will be a discussion for another day. The High Court of South Africa, Gauteng Division, Johannesburg, in the matter between Judith Hawarden –v- Edward Nathan Sonnenbergs Inc, Case No. 13849/2020 (delivered on 16 January 2023), Mudau J, ordered

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ENSAfrica, to pay one of its clients R5.5m and interest of 10.25% per annum from 21 August 2019 to the date of payment for negligently causing the client to fall victim to cyber fraud when a fraudster intercepted an ENS email and changed the banking details of their client.

This case illustrates how serious data protection of the information of users is under digitalisation. The system should not be hacked into by fraudsters and there must be both legal and technical safeguards to protect users' data. Otherwise, government may lose terribly in compensating victims whose data has been hacked into and used for improper purposes.

The Ugandan Bar

- The Bar in Uganda has faced almost all the above challenges (which the judiciary is equally facing) since the inception of ECCMIS in Uganda. These challenges continue to date and need urgent attention if administration of justice is to be realised. The challenges include among others; internet connectivity; Inadequate and poor technological infrastructure; Inadequate human resource with ICT skills; Delayed validation of documents; the system is not paperless as it is said to be; most unrepresented litigants seem left out in the ECCMIS interventions; negative attitude to change or wrong perception by majorly Born Before Computers (BBC) lawyers; the cost of e-justice and Inadequate legislative framework to facilitate e-justice in Uganda.

- Permit me to discuss in detail the last challenge given its relevance to the theme. The law governing e-justice in Uganda specifically online filing, issue and service of summons in both civil and criminal matters and conducting electronic proceedings is another serious challenge. Currently, the laws on ICT adjudication that facilitate e-justice in Uganda include; The Constitution (Integration of ICT into the adjudication processes for courts of judicature) (Practice) Directions, 2019; the Judicature (Visual-Audio

Link) Rules, 2016; processes for courts of judicature) (Practice) Directions, 2019; the Judicature (Visual-Audio Link) Rules, 2016; Guidelines for Court Online Hearings, Office Instruction No. 2 of 2020; Electronic Transactions Act, 2011, The Electronic Signatures Act, 2011, The Computer Misuse Act, 2011 and the Data Protection and Privacy Act, 2019. Most of these laws do not guide on the procedure to be followed while commencing a civil or criminal matter; issue and service of summons; taking out and service of hearing notices or criminal summons and conducting locus in quo proceedings. ECCMIS has provided most of these processes in its functions.

- The concern is under what law is ECCMIS providing these processes? The laws on physical or manual filing specifically the Civil Procedure Rules, are still in force unfortunately, with the rolling out of ECCMIS, manual filing was mandatorily phased out in selected courts already mentioned herein and this phasing out will move gradually to all courts. Lack of rules governing the use of electronic records was an additional weakness encountered in the transition from paper-based systems to automated systems in Lesotho. A lawyer's unanswered question is what law is in force facilitating issue of summons electronically?

Intervention by ULS

- As pointed earlier herein, the advantages of ECCMIS in modern litigating and adjudication cannot be over emphasised. ULS is working closely with the Judiciary to fix most of the problems faced by the system, to realise access to justice and fair administration of justice. In December, 2022, I appointed a Committee on ECCMIS, called ULS ECCMIS Committee. The Committee leadership constitutes a Chairperson and two Deputy Chairpersons experienced in e-justice system. It has 35 Committee members who are all advocates of the courts of judicature. It has already commenced its mandate. It has just concluded carrying out a base survey on all lawyers in Uganda using the system getting feedback on the prospects and challenges of the system. It is now compiling a report and will soon meet the judiciary ECCMIS technical team to share notes and deliberate on the way forward. This Committee will continue to exist and report areas of weakness in the system, its strengths and suggesting practical solutions. This is one of the efforts ULS has initiated to improve the transformation from manual to digitalisation of court processes in Uganda.

Other Recommendations

In addition to the above intervention, ULS proposes the following recommendations;

- Sound policy that governs the use of the system should be formulated and put in place so as to guide users on how best the system operates.
- The registry clerks and other court officers who use the system every day are well trained on how to use computers (computer literacy).
- Judiciary can employ more magistrates to assist Registrars in High Court to handle validation of documents expeditiously since these Registrars on top of administrative work have to hear cases which makes them too busy. Most magistrates are young and tech-survey compared to our good beloved Registrars and Judges.
- There is need to have a good internet connection since the system is supported by internet.
- There is need to increase the number of ICT staff to immediately address system related challenges without causing gross injustice to the system users.

Other Recommendations

- The Government of Uganda (GoU) should allocate more funds to the judiciary to build more capacity and install more ICT equipment in all courts. More funds should be channeled to the purchase of audio and visual conferencing facilities, stenography equipment and transcribers to assist in recording and accessing proceedings timely.
- Continuous and inclusive stakeholder consultation on the effectiveness of the system should be periodically carried out to get proper feedback.
- The Judiciary should spearhead the training of key stakeholders; the judiciary, court administrative staff, court clerks, practicing advocates and litigants in the ICT basic skills.
- The Rules Committee should come up with relevant rules to facilitate the smooth operation of e-justice canvassing the procedural steps involved in the system and harmonizing them with the existing law on filing and issue of court documents especially, the Civil Procedure Rules.

Conclusion

- The digitalization of court processes requires developing ICT infrastructure and the ability to operate digital hardware and software (International Telecommunication Union, 2017; World Bank Group, 2016). Digitalizing court processes in African regional, sub-regional and national courts offers several benefits, as already highlighted in this presentation. At any phase of the judicial procedure (written or oral), technology-based tools and workflows related to e-filing, case management, electronic records management, electric docketing, and scheduling systems, and courtroom technology can work as an overall system to provide real-time reliable and efficient solutions for the speedy delivery of justice to our judiciary.

- The transition from manual to digitalised court processes in Uganda is a welcome effort and we need to make it realistic and user friendly to achieve its purpose. The judiciary needs to fix the challenges of the system such that it does not become an obstacle to access to justice. Organisational, structural, policy, technical and legal challenges faced by the system need to be addressed and all users have a benefit of the system.

THANK YOU

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