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TOWARDS THE ADOPTION OF E-JUSTICE IN SOUTH AFRICA AND THE DEVELOPING WORLD: PROSPECTS AND CHALLENGES

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Abstract

In spite of the technological boom and the desire to develop electronic filing in the justice sector, South Africa and other developing countries on the African continent experience challenges in their operational systems. Technology has had a prevalent impact on nearly all social domains, one being the judicial system. Advancements such as computer-generated demonstrations and electronic filing can enhance presentations to give a clearer, well-organized case. For the purposes of this article e-justice entails the use of information communication and storage technologies in the court system. Such a move is vital for South African and similar jurisdictions that struggle to cope with the clogged court system, which is mainly a result of poor handling of court documents and high crime rates. The main aim of this article is to explore the rationale for employing e-justice in court system knowledge management. E-justice is still in its infancy in the third world. Therefore, this article will not test any hypothesis, but rather, explore, clarify and analyse the importance of e-justice in developing countries. In evaluating the adoption of e-justice, this article refers to various best practices that have been adopted and utilised in other countries. E-justice is part of e-government efforts to invest in public service delivery. The literature shows that e-justice evaluation is still an immature area as regards development and management. The importance of e-justice becomes even more apparent if one considers that it is part of the judiciary prerogative to adjudicate the sphere of e-government; hence, employing e-justice modalities will help the sector to deal with legal imperatives associated with the information and communication technology (ICT) paradigm.

Keywords:

E-justice, e-filing system, court system, judiciary system, information and communication technologies

Introduction

Access to the judicial system in general and to the courts in particular is affected by several factors, including cost, flexibility, time, and physical, legal, psychological and cultural aspects (Malik 2007). Information and communication technologies (ICT) have had an impact on modern society, and the functioning of the courts has not been spared anywhere in the world (Bolgherini 2007). This is a new technological paradigm created by information technologies (Castells 1996:29). ICTs provide information and services to the people efficiently and effectively (Henderson 2002). It is important, therefore, that legal practitioners keep pace with technical changes in the judicial systems, especially international best practice, where an understanding of procedural variations from one system to another could be the difference between success and failure (Terry, Mark and Gordon 2012). In a fast changing society, laws often lag behind changing social trends. Judiciaries have also come under heightened scrutiny from the public, as demands for accountability and user expectations in general have grown. These forces have caused judges to rethink their roles and acquire new competencies.

Substantial research has been done on the economic costs of a badly working legal system and the benefits of reform. The World Bank group strategy (2012-2015) emphasises that a healthy business climate helps to attract the economic investment necessary for growth. Since Hobbes in the 16th Century until modern times, scholars have recognised the importance of judicial systems in enforcing the credibility of commitments and contracts (North 1990). Such statements have

been tested empirically, for example, in a World Bank survey of 3,600 firms in 69 countries, in which more than 70 percent of respondents felt that an unpredictable judiciary is a significant obstacle to efficient business operations (World Bank 1997). Deficiencies in judicial credibility cost up to a quarter of the variations in per capita income growth among developing countries (World Bank 1997). Once such challenges are experienced, it is important that policy makers recognise the need for reform. It has to be realised that this process of judicial reform is multifaceted and often long term. The most compelling reform required for the judicial systems of South Africa and other developing countries concerns e-justice. Numerous elements need to be factored into this effort, including the incorporation of local laws and governance systems (Chirayath, Sage and Woolcock 2005), the upgrading of judicial sector infrastructure, and the improvement of access to justice among disadvantaged people, among other things. The most difficult part of judicial and legal reform, however, is often the process of retraining judicial sector personnel and restructuring the courts and other judicial systems (Carothers 2006).

The main objective of e-justice is to harness proportionate technology to improve the efficiency of legal procedures, too often cumbersome and paper-based, leading to confusion, delay and miscarriage of justice. A properly functioning e-government/justice website should have an e-participation framework that provides information on policies, budgets, laws and regulations (UN 2005). It offers innovative solutions by integrating ICT and biometrics for controlling and tracking authorised access to a legal process, which is automated as workflow systems, and represented in visual format. It is part of the e-government strategy to use internet technology as a platform for exchanging information, providing services and transacting with citizens, businesses and other arms of government. E-government has become a global phenomenon (Schuppan 2009). The potential benefits of e-government as a means of improving the provision of government information and services to citizens should be acknowledged (Komba and Ngulube 2011). Thus e-justice is ideally placed to fulfil this function. It is necessary to improve government efficiency and effectiveness of its internal operations, communication with citizens and transactions with both individuals and organisations (Kumar *et al*,. 2007:64). E-government may be applied by the legislature, judiciary or administration, to improve internal efficiency, the delivery of public services, or processes of democratic governance. Thus, the major role of e-government is to increase the convenience and accessibility of government information and services to citizens, resulting in increased government accountability to citizens, greater public access to information and a more efficient and cost-effective government (Carter and Belanger 2005:5).

Government information is not properly organised, as record management systems are collapsing in many countries (Ngulube 2007). The South African civil and criminal justice system is still mainly manual and paper based, and is struggling to cope with the demands of modern society. Court files and dockets are lost on a regular basis. Delays caused by lost or misplaced dockets and court files frustrate not only prosecutors, attorneys and presiding officers, but also the general public. Justice must be seen to be done, and justice delayed damages the perception of the justice system in the eyes of the general public. This state of affairs calls for the introduction of, among other things, an electronic court management system. Using e-justice as a form of court record management is not only ideal, but also an exhibition of greater support for open records (Cuillier and Piotrowski 2009:443).

Defining e-justice

E-justice entails the use of information communication and storage technologies in the court system. This should be understood within the context of the times, due to technological advancements, sometimes referred to as the "network age" (Castells 2001). Heiskanen and Hearn

(2004) call it "information society" and "knowledge economy". According to the South African Chief Justice Mogoeng Mogoeng, one of the biggest stumbling blocks to an efficient South African justice system is the length of time it takes for cases to appear and be resolved in court. Employing e-justice will, therefore, prove vital for South Africa and other similar jurisdictions that struggle to cope with the clogged court system, which is mainly caused by the poor handling of court documents and the high crime rate. E-justice should also be understood within the context of government service delivery, which entails efforts to improve the convenience and accessibility of government information and services to citizens, resulting in increased government accountability to citizens, greater public access to information and a more efficient and cost-effective government (Carter and Belanger 2005:5). Using these definitions, we can characterise e-justice as an innovative attempt by the justice sector to employ ICTs strategically to facilitate the administration of justice in the court systems and other related processes. However, in the course of introducing innovative reforms made possible by technology, we must not forget that the judiciary is a conservative institution, tasked with upholding the Rule of Law and protecting constitutional, individual rights and rights of both public and private organisations (Peck 2008).

The importance of e-justice

The importance of e-justice as a form of e-government service delivery cannot be underestimated. E-justice will bring equity in the provision of government services (Lenihan 2002; Zakareya, Zahir and Sarmad 2004).This needs to be emphasised because studies show that governments either ignore or pay little attention to the whole concept of making information accessible to their citizens (Alshawi and Alalwany 2009:199). E-government allows government departments to network and integrate their services using ICTs to improve service delivery and enhance the relationship between government and the public (Ngulube 2007). Thus by way of application e-government allows the department of justice, department of police and department of correctional services to work together in improving service delivery. In the process, technology also makes sharing data among government agencies a seamless and easy task (Peck 2008).

After defining e-justice, a number of thought-provoking questions should be posed and answered. Why are e-justice reforms important in the judiciary, which is generally perceived as inward looking and too wedded to the status quo? What strategies orchestrate the reforms? Why will they be successful? Will the improvements prove to be sustainable? What are the roles of sector institutions, the bar and user groups? What are their current perceptions of the system? Answers to these and other questions help us to understand why judicial reform is necessary. It is also important to look at jurisdictions that have been successful. This will enable the South African judiciary to share the lessons of those successes with policy makers striving to improve the performance of judicial systems around the globe. This article seeks to answer these questions and, therefore, examines the success story of Singapore's judicial reform.

In answering the first question, pertaining to the legal fraternity's inward-looking character and resistance to change, it is prudent to look at the status quo of the South African civil and criminal justice system. This system is mostly closed to the layman, with its language and procedure often difficult to comprehend. Such characteristics can be perceived by the public as a lack of access to e-government information that can impact on trust and, thereby, hinder e-government adoption (Carter and Belanger 2005; Carter and Weerakkody 2008).The South African justice system is still mainly operated manually and is paper-based (Mutula and Mostert 2010). It is struggling to cope with the demands of modern society. Court files and documents are lost on a regular basis. In some cases, the loss is due to corrupt activities. The court processes

grind to a halt when delays are caused by lost or misplaced dockets. This affects the whole society, from prosecutors, attorneys and presiding officers to the general public. Justice must be seen to be done and justice delayed damages the perception of the justice system in the eyes of the general public (Daniels 1989). Technology is, thus, a great enabler from the perspective of a court administrator. It can automate workflow within the court system, track document movement, provide audit trials to deter unauthorised access, eliminate incidences of missing or misplaced court files, allow simultaneous access to the same file, enable computerised searches of litigation databases, generating statistical reports on backlog cases and sending system alerts to pre-empt potential problems (Peck 2008).

In addressing the second question on strategies to orchestrate the reform, this article refers to a fact-finding mission undertaken in 2010 by a group of South African judges from various courts and departments, who went on a study tour to the United States of America to gain insight into case load management in that country (E-justice conference 2010). The South African judiciary has also made it clear that they will follow the Singapore experience. The Singapore experience also indicates the levels of success in answering the third question. The sustainability of e-justice reform depends on a number of factors, the main one being readiness of justice officials to accept and embrace technology.

The South African context

Plans are at an advanced stage to bring South Africa's judiciary in line with world standards by introducing a new electronic court filing and case management system. This move should have a twofold effect. Firstly, this will drastically speed up all court procedures. Secondly, this will deter tampering with case records. The new systems will be based on those already in use in the United States and Singapore. The recommendations were made during the Department of Justice and Constitutional Development's Access to Justice Conference in July 2011, where former Chief Justice Sandile Ngcobo formally endorsed the introduction of the electronic filing system. The new filing system has also received the support of his successor, Chief Justice Mogoeng Mogoeng.

The South African judicial system is overburdened by the growing number and complexity of litigations in the country. This has also been compounded by large documentation quantities, the loss of some important documentation and subsequent delays that are caused. E-justice will, therefore, provide the judiciary and related departments with relevant and timely information in large quantities (Kim *et al*., 2005). In addition, judicial administrative personnel are poorly trained for the job. In commending the e-justice initiative, former Chief Justice Sandile Ncgobo said that technological advances have made communication easier. He specifically singled out the transmission of documents and the accessing of filed documents as the key areas that will be improved through e-justice. This will also go a long way in bringing the local judicial system up to international best practice levels. For the judges, the judgment writing process will be made a lot easier by enabling computerised access to relevant legislation, case law (of local and comparative foreign jurisdictions, particularly those that are in *pari materia* with our local equivalent laws) and digital transcripts of notes of evidence (Peck 2008).

Justice Ncgobo recalled that in the past it took hours or days to send documents from one point to another, and now this can be done within seconds via email. Accordingly, if the proper systems are in place and the necessary hardware available, it is possible for busy judges to access court documents from anywhere (E-justice conference 2010). In terms of its application, the new electronic filing system will make it possible for judges to receive an electronic case file immediately when a new case is opened. The file and documents pertaining to the case will be

saved on a server and will have certain precautionary features in place to prevent anyone meddling with the information. The system will also speed up information exchange between the various parties involved in a case. This case management system is in place at certain courts in South Africa, and a roll-out to all the courts in South Africa is imminent.

This e-justice electronic filing system is already being used in the Constitutional Court, the highest court in South Africa in terms of matters relating to the Constitution. Using this system, documents are filed both electronically and in hard copy. As a result, a judge of the Constitutional Court can access any document in a case from any location. This move to streamline case management and electronic filing became apparent when in 2010 a group of South African judges from various courts and departments went on a study tour to the United States of America to gain insight into case load management in that country. On their return, Supreme Court of Appeal Judge Kenneth Mthiyane and High Court Judges Steven Majiedt and Eberhard Bertelsmann compiled a report highlighting some of the findings of the Consumer Goods Council of South Africa conference (E-justice conference 2010). In the words of Judge Bertelsmann, the overhaul would revitalise a criminal justice system "creaky in its joints".

The modalities of implementing e-justice in South Africa will be based on the experience of the judicial knowledge management systems already in use in Singapore. South Africa's legal system is based on English common law; as is Singapore's legal system, which has been shaped by years of conquest, colonial expansion and economic evolution. Thus the decision to use the Singapore experience is well founded.

The Singapore experience

In the Hong Kong based Political and Economic Risk Consultancy's (PERC) Comparative Risk Report for 2007, Singapore was ranked second in Asia for the quality of its judicial system (Peck 2008). In the Doing Business Report 2008, published by the World Bank, Singapore was ranked first, followed by New Zealand and the United States (Peck 2008). Therefore, Singapore is among the leading countries in relation to e-government (Curtin, Sommer and VisSommer 2003). Owing to the introduction of e-justice in Singapore, its judiciary is renowned today for its efficiency (Sze 2004). This is based on its technological sophistication, which promotes accessibility. There is empirical evidence to show the confidence of Singapore's citizens and businesses in the system. Even outside the justice context, research shows that citizens can pay parking tickets, seek employment, file for bankruptcy and apply for estate administration through ICT affordances (Henderson 2002). Since the introduction of e-justice, the system functions remarkably well, particularly in view of the fact that, as recently as 1989, it was characterised by delays, limited access, high costs, archaic procedures and weak administrative capacity, among other problems (Sze 2004). The improvements in the judicial system have contributed significantly to the country's overall progress, which has been widely documented (PERC 2000 in Malik 2007). This was made possible by a strong ICT foundation and dynamic e-government Action Plan (Lim and Low 2003).

Institutions architecture

If South Africa has to learn from the Singapore experience, it is important to look at the judicial institutional architecture. In Singapore, the institutions that make up the judicial sector are organised around the Supreme Court and the subordinate courts (Singapore Supreme Court and Subordinate Courts 1997). These institutions include the Attorney General's Chambers, the Ministry of Law and the Singapore Legal Service. The Attorney General's Chambers are responsible for prosecuting criminals, providing advice to the government and drafting

legislation. Through electronic technologies, the Ministry of Law ensures that Singapore's legal infrastructure remains clear, efficacious and transparent. Areas managed by the Ministry of Law include constitutional and trustee matters, policies on civil and criminal justice, alternative dispute resolution and community mediation, the administration of intellectual property rights, as well as the administration of land titles and the management of state properties. The Singapore Legal Service is responsible for recruiting and promoting legal professionals for the government. Officers in the judicial branch, who serve as registrars in the Supreme Court and as judges in the subordinate courts, administer justice in accordance with the law.

The Officers in the legal branch prosecute offenders and provide advice to government units. Other institutions in the judicial sector include the Ministry of Home Affairs, the Law Society of Singapore (Singapore's bar association), the Law Faculty at the National University of Singapore, the Corrupt Practices Investigation Bureau, the Singapore International Arbitration Centre and the Singapore Academy of Law.

Using the same model, the Ministry of Home Affairs is responsible for internal security and law and order. These functions are carried out by the Police Force, the Internal Security Department, the Civil Defence Force, the Prisons Department, the Central Narcotics Bureau, and Singapore Immigration and Registration. The Law Society of Singapore seeks to maintain and improve the standards of conduct and learning of the legal profession and to represent, protect and assist its members on all matters concerning the law. It also provides legal representation to needy persons accused of noncapital criminal offences. The Law Faculty of the National University of Singapore provides legal education. The Corrupt Practices Investigation Bureau investigates corruption in the public and private sectors. The Singapore International Arbitration Centre provides international and domestic arbitration services. The Singapore Academy of Law promotes legal standards and learning among the judiciary, the bar and law professionals in government ministries and academia. At the heart of all this judicial institutional architecture is the e-justice machinery. E-justice has led to improving service provision by reducing delays and waiting periods, and increasing transparency. Institutional capacity has been enhanced by upgrading skills and administrative capacity, using technology more strategically to support administrative systems and other functions, and developing better corporate and support services. Ensuring the high quality of decisions, enforcing them and gaining the support of other institutions were key goals for formulating and implementing strategies.

Challenges to the adoption of e-justice in South Africa and the developing world

Information development (2002) details a number of challenges associated with e-government implementation in sub-Saharan Africa. These challenges relate equally well to the specific sector of e-justice. They include infrastructure development, law and public policy, the digital divide, e-literacy, accessibility, trust, privacy, security, transparency, inter-operability, records management, permanent availability and preservation, education and marketing, public sector and private sector partnerships, workforce issues, cost structure and benchmarking (*info* Dev 2002, in Ngulube 2007:162).

The ICT revolution is often considered a highly political affair as opposed to a technical challenge that can be addressed by e-government initiatives. (Wilson III, 2004:6). Within that context, Gupta, Dasgupta and Gupta (2008:141) identify a number of factors that hinder e-government in general. These factors are equally applicable to e-justice adoption challenges. These factors are also identified in the studies of several scholars (e.g. Kaaya 2004:42; Zarei, Ghapanchi and Sattary 2008). An article by Komba and Ngulube (2011) also identifies these factors, which are listed as follows, preceding an analysis of each one:

- uncoordinated e-government activities;
- differences in infrastructure development between urban and rural areas (In most cases urban areas are preferred.);
- poor provision of electricity, telephone lines and internet connectivity;
- language barrier (The use of English dominates the landscape, despite 11 recognised official languages.);
- low levels of techno literacy among users;
- lack of technical expertise to support and maintain information and communication technology (ICT) infrastructure; and
- lack of computers

These are important environmental factors that should be taken into account (Schick 1998).

Uncoordinated e-government activities

The challenges related to uncoordinated e-government activities rank high in South Africa. The Ministry of Justice is supposed to work with other ministries such as the Ministry of Police and the Ministry of Correctional Services. In the delivery of justice, the Ministry of Police offers the service of investigating and arresting criminals; the Ministry of Justice receives the information in the form of a docket, and decides on the prosecution of the case. A prosecution that results in a conviction leads to the involvement by the Ministry of Correctional Services, which operates the correctional facilities (prisons), until the offenders are released back into the community after completion of the prescribed sentence. These three ministries sometimes fail to coordinate their efforts. The case involving the murder of Reeva Steenkamp (S v Pretorius 2013- unreported case) has revealed that the police failed to gather and process evidence at the crime scene. This bungling of procedure will surely have a bearing on the case when it goes to trial. The Correctional Services Ministry has also been criticised for its poor handling of parole services, where undeserving cases sometimes get an early release from prison. In some cases, the Correctional Services Ministry fails to work with the other government departments in processing the relevant information. The case of the Waterkloof Four is a case in point, where parole was granted to only two of four offenders, while all four had been charged with murder. In this case, the Department of Justice and Department of Correctional Services failed to work together to ensure that parole was not granted for aggressive crimes, as the two who were granted parole had been found guilty of murder (Status report on Case Management Committees; Parole Boards and Correctional Supervision 2013).

Differences in infrastructure development

The differences in infrastructure development between urban and rural areas have been described as the achilles heel of South Africa's service delivery (Business Report 2012). Ngulube (2007) describes infrastructure, human resources and information as the major ingredients of e-government. Most of the time, citizens prefer to live in urban areas, even in the most appalling conditions and makeshift housing. Every day new informal settlements mushroom in the urban areas (Charlton and Kihato 2006). The delivery of e-justice cannot cope with the crime rate of crowded cities. In addition, e-government service delivery in the rural areas is not of the same level as that given in the cities. Lipton (1997) developed the concept of an "urban bias" existing between urban and rural areas. An attempt by government to merge semi-rural municipalities with urban has met fierce service delivery protests that have even led to the death of protesting citizens (Charlton and Kihato 2006). The rural areas also have legal systems based on customary law, which may be incompatible with e-justice mechanisms (Leila, Sage and Woolcock 2005).

Poor power supply and telephone services

Inferior electricity and telephone infrastructure will provide one of the major challenges to e-justice. Some court houses, police stations and other key components of the infrastructure lack basic amenities and connectivity. According to Mbeki (2000), Tokyo has more telephone lines than all sub-Saharan Africa. Some of the key government departments are housed in rented premises where they cannot make the buildings compatible with the required e-government capacity. Telephone lines are often the most basic connection required for the internet, but these are still luxuries in some rural police stations. The ICT infrastructure is not widely available to rural populations (Ngulube 2007). Bandwidth challenges do not arise for discussion when even basic telephone lines do not exist. The World Bank report on the African region communication infrastructure programme for 2007 paints a bleak picture, showing that the Southern Africa region suffers bandwidth deficiency and only accounts for less than one percent of the world's international bandwidth capacity (World Bank 2007).

The language barrier

The language barrier will also prove to be a major challenge. The South African constitution recognizes all 11 official languages as equal. However, in practice, only English and Afrikaans enjoy widespread use in both written and spoken format in government departments. Tribal languages are widespread in rural regions of Africa, whereas English, largely, cannot be read or understood (Kaaya 2004). In the current format, court cases often get postponed because of unavailability of interpreters for the indigenous languages in particular. This is again evidence that English and Afrikaans are understood by an elite minority only (Komba and Ngulube 2011). It is important to consider the language diversity that exists in Africa when setting up e-services (Schuppan 2009). This challenge is also closely related to the low literacy levels among potential users.

Low levels of literacy

Public administration in sub-Saharan Africa is characterised by inefficiency, limited capacity and poorly trained personnel (Schuppan 2009:118). South African High Court Judge, Eberhard Bertelsman, cautioned that the introduction of the new electronic filing system should be preceded by training. He acknowledged that all judges were required to undergo training, especially older people like him who found it harder to understand technology. Both government officials and the people who may want to use e-government services lack basic skills (Ngulube 2007). Low level literacy also breeds corruption, high levels of overstaffing with low pay scales, as well as unmotivated and unqualified staff (Wescott 1999).

Lack of technical expertise

The lack of technical expertise to support the information and communication technology infrastructure can paralyse the implementation of an e-justice programme. Legal processes are very delicate, to the extent that a case can be lost or won on technicalities that relate to the handling of the communication technology (ICT) infrastructure. Lack of technical expertise can compromise the gathering and handling of evidence in police and court processes. The gathering and storage of crime information in electronic format has already proved to be a bone of contention in the drinking and driving case involving the High Court Judge, Motata. Even though the evidence was later ruled to be admissible, the defence had successfully argued to discredit the evidence recorded from a cell phone and later transmitted into another format. In

another example, in the State v. Pretorius case (2014), the defence team accused the investigating officer of compromising the crime scene, and the presiding Chief Magistrate was also convinced. Technical expertise is also required to maintain and fix ageing equipment. The security at court buildings will need to be upgraded, since the department has been suffering from theft as a result of burglaries.

The lack of computer hardware

Under the current system, the Ministry of Justice is facing a huge challenge in their lack of computer hardware. Even today, some lower courts still use old and irreparable typewriters. Thus, the lack of computer hardware also needs to be addressed. Government needs to inject a lot of capital to supply all courts, police stations and correctional facilities with state of the art computer equipment and servers. Therefore, governments need to pay more attention to making information accessible to their people if they are to succeed in introducing e-government adoption (Komba and Ngulube 2011).

Recommendations

The justice system needs to engage in future planning and vision development to remain relevant and sustain the rule of law with practical significance for the people. If the courts do not take control of their future and play a role in social, political and economic development, other institutions will leave them behind. South Africa has already shown the desire and capability to go along that route. During the 2010 FIFA World Cup, South Africa introduced legislative remedies to set up specialised courts to deal with tournament related crimes. Foreigners who committed crimes during the tournament were immediately put on trial so that the state would not face the massive challenges related with bringing offenders back to South Africa for trial after the tournament. Such short-term fixes provided the judiciary the opportunity to stimulate positive changes toward e-justice (Urquhart 2010).

The Singapore experience discussed earlier indicates that e-justice was not an isolated departmental project. It was an adventure that included all the facets of government. It was aligned at a higher level with the overarching Singapore's Whole Government Blueprint known as iGov 2010.4 (Peck 2008). This clearly illustrates the pervasiveness of ICT and that it is truly of universal application in nearly all sectors of government services (Peck 2008).

Furthermore, South Africa and other developing countries need to implement an approach and strategy similar to what is used in Singapore, and to modernise the Subordinate Courts through technology:

a) promoting corporate excellence through organisation-centric initiatives;

b) implementing online public services making virtual court services a reality;

c) introducing integrated Judicial Administration systems; and

d) implementing knowledge management initiatives (Peck 2008).

The development of a Justice Scorecard is one of the innovations introduced in Singapore. The Justice Scorecard technique was developed at Harvard Business School for business organisations, and has since been used for public organisations. The Subordinate Courts of Singapore are the first public institution to adapt and use such a balanced scorecard technique (Peck 2008).

In order to ease the congestion of court cases, the justice department should look into introducing virtual court services. This challenges the age-old notion that there must be a brick and mortar courtroom, manned by staff, and that parties have to be physically present. With technology, virtual courts can be accessible and effective once security safeguards are put in place (Peck 2008). Video conference technologies can be utilised for meetings between the lawyers of opposing parties when they consult with the magistrate or the judges. E-courts are urgently required to enable vulnerable witnesses to give real-time evidence at a remote location so as to lessen the trauma of court proceedings. This will be ideal for cases that involve minors, especially in rape and child abuse.

South Africa should roll out the electronic filing system to all courts. This will not be a huge challenge since the Constitutional Court is already utilising this technology. If the justice department does not have the capacity, the service can be outsourced to a vendor.

As part of knowledge management, institutionalised knowledge of justice personnel like judges, magistrates and the court staff should be codified in documents, particularly in this era where staff movement is frequent. By embarking on these knowledge management strategies, the Department of Justice can nurture a culture of learning in the courts, which results in building up and building on the intellectual capabilities of all stakeholders.

Care should be taken in managing the transition from manual to computerised environment; it is not just changes to the system and its process that are involved. It is equally important to manage the change processes and the mindset and behaviour of those affected by it (Peck 2008). The technologies to be used should fully understand the unique processes of courts and the justice system so that the changes may not undermine the integrity of the judiciary. It is also recommended that a gradual, phased and incremental approach of having a parallel system of paper and electronic filing for a short period of time, be put in place before cutting over to a fully electronic filing system. This can ease the strain and help all stakeholders to ease over to the new system. This will allow for flexibility, adjustments, refinement and enhancement as integral facets of transition. All Justice Department officials should be trained well in advance before the programmes are implemented.

The judiciary also needs to learn from other public and private sectors. The private sector stands ready to finance projects that promote justice and the rule of law. These partnerships can mitigate the huge costs of ICT infrastructure. The private sector is interested in the speedy and smooth running of the court processes since delays cost them revenue. There is a need for numerous institutional changes (Schuppan 2009). The last recommendation is that there is need to come up with a concise timeframe for the implementation of e-justice, otherwise it will remain a pipe dream of e-justice rhetoric and little actual implementation. Basic processes and services need to be thoroughly established for the long term (Schuppan 2009). Longer preparation and project time will be required to establish e-justice in South Africa.

Conclusion

Ngulube (2007: 162) posits that e-governance is attainable if lessons from elsewhere are considered. This article has therefore referred to Singapore where a sound ICT infrastructure, clearly defined e-government strategy and vision, strong government commitment, information literacy and e-literacy as well as connectivity are the norm. Thus, South Africa and other like minded developing countries need to come up with a robust e-government strategy and vision. Flowing from this, e-justice will become easily implementable. However, the development potential of e-justice can only be realised if certain minimum preconditions exist in the country.

The judiciary should leverage technology to innovate so that they can better serve the community. From this article, it is clear that technology can indeed transform the justice system by modernizing the delivery of justice. Without a doubt, e-justice offers numerous opportunities to resolve some administrative challenges related to knowledge management in the delivery of justice.

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