

## **E Justice: Ghana makes confident strides towards digitalisation**

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*Korieh Duodu, Principal of Equality Law in Ghana, recently had the honour of moderating a two-day study tour for senior members of the Ghanaian judiciary, invited to exchange ideas on e-justice with counterpart judges from the Hanover and Hamburg courts of Germany. The program was put on (digitally of course) by the German development agency, GIZ, and took a deep dive into a range of areas of digitalisation of relevance to the Ghanaian justice system.*

It would have perhaps been inevitable to approach this event with preconceptions about Ghana's court system being a 'Bleak House' of painfully slow case progress, paper files at risk of being lost and clients frustrated by years of procedural skirmishes and appeals, with the end result of justice being delayed at every turn.

Very refreshingly, not only was there huge enthusiasm for the number of illuminating talks by the German experts, but it was particularly surprising to hear from Ghanaian judges that in recent years Ghana has pushed forward with a number of ambitious programmes towards drastically modernising and digitalising its court infrastructure. There is now a distinct possibility of a paperless court system in place in Ghana in the near future.

Some key highlights of Ghana's recent strides towards digitalisation:

- The Chief Justice of Ghana has set up an oversight group to formulate a strategy for digitalisation.
- The Office of the Solicitor General has been working on an initiative called the E-Transform Project ("**Project**") under the advisory of the World Bank. This Project began in 2013 and is developing an information management system which is being implemented by mid 2021 and is intended to include automation of the court registry.
- Under the E-Transform Project, the E-Justice Committee within the judiciary has been working since 2017 to establish an "e-friendly", transformative policy and paperless software for all key stakeholders and institutions of the Ghanaian judiciary. The paperless concept is intended to reduce human interface requirements.
- COVID has necessitated an acceleration in plans for online court sittings. There is currently a pilot ongoing with the High Court, which has apparently been a success. Hearings are on screen, and all parties have access to documents on monitors. The judges reported that the system has worked well overall and is looking to be rolled out more widely.
- There are digital case tracking and case management systems being used at the Attorney General's department (the equivalent of the Crown Prosecution Service and Treasury Solicitor in the UK) which are being developed. There are challenges with integrating these systems into the wider E-Transform project.
- More challenging in the Ghanaian context is getting lawyers to buy into a digital system and online hearings. This is apparently because some lawyers are worried

about losing their 'brief fees' they earn when attending physical court hearings... There is a need to engage with the Ghanaian Bar on the changes being proposed and ensure that steps are taken to ensure their buy-in.

In this context, GIZ made available a number of leading experts on e justice in Germany for this event. There were talks by a former President of the Hamburg Constitutional Court, the Managing Director at the Federal Chamber of Civil Law Notaries in Berlin, a judge of the Hamburg Administrative Court and a technical expert responsible for taking the Hamburg court system paperless. All of these courts operate in an almost fully digital medium and have done for several years.

The Ghanaian judges consisted of a number of high court judges, one of whom is the current chair of the E Justice working group, another specializing in cyber fraud and complex commercial and corruption cases, and two members of the Court of Appeal (one of whom sits on the Ghana Chief Justice's working group on digitalisation).

The German participants embraced the major steps Ghana has taken towards digitalisation. Some of their observations were nevertheless extremely valuable for any country looking to build an ambitious e-justice platform.

The discussions were deep and wide-ranging, and difficult to summarise briefly. Some of the most powerful takeaways were the following:

- Any system of e justice will meet with resistance from court users such as lawyers, who of course generally prefer to work with what they are familiar with. In Germany, it was necessary to legislate for a 'hard stop' date by which filing documents electronically became compulsory. The uptake of online court filing following the enactment increased dramatically.
- The creation of user-friendly software for judges and court users is essential. The examples of software demonstrated by the Hamburg judges showed that they were easy on the eye, windows based, capable of running as multiple applications on multiple screens, and generally replicated the 'paper processes' almost identically. A physical court file was reproduced digitally in the same format, so that it was easy for users to recognise where to find documents in the same way as they would with paper files.
- The security of any system adopted is critical, of course. In Germany there is an electronic card reader which court users must obtain to be able to file electronically. The system is fully encrypted. A similar system could be used in other jurisdictions, although in countries where cost will be an issue, it was observed that there are end to end encryption solutions which are fully digital (such as PGP public key encryption) which could be used.

- There are broadly speaking three approaches to software development for an e justice platform: (a) building software in house with a dedicated team; (b) outsourcing software development to third party developers, and (c) purchasing 'off the shelf' solutions. In Germany, it was observed that typically software development was outsourced, but working with an in house team could also be viable (and has apparently been done successfully in Austria). There was consensus that solutions would have to be bespoke and developed to take account of the specific features of the particular jurisdiction. It is unlikely that an e justice platform can be developed using generally available software.
- There is an important distinction between developing a digital platform and developing artificial intelligence solutions for law. There was discussion about the prospect of some of the work of judges being assisted by AI. Research and development is already taking place in this area, but the participants considered it controversial that judicial decision making could in future be aided significantly by AI. Analytical tools and algorithms are of course already being used in large and complex cases to analyse evidence, but there was concern that the more human aspect of judging (such as in family law cases) would be impossible to replicate by AI in the near future.

This discussion seemed to fire up the key proponents of E Justice in Ghana to renew and redouble their efforts. Ghana is clearly able to engage in highly technical and sophisticated discussions on E Justice which are paving the way for a more efficient justice system in future. The sentiments expressed on this study tour demonstrated a huge willingness and appetite to embrace change at the higher levels of the judiciary. There is a long way to go, and things need to move quicker if real change is to be experienced by court users. If change does not occur more quickly, there is a risk of the court system becoming less relevant as arbitration becomes more familiar and potentially more affordable.

More comparative studies of this sort are needed, particularly with other common law jurisdictions such as of course the UK, but also with other African countries exploring e justice solutions. Could a similar exchange of ideas with Kenya, South Africa or the U.K. be in the planning next for Ghana?

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