



Legal Innovation: a trajectory for sustainable national development in Nigeria

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Abstract

This study focused on legal innovation as trajectory to sustainable national development in Nigeria. By drawing on both scholars and practitioners reflecting on debates around the future of law and the changes that are currently taking place due to technological innovation, this article seeks to embed and mainstream discussions on access to justice and the future of law in the face of the emerging technological innovation. This qualitative study was conducted in Nigeria but it begins by mapping innovations taking place around the world and identifying the different locations for innovation which legal practitioners can exploit for enhanced performance and speedy dispensation of justice. Furtherance to this, it examined the impact of legal innovation trends in sustainable national development. The challenges associated with adoption of these emerging legal innovations were also discussed. The study discovered that legal innovations is fast been embraced by stakeholders in the legal profession and it has great potential to fast-track sustainable national development. Even though Nigeria legal system still lags behind in the adoption and usage of these innovations; hence, more debates to fuel and structure the legal tech of Nigeria to aid quick access to justice is recommended.

Keywords: Innovation, legal innovation, development, national development

Introduction

India's tribunal system has repeatedly generated the same constitutional anxiety: bodies created to exercise judicial or quasi-judicial power have often remained administratively dependent on the executive departments whose decisions they review. Research have shown that more than 5 billion people across the globe do not have meaningful access to the justice delivery system, according to a recent report produced by a network of international development organisations (Pathfinders, 2019).^[19] The magnitude of the gap is further understood where over 253 million people live in conditions of extreme injustice such as slavery, conflict and statelessness; 1.5 billion have justice problems they cannot solve, and over 4.5 billion people are excluded from protections of the law that provide for socio-economic and political security (Pathfinders 2019).^[19] Addressing this justice gap is of immense importance and is central to the imagination of the Sustainable Development Goals, which aspire to build inclusive societies and protect vulnerable populations (United Nations Sustainable Development Goals 2015).^[20] As the justice gap continues to get wider, we are also living in an age where the scale of technological innovation has resulted in developments such as document automation, e-discovery, predictive analytics and online dispute resolution increasingly being adopted in the delivery of legal services. The influx of new services that are engineered around improving efficiency, productivity and quality review are influencing changes in the ways of working in the legal sector. These factors are also leading to the development of alternative means of legal dispensation which will fast-track dispensation of justice to the public. Emerging technologies are beginning to shaping the ordinary functioning of law and the everyday life of its users. In an age of digital change which we are in, it is important to understand what these changes mean for the resolution of common legal problems that result in social, economic and cultural development of a nation.

Debating about the future of law and of the justice sector requires a mapping of the changes to different actors and institutions in the legal sector whether lawyers, judges, firms and most of all, ordinary citizens. While there is much work emerging in terms of trends around 'legal tech', 'artificial intelligence and law' in the commercial law space, there is less scholarly and policy attention on the use of such technologies in terms of its implications for ensuring access to justice and addressing the needs of the ordinary citizen. This study seeks to mainstream discussions on legal innovation as it connects to sustainable development in Nigeria. In doing so, it seeks to examine what changes in technology mean for the end user, the government and the society at large. In this way, it argues that a lack of access to justice is not a concern limited to civil society organisations alone but requires collaboration and synergies between different actors and institutions in the legal sector. We propose a three-step approach towards investigating how to build a strategic roadmap for meeting the challenges of the justice gap in the context of dynamic innovation and technological changes. The first is to provide broad insights and trends into what technology changes have been introduced in the legal system, public sector, civil society and in legal education by conducting a mapping exercise to survey the field. The second is to locate what these changes mean for the concerns of a digital divide, for legal empowerment and for access to justice. For example, do these technologies enable individuals to understand procedures better? Does it render justice more cost-effective? Or does it result in less transparency and accountability because technological solutions are opaquer? And the third is to plug the gap by examining how to address sector-specific access to justice questions and learn as we go forward. By analysing the legal innovation, this study considers technological changes taking place in the legal sector, where the developments have taken place, the types of actors and institutions driving these developments,

and the impact it has on the overall development of the country.

Trends in Legal Innovation

The debate on ‘The future of the law’ has been around for some time with Richard Susskind, a reference point in almost all related publications, publishing a book under this title as early as 1996 (Susskind 1996). A good ten years later his seminal 2008 publication ‘The end of lawyers?’ then sparked a euphoric legal tech debate and made a very self-confident profession wonder if it, too, could one day be replaced by intelligent machines (Susskind 2008). Apart from this, other factors regularly cited for the emergence of ‘legal tech’ in the past decade include the 2008 global economic downturn that forced legal service providers to become more cost-efficient and the technological development such as the take-up of cloud computing (Goodman, 2018).^[9] Furthermore, market liberalisation, such as through the UK Legal Services Act 2007 allowed for new business models in the field and fuelled entrepreneurship (Goodman 2018: 67).^[9] The Covid-19 pandemic has also seen an accelerated push towards digital transformation with more multi-disciplinary perspectives needed to be able to respond to rapidly changing market and client needs (Cohen 2020). A good decade after the Susskind prophecies, the ever-accelerating development of technology has opened the door to new exciting possibilities. While the legal services industry had been somewhat of a latecomer in adopting new means of technology, the rise of artificial intelligence and machine learning have now given us an idea of what the future of the law might look like. Predictive analytics, today, allows forecasting the outcome of US Supreme Court decisions with over 70 per cent accuracy – far better than expert legal analysts (Katz, Bommarito, Blackman 2017).^[13] Furthermore, it plays an increasing role in predictive policing, tax evasion and tax outcomes, recurrence rates of criminal defendants and even lawsuit financing all of culminate to sustainable national development (Vogl 2018: 57).^[21] Intelligent machines can even forecast the enactment of legislation, as demonstrated by Skopos Labs in 2017 (Hutson 2017).^[12] Emerging technology is increasingly included in the everyday practice of the law. While initially this was with respect to making the job of a (human) lawyer easier through faster and more effective file and knowledge management, billing or other administrative tasks, it has now started to impact on every sphere of the society. E-discovery tools such as Relativity, legal expert systems like Neota Logic or prognostic tools like Ravel, LexPredict or IBM Watson (Wenzler 2018) ^[23] have continued to shaped the legal profession. McKinsey has predicted that 35 per cent of a law clerk’s job will be rendered redundant while 22 per cent of a lawyer’s job will be replaced by these technologies (Winick 2017).^[24] With their access to large financial resources, it is the big law firms that are the early adopters of these new technologies (Goodman 2018).^[9] More so, with the rise of AI-powered programs, the development and training of these intelligent machines becomes more and more important, and many law firms find themselves in a race to also succeed as legal tech investors and developers (Goodman 2018).^[9] This competition has now intensified considerably with the big accountancy firms, who have a head start in adopting technology, muscling their way in on the market wherever possible (Derbyshire 2018).^[5]

Apart from the big firms, a vibrant legal tech start-up scene has emerged in the past few years, particularly in places that saw market liberalisation such as the UK. In part, this was also fuelled by the fact that many of the big firms are investing in start-ups rather than applying the technology to their own business (Dipsham and Strom 2018; Goodman 2018: 72).^[9] In 2015, leading law firm Dentons created Next Law Labs, a wholly-owned business accelerator that aims to support and invest in legal tech ventures while Allen & Overy in 2017 launched a legal and regulatory tech incubator called Fuse to support tech companies who are innovating in the work that they do (Dipsham and Strom 2018). Dipsham and Strom (2018) also marked a breakthrough year with a record-setting \$1.6 billion of total investments in the legal tech sector, which constituted a 713 per cent growth over the previous year (Dolm 2019).^[6] Today, Stanford’s CodeX Techindex lists over 1,300 legal tech start-ups, currently across nine categories of ‘Marketplace’, ‘Document Automation’, ‘Practice Management’, ‘Legal Research’, ‘Legal Education’, ‘Online Dispute Resolution’, ‘E-Discovery’, ‘Analytics’ and ‘Compliance’ (Stanford Law School n.d.). While initially offering niche services, these technologies are increasingly influencing the legal services industry as a whole. Alternative legal service providers, such as Axiom, are growing rapidly and have a considerable impact on the market as they contribute to the unbundling of legal services and give more options and hence bargaining power to clients (Vogl 2018).^[21]

Impact of Legal Innovation Trends on National Development

Evidences of the impact of innovative legal system abound across the globe. For example, Germany helped clients to fight their parking tickets, receive damages for delayed flights or bring a class action against Volkswagen in the context of the “Clean Diesel” scandal (Gnirke 2019). Entrepreneurs have also been driven by the idea that technology could improve access to justice around the world. Since 2007, online platforms in the Netherlands, Canada and the UK have helped to solve marriage, landlord-tenant and other disputes through projects like Rechtwijzer by HiiL, MyLawBC or Relate (Smith, R. 2017; Smith, R. 2017a). Innovators like Joshua Browder of DoNotPay soon turned to more social ventures by supporting homeless people in finding accommodation (Cresci 2016).^[4] Through platforms such as Haqdarshak in India, legal tech is also helping people claim benefits by assisting community-level advisers to assess individuals’ eligibility for benefits and then supporting those individuals to apply (Walker and Verhaert 2019: 62).^[22] Common good lawsuits can today be financed through platforms like Crowd Justice that was recognised as the 2018 Financial Times top innovative lawyer (Boulton 2018).^[1] Since 2016 the mobile app PLP 2.0 (Promotoras Legais Populares) from Brazil that won the 2014 Google Social Impact Award helps women in situations of domestic, sexual or family violence translating twenty years of legal empowerment experiences into the digital age (Walker and Verhaert 2019).^[22] Legal Geek, one of the world’s most influential legal tech conferences in October 2019, held its first own Law for Good conference in London (Law for Good n.d.). Embracing these legal innovations will put Nigeria social and economic environment on a fast lane towards attaining sustainable

National development. Though the Nigerian legal system has followed more slowly and is only beginning to embrace the new means of technology. While digitisation holds the great promise to make the entire state administration more effective, accessible and transparent, recent years have demonstrated that making this a reality is a far greater challenge than imagined. Digitising our chronically overburdened courts, for example, is a far more complex task that require both the intervention of the government and other stakeholders in the legal industry. Nevertheless, the Nigerian government and other allied countries are increasingly trying to tap into the potential of legal tech beyond the digitisation of the administration. An example of this development is the growing number of initiatives of online dispute resolution mechanisms that were introduced during Covid 19 pandemic. Others include initiatives in Canada (British Columbia), and pilots in the US (Utah, Ohio, California), Australia (Victoria), and England and Wales (Walker & Verhaert 2019: 18).^[22] These mechanisms, like the British Columbia Civil Resolution Tribunal, help individuals diagnose a problem, provide them with legal information and lead them through a guided online dispute resolution process, followed by links to a formal tribunal process (Walker and Verhaert 2019).^[22] In India, the government has also introduced a number of technology-based platforms, which aim at improving the technological aspects of courts, creating better access to lawyers for clients and improving the delivery of pro bono services. However, much remains to be done to recognise and improve the scale and impact of these services so that primary goal can be achieved. These technological developments will change the legal profession if properly harnessed and implemented. Ultimately, the demand on the labour market will follow, which will not allow for legal system to remain the same.

Challenges associated with the adoption of legal Innovation

Having discussed extensively on the relevance of legal innovation and having clearly stated that the legal sector is at a crucial moment in its history; the need to equip stakeholders with adequate skills for sustenance of the emerging legal innovation is inevitable and this pose a great challenge in the face of the new technology in the legal profession. Whether it be law firms who are looking at alternative ways of working by investing and transforming into technology enterprises, legal tech firms boosted by an influx of capital to scale their services or others who are strategically merging; courts, and public institutions like the police who are increasingly using technology for predictive analytics or creating more IT-based infrastructures; civil society organisations that are helping people diagnose problems and also using technology for spreading legal literacy; and education where law schools are innovating and offering new courses to meet the demands of the market. These institutional changes are at differing levels of speed, scale and with different levels of success. While the previous section has included examples to present a picture of the changes taking place, this section focuses more on asking what it means to the different sectors to embed questions of access to justice and empowerment in their work. Access to justice is understood as the ability for people to address their everyday legal problems, either through recourse to law,

courts or other forums (Cappelletti and Garth 1981; UNDP 2004).^[2] The challenges of access to justice can emerge in multiple ways, such as where courts and legal institutions are out of reach of litigants because of costs, distance, or even a lack of knowledge of rights and entitlements. It can also be because many judicial institutions are under-funded and as a result there is poor judicial infrastructure, inadequate staff, and limited resources to meet the needs and demands of litigants who require such services. In many instances, the text of the law itself is riddled with complexities, and that makes it difficult for ordinary litigants to understand and use it effectively. Hence the need for routine training people for the use and adoption of these emerging innovative tools. Another critical issue to address is how to scale innovation. In this regard, the challenges can emerge from issues with respect to economic infrastructure that does not provide the apparatus or climate to grow. It can also arise from regulation that makes it difficult to experiment and take risks which in turn is also influenced by more conservative mindsets and finally the question of financing that is required for implementing different kinds of innovations. Scaling innovation also builds on the other aspects mentioned previously because in order to scale you need to have diversity of expertise and experience that can provide the contextual knowledge that helps address multifaceted challenges of access to justice. More importantly, there is need for more collaborative enterprise which involves creating an atmosphere and mindset driving collective ownership and clear outcomes. It requires the distribution of responsibility, as well as the authority and regulation to implement a new technology (O'Reilly 2018).

Conclusion / Recommendation.

By drawing on both scholars and practitioners reflecting on debates around the future of law and the changes that are taking place due to technological innovation, this article seeks to embed and mainstream discussions on access to justice into discussions on the future of law. It begins by mapping innovations taking place around the world and identifying the different locations for innovation, next it examines impact of legal innovation trends in national development. The challenges associated with adoption of these emerging legal innovations were also discussed. The time is now ripe to fuel and structure the debate on legal tech for access to justice. As innovation is driven by the big law firms and technology is developed and applied by them first – could pro bono work be a space for translating some of the technology into access to justice solutions? Can the public sector and regulators incentivize different players to contribute to the field by encouraging and developing innovation policies? Can legal education which, is gearing up to address the need for new skill sets, also spearhead a responsibility revolution among new lawyers? Or must such change be driven by civic tech enterprises who can act as effective power brokers? We have seen that while technology can help address social challenges, it is important to ensure that to actually achieve something, there is an infrastructure that supports such innovation. This is to ensure that we are not just left with techno-fixes, which do not have a long-term impact. Technology can address barriers to access to justice however, it needs a concerted and systematic effort to amplify, structure and translate its impacts to be relevant in different aspects of the economy.

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