

Court Modernization

Overview

To ensure accessibility and fairness and to protect against corruption, courts must be able to manage cases efficiently and reliably. Although not a requirement for an efficient court system, digital technology has become an increasingly popular tool to modernize courts and achieve these outcomes. In particular, tools such as online case management systems and the availability of virtual court proceedings can help improve access to information about court processes and simplify court services. These tools can encompass a variety of services, including e-filing, case tracking, automatic notices to appear in court and hearing date reminders, online dispute resolution services, and the publication of digital recordings of court proceedings.

These features, when integrated into an online platform, improve access to information about justice processes, allow citizens to engage with the system remotely – especially those who have traditionally lacked access to such processes – and reduce wait times by freeing up judicial officials’ and other court employees’ time. Furthermore, in the midst of the COVID-19 pandemic, online court processes can help courts avoid inefficiencies and increase the accessibility of their services while mitigating public health risks.

Recommendations and Sample Reforms

The following are actions for governments implementing or considering implementing online case management systems to ensure that they maximize the transparency and accountability of the court system.

- **Ensure that automation is an appropriate response to court system needs.** Often court backlogs can result from a variety of issues, including corruption among court officials or a lack of communication and trust between justice sector institutions. While court automation can improve efficiency, it will not solve these underlying issues.
- **Engage potential users early on to encourage trust and transparency in the new system.** Court automation often presents major changes to how courts operate. Transparency about these changes and the potential improvements that may result could help combat skepticism, among court staff, litigants, lawyers, bar associations, and the general public. User-test technology with the public during development. Verify that the system meets user needs by ensuring accessibility, use of plain language, and availability in all languages commonly spoken among the population that the system serves.¹
- **Standardize the collection and presentation of information.** Ensure that courts across different jurisdictions and across various levels of the system collect the same information to allow for cross-comparison.
- **Provide access to information to litigants and the public.** Automated systems have great potential to lower barriers to access to public information. Records requests, information on pending litigation, and notices of disposition can be substantially streamlined by automation.
- **Extend court modernization to other parts of the court system.** Court modernization is often piloted in one or a few courts. If pilots are successful, justice systems can begin implementation across the system to specialized courts, other jurisdictions, and other levels of the court system.
- **Focus on interagency communication and interoperability within government.** Courts can conserve significant resources by designing systems that facilitate efficient communication with other courts, correctional facilities, and agencies that manage identity, financial, and land records.

Photo by: mnirat

• **Consider how e-court processes can improve efficiency during the Covid-19 pandemic.**

Processes such as e-filing, online dispute resolution, digital case look-up, and/or remote hearings can enable courts to continue proceedings in light of the ongoing public health risks of conducting such processes in person.²

• **Conduct training for judicial officials and court staff.**

Court automation systems will work best if court staff use and maintain them properly. Comprehensive training, often including training on basic computer skills, can improve uptake.

• **Implement effective monitoring and evaluation processes.**

Monitoring is an important accountability mechanism to ensure that the investment in court automation is used effectively to serve citizens by improving access to justice. These could include backlog reduction indicators and court user surveys that could help courts evaluate citizens’ engagement with the new system.

LESSONS FROM REFORMERS

Kenya’s commercial courts are transitioning to e-court processes.

Without a system for electronic filing, court records in Kenya have been maintained in libraries of thousands of often-disorganized paper documents. This makes it challenging for court officials to keep track of cases, leading to debilitating backlogs for judicial officials and delayed judgments for citizens. In 2012, Kenya made an [OGP commitment](#) to modernize the judiciary with the goal of improving the courts’ efficiency, transparency, and accountability.³ Among the initiatives included in the commitment, Kenya implemented software that would allow case proceedings and judgments to be made available online, enabling Kenyans to access and download cases and judgments online for the first time. The government also hoped to implement software that would randomly assign new cases to judicial officials to avoid bias and conflicts of interest in judgments, although this was not achieved by the end of the action plan. This has allowed scholars to identify significant ethnic bias in judicial decisions, pointing to the need to improve recruitment and training in high courts.⁴

Building on these initiatives, in 2017, Kenya continued attempts to digitize and automate certain court processes to [address case backlogs and delays](#).⁵ In a [pilot](#) carried out at the Commercial and Tax division of the High Court, the Kenyan judiciary began digitizing case files and centralizing them using case management software.⁶ The system also includes a variety of other functions aimed at making court information more accessible and proceedings more efficient. For example, a public-facing case-tracking portal allows court users to check the status of their case online, and an e-payment platform helps citizens navigate the previously complex fee payment processes.

Other OGP Commitments

Albania: Implement an online inspection, make judicial hearings available online through their integrated case management system, and digitize court files to simplify transferring information between court levels of the judiciary ([2012–2014](#)).

Brazil: Implement an electronic system for judicial proceedings in the electoral courts to reduce court delays ([2016–2018](#)).

Costa Rica: Create an online observatory to ensure efficient management of cases and reduce delays in delivering decisions ([2019–2020](#)).

Greece: Implement an electronic system to monitor the status of all pending cases and allow electronic submission of documents for all parties ([2016–2018](#)).

Montenegro: Establish the National Administrative Fee Collection System in order to simplify the payment of court fees for citizens and improve monitoring of outstanding payments ([2018–2020](#)).

GUIDANCE AND STANDARDS

United States: The National Center for State Courts – Consolidated Case Management Functional Standards

The installation of case management software will not on its own ensure greater efficiency and openness. It must also be sustainable and user-friendly and collect the right information. The National Center for State Courts in the U.S. published its [Consolidated Case Management Functional Standards](#) in 2006.⁷ These standards describe general capabilities that courts’ systems should

support in a variety of categories, including the following:

- Scheduling
- Docket management
- Document creation and tracking
- Records management
- Court proceedings recording

Endnotes

¹ National Center for State Courts, “Guiding Principles for Post-Pandemic Court Technology,” July 16, 2020, https://www.ncsc.org/___data/assets/pdf_file/0014/42332/Guiding-Principles-for-Court-Technology.pdf.

² Ibid.

³ “Improving Transparency in the Judiciary: 2.A. Public Vetting of Judges and Case Allocation System (KE0007),” (OGP, 2012), <https://www.opengovpartnership.org/members/kenya/commitments/KE0007/>.

⁴ Danny Choi, Fiona Shen-Bayh, and J. Andrew Harris “Ethnicity and Judicial Decision-Making: Evidence from the Kenyan High Courts,” (paper presented at the American Political Science Association Annual Meeting, Washington DC, 2019).

⁵ Maya Gainer, “How Kenya Cleaned Up Its Courts,” *Foreign Policy*, July 9, 2016, <https://foreignpolicy.com/2016/07/09/how-kenya-cleaned-up-its-courts/>.

⁶ International Development Law Organization, “E-Court Processes in Kenya Promote Access to Commercial Justice,” January 31, 2020, <https://www.idlo.int/news-story/e-court-processes-kenya-promote-access-commercial-justice>.

⁷ National Center for State Courts, Consolidated Case Management Functional Standards, (Williamsburg, VA: National Center for State Courts, 2006), https://www.ncsc.org/~media/Files/PDF/Technology/Consolidated_CMS_Functional_Standards_v_0_20.ashx.

Resources and Partners

Resources

- The International Consortium for Court Excellence publishes the [Court Excellence Self-Assessment Questionnaire](#), which enables courts to evaluate their performance in seven areas.
- The National Center for State Courts produces resources for using [technology in courts](#) and [case flow management](#).
- USAID’s [Designing and Implementing Court Automation Projects](#) outlines key considerations for court modernization.
- UNDP’s [Judicial Integrity Self-Assessment Checklist](#) is a useful tool to help judiciaries assess their courts.
- The Global Judicial Integrity Network’s resources include a guide on [How to Develop and Implement Codes of Judicial Conduct](#).
- UNODC’s [Resource Guide on Strengthening Judicial Capacity and Integrity](#) outlines best practices for a variety of court processes, including court transparency, judicial official recruitment, evaluation, selection, and disciplinary measures.

Organizations

- [Center for Court Innovation](#)
- [Global Judicial Integrity Network](#) (established by [UNODC](#))
- [International Consortium for Court Excellence](#)
- [National Center for State Courts \(NCSC\)](#) (United States) and [NCSC International](#)
- [United Nations Office on Drugs and Crime \(UNODC\)](#)

This module is part of the Justice Policy Series Part II, Open Justice paper which can be found [here](#).

