The Role of ICTs in managing Electronic Records in the Commercial Division of the High Court of Tanzania

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Abstract

This study establishes the link between ICTs and poverty reduction strategy by investigating the extent to which implementation and utilisation of ICTs/e-records management systems enhances court operation in the Commercial Division of the High Court of Tanzania. The motivation of the study was to understand why the commercial court still utilises the conventional records management system despite the installation of new information and communication technologies and some training of staff in the various aspects of electronic records management. A total of 60 respondents were involved, 49 among them managed to respond to the study. Qualitative and quantitative methods were used to gather data for the study. Statistical Product and Service Solution (SPSS) version 1.9 and Audacity Open Source software were employed in data analysis. Despite constraints and challenges identified in the study, the results show that ICTs/e-records management systems improved access to information and documents; speed up court services; reduction of time delay of the court proceedings; job improvement; reduction of paper work and operating costs in the Commercial Division of the High Court of Tanzania. Thus, the study establishes the link between ICTs/e-records management systems and poverty reduction strategy. The findings suggest that the Judiciary should formulate an integrated ICT policy and harmonise the legal framework to give direction towards effective and efficient implementation and utilisation of ICTs in judicial proceedings and operations.

Keywords: ICTs, E-records management, Commercial Division, Poverty, Tanzania legal sector

1. Introduction

Good records management and information is fundamental to a well-functioning organisation since it supports business activity and provides a basis for efficient service delivery. Studies by Danda (2000) and Hassan (2007) underscore the importance of effective records management in enhancing service delivery. Recognising the significance that records have in

promoting access to justice, the Commercial Division of the High Court of Tanzania made some efforts to improve the entire court administration particularly management of Judicial records through ICTs. Despite the recent initiatives, the selected court relies largely on conventional records management system (manual) to manage case records, hence difficulty in accessing the required records; control of access to critical records and poor storage facilities to keep its vital records.

The main constraining factors in the management of electronic records in Tanzania are lack of financial resources, lack of trained personnel, lack of ICT plan policy, lack of initiatives, and lack of knowledge and skills (Semkuya, 2012), shortage of ICT facilities and accessibility of records (Twining & Quick, 1994). It is not clearly understood why the judiciary still utilises conventional records management system despite the installation of new information and communication technologies and training staff in various aspects of electronic records management. Thus, this study investigated the extent to which the implementation and utilisation of e-records management systems enhance court operation. The study had two main questions: Firstly, to what extent does the e-records management system enhance court operations? Secondly, what factors influence the use of the Electronic Records Management System?

2. Methods

A case study approach was considered relevant to developing an understanding the extent to which the implementation and utilisation of the e-records management system enhance court operations. The Commercial Division of the High Court of Tanzania is located in Ilala Municipality of Dar es Salaam City close to Indian Ocean along Magogoni ferry. The selection of the area was guided by the following factors: Firstly, in the Commercial court there are various ongoing ICT initiatives and projects aimed at improving the judicial administration particularly the management of electronic records; secondly, the study area offers a convenient environment in terms of time and financial resources at the disposal of the researcher; and, finally, availability of relevant information and manageable size in terms of area and population.

The study population for this study was drawn from the Commercial Division of the High Court of Tanzania in Dar es Salaam headquarters using purposive and convenience sampling techniques. The units of analysis were record managers, librarians, clerks, secretaries, transcribers, IT people, advocates and registrars. The data were collected using structured

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questionnaire with both open and closed ended questions, interview schedule and observation tools. In all, sixty (60) respondents were involved in the study but forty-nine (49) managed to respond. Thirty-five (35) respondents were given questionnaires whereas fourteen (14) others were interviewed.

The interview schedule and the questionnaire used were translated into Kiswahili from the English language to ease access of information from the respondents. Data collected were analysed by using the Statistical Product and Service Solution (SPSS). Through the analysis, data were differentiated regarding the respondents' roles and responsibilities in the implementation of e-records management. Descriptive statistics, namely average and percentages were applied to summarise the information collected. Furthermore, the collected data from interviews were tape-recorded machine. The audacity open source software was used for such data.

3. Results and Discussions

3.1 Enhancement of Court operation through Electronic Records Management Systems

The respondents were asked to rank in the scale of preference the extent to which electronic records management systems enhance the Commercial court's operation. Table 1 below presents the potential contribution of Electronic Records Management System (ERMS) in enhancing court operations.

Table 1: Enhancement of Court operation through ERMS

Advantages of ERMS (N=49)	Very satisfied		Satisfied		Unsatisfied		Very unsatisfied	
	Frequency	Percent	Frequency	Percent	Frequency	Percent	Frequency	Percent
Enhance access to info & documents	38	77.6	7	14.3	0	0	0	0
Speed up court services	35	71.5	13	26.5	0	0	0	0
Reduction of time delay of court	34	69.4	10	20.4	0	0	0	0

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Job improvement	31	63.3	14	28.6	1	2	0	0
Reduction of paper work	28	57.1	12	24.5	1	2	3	6.1
Physical space not required	22	44.9	8	16.3	2	4.1	2	4.1
Reduction of operating cost	21	42.9	13	26.5	2	4.1	1	2

Source: *Field Data (2014)*

The findings revealed that ERMS has enhanced court operations and service delivery in Commercial Court. In this regard, 12 out of 14 (85%) respondents, who were interviewed, said that electronic records management system had improved access to information. Previously, access to case records was done manually. The study has observed the use of multiple access to information and documents through adoption of ICTs. Currently, through the usage of ICTs an individual can use the internet cafe, display boards, mobile phones and website to access information and documents. In view of this, COSCA (2005) asserts that easy and economical access to the record broadens a person's access to justice and maintains the transparency of the court proceedings.

The findings revealed that 71.5 percent of the respondents were very satisfied with the way ERMS speed up service delivery. The study observed that the Commercial court has established e-case filing system which facilitates records management and ensures good file movement. This is considered to be a remarkable achievement in the courts of Tanzania. Similarly, Dakolias (1999) notes that in 2010 Korea launched an electronic case filing system, which enables electronic submission, registration, service notification and access to court documents. Also, the author asserts that the system enables some judges to adjudicate up to 3,000 cases a year, manage up to 400 a month and hear up to 100 pleas a month.

Also, the findings show that 69.4 percent of the respondents were very satisfied with the way the ERMS reduces time delay of the proceedings. The Commercial court nowadays experiences a reduction of time delay of the proceedings since it has introduced digital recording system such as the digital computer aided recording and transcription system. In

this system, there is naturally spoken dragon software. So the evidence in trial in commercial court case is recorded using special computers and then transcribed into text using this software. This has enhanced the efficiency of judges by relieving them of the tedious job of recording evidence manually using long hand and, therefore, it has managed to reduce the time spent on trials.

The findings show that 63.3 percent of the respondents were satisfied with way the ERMS improves job performance. A summary of performance of ten years since the inception of the Commercial division, from September 1999 to 2010, reveals that a total number of 1,977 cases had by 2010 been filed in this division, out of which 1,729 had been disposed of, which makes 89 percent of the cases filed (ComCourt, 2011). In line with this, the researcher has observed from the field that previously, a case could take up to six months or a year to be determined but currently the average time from filing to determination of a single case has been reduced to three months. However, the future plan of the court is to fully utilise social networks and other relevant platforms such as video conferencing to conduct court proceedings so that evidence can be adduced even from remote areas.

The study findings revealed that 57.1 percent of the respondents were very satisfied with the way electronic system helps reduction of paper use. The study has observed that most of the time staff members are engaged with computers, scanners, phone and internet to accomplish their daily job activities. This implies that the implementation of e-system has reduced the use of paper in the court. Dakolias (1999) concurs with the findings that an e-court is a suite of services that entails minimum use of paper from the moment a case is filed until its disposal. The author asserts that with e-courts, information is captured and passed on digitally, data exchange is not fragmented and case histories are completed and are ready on demand, case management is automated, correspondence is exchanged electronically, fee payments are dealt with through decided websites and forms that simplify and streamline court proceedings are available to court users online.

The findings reveal that only 44.9 percent of the respondents were very satisfied with the fact that physical space is not highly required in the presence of ERMS. This implies that the construction of physical storage space for paper-based records management costs more than using ICTs gadgets. Therefore, the adoption of e-systems in the Judiciary of Tanzania has

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reduced the demand of physical space in managing court records. Likewise, a study by World Bank Group (2013) shows that in the United states, it costs $ 360,000 to build and $18,000 a year to heat, cool and maintain a 20 by 60 foot file room. By comparison, a 150 gigabyte hard drive costs less than $100 and has storage capacity equivalent to 70 filing cabinets. That many filing cabinets with floor space required costs $ 22,000. In this regard, court houses has proved to be expensive storage spaces, so implementing e-court system helps to eliminate several miles of archives and can save a lot of money.

The findings reveal that 42.9 percent of the respondents were very satisfied that the electronic system reduces operating cost. In support of this finding is a study by the World Bank Group (2013) revealed that the implementation of Korea's e-court system resulted in savings of $ 221 per e-filing. These savings result from a reduction in the use of paper, the time spent in court, cheaper service of process, lower transportation costs, easier archiving of documents, and easier payment of fees. Currently, in the Judiciary of Tanzania limited funding is directed to key important areas such as purchasing of ICT gadgets with enough capacity to store many files instead of constructing buildings, training for the existing staff instead of recruiting new staff, and maintenance of the system.

3.2 Factors Influencing the Use of Electronic Records Management Systems

Several factors were identified to influence the use of ERMS in surveyed courts of Tanzania. Table 2 presents data on the factors influencing the use of electronic records management systems:

Table 2: Factors Influencing the Use of Electronic Records Management Systems

Factors (N=49)	Frequency	Percent
ICT facilities	43	87.8
Technical support	43	87.8
Power supply	43	87.8
Implementation strategy	41	83.7
Staffing	41	83.7
Internet	40	81.6
Funding	36	73.5

Legal framework	34	69.4
Policy	34	69.4
Space	27	55.1
Staff awareness and attitude	17	34.7
Management support	12	24.5

Source: *Field Data (2014)*

Factors such as ICT facilities, technical and specialist support and power supply were identified by 43 (87.8%) whereas management support, staff awareness and attitude were mentioned by 12 (24.5%) and 17 (34.7%), respectively. Other factors mentioned were the implementation strategy (41; 83.7%); internet connection (40; 81.6%); funding (36; 73.5%); policy and legal framework (34; 69.4%) and Space (27; 55.1%).

The study findings indicate that 87.8 percent of the respondents strongly agreed that ICTs facilities such as computer hardware and software, scanner, audio recording machines, mobile phones etc are critical to the implementation of e-records management system. These facilities support the management of court records from the creation to disposition stage. However, IRMT (2009) cautions that ICT infrastructure does not solve the problem of managing electronic records but the availability of ICT is the basic underlying factor for managing e-records as it opens up the possibility that the creation and management of records may be satisfying in different ways.

Also, 87.8 percent of the respondents reported that technical and specialist support is inadequate. This implies that the technical problems on the e-system in the Commercial court still pose some challenges, hence hindering the effective implementation of the system. A study by Natarajan (2008) argues that company support most of their enterprise hardware and software, databases, operating systems, applications, frameworks, etc). Moreover, companies spend a lot of cash on support mainly for getting help from technical IT people/vendors to fix critical production issues and to keep up-to-date with the latest version of the software and security patches released by the vendors (ibid.). Due to budgetary constraints, the Commercial court depends on its existing manpower (IT staff) which is too inadequate to solve the problems that might arise in the usage of e-system.

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Another 87.8 percent of the respondents strongly agreed on the importance of reliable power supply to support the implementation of records management system. These findings imply that the institutions need to have backup power sources such as generators to start up automatically when electrical power is lost. This is because reliable power supply is crucial in e-records management systems. Indeed, a power cut can obstruct court proceedings in the court rooms. Inevitably, most of the workers in the selected courts who were asked about the power source recommended having alternative power sources such as generators and inventors for ensuring there was constant power supply.

Human capital identified to be a resourceful towards implementation and utilization of ICTs. This factor was identified by 42.9 percent of the respondents. Despite its potential contribution, the overall findings of this study show that the selected courts suffer from a shortage of experts in ERMS. In this regard, Alberts and Dorofee (2003) argue that human expertise is one of the important factors in the implementation of ICTs as hardware, software and procedures need the human agent. Although there are remarkable achievements registered in terms of ICT usage in courts under study, the problem in ICT management remains glaring. Furthermore, there were no plans and no formal training on offer. Instead, the respondents reported that the issue of training was left to the employees themselves and, as a result, most of them failed to gain the knowledge needed for ICT applications in their place of work. Accordingly, in the selected courts the number of staff should be increased to comply with the demand as it was suggested by the majority of the respondents. Alternatively, the courts should opt to provide more training, workshops and seminars to staff instead of concentrating on recruiting new faces.

Poor implementation strategy on e-system was indicated by 83.7 percent of the respondents. This implies that a serious mechanism should be put in place to make sure that the implementation of e-system is effective. Reid *et al*. (2005) assert that the biggest obstacle to the implementation of e-system was lack of institutional commitment and lack of capital, engineering, functionality and technical issues. Moreover, lack of people who understand the court practice, project management and software technology and equipped with practical strategic vision, wisdom and experience was critical in the effective implementation of ICT initiatives (*ibid*.).

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The interview conducted with the Heads of Department revealed that the court used to involve stakeholders (i.e. advocates and other business stakeholders) in the so-called round table discussion which was held once a year. The objective of these discussions is to let stakeholders identify diverse issues pertaining to the improvement of commercial court service provision. One of the respondents said:

> It is during the round table discussion that the new programme/service is launched. For example, the KIOSK service was launched in last year's round table discussion. Also, participants were told to include their emails and mobile phone numbers when filing a case to simplify communication during court proceedings.

This practice of meeting together with stakeholders has great impact on the implementation of the e-records management system as it provides room for identifying the areas of strengths to maintain and areas of weaknesses to improve upon.

Findings indicate that 79.6 percent of the respondents strongly agreed that the internet influences the use of ERMS. They said that the internet supports wide and local area connections, which in turn supports the communication of registries/courts in the selected courts and stakeholders in court proceedings. Internet connectivity entails the availability of technological infrastructure and acquisition of bandwidth and other important equipment and facilities that support ERMS. Indeed, internet connection is identified as an important factor that influences the implementation of ERMS.

Inadequate fund was identified by the majority (73.5%) as an impediment to effective deployment of e-systems in management in the courts. The findings suggest that the Judiciary depends on the government subventions and donor funds. This over-reliance on the central government stems from failure to well-mobilise internal financial resources to support recurrent expenditures of the selected courts. These findings imply that funding is what determines the effective/ineffective implementation of electronic systems. Funding enables the acquisition of equipment and facilities, training to staff and maintenance of the existing system. In fact, many organisations currently tend to focus on creating internal sources of funding to supplement the budget cut off and reduce dependence on donor funded/ government subsidies. In this regard, the literature available suggests that, archivists and

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records management personnel should have skills on how to seek funds. A study by Ray *et al*. (2012), for example, found that archivists/records management were lacking in confidence and experience in a range of fundraising techniques hence the failure of the sector as a whole to access additional external funds.

The findings reveal that 69.4 percent of the respondents mentioned legal framework as the factor that influenced the implementation and utilisation of ERMS. It was observed that in records management system, the selected courts applied the National Records and Archives Management Policy. Also, the courts relied on various laws such as the Records and Archives Management Act No.3 of 2002, Law of Limitation Act of 1971, the National Security Act No.3 of 1970 and Evidence Act No. 6 of 1967 revised in 2002. However, this legal framework was observed to be ineffective as most of the laws were outdated hence did not comply with or rather touched only superficially on the usage of ICTs/e-records.

In fact, the existing literatures on records management show that not many developing countries have a legal framework that supports ICTs and skills required to support court proceedings using ICTs. According to the Legal Reform Commission of Tanzania (LRCT, 2005), the basic commercial laws in Tanzania originated in nineteenth century and most of them were enacted under the British Colonial rule before the 1960s (the Ordinances) and, therefore, were designed to handle paper-based court transactions. Despite the regulatory steps in the laws, electronic transactions such as digital signatures, reforms to contract laws, dispute settlements and others were still not given sufficient attention (LRCT, 2005). In the same vein, Chibambo (2003) asserts that a good records management framework consists of information-related laws, policies and programmes, records management standards and practices, and the necessary qualified human resources to implement and manage the systems. Currently, the Legal Reform Commission of Tanzania is working on a legal framework that is compatible with and responsive to the digital age.

Policy issues are critical in the implementation and utilisation of ERMS. The findings of this study reveal that 69.4 percent of the respondents mentioned policy as a factor that influenced the effective implementation of ERMS. These findings concur with those of a study by Luyombya (2010), which examined the framework for effective management of digital records in Uganda. The study found that key players in communication and information

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management in Uganda had poorly developed document and records management policies and did not have an integrated document and records management strategy.

Staffing is one of the key ingredients when thinking about effective implementation and utilisation of ERMS to enhance courts operations. This was identified by 83.7 percent of the respondents. With regard to staffing, the critical aspect pointed out by majority respondents who were interviewed was inadequate training to equip staff with requisite knowledge and skills. The shortage of trained staff could be contributed by inadequate staff development including in-house training, workshops and seminars. This challenge was also identified by Hashim (2010), who found that in court administration the large quantity of records coupled with lack of human resource provided a daunting challenge to the court officials in ensuring effective case management.

In addition, the study findings indicate that staff awareness and attitude is constitutes another factor that influenced the effective implementation of e-records management systems. This was earmarked by 34.7 percent of the respondents. One of the interviewed respondents said:

> *Previously the attitude was a challenge, but after being trained*
> *on the importance of ICTs/e-system, now they have changed*
> *into a positive direction. It was just like a u-turn from negative*
> *to positive direction.*

A study by Thurston (n.d.) found that most of the development partners and government stakeholders were not aware of preservation and access issue. Moreover, the stakeholders tend to assume that digital information would survive without intervention. In addition, the stakeholders tend to focus on dramatic benefits of digital systems without considering the integrity of the digital information that these systems generate (ibid.).

Management support was identified by 24.5 percent of the respondents as crucial in effective implementation of e-information systems. These respondents identified management as critical factor in the implementation of ICTs/e-records to enhance work performance. The contribution of management can be evident in areas such as the establishment of programme, its inception, raising awareness, outsourcing funds (apart from donor funds) for the sustainability of projects, preparing workshops and in-house training. The study observed that

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in the courts under review management support to the implementation of e-records management system was geared towards creating networks whereby stakeholders can meet through round table discussions to review the status of the court and service provision.

Despite all the initiatives, achievements and strategies in implementation of ICTs in the Commercial court there were still some pitfalls that obstructed the effectiveness of the e-systems (e-records management systems). Firstly, the Commercial division stands alone in championing issues of ICTs in the Judiciary. Secondly, the ICT policy remained largely inadequate. Thirdly, there was inadequate funding to acquire up-to-date equipment and facilities and provide training to staff to equip them with knowledge and skills. As a result, the workers were ill-prepared to cope with rapid technological changes. Whereas the Commercial court has adopted the use of ICTs other divisions, it still relied largely on manual format. In fact, most of the initiatives on ICTs that have been done so far in the Commercial courts were donor-funded and, therefore, raising the issue of sustainability of such projects amidst budget constraints.

3.3 Relevance/Impact on Policy and Practice

The mission of Commercial Division of the High Court of Tanzania is to provide just, quality, efficient, effective and speedy disposal of commercial cases through modern systems and practices. Therefore, the Division embraces technology as a way of fulfilling its mission in line with the current changes brought about due to developments in ICTs. Indeed, the use of ICTs in Commercial court is considered to be one of the key elements to improving significantly the administration of justice. In this regard, the Commercial court has played a fundamental role in instituting legal changes that have allowed for the admissibility of electronic evidence in Tanzania. The first law that was amended following the court decision was the Evidence Act of 2007 via the written laws (Miscellaneous Amendments) Act. Before the amendments, electronic evidence was inadmissible in Tanzania. As ICT systems continue to be deployed, it is imperative that necessary policies, guidelines and operational procedures be put in place to ensure their proper usage, management, administration and security in the judiciary.

3.4 Conclusion and Recommendations

The computer universally one of the key ICT facilities as it facilitates all the functions of records management from the creation to the disposition stage. In fact, ICTs are the lifeblood

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of business and support institutions including the government. The Judiciary, as a crucial business support, cannot afford to be left behind. Therefore, it is unfortunate that the legal sector reforms came a little bit late in Tanzania's reform process. Despite the legal sector lagging behind in the effective adoption of e-systems in records management and administration, the eventual adoption of such systems has translated into improvement in the general court operation, time management in the collection, organisation and management of court records and documents, hence reducing operating costs in the process. Due to the pitfalls identified such lack of policy and ineffective legal framework, the study recommends that:

1. Judiciary should have a policy on ICTs, which should cut across all court levels from the Primary to the Supreme Courts.

2. The Government should increase funding allocation to the Judiciary, and the Judiciary should outsource funds from development partners.

3. Staff training should be given priority to ensure effective implementation and utilisation of ICTs in records management and administration, and

4. Revising of the legal framework to comply with the ICT environment.

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