

LEGAL RESEARCH IN A DIGITAL AGE

A PAPER PRESENTED BY

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LEGAL RESEARCH IN A DIGITAL AGE

1.1 PREAMBLE

I must commence this presentation by expressing my profound gratitude to the Lord God almighty, the most merciful, the most gracious and the ever faithful father, “*for in him we live, and move, and have our being.*”¹ Furthermore, I thank the executive and the members of the Benin Branch of the Nigerian Bar Association, and in particular the members of the Law Week Planning Committee for giving me this opportunity to make this presentation on a subject which I think deserves our urgent attention at this time of history.

On quite a personal note, I must say that this presentation is of some historical significance to me. At the last Law Week of the Benin Branch of the N.B.A., held sometime in July, 2007, I was privileged to present a paper on the “*Legal Dynamics Of The Enforcement Of Economic Crimes In Nigeria*”² At that time, I made the presentation as a legal practitioner and as a member of the Benin Branch of the association. Today by the special grace of God, I am making this presentation, not as a lawyer, but as a judge. I am indeed grateful to the Lord all mighty, because as one of the patriarchs put it, “*I am not worthy of the least of all the mercies*”³ which He has shown to me. It is my fervent prayers that He will extend the same mercies to all those who are in need of it.

1. Acts 17: 28 Authorised King James Version (K.J.V)
2. Published in www.nigerianlawguru.com
3. Genesis 32: 10 K.J.V.

1.2. INTRODUCTION

It was my mentor, and one of the greatest oracles of the Law, in the person of *Lord Denning*, Master of the Rolls, of blessed memory, who emphasized the imperative of radical changes in the law, in his famous dictum in the case of *PACKER V PACKER*⁴

“What is the argument on the other side? Only this, that no case has been found in which it has been done before. That argument does not appeal to me in the least. If we never do anything which has not been done before, we shall never get anywhere. The law will stand still whilst the rest of the world goes on, and that will be bad for both.”

The wind of change is blowing all over the world. Society is dynamic; every facet of society is involved in this metamorphosis. The ancient Greek Philosopher Heraclitus (circa 540 – 480 B.C.), postulated that *“everything flows and nothing stays.”* He maintained that everything in nature is in a state of constant change. The Latin maxim expresses the phenomenon thus: *tempora mutantur, nos et mutamur in illis* (the times change, we also must change with the times). The legal profession is not immune to the wind of change.

This presentation is on: **Legal research in a digital age**. As we shall see very shortly, the field of legal research has been very dynamic. In recent times, there has been some pragmatic and progressive developments in the field of legal research all over the world. The focus of this paper is on how we can keep pace with these pragmatic developments.

4. (1953) 2 A.E.R. 127 at 129

The point must be made from the onset, that a discourse on the subject of legal research in a digital age cannot be adequately covered in a single lecture such as this. What we shall attempt to do is to highlight some salient developments in order to stimulate discussion on some of these modern trends in legal research techniques.

Furthermore, we shall try to articulate the way forward for progressive legal practitioners in the face of the modern challenges in this digital age.

For the avoidance of doubt, for the purpose of this paper, I will use the term **legal practitioner**, not in the strict sense as envisaged by the Legal Practitioners Act⁵ but in the wider sense, to embrace all legal scholars, lawyers, jurists and those engaged in one form of legal research or the other.

2.1. THE CLASSICAL MODE OF LEGAL RESEARCH

We must commence the subject with a basic definition of the term **legal research**. Legal research has been defined as *“the process of identifying and retrieving information necessary to support legal decision making. In its broadest sense, legal research includes each step of a course of action that begins with an analysis of the facts of a problem and concludes with the application and communication of the results of the investigation.”*⁶

The process of legal research may vary from one jurisdiction to the other. However, legal research generally involves the tasks of:

5. Cap. L11 Laws of the Federation of Nigeria, 2004.

6. J. Myron Jacobstein and Roy M. Mersky: *Fundamentals of Legal Research*, 8th Ed. (Foundation Press, 2002) p.1.

- (i) finding primary sources of law in a given jurisdiction, such as statutes, rules, regulations and other subordinate legislations;
- (ii) searching through secondary authorities like decided cases, practice books, legal journals, dictionaries, encyclopedias and articles; and
- (iii) searching non-legal sources for investigative or supporting information.

Essentially, legal research is performed by anyone who is in need of legal information. These include scholars, lawyers, jurists, lecturers and all those involved in some form of investigation in the field of law.

King George III is reputed to have said that lawyers do know much more law than other people, but they know better where to find the law. Lord Denning M.R. re-echoed the views of King George III, many years later when he maintained that “*a good lawyer is one who knows where to find the law.*”

The traditional method of legal research is by conducting a manual search of law books, publications, periodicals, journals, reports and other sundry materials. This traditional approach of wading through a host of books and physical documents is fraught with several disadvantages:

- (i) The process of searching is often laborious and time consuming;
- (ii) Sometimes the materials are not arranged in a systematic form to guarantee easy access to the required information;
- (iii) By virtue of the natural process of wear and tear, the books have limited lives span;
- (iv) The process of retrieval of information from books is quite tasking;
- (v) Even economically, books are becoming more expensive.

Suffice to round up this segment by emphasizing that the orthodox mode of legal research through the manual search of documents, is fast becoming obsolete and is not in tandem with the modern trend of research.

2.2 AUTOMATED LEGAL RESEARCH

We have identified the shortcomings of the orthodox mode of legal research. In contemporary times, law libraries maintain not just a collection of books, but films, audio and video recordings, maps, photographs, microfiches, CD-ROMS, computer software, online database and other multi-media materials. Modern law libraries often feature telecommunications links that provide users with access to information at sites far away.

We are now in the digital age, the age of automation, and the age of information technology (IT). The low cost of microcomputers and the development of electronic sources of information have introduced a revolution in the field of legal research. The modern trend has enabled low cost digital storage of information, rapid transmission of data across computer networks and sophisticated retrieval and processing of electronic documents and information. The digital age is *“not an age of smart machines but of humans, who through networks can combine their intelligence, knowledge and creativity in the creation of wealth and social development. It is an age of vast new promise and unimaginable opportunity.”*⁷

7. Tapscott, 1995

The only worrisome aspect is that in the midst of these pragmatic and progressive trends all over the world, in Nigeria, a vast populace of the legal profession is yet to catch the vision of information technology.

An erudite legal luminary and a leading exponent of information technology in legal research in Nigeria, **Oladipo Bali Esq.**, lamented the current mood as follows:

“the internet represents both a threat and an opportunity to members of the legal profession. As expected, most lawyers have simply refused to wake up to the challenges thrown up by information technology as a whole. How else can one explain the fact most lawyers (and judges) are not computer literate not to talk of internet literacy.

This approach would be fundamentally wrong. Moreover, every country (Nigeria inclusive) is producing a generation of children for whom information technology holds no fear.

*They are the **Nintendo Generation**. Those born in the 50’s and 60’s have no perception of the television as ‘technology.’ Within three years, we will see a generation of young people in law firms for which the use of computers, software, and the internet is no different from using the telephone or television. For them it will just be another set of appliances. The way in which it works will be irrelevant. They will simply take it for granted. Time is not on the side of the ‘**techno phobic**’ lawyer or judge”⁸*

2.3 LEGAL SOFTWARE

The legal profession worldwide has fully embraced the use of legal software products in the area of research.

Basically computer software in contradistinction to computer hardware is a

8. Bali: INFORMATION TECHNOLOGY AND THE LAW

computer program, accessory or material recorded in microform. This is the invisible part of a computer system. In practice the computer software controls and drives the hardware components. It is analogous to the relationship between the spirit, the soul and the body of a human being. The first two comprise the software components, while the body parts are the hardware components.

There are a host of legal materials which are recorded in software form. The most common form is the compact disc (CD) form. The production of legal materials on CD-ROM format has captured the interest of legal researchers. In practice, the CD ROM offers the opportunity of delivering huge amounts of legal materials in a highly compact form. Electronic legal research has become more convenient and expeditious. The beauty of the CD technology is that several shelves filled with law books can be packaged into a single compact disc. Furthermore, the entire content of the CD can be downloaded into the hard disc of your desktop computer or your laptop or palm top, or even into all of them.

Another pragmatic dimension in the use of legal software is the mobility of the product. It is very easy to transfer legal software from person to person. The contents of the CD can be copied and returned to the owner. The software can be transferred to another user by *electronic mail*, by making it an *attachment* to the e-mail. Still on the pragmatic dimension of legal software mobility, we must

9. See Section 11(1) of the Copyright Act 1970: ADENUGA V. ILESANMI PRESS (1991) 5 N.W..R.L.R (Pt. 189) 82 at 97.

10. BALI: INFORMATION TECHNOLOGY AND THE LAW: THE NIGERIAN PERSPECTIVE 2002, PP. 37 – 38.

take cognisance of the provisions of the law protecting the copy rights of the owners of the software. Copyright law and other intellectual property laws in many countries protect the rights of software owners. Copying software without the permission of the owners is a copyright violation.⁹ But it has been argued, that since the Nigerian Copyright Act did not specifically mention computer software, they are not protected by copyright law in Nigeria.¹⁰ This is however a moot point. The courts are yet to pronounce on it.

It must be observed that in this digital age, the world is gravitating towards a paperless society. Systematically, books are being phased out, and even where hard copies of books are produced, the core practice legal text books come with soft copies which can be stored in a system, for easy access.

Some of the clear leaders in this legal software revolution in this part of the globe include the publishing firm of *Lexis Nexis* based in South Africa. They have been involved in legal materials from Europe, Asia and Africa. Some of their Nigerian Publications include the Laws of the Federation of Nigeria, 2004; the Laws of Bauchi State, Bayelsa State, Cross River State, Delta State, Edo State and the Federal Capital Territory. Others are: the All Nigeria Law Reports from 1961 – 2007; the Annotated Civil Procedure Rules of the Superior Courts of Nigeria; Nigerian Legislation Service and the Federal High Court Manual. Most of these books are available in hard and soft copies.

There are some indigenous firms who have gone into the production of legal software in Nigeria. Among the early entrants, is the publishing outfit of

Oladipo Bali Esq., Legal Digest Publishing Co., based in Lagos. They first came out with the **Digest Law** Reports which covered Nigerian case law on CD-ROM spanning a period of ten years. Next, they introduced **Compulaw**, the first wholly indigenous law library on CD-ROM with an amazing database covering 25 years of Nigerian case law, Laws of the Federation of Nigeria, Forms and Precedents, Practice and Procedure and lots more. We also have the **Easy Law** package, which contains the Laws of the Federation of Nigeria and some legal articles.

There is also the firm of **Toma and Butterworths (South Africa)**, who in conjunction with their Nigerian partners, have produced legal software products on the Laws of the Federation of Nigeria and specimen Forms and Precedents.

Sometime in September, 2005, a prominent Nigerian legal luminary **Deji Sasegbon, Esq., S.A.N** published a 30 volumed encyclopaedia of Nigerian Law and Practice: **SASEGBON'S LAWS OF NIGERIA**. The publication is unique amongst legal publications in Nigeria. It is a monumental work that covers virtually every aspect of Nigerian substantive law and procedure. The beauty of the package is that the entire work is also contained in two CD-ROMS. This is a major breakthrough in the development and deployment of legal software to facilitate legal research in Nigeria.

As we have observed, the major benefit of these electronic products is that within a small space, the contents of vast libraries comprising of a host of

statutes, decided cases, articles and precedents are stored in compact form. These no doubt are invaluable research tools for law scholars and practitioners.

2.4 THE INTERNET

The internet is a worldwide computer network which enables people from all over the world to communicate with one another in a matter of moments. Researchers use the internet and its multimedia component, the **World Wide Web** to access materials from sites all over the world. A website is basically an **electronic book** with several web pages. The book is located in the internet at a given address, prefaced with the letters “www”.

The web pages contain information which the website seeks to disseminate to the public. Web pages can have one of two characteristics. A web page can be *restrictive*, in the sense that users are only allowed to view the page or it can be *interactive* in the sense that users can read and/or update the contents of the web page.

In this age of information technology, the internet has opened up a breathtaking in-road into the field of automated legal research. There are several legal websites with huge data bases of legal materials. Some of them are *free sites* which you can access without subscription, while some others are *fee paying sites*. Such sites have been encrypted, so that you cannot access materials without a password. Most often you can only have a password if you are a fee

paying subscriber. Some of such password protected sites include the website of most legal journals such as:

- (i) African Journal of Legal Studies¹¹
- (ii) African Human Rights Laws Journal¹²
- (iii) South African Law Journal¹³

Other such encrypted sites include the Law Pavillion¹⁴ and some parts of the Nigerian Bar Association website.¹⁵

Among the free legal websites we have the popular American law site, Findlaw,¹⁶ which offers access to a host of materials on both substantive and procedural aspects of American Law. There are also some good foreign sites that offer free access to legal forms and precedents of solicitor's letters, contracts, testamentary instruments, power of attorney, court forms and other legal documents.¹⁷

Coming to Nigeria, we have some very useful free sites to access legal materials, such as the website of the **International Centre for Nigerian Law**.¹⁸ Here, you will find a large database containing several relevant statutes of the Laws of the Federation of Nigeria. We also have the **Nigeria Law Reports site**,¹⁹ containing the official law reports of the judgments of the Supreme Court of Nigeria.

11. www.africalawinstitute.org

12. www.chr.up.ac.za/centre

13. www.journals.co.

14. www.Lawpavillion.com.

15. www.nigerianbar.org

16. www.findlaw.com

17. www.freelegalforms.net; www.uslegalforms.com; www.lectlaw.com

18. www.nigerialaw.org.

19. www.nigrialawreports.com

Furthermore, we have the **Nigerian Law Guru website**,²⁰ a leading centre for research on all aspects of Nigerian law. Very shortly, we shall embark on a comprehensive spotlight on this unique initiative.

2.5 INTERNET SEARCH

The very first step to take before you can access the internet with your PC is to get connected to the internet. **Internet connectivity** can be done through an **Internet Service Provider (ISP)**. An ISP is the middleman connecting users to the internet for a fee.

Another option is to get a direct connection to the internet through a satellite VSAT. This is a more expensive approach. It is not recommended for private but for big organizations with commercial objectives.

Connection to the ISP for further connection to the internet can be by *dial up* access or *wireless* access. Dial up access is through a telephone to the ISP, while wireless is *via* satellite.

Once internet connectivity is established, you can browse the internet in search of legal materials. For a beginner, conducting a search on the internet can be time consuming and frustrating. This is not surprising, given the enormous amount of information on the web.

Since the Web is not arranged in any standard form, finding information can seem difficult. To obviate these problems, **search engines** have been developed to facilitate searches on the internet. Search engines are software programs that help users find information stored in the internet. The ways that sites get listed on these search engines vary, with the most obvious being the site's author registering his site with a particular engine. The very popular search

20. www.nigerianlwaguru.com

engines are the **Microsoft Network Search (MSN), Yahoo! Inc. and Google Inc.**

Many of these search engines run regular programs such as **web crawlers** or **spiders**. These are automated browsers that perpetually trawl the net in search of particular data which they capture and send back to their site of origin to be indexed therein.

In order to embark on any effective internet search, you must have a clear understanding of how to prepare your search. You must identify the subject matter of the search, distill the main concepts in your topic and determine any synonyms, alternate spellings, or variant word forms for the concept. If you are to search for materials in a particular website, you must enter the correct address of the website in the search box. When you arrive at the particular site, you must study the arrangement of materials in the site in order to determine the web pages you need to open. Most times, the particular website will have a search engine on the site to facilitate your search for materials within the site.

Due to the large number of search engines in the internet it is advisable that internet users should pick one or two effective and efficient search engines and develop expertise by using those search engines consistently.

From personal experience, **Google** and **Yahoo** search engines are quite efficient. Most search engines have a **Help** feature that can assist users when they are in difficulties.

Furthermore, there is a particular website called *Search Engine Watch*,²¹ that can teach you everything you need to know about the use of search engines, as well as providing valuable links to relevant and useful search engines.

Another important facility for effective internet search is the *web browser*. In computer science, a web browser is a software program that enables a computer to locate, download, and display documents containing text, sound, video, graphics, animation and photographs located on computer networks. The act of viewing and moving about between documents in the internet is called *web browsing* or *web surfing*. It involves connecting one web page to another by using *hyperlinks* (automatic connections). Examples of web browsers are the popular *Internet Explorer*, *Mozilla Firefox*, *Netscape*, *Crazy Browser* and the recently introduced *Google Chrome* browser.

A browser's performance however depends on a host of factors including the speed and efficiency of the user's computer, the type of modem being used, and the bandwidth of the data-transmission medium. Browsers may also have difficulty reaching a site during times of heavy traffic on the network because of high use of the site. The period of heavy traffic is usually between 12.00 noon to about 5.00 p.m. on working days. There is usually less traffic early in the morning and late at night. These are the best periods to browse the internet.

21. www.searchenginewatch.com

Some software have been developed to facilitate quick download of materials from websites. Some of them are available free of charge in the internet. They include *Download Accelerator Plus (DAP)*²², *Speed-Downloading*²³, *Onspeed*²⁴, *I-Boost*²⁵ and several others.

Using any of this software will speed up the internet connection.

2.6 INTRANET

Apart from the internet, there is a localized networking arrangement which is called the **intranet**. An intranet is a network of computers within an organization, accessible only to authorized users within the organization.

It is a common practice in Europe and America for legal practitioners from different law firms to come together to create a common database of legal materials in order to enable all the members of the scheme to take advantage of the common wealth of legal resources. Every member of the scheme is given a password, to enable access to the database either for the purpose of uploading or downloading materials to and from the site respectively.

Under the intranet arrangement, members of the profession can form a consortium of diversified legal experts with a common research base. The arrangement is such that they can assemble valuable resources to form a formidable resource bank, which will be placed at the disposal of all the

22. www.speebit.com

23. www.Speed-Dowloading.com

24. www.onspeed.com

25. www.starcomms.com

members of the group.

It is axiomatic that *union is strength*. No single practitioner or law firm can have a monopoly of expertise in every aspect of law. So the intranet set-up allows each member of the group to dip into the group's collective wisdom. This will create an institutionalized legal memory which can enable young practitioners to benefit from the accumulated expertise and experience of other colleagues within the group. Simply put, the intranet scheme can build up a huge intellectual capital base. Such intellectual capital is the key to competitive advantage in this digital age.

3. THE NIGERIAN LAW GURU WEBSITE

The Nigerian Law Guru website²⁶ is an indigenous online legal research centre of which I am the Editor and founder.

The site was established sometime in 2008, while I was a Law Officer in the Edo State Ministry of Justice. Essentially, the site is an online legal guide, designed to facilitate legal research.

Our *VISION STATEMENT* is “to become the foremost on line resource center for legal scholars, practitioners and jurists involved in research work in Nigerian Law.” Our *MISSION STATEMENT* is “to project the legal profession in the right direction in the field of legal research, and to facilitate and stimulate measures to sustain the pragmatic ideals of continuing legal education in

26. www.nigerianlawguru.com

Nigeria.”

The focus of the site is on Nigeria Law, in all its ramifications. Be it substantive or procedural aspects of Nigerian law.

The **Homepage** of the site is quite comprehensive, as it displays a summary of the table of contents of the entire website. We adopted a simple web design pattern, to make the site user friendly.

The site is partitioned into 7 main compartments as follows: ARTICLES, CASELAW DIGEST, FORMS & PRECEDENTS, LEGISLATIONS, INFORMATION, HUMOUR and OUR TEAM. Succinctly put, the scope of each of the seven compartments are as follows: The section on ARTICLES contain legal articles and publications on salient aspects of law such as arbitration, commercial law, company law, criminal law and procedure etc, etc.

The **CASELAW DIGEST** contains the *ratio decidendi* of several decided cases on different aspects of law. The FORMS & PRECEDENTS section contains some forms and precedents on areas such as Assignments, Leases, Letters, Mortgages, Partnership, Wills etc, etc.

Under LEGISLATIONS, we have the constitutions of some countries, and some Federal statutes, rules and regulations. In the INFORMATION section, we have lists of Justices of the Supreme Court, the Court of Appeal and past Supreme Court justices. We also have the list of Senior Advocates of Nigeria, and some relevant addresses and telephone numbers. There is a section on

HUMOUR, containing some very hilarious jokes. Finally, there is the TEAM page containing the photographs and BIO-DATA of the editor and the consultants to the project.

From the Homepage, there are HOTLINKS to other important sites such as the *Economic and Financial Crimes Commission*, the *Corporate Affairs Commission*, the *Independent and Corrupt Practices Commission*, the *International Bar Association*, the *Nigerian Bar Association* etc, etc.

With just one click, you can navigate straight from the Nigerian Law Guru site to any of these hyperlinked sites.

There are some interactive interfaces on the site that enable users to interact with the site. For example there is a search engine on site to assist users to search and locate materials in the site. Furthermore, there is provision for users to submit articles on site, by following a simple procedure which involves filling in some data in a form, attaching the soft copy of the article and uploading it to a section of the site. Subsequently, we will download such articles and determine whether they are suitable for publication. If they are suitable, we may edit them before publishing them on site.

There is a contact point on the site which discloses the site e-mail address and some relevant telephone lines. On the same page there is an interface with a *guest book* to enable visitors to make their comments on the site. The guest book is programmed to automatically acknowledge the receipt of the comments.

Finally, there is an electronic **counter** on site to monitor the traffic to the site. The traffic meter is very visible on the right top side of the homepage.

The Nigerian Law Guru website is one of the few free legal research sites in the country. The site is open for 24 hours, everyday of the week, free of charge. The users do not need any pass-word or any form of registration to access and download materials from the site. This is my humble contribution to the legal profession, in order to facilitate and stimulate measures to sustain and promote the pragmatic ideals of continuing legal education in Nigeria.

4. CONCLUSION

On the whole, we have articulated the modern trends in the field of legal research in a digital age. There is a global revolution in the field of information technology. There is a paradigm shift from the manual mode of legal research to the electronic mode.

In this digital age, we are witnessing the emergence of a paperless society. This is the process of migration from the material world, to the electronic or digital world, popularly referred to as *cyberspace*. Most transactions are now being executed on the electronic platform. The common slogans now are: *e-mail*, *e-book*, *e-commerce*, *e-voting*, *e-money*, *e-payments*, *e-dividend*, *e-allotment* and very soon it will be full scale *e-government*. The legal profession is not exempted from this *e-revolution*. Already some states have started to implement *e-filing*. Very soon the rules of courts will be structured to accommodate

proceedings on the electronic platform. There will be *e-filing*, through *e-payments*. There will be *e-pleadings*, *e-submissions* and of course *e-judgments* and *e-execution of judgments*. All these are the coming challenges for the legal profession in this digital dispensation.

In the face of these developments, the members of this noble profession, both the bar and the bench must take the bulls by the horns and acquire the relevant IT skills. In a paper which I presented in a Law seminar sometime last year, I opined that:

*“Very soon, the concept of literacy will be redefined in consonance with the dictates of the digital age. The ability to read and write can no longer be the **sine qua non** for classifying a person as either literate or illiterate. Computer literacy will be the determining factor”²⁷*

I implore everyone to take up the challenge to become IT compliant. We in the legal profession must embrace these pragmatic developments. We must catch the vision and take advantage of this cutting edge technology.

Thank you and God bless you!

Hon. Justice P. A. Akhiero
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Edo State.

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27. THE FACE OF LEGAL RESEARCH IN THE 21ST CENTURY:
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