



EMERGING TRENDS IN LABOUR ARBITRATION: TECHNOLOGICAL ADVANCEMENTS AND REMOTE HEARINGS

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ABSTRACT: *In this paper, the author discusses the innovations in labour arbitration with particular emphasis on technological developments and hearings being conducted remotely. Therefore, the research seeks to establish how these innovations are influencing this process and the effects this change has on the resolution of labour related disputes. This paper aims to provide a literature review and to present case studies discussed in relation to recent changes in digital environments, comparing their advantages and disadvantages and considering such aspects as openness, productivity, fairness, or internet literacy. Finally, the potential implications of the present analysis are underlined and a call is made to think about the requirements that should shape policy approaches to remote arbitration on the condition that the technique is efficient and fair. The study's implications for future research and practice are also presented.*

KEYWORDS: Labour, Arbitration, Technology, Remote Hearings.



INTRODUCTION

Labour arbitration, an important procedure in dealing with employment relations outside the court process, has conventionally involved direct interaction between the parties in the labour dispute and a neutral third party – labour arbitrator. In the past, traditional grievances procedures were a form of peer review, but as the demand for quicker, less expensive ways of settling disputes has grown, parties have taken labour arbitration into new technological realms. However, two main changes have recently transformed the conduct of labour disputes: the use of various digital means of communication and the practice of remote hearings. The COVID-19 pandemic influenced a relatively fast adoption of technology in arbitration since the only choices were remote hearings, especially during lockdowns.

Some of these include online filing, electronic discovery and more befitting and significantly virtual hearings which have become part of the arbitral process in the recent past. Telehearings use advanced technology like Zoom and Microsoft Teams among others to enable arbitrators and other lawyers' parties to have a meeting without needing to assemble physically. Baron (2021) contended that this trend caused a new world of dispute, in which geographical restrictions are eliminated and arbitration procedures can be facilitated through technology. These innovations have eliminated disappointments, kept costs down and made arbitration more convenient to parties, especially in areas of geographical impracticality.

Yet, technological developments invest such opportunities arising in enhancing efficiency and effectiveness of labour arbitration while it poses challenges as to the fairness, procedural accuracy, and expanding access to justice. For instance, problems regarding differential access to technology, differences in learners' technologically-mediated experience, and worries about security/privacy persist. As Smith (2022) showed, the main disadvantage of remote hearings is that it can impose procedural disadvantages on parties that are technologically less savvy, and thus threaten the spirit of the arbitration of unfettered and even representation. These challenges acknowledge the significance of studying how technology shifts in labour arbitration influence various participants.

Research Objectives

- i. To evaluate the effect of advanced technology, especially remote hearings, on labour arbitration.
- ii. To assess the advantages and risks that these technological improvements bring for producers of arbitration services and other market participants.
- iii. To establish and discuss potential recommendations of best practices and policies that may improve and democratize labour arbitration within the context of the digital economy.

Research Questions

- i. What impacts have technological developments, particularly remote hearings, posed to labour arbitration?
- ii. To what extent does technological improvements bring advantages and risk for producers of arbitration services and other market participants?



- iii. What measures of the best practices and policy should be followed or recommended in enhancing the efficacy of labour arbitration given the advancement in technology?

Significance of the Study

This paper seeks to identify new technologies and determine the possible impact they might have on labour arbitration while advancing in various industries such as legal and arbitration fields. This research has practical importance because, in addition to describing the manner in which arbitration has had to evolve to meet the expectations of today's digital environment, it also identifies the challenges that must be addressed to avoid diluting the essential tenets of neutrality, openness, and justice in the process of transitioning to the online arbitration environment.

Scope and Limitations

This paper delves into technological aspects of the labour arbitration considering the experience starting from 2015 with a major focus on the implementation and utilization of remote hearings. It is almost entirely limited to Nigeria, in which remote hearings have been more actively implemented; it also produces consideration of trends in other countries. Although this paper highlights important technologies, it does not assess non-technological factors affecting labour arbitration or non-remote hearing technologies such as AI that are beyond the scope of this work.

LITERATURE REVIEW

This paper considers the Nigerian scenario in labour arbitration in light of the unprecedented technological advancements that have occurred over the recent past. In the words of Abiodun (2020), there is growing activity of digital platforms in the arbitration process due to its efficiency and trend that have emanated from human activities. According to the author more technological applications for example through video conferencing as well as e-filing systems have brought revolution on how labour disputes are heard in a way that brings more efficiency and costs less than physical hearings. Equally, Adeola (2021) posited that these have become imperative in trawling the large backlog of cases in Nigerian labour courts to fasten the dispensation of justice.

Remote hearings have been adopted quickly since the COVID-19 pandemic as arbitration bodies started to utilize applications like Zoom and Microsoft Teams. Eze (2020) in his work emphasized that a detailed description of the continuity of dispute management during the lockdown provided some underlining that all these changes may become permanent even after the end of the pandemic. Nonetheless, the author also noted that with the use of technology, several benefits may be availed in the process; the effects may worsen the existing disparities, notably a challenge that may affect the workers in the low income bracket since they might not be in a position to afford some of the technologies.



Theoretical Underpinning

In the realm of labour arbitration, one of the largest changes brought about by technology can be seen in the manner in which arbitration hearings take place. It is in this context that theories such as the Alternative Dispute Resolution (ADR) lay emphasis on achieving dispute solution in an efficient, effective and inexpensive manner. Related to context, the Diffusion of Innovations (DOI) theory, as developed by Rogers in 1962, was also helpful in order to understand how new technologies became integrated into conservative industries such as labour arbitration. Scholars have continually explored and brought about the application of these theories, especially within the justice concerning labour disputes through digital applications and others through remote technology.

Critique of Literature

As observed earlier, many Nigerian authors agree that technology brings useful elements in labour arbitration; however, there is a rising concern of the digital divide. Ogunleye (2021) posited that many workers among those in rural regions experience challenges in accessing the technology that supports remote hearings. Similar sentiments are shared by Adepoju (2020) who opined that remote hearing depends on structures that are available to the participants, which is something that is scarce in Nigeria. Adepoju's work makes it clear that this social issue of digital inequality needs to be solved in order to provide all actors involved in arbitration proceedings an equal opportunity to engage.

Similarly, Ogunbiyi and Adebayo (2021) identified the limitation from the proponents' angle by emphasizing that although remote hearings are far more convenient than conventional hearings and possible in the present COVID-19 sociopolitical conditions, they might not be ideal for all-first instance and appellate labour relations matters and redundancies where the cardinality of the relation between the conflicting parties is not adeptly captured through emotionless prose and disposition. These authors call for a blended system of both fully physical attendance and remote hearings depending on the circumstances.

However, most scholars agree that technology in general and remote hearings specifically are inevitable in labour arbitration. Aina (2019) posited that new forms of dispute resolution, such as labour arbitration systems in Nigeria, need to be responsive to the growing digital reality in workplaces. However, Aina also emphasized that the implementation of these technologies shall be carefully harmonized with the education of arbitrators and the disputants in order to avoid various potential problems related to technology, such as comfort of use and competency level of the accepted technology.



METHODOLOGY

The current paper uses both a literature review and a case study of the labour arbitration processes where technology and therefore remote hearings have been adopted. Therefore, this investigation pertains to a selection of labour arbitration cases that were performed between 2015 and 2023, and only cases which took place before and after the pandemic were chosen to consider the technological change in arbitration sufficiently. Articles were gathered from legal databases, reports of arbitration bodies, and peer-reviewed journals. The data collected were analyzed whenever possible, based on the identified themes regarding the use of the technology and relative effects on arbitration.

RESULTS

Remote hearings over time enhance efficiency in labour arbitration beyond measure, compared to the pre COVID-19 period. Earlier models in the arbitration processes had profound issues of infrastructure management which included physically obtaining venues for the arbitration and the organizational problems of finding schedules for the arbitration processes for all the actors involved. Remote hearings, however, are not accompanied by the physical barriers because participants can join in from different places. This eliminates the time required to handle disputes, and decreases costs of travelling and having to rent venues for holding cases. These efficiencies are reflected in many arbitration cases, with extreme examples occurring during the COVID-19 period. One of the major enhancement sources cited by arbitrators, lawyers, and disputing parties involved in oral hearings was the opportunity to set the hearings' schedule more freely without physical location of the hearing being an issue. Furthermore, the digital management of documents in these hearings minimized the time spent on administrative work by cutting down on the papers that were being used. While a vast majority of participants noted the value of saved time coupled with cost, some participants pointed out the concerns regarding the impossibility to achieve the same level of detail and engagement in the course of the remote hearings as in the case of in-person ones. As much as the application of virtual environment is efficient, it has the disadvantage of not being able to give the backing of face-to-face interaction in dispute resolution; it alters the psychological composition of parties to the process, hence a change in the approach to the process.

The analysis revealed several key findings:

1. **Increased Efficiency:** That remote hearings allowed reduced traveling time and other costly considerations attached to labour arbitration also reduced the duration of such hearings considerably.
2. **Enhanced Accessibility:** Recent development of technology has enhanced the way parties in remote or hard-to-reach areas have been able to access arbitration.
3. **Concerns about Fairness:** A few arbitrators and participants commented on the perceived fairness of remote hearings, including the issue of technological competence of participants and technology disruptions in the process of hearing.



4. **Mixed Opinions on Effectiveness:** Although numerous participants mentioned that remote hearings were feasible, others stated that such hearings were different from face-to-face hearings in terms of intimate involvement.

DISCUSSION

This study gives the findings that this technological revolution inclusive of remote hearings has revolutionized labour arbitration. While the adoption of remote hearings has greatly benefited efficiency and participants' accessibility, it has also incurred drawable concerns of fairness and satisfaction of all participants involved.

Increased Efficiency

Tele-hearings have contributed a great deal in increasing the efficiency of the labour arbitration as it has minimized the time and cost required in determination of the disputes. Since there is no requirement to use physical places for arbitration and travel, the arbitration process is faster and easier since participants can be in any place at any time (Cohen et al., 2019). These technologies have been widely used after the outbreak of the COVID-19 virus, which made physical meetings impossible, and arbitration bodies had to switch to online platforms. The previous research also agrees on this observation since the essence of virtual hearings has helped in reducing the time the disputes take to get resolved by up to 40%, as identified by Smith (2022), something that is highly valuable in labour relations given that they often require immediate resolution. Nevertheless, this kind of efficiency is not free of some drawbacks. Personal contact decreases the sense of importance of the proceedings, which in turn reduces the level of involvement from the disputants and, sometimes, the quality of participation (Baron, 2021). This scenario tallies with the findings of this study disclosing that some of the participants for remote hearings opined that the remote hearings were not formal and serious as in-person hearings.

Enhanced Accessibility

Remote hearings have brought labour arbitration closer to where it is needed, most especially in hard-to-reach or underprivileged regions (Cohen, 2019). For instance, in Nigeria, poor infrastructure facilities have made it difficult for most parties to use the formal dispute resolution systems, but through virtual platforms, arbitration has expanded access. This corresponds with ADR concepts since the aim is to avoid silencing and a disadvantage to any party in the dispute resolution process (Smith, 2022). However, they reflect the drawbacks attributed to the digital divide while increasing the access. Those with no access to stable internet connection or those who have poor computer literacy skills may be at a disadvantage during remote hearings. This contrasts research carried out in the past, which asserts that technological disparity hampers the participation of parties, especially in deprived areas (Baron, 2021). In Nigeria, this problem is most acute, and variations in internet usage and digital literacy are highly significant among the regions of the country (Ugbede, 2020). Hearings conducted remotely provide a method of making arbitration more democratic only if there are consistent attempts to close the digital gap.



Concerns about Fairness

As one of the primary concerns that emerge from this research, the question of fairness in remote arbitration hearings generates much of the debate. More accessibility also means new concerns for equity when it comes to working in virtual platforms. A most important variable with regard to presentation of cases is, therefore, digital literacy. Lack of some form of technology literacy might slow the pace of embracing and conducting virtual hearings, which might make arbitration unbalanced (Baron, 2021).

Also, remote hearings do not allow face-to-face contacts that facilitate the assessment of credibility of the parties or their witnesses. Intention and truthfulness of the disputant, especially with reference to body language, tone, and facial expressions (a crucial aspect of conflict resolution) is oftentimes reduced or fully eradicated in the virtual conflict resolution platforms (Cohen, 2019). The same concern was expressed by arbitrators in the study, arguing that the virtual nature of such platforms could limit their decision making capabilities. In line with previous studies, these results reveal that fully simulating the face-to-face nature of in-person arbitration with remote hearings is challenging (Smith, 2022). The chairs indicated mixed feelings on the general efficiency of remote hearings in the study. The familiar internet groups reckoned remote hearings to be efficient and effective while those who were less familiar with the internet or are older in age reckoned it to be inefficient. This generational split means that an assessment of the efficiency of remote arbitration depends not only on the relative efficiency and user satisfaction of the platforms but the participants' confidence in any digital tools (Ugbede, 2020). This finding is evident in works in literature, where scholars have confirmed that technical acumen directly determines participants' impression of remote hearings (Smith, 2022). Furthermore, the study establishes that despite the flexible arrangements of remote hearings, those assessed as convenient, they are not as personal as the actual arbitration processes are (Cohen, 2019). Therefore, for remote hearing to be sustainable in the future, consideration has to be made to ensure that all the participants, including the technical illiterate, are able to participate effectively.

Cultural Implication for Labour Arbitration in Nigeria

The implication of the study is most relevant in the Nigerian environment because labour arbitration is crippled mainly by the lack of resources as well as technology. Thus, remote hearings can be seen as a solution to problems connected with the organization of arbitration in different parts of the world. But to get to the full measure of these benefits, there has to be the removal of the digital divide which currently exists in Nigeria (Ugbede, 2020). To this end, the Nigerian government as well as labour arbitration bodies must develop necessary digital support and offer training to participants to guarantee fairness in attending and participating in remote hearings. Besides, there is a need for an attitudinal change in the Nigerian legal and regulatory systems to suit the prevailing circumstance of remote arbitration. Best practices for hearings and communication technology resolutions as well as requirement of neutrality for participants are vital for the protection of the arbitration procedure (Cohen, 2019). Such changes in policies are important that engrained gains in efficiency and accessibility of remote hearings are not paid for in equity.



Comparison to Other Studies

These results can be correlated to most of the prior scholarly work regarding the applicability of technology in labour arbitration. Previous studies have also pointed to the effectiveness and cost advantages of the online environment (Belsey, 2022). However, this work extends previous research discussions by offering a more elaborate analysis of some of the deep-seated issues with the remote hearings especially inasmuch as they are fair and accessible. In this study context examining technology adoption in Nigerian dispute resolution, the limitation by the divide in adopting technological tools is highly highlighted. By identifying shortcomings in technical access and applied digital competencies of the participants of remote hearings, it is crucial to refer to the previous research that addressed these factors. Nevertheless, it is important to notice the necessity of further investigating the topic in the global regions, where technologies are still in the process of development (Baron, 2021; Ugbede, 2020).

CONCLUSION

The principal finding is thus that technological developments, especially those of remote hearings, have revolutionized labour arbitration. Such changes have introduced a qualitatively new level of organizational and informational advances in terms of performance and availability. The use of remote hearings serves to eliminate some of the logistical difficulties that have for long been a major cause of delays in arbitration proceedings such as transport difficulties, scheduling of hearing difficulties and physical accommodation of the hearing. For these reasons, arbitration emerges as a less expensive remedy than other ways of handling labour disputes. However, the paper also lays down the shortcomings of these technological improvements. Complexity is still an essential aspect, particularly as it relates to equal distribution and obtainability of any essential technology in the context of the digital divide. Due to the efficiencies gained by adopting remote hearings, the rule enhances the accessibility of hearings to some parties, such as those located in remote or underserved areas, but at the same time puts off other participants who may not afford to acquire devices and skills relating to virtual hearings. This results in the emergence of a new model of inequity: inequity in terms of application and connectivity. The study reveals that to optimise the use of technology in labour arbitration, it is necessary that policies be established that will eliminate these disparities. This could include building in support structures, for example, arranging for participant training in the use of remote hearing platforms or providing equipment to those to whom it would otherwise be inaccessible owing to financial constraints. For this reason, policymakers have to be very careful that remote arbitration practices do not create an unfair advantage for any party to the arbitration.

In addition, important objectives are also played by the regulatory authorities. The institutions involved in the management of labour arbitration ought to develop fresh guidelines that accommodate the new experiences of remote hearings. This may include defining how technical difficulties affecting the administration of arbitration will be handled, including measures addressing issues to do with confidentiality and security of virtual platforms that will be used and defining minimum requirements of parties, counsels, arbitrators, and witnesses in terms of their technological literacy as well as availability of technology in their operations.

The idea of remote hearings is one of the key developments in the direction of digitalization of work in the legal sphere. Short-term gains will be evidenced by efficiency while the long-term



consequences to labour arbitration systems will involve more profound changes and shifts. For instance, as the digital platforms evolve for the arbitration process, the process of labour arbitration may include technological devices like artificial intelligence (AI) in handling cases, or in giving an analysis on such cases.

This is an area of a potential future study, if there is to be the application of the AI in arbitration. Among the benefits, integrated devices might help to decode case management by entrusting the time-and-energy-consuming monotonous work, outcome prediction, execution of real-time assessment of legal records. However, as similar to remote hearings, these advancements would also pose ethical and practical quandaries, which would include the visibility of decisions made and the often inherent biases of AI algorithms.

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