

**APPRAISAL OF THE ROLE OF LEGAL RESEARCH ASSISTANT TO JUDGES IN
THE NIGERIAN JUDICIAL SECTOR**

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Abstract

Judicial or legal research assistants play a vital role in the process of adjudication. The judicial assistants or research assistants are persons who carry out research on legal topics and lend assistance in whatever ways possible for the Judges. They are in a position of trusted agents of a Judge. This paper stems from the fundamental problem that little is known about the role and duties of the legal research assistant as they work with the judges behind the scene and not all courts have embraced the judicial assistant and also there is the lack of regulatory framework guiding the research assistants in the course of their duty. The aim of this paper is to consider the important role the legal research assistant plays in the administration of justice and decision-making in Nigeria notwithstanding the introduction of Artificial Intelligence in the 21st Century. The paper adopts the Doctrinal method of legal research. The paper finds that the research or judicial assistant have not been totally embraced by all courts in Nigeria and there is no law in existence which spells out the power, duties or regulation to guide research assistants in the course of their duties. Hence, their scopes of duties are not defined. The paper concludes that the position of a legal research assistant is not holistically recognized under the Nigerian judicial system and recommends that the judiciary needs to embrace the use of judicial research assistant for the overall improvement and more efficient decision making process of the justice sector in Nigeria.

Keywords: *Judicial Assistants, Research, Legal Research, Case Management, Judicial officers,*

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Introduction

Legal research assistants also referred to as judicial assistants, Court clerks and legal assistants are those officers of the Court that are tasked to provide a helping hand to Judicial Officers by conducting factual research and providing written court documentation for upcoming and present cases. Indeed, it may be said that a judicial clerk (another name for a Legal Research Assistant) is an individual generally another Lawyer, who provides direct assistance and counsel to a judge in making legal determinations and in writing opinions by researching issues before the court¹. The rationale behind employing judicial assistants in the Nigerian judiciary is as a result of the increased workload experienced by the judges and the consequential delays in judicial action. This made the employment of personnel, learned in the area of law quite necessary. They were for that purpose employed to assist judges in conducting legal research, drafting orders and opinions, proof-reading drafts of the judge's orders and opinions, editing and verification of citations and generally assisting the judge during courtroom proceedings.² The legal research assistants facilitates in proper management of cases before a judge, hence leading to a speedy dispensation of justice,³ In the United Kingdom, this category of persons are referred to as court clerks albeit, most of them are trained paralegals. The judiciary system in Nigeria has not fully embraced this particular role court clerks or judges research assistants and it is in the light of the forgoing that this work will be taking into consideration, a critical examination of the role of the judicial assistants to judges in Nigeria, distinguishing between research and legal research, duties of a legal research assistant, the significance of a judicial assistant to judges in Nigeria, the challenges experienced by legal research assistants, the future of judicial assistants in relation to the introduction of Artificial Intelligence (AI) in Nigeria judiciary. Furthermore, the work will be providing possible recommendations to some of the challenges encountered by the Judicial Assistant in Nigeria.

¹ The Free Encyclopedia, 'The Law Clerk' <https://en.wikipedia.org/wiki/Law_clerk> accessed on 12 January 2023

² T Gilbert, 'Application of Professional Ethics and Code of Conduct to Judicial/Legal/Research Assistants as Court Employees' National Judicial Institute. Paper presented at the National Workshop for Legal/Research/Judicial Assistants, July 2016.

³ Essential Information on Judicial Assistants http://study.com/articles/Judicial_Assistant_Job_Description_Duties_and_Salary.html accessed

Definition of Legal Research

Legal research is generally the process of finding an answer to a legal question or checking for legal precedent that can be cited in a brief or at trial. Sometimes, legal research can help determine whether a legal issue is a "case of first impression" that is unregulated or lacks legal precedent. Virtually every lawsuit, appeal, criminal case, and legal process in general requires some amount of legal research⁴.

Legal research is 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 investigation⁵.

Objectives of Legal Research

Law may be termed as a behavioral science as it regulates human behavior. It is expressed in words which are used in a particular context. Whatever be the source of law, it cannot provide remedy for all the situations and for all the time to come. Changes in society demand that law should move with the time, if it has to remain alive and active and it can remain alive, active and useful, if it is aware of its lacuna and takes steps to overcome it with the passage of time. The object of legal research therefore, is to find out lacuna or deficiencies in the existing laws and to suggest suitable measures to eliminate them⁶. If there is an area for which there is no law at all, the objective of legal research would be to suggest suitable legislation for that area; but if there is a law for that area, but due to one reason or the other, it did not work, its aim would be to suggest reform in the existing law so as to make it workable. Thus the significance of legal research lies in the submission of proposal for reform in the existing law, be it enacted, customary or judicial. However, this would not be the end or the sole objective of the legal research. When research is undertaken as a part of process of law reform, it is undertaken for making suggestions for improvements in the law on

⁴ Black Law Dictionary Sixth Edition 296

⁵ Ibid

⁶ Resource Guide On Strengthening Judicial Integrity and Capacity – United Nations Office on Drugs and Crime- December (2011) 43

concrete and easily identifiable matters and the formulation of those proposals in precise terms⁷. This is very significant and governing factor in the area of legal research.

The following may be taken as objectives of legal research⁸:

1. To discover new facts.
2. To test and verify old facts.
3. To analyse the facts in new theoretical framework.
4. To examine the consequences of new facts or new principles of law; or judicial decisions.
5. To develop new legal research tools or apply tools of other disciplines in the area of law.
6. To propound new legal concept
7. To analyse law and legal institutions from the point of view of history.⁹
8. To examine the nature and scope of new law or legal institution.
9. To ascertain the merits and demerits of old law or institution and to give suggestions for a new law or institution in place of old one
10. To ascertain the relationship between legislature and judiciary and to give suggestions as to how one can assist the other in the discharge of one's duties and responsibilities and¹⁰
11. To develop the principles of interpretation for critical examination of statutes¹¹

Distinguishing between Research and Legal Research

Research may be very broadly defined as systematic gathering of data and information and its analysis for advancement of knowledge in any subject. Research attempts to find answers to intellectual and practical questions through application of systematic methods. Webster's Collegiate Dictionary defines research as "studious inquiry or examination; especially investigation or experimentation aimed at the discovery and interpretation of facts, revision of

⁷ Nigeria Case Management System, By Mahmud Adamu, Assistant Chief Programme Analyst, At The National Workshop for Information and Communication Technology Staff, 24 th May 2017

⁸ C. Soreen. Legal Research Methodology an Overview *Journal of Emerging Technologies and Innivative Research* 8 (10) assessed 7 <https://www.jetir.org/papers/JETIR2110354.pdf>

⁹ Ibid.

¹⁰ Ibid

¹¹ The Role of Judicial Assistants, Consultative Council of European Judges Strasbourg (2019) <https://rm.coe.int/opinion-22-ccje-en/168098eeeb>. Accessed 19th March 2024

accepted theories or laws in the light of new facts, or practical application of such new or revised theories or laws"¹². Some people consider research as a movement, a movement from the known to the unknown¹³.

It is actually a voyage of discovery. We all possess the vital instinct of inquisitiveness for, when the unknown confronts us, we wonder and our inquisitiveness makes us probe and attain full and fuller understanding of the unknown. This inquisitiveness is the mother of all knowledge and the method, which man employs for obtaining the knowledge of whatever the unknown, can be termed as research¹⁴.

Research is, thus, an original contribution to the existing stock of knowledge making for its advancement. It is the pursuit of truth with the help of study, observation, comparison and experiment. In short, the search for knowledge through objective and systematic method of finding solution to a problem is research¹⁵. The systematic approach concerning generalization and the formulation of a the\of enunciating the problem, formulating a hypothesis, collecting the facts or data, analysing the facts and reaching certain conclusions either in the form of solutions(s) towards the concerned problem or in certain generalizations for some theoretical formulation¹⁶.

Legal Research.

Flowing from the above explanation of what a research is in itself, legal research is distinct in character from every form of research for the following reasons:

1. Legal research plays a crucial role in proposing reforms to enhance the efficacy and relevance of the legal system. This involves analysing the causes of legal problems, evaluating alternative solutions, and formulating recommendations for legislative or policy changes¹⁷.

¹² Webster Collegiate Dictionary

¹³ FK Stage, and K Manning, *Research in the College Context: Approaches and Methods* (Brunner-Routledge, New York, 2003)

¹⁴ M McConville and W H Chui, eds, *Research Methods for Law* (Edinburgh University Press, Edinburgh, 2007) 19

¹⁵ P Cane, and HM Kritzer, *The Oxford Handbook of Empirical Legal Research* (Oxford, Oxford University Press 2010) 2.

¹⁶ Ibid

¹⁷ Legal Research and its Characteristics; Law Notes <https://lawnotes.co/legal-research-and-its-characteristics/>; assessed 24th April 2024

2. Legal research encompasses the study of human behaviour within the context of societal norms, institutions, and legal frameworks. This is done through the use of other discipline such as (sociology, psychology) in studying how human response to the rules and regulation set by the legislators¹⁸

3. Legal research involves both verifying established legal principles and discovering new ones through empirical analysis and scholarly inquiry.¹⁹

The Legal Research Assistant

Legal research assistants are sometimes referred to as those individuals who are trained in the law and employed by the state to assist judges in researching legal opinions. One may therefore refer to them as the Judicial Officer's private adviser, who helps frame the issues in the mind of the Judge before they are then crystallized in the form of a written Judgment. Judicial or Legal Research Assistants are persons who carry out research on legal topics and lend assistance in whatever ways possible for the Judges. They are in a position of trusted servants or agents of a Judge, and to an extent what binds the Judge, also binds the judicial assistant.²⁰

The ethical values and standards applicable to Judges also apply in some respect to the Judicial/ Legal Assistant, as the ethical values of integrity, equality, decorum, comportsment, etc are embedded in the rules of the Code of Conduct for Judicial officers and the Code of Conduct for Court Employees. Court employees hold highly visible positions of public trust and it is desirable that a standard of conduct which a court employee should observe the prescribed and published for the information of the court employee and the public in general so that the objectives set out in the preamble may be achieved.²¹ The Code of Conduct for Court Employees applies to all categories of persons involved in the day-to-day administration of the courts whether as staff of special courts, tribunals, Commissions of Enquiry, Judicial Service Commissions or Committee.

¹⁸Legal Research and its Characteristics; Law Notes <https://lawnotes.co/legal-research-and-its-characteristics/>; assessed 24th April 2024

¹⁹Ibid.

²⁰ Stage, (n 13)

²¹ Paragraph 4 of the preamble to the code of conduct for court employees of the Federal Republic of Nigeria, 2004.

A judicial/legal assistant is first of all a legal practitioner within the meaning of the term “Legal Practitioner” and ‘legal practice’ as defined by the Legal Practitioner's Act. He is therefore under duty or bound to comply with the standards regulating the conduct of members of the legal profession contained in the Rules of Professional Conduct for Legal Practitioners which derives from the Legal Practitioners Act. Where he deviates, then the applicable sanctions both under the Codes and appropriate laws may be meted.

The American judicial system recognizes this category of judicial staff as those shadowy individuals who are trained in law to assist Judges in researching legal opinions. However, in several other countries different terminologies are used to describe them. In the United Kingdom, for example, they are called Judicial Assistants, while in Australia; they are called Judicial Associates; whereas the United States and Canada call theirs, Law Clerks. Legal Research Assistants play an important and valued role within a legal system.²² In researching legal topics and lending assistance in whatever way is necessary, they provide a much needed support facility for the Judiciary. However, the boundaries of their role within a legal system can often become blurred especially where their roles intercept with that of their Principals, the Judicial Officers²³.

Role and Importance of Research Assistants to Judges in Nigeria

The Nigerian Judiciary has continuously made efforts towards improving the Court system in ways that will enhance effective justice administration and speedy justice delivery in our country. One key area to exemplify this is in the recruitment of competent staff and the improvement in their capacity and performance of court employees. This includes but not limited to the addition of relevant professionals (Research Assistants) that will drive the other factors of justice administration for good result. The first aspect that determines the judicial assistants’ role is the reasoning behind employing them.

²² Resource Guide of Strengthening Judicial Integrity and Capacity- United Nations Office on Drugs and Crime- December 2011, 44 <<https://www.unodc.org/unodc/en/treaties/CAC/judicial-integrity-guide.html>> Assessed 20 March 2024.

²³ G Coonan, ‘The Role of Judicial Research Assistants in supporting the Decision Making Role of the Irish Judiciary-2006 173 <https://www.irishjudicialstudiesjournal.ie/assets/uploads/documents/pdfs/2006-Edition-01/article/the-role-of-judicial-research-assistants-in-supporting-the-decision-making-role-of-the-irish-judiciary.pdf>>accessed 20 March 2024.

1. The introduction of Judicial/Legal/Research Assistants as new personnel in the service of the judiciary though not yet widespread in all the courts or jurisdictions in Nigeria appears an important step in the support of the value of research resource to the onerous but noble duty of the judicial officer²⁴. In the same vein, the issues of disputes and crimes that come to resolution centers including the courts are of complex nature while the desire for speed, efficiency and quality has assumed a universal choice that is, everybody wants best service. Therefore, for effective, efficient and quick justice delivery the judicial officers need the research resource from these Assistants.²⁵
2. Another important role the legal research Assistants play is decision enhancing as they do the background work on a given case, spot the most important issues, summarize the arguments, give an impression of which arguments are most persuasive and thus identify the aspects of the case that should have an impact on the final decision²⁶.
3. The Research assistant is an assistant to the Judge and serves at the discretion of the Judge and performs a broad range of functions. Research assistants are usually assigned legal research, drafting, editing, proof-reading and verification of citations; frequently they also have responsibility for library maintenance, document assembly, service as court room crier and some personal errands for the Judge.
4. In *Hall. v. Small Business Administration*²⁷, the Court described the functions of research assistants as follows: sounding boards for tentative opinions and legal researchers who seek the authorities that affect decisions, Clerks are privy to a judge's thoughts in a way that neither parties to the law suit nor his most intimate family members may be.
5. Primarily, Research Assistants perform complex paralegal and legal secretarial support to judges. They edit, proofread, and reviews opinions and court orders for correctness with respect to grammar, spelling, punctuation, content, and organization. They calendar cases for

²⁴ Application of Professional Ethics and Code of Conduct to Judicial/Legal/Research Assistants As Court Employees, By Gilbert Tor, Deputy Director of Research, National Judicial Institute. A paper presented at The National Workshop for Legal/Research/Judicial Assistants, July 2016.

²⁵ Coonan, (n 22).

²⁶ M Adamu, 'Nigeria Case Management System' (At The National Workshop for Information and Communication Technology Staff, 24th May 2017).

²⁷1983.C05.41733 695 F.2D 175.

oral argument. Prepares final opinions by checking facts referenced against all documents from the lower court such as the clerk's and reporter's transcripts, administrative record, exhibits, and correspondence²⁸.

6. They also verify legal authorities cited using resources found in the law library and computer data bases such as state and federal statutes, textbooks, handbooks, restatements, and legislative intent materials. They proofread and carefully inspect galley proofs of all published opinions for complete accuracy. Maintains and updates chambers library. Organizes and routes work, sets priorities, and follows up to ensure coordination and completion of assigned work. They exercise skill in setting priorities that accurately reflect the importance of assigned responsibilities. They work closely with Clerk's Office and file room staff to ensure that materials are received and sent out in timely fashion.
7. They may (as the case may be) also be responsible for managing scheduled trials, motions and court hearings, as well as supervising interns, volunteers or other research assistants.
8. Some judicial assistants draft basic court documents to be reviewed and approved by the judge, such as notices that a hearing is scheduled or that another document has been received.
9. Summarizing or reducing each legislation or case decision to a concise paragraph collate to a handout, subdivided into relevant legal topic such Matrimonial Causes, Negligence, Land Law, Conveyance, Contract, Tort, etc Verifying the accuracy of citations or quotations from legislation, case law and other materials²⁹.
10. Pointing out obvious errors with a view to clarifying the meaning of the Judgment example an error in syntax that might make the meaning of a sentence ambiguous.

Challenges Encountered by Judicial Research Assistants

The Nigerian judiciary has embraced the use of Judicial Assistants because of the enormous workload saddled on the judges in our various courts and the various delays in Judicial Action. This in a way has helped with proper case management and efficiency of cases. However, as

²⁸ N Holvast, 'The Power of the Judicial Assistant/Law Clerk: Looking Behind The Scenes at Courts in The United States, England and Wales and the Netherlands' *The International Journal for Court Administration* 7(2) 12.

²⁹ Ibid `12.

their functions are not contained in any statutory document, their duties are not definite, and therefore the Judicial Assistants encounter challenges in the course of its duty.

One major challenge being encountered by the research assistant is some of them may be over labored and saddled with responsibilities even outside the scope of their work as research assistants. Some combine and perform the role of protocol officer, personal assistants and legal research officer roles together. Sometimes they assist in library maintenance, document assembly, and run some personal errands for the judge.

Apart from the role of making research for the judge, the judicial officers as part of their training are encouraged to prepare legal opinion on issues or matters before the court. This legal opinion sometimes serve as draft judgment, however, there judges may at times leave the writing of judgments to the research assistants. This in a way not effectively serve the purpose of Justice because the research assistants are merely appointed to serve as an assistant to the judge but not to be judges in themselves³⁰.

Artificial Intelligence and the Future of Judicial Assistants in Nigeria Judiciary.

Artificial Intelligence (AI) is a domain of computer science which deals with the development of intelligent computer systems, which are capable to perceive, analyze, and react accordingly to the inputs³¹. It is well-known fact that humans are considered as the most intelligent and smart species on earth. The features which have helped them to bag this title include the ability to think, apply logic, do reasoning, under-stand the complexity, and make decisions on their own. They can also do planning, innovation, and solve problems to a greater extent.³² Some of the specific goals of AI are replicating human intelligence, solving knowledge-intensive tasks, building machines, which can perform tasks, that require human intelligence and creating some system which can learn by itself. With the development of Artificial intelligence, there have been several predictions on the decline of several professions and professionals including the

³⁰ Ibid.

³¹ Spector L, Evolution of Artificial Intelligence Elsevier publication
<https://www.sciencedirect.com/science/article/pii/S0004370206000907>. Accessed 27th April 2024.

³² Moumita Ghosh & Thirugnanam A: Introduction to Artificial Intelligence.
<https://www.researchgate.net/publication/351758474>. Accessed. 20th June 2024.

profession of judges or judicial assistants.³³ The question we need to ask is whether the role of judges or their assistants can be overtaken by Artificial Intelligence. With Artificial intelligence technology, there is the general assumption that cases will be treated the same way for cases with similar characteristics. However this view is not completely true because the judge's reasoning actually shows that each case tends to be approached independently. In the same light judges assistants are pivotal to a smooth and efficient decision making by the court and as such, they cannot be displaced.³⁴

It is expedient to state, that data plays a crucial role in the judicial system as it helps the judges fit together the circumstances surrounding a particular case in an effort to see that justice is served. The judiciary is a text processing industry as documents, and texts are the raw material of legal and judicial work. As such, the judiciary has long been a field ripe for the use of technologies³⁵. The judiciary system has in one way or the other adopted the use of technology such as Artificial Intelligence in the course of its work through digitization, and a trove of data in the form of court opinions, statutes, regulations, books, practice guides and law reviews. This was mostly prevalent during the period of COVID -19 pandemic.³⁶

Artificial Intelligence (AI) has assisted in automating various processes and also performs jobs more successfully and efficiently. AI can help with legal research analysis by analyzing legal data including case law and statutes and in a way facilitate the decision making process of the judges leading to better outcomes, if applied. With Artificial Intelligence, as the use of cases of AI and other technologies continue to permeate the judiciary, judges, lawyers and staff must continue to be at the center of all decisions.³⁷ AI came into existence for enhancing or elevating

³³ N Ahmad, 'Is Artificial Intelligence replacing Lawyers? Global Science Research Journals international Journal of Law and Conflict Resolutions' (2021) 9 (3).

³⁴ Shidarta, and AB Munir, 'Can Artificial Intelligence Technology Replace Judges in Deciding Legal Matters?' <https://www.researchgate.net/publication/353331173_Can_Artificial_Intelligence_Technology_Replace_Judges_in_Deciding_Legal_Matters>. Accessed 4 June 2024.

³⁵ E Schindler, 'Judicial System are turning to AI to help Manage Vast Quantites of Data and Expedite Case Resolution', <https://www.ibm.com/blog/judicial-systems-are-turning-to-ai-to-help-manage-its-vast-quantities-of-data-and-expedite-case-resolution/> Accessed 30 January 2024.

³⁶ H Panjari, 'Role of Artificial Intelligence in the Judiciary System' <https://www.linkedin.com/pulse/role-artificial-intelligence-judiciary-system-hetal-panjari> accessed 20 June 2024.

³⁷ Ibid.

the legal sector, but can never replace humans. Humans will always be humans and as such, cannot be replaced in the judiciary system.

Conclusion and Recommendation

The legal research assistant plays an important role in the judiciary, the facilitate smooth decision making by the judge as they do the background work on a given case, spot the most important issues, do some drafting, proofreading, summarize arguments, give an impression of which arguments are most persuasive and thus identify the aspects of the case that should have an impact on the final decision of the court. the legal research assistant faces several challenges one of which is that, their roles is not codified in any document and there is basically no law establishing their office, this makes them perform duties or functions, not within the scope of their work.in addition not all court system in Nigeria has fully embraced the practice of making use of a legal research assistant, The role of the judicial assistant is under threat daily by the rise of technology, pressures from the increased workload of the Court, increasingly complex issues at the heart of disputes as well as the need to ensure that one does their job diligently, meticulously and timeously. As such, the temptation and pressure to cut corners may at times seem expedient. However, the relationship between the Legal Research Assistant and their Principal is symbiotic and akin to an apprentice and master situation where they mutually work together to attain a stated goal, but the apprentice is at all times beholding to the instructions and guidance of the master. The glue which knits these two professionals together is the mutual rules of best practice that binds them both. As it stands today, Artificial Intelligence cannot replace the judges, lawyers or judicial assistants in the judiciary sector as AI cannot process decision making as humans. Each case is decided based on its own merits

From the forgoing discussions, the following is here by recommended for the judicial research assistant to function maximally in his role and duty.

- i. Continuous mandatory retraining of Judicial Research Assistants: Immediately after appointment, there should be a mandatory training program for all research assistants and the training should not be once and for all activity.

- ii. There is a need for a Formal guideline on the scope of duties of Judicial Assistants in addition, Judges should ensure the assignments assigned to the research assistants are within the scope of their duties, so as to prevent a situation where they will perform duties which are *ultra vires*.
- iii. The role of the Research assistants needs to be encouraged by all court systems in Nigeria in order to facilitate smooth and speedy dispensation of justice.
- iv. Judicial assistants should be selected in a transparent process based on objective, merit-based criteria taking into account experience, qualifications, legal skills, integrity, communication skills and motivation.
- v. Working as a judicial assistant can also be a prerequisite (formal or informal) for becoming a judge, although this may not be a compulsory this must be taken into account in the selection process. An educational purpose of a judicial assistant scheme must be given adequate weight in the selection process.
- vi. For the time being, the Judicial Assistants should be guided by own Rules of Professional Conduct for legal practitioners, the Code of Conduct for Court Employees as well as the Revised National Judicial Council Code of Conduct for Judicial Officers.