

Kafka is a Thing of the Past: Modernisation of the Courts of the Kingdom of Bahrain

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Recently, the necessity for the Bahrain judicial system to embrace the global digitisation of courts became imperative. The sudden emergence of the Coronavirus during early 2020 accelerated the adoption of technology throughout the courts in Bahrain.

Initiatives to automate and digitalise the judicial system are not new in Bahrain, and can be traced back to 2014, when the Ministry of Justice, Islamic Affairs and Endowments (the 'Ministry of Justice') began collaborating with the Supreme Judicial Council and the Information and e-Government Authority to provide seamless and flexible digital access to litigants, judges and lawyers at any given time.

Since then, all legal services of the civil and commercial courts, as well as the courts of execution, have become fully accessible electronically through the e-government portal. These services include (without limitation) the filing of the lawsuit and/or appeal, service of notifications by way of mobile or email, receiving responses and/or applications from the litigants, and rendering of judgments by the Court. In addition, the court system provides full access to the Execution Courts whereby the claimant may enforce

his or her favourable judgment and impose precautionary measures against the defendant, all in a manner that allows lawyers and litigants to carry out the day-to-day follow ups with the Court. Further, litigants are now able to correspond with the Court directly, without necessarily being required to attend personally before the Court or the Court Clerk's Department. Litigants may also pay court fees or any other financial expenses through the online system and extract a copy of the entire file at any time.

Moreover, in most courts, electronic attendance is now possible, specifically in the labour courts, in which attendance is limited to electronic and virtual attendance. Initially, these measures were introduced to maintain social distancing in early 2020 however, said practice is expected to continue in Bahrain and it is understood that the same arrangements will be rolled out to other courts.

In line with the above, and in a first of its kind, the Family Court has decided to allow the witnesses of both parties to be heard electronically through virtual broadcasting. In this regard, the conduct of virtual communication to hear witnesses is based on the Court's discretion, which has the authority to determine where the witness shall be heard and in which manner. This precedent presents a new practice in terms of introducing virtual and electronic methods to the court system.

In the same vein, this arrangement has been adopted by the Criminal Courts, which now limit the attendance of accused individuals to virtual means. Furthermore, the Criminal Procedures Law has been amended in the event of a witness and/or accused being incapable of attending Court. In this regard, the new amendment states that the public prosecution may resort to virtual and/or electronic means in the hearing of statements or interrogation of witness(es)/accused remotely. Further, electronic means have been implemented in rehabilitation and training programmes for the beneficiaries of alternative punishment programmes.

In line with the automation initiatives, the Private Notary Program has also been automated whereby the Private Notary receives documents, reviews them and verifies their contents in order to register the notarised documents through the electronic services' system upon obtaining the signatures of the parties. The Private Notary, in this regard, shall then archive the transaction electronically and save it in the Central Authentication Database.

In addition, judgments and legal precedents issued by the Court of Cassation have been made publically available with a possibility to conduct searches with more advanced features on the Supreme Judicial Council's Website. Laws, directions and other regulations are also available on the electronic website of the Legislation and Legal Opinion Commission whereby the website is easily accessible and publicly available.

Further, Bahrain has recently taken another step towards the complete digitalisation of its judicial services and remote access to justice. By issuing Ministerial Decision No. 24 of 2021, the Bahraini Ministry of Justice put in place the required legal framework to introduce Biometric identification (i.e. fingerprint or face scanning) as a method of identification, or provision of consent. This legislation has been set in place to provide the security required to move towards a completely digitalised judicial system.

Conclusion

Since the emergence of the COVID-19 pandemic, the Courts in the Kingdom of Bahrain have attempted to adapt in order to provide easier access to litigants in an efficient manner. Automation is also an essential tool that provides more transparent information and data with regards to the processing of the cases before the Court.

Modern technology provides daily solutions to overcome the difficulties arising from the services provided by various business providers. Therefore, despite the many achievements made by the Ministry of Justice

in the Kingdom of Bahrain in the field of modernising the electronic legal system, the need to form an integrated electronic system is required to be consistent with the vision of the Kingdom of Bahrain for the year 2030.

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*In Kafka's **The Trial**, no technology can help Josef K escape the nightmare of a fiendishly bureaucratic judicial system. In **The Matrix**, Neo battles against a simulated reality created by intelligent machines and policed by mysterious all-knowing Agents. Here's hoping that the future of technology in the courts is less dystopian!*