

Implementation of the Court Records Management System in the delivery of justice at the Gaborone Magisterial District, Botswana

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Abstract

Purpose – The purpose of this study is to assess whether the implementation of the electronic Court Records Management System (CRMS) at the Gaborone Magisterial District, Botswana, brought improvements in the delivery of justice as expected in the management of case file records.

Design/methodology/approach – Principally, a quantitative approach utilizing a research survey design, supplemented by a qualitative approach was used in this study.

Findings – The CRMS implementation led to improvements in case file management at the Gaborone Magisterial District; case files were successfully captured into the system; retrieval of case files became easier; and incidents of lost and misplaced case files went down significantly. Challenges included shortcomings related to the security of digital case files, digital records preservation and disposition, records appraisal, training, inadequate bandwidth and shortage of computers, as well as inadequate archives and records management standards and guidelines.

Research limitations/implications – The findings of the study are limited to the case study and cannot be generalized to other organizations.

Practical implications – The findings should aid future implementation of court records management systems in the judiciary specifically and the public sector in general in Africa. Lessons learnt can enable the avoidance of pitfalls experienced in the implementation of CRMS by other courts.

Originality/value – This paper provides empirical evidence from an original study.

Keywords Electronic records management, Botswana, Administration of justice, Court records, Court Records Management System, Magistrate court

Paper type Research paper



1. Introduction

The Government of Botswana implemented public sector reforms to improve public service delivery. These included the formulation of the National Vision 2016 and the National ICT Policy, known as the Maitlamo Policy, which advocated for the use of ICTs in the delivery of services to the public (Government of Botswana, 1997; 2007). Using ICTs in the delivery of public services was part of the Government of Botswana's e-government programme through which the government desired to completely overhaul its business (Mosweu, 2016). Through Vision 2016, the government undertook being at the forefront of information technology with state-of-the-art computer and communications equipment, and to play a big

part in the information age by 2016. [Veedhi \(2003\)](#) defines e-governance as the delivery of government services and information to the public using information and communications technology (ICTs) to facilitate an efficient, speedy and transparent process. [Moloi and Mutula \(2007\)](#) observe that although e-government in Botswana is still in its infancy, it was appreciated by the bureaucracy. The country also has a fairly modern technical infrastructure that is capable of providing e-government services to the general public and business. [Millar \(2004\)](#) argues that governments in both the developing world and the developed world are seeking to computerise their core functions through the use of ICTs to improve access to their services.

A study done by [Keakopa \(2007\)](#) indicated that factors such as computer illiteracy, low levels of education, high cost of technology, lack of awareness by the public of the use of technology, lack of skill transfer, limited infrastructure and unavailability of power were likely to restrict access to technology in Botswana. [The World Bank \(2005\)](#) had also highlighted that even though there was widespread agreement that computerisation offered the way forward, it also brought new challenges in the sense that e-records were subject to loss because of their reliance on changing technologies, their storage on fragile media and their dependence on documentation that may be inadequate or missing. [McCarthy \(2006\)](#) argues that the growth in ICT is a sign that the public sector is committed to achieving a true transformation in the development, performance and delivery of public services. The main purpose of the study was to assess the Court Records Management System (CRMS) (an electronic system adopted and implemented by the Administration of Justice [AOJ] to manage case file records at the Gaborone Magisterial District on whether it has brought improvements in the delivery of justice. Improvement in this context refers to the extent to which the objectives that were set were being implemented as achieved. The study was originally submitted to the Department of Library and Information Studies at the University of Botswana in partial fulfilment of the requirement for a master's degree in Archives and Records Management.

1.1 Background to the study

In recognition of technological changes in the twenty-first century, the AOJ adopted the CRMS to manage case files. The CRMS is a technological tool for recording and keeping all files and other information safe for accurate and quick reference. The CRMS computers are configured to be multifunctional, as they are able to reveal the parties in the case, the pleadings, the status and the age of the file and all orders that have been made in the case.

[Kruger \(2005\)](#) states that AOJ implemented the CRMS for civil and criminal case processing among all courts in Botswana. Bytes Technology Group (BTG) (Botswana) Pty Ltd. was selected as the prime contractor for the implementation of the system. As part of the services to be provided by BTG, an American Company, the ACS of Kentucky was subcontracted to provide software and implementation services for the ACS Justice Information System. The CRMS was implemented to improve service delivery through its capacity to capture, store and retrieve accurate and up-to-date case files. The system was generally meant to expedite the process of case management and thus improve the delivery of justice in Botswana. [Nganunu \(2009\)](#), former Chief Justice of Botswana, explained that the CRMS was introduced in recognition that a twenty-first-century judiciary must rely on information technology as the tool to increase productivity and improve performance. The CRMS was piloted at the Lobatse High Court of Botswana in 2004 before it was rolled out to the Magistrate's Courts, including the Gaborone Magisterial District in 2006. A Statement of User Requirement (SOUR) document was prepared for the implementation of the system. According to [the World Bank \(2005\)](#), the growing emphasis on transparency and the need to

reduce large backlogs of court cases have led to case management reforms and have greatly increased use of technology in courts. Electronic filing highlighted the need for effective management of case files.

[Kruger \(2005\)](#) outlines the challenges faced by the AOJ in managing court records under the manual system as:

- (1) Lost or misplaced case files which caused delays in finalising litigation.
- (2) Omission and inaccuracies in maintaining and updating registers of various categories of cases.
- (3) Access to delivered judgements (and miscellaneous orders) of the superior courts for the purposes of precedents, synchronisation and research by all judicial officers and other stakeholders.
- (4) Time lost in responding to enquiries from litigants and members of the public on the status of cases, next court dates, etc.
- (5) Challenges in compiling court rolls and ensuring optimum use of court and judicial resources.
- (6) Financial accounting challenges for reporting and compliance with the Auditor-General and Accountant-General with regard to guardian funds, funds of deceased estates, maintenance payments, security deposits etc.
- (7) Coordinating related records from other divisions in the department, such as account records relating to a case file.

The Project Initiation Document, authored by [Kruger \(2005\)](#), indicates that in the initial phase, which was the first phase of the contract, BTG had to implement the CRMS comprising the following modules:

- (1) Case Management.
- (2) Resource Management.
- (3) Court Roll/Session Management.
- (4) Judicial Fund Administration.
- (5) Court Deposit Administration.
- (6) Court and Judicial Reporting.
- (7) Public service Centre.
- (8) Case Adjudication.

The following functions were specifically excluded from the project according to [Kruger \(2005\)](#):

- (1) electronic lodging of civil documents and pleadings, as well as charge sheets from police using electronic forms;
- (2) biometric identification of accused;
- (3) automated interfaces to other computer systems; and
- (4) e-commerce.

According to [Makgapha \(2010\)](#), the Botswana Chief Justice, Maruping Dibotelo, heralded the CRMS as a success at a celebration dinner organised by BTG to celebrate the completion of the five-year contract with the AOJ. The Chief Justice alluded to the fact that as a result of

capabilities of the CRMS, the United Nations Development Programme (UNDP) has partnered with them in the implementation of the Judicial Case Management, which is supported by the CRMS.

1.2 Importance of court records

Electronic court records are a vital and irreplaceable source of information in the delivery of justice, as they are used by the courts and parties to the case. Other than that, they have a broader use by legal researchers, historians, political scientists, sociologists and anthropologists, students and teachers, as well as policymakers, as modern technology make them more accessible (Schlanger and Lieberman, 2006). For the purposes of this study, the concept “court records” is used interchangeably with the concept “case files records”, as they are regarded to have the same meaning. Court records form the basis of decision-making by courts, as they document the court’s daily activities and proceedings. Court records produced by Magistrate’s Court in the context of Botswana arise from civil, criminal and miscellaneous cases. According to [Motsaathebe and Mnjama \(2009\)](#), court records include records generated specifically from legal processes, from the work of the courts, the police and public prosecutors. From the creation of a court record to its disposition, vital decisions are taken on a file which have a direct impact on the parties to a case.

Apart from that, even though there is no access to information legislation in Botswana yet, the Botswana Magistrates Courts Act [[Government of Botswana \(1974\)](#)] provides for court records to be made accessible to the public under Section 7. The Section stipulates that after 30 years of existence, the records may be removed to a central place of custody. As such there is need for proper management of these records so that those who may need to have access to them may find them in an accessible and useful state.

In her report, [Peterson \(2006\)](#) states that it is relatively easy to identify the potential users of court records. She points out that in the future, judges, prosecutors, registrars and defence counsel will need the records in various circumstances, such as the following:

- (1) Persons who are indicted but not apprehended before the indicting tribunal closes are subsequently arrested. When these persons are apprehended, someone will need to prosecute and judge them and the records that led to the indictment will be needed.
- (2) Those convicted raise legal matters. If, for example, there is an appeal for a review of a sentence or a petition to return home to die or to seek a rehearing, the original records of the case will be needed. David Crane, former prosecutor in Sierra Leone, points out that the young age of the defendants means that they will be seeking legal recourse for decades, and the prosecutors will need to have access to the “untainted” case records.
- (3) Further evidence surfaces supporting an indictment when added to the evidence already in the prosecutor’s files. International successors or domestic prosecutors will need access to the original evidence to make this judgement.
- (4) Witness protection issues arise. Whether or not under court protection, if a witness who testified is intimidated, put in jeopardy or otherwise endangered, that individual’s case file and documentation of the witness’s protection must be available.

Peterson (2006) went on to outline the following categories of people as potential users of court records for their secondary values: victims, surrogates and heirs, civic activists, government officials, legal researchers, academic researchers, media and court planners. The importance of court records cannot be overemphasized as Roper and Millar (1999) also argue that court records are among the most important and valuable public records of any country. Furthermore, the importance of court records, especially to the media, has also been seen by Chadwick (2018) who indicated that court records serve as an invaluable source of information for reporting on matters of vital public interest and concern, and providing electronic access to court records will considerably enhance the ability of the media to serve the public. Studies done by Lowry (2013), Schlanger and Lieberman (2006), Roper and Millar (1999), Peterson (2006) and Chadwick (2018) showed that there is need for the proper management of court records. Furthermore, it is crucial for any organisation to ensure that their records are managed in accordance with established guidelines, principles and internationally recognised standards. According to the International Records Management Standard, ISO 15489-1 (International Organisation for Standardization; ISO (2016), the standardisation of records management policies and procedures ensures that appropriate attention and protection are given to all records, and that the evidence and information they contain can be retrieved more efficiently and effectively by using standard practices and procedure.

1.3 Theoretical framework

This study utilised the records life cycle and the records continuum models as lenses to assess how e-records generated through the CRMS were managed. The continuum model was used as it is an internationally recommended best practice or approach for managing electronic records. This model uses an interdisciplinary approach to develop integrated frameworks and integrated control of the records to ensure their authenticity, accuracy reliability and integrity. The study has also adopted the records life-cycle model, as it is not so complicated and can be practiced by any organisation. The model clearly divides all the stages of a record. As the Magistrate's Courts create paper records before they are captured in the electronic system, the life-cycle model is suited to be used to monitor how they are managed from creation to disposition. The life-cycle theory states that records can only live once at each stage in their life (source). According to Bantin (1998), the records life-cycle model portrays the life of a record as going through various stages or periods, much like a living organism, whereby the record is created in Stage one, the record goes through an active period in Stage two when it has maximum primary value and is used or referred to frequently by the creating office and others involved in decision-making. Bantin (1998) explains that at the end of Stage two, the record may be reviewed and determined to have no value and may be destroyed, or the record can enter Stage three where another review is done, at which point a determination is made to destroy or preserve the record as archives.

In contrast, the continuum theory developed in the 1990s states that record-keeping is a continuing and rolling process that does not separate the life of records in time and space (Keakopa, 2006). The advent of electronic records has brought about the condemnation of the records life cycle in the management of electronic records and, hence, the development of the continuum model. The continuum model has been associated with an Australian Archivist, Frank Upward. Upward (2001) indicates that the continuum is being used in Australia as a metaphor to assist in getting records management "right" in record-keeping environments built around electronic communications. He uses four continuum actions

represented as sets within a space–time continuum model as depicted in Figure 1: identity, transactionality, evidentiality and recordkeeping containers.

- *Transactionality*: This relates to records as products of activities.
- *Identity*: This relates to the authorities by which records are made and kept, including their authorship, establishing particularities of the actors involved in the acts of records creation, the empowerment of the actors and their identity viewed from broader social and cultural perspectives.
- *Evidentiality*: This relates to the records as evidence, [in an early draft, this was titled integrity and continuity].
- *Recordkeeping containers*: This relates to the objects we create to store records.

Bantin (1998:5) argues that:

[. . .] perhaps the most basic difference between the continuum model and the life cycle approach is that the life-cycle model proposes a strict separation of records management responsibilities and the continuum model is based on an integration of the responsibilities and accountabilities associated with the management of records.

The effective management of case files throughout their life cycle is a very important component of the efficient administration of justice. This means a case file is created, and after a certain length of time it is closed, and when it is no longer active, it has to be disposed of. Disposition of records can be through destruction or archiving.

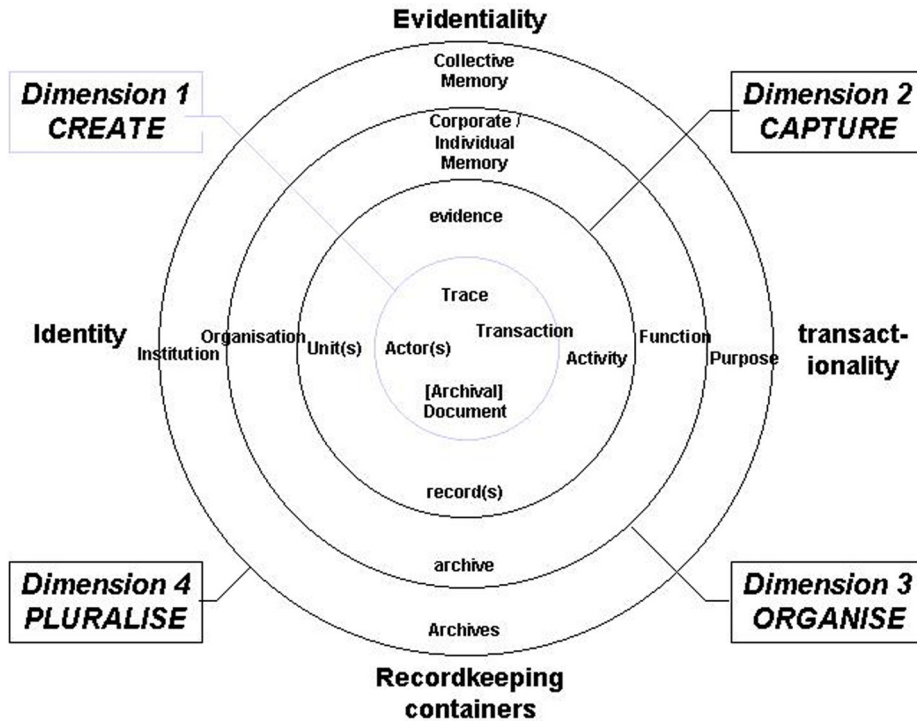


Figure 1. Frank Upward, 2000, space–time continuum model

According to the International Council on Archives (ICA) (1998), the life-cycle management of e-records is largely determined by decisions arrived at when the need for keeping records was realised and the records management systems designed and developed before the records were even created. Cox (1996) argues that e-records were generated just like paper records to provide evidence of government transactions. Therefore, electronic records management has to take into account records life cycle just like in the paper-based environment. Those managing electronic records should ensure that e-records are systematically controlled from the point of creation, receipt, maintenance, use, up to their disposition. According to the United Nations (UN) (1992), the management phases in the life cycle of an e-record involve the following: capture, storage, identification, clearance, control, security and authentication of the records, use to facilitate communication of record internally and externally, search, retrieval, migration, conversion probability and control, maintenance and application criteria, authorisation and disposition, user notification and disposal.

2. Statement of the problem

The use of ICTs by governments is meant to provide efficient and effective provision of services to the citizens (Millar, 2004; McCarthy, 2006; Nganunu; 2009). Roper and Millar (1999:100) argue that “a large proportion of computer projects fail to produce expected business improvements” in not only developing countries but also developed countries. Even though some African Governments of Kenya, Uganda, Tanzania, Rwanda and Burundi had ambitions to adopt ICTs to improve service delivery in the public service, sufficient planning was not done with regards to digital records management strategies, resulting in risks of inefficiency and poor accountability by governments, as well as compromised access to justice by the citizens (Lowry, 2013). The AOJ implemented the CRMS at the Gaborone Magisterial District to address issues such as missing files, unreliable statistics and misfiling of case records. After almost five years of the adoption of the CRMS, some of the problems that were meant to be addressed by the system still persisted. The reasons for this state of affairs were unknown, as the literature reviewed has not shown any published study done to address the problem. In addition, although the CRMS has access security levels, the records’ trustworthiness in terms of their reliability and authenticity as evidence before the law had not been interrogated. Moreover, the success and future sustainability of the CRMS in Botswana had not been certainly established; hence, this study which sought to assess whether the CRMS brought improvements or more problems in the management of court records.

3. Methodology

This study adopted a case study research design, as it allows for an in-depth investigation of the problem at hand. Yin (2009:18) defines a case study as “an empirical inquiry that investigates a contemporary phenomenon in depth and within its real-life context, especially when the boundaries between phenomenon and context are not clearly defined”. Both qualitative and quantitative research approaches were used for this study. Data were collected through observation, document reviews, in-depth interviews and questionnaires from magistrates, court clerks, court interpreters, court reporters, the prosecutor, prison warden and the system analyst. The quantitative approach helped to collect facts and studied the relationship of one set of facts to another, and in this way, it produced generalizable conclusions. The qualitative approach was important in understanding individuals’ perceptions of matters under investigation by seeking their insights rather than perceptions of the world (Bell, 2005). Data analysis on questionnaires administered was based on the 16 questionnaires returned by the respondents out of the 27 potential respondents consulted at the court and the three interview respondents whose designations

were system analyst, prosecution counsel and prison warden. Although this study is in the field of archives and records management, archivists and records managers did not form part of the respondents, as the courts in Botswana did not have any archivists or records managers to manage their records. This seemed to be the case in some of the African countries, as [Lowry \(2013\)](#) also found in Kenya that the Judiciary computerised the judicial processes without the involvement of records managers or archivists or even consultations with the Kenya National Archives and Documentation Service. In Botswana courts, records are managed by clerks of court, court interpreters and court reporters. The response rate stood at 70 per cent. The data collected were analysed using Statistical Package of Social Sciences (SPSS) and were later presented as tables and charts after being migrated to Microsoft Excel.

4. Aims and objectives of the study

The main purpose of this study was to assess whether the introduction of the CRMS brought improvements in the management of case file records at the Gaborone Magisterial District or not and thereafter make appropriate recommendations. The objectives were drawn from construct of the two models of records life-cycle model and the continuum model.

The specific objectives of the study were as follows:

- (1) To examine the regulatory framework for electronic case file records in the Gaborone Magisterial District.
- (2) To establish how electronic case files are used through the CRMS in the Gaborone Magisterial District.
- (3) To determine how electronic case file records are preserved in the CRMS in the Gaborone Magisterial District.
- (4) To examine security measures put in place in the management of electronic case file records in the Gaborone Magisterial District.
- (5) To establish how the CRMS retains and disposes of electronic case file records in the Gaborone Magisterial District.
- (6) To come up with recommendations for the improved management of case file records through the CRMS.

5. Findings and discussions

The findings of this study are presented in accordance with study objectives as follows.

5.1 Regulatory framework for electronic case file records

The study found that there was general unawareness of the legal regulatory frameworks for the management of electronic records in the Gaborone Magisterial District by the respondents, as none of them stated any. A total of 43.8 per cent of the respondents were not aware of the existence of any records management policy at the Gaborone Magisterial District. An electronic records management policy could also not be found at the Gaborone Magisterial District. However, the 56.3 per cent who indicated that they were aware of the existence of the policy, when asked to state the name of the policy, it became apparent that they were actually not aware of any records management policy as they stated the CRMS as a records management policy. The respondents also failed to produce any policy that relates to records management, records appraisal, retention or disposal. This was despite [Kruger \(2005\)](#) pointing out in the Project Initiation Documents that it was necessary to make

suggestions for changes in the current legislation in Botswana for the realization of the full benefits of the CRMS, although he did not specify the required changes or the necessary legislation. [Velicogna \(2007\)](#) acknowledges the necessity of amending the legislation to accommodate the use of electronic records to allow the use and the exchange of electronic data and documents within judicial systems around the world. [Kruger \(2005\)](#) also indicates that the implementation of the CRMS, along with future changes to the system, must be carried out in accordance with the proposed legislative framework that will support the national ICT policy (Maitlamo), noting that while the CRMS is a driver for change, it must also comply with any likely amendments to legislation.

According to ISO 15489-1 (ISO, 2016), the policies and procedures of organisations should reflect the application of the regulatory environment to their business processes and an organisation should provide adequate evidence of its compliance with the regulatory environment in the records of its activities. [Mutula \(2004\)](#) also argues that Botswana lacked the necessary policies fully backed by government and the stakeholders to facilitate ICT development and universal service. Although the Botswana National Archives and Records Services Act of 1978 was amended in 2007 to incorporate electronic records, the Act was limited in stipulating how the electronic records should be managed. According to [Ngoepe and Keakopa \(2011:155\)](#):

The amendments made to the Act in 2007 gave the BNARS an additional mandate for records management. However, it has been argued by most records managers in the country that the amendments still fall short in strengthening its role in the management of electronic record-keeping systems.

5.2 Use and access to electronic case file records

On the usage of the CRMS, 25.0 per cent of the respondents indicated network disruptions as a challenge. Many of the respondents (31.3 per cent) indicated that a shortage of computers was a challenge in the use of the CRMS at the Gaborone Magisterial District, 6.3 per cent cited resistance to change as a challenge, 6.3 per cent cited training as a challenge and 12.5 respondents cited lack of commitments as a challenge, while 18.8 per cent indicated that network disruptions, shortage of computers and resistance to change as challenges they experienced in the use of CRMS. Through observation, the researcher was able to the computers and scanners used for CRMS were inadequate, as there were backlogs to cases to be captured into the system. In terms of servers, the System Analyst (interviewed by author) indicated that a central database server and an application server were located at Lobatse High Court. As corroborated by the System Administrator, the author also observed that there was a standby database and application server located at the court as a backup in the event of a disaster at the Lobatse centralized server. When asked about improvements brought about by the CRMS, 81.3 per cent of the respondents indicated that it brought about improvements in the management of case file records at the Gaborone Magisterial District, 12.5 per cent showed that they did not know whether there were any improvements, while only 6.35 per cent of the respondents indicated that the CRMS has not brought about any improvements.

Even though court personnel at the Gaborone Magisterial District were able to access case file records captured on the CRMS, the same advantage was not extended to the AOJ stakeholders such as the Department of Public Prosecution and the Department of Prisons and Rehabilitation. The researcher also observed the process of case file records captured on CRMS, the maintenance of files in the system, scanning of paper records into the system and the records being made accessible. However, the captured files were not archived files in the

system. This is despite the fact the Section 7 of the Magistrate's Courts Act, Chapter 04:04 (Government of Botswana, 1974) provides for access to court records and proceedings. Members of the public did not have access to electronic case files captured on the CRMS unless they were a party to the case. Section 7 of the Magistrate's Courts Act, Chapter 04:04, provides thus:

The records and proceedings of every court shall in all cases be accessible to the public under the supervision of an officer of the court at convenient times and upon payment of such fees as may be prescribed.

The law should apply to all court records, including those created and managed through the CRMS. As a result, the Gaborone Magisterial District should put measures in place to enable those permitted to access the records to access them. The continuum model recognises in the first dimension of the model that information is taken as mere traces of actions where its dissemination is limited to individual actors in the organization, but should be captured later (Troselius and Sundqvist, 2012). The Judicial Council of California (2011) also recognises that technology can save the time of the court staffs in serving the demand for court records from the media and public interested in high-profile criminal cases. Access to court records by members of the public should be done in such a way that the privacy of individuals is not compromised. Chadwick (2018) warned that the protection of personal privacy is unquestionably a legitimate concern and one that must be addressed in the adoption of any policy regarding access to electronic court records.

However, the system analyst (interviewed by author) indicated that the CRMS was a flexible enough system to allow stakeholders such as the DPP to have access to CRMS case files but the system would have to be modified for that to happen. Moreover, Kruger (2005) states in the Project Initiation Document that the CRMS would be able to interface and communicate with other applications in the Government of Botswana. It was a requirement that the CRMS should be able to interface with other applications and, in particular, the Botswana Police Systems, Social Welfare System, Attorney General's Chambers System, Botswana Prisons System, the Government Accounting and Budgeting System at the Ministry of Finance and Economic Development, as well as the Civil Registration. Kruger (2005) indicates that the stakeholder interface would have to provide for the exchange in information between the AOJ and its stakeholders (Prisons, Police, Attorney General, Accountant General, Social Welfare, private law practitioners, Industrial Court) for the purpose of processing cases. The prosecutor (interviewed by the author) indicated that the lack of electronic access, specific to the DPP, could be problematic in cases where an order is made and the details thereto are not clear, but the order must be complied with within a short period of time from the time it was made, as one needs to physically go to the court and have the paper file retrieved for purposes of obtaining the full details of an order to fully execute it. The fourth dimension of the continuum model as explained by Troselius and Sundqvist (2012) recognises the interface between the organization and the environment where the organization has to meet up with societal demands and expectations by providing authentic, reliable and useable information to promote transparency. In the context of access to the system, the CRMS did not improve access to court records as planned, as important stakeholders as named above could have access to the system. Figure 2 depicts the CRMS page used for the registration of case files upon receipt.

5.3 Preservation of electronic case file records

When asked how effective the CRMS was in preserving records, 81.3 per cent of the respondents indicated that the CRMS was effective in preserving records, 12.5 per cent

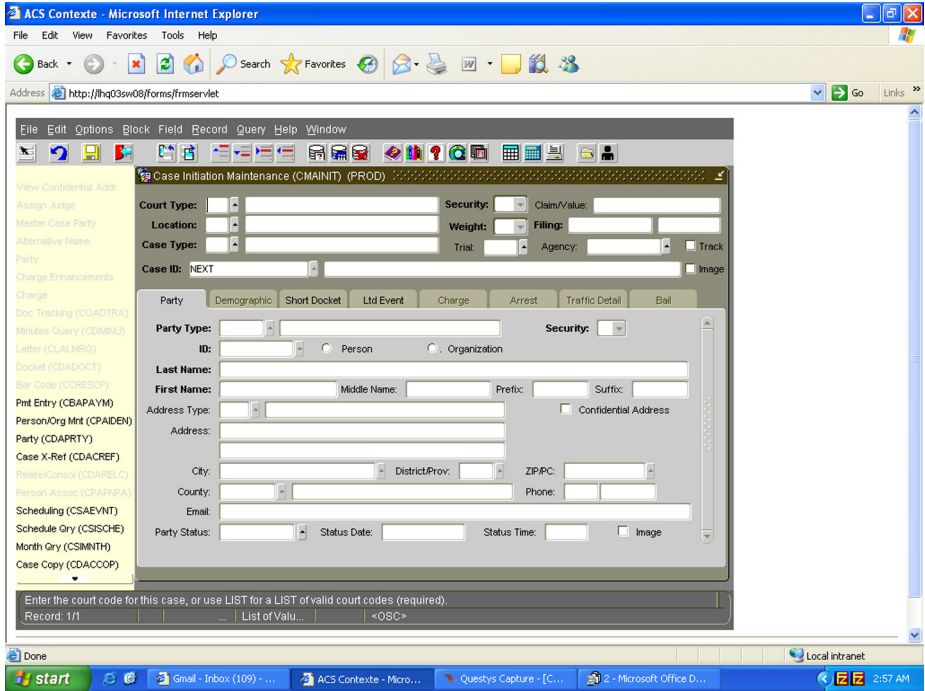


Figure 2.
CRMS registration
page by the court
personnel

indicated that they did not know whether the CRMS was effective or not, while 6.3 per cent indicated that the CRMS was not effective in preserving records. When the question was posed to the system analyst (interviewed by the author), he indicated that the migration from the old to the newer software versions is employed as a preservation measure. Even though the [Public Records Office \(2001\)](#) had observed that migration, which denotes the periodic transformation of the data from one format to another or from an earlier version to a current version of the same format (by far the most common strategy employed in any digital preservation system), was an expensive exercise and some information could be lost in the process. [The World Bank \(2005\)](#) has also warned that if e-records were to survive and be valid in the future, governments should address issues such as media instability and deterioration, obsolescence and incompatibility of hardware, software, data formats and storage media, lack of metadata or contextual information and lack of clearly assigned responsibilities and resources for long-term preservation.

A retention and disposal schedule to guide the disposition of the records could not be found at the Gaborone Magisterial District Court. [Bantin \(1998\)](#) points out that those who support the continuum model argue that archivists must intervene early in the records management process if records are to be created and preserved while those who support a life-cycle model warn that involvement early in the life cycle of records may have very harmful effects on the integrity of the record. The study has also found that no appraisal of the electronic records on the CRMS has ever been done at the Gaborone Magistrate Court, as the case file records were first captured onto the system in 2006. Appraisal, as the process of determining the value of the records, is a crucial exercise to undertake in any organisation. [Cook \(1997\)](#) argues that because there are countless ongoing series of multi-media records to

appraise within unstable organizations and because such appraisal should often occur at the computer system design stage before a single record has been created, modern appraisal should focus on the functions and transactions of the record creator, rather than on individual records and their potential uses. Unlike in a paper environment where the records managers would wait for the records to reach the inactive stage according to the life cycle of records to appraise and archive them, electronic records require that appraisal be done from the creation stage, which is in line with Upward's continuum model (Upward 2000). This is to ensure the integrity and reliability of the records created and that records with archival value are not carelessly destroyed in the quest for storage space on the system.

5.4 Disposition of electronic case file records

Respondents were asked to indicate how the CRMS disposed of non-current records. Only 5 per cent of the respondents indicated that non-current records on the CRMS were destroyed or deleted, 43 per cent of the respondents indicated that the CRMS archives the electronic non-current records, 18.8 per cent indicated that they did not know what happened to non-current records on the CRMS, while 25 per cent chose the option "Other" and indicated that the records are kept dormant in the system until they are needed in the future. When asked how case file records are disposed of on the CRMS, the system analyst (interviewed by author) indicated that the records are archived in the CRMS as they may be required by litigants in the future, albeit Kenosi's (2007) observation that even though a new generation of computers was being built every day, they still could not cope with the need for storage and, as a result of that, there was careless deletion/destruction of records. The Magistrate's Courts Act, Chapter 04:04, provides for the disposition of court records to a central place of custody after the expiration of 30 years. As the act does stipulates what this "central place of custody" is, it may be assumed that Magistrate's Courts may have their own records storage or move the records to the Botswana National Archives and Records Services (BNARS) for long-term preservation. The Botswana National Archives and Records Services Act of 1978, as amended in 2007, regulates the management of public records across the entire public service in the country. As the Gaborone Magisterial District generates electronic records, the natural transfer of non-current paper records to BNARS for preservation in accordance with the records life-cycle model should also apply to electronic records generated at the Gaborone Magisterial District. This is also expounded by the continuum model which recognises records as organizational memory in the third dimension where they should be organized and made intellectually accessible and later become the archives of the organization as well as part of society's collective memory (Troselius and Sundqvist, 2012; Upward 2000; Reed n.d.).

A study by Ngoepe and Keakopa (2011) found that BNARS did not have infrastructure to ingest electronic records in their custody for permanent preservation. A retention and disposal schedule to guide the disposition of the records could not be found at the Gaborone Magisterial District Court. Bantin (1998) points out that those who support the continuum model argue that archivists must intervene early in the records management process if records are to be created and preserved, while those who support a life-cycle model warn that involvement early in the records life cycle may have very harmful effects on the integrity of the record.

5.5 Security of electronic records in CRMS

On the question of security of e-records, 18.8 per cent of the respondents viewed records created on the CRMS as very secure, 56.3 per cent indicated they were secure, while 25.0 per cent indicated that they did not how secure the records created through the CRMS were. To

ensure the security of case files in the CRMS, limited access is provided for users and only the system administrators were allowed access to the CRMS database. This measure was meant to ensure that records on the CRMS retain their integrity and authenticity. ISO 15489 (2016) states that systems should include and apply controls on access to ensure that the integrity of the records is not compromised. They should provide and maintain audit trails or other methods to demonstrate that records were effectively protected from unauthorised use, alteration or destruction. In the second dimension of the continuum model, the information must be captured in some kind of context or system that can warrant it the status of evidence of actions enabling access to a wider group of people within the organisation (Troselius and Sundqvist, 2012; Upward 2000; Reed, 2005). Although the researcher observed that the court used firewalls, anti-virus and the use of password to log into CRMS as security measures, she also observed that officers could share passwords and the anti-virus were not updated in some computers. Figure 3 depicts the log-in page for the CRMS.

6. Recommendations

Through the data collected through observation, document reviews, in-depth interviews and questionnaires from the court personnel, the prosecutor, prison warden and the system analyst purposively chosen for this study, it was evident that CRMS was a good records management system with its ability to capture and store records. Nonetheless, some challenges experienced hampered the full utilization of the system for the improved service delivery at the court. As one of the objectives of this study was to come up with recommendations, this study therefore offers the following recommendations:

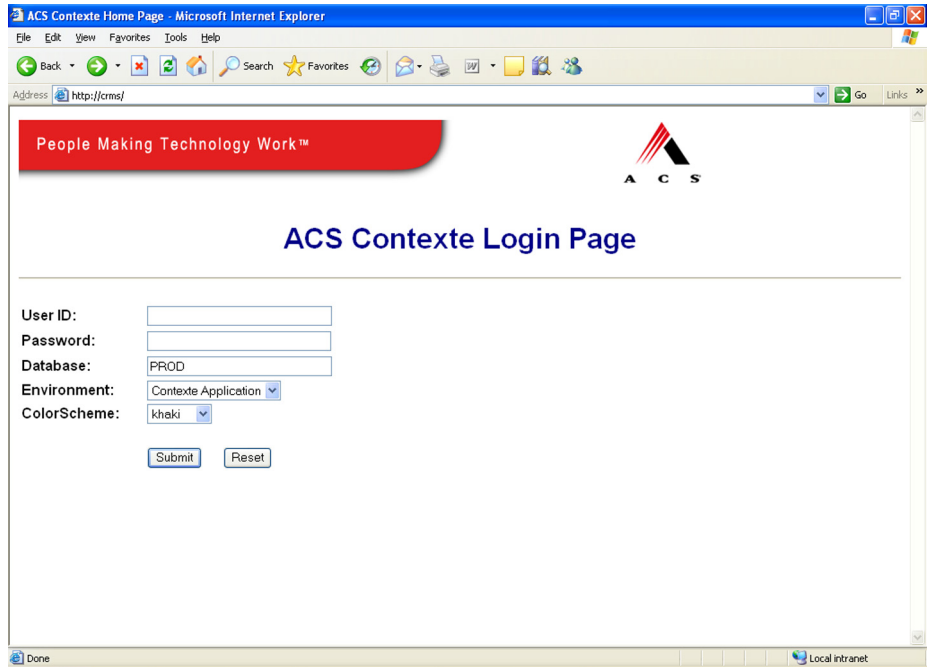


Figure 3.
CRMS login page

- *Regulatory and policy framework for e-records:* The enactment of the relevant legislation for the implementation of electronic systems in the country is a necessity as a matter of urgency as it was found lacking in this study. Moreover, the study recommends the development and implementation of e-records management policies and guidelines. There was also a need for continuous staff training on CRMS as technologies and software change regularly. BNARS, as a department legally mandated to oversee public sector records management in Botswana, should be involved in all the phases of electronic records management system implementation projects.
- *Access to electronic case file records:* As the study revealed that access to court records was limited to court personnel, it is recommended that access to the CRMS should be extended to stakeholders in the justice system. Departments such as Prosecutions and the police should have access to case file records remotely from the court to fully realize improved service delivery brought by CRMS. Improved access to court records was of the purposes of the adoption of the system specifically access to delivered judgements and miscellaneous orders of the superior courts for the purposes of precedents, synchronisation and research by all judicial officers and other stakeholders. Access to information, in this case, court records is in line with the continuum model which recognizes an interface of the organization and the environment where the organization is able to provide authentic, reliable and useable information to the society.
- *Capturing of case files:* As this study showed that delays in capturing case file records in the system were caused by low bandwidth, it recommends increased bandwidth and upgrading to the GDN to reduce delays during the capturing of case files. The study found that CRMS was able to capture records which could be used as evidence of transactions as espoused by the continuum model.
- *Security of case file records:* Security measures should be put in place in the management of electronic case file records beyond the use of password to log into the system and anti-viruses. This would ensure that CRMS generated records that can be said to be trustworthy and thus reliable and authentic enough to be acceptable as evidence before the court of law as advanced by the continuum model.
- *Preservation and disposition of electronic case file records:* AOJ should have clear preservation archiving measures set out to ensure that electronic records captured through CRMS are kept for transparency. This study recommends a retention and disposition schedule for electronic case files. Appraisal of e-records is also recommended to ensure the destruction of ephemeral records and preservation of those with archival value as well as for the improved performance of the system. The continuum model recognises the organization of information in such a way that it can later be preserved as archives of the organization as well as form part of society's collective memory.
- *Training in electronic systems:* The need for continuous training in electronic systems is a necessity. One of such training is change management training which should always be part of AOJ plans to address issues of resistance to change and lack of commitment by staff. Moreover, as CRMS is a primary records management tool, new officers should be trained as soon as they are employed in the organisation. The delays in providing new officers with training may result in delays in service delivery.

Table I.
Summary of sample
population for
the study

Sn	Court	Sample groups (Total)	Research instrument	Purposively sampled			Total
				Head of the unit	Assistant	Sub-total	
1	Broadhurst Magistrate Court	Clerks of Courts (4)	Questionnaire	1	1	2	8
		Interpreters (4)	Questionnaire	1	1	2	
		Court reporters (4)	Questionnaire	1	1	2	
		Magistrates (3)	Questionnaire	1	1	2	
2	Extension 2 Magistrate Court	Clerks of Courts (4)	Questionnaire	1	1	2	8
		Interpreters (4)	Questionnaire	1	1	2	
		Court reporters (4)	Questionnaire	1	1	2	
		Magistrates (5)	Questionnaire	1	1	2	
3	Village Magistrate Court	Clerks of Courts (4)	Questionnaire	1	1	2	9
		Interpreters (4)	Questionnaire	1	1	2	
		Court reporters (4)	Questionnaire	1	1	2	
		Magistrates (3)	Questionnaire	1	1	2	
4	DPP	Prosecutors	Interview	1	–	1	1
5	Prisons Department	Prison warders	Interview	1	–	1	1
	Total						27

7. Conclusion

This study confirmed that the CRMS which had been in use at the Gaborone Magisterial District for five years before the study was done had brought about improved service delivery at the Gaborone Magisterial District, as most of the objectives for its implementation were being achieved. However, this was not without challenges. The major findings of the study were that the CRMS was achieving its intended objectives as the system was able to produce reports on the status of case files and hence provide management with information and statistical data as long as users had captured information correctly. As most of the active case files were captured and others scanned in the system, lost or misplaced case files could always be retrieved from the system, resulting in speedy finalization of litigations. For each case registered, the status was updated as and when new documents were filed manually on paper files. As a result, less time was lost in responding to enquiries from members of the public. Prevalent challenges included inadequate bandwidth, resulting in the system being slow or not available at certain times, inadequate preservation measures and unavailability of electronic records management standards and policies. The study further revealed that even though the system adopted by the court was a records management system, it lacked compliance with accepted e-records management practices. Access to court records was limited to the court personnel. Some delays in the capturing of case files were attributed to low bandwidth experienced at the court. As a department mandated with the control of public records, BNARS was not involved in the management of CRMS case files. Despite these challenges, the study has yielded information that is vital for policymakers, stakeholders, the general public and, more importantly, the Departments of Administration of Justice in Botswana and Africa as whole. Like any other study, this study has some limitations in that it was limited to the Gaborone Magisterial District and therefore its findings may not be generalised to the rest of magistrates' courts.

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SN	Items to observe	Indicators	Observation responses	
			YES	NO
1	Availability of Records Management tools	Records management policy Appraisal strategy Records retention schedule Records disposal certificate		
2	Usage of CRMS	Data capture Records maintenance Records preservation		
3	ICT Infrastructure	Computers Scanners Servers		
4	Security of records	Access to records Usage of passwords Audit trails Firewalls		
5	E-Records	Antivirus Type of records created		

Table AI.
A check list for
personal
observations of the
court records
management system
at the Gaborone
Magisterial District

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