

# **Legal Practice and New Frontiers: Embracing Technology for Enhanced Efficiency and Access to Justice**

---

**Kariuki Muigua**

## **Legal Practice and New Frontiers: Embracing Technology for Enhanced Efficiency and Access to Justice**

**Kariuki Muigua\***

### **Abstract**

*The COVID-19 pandemic has destabilized the traditional ways through which many professions operated. One of the sectors that have seen rapid change than it has ever experienced before is the legal profession where the use of legal technology in accessing justice has been embraced by force. This has arguably marked the beginning of a trend worldwide that may only become faster even post the pandemic. Technology is revolutionizing the way businesses and various sectors operate and although it comes with its advantages and disadvantages, this paper argues that the legal profession has more to gain if they embrace technology. It explores the various ways in which the legal sector can utilise legal technology to not only enhance access to justice but also improve the efficiency of law firms, the Judiciary and even law schools.*

### **1. Introduction**

The Coronavirus disease (COVID-19) pandemic has unsettled not only the global economy but also many professions and they are all seeking to stay afloat during the pandemic. Due to the preventive measures recommended by the World Health Organisation which include social distancing among others, it has become almost impossible for professionals to operate from their traditional physical offices. The legal profession has not been spared either. The legal practice in many parts of the world including the African continent has been by way of physical attendance in courtrooms where the judges and magistrates, advocates and witnesses physically present their cases. The physical presence of employees in law firms has also become difficult.<sup>1</sup> Court hearings are being conducted virtually via online platforms. Arguably, this has disrupted the profession in a way not experienced before.

---

*\* PhD in Law (Nrb), FCI Arb (Chartered Arbitrator), LL. B (Hons) Nrb, LL.M (Environmental Law) Nrb; Dip. In Law (KSL); FCPS (K); Dip. In Arbitration (UK); MKIM; Mediator; Consultant: Lead expert EIA/EA NEMA; BSI ISO/IEC 27001:2005 ISMS Lead Auditor/ Implementer; Advocate of the High Court of Kenya; Senior Lecturer at the University of Nairobi, School of Law; CASELAP.*

<sup>1</sup> Meganne Tillay | February 28 and 2020 at 03:39 AM, 'Baker McKenzie Shuts Down London Office Following Coronavirus Scare' (*Law.com International*) <<https://www.law.com/international-edition/2020/02/28/baker-mckenzie-shuts-down-london-office-following-coronavirus-scare/>> accessed 3 June 2020.

Apart from the effects of pandemic, the changes in the legal sector have also been largely attributed to the ascendancy of information technology, the globalization of economic activity, the blurring of differences between professions and sectors, and the increasing integration of knowledge.<sup>2</sup> Technology has greatly impacted the way law and law firms are operating in this era as far as enhancing efficiency is concerned.<sup>3</sup>

In this paper, ‘legal technology’ (Legal Tech) is used to mean the use of technology and software to provide and aid legal services.<sup>4</sup> Legal Technology applies technology and software to assist Law Firms in practice management, billing, big data, e-discoveries, predictive analytics, knowledge management and document storage.<sup>5</sup>

While Legal Tech is meant to enable the bigger firms improve overall efficiency in order to adapt to a progressively popular agile working environment, it also allows smaller firms and sole practitioners to compete with the leading names in the field, giving them access to powerful research tools.<sup>6</sup>

This paper discusses these new developments and proceeds on the hypothesis that even though the profession may resume its normal traditional mode of operation, it is now time for the legal practitioners to consider adopting this way of doing things.

The paper specifically looks at legal practice in Kenya and explores recommendations on how best the legal practitioners in the country as well as the Judiciary can tap into technology to sustain

---

<sup>2</sup> Kellogg Sarah, ‘Cover Story: The Transformation of Legal Education’ *From Washington Lawyer, May 2011* <<https://www.dcb.org/bar-resources/publications/washington-lawyer/articles/may-2011-legal-education.cfm>> accessed 4 June 2020.

<sup>3</sup> Abigail Hess, ‘Experts Say 23% of Lawyers’ Work Can Be Automated—Law Schools Are Trying to Stay Ahead of the Curve’ (*CNBC*, 7 February 2020) <<https://www.cnb.com/2020/02/06/technology-is-changing-the-legal-profession-and-law-schools.html>> accessed 5 June 2020; Alej, ro Miyar | February 06 and 2020 at 09:46 AM, ‘Technology Trends That Will Affect the Legal Profession in 2020’ (*Daily Business Review*) <<https://www.law.com/dailybusinessreview/2020/02/06/technology-trends-that-will-affect-the-legal-profession-in-2020/>> accessed 5 June 2020; Singapore Academy of Law, ‘Deep Thinking: The Future Of The Legal Profession In An Age Of Technology’ (*Medium*, 19 July 2019) <<https://medium.com/@singaporeacademyoflaw/deep-thinking-the-future-of-the-legal-profession-in-an-age-of-technology-6b77e9ddb1e9>> accessed 5 June 2020; ‘Disruptive Technology in the Legal Profession’ (*Deloitte United Kingdom*) <<https://www2.deloitte.com/uk/en/pages/financial-advisory/articles/the-case-for-disruptive-technology-in-the-legal-profession.html>> accessed 5 June 2020; ‘New Technologies and the Legal Profession’ (*nyujlb*) <<https://www.nyujlb.org/single-post/2019/04/08/New-Technologies-and-the-Legal-Profession>> accessed 5 June 2020; Tanya Du Plessis, ‘Competitive Legal Professionals’ Use of Technology in Legal Practice and Legal Research’ (2008) 11 *Potchefstroom Electronic Law Journal*.

<sup>4</sup> ‘What Is Legal Technology And How Is It Changing Our Industry?’ (*The Lawyer Portal*, 29 January 2019) <<https://www.thelawyerportal.com/blog/what-is-legal-tech-and-how-is-it-changing-industry/>> accessed 3 June 2020.

<sup>5</sup> ‘Business Models for Law Firms - p.Xel Marketing Agency’ <<https://www.p-xel.co/business-models-for-digital-disruption-in-the-legal-industry/>> accessed 5 June 2020.

<sup>6</sup> ‘What Is Legal Technology And How Is It Changing Our Industry?’ <<https://www.thelawyerportal.com/blog/what-is-legal-tech-and-how-is-it-changing-industry/>> accessed 5 June 2020.

virtual attendance of courts albeit alongside the traditional court attendance. The paper however approaches the subject of legal practice generally and does not make any attempt to look at the various disciplines of practice. It adopts a generalized approach to the term ‘legal practice’.

## **2. Use of Legal Technology within the Legal Profession in Kenya: Progressive or Conservative Profession?**

A broad approach to the term “Legal profession” may be used to refer to all those who are in some capacity engaged in the working of the legal system, including judges, advocates, government lawyers, prosecutors, academics, paralegals and law reformers.<sup>7</sup> All these persons play a crucial role in administration of justice and offering legal training for capacity building in the sector. They are therefore all relevant in the context of this paper as it deals with how all the stakeholders in the legal sector can embrace technology as a tool for enhancing accessing to justice for all.

With the Colonial incursion in Africa came the introduction of the formal justice systems that before then were non-existent and even unknown.<sup>8</sup> In Kenya especially, this was necessitated by the emergence of private ownership of property by the colonialists particularly the settlers, and there arose the need for protection of their rights to the property and also enforcing the same against others, especially the Africans who had been rendered landless.<sup>9</sup> However, even after the colonialists left, there was no turning back as far as formal justice system was concerned.

The Government of Kenya continued to invest, albeit at an unsatisfactory pace, in ensuring that courts were put up across the country as the main system of access to justice. The legal profession has since played a major role in facilitating access to justice. However, it is not always easy for Kenyans to access justice due to a myriad of challenges. Some of the documented challenges facing access to justice over the years include but are not limited to: legal, institutional and structural challenges; Institutional and procedural obstacles; Social barriers; and Practical and economic challenges.<sup>10</sup> Closely related to these are high court fees, geographical location, complexity of

---

<sup>7</sup> Ghai, Y.P. and Cottrell, J. eds., *The legal profession and the new constitutional order in Kenya*. Strathmore University Press, 2014 < [https://www.kas.de/c/document\\_library/get\\_file?uuid=56ba9291-7c05-98d5-96b1-8161785ff854&groupId=252038](https://www.kas.de/c/document_library/get_file?uuid=56ba9291-7c05-98d5-96b1-8161785ff854&groupId=252038)> 30 May 2020, p. 16.

<sup>8</sup> See Muigua, K., *Alternative Dispute Resolution and Access to Justice in Kenya*, Glenwood Publishers, Nairobi, 2015, p.61.

<sup>9</sup> Ibid, p.61.

<sup>10</sup> Access to Justice–Concept Note for Half Day General Discussion Endorsed by the Committee on the Elimination of Discrimination against Women at its 53<sup>rd</sup> Session, p. 9. Available at

rules and procedure and the use of legalese.<sup>11</sup> These are challenges that directly impact on the general public's ability to seek and access justice.

These domestic challenges are compounded by economic turbulence due to societal and economic changes; adaption to new technology; compliance and ethical issues; and continuing professional development which directly impact on the legal profession especially the lawyers.<sup>12</sup> The changing times and the above listed challenges have made clients to continue to demand efficiency and responsiveness from their lawyers for less cost. Clients expect their lawyers to focus more on the outcome and less on time spent on a legal matter.<sup>13</sup> The legal profession is also facing competitive pressures from accountants, realtors, financial advisors, and others – enabled by the Internet which is making it easier for them to compete.<sup>14</sup> The lawyers also face competition from global legal service providers, as the doors to transnational practice by lawyers widen by the World Trade Organization's General Agreement on Trade in Services (GATS) and regional integration.<sup>15</sup>

While lawyers have long been characterized as technology antagonists who are slow to change and wary of innovation<sup>16</sup>, law practice has slowly but surely moved from an era of using desktop phones, filing cabinets, and yellow legal pads to a period when all these have been replaced by laptops, tablets, cell phones, and other mobile devices and often virtual or cloud-based platforms.<sup>17</sup> In addition, majority of clients' documents are stored on hard drives or in the cloud, while layers of difficult-to-access "metadata" contain hidden information that could influence lawyers' decisions.<sup>18</sup> This development in technology has come with tremendous improvement in not only efficiency but has also enhanced the security of clients' data. While this has been the trend

---

<http://www.ohchr.org/Documents/HRBodies/CEDAW/AccessToJustice/ConceptNoteAccessToJustice.pdf> > 30 May 2020.

<sup>11</sup> *Strengthening Judicial Reform in Kenya: Public Perceptions and Proposals on the Judiciary in the new Constitution*, ICJ Kenya, Vol. III, May, 2002; See also Kariuki Muigua, *Avoiding Litigation through the Employment of Alternative Dispute Resolution*, pp 6-7, a Paper presented by the author at the In-House Legal Counsel, Marcus Evans Conference at the Tribe Village Market Hotel, Kenya on 8<sup>th</sup> & 9<sup>th</sup> March, 2012.

Available at <http://www.chuitech.com/kmco/attachments/article/101/Avoiding.pdf> > 30 May 2020.

<sup>12</sup> Mboya, Apollo, 'The Bar: Challenges and Opportunities', in Ghai, Y.P. and Cottrell, J. eds., *The legal profession and the new constitutional order in Kenya*. Strathmore University Press, 2014, p. 242.

<sup>13</sup> *Ibid*, p. 242.

<sup>14</sup> *Ibid*, p. 242.

<sup>15</sup> *Ibid*, p. 242.

<sup>16</sup> 'Ready or not: artificial intelligence and corporate legal departments' <<https://legal.thomsonreuters.com/en/insights/articles/artificial-intelligence-ai-report>> accessed 5 June 2020.

<sup>17</sup> Gaffney Nick, 'Law Practice Management: Transforming a Law Practice with Technology' <[https://www.americanbar.org/groups/gpsolo/publications/gp\\_solo/2017/september-october/law-practice-management-transforming-law-practice-technology/](https://www.americanbar.org/groups/gpsolo/publications/gp_solo/2017/september-october/law-practice-management-transforming-law-practice-technology/)> accessed 3 June 2020.

<sup>18</sup> *Ibid*.

worldwide, it is not difficult to find Kenyan law firms still struggling with the ‘outdated’ way of doing things around the office. Indeed, it is only recently that digital signatures and service of pleadings started taking root in the country.

It is still a concern on whether the Kenyan lawyers are ready to embrace technology to enhance efficiency and cut down on costs of doing business for the general public. In 2018<sup>19</sup>, the Law Society of Kenya (LSK) went to court to oppose a decision by the Ministry of Lands and Physical Planning to digitize the land transactions processes at the land registry through the National Land Information Management System (NLIMS) arguing that the ministry had failed to consult the relevant stakeholders as required.<sup>20</sup> The LSK also argued that the regulations establishing the legal framework for electronic conveyancing are pending before Parliament.<sup>21</sup> In addition, The LSK further argued that rural Kenya still faces huge electricity and power challenges and that many Kenyans with no access to internet and online portal and risk being dispossessed of their lands.<sup>22</sup> While these arguments are certainly valid, and ones that may not be strictly interpreted to mean that LSK is opposed to the process, LSK must realise that the future of practice lies in embracing technology. The general public has been advocating for the digitization of land records to cut costs and for efficiency purposes.<sup>23</sup> The need for digitization has been demonstrated by the COVID-19 pandemic which has necessitated the closure of all registries following an advisory by the National Emergency Response Committee on the management of Covid-19.<sup>24</sup> The continued closure of registries negatively affected businesses with pending and anticipated land transactions.<sup>25</sup> With the

---

<sup>19</sup> Sunday, March 18 and 2018 15:36, ‘Land Ministry in Fresh Bid to Digitise Records’ (*Business Daily*) <<https://www.businessdailyafrica.com/economy/Land-ministry-in-fresh-bid-to-digitise-records/3946234-4347056-go3sg/index.html>> accessed 3 June 2020.

<sup>20</sup> ‘Lands Ministry Wants Orders Stopping Digitisation Lifted’ (*Daily Nation*) <<https://www.nation.co.kehttps://www.nation.co.ke/dailynation/news/lands-ministry-wants-orders-stopping-digitisation-lifted--38664>> accessed 3 June 2020; Kamau Muthoni, ‘LSK Sues Ministry over Online Land Transactions’ (*The Standard*) <<https://www.standardmedia.co.ke/article/2001277226/lsk-sues-ministry-over-online-land-transactions>> accessed 3 June 2020.

<sup>21</sup> Ibid.

<sup>22</sup> Wednesday, April 18 and 2018 10:25, ‘Lawyers Reject Automation of Land Deals in Court Suit’ (*Business Daily*) <<https://www.businessdailyafrica.com/economy/Lawyers-reject-automation-of-land-deals-in-court-suit/3946234-4421556-p3kd3g/index.html>> accessed 3 June 2020.

<sup>23</sup> Monday, March 19 and 2018 18:19, ‘EDITORIAL: Fulfil Digitisation Promise’ (*Business Daily*) <<https://www.businessdailyafrica.com/analysis/editorials/Fulfil-digitisation-promise/4259378-4348512-ayf632z/index.html>> accessed 3 June 2020.

<sup>24</sup> ‘Lands CS Karoney Extends Land Registries Lockdown’ (*People Daily*, 15 April 2020) <<https://www.pd.co.ke/business/economy-and-policy/lands-cs-karoney-extends-land-registries-lockdown-32930/>> accessed 3 June 2020.

<sup>25</sup> Ibid.

use of technology, such challenges may be overcome. Rwanda is considered to be one of the few African nations that have managed to move all their land records online and is considering introducing blockchain.<sup>26</sup>

In the sections below, this paper explores the various technological developments that the legal profession in Kenya can embrace and use to not only enhance access to justice but also enhance efficiency and productivity for increased business opportunities.

### **3. Legal Practice in the 21<sup>st</sup> Century: Challenges and Prospects**

The COVID-19 pandemic has notably created an unprecedented state of affairs where lawyers and other law firm staff have left their offices and forced to work from their homes, where they now juggle their legal work with child care, household management and plenty of other obligations.<sup>27</sup> This has not only changed the way lawyers view their approach to legal work but has also created an opportunity for them to weigh and reconsider how law firms will operate in the near future.

Some commentators in the legal field have reported that as law firms embrace the idea of working remotely due to the COVID-19 pandemic, there has been a growing likelihood that physical offices will look very different in the future compared to what they are now.<sup>28</sup> These are some of the expected and unexpected effects of the COVID-19 pandemic on law firms where remote working is expected to take off as never before and firms will operate with more prudent and flexible financial models.<sup>29</sup>

It has been observed that young lawyers are the set of lawyers that came into practice within the 21st century, so they face a unique set of challenges which older lawyers of the earlier generations never had to face.<sup>30</sup> Some of the highlighted challenges facing them include: lack of job opportunities; lack of mentorship from older lawyers; lack of funding; lack of a firm structure;

---

<sup>26</sup> ‘Kenyan Lawyers Wrangle with Government over Land Registry Digitization’ *Reuters* (7 May 2018) <<https://www.reuters.com/article/us-kenya-landrights-idUSKBN1I81K1>> accessed 3 June 2020.

<sup>27</sup> Samantha Stokes | April 27 and 2020 at 06:59 PM | The original version of this story was published on The American Lawyer, ‘The Coronavirus Will Change the Legal Industry’s Approach to Remote Work—But How?’ (*Law.com International*) <<https://www.law.com/international-edition/2020/04/27/the-coronavirus-will-change-the-legal-industrys-approach-to-remote-work-but-how-378-140355/>> accessed 3 June 2020.

<sup>28</sup> Paul Hodkinson | May 05 and 2020 at 01:00 AM | The original version of this story was published on The American Lawyer, ‘Welcome to the Law Firm Office of the Future: Smaller, Higher-Tech and One-Way’ (*Law.com International*) <<https://www.law.com/international-edition/2020/05/05/smaller-higher-tech-and-one-way-welcome-to-the-law-firm-office-of-the-future/>> accessed 3 June 2020.

<sup>29</sup> *Ibid.*

<sup>30</sup> Kingsley Ugochukwu Ani, ‘The 21st Century Lawyer: Challenges and Prospects’ (Social Science Research Network 2018) SSRN Scholarly Paper ID 3270279 <<https://papers.ssrn.com/abstract=3270279>> accessed 5 June 2020.

location; personal branding; exposure; career projectory; resources; difficulty in getting new work; and limited networking.<sup>31</sup> Despite this, the 21<sup>st</sup> century lawyer is considered as one with ‘staggering prospects which has the potential to pay off mightily’.<sup>32</sup> It has been argued that the strength of the 21<sup>st</sup> century young lawyer lies in the understanding and use of Technology as a practice tool and area of core competence.<sup>33</sup> This is because, it has been acknowledged, the current world has become tech-driven and information-powered, such that the entire spectrum of communications is available at the click of a button.<sup>34</sup> The world is becoming more interconnected and smaller with the click of a button, and as such, the 21<sup>st</sup> century lawyer who is analytical savvy and business-smart enough to navigate through the technology maze is considered lucky as they have the capacity to cast their law practice net across a huge spread of the population.<sup>35</sup> With increased knowledge and specialization as a result of the many areas that come with the growth and development of technology, the 21<sup>st</sup> century lawyer can use all this to shape the course of their practice. Client demands have become primary drivers of change within the legal profession.<sup>36</sup> The next section looks at some of these opportunities and how modern lawyers can exploit them to their advantage in order to remain relevant in a fast changing world.

#### **4. Enhancing Access to Justice through Embracing Technology in the Legal Practice**

##### **4.1 Artificial Intelligence for Enhanced Productivity**

Artificial intelligence (AI) defined as “the science and engineering of making intelligent machines” that employ “cognitive computing” (enabling computers to learn, reason, perceive, infer, communicate, and make decisions like humans do), and it encompasses many branches such

---

<sup>31</sup> Kingsley Ugochukwu Ani, ‘The 21st Century Lawyer: Challenges and Prospects’ (Social Science Research Network 2018) SSRN Scholarly Paper ID 3270279 <<https://papers.ssrn.com/abstract=3270279>> accessed 5 June 2020.

<sup>32</sup> Ibid, p. 9.

<sup>33</sup> Ibid, p.9; See also ‘Tech Competence a Must | Canadian Lawyer’ <<https://www.canadianlawyermag.com/news/opinion/tech-competence-a-must/274463>> accessed 5 June 2020; ‘Shaping the 21st-Century Lawyer - IE Law Hub’ <<https://lawahead.ie.edu/shaping-the-21st-century-lawyer/>> accessed 5 June 2020; Alyson Carrel, ‘Legal Intelligence Through Artificial Intelligence Requires Emotional Intelligence: A New Competency Model for the 21st Century Legal Professional’ (2019) 35.

<sup>34</sup> Ibid, p.10; See also ‘Eight Ways Technology Is Changing Business’ <<https://www.gomodus.com/blog/eight-ways-technology-changing-business>> accessed 5 June 2020.

<sup>35</sup> Ibid, p. 10; See also Moore, Thomas R. "The Upgraded Lawyer: Modern Technology and Its Impact on the Legal Profession." *UDC/DCSL L. Rev.* 21 (2019): 27; Anyim, Wisdom Okereke. "E-Lawyering and Virtual Law Practice: A Paradigm Shift for Law Library System." *Library Philosophy and Practice* (2019): 0\_1-16.

<sup>36</sup> ‘Future Law Office 2020: Redefining the Practice of Law | Robert Half’ <<https://www.roberthalf.com/research-and-insights/workplace-research/future-law-office-2020-redefining-the-practice-of-law>> accessed 5 June 2020.

as machine learning (ML) including deep learning and predictive analytics, and natural language processing (NLP).<sup>37</sup>

It has been observed that while AI has made a transformative impact on every industry and profession, its potential for use in the legal profession has not been tapped adequately. This is because the legal services market remains ‘profoundly under digitized, tradition-bound, and slow to embrace novel technologies and tools’.<sup>38</sup>

However, Artificial Intelligence (AI) companies have continually developed and used technology that helps manage laborious tasks in different industries for better speed and accuracy, and the legal profession is no different as AI has already found its way into supporting lawyers and clients alike.<sup>39</sup> Basically, AI can and has indeed been used to: perform due diligence – litigators carry out due diligence with the help of AI tools to uncover background information; prediction technology – An AI software generates results that forecast litigation outcome; legal analytics – lawyers can use data points from past case law, win/loss rates and a judge’s history to be used for trends and patterns; document automation – law firms use software templates to create filled out documents based on data input; intellectual property – AI tools guide lawyers in analyzing large Intellectual Property (IP) portfolios and drawing insights from the content; and electronic billing – lawyers’ billable hours are computed automatically.<sup>40</sup> In addition to the foregoing, AI can and has been applied to save lawyers enormous amount of time while achieving efficiency in legal contracts review.<sup>41</sup> These are just examples of where AI technology may be used in enhancing legal practice in modern times going forward.

The legal profession needs to embrace AI, as it has a lot of potential to benefit from this technology in order to work more productively and spend less time on monotonous tasks, thus achieving

---

<sup>37</sup> Duggal Vishal, ‘Role of AI in Legal Practice’ (*Engineers Garage*, 23 January 2020) <<https://www.engineersgarage.com/featured/role-of-ai-in-legal-practice/>> accessed 5 June 2020.

<sup>38</sup> Duggal Vishal, ‘Role of AI in Legal Practice’ (*Engineers Garage*, 23 January 2020) <<https://www.engineersgarage.com/featured/role-of-ai-in-legal-practice/>> accessed 5 June 2020.

<sup>39</sup> Daniel Faggella, ‘AI in Law and Legal Practice – A Comprehensive View of 35 Current Applications’ (*Emerj*) <<https://emerj.com/ai-sector-overviews/ai-in-law-legal-practice-current-applications/>> accessed 5 June 2020.

<sup>40</sup> Daniel Faggella, ‘AI in Law and Legal Practice – A Comprehensive View of 35 Current Applications’ (*Emerj*) <<https://emerj.com/ai-sector-overviews/ai-in-law-legal-practice-current-applications/>> accessed 5 June 2020; Law Technology Today, ‘Three Ways Law Firms Can Use Artificial Intelligence’ (*Law Technology Today*, 19 February 2019) <<https://www.lawtechnologytoday.org/2019/02/three-ways-law-firms-can-use-artificial-intelligence/>> accessed 5 June 2020; Duggal Vishal, ‘Role of AI in Legal Practice’ (*Engineers Garage*, 23 January 2020) <<https://www.engineersgarage.com/featured/role-of-ai-in-legal-practice/>> accessed 5 June 2020.

<sup>41</sup> Raghav Bharadwaj, ‘Applying AI to Legal Contracts – What’s Possible Now’ (*Emerj*) <<https://emerj.com/ai-podcast-interviews/applying-ai-legal-contracts-whats-possible-now/>> accessed 5 June 2020.

convenience, freedom from mundane work, and saving more time for other aspects of the job such as analyses, counseling, negotiations, and court visits.<sup>42</sup>

There is a need for law schools to work with experts and professionals in the areas of Artificial Intelligence in order to equip their students with AI certifications at the law school as a first step towards preparing them for the future. Deloitte predicts at least 100,000 legal roles will be automated by 2036 and law firms will start using new talent strategies by 2020, a prediction that is already taking shape.<sup>43</sup>

The initial cost of investment in infrastructure may be very high but it may be worth it to make the learning institutions relevant and competitive. While experts and stakeholders in this area continue to explore the benefits and shortcomings of use of AI in the legal profession and ways of overcoming the same, lawyers will need to get ready to embrace the idea since it has already started being used and this will only increase with time.

#### **4.2 Investing in Virtual Hearings Infrastructure**

With the emergence of the COVID-19 pandemic, courts in many countries around the world were forced to rethink their approach to administration of justice both quickly and efficiently in order to ensure that, where possible, hearings can proceed.<sup>44</sup> This has led them to adopt virtual hearings – conducting hearings remotely in order to minimise the risk of transmission of COVID-19 and ensure the health of all parties in attendance is maintained.<sup>45</sup> While the pandemic will certainly pass, there is a need for both courts and law practitioners to think about investing in virtual hearings post COVID-19. It is commendable that the Judiciary recently embarked on enhancing the use of technology in judicial proceedings in all courts, especially during the COVID-19 pandemic period, including the use of: (a) e-filing; (b) e-service of documents; (c) digital display devices; (d) real

---

<sup>42</sup> Law Technology Today, ‘Three Ways Law Firms Can Use Artificial Intelligence’ (*Law Technology Today*, 19 February 2019) <<https://www.lawtechnologytoday.org/2019/02/three-ways-law-firms-can-use-artificial-intelligence/>> accessed 5 June 2020.

<sup>43</sup> Law Technology Today, ‘Three Ways Law Firms Can Use Artificial Intelligence’ (*Law Technology Today*, 19 February 2019) <<https://www.lawtechnologytoday.org/2019/02/three-ways-law-firms-can-use-artificial-intelligence/>> accessed 5 June 2020; Duggal Vishal, ‘Role of AI in Legal Practice’ (*Engineers Garage*, 23 January 2020) <<https://www.engineersgarage.com/featured/role-of-ai-in-legal-practice/>> accessed 5 June 2020; Lexology-Victoria Arnold, ‘How Your Legal Department Can Benefit from AI Contract Management | Lexology’ <<https://www.lexology.com/library/detail.aspx?g=7fcc7e37-301d-4828-bffd-e525960e0cbb>> accessed 5 June 2020.

<sup>44</sup> ‘Virtual Hearings: The Way Forward in the UK in Uncertain Times’ <<https://www.dentons.com/en/insights/alerts/2020/march/29/virtual-hearings-the-way-forward-in-the-uk-in-uncertain-times>> accessed 5 June 2020.

<sup>45</sup> *Ibid*,

time transcript devices; (e) video and audio conferencing; (f) digital import devices; and (g) computers in the court.<sup>46</sup> All that is required now is for continued use of the same post COVID-19 pandemic period as well as infrastructural investment to ensure that the processes run smoothly and efficiently. This may also call for equipping the courts and all registries with the relevant infrastructure through setting up some permanent virtual courts and tribunals.

This technology will come in handy in not only saving time but also resources, which in many countries especially in Africa, are still limited. As for law firms, investing in virtual hearings infrastructure in their practice may lead to better administration of justice and also help reach out to a wider class of clients both within the country and across borders. It will also work for the benefit of their employees since it offers them the much needed work-life balance.

It has been suggested that while spending more time outside the office may become commonplace as law firms and legal departments adopt collaborative technologies and reduce real estate costs, easier-to-use video technologies similar to FaceTime may actually promote efficiency and job satisfaction by putting the human element back in business communications.<sup>47</sup>

With increased globalisation, lawyers can tap into this infrastructure to serve clients from the comfort of their homes or offices regardless of the geographical location or distance. Lawyers can use the technology to tap into the ever growing international Alternative modes of Dispute Resolution such as international arbitration, mediation and Online Disputes Resolution (ODR) especially in the face of rapidly growing networking and borderless legal practice, with the introduction of diverse social media platforms that allow interconnectivity beyond the national boundaries and enabling cross-border relationships between clients and their lawyers and law firms amongst themselves.<sup>48</sup> They should tap into the tremendous growth of international trade, interstate deals, bilateral and multilateral treaties, where legal practice is increasingly becoming

---

<sup>46</sup> 'Kenya Law: Electronic Case Management Practice Directions, 2020' <<http://kenyalaw.org/kl/index.php?id=10211>> accessed 5 June 2020, Rule 6.

<sup>47</sup> Zach Warren | January 15 and 2020 at 03:30 PM | The original version of this story was published on Legaltch News, 'The Future of Legal Tech Is About Transformation, Not Automation' (*The American Lawyer*) <<https://www.law.com/americanlawyer/2020/01/15/the-future-of-legal-tech-is-about-transformation-not-automation/>> accessed 3 June 2020.

<sup>48</sup> Emmanuel Oluwafemi Olowononi and Ogechukwu Jennifer Ikwuanusi, 'Recent Developments in 21st Century Global Legal Practice: Emerging Markets, Prospects, Challenges and Solutions for African Lawyers' (2019) 5 KIU Journal of Social Sciences 31; Samuel Omotoso, 'Law, Lawyers And The Social Media In The 21st Century: Challenges And Prospects' Law, Lawyers And The Social Media In The 21st Century: Challenges And Prospects <[https://www.academia.edu/40663364/LAW\\_LAWYERS\\_AND\\_THE\\_SOCIAL\\_MEDIA\\_IN\\_THE\\_21ST\\_CENTURY\\_CHALLENGES\\_AND\\_PROSPECTS](https://www.academia.edu/40663364/LAW_LAWYERS_AND_THE_SOCIAL_MEDIA_IN_THE_21ST_CENTURY_CHALLENGES_AND_PROSPECTS)> accessed 5 June 2020.

global and smart practitioners must therefore up their game with international best practices as with the advent of internet, telecommunication systems, clients are no longer limited to lawyers in their regions nor are they limited to the need for legal services within their jurisdiction.<sup>49</sup>

As it has rightly been pointed out, ‘the COVID-19 pandemic may prove a catalyst for Courts to embrace technology and reduce their reliance on in-person hearings and hard copy documents, particularly for case management purposes, even after the pandemic. As such, developing good virtual hearing practices now is likely to pay significant dividends in the future’.<sup>50</sup>

### **4.3 Safeguarding the Privacy of Data: Transfer, Processing and Storage of Data**

Most modern businesses including law firms have increasingly found themselves bound by data privacy laws at the national and international levels, requiring companies to know where they are storing Personally Identifiable Information (PII) and Personal Health Information (PHI) and wrap tight controls around the processing, use, and transfer of such PII and PHI.<sup>51</sup> The effect of this will become even more clearer as firms embrace technology due to the high risks and challenges posed by technology as far as such data is concerned.<sup>52</sup> The challenge is especially great when it comes to legal processes that require extraordinary care in the identification and handling of PII and PHI on very tight turnaround times: data breach notification workflows, Data Subject Access Requests (DSARs), and cross-border e-discovery projects.<sup>53</sup> Notably, law firms have started cross broader practice where firms in different jurisdictions collaborate either directly or through legal organisations to enable them serve clients in different countries.<sup>54</sup> Data protection laws in one country may not be necessarily as advanced as those in another country hence the need for firms

---

<sup>49</sup> Ibid, p. 34.

<sup>50</sup> ‘The Remote Courtroom: Tips and Tricks for Online Hearings’ <<https://www.ashurst.com/en/news-and-insights/legal-updates/the-remote-courtroom-tips-and-tricks-for-online-hearings/>> accessed 5 June 2020.

<sup>51</sup> Katharine Perekslis, ‘Four Strategies to Navigate Data Privacy Obligations for Compliance, Litigation, and E-Discovery Professionals’ (*Law.com*) <<https://www.law.com/native/?mvi=7bd540437dde4b60991f35c257adc521>> accessed 3 June 2020.

<sup>52</sup> Ibid.

<sup>53</sup> Ibid.

<sup>54</sup> International Bar Association, ‘What model for cross-border joint practice?’ *A handbook for bar associations*, <[www.ibanet.org](http://www.ibanet.org)> Document › Default› 5 June 2020; ‘Global Law Firms: Globalization and Organizational Spaces of Cross-Border Legal Work by Jonathan Beaverstock, Daniel Muzio, Peter J. Taylor, James Faulconbridge :: SSRN’ <[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1155048](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1155048)> accessed 5 June 2020.

to invest heavily in this area to not only win the trust of clients and partners in another country but also to avoid the legal hurdles that may come with breach of such data privacy.<sup>55</sup>

There is a need for local firms to make a conscious decision to invest in data protection infrastructure that will enable them to work efficiently and protect their clients' data regardless of the status of the local data protection laws. As law firms and corporate legal departments look for cost-effective ways to enhance the delivery of legal services, they should seek paralegals and legal assistants with expertise in technology-driven systems who can help the firm operate more efficiently in order to not only facilitate efficiency but also guarantee privacy of data.<sup>56</sup>

There may be a need for the policymakers to work closely with other stakeholders to relook into the existing laws on data protection in order to enhance their effectiveness.

Relevant law firm and Judiciary staff should also be equipped with the necessary skills and knowledge regarding data protection. Such skills and knowledge mainly include Information security management, which is a set of policies and procedural controls that Information Technology (IT) and business organizations implement to secure their informational assets against threats and vulnerabilities-information security.<sup>57</sup> Such staff would be responsible for managing the institution/firm's Information Security Management System (ISMS). ISMS is necessary for ensuring that any data is guaranteed confidentiality, integrity and it is easily available when required. Notably, whether the data collected is maintained in digital or physical format, the discipline of Information Security Management is still critical to protecting the data from unauthorized access or theft.<sup>58</sup> This is because every technology-driven business process is

---

<sup>55</sup> United Nations Conference On Trade And Development, 'Data protection regulations and international data flows: Implications for trade and development,' UNCTAD/WEB/DTL/STICT/2016/1/iPub, United Nations, 2016 <[https://unctad.org/en/PublicationsLibrary/dtlstict2016d1\\_en.pdf](https://unctad.org/en/PublicationsLibrary/dtlstict2016d1_en.pdf) >5 June 2020; 'How Organizations Can Stay Ahead of Changing Privacy Laws' (*Digital Guardian*, 22 August 2019) <<https://digitalguardian.com/blog/how-organizations-can-stay-ahead-changing-privacy-laws>> accessed 5 June 2020.

<sup>56</sup> 'Future Law Office 2020: Redefining the Practice of Law | Robert Half' <<https://www.roberthalf.com/research-and-insights/workplace-research/future-law-office-2020-redefining-the-practice-of-law>> accessed 5 June 2020.

<sup>57</sup> 'What Is Information Security Management?' (*Sumo Logic*) <<https://www.sumologic.com/glossary/information-security-management/>> accessed 5 June 2020.

<sup>58</sup> Ibid.

exposed to security and privacy threats and the legal profession is no different.<sup>59</sup> The security controls can follow common security standards or be more focused on the industry.<sup>60</sup>

#### **4.4 Rolling out E-literacy Trainings/Education**

With the expected increase in the uptake and use of technology within the legal profession, there is a need for sustained and enhanced e-literacy training on not only efficient use of technology but also the potential challenges that may come along and how to overcome them. The training should target lawyers, facilitated by LSK as well as judges and magistrates and all their support staff, facilitated by the Judiciary, in collaboration with the experts and professionals in ICT and other related areas.

As for lawyer students, law schools should come up with relevant courses to be included in their curricula in order to arm them with relevant skills.

In order to equip the general public, there is a need for the Government, through the Ministry of Information Communication Technology in collaboration with the other relevant stakeholders to make it easy for the public to acquire the relevant skills in technology through tailored courses at all levels of the school curriculum as well as through other simplified courses available to those already out of school and not likely to benefit from job related trainings in the area. This will also make it easier for the public to interact meaningfully with the justice sector. This is especially important considering that the Judiciary is on course to incorporate the use of technology in dispensation of justice. Empowering the disseminators/facilitators of justice while leaving out the consumers of justice will defeat the need for embracing justice-to facilitate efficient access to justice for all. Leaving them out will instead promote digital apartheid- systematic exclusion of certain communities from digital access and experience through political and business policies and practices.<sup>61</sup> With the increased digitization of government services through such initiatives as the *Huduma Center service delivery model*- a Government of Kenya initiative aimed at advancing citizen-centred public service delivery through a variety of channels, including deploying

---

<sup>59</sup> 'Introduction to Information Security Management Systems (ISMS) – BMC Blogs' <<https://www.bmc.com/blogs/introduction-to-information-security-management-systems-isms/>> accessed 5 June 2020.

<sup>60</sup> Luke Irwin, 'ISO 27001: The 14 Control Sets of Annex A Explained' (*IT Governance UK Blog*, 18 March 2019) <<https://www.itgovernance.co.uk/blog/iso-27001-the-14-control-sets-of-annex-a-explained>> accessed 5 June 2020.

<sup>61</sup> Paula Barnard-Ashton and others, 'Digital Apartheid and the Effect of Mobile Technology during Rural Fieldwork' (2018) 48 *South African Journal of Occupational Therapy* 20.

digital technology and establishing citizen service centres across the country<sup>62</sup>, there is an urgent need to tackle digital illiteracy in order to enhance access by all. Virtual access to justice will benefit in the process. The Government can work with the Judiciary arm to set up Digital Villages Projects kind of structure across the country to ease access to services related to justice.<sup>63</sup> However, such centres would focus on offering digital trainings and education specifically related to access to justice.

In addition, the Government should liaise with tech firms both national and international to roll out internet access services across the country for ease of access to all. They should also work with the local mobile service providers to ensure that mobile data is affordable for the majority of Kenyans. Furthermore, electricity should also be made more affordable for all. It is commendable that the Government of Kenya is already striving to ensure that all Kenyans have access to electricity through the *Last Mile Electricity Connectivity Project*.<sup>64</sup>

#### **4.5 Training, Regulation and Capacity Building: Role of Law and Legal Institutions**

The recent amendments/enactments to enhance the use of technology in judicial proceedings in Kenyan courts are a step in the right direction.<sup>65</sup> There is a need to ensure that even as we seek to invest in the physical infrastructure to enhance the use of technology in the administration of

---

<sup>62</sup> Sarah aru and Moses Wafula, 'Factors Influencing the Choice of Huduma Centers' Services (A Case Study of Mombasa Huduma Centre)' (2015) 5 International Journal of Scientific and Research Publications; Amir Ghalib Abdalla and others, 'Effect of Huduma Centers (One Stop Shops) in Service Delivery – A Case Study of Mombasa Huduma Centre' (2015) 5 International Journal of Academic Research in Business and Social Sciences 102; 'Study Heaps Praise on Revolutionary Huduma Centres' (*Daily Nation*) <<https://www.nation.co.ke/https://www.nation.co.ke/dailynation/news/study-heaps-praise-on-revolutionary-huduma-centres-89030>> accessed 5 June 2020.

<sup>63</sup> 'Broadband in Kenya | Broadband Strategies Toolkit' <<http://ddtoolkits.worldbankgroup.org/broadband-strategies/case-studies/broadband-kenya>> accessed 5 June 2020.

<sup>64</sup> 'Last Mile Connectivity Program Kenya - Inclusive Infrastructure' <<https://inclusiveinfra.github.org/case-studies/last-mile-connectivity-program-kenya/>> accessed 5 June 2020; 'Kenya - Last Mile Connectivity Project II' <<https://projectsportal.afdb.org/dataportal/VProject/show/P-KE-FA0-013>> accessed 5 June 2020; African Development Bank, 'Kenya - Last Mile Connectivity Project - Project Appraisal Report' (*African Development Bank - Building today, a better Africa tomorrow*, 24 January 2020) <<https://www.afdb.org/en/documents/kenya-last-mile-connectivity-project-project-appraisal-report>> accessed 5 June 2020; 'Last Mile Project – Ministry of Energy' <<https://energy.go.ke/?p=914>> accessed 5 June 2020.

<sup>65</sup> Civil Procedure (Amendment) Rules, 2020 (26 February 2020); Electronic Case Management Practice Directions, 2020. The Law of Contract Act, Cap 23 of the Laws of Kenya was recently amended vide the Business Laws (Amendment) Act, No. 1 of 2020, (18 March 2020) to recognize use of advanced electronic signatures. Notably, Electronic signatures are not a new concept to Kenyan law, as they are already provided for under the Kenya Information and Communication Act No. 2 of 1998, as amended. The new amendments however sought to align the same with particular laws.

justice, legal and institutional frameworks are also put in place to not only facilitate the uptake of technological developments but also to ensure that there is an effective regulatory framework to deal with the myriad of issues that will arise therefrom.

There have been calls for the Kenyan law schools to ensure that in their curriculum they also take into account the changing dynamics in the legal world and design programmes that equip the future lawyers to deal with the changes.<sup>66</sup> The modern lawyer ought to be well endowed with basic technological knowledge to enable them build on the same to fit in a fast growing globalized world where geographical boundaries and physical offices may no longer matter.

After qualification, lawyers should continually be subjected to technological knowledge and skills through the Continuing Professional Development (CPD) trainings which must be re-looked at to make them more receptive and richer. The CPD committee of the Law Society of Kenya should consider working closely with Information communication technology and other relevant experts and professionals who may not necessarily be lawyers and invite them to CPD events in order to deliver more practical skills and knowledge on the area. It is not enough for lawyers to get theoretical talks on the area from fellow lawyers who are techno-legal savvy; the real professionals in the field must be involved as a way of impacting practical knowledge and skills. There is a need to actively involve the tech firms in and out of the country alongside other stakeholders.

Law schools in the future, like the legal profession itself, have been called to be more collaborative, diverse, international, technologically friendly, and entrepreneurial than they are today.<sup>67</sup> In addition, tomorrow's law school curriculum has been challenged to be more entrepreneurial to respond to the financial pressures on the legal profession and the opportunities wrought by innovation and globalization.<sup>68</sup> Embracing technology will also enable law schools to widen their scope of students since students from abroad can either enroll for legal education in Kenya without the need to travel all the way or even have exchange programs and this would be beneficial to both students and the institutions.

---

<sup>66</sup> Mboya, Apollo, 'The Bar: Challenges and Opportunities', in Ghai, Y.P. and Cottrell, J. eds., *The legal profession and the new constitutional order in Kenya*. Strathmore University Press, 2014, p. 245.

<sup>67</sup> Kellogg Sarah, 'Cover Story: The Transformation of Legal Education' *From Washington Lawyer, May 2011* <<https://www.dcb.org/bar-resources/publications/washington-lawyer/articles/may-2011-legal-education.cfm>> accessed 4 June 2020.

<sup>68</sup> Ibid.

#### **4.6 Enhanced e-filing and service of Court Pleadings and Documents**

The law amendments that allowed for e-filing and service of documents in Kenya could not have come at a better time.<sup>69</sup> As has become the norm during the COVID-19 pandemic period, Kenyan courts should consider fully adopting and shifting to electronic systems for filing documents. This would save both law firms and courts enormous resources in terms of finances and storage facilities for the hardcopy documents. It would also enhance efficiency in terms of accessibility and review of the documents as both sides can access the documents from anywhere. All that is required is enhancing the security of such data to safeguard privacy. This can be achieved through investing in modern infrastructure as well as offering information management training to the staff charged with such.

#### **4.7 Amendment of Remuneration order to guide on Legal fees payment by clients**

It has been argued that one of the biggest differences is how lawyers will practice in the future—how lawyers value and price what they sell.<sup>70</sup> It is suggested that there is a need to implore members of the Bar to transition away from the traditional billable time and services system to alternative billing strategies by understanding that apart from “legal services” and “time”, lawyers are also selling knowledge, which may include fixed, results based, hourly, graduated, or any such combination.<sup>71</sup> This would all be facilitated by technology which allows one to serve clients without physically meeting clients or even attending court physically. This therefore creates a need to reconsider amending/revising the current Remuneration Order so as to accommodate these new possibilities.

#### **4.8 Licensing and Regulation of virtual law firms**

---

<sup>69</sup> ‘Kenya Law: Electronic Case Management Practice Directions, 2020’ *Gazette Notice No. 2357* <<http://kenyalaw.org/kl/index.php?id=10211>> accessed 5 June 2020.

The objectives of the Electronic Case Management Practice Directions are to guide the integration of Information Communication Technology (ICT) in judicial proceedings and in particular to provide for —(a) electronic filing and electronic service of court documents; (b) electronic case search; (c) electronic diary; (d) electronic case tracking system; (e) electronic payment and receipting; (f) electronic signature and electronic stamping; (g) exchange of electronic documents, including pleadings and statements; and (h) use of technology in case registration and digital recording of proceedings for expeditious resolution of cases.

<sup>70</sup> Mboya, Apollo, ‘The Bar: Challenges and Opportunities’, in Ghai, Y.P. and Cottrell, J. eds., *The legal profession and the new constitutional order in Kenya*. Strathmore University Press, 2014, p. 247.

<sup>71</sup> *Ibid*, p. 247.

Some scholars have rightly argued that competition to the Kenyan firms by global law firms requires a reconsideration of traditional organizational structures of law firms, ethical rules and regulation mechanisms for the legal profession and restructuring of how legal services are delivered.<sup>72</sup> The argument is that in order for the profession to stay relevant and thrive, lawyers must examine who can invest in firms, models for publicly traded firms, and lawyer partnerships with other professionals.<sup>73</sup>

There is need for the law firms licensing stakeholders in Kenya to consider the idea of licensing virtual law firms, which will largely be conducting technology driven business. As a result of the COVID-19 which has forced many law firms across the world to allow employees to work from home, some firms abroad have already started reporting final decisions to close their physical offices and turning to virtual firms where their employees will permanently work from home.<sup>74</sup> Slater and Gordon, a London-based law firm is set to have its staff working from home permanently from September 2020 onwards, after almost three months of working remotely under the COVID-19 lockdown.<sup>75</sup> All its 200 London employees will work from home most of the time—though the firm is hoping to find a smaller office space which will be used to host meetings. The Staff are to be provided with multiple screens if they are needed and homes fitted with comfortable office equipment.<sup>76</sup> The firm’s management rightly argued that this approach would improve the well-being and work life balance of their staff and provide flexibility to their customers.<sup>77</sup>

Other United Kingdom based firms such as Baker McKenzie and DLA Piper have also been toying with the idea.<sup>78</sup>

---

<sup>72</sup> Mboya, Apollo, ‘The Bar: Challenges and Opportunities’, in Ghai, Y.P. and Cottrell, J. eds., *The legal profession and the new constitutional order in Kenya*. Strathmore University Press, 2014, p. 243.

<sup>73</sup> Ibid, p. 243.

<sup>74</sup> Meganne Tillay | May 27 and 2020 at 10:13 AM, ‘Slater & Gordon to Close London Office, Staff to Work From Home Permanently’ (*Law.com International*) <[https://www.law.com/international-edition/2020/05/27/slater-and-gordon-to-close-london-office-staff-to-work-from-home-permanently/?cmp\\_share](https://www.law.com/international-edition/2020/05/27/slater-and-gordon-to-close-london-office-staff-to-work-from-home-permanently/?cmp_share)> accessed 3 June 2020; Meganne Tillay, Simon Lock | May 29 and 2020 at 08:38 AM, ‘Slater & Gordon Working From Home: How Will It Work?’ (*Law.com International*) <<https://www.law.com/international-edition/2020/05/29/slater-gordon-working-from-home-how-will-it-work/>> accessed 3 June 2020.

<sup>75</sup> Ibid.

<sup>76</sup> Ibid.

<sup>77</sup> Ibid.

<sup>78</sup> Hannah Roberts | May 07 and 2020 at 05:16 AM, ‘Baker McKenzie Surveys Staff Over London Office Return As DLA Also Mulls Reopening Base’ (*Law.com International*) <<https://www.law.com/international->

The growth of virtual law firms will inevitably come with the challenge of regulation. The regulators of provision of legal services should adequately prepare to respond to the impact of technology on law practice and lawyer regulation, including the growth in cloud computing, virtual law offices, and outsourcing of legal services.<sup>79</sup>

#### **4.9 A Possibility of Online Courts?**

The Covid-19 pandemic has unintentionally fast-tracked courts' adoption of technology since courts around the world have been forced to replace face-to-face hearings with video hearings, using phonelinks and platforms such as Zoom, Teams and Skype.<sup>80</sup> Kenyan Judiciary has not been left behind in these latest developments.<sup>81</sup>

Kenya still suffers from the challenge of physical accessibility to law courts due to geographical distance since some of the farthest regions still do not have physical court buildings. As a result, advocates and witnesses travel long distances in search of justice.<sup>82</sup> While the Judiciary continues to invest in physical infrastructure, the stakeholders in the justice sector may also consider the idea of embracing online courts to deal with the problem. Considering that even where the Judiciary puts up courts, lawyers may still be unavailable to the litigants either due to costs or general shortage, some scholars have argued that putting online courts may come in handy in overcoming some of the challenges faced by litigants who represent themselves, *Pro Se Litigation*.<sup>83</sup> They argue that in most jurisdictions, including the United States of America, to date, the use of online technology to support legal self-representation has been confined primarily to the provision of educational and informational materials, such as "how-to" websites and downloadable legal forms,

---

edition/2020/05/07/baker-mckenzie-surveys-staff-over-london-office-return-as-dla-also-mulls-reopening-base/> accessed 3 June 2020.

<sup>79</sup> Laurel S Terry, Steve Mark and Tahlia Gordon, 'Trends and Challenges in Lawyer Regulation: The Impact of Globalization and Technology' (2011) 80 Fordham L. Rev. 2661, p. 2662.

<sup>80</sup> Jane Croft, 'Courts Test Their Online Future, from Dress-down Lawyers to Witness Appearance' (23 April 2020) <<https://www.ft.com/content/936e04b6-7a8c-11ea-bd25-7fd923850377>> accessed 5 June 2020; 'Remote Courts' <<https://remotecourts.org/>> accessed 5 June 2020.

<sup>81</sup> A experiência dos tribunais mundo afora durante a p and Emia Says, 'Kenyan Courts Are Using Video Calls To Keep Wheels of Justice Spinning' (*Gadgets Africa*, 31 March 2020) <<https://gadgets-africa.com/2020/03/31/kenya-courts-video-call-covid-19/>> accessed 5 June 2020.

<sup>82</sup> Republic of Kenya, *State of the Judiciary and the Administration of Justice Annual Report, 2017 – 2018*, The Judiciary, <<https://www.judiciary.go.ke/wp-content/uploads/sojar20172018.pdf> .> 4 June, 2020.

<sup>83</sup> Ayelet Sela, 'Streamlining Justice: How Online Courts Can Resolve the Challenges of Pro Se Litigation' (2016) 26 Cornell JL & Pub. Pol'y 331.

available mostly in the pre-filing stage.<sup>84</sup> Arguably, the Judiciary can go further in embracing technology through instituting “online courts; judicial online dispute resolution systems, can improve the ability of self-represented litigants to effectively participate in proceedings, as well as the ability of courts to administer them fairly and efficiently.<sup>85</sup> Where parties are in far-flung areas and they do not have access to legal representation, it has been suggested that they can benefit from self-representation in online courts where they can handle all procedural and substantive aspects of their legal matters, including court appearances, without representation by counsel.<sup>86</sup> This is because lay people who self-represent in judicial processes typically lack knowledge of legal procedure and substance, an inherent limitation which is consistently found to impede their access to justice and the legal system’s ability to deliver justice.<sup>87</sup> This is a viable idea since representation through legal aid or pro bono programs may not always suffice. While video-conference hearings may require documents to be filed physically and sometimes require physical presence of witnesses or parties, online courts would have every part of the process facilitated through some web-based platform from filing, payments and hearings without requiring any physical presence.<sup>88</sup> The system may be akin to the United Kingdom’s Money Claim Online system, which is the online portal for starting simple court claims, allowing individuals and organizations to file online specified money claims for sums of up to GBP £100,000.<sup>89</sup> It is a web-based service for issuing money claims and resolving fixed money disputes introduced in the judiciary of England and Wales in February 2002.<sup>90</sup>

---

<sup>84</sup> Ibid, p. 333.

<sup>85</sup> Ibid, p. 333.

<sup>86</sup> Ibid, p. 133; See also Schäfer, Saskia. "New practices of self-representation: The use of online media by Ahmadiyya and Shia communities in Indonesia and Malaysia." In *New media configurations and socio-cultural dynamics in Asia and the Arab world*, pp. 174-197. Nomos Verlagsgesellschaft mbH & Co. KG, 2015.

<sup>87</sup> Ibid, p. 333.

<sup>88</sup> Legg, Michael. "The future of dispute resolution: online ADR and online courts." *Forthcoming—Australasian Dispute Resolution Journal* (2016); Dame Hazel Genn, ‘Birkenhead Lecture 2017: Online Courts and the Future of Justice Gray’s Inn,’ 16 October 2017 <

[https://www.ucl.ac.uk/laws/sites/laws/files/birkenhead\\_lecture\\_2017\\_professor\\_dame\\_hazel\\_genn\\_final\\_version.pdf](https://www.ucl.ac.uk/laws/sites/laws/files/birkenhead_lecture_2017_professor_dame_hazel_genn_final_version.pdf)> 5 June 2020.

<sup>89</sup> admin, ‘Money Claim Online - Learn What It Is, Where It Is And How To Use It’ (*Small Claims Court Genie. Free hints, tips and news*) <<https://www.smallclaimscourtgenie.co.uk/money-claim-online/>> accessed 5 June 2020.

<sup>90</sup> Jannis Kallinikos, ‘Institutional Complexity and Functional Simplification: The Case of Money Claim Online Service in England and Wales’ in Francesco Contini and Giovan Francesco Lanzara (eds), *ICT and Innovation in the Public Sector: European Studies in the Making of E-Government* (Palgrave Macmillan UK 2009) <[https://doi.org/10.1057/9780230227293\\_8](https://doi.org/10.1057/9780230227293_8)> accessed 5 June 2020.

The Canadian District of British Columbia also set up the Civil Resolution Tribunal which started working in 2016 and it allows the public to resolve their condominium property and small claims disputes up to \$5,000 fairly, quickly, and affordably where participants use all of negotiation, facilitation and, if necessary, adjudication services from a computer or mobile device at a time that is convenient for them, and for those who are unable or unwilling to use technology to resolve their dispute, the tribunal provides paper-based or telephone-based services.<sup>91</sup> It has been observed that over 90 percent of parties in British Columbia's Small Claims Court are self-represented, and even if they could finance legal fees, many British Columbians in remote communities must travel great distances to a courthouse, burdening them with further costs. In addition, no matter where you live or who you are, navigating the civil justice system, even Small Claims Court, can be stressful and overwhelming, and there is little support available to help with the process.<sup>92</sup> Thus, the online tribunal system comes in handy. Effective July 15, 2019, British Columbia's Civil Resolution Tribunal (CRT) expanded its jurisdiction to include claims against societies incorporated under the *Societies Act* (British Columbia), changing the forum for dispute resolution for many types of claims made against a society or its directors.<sup>93</sup>

Therefore, even though Kenya is in the process of putting up small claims courts<sup>94</sup>, they may suffer the same setbacks. As a result, in future, Kenya may need to benchmark with the above countries, noting the strengths and weaknesses of this system and consider adopting the same. All the Government needs to do to facilitate is to Fast-track internet access across the country and promote setting up advanced computer centres where less fortunate members of the society can access internet. It is also encouraging that the use of smartphones is fast spreading in the country, a development that may enhance the use of online courts. Initially, the Judiciary may begin with smaller claims whose value may not be economically viable to travel long distances, spend too much or even wait in courts due to the huge backlog currently experienced in our courts.

---

<sup>91</sup> Shannon Salter, 'Online Dispute Resolution and Justice System Integration: British Columbia's Civil Resolution Tribunal' (2017) 34 Windsor Yearbook of Access to Justice/Recueil annuel de Windsor d'accès à la justice 112, p. 114; Office of Housing and Construction Standards, 'The Civil Resolution Tribunal and Strata Disputes - Province of British Columbia' <<https://www2.gov.bc.ca/gov/content/housing-tenancy/strata-housing/resolving-disputes/the-civil-resolution-tribunal>> accessed 5 June 2020.

<sup>92</sup> Ibid, p. 119.

<sup>93</sup> Millman, Bryan, 'Society Disputes May Now Be Settled by BC Civil Resolution Tribunal' (<https://www.nortonrosefulbright.com:443/en-za/knowledge/publications/2019>) <<https://www.nortonrosefulbright.com/en-za/knowledge/publications/303e1394/society-disputes-may-now-be-settled-by-bc-civil-resolution-tribunal>> accessed 5 June 2020.

<sup>94</sup> Small Claims Court Act, No. 2 of 2016, Laws of Kenya.

As for the fear of coaching of witnesses, the system can incorporate measures similar to proctoring programs for ensuring witnesses do not get coached, among other quality assurance software and measures. However, where possible, courts may also consider taking written submissions and evidence in proceedings, particularly in courts where affidavit evidence is not the ordinary procedure.<sup>95</sup>

#### **4.10 Enhanced collaboration Between International Law Firms and Local Firms/ Globalization of Legal Services**

Notably, some Kenyan firms are already ahead in this area by collaborating with East African law firms and some with even international firms beyond the region.<sup>96</sup> Bowmans, a firm with nine offices (Cape Town, Dar es Salaam, Durban, Lilongwe, Lusaka, Johannesburg, Kampala, Moka and Nairobi) in seven African countries and over 400 specialist lawyers, for instance, has been extending its reach across the African continent.<sup>97</sup> In all these countries (Kenya, Malawi, Mauritius, South Africa, Tanzania, Uganda and Zambia), they have alliance firms with which they work closely. They are representatives of Lex Mundi, a global association with more than 160 independent law firms in all the major centres across the globe, which gives them access to firms in each jurisdiction represented.<sup>98</sup>

There is a need for more local firms to consider the idea and possibly join the bandwagon as it may give them access to a wider clientele.

### **5. Conclusion**

The COVID-19 has laid bare the direction that legal practice is headed. There is a need for lawyers to reconsider the issues of *law firm structure and billing, law firm marketing, work-life balance and technology vis-à-vis the practice of law, cross border legal practice, educating and training new adaptable lawyers* (Emphasis added).<sup>99</sup> Law schools and the LSK should take this opportunity

---

<sup>95</sup> 'The Remote Courtroom: Tips and Tricks for Online Hearings' <<https://www.ashurst.com/en/news-and-insights/legal-updates/the-remote-courtroom-tips-and-tricks-for-online-hearings/>> accessed 5 June 2020.

<sup>96</sup> Karangizi, S., 'Future Proofing the Legal Profession in East Africa | ALSF' <<https://www.aflsf.org/director-article/future-proofing-legal-profession-east-africa>> accessed 30 May 2020.

<sup>97</sup> 'Company Profile' (*Bowmans*) <<https://www.bowmanslaw.com/our-firm/company-profile/>> accessed 3 June 2020.

<sup>98</sup> 'Our African Footprint' (*Bowmans*) <<https://www.bowmanslaw.com/our-firm/our-african-footprint/>> accessed 3 June 2020.

<sup>99</sup> Mboya, Apollo, 'The Bar: Challenges and Opportunities', in Ghai, Y.P. and Cottrell, J. eds., *The legal profession and the new constitutional order in Kenya*. Strathmore University Press, 2014, p. 252.

to equip lawyers with the requisite skills in order to prepare them for the fast changing legal practice the world over. Law firms should also invest in technological developments if they hope to remain relevant in the face of technological innovations and developments and globalisation. The Judiciary also needs to take up the challenge of adopting technology to facilitate remote access to justice for all.

We are moving into an era where many lawyers may find themselves working from home due to the desire to cut costs using technological investments and following clients' needs which will lead firms to embrace technology.<sup>100</sup> This is the time for them to invest wisely in these new technological areas and acquire the relevant skills and knowledge to enable them remain relevant. Arguably, automation technologies can make legal services more affordable and easily accessible to their clients. Additionally, law firms can leverage these technologies to develop and add alternative services, while reducing overheads and workload.<sup>101</sup> While clients are putting law firms under intense pressure to deliver a higher level of service by making use of the latest technological advancements, all at a reduced cost, it has been argued that this generational shift in consumer expectation is an opportunity for legal service providers to implement *innovative digital products* that meet next-generation clients' demands while increasing productivity within their own staff.<sup>102</sup> The future of legal practice is in embracing technology and the Kenyan legal practitioners and players in the justice sector must take up the challenge or be rendered irrelevant since legal practice is likely to become increasingly virtual. The journey into the future has already begun and there is no turning back.

Legal practice must venture into new frontiers: embracing technology for enhanced efficiency and Access to Justice is an idea whose time has come.

## References

'Broadband in Kenya | Broadband Strategies Toolkit' <<http://ddtoolkits.worldbankgroup.org/broadband-strategies/case-studies/broadband-kenya>> accessed 5 June 2020.

---

<sup>100</sup> Zach Warren | January 15 and 2020 at 03:30 PM | The original version of this story was published on Legaltech News, 'The Future of Legal Tech Is About Transformation, Not Automation' (*The American Lawyer*) <<https://www.law.com/americanlawyer/2020/01/15/the-future-of-legal-tech-is-about-transformation-not-automation/>> accessed 3 June 2020.

<sup>101</sup> 'Business Models for Law Firms - p.Xel Marketing Agency' <<https://www.p-xel.co/business-models-for-digital-disruption-in-the-legal-industry/>> accessed 5 June 2020.

<sup>102</sup> Ibid.

- ‘Business Models for Law Firms - p.Xel Marketing Agency’ <<https://www.p-xel.co/business-models-for-digital-disruption-in-the-legal-industry/>> accessed 5 June 2020.
- ‘Company Profile’ (*Bowmans*) <<https://www.bowmanslaw.com/our-firm/company-profile/>> accessed 3 June 2020.
- ‘Disruptive Technology in the Legal Profession’ (*Deloitte United Kingdom*) <<https://www2.deloitte.com/uk/en/pages/financial-advisory/articles/the-case-for-disruptive-technology-in-the-legal-profession.html>> accessed 5 June 2020.
- ‘Eight Ways Technology Is Changing Business’ <<https://www.gomodus.com/blog/eight-ways-technology-changing-business>> accessed 5 June 2020.
- ‘Future Law Office 2020: Redefining the Practice of Law | Robert Half’ <<https://www.roberthalf.com/research-and-insights/workplace-research/future-law-office-2020-redefining-the-practice-of-law>> accessed 5 June 2020.
- ‘Global Law Firms: Globalization and Organizational Spaces of Cross-Border Legal Work by Jonathan Beaverstock, Daniel Muzio, Peter J. Taylor, James Faulconbridge :: SSRN’ <[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1155048](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1155048)> accessed 5 June 2020.
- ‘How Organizations Can Stay Ahead of Changing Privacy Laws’ (*Digital Guardian*, 22 August 2019) <<https://digitalguardian.com/blog/how-organizations-can-stay-ahead-changing-privacy-laws>> accessed 5 June 2020.
- ‘Introduction to Information Security Management Systems (ISMS) – BMC Blogs’ <<https://www.bmc.com/blogs/introduction-to-information-security-management-systems-isms/>> accessed 5 June 2020.
- ‘Kenya - Last Mile Connectivity Project II’ <<https://projectsportal.afdb.org/dataportal/VProject/show/P-KE-FA0-013>> accessed 5 June 2020.
- ‘Kenya Law: Electronic Case Management Practice Directions, 2020’ <<http://kenyalaw.org/kl/index.php?id=10211>> accessed 5 June 2020.
- ‘Kenya Law: Electronic Case Management Practice Directions, 2020’ *Gazette Notice No. 2357* <<http://kenyalaw.org/kl/index.php?id=10211>> accessed 5 June 2020.
- ‘Kenyan Lawyers Wrangle with Government over Land Registry Digitization’ *Reuters* (7 May 2018) <<https://www.reuters.com/article/us-kenya-landrights-idUSKBN1I81K1>> accessed 3 June 2020.
- ‘Lands CS Karoney Extends Land Registries Lockdown’ (*People Daily*, 15 April 2020) <<https://www.pd.co.ke/business/economy-and-policy/lands-cs-karoney-extends-land-registries-lockdown-32930/>> accessed 3 June 2020.
- ‘Lands Ministry Wants Orders Stopping Digitisation Lifted’ (*Daily Nation*) <<https://www.nation.co.kehttps://www.nation.co.ke/dailynation/news/lands-ministry-wants-orders-stopping-digitisation-lifted--38664>> accessed 3 June 2020.
- ‘Last Mile Connectivity Program Kenya - Inclusive Infrastructure’ <<https://inclusiveinfra.github.org/case-studies/last-mile-connectivity-program-kenya/>> accessed 5 June 2020.
- ‘Last Mile Project – Ministry of Energy’ <<https://energy.go.ke/?p=914>> accessed 5 June 2020.

- ‘New Technologies and the Legal Profession’ (*nyujlb*) <<https://www.nyujlb.org/single-post/2019/04/08/New-Technologies-and-the-Legal-Profession>> accessed 5 June 2020.
- ‘Our African Footprint’ (*Bowmans*) <<https://www.bowmanslaw.com/our-firm/our-african-footprint/>> accessed 3 June 2020.
- ‘Ready or not: artificial intelligence and corporate legal departments’ <<https://legal.thomsonreuters.com/en/insights/articles/artificial-intelligence-ai-report>> accessed 5 June 2020.
- ‘Shaping the 21st-Century Lawyer - IE Law Hub’ <<https://lawahead.ie.edu/shaping-the-21st-century-lawyer/>> accessed 5 June 2020.
- ‘Study Heaps Praise on Revolutionary Huduma Centres’ (*Daily Nation*) <<https://www.nation.co.kehttps://www.nation.co.ke/dailynation/news/study-heaps-praise-on-revolutionary-huduma-centres-89030>> accessed 5 June 2020.
- ‘Tech Competence a Must | Canadian Lawyer’ <<https://www.canadianlawyermag.com/news/opinion/tech-competence-a-must/274463>> accessed 5 June 2020.
- ‘The Remote Courtroom: Tips and Tricks for Online Hearings’ <<https://www.ashurst.com/en/news-and-insights/legal-updates/the-remote-courtroom-tips-and-tricks-for-online-hearings/>> accessed 5 June 2020.
- ‘The Remote Courtroom: Tips and Tricks for Online Hearings’ <<https://www.ashurst.com/en/news-and-insights/legal-updates/the-remote-courtroom-tips-and-tricks-for-online-hearings/>> accessed 5 June 2020.
- ‘Virtual Hearings: The Way Forward in the UK in Uncertain Times’ <<https://www.dentons.com/en/insights/alerts/2020/march/29/virtual-hearings-the-way-forward-in-the-uk-in-uncertain-times>> accessed 5 June 2020.
- ‘What Is Information Security Management?’ (*Sumo Logic*) <<https://www.sumologic.com/glossary/information-security-management/>> accessed 5 June 2020.
- ‘What Is Legal Technology And How Is It Changing Our Industry?’ (*The Lawyer Portal*, 29 January 2019) <<https://www.thelawyerportal.com/blog/what-is-legal-tech-and-how-is-it-changing-industry/>> accessed 3 June 2020.
- A experiência dos tribunais mundo afora durante a p and Emia Says, ‘Kenyan Courts Are Using Video Calls To Keep Wheels of Justice Spinning’ (*Gadgets Africa*, 31 March 2020) <<https://gadgets-africa.com/2020/03/31/kenya-courts-video-call-covid-19/>> accessed 5 June 2020.
- Access to Justice–Concept Note for Half Day General Discussion Endorsed by the Committee on the Elimination of Discrimination against Women at its 53<sup>rd</sup> Session <<http://www.ohchr.org/Documents/HRBodies/CEDAW/AccessToJustice/ConceptNoteAccessToJustice.pdf>> 30 May 2020.
- admin, ‘Money Claim Online - Learn What It Is, Where It Is And How To Use It’ (*Small Claims Court Genie. Free hints, tips and news*) <<https://www.smallclaimscourtgenie.co.uk/money-claim-online/>> accessed 5 June 2020.

- African Development Bank, 'Kenya - Last Mile Connectivity Project - Project Appraisal Report' (*African Development Bank - Building today, a better Africa tomorrow*, 24 January 2020) <<https://www.afdb.org/en/documents/kenya-last-mile-connectivity-project-project-appraisal-report>> accessed 5 June 2020.
- Alej, ro Miyar | February 06 and 2020 at 09:46 AM, 'Technology Trends That Will Affect the Legal Profession in 2020' (*Daily Business Review*) <<https://www.law.com/dailybusinessreview/2020/02/06/technology-trends-that-will-affect-the-legal-profession-in-2020/>> accessed 5 June 2020.
- Alyson Carrel, 'Legal Intelligence Through Artificial Intelligence Requires Emotional Intelligence: A New Competency Model for the 21st Century Legal Professional' (2019) 35.
- Amir Ghalib Abdalla and others, 'Effect of Huduma Centers (One Stop Shops) in Service Delivery – A Case Study of Mombasa Huduma Centre' (2015) 5 *International Journal of Academic Research in Business and Social Sciences* 102.
- Ani, K.U., 'The 21st Century Lawyer: Challenges and Prospects' (Social Science Research Network 2018) SSRN Scholarly Paper ID 3270279 <<https://papers.ssrn.com/abstract=3270279>> accessed 5 June 2020.
- Anyim, W.O., "E-Lawyering and Virtual Law Practice: A Paradigm Shift for Law Library System." *Library Philosophy and Practice* (2019): 0\_1-16.
- aru, S. and Wafula, M., 'Factors Influencing the Choice of Huduma Centers' Services (A Case Study of Mombasa Huduma Centre)' (2015) 5 *International Journal of Scientific and Research Publications*.
- Business Laws (Amendment) Act, No. 1 of 2020, (18 March 2020), Laws of Kenya.
- Civil Procedure (Amendment) Rules, 2020 (26 February 2020), Laws of Kenya.
- Croft, J., 'Courts Test Their Online Future, from Dress-down Lawyers to Witness Appearance' (23 April 2020) <<https://www.ft.com/content/936e04b6-7a8c-11ea-bd25-7fd923850377>> accessed 5 June 2020; 'Remote Courts' <<https://remotecourts.org/>> accessed 5 June 2020.
- Dame Hazel Genn, 'Birkenhead Lecture2017: Online Courts and the Future of JusticeGray's Inn,' 16 October 2017<  
[https://www.ucl.ac.uk/laws/sites/laws/files/birkenhead\\_lecture\\_2017\\_professor\\_dame\\_hazel\\_genn\\_final\\_version.pdf](https://www.ucl.ac.uk/laws/sites/laws/files/birkenhead_lecture_2017_professor_dame_hazel_genn_final_version.pdf)>5 June 2020.
- Duggal V., 'Role of AI in Legal Practice' (*Engineers Garage*, 23 January 2020) <<https://www.engineersgarage.com/featured/role-of-ai-in-legal-practice/>> accessed 5 June 2020.
- Faggella, D., 'AI in Law and Legal Practice – A Comprehensive View of 35 Current Applications' (*Emerj*) <<https://emerj.com/ai-sector-overviews/ai-in-law-legal-practice-current-applications/>> accessed 5 June 2020.
- Gaffney N., 'Law Practice Management: Transforming a Law Practice with Technology' <[https://www.americanbar.org/groups/gpsolo/publications/gp\\_solo/2017/september-october/law-practice-management-transforming-law-practice-technology/](https://www.americanbar.org/groups/gpsolo/publications/gp_solo/2017/september-october/law-practice-management-transforming-law-practice-technology/)> accessed 3 June 2020.

- Ghai, Y.P. and Cottrell, J. eds., *The legal profession and the new constitutional order in Kenya*. Strathmore University Press, 2014.
- Hess, A., ‘Experts Say 23% of Lawyers’ Work Can Be Automated—Law Schools Are Trying to Stay Ahead of the Curve’ (*CNBC*, 7 February 2020) <<https://www.cnbc.com/2020/02/06/technology-is-changing-the-legal-profession-and-law-schools.html>> accessed 5 June 2020.
- Hodkinson, P. | May 05 and 2020 at 01:00 AM | The original version of this story was published on The American Lawyer, ‘Welcome to the Law Firm Office of the Future: Smaller, Higher-Tech and One-Way’ (*Law.com International*) <<https://www.law.com/international-edition/2020/05/05/smaller-higher-tech-and-one-way-welcome-to-the-law-firm-office-of-the-future/>> accessed 3 June 2020.
- International Bar Association, ‘What model for cross-border joint practice?’ *A handbook for bar associations*, <[www.ibanet.org](http://www.ibanet.org)> Document › Default› 5 June 2020.
- Irwin, L., ‘ISO 27001: The 14 Control Sets of Annex A Explained’ (*IT Governance UK Blog*, 18 March 2019) <<https://www.itgovernance.co.uk/blog/iso-27001-the-14-control-sets-of-annex-a-explained>> accessed 5 June 2020.
- Kallinikos, J., ‘Institutional Complexity and Functional Simplification: The Case of Money Claim Online Service in England and Wales’ in Francesco Contini and Giovan Francesco Lanzara (eds), *ICT and Innovation in the Public Sector: European Studies in the Making of E-Government* (Palgrave Macmillan UK 2009) <[https://doi.org/10.1057/9780230227293\\_8](https://doi.org/10.1057/9780230227293_8)> accessed 5 June 2020.
- Karangizi, S., ‘Future Proofing the Legal Profession in East Africa | ALSF’ <<https://www.afslf.org/director-article/future-proofing-legal-profession-east-africa>> accessed 30 May 2020.
- Kellogg, S., ‘Cover Story: The Transformation of Legal Education’ *From Washington Lawyer, May 2011* <<https://www.dcbbar.org/bar-resources/publications/washington-lawyer/articles/may-2011-legal-education.cfm>> accessed 4 June 2020.
- Law Technology Today, ‘Three Ways Law Firms Can Use Artificial Intelligence’ (*Law Technology Today*, 19 February 2019) <<https://www.lawtechnologytoday.org/2019/02/three-ways-law-firms-can-use-artificial-intelligence/>> accessed 5 June 2020.
- Legg, M., "The future of dispute resolution: online ADR and online courts." *Forthcoming—Australasian Dispute Resolution Journal* (2016).
- Lexology-Victoria Arnold, ‘How Your Legal Department Can Benefit from AI Contract Management | Lexology’ <<https://www.lexology.com/library/detail.aspx?g=7fcc7e37-301d-4828-bffd-e525960e0cbb>> accessed 5 June 2020.
- Mboya, A., ‘The Bar: Challenges and Opportunities’, in Ghai, Y.P. and Cottrell, J. eds., *The legal profession and the new constitutional order in Kenya*. Strathmore University Press, 2014.
- Millman, B., ‘Society Disputes May Now Be Settled by BC Civil Resolution Tribunal’ (<https://www.nortonrosefulbright.com:443/en-za/knowledge/publications/2019>) <<https://www.nortonrosefulbright.com/en-za/knowledge/publications/303e1394/society-disputes-may-now-be-settled-by-bc-civil-resolution-tribunal>> accessed 5 June 2020.

- Monday, March 19 and 2018 18:19, 'EDITORIAL: Fulfil Digitisation Promise' (*Business Daily*)  
<<https://www.businessdailyafrica.com/analysis/editorials/Fulfil-digitisation-promise/4259378-4348512-ayf632z/index.html>> accessed 3 June 2020.
- Moore, T.R., "The Upgraded Lawyer: Modern Technology and Its Impact on the Legal Profession."  
*UDC/DCSL L. Rev.* 21 (2019): 27.
- Muigua, K., *Alternative Dispute Resolution and Access to Justice in Kenya*, Glenwood Publishers, Nairobi, 2015.
- Muigua, K., *Avoiding Litigation through the Employment of Alternative Dispute Resolution*, a Paper presented by the author at the In-House Legal Counsel, Marcus Evans Conference at the Tribe Village Market Hotel, Kenya on 8<sup>th</sup> & 9<sup>th</sup> March, 2012  
<<http://www.chuitech.com/kmco/attachments/article/101/Avoiding.pdf> > 30 May 2020.
- Muthoni, K., 'LSK Sues Ministry over Online Land Transactions' (*The Standard*)  
<<https://www.standardmedia.co.ke/article/2001277226/lsk-sues-ministry-over-online-land-transactions>> accessed 3 June 2020.
- Office of Housing and Construction Standards, 'The Civil Resolution Tribunal and Strata Disputes - Province of British Columbia' <<https://www2.gov.bc.ca/gov/content/housing-tenancy/strata-housing/resolving-disputes/the-civil-resolution-tribunal>> accessed 5 June 2020.
- Olowononi, E.O. and Ikwuanusi, O.J., 'Recent Developments in 21st Century Global Legal Practice: Emerging Markets, Prospects, Challenges and Solutions for African Lawyers' (2019) 5 KIU Journal of Social Sciences 31.
- Omotoso, S., 'Law, Lawyers and the Social Media In the 21st Century: Challenges and Prospects' <[https://www.academia.edu/40663364/LAW\\_LAWYERS\\_AND\\_THE\\_SOCIAL\\_MEDIA\\_IN\\_THE\\_21ST\\_CENTURY\\_CHALLENGES\\_AND\\_PROSPECTS](https://www.academia.edu/40663364/LAW_LAWYERS_AND_THE_SOCIAL_MEDIA_IN_THE_21ST_CENTURY_CHALLENGES_AND_PROSPECTS)> accessed 5 June 2020.
- Paula Barnard-Ashton and others, 'Digital Apartheid and the Effect of Mobile Technology during Rural Fieldwork' (2018) 48 South African Journal of Occupational Therapy 20.
- Perekslis, K., 'Four Strategies to Navigate Data Privacy Obligations for Compliance, Litigation, and E-Discovery Professionals' (*Law.com*)  
<<https://www.law.com/native/?mvi=7bd540437dde4b60991f35c257adc521>> accessed 3 June 2020.
- Raghav B., 'Applying AI to Legal Contracts – What's Possible Now' (*Emerj*) <<https://emerj.com/ai-podcast-interviews/applying-ai-legal-contracts-whats-possible-now/>> accessed 5 June 2020.
- Republic of Kenya, *State of the Judiciary and the Administration of Justice Annual Report, 2017 – 2018*, The Judiciary, <<https://www.judiciary.go.ke/wp-content/uploads/sojar20172018.pdf> .> 4 June, 2020.
- Roberts, H. | May 07 and 2020 at 05:16 AM, 'Baker McKenzie Surveys Staff over London Office Return as DLA Also Mulls Reopening Base' (*Law.com International*)  
<<https://www.law.com/international-edition/2020/05/07/baker-mckenzie-surveys-staff-over-london-office-return-as-dla-also-mulls-reopening-base/>> accessed 3 June 2020.

- Salter, S., 'Online Dispute Resolution and Justice System Integration: British Columbia's Civil Resolution Tribunal' (2017) 34 Windsor Yearbook of Access to Justice/Recueil annuel de Windsor d'accès à la justice 112.
- Sela, A., 'Streamlining Justice: How Online Courts Can Resolve the Challenges of Pro Se Litigation' (2016) 26 Cornell JL & Pub. Pol'y 331.
- Singapore Academy of Law, 'Deep Thinking: The Future of the Legal Profession in an Age of Technology' (*Medium*, 19 July 2019) <<https://medium.com/@singaporeacademyoflaw/deep-thinking-the-future-of-the-legal-profession-in-an-age-of-technology-6b77e9ddb1e9>> accessed 5 June 2020.
- Small Claims Court Act, No. 2 of 2016, Laws of Kenya.
- Stokes, S. | April 27 and 2020 at 06:59 PM | The original version of this story was published on The American Lawyer, 'The Coronavirus Will Change the Legal Industry's Approach to Remote Work—But How?' (*Law.com International*) <<https://www.law.com/international-edition/2020/04/27/the-coronavirus-will-change-the-legal-industrys-approach-to-remote-work-but-how-378-140355/>> accessed 3 June 2020.
- Strengthening Judicial Reform in Kenya: Public Perceptions and Proposals on the Judiciary in the new Constitution*, ICJ Kenya, Vol. III, May, 2002.
- Sunday, March 18 and 2018 15:36, 'Land Ministry in Fresh Bid to Digitise Records' (*Business Daily*) <<https://www.businessdailyafrica.com/economy/Land-ministry-in-fresh-bid-to-digitise-records/3946234-4347056-go3sg/index.html>> accessed 3 June 2020.
- Tanya Du Plessis, 'Competitive Legal Professionals' Use of Technology in Legal Practice and Legal Research' (2008) 11 Potchefstroom Electronic Law Journal.
- Terry, L.S., Mark, S. and Gordon, T., 'Trends and Challenges in Lawyer Regulation: The Impact of Globalization and Technology' (2011) 80 Fordham L. Rev. 2661.
- Tillay, M. | May 27 and 2020 at 10:13 AM, 'Slater & Gordon to Close London Office, Staff to Work From Home Permanently' (*Law.com International*) <[https://www.law.com/international-edition/2020/05/27/slater-and-gordon-to-close-london-office-staff-to-work-from-home-permanently/?cmp\\_share](https://www.law.com/international-edition/2020/05/27/slater-and-gordon-to-close-london-office-staff-to-work-from-home-permanently/?cmp_share)> accessed 3 June 2020.
- Tillay, M., | February 28 and 2020 at 03:39 AM, 'Baker McKenzie Shuts Down London Office Following Coronavirus Scare' (*Law.com International*) <<https://www.law.com/international-edition/2020/02/28/baker-mckenzie-shuts-down-london-office-following-coronavirus-scare/>> accessed 3 June 2020.
- Tillay, M., Lock, S. | May 29 and 2020 at 08:38 AM, 'Slater & Gordon Working From Home: How Will It Work?' (*Law.com International*) <<https://www.law.com/international-edition/2020/05/29/slater-gordon-working-from-home-how-will-it-work/>> accessed 3 June 2020.
- United Nations Conference on Trade and Development, 'Data protection regulations and international data flows: Implications for trade and development,' UNCTAD/WEB/DTL/STICT/2016/1/iPub, United Nations, 2016 <[https://unctad.org/en/PublicationsLibrary/dtlstict2016d1\\_en.pdf](https://unctad.org/en/PublicationsLibrary/dtlstict2016d1_en.pdf)> 5 June 2020.

Warren, Z. | January 15 and 2020 at 03:30 PM | The original version of this story was published on Legaltech News, 'The Future of Legal Tech Is About Transformation, Not Automation' (*The American Lawyer*) <<https://www.law.com/americanlawyer/2020/01/15/the-future-of-legal-tech-is-about-transformation-not-automation/>> accessed 3 June 2020.

Wednesday, April 18 and 2018 10:25, 'Lawyers Reject Automation of Land Deals in Court Suit' (*Business Daily*) <<https://www.businessdailyafrica.com/economy/Lawyers-reject-automation-of-land-deals-in-court-suit/3946234-4421556-p3kd3g/index.html>> accessed 3 June 2020.