A CRITICAL ANALYSIS OF THE IMPACT OF INFORMATION AND COMMUNICATION TECHNOLOGY IN ENHANCING ACCESS TO JUSTICE IN THE KENYAN JUDICIARY

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DECLARATION

I, **PRISCILLA WAMUYU KAGUCIA**, do hereby declare that this research is my original work and that to the best of my knowledge and belief, it has not been previously, in its entirety or in part, been submitted to any other University for a degree or diploma. Other works cited or referred to are accordingly acknowledged.

Signed…… Dated……

This Paper has been submitted for examination with your approval as University Supervisor.

Signed…… Dated……

Mr. Kiptinness Stephen
The University of Nairobi

DEDICATION

I dedicate this work to my loving parents, Joyce and Joseph Burugu who have sacrificed so much to see me through school and who have always encouraged me to exhaust my potential.

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ABSTRACT

Justice is defined in various ways, namely, social, legal, administrative or judicial justice. Access to justice is therefore determined by these definitions given to the term 'justice'.

Judicial justice relates to the commissions and omissions of the judiciary in a jurisdiction, which either inhibit or enhance the access to justice. This is because the judiciary is the main arbiter of conflicts between the state and individuals and the individuals *inter se.* It therefore has the responsibility to protect the rights of the people and the Rule of Law.

The Kenyan Judiciary has in the past been accused of failing to uphold and enforce the principles of the Rule of Law as a result of which many lost confidence in it.

The Kenyan Judiciary has undertaken reforms to ensure that it is able to effectively and efficiently carry out its constitutional mandate. One of the main reforms is the introduction of the use of ICT in the operations of the Judiciary. This has been done through the use of ipads, video-conferencing techniques, electronic filing and internet usage among many others. All these were aimed at making the access to justice a reality to millions of Kenyans who visit the court corridors seeking redress.

This paper is a critical analysis of the impact of the use of ICT in the Judiciary in so far as enhanced access to justice is concerned.

LIST OF ABBREVIATIONS

1. CCK	Communications Commission of Kenya
2. CRADLE	The Children Foundation
3. CREAW	Centre for Rights Education and Awareness
4. FIDA	Federation of Women Lawyers
5. ICT	Information and Communication Technology
6. JICT	Judicial Information Communication Technology Committee
7. KNHRC	Kenya National Human Rights and Equality Commission
8. LAN	Local Area Network
9. NCLR	National Council for Law Reporting
10. NCS	National Communications Secretariat
11. SMS	Short Message Service
12. UNDP	United Nations Development Programme
13. WAN	Wide Area Network

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CHAPTER ONE

INFORMATION AND COMMUNICATION TECHNOLOGY: THE DRIVING FORCE TOWARDS A MODERNISED AND EFFECIENT JUDICIARY

1.1 INTRODUCTION

'Rule of Law' is a fundamental concept in governance that encompasses three principles. The first principle is that no one should be punished by the state except for a distinct breach of law established by ordinary court proceedings. The second principle ensures that no one is above the law and as such, the law should apply to all persons equally regardless of their rank or position in society. The last principle is that there are available remedies for breach of rights of an individual in a separate government body or branch.[1] These three principles of the Rule of Law have been used to enhance independence of the judiciary and protect it from interference by other arms of government to ensure that justice is done.

The judiciary is the main formal arbiter of conflicts between the state and individuals and between individuals *inter se*. It has a constitutional mandate to promote justice through the expeditious hearing of cases and delivery of sound judgments guided by the rule of law. This is separate and distinct from the constitutional commissions which have specific mandates and roles to perform.[2]

The judiciary is one of the arms of government established under Chapter 4 of the Constitution of Kenya, 2010. It has three main functions which are administration of justice, formulation and implementation of judicial policies and finally, compilation and dissemination of case law and other legal information for the effective administration of justice.

[1] A.C. Dicey, *The Law of the Constitution*, 8th Edition, Oxford, 1914.
[2] Created under Chapter 15 of the Kenyan Constitution.

Though the number of court facilities, judicial staff and paralegals have gradually increased in number over the years since independence, the judiciary still faces public scrutiny over its performance as the masses demand accountability and efficiency in the delivery of justice.

For the rule of law to be promoted, the judiciary must be accessible to the people. However, many Kenyans have not been able to access justice in the judiciary since the time of colonial rule. Injustices continue to be committed to this date[3] regardless of the theoretical guarantee of justice.[4] The main challenges to desired reforms towards increased access to justice have been poor domestication of international human rights norms, lack of political will, lack of accessibility of public information, archaic laws and extreme poverty among others. [5] There are several issues impeding access to justice due to poverty. These include inaccessible courts thus people being required to travel far to access them, prohibitive costs for the purchase of legal materials in form of books, laws of Kenya, legal notices, gazette notices amongst others, high costs for retaining lawyers, costs of legal research, lack of funds to access libraries, and costs for printing and photocopying. These are just examples of situations that have been created by the high poverty level in Kenya coupled by the high cost of living.

However, the question is whether justice has been or is accessible to all Kenyans especially since it is now explicitly provided for in the Constitution as a fundamental human right.[6] Under the common law system, such as the Kenyan judicial system, high cost of litigation, complicated court procedures, corruption, understaffing of courts and backlog of cases have impeded access

[3] N. Baraza, *A Manifesto of a Modern Judiciary*, available at http:kenyalaw.org/klr/index/.php?ID=899 (accessed on 13th March, 2014).
[4] *Constitution* of Kenya, 2010, at Article 48, the state has a responsibility to ensure that all persons are able to access justice and any fees required should be reasonable and not impede access to justice.
[5] C. N. Houghton, *Access to Justice and the Rule of Law in Kenya*, A paper developed for the Commission for the Empowerment of the Poor, November, 2006.
[6] *Supra* note 4.

to justice. Many people have, over time, lost confidence in the Judiciary[7] yet it is the institution with the mandate to ensure that justice is done.[8] There are a number of people who have opted for alternative forms of justice like community justice, have abandoned their claims or resorted to mob justice to seek remedies.[9]

Some of the challenges faced by the judiciary in its efforts to ensure that there is access to justice led to its resolve to incorporate the use of Information and Communication Technology (ICT) to facilitate the process. This has been done through the use of facilities such as the internet, video conferencing and voice recognition technology.[10] The use of the internet for instance means that one can access legal materials online at the convenience of his home by just using his mobile phone. This study assessed whether the use of ICT had enhanced access to justice.

1.2 BACKGROUND

Access to justice entails the understanding and knowledge of the law, recognition of rights, creation of awareness of those rights and availability of information pertinent to one's rights, protection of those rights, equal access to the available judicial mechanisms, affordability of the adjudication process and timely processing of claims by the judiciary.

Apart from improving an individual's access to courts or guaranteeing legal representation, access to justice ensures that legal and judicial outcomes are just and equitable. These principles

[7] M. J. Roberts, *Conflict Analysis of the 2007 Post Election Violence in Kenya*, September 2009, available at *http://www.ndpmetrics.com/papers/kenya-Conflict-2007.pdf* (accessed on 13th June, 2014).
[8] *Supra* note 4.
[9] For instance, during the post election violence in 2007/2008, instead of people resorting to the security and judicial agencies for protection of their rights and resolve the conflict, they reverted to self-help methods as they lacked confidence in the judiciary which led to widespread violence, available at *http://www.hrw.org/news/2011/12/09/Kenya-Prosecute-perpetrators-post election-violence* and *http://www.communication.go.ke/media-asp?id=738* (accessed on 16th June, 2014).
[10] The project was unveiled in August 2010 under the reforms prescribed by the new Constitution 2010.

formed the basis for the judiciary to undertake reforms to enhance access to justice in Kenya[11] and specifically, the use of ICT.

For a long time, the judiciary was used to rubber stamp the acts and omissions of the executive which propagated the widespread violation of human rights. Apart from excessive control of the judiciary by the executive,[12] there were also many vices that characterized the operations of the judiciary. These included corruption, lack of proper supervision of employees, poor service delivery, laziness of the staff members among many others. These would lead to files being 'lost', backlog of cases, among many other problems. Many people therefore lacked confidence in the judiciary.

In the past, these problems were essentially dealt with through reforms that would see the judiciary slowly transform to fit its purpose. For instance, mobile courts were introduced in remote areas that did not have a court so as to ensure that people would be able to access judicial justice. Indeed there are areas where people would trek for long distances in order to access courts. Therefore, the quest for judicial reforms and modernization began well before promulgation of the Kenyan Constitution, 2010.[13]

With the introduction of ICT in the government, it became necessary to have it adopted in the judiciary so as to not only modernize its operations but also make it more efficient and enhance quality service delivery.

[11] P.N. Kanya, *Marginalised Communities and Access to Justice*, Routledge, A Glasshouse Book, 2011.
[12] Final Report of the Task Force on Judiciary Reforms, (The Justice Ouko Report).
[13] There are various reports done that have given recommendations on Judicial reforms including The United Nations Basic Principles on the Independence of the Judiciary, 1985, The Report of the Integrity and Anticorruption Committee of the Judiciary(The Ringera Report), The Report of the Committee on the Administration of Justice(Kwach Report), 1998 among many others.

The Judicial Information Communication Technology[14] oversees all ICT matters in the judiciary. This committee has initiated activities such as digitization of court records, creation of a case management system, the development of ICT policy and development plan, establishment of communication infrastructure, acquisition of hardware and software and telepresence software.[15] All these initiatives are in line with the Judiciary Strategic Plan 2009-2012.

The immediate former Chief Justice of Kenya[16] unveiled the use of video conferencing in the hearing of cases. This, he said, was vital in the drive to deliver swift justice, resolve cases faster, save time and improve the services offered to witnesses and victims.[17] This is one of the attempts that have been made to assist in making justice accessible to all Kenyans through the use of ICT. Indeed, the use of ICT in the judiciary has been identified as a medium to enhance efficiency, access, timeliness, transparency and accountability in the operations of the judiciary thus helping it to provide adequate services.[18]

The court rooms that were opened in Nairobi Community area have also been fitted with micro phones, computers, cameras and voice recognition technology for purposes of taking evidence in court. These will phase out the outdated long hand method of recording court proceedings which was tedious and expensive. Currently, judges are availing typed copies of their rulings and judgments at the time of delivery of their decisions which is seen as a step towards promoting justice. This has been made possible due to the fact that the judiciary has embraced the use of

[14] Commonly referred to as JICT Committee.
[15] Managing Records as Reliable Evidence of ICT/e-Government and Freedom of Information, Kenya Court Case Study, International Records Management Trust , August 2011.
[16] Evans Gicheru appointed to office by the President of the Republic of Kenya under the old Constitution and vacated office on the 28th of February, 2011.
[17] Available at *http://uk.reuters.com/article/2010/10/14/oukin-uk-kenya-judiciary* (accessed on 7th February 2015).
[18] M. Velicogna, Use of Information and Communication (ICT) In European Judicial Systems,

ICT to enhance access to justice. However, there is still need to train judges in the use of ICT facilities since the judges who are used to the old longhand methods may either be opposed to the use of ICT or be too slow to adapt.

In addition, the National Council for Law Reporting[19] (better known as Kenya Law) has been at the forefront in transforming the judiciary in line with advancement of technology. This, for instance, has been through publication of the official Kenya Law Reports online in addition to precedents, legislation, newsletters and cause lists. Advocates and other legal practitioners have also adopted the use of ICT through the use of email correspondence and fax which are faster than the manual method of using messengers. The new system is expected to speed up hearing of cases and ultimately lead to equitable access to justice for Kenyans. The JICT has prepared reports on the progress of the initiatives put in place to promote the use of ICT in the judiciary.

1.3 PROBLEM STATEMENT

The use of ICT in the judiciary is a step towards the promotion of access to judicial justice. It is the driving force towards a judiciary that is transparent, effective and efficient. However, this can only be fully achieved through a complete change in the manner in which the judiciary is run as introduction of ICT is not in itself sufficient to do so.

However, it must be noted that introduction of ICT in the judiciary is not a bed of roses. There lies a potential risk of having the staff at the judiciary tamper with the evidence adduced in court since they are in control of the machines as well as increase the risk of eliminating confidentiality. In addition, there is the concern that this will be a more expensive process than

[19] A corporate body established by the National Council for Law Reporting Act, 1994.

the manual method which will in turn increase the cost of justice, therefore, defeating its purpose. This is a problem which proponents of the use of ICT in the judiciary have argued will only feature at the time of rolling out the programme. They have argued that while it may be expensive to put up the ICT equipment at the initial stage, it would in the long run be cost effective as there would be need for less man power thus cutting costs on that end. Another problem that is of great concern is the fact that a large number of Kenyans are not computer literate or if they are, they have no access to one. This means that such people will not be able to access any legal material through the use of ICT.

The researcher tested the theory of whether indeed the widespread inaccessibility of justice was in any way caused by the use of manual systems of administration. Further, the researcher also examined whether the use of ICT has increased accessibility of judicial justice to Kenyans. This is especially in consideration of the fact that the system is changed but the people at the helm of the judiciary are the same. This was an opportunity to see the extent to which ICT has, in actual fact, enhanced access to justice.

1.4 OBJECTIVE

1.4.1 General Objective

The main objective of the research was to examine the extent to which access to judicial justice has been enhanced for Kenyans through the introduction of ICT in the judiciary.

1.4.2 Specific Objectives

1. To determine the level of training and exposure necessary to ensure effectiveness of the use of ICT in reforming the judiciary.

2. To determine the extent to which ICT resources have been introduced in the judiciary and the extent to which they have been used.
3. To determine the extent to which the use of ICT has improved the performance of the judiciary.
4. To determine the extent to which ICT has improved access to justice in the judiciary.

1.5 RESEARCH QUESTIONS

1. Is the use of ICT in the judiciary necessary to enhance access to justice?
2. What level of ICT exposure is the minimum required to kickstart change in the judiciary?
3. To what extent has the introduction of ICT in the judiciary enhanced equitable access to justice for Kenyans?

1.6 HYPOTHESES

This study tested the following hypotheses for the specific objectives

1. Training and re-training of the judiciary staff is necessary to enhance effectiveness of ICT in promoting access to justice.
2. ICT resources have not been effectively introduced in the judiciary to meet the objective of improving efficiency
3. The impact of the use of ICT in the judiciary to improve its performance has not been satisfactory.
4. To ensure effective transformation in the judiciary, more reforms must be incorporated and implemented over and above introduction of ICT in its operations.

1.7 JUSTIFICATION

Kenyans have for a long time been unable to access justice through the judicial system due to factors such as poverty, illiteracy, corruption, backlog of cases amongst others. Many people had little or no confidence in the judiciary terming it a place for the rich where justice could only be bought. This led to the judiciary seeing the need to undertake reforms so as to regain public confidence and improve services offered. One of such reforms undertaken by the judiciary was the introduction of ICT in its daily running of activities. This was expected to improve the judiciary and make it more efficient and transparent which would in turn enable people to equitably access judicial justice. This was in line with the 2006 National ICT policy document whose core objective was to enhance accessibility of efficient ICT services within the government institutions. Similarly, the Vision 2030 policy document was finalized in 2007 and one of its five medium term plans was to facilitate the use of ICT. It was therefore mandatory for the judiciary to incorporate the use of ICT in its daily operations so as to meet the development goals of the government.

Despite the fact that ICT is new in developing countries like Kenya, it has received a lot of attention in the recent years which has led to the government adopting its usage in its institutions, albeit slowly, to enhance the efficient delivery of services to the people. Its introduction to the judiciary is quite recent and novel in so far as sophisticated technology is concerned. The use of simple ICT technology such as computers and printers was it, in so far as ICT in the judiciary was concerned. This has since developed into modern ICT equipment being used to enhance efficiency in courts. This is an area that has not received much attention from legal scholars.

The judiciary developed interest in adopting the use of ICT as an attempt to ensure that Kenyans are able to equitably access justice in Kenya. Though it was a noble idea, there are still questions as to whether it has been effective in meeting its objectives and what if any, are the areas of improvement. ICT has been embraced in the Judiciary through email correspondence, online legal materials such as laws and precedents and video conference technique for hearing cases. These are envisaged to be ways in which cases will be heard transparently and expeditiously. The digitized courts in Nairobi Community Area are expected to have the impact of saving time since less time will be used to look for files, searches for court records will be faster for purposes of appeal and parties will be able to access the details of their cases online.[20]

The research examined whether or not the use of ICT has enhanced access to justice and also evaluated whether its use was in itself sufficient to ensure that the courts become courts of justice, where the rule of law is upheld and the rights of the people are protected. This was in relation to the theoretical assumption by its proponents that ICT was the ultimate solution to the challenges the judiciary was facing in meeting its constitutional mandate. Due to the novel nature of this reform, there has been no study carried out in Kenya so far to evaluate whether the use of ICT has actually had a positive or other impact on the efficiency of the judiciary.

The research evaluated the receptiveness of the judiciary staff to embrace the change and adapt to new trends. This was in relation to the cultural change amongst judges and magistrates who are used to doing their work without the help of ICT resources, lack of proper training in ICT or who may feel intimidated by technology amongst other factors. There is a risk that though it's a

[20] J. Kadida, 'Kibaki Assures Judges of Fair Vetting', *The Daily Nation* (25 February 2011) at 5.

noble idea, the introduction of ICT in the judiciary may not be as effective in meeting its objectives as expected.

Scholars have argued that if the judiciary undertakes this reform to its letter, then it will result in a well functioning, effective and independent arm of government. This study sought to identify the actual impact of the use of ICT in the judiciary. The researcher focused on the key areas of application of new technology in ensuring that justice is seen and said to be done. It entailed an analysis of who the stakeholders are, the modes of application of ICT, the positive and negative impact in an effort to appreciate whether it has been effective in meeting its objectives.

1.8 THEORETICAL FRAMEWORK

'Natural law' theory, though related to my study, does not entirely support the research. Proponents such as Thomas Aquinas pre-suppose that what is consistent with natural law is right and what is not in keeping with the natural law is wrong. This relates to my study in that the important thing to do is what is morally upright like improving access to justice. The point of departure from the theory is that the introduction of ICT in the judiciary is not pegged on any morals. It is a development that was influenced by the need to make the legal system more efficient and modernized hence the reason behind the legislation. ICT laws are manmade in order to match the digitalized era. Natural law on the other hand is presumed to emanate from God.

The main theory that the researcher is relying on in this study is the *'positive theory'* as espoused by Hans Kelsen who argued that there must be a basic norm on which law rests and such norm need not necessarily be a moral norm. Law is dynamic and flexible and it identifies what is legal and illegal. Laws are therefore made to counter developing trends. This theory supports this

study as ICT laws are manmade and have been enacted in recent times to meet the development of new technology. Cyber crime for instance was an area that remained unregulated for a long time because as people were busy developing ICT, criminals were busy using loopholes to perform crimes using the same ICT. Thus ICT laws had to be formulated and constantly amended to keep abreast with changing times. The deficiency of this theory in relation to this study is that it does not address the fact that laws are also made to benefit the greatest number in the population in addition to safeguarding certain norms.

This therefore makes another theory applicable to this study, that is *'utilitarianism'* as espoused by scholars such as Jeremy Bentham and John Stuart Mill. This is a theory in normative ethics that holds that a moral action is one that maximizes utility. This means an action that results in pleasure, economic well being and lack of suffering amongst human beings. Therefore, the best law or act is the one that would be beneficial to the greatest number of people. In this study, the researcher delved into a legal field in an attempt to weigh whether the use of ICT in the judiciary has benefitted the larger percentage of stakeholders. Based on the data collected, effectiveness of ICT would be determined by the number of respondents who are of the view that it has impacted their lives positively *vis a vis* those whom have seen no such effect.

1.9 METHODOLOGY

1.9.1 Quantitative research design

The researcher relied primarily on primary data collection methods. Research designs have been defined as logical plans[21] and procedures for research that traverse decisions from broad

[21] R.K. Yin *Case study research: design and methods*, 4th edition, Sage London (2009).

assumptions to detailed methods of data collection and analysis.[22] The objective of quantitative research is to develop and employ mathematical models, theories and hypotheses pertaining to natural phenomena.[23] Measuring is therefore key in this type of research as it shows the relationship between data and observation. The process involves finding if the data being collected has any observable relationship that can be further specified in terms of magnitude and/or and increase or decrease.

The aim of this research was to build and generate an in depth understanding of individual and group perceptions of the impact of the use of ICT in the judiciary to enhance access to justice. The research obtained quantitative data as it studied phenomenon in its natural setting. The process involved interpretation of mathematical raw data collected from the structured interviews. The justification for this process was based on the fact that to fully appreciate the impact of the use of ICT in the judiciary, there was a need to interview both the people who offer the services and also the recipients of the services so as to prevent having results that were biased depending on which side of the divide the respondents came from. Data was collected through the use of questionnaires that were filled by the participants by way of self administration.

However, for purposes of comparative analysis, the researcher adopted the use of secondary data to collect information related to this research. These included books and journals that have also discussed issues relating to this particular research question. The internet was also a fundamental source that the researcher depended on for purposes of this research.

[22] J.W. Creswell, *Research Design: Qualitative, Quantitative and Mixed Methods Approaches*, 3rd edition, Sage London (2009).
[23] R.K. Yin *Case study research: design and methods*, 4th edition, Sage London (2009).

1.9.2 Population and sample size selection

At the inception of this study, it was noted that the use of advanced ICT technologies in the judiciary was rolled out in Mombasa, Eldoret and Nairobi. These were essentially considered as pilot projects to establish whether or not implementation countrywide would be viable. Similarly, since these stations had several courts and handled very many cases, they were considered appropriate for the study because a high number of services would be required by the public.

Population is defined as an entire group of persons or elements that have at least one thing in common. Target population is a set of individuals, cases or objects with some observable characteristics, to which the researcher wants to generalize the results of the research.[24] The population in this case was taken to be the people who visit the courts in Milimani, Eldoret and Mombasa Law Courts on a daily basis where the researcher found the use of ICT technologies have been introduced and applied. The target population in this study was the people who visit Milimani Law Courts located in Nairobi Upper Hill area. This was selected on the basis that the application of ICT technologies was more advanced in the said court and often applied. This comprised of judges, clerks and lawyers/advocates. The views of the advocates would be presumed to also include the interests of their clients who are the actual litigants.

As per the list of the Chief Justice on the posting of judges,[25] the researcher identified that there were 36 judges in Milimani Law Courts and since each of the judges is served by a single clerk, that translated to 36 clerks as well. Since it was difficult to identify the actual number of litigants and advocates who visit the courts each day, the researcher examined the daily cause lists of the period in which the data was collected. From the lists, the researcher found that on average, a

[24] G. Guillaume, *The future of international judicial institutions*, Int'l & Comp LQ 44:848 (1995).
[25] Available on www.judiciary.go.ke/portal/assets/filemanager_uploads/statements/CJ statement and transfer of judges list.pdf accessed on 27th July, 2015.

judge is allocated 20 cases per day which translates to about 720 cases in a day. The researcher then assumed that each case would involve one litigant and one advocate thus amounting to 720 advocates and 720 litigants. This means that this is the group that would be able to represent the population on the issues surrounding the subject of the study.

1.9.3 Sampling and sample design

This has been defined as the process of drawing a study sample from the study population with the aim of obtaining a representative group to enable the researcher get information about a study population. [26] A sample size therefore represents the larger population and it is used to draw inferences about that population hence the technique used should ensure that it is representative of a population and not biased in any way.[27] It is however noted that such sample size ought to be at least 20% of the total number of the subjects for it to be adequate and reduce the sampling error.[28] The researcher adopted a sample size of 30% of the target population.

The researcher adopted a stratified sampling method for the study. This method aims to achieve desired representation from various sub groups in the population and the subjects are selected in a way that existing sub groups in the population are more or less reproduced in the same sample. The study was evaluating judges, clerks in the judiciary and lawyers in an effort to avoid a biased result. The strata were therefore the three groups as mentioned hereinabove. Here below is the breakdown for computation of the sample size:

[26] M. Saunders , P. Lewis, & A. Thornhill., *Research Methods for Business Students*, 4th edition, London:Prentice Hall (2007).
[27] E. Orna, *Information Strategy in practice*, Aldershot: Gower (2004).
[28] Supra 7

STRATA	POPULATION	SAMPLE SIZE COMPUTATION	SAMPLE SIZE
Judges	36	30%	10
Clerks	36	30%	10
Advocates	720	30%	216
TOTAL			**236**

1.9.4. Data collection

The study undertook primary data collection process through the use of questionnaires with structured closed-ended questions. This method was suitable for the study since the use of ICT technologies in the judiciary was novel and its impact still under assessment. The researcher had the opportunity of getting first hand information from the respondents. The advantage of this method is that it covered a larger number of respondents in an easier and faster way. The toll was self administered.

1.9.5 Validity and reliability

To increase the reliability of the research, the researcher organized and documented the data collected. There is a formal report included in this paper that was generated for the purposes of future reviews. To enhance validity, the researcher ensured that the questions in the questionnaires were simple, understandable and straight forward with varied multiple choices to give room for the respondent to answer as accurately as possible. The researcher also conducted a pilot study to test the reliability and validity of the questionnaire. Though the result of this pilot study were not considered in the main data collection process, the process itself confirmed that

the questionnaire as presented would be able to collect sufficient and reliable information necessary to draw inferences over the subject of the study.

1.9.6 Generalizability of results

The study as noted in the limitations later in this paper was limited to high court stations in Nairobi, Eldoret and Mombasa. These were the courts where the implementation of ICT was more advanced and they had also been used as pilot projects to ascertain the viability of the project. The questionnaires were administered in Nairobi high court division then the results generalized to Mombasa and Eldoret stations.

1.9.7 Data analysis procedure and presentation

This involved the presentation of data collected by transcribing and coding. Then there was the cross-case analysis by using the various questionnaires for comparison and similarities. The researcher interpreted the findings so as to ensure there was reliability and validity. An accuracy test was attached to the findings which entailed an assessment and analysis of rival answers in relation to the objective of the study.

The Statistical Package for Social Sciences (SPSS) was used to conduct correlation analysis to establish the impact of the use of ICT in the judiciary with regard to enhancing access to justice, After the questionnaires were administered, they were thoroughly examined to ensure that all questions had been answered. The data was then analysed using quantitative techniques and the findings recorded by the use of tables and figures.

1.9.8 Ethical considerations

All the respondents who participated were advised that their participation was voluntary and they were at liberty to freely withdraw in the event that they found the questions demeaning or contrasting to their personal beliefs or value systems. They were also assured that any information they provided would be confidential.

1.10 LIMITATIONS

The use of ICT in the Judiciary has been launched and fully operationalized only in the major towns in the country such as Eldoret, Nairobi and Mombasa. Most of the court stations in the rural areas are yet to fully adopt and implement the system. The data collected was limited to the use of ICT in courts in these three stations.

It must be noted that accessibility to the judges was difficult as most of them were either held up in meetings, court or other official duty. Most of the judges contacted by the researcher through their assistants declined to participate in the research due to their conservative nature and fear of publicity despite the re-assurance by the researcher that the information would be treated in a confidential manner and used purely for the purpose of this research. Further, some who had promised to participate in the research could not be reached during the times scheduled for meetings. This resulted in the researcher being unable to meet the 30% target of the sample size as only six judges voluntarily agreed to participate.

As explained earlier, it was impossible for the researcher to be able to get the exact number of the lawyers who access Milimani High Court on a daily basis as there is no data base for that kind of information. The only information available to the researcher was the cause lists which

the researcher used to get an average which is really nothing more than an estimate of the number of lawyers who access the courts on a daily basis.

1.11 LITERATURE REVIEW

ICT in the justice system is novel as it is the first time that it is being implemented in Kenya. For this reason, it is an area that has not received much attention from scholars. Michael M. Murungi, an ICT Legal expert has addressed this issue for example in his paper titled, '*Judiciary Commissions Electronic Case Management System for Eldoret Law Courts'*. However, his paper focuses on just descriptive analysis by stating what ICT is and how it has been adopted in the judicial system. The paper does not critically examine whether ICT will be helpful or not in enhancing access to justice which the researcher sought to analyse in this study.

Honourable Nancy Baraza, former Deputy Chief Justice of Kenya and Vice president of the Supreme Court of Kenya, in her paper titled *'The Manifesto of a Modern Judiciary'*[29] discusses modernization of the judiciary in light of the undergoing implementation of the Constitution of Kenya, 2010. However, the paper restricts itself to the theories behind introduction of reforms in the judiciary including the use of ICT. The researcher in this study discusses in detail the implementation of ICT in the judiciary in as far as enhancing access to justice is concerned.

Professor Kameri Mbote and Professor Migai Akech, in '*Kenya Justice Sector and the Rule of Law'*[30] have elaborately discussed various issues related to the access to justice in Kenya. However, their emphasis is on the rule of law as regards the accessibility of justice by Kenyans

[29] A paper presented at the Seventh Annual Judges Colloquium held on 15th August, 2011 at Serena Beach Hotel, Kenya, available at *http://www.kenyalaw.org/klr/index/.php?id=899* accessed on 13th March, 2012.
[30] A Review by AfriMAP and the Open Society Initiative for East Africa, Open Society Foundations, 2011 available at *http://afrimap.org/english/images/report/MAIN_Report Kenya Justice Web.pdf* accessed on 13th March, 2012.

and the justice sector in general. For instance, they recommend the use of alternative dispute resolution methods as a means of ensuring that justice is accessible. The researcher, on the other hand, discussed access to justice in Kenya specifically in relation to the use of ICT in the judiciary as opposed to the use of alternative dispute resolution methods for dispute resolution.

The use of ICT in the judiciary has been embraced in other jurisdictions as well, in an effort to achieve the same goals that Kenya intends to. Justice Lungten Dubgyur, in *Judicial Reforms and Access to Justice through the Use of Information and Communication Technology (ICT) in Bhutan,* gives an analysis of how ICT has been introduced in the Bhutan judiciary and further argues that this initiative has enhanced efficiency of the judiciary in promoting access to justice.[31] However, in the Kenyan experience, ICT is still in its implementation stage and thus we can learn greatly from such scholars of the manner in which ICT can be used in the Judiciary to actually meet its objectives. The study sought to examine the extent to which implementation of ICT in Kenya particularly had transformed the judiciary and whether there was room for improvement.

Waleed H. Malik, in *E-justice: Towards a Strategic Use of ICT in Judicial Reform*[32] discusses the use of ICT in the judiciary in Latin America. His argument is that though the use of ICT in the judiciary is vital in enhancing access to justice by creating an efficient court system, it has been faced by various challenges that inhibit its efficiency. These include creation of a comprehensive ICT program that cuts across all the departments involved directly or indirectly with the judiciary including the lower courts. He further argues that despite the introduction of

[31] Available on *http://www.judiciary.gov.bt/html/education/publication.php* accessed on 15th July, 2012.
[32] March, 2002, available on *http://www.undp-pogar.org/publications/judiciary/wmalik/ejustice.pdf* accessed on 16th July, 2012.

ICT in Latin American jurisdictions, this must be supported effectively by the respect for the rule of law. This paper sought to examine whether the mode of implementation of ICT in the judiciary in Kenya is line with reforms given by such scholars of what must be done and what ought not to be done.

1.12 CHAPTER BREAKDOWN

a) Chapter 1: Information and Communication Technology: The driving force towards a modernized and efficient judiciary

The researcher started by introducing the research. This chapter included an outline of the research problem and the justification of why the research is important, necessary and relevant. The researcher also gave an outline of the methodology for collection of data that was used.

b) Chapter 2: Access to Justice in Kenya: A Fundamental Constitutional Right

The research topic is generally based on the importance of justice in the Kenyan society and especially its accessibility. This chapter discusses what access to justice entails and its importance to the society at large. The researcher analysed the challenges that arise when access to justice is impeded and the resulting effects. The researcher then discussed access to justice in relation to ICT. This was done by first tracing the development of ICT in Kenya over the years and its relevance. The researcher then discussed how and why it was adopted in the judiciary as well as examined its benefits and shortcomings.

The topic comprehensively discussed the use of ICT in the judiciary and whether or not it has promoted the access to justice in Kenya. The chapter for instance examined the extent to which

ICT had contributed to the expeditious dispensation of cases in an effort to ensure that the judiciary is effective and efficient hence able to meet its constitutional mandate.

c) **Chapter 3: Implication of the use of ICT in the judiciary: Research Design, Methodology, Results and Data analysis**

Since the researcher collected primary data on the study, this chapter analysed the data that had been collected. It presented an opportunity for the researcher to give the findings of the research and interpret them in an effort to establish whether the research questions had been answered. The researcher then gave an elaborate correlation between the findings and the objectives of the study and finally gave a conclusion on the impact of the use of ICT in the judiciary in enhancing access to justice.

d) **Chapter 4: The use of ICT in the Judiciary: The Legislative Framework and Comparative Analysis**

In this chapter, the researcher made a comparative analysis of the Kenyan scenario to other jurisdictions where the use of ICT in the judiciary has been adopted. The main case study was countries in Europe where the use of ICT is quite advanced and from which Kenya can learn a lot. This was an opportunity to establish the pointers to ensuring that ICT is adopted in a manner that will enhance access to justice and ensure that the judiciary is indeed efficient and effective.

e) **Chapter 5: Recommendations and Conclusion**

After a detailed discussion on the relationship between ICT and access to justice, the researcher then gave recommendations to address the challenges that may hinder the effectiveness of ICT in enhancing access to justice. This was a discussion on possible solutions that may assist the

judiciary to counter the flaws that may have been discussed in chapter 3. Finally, the researcher concluded the research paper by outlining a summary of the discussions and arguments contained in the whole paper. It was also an opportunity for the researcher to examine whether the objectives of the research had been met and further, whether the research question has been adequately and exhaustively answered.

CHAPTER TWO

ACCESS TO JUSTICE IN KENYA: A FUNDAMENTAL CONSITUTIONAL RIGHT

2.1 INTRODUCTION

The UNDP has viewed justice as closely related to human development and poverty eradication as well as a fundamental human right.[33] Therefore, it is argued that where there is a functional justice sector then there is likely to be economic growth. Each and every person in the society has the right to justice. This includes the minority or special interest groups such as women, children, people with disabilities, marginalized communities and others who are often left out in the course of administration of justice.

Access to justice is a fundamental concept in society. ICT has in recent years gained unprecedented importance as one of the vital factors in good governance and administration of justice which explains why many countries have introduced it as part of their administration of justice in a bid to enhance efficient delivery of services to the public. To this end, it enables easy access to information and increases transparency and accountability at a manageable cost.

2.2 ACCESS TO JUSTICE: DEFINITION

Access to justice has now been enshrined in the constitution as a human right. This was not the case before as it was not expressly provided for in the constitution or any other legal instrument. As a result, there was violation of human rights by the judiciary yet it had the mandate to ensure that justice was not only done but was also seen to be done.

[33] R. Sudarshan, *Rule of Law and Access to Justice: Perspectives from UNDP Experience*, A Paper presented to the European Commission Expert Seminar on The Rule of Law and the Administration of Justice as part of Good Governance, Brussels 3-4 July, 2003.

This enshrinement of the right to access to justice in the Constitution of Kenya motivated the judiciary to undertake reforms to ensure that it aides the process of bringing justice to the people. Access to justice involves making the court system accessible to all who require court services for instance judgments. It also involves the quality of justice such as promotion of accountability, transparency, non-arbitrary decision making such that the judges are able to access the law and the public on the other hand, is able to get access to timely judgments.

The UNDP has defined access to justice as entailing more than just improving an individual's access to courts or guaranteed representation but also defined in terms of ensuring that legal and judicial outcomes are just and equitable.[34] UNDP considers access to justice a basic human right and an indispensable means to manage poverty, prevent and resolve conflicts. Access to justice is defined or determined based on the definition given to justice. There are four definitions of justice. Firstly, is the social justice which is concerned with whether there are just socio-economic systems where every citizen engages in production and equitably gets the products.

Secondly, legal justice relates to the making of just and democratic laws that are implemented in a manner which enhances the welfare of the community. Thirdly, we have administrative justice which is concerned with making of just decisions by those in authority. For instance, is the discretion of an officer of the government appropriately exercised? The last form of justice is the judicial justice, which forms the backbone of this research. This kind of justice is concerned with access to the judiciary in terms of costs, location, decision making among others. This form of justice is easily associated with the general access to justice as understood by the public.

[34] P. N. Kanya, *Marginalised Communities and Access to Justice*, Routledge, A Glasshouse Book, 2011.

Access to justice has been defined as the ability of people from disadvantaged groups to prevent and overcome human poverty by seeking and obtaining a remedy through the justice system for grievances in accordance with human rights principles and standards.[35] Access to justice therefore entails the understanding and knowledge of the law, recognition of rights, creation of awareness of those rights and availability of information pertinent to one's rights, protection of those rights, equal access to the available judicial mechanisms, affordability of the adjudication process and timely processing of claims by the judiciary. The concept of access to justice is therefore a reflection of interpersonal relationships that take place within society. It is more than ensuring that a person is able to access courts or guaranteeing legal representation. It involves ensuring that legal and judicial outcomes are just and equitable.

2.3 IMPORTANCE OF ACCESS TO JUSTICE

There are various components of access to justice. This depends on whether a positive framework is provided in order to enhance access to justice or inhibit access to justice. The rules of natural and preservative justice ensure that people respect other's property and are also prohibited from doing things that may destroy humankind for instance, murder. Access to justice also entails giving people an opportunity to participate in the formation of the laws that govern them. The more people are included in making laws, the higher the likelihood that they will feel more confident with the resultant laws and accept and adhere to them which is therefore likely to enhance access to justice.

Access to justice is likely to be enhanced where the laws made are fair and just. This is ensured by a law making process that involves all the stakeholders rather than being formulated by a few

[35] A.C. Dicey, *The Law of the Constitution*, 8th Edition, Oxford, 1914.

and especially the elite. Access to justice also ensures that the people are able to access laws at the depositories. These laws have to be in a language that can be understood otherwise, they would amount to inhibiting access to justice. Ignorance of the law is no defence and this means that people have to access, read and comprehend what has been legislated. Another importance of access to justice is that it ensures that people are able to seek judicial remedy when their rights have been violated which entails having a judiciary that is transparent and efficient in delivery of its services. The courts should also be accessible.

2.4 JUDICIAL JUSTICE

Justice has been seen as a measure of the law.[36] A society that obeys the law is one that ensures that justice is not only done but is also seen to be done. Courts are usually given the responsibility of ensuring that the law is adhered to by upholding the principles of natural justice such as fairness and impartiality.[37] In fact, most people have the perception that the judicial system is the face of justice. As discussed earlier, one of the principles of the rule of law is that there are available remedies for breach of rights of an individual in a separate government body or branch. This responsibility is pegged on the judiciary to ensure that one's rights can be enforced in the event that there is breach whether by the state or by other persons.

The judiciary, in exercise of its mandate, has the role of hearing and determining cases in a fair and timely manner at a reasonable cost. Over the years, there has been pressure on the judiciary to deliver justice against a backdrop of an increasing caseload despite the reality of a declining resource base. It is in this regard that the Judiciary has had to continuously undertake reforms in order to ensure that justice is equitably delivered to all Kenyans without fear or favour.

[36] J. W. Harries, *Legal Philosophies*, 2nd edition, (Butterworths, 1997), pg 277.
[37] *Supra* note 4, Article 159.

One of the reforms undertaken by the judiciary was the introduction of the use of ICT in the running of its affairs. The presumption was that since the manual system previously used in the administration of justice had created loopholes which were used to deny Kenyans a right to accessing justice, ICT would clean up the system and result in a judiciary that is effective and efficient in delivering justice. Another issue of great concern was that the judiciary had been previously used to rubber stamp the unlawful actions by the legislature and the executive, thus leading to widespread impunity.

The study was therefore based on the fact that there have been various malpractices in the Judiciary which can be curtailed by the introduction of ICT. On 25th January 2011, the immediate former Chief Justice Evan Gicheru opened the Nairobi Law Courts that have been fitted with modern information technology equipment that will be used by judicial officers in effectively performing their duties. This is an effort towards promoting justice and the people are expectant that it will achieve its objectives and in specific, promotion and protection of the rule of law.

In the course of human relations amongst themselves, there is bound to arise conflict upon which they identify a method of dispute resolution that befits their situation. There are various dispute resolution mechanisms available to people who feel aggrieved in one way or another. There is litigation, arbitration, mediation and conciliation. Though all of them result in resolving a dispute, most people tend to prefer litigation as it is perceived as the most respected. That is the basis upon which in every jurisdiction in this world, there is always a judiciary that is mandated to hear and determine cases brought before it and it is expected to be impartial

The judiciary[38] is the arm of government that is mandated to promote and enhance access to judicial justice and this responsibility mainly arises from violation of people's rights who seek the intervention of this body as an arbiter. The process of enhancement of justice starts in court from the time a suit is filed or a claim is lodged to the time the judgment is delivered and in criminal matters, sentence is passed. There are many factors that influence this process from start to finish which determine whether ultimately, the parties in a case will be of the view that justice was either served or not and these include but are not limited to accessibility of courts, efficient delivery of services, issuing of just decisions by courts among others. There are various organizations that have taken it upon themselves to ensure that there is access to justice for all Kenyans. These include FIDA, CREAW, CRADLE, KHRC, among others.

2.5 FACTORS THAT ENHANCE ACCESS TO JUSTICE IN KENYA

There are various factors that promote access to justice in Kenya. Firstly, the awareness of the existing laws is a major factor that enhances access to justice. When the people are enlightened on their rights, they are able to effectively take appropriate action when these rights are violated. Over the recent years, there are non-governmental organizations that have come up to champion for people's rights as well as enlighten citizens on their rights. For instance, today, FIDA is now involved in not only enlightening women on their rights, but also training them on self-representation. This is indeed a milestone in enhancing access to justice since the party is adequately advised and guided on how to represent herself in court thus reducing the cost of seeking legal justice as they would not need to retain lawyers. The legislation and effective implementation of laws that guarantee access to justice and other rights also enhance the access

[38] Established under Chapter 10 of the *Constitution of Kenya, 2010.*

to justice. When a person feels that his right has been violated, he can only seek redress if there is a law that protects such right.

The other factor that enhances access to justice is transparency and efficiency of the judiciary. Most disputes end up in court when the parties are unable to settle their differences out of court. The courts must therefore be independent from any control of other arms of government and focus on promotion of justice which in turn enhances access to justice. Courts must also be impartial and avoid being compromised by restricting themselves to the facts presented to them and the applicable law. It must also be noted that the promulgation of the Constitution of Kenya, 2010 also brought about the enhancement of access to justice. Previously, many credible cases with high chances of success would be defeated merely on grounds of technicality. The Constitution provides that justice shall be administered without undue regard to procedural technicalities.[39] This means that dispute resolution through the judiciary shall be strictly based on the substance of the case and not merely on procedure.

2.6 FACTORS THAT IMPEDE ACCESS TO JUSTICE IN KENYA

Despite the fact that efforts have been made to ensure that justice is made accessible to all, there are those factors that impede the access to justice. Firstly, illiteracy and ignorance of the law is a threat to access to justice. For there to be access to justice one must first and foremost be aware and conscious of his rights and be in a position to know what he ought to do to seek redress when there is breach of those rights. Secondly, lack of available and affordable legal representation that is reliable and with integrity also inhibits access to justice. Those who are unable to access proper legal representation end up representing themselves and subsequently lose their cases

[39] Article 159 (2) (d).

purely on technicalities or inability to skillfully put their case forth. On the other hand, there are also litigants who retain advocates to represent them but they fail to meet the threshold of proper and adequate representation or compromise the case without the consent of the litigants. This is the reason why the Advocates Complaints Commission continues to receive complaints from the public against their advocates for various forms of malpractices and professional misconduct.

Another hindrance to access to justice is the inefficiency of judicial officers. This entails the delay of cases, corruption, poor filing, backlog of cases, mysterious disappearance of files, understaffing among others which prevent the people from accessing timely judgments and conclusion of cases. Other factors that affect the access to justice include weak enforcement of laws and implementation of orders and decrees, complex legal procedures, limited public participation in reform programs, gender bias and other barriers in laws and legal systems, lack of adequate remedies provided by law or practice among many others. All these factors in effect weigh down heavily on the demand for access to justice as many people are unable to access it despite being a constitutional right.

2.7 CONSEQUENCES OF LACK OF ACCESS TO JUSTICE IN SOCIETY

There are instances where people feel that their right to access to justice has been violated. This has led to many engaging in archaic ways of raising their grievance. This includes mob justice where people take the law in their own hands to punish offenders. Lack of appropriate systems in a state also often leads to widespread human rights violations as the people are not given a fair hearing in courts.

2.8 DEVELOPMENT OF ICT IN KENYA

ICT has been defined as a diverse set of technological tools and resources used to communicate, create, disseminate, store and manage information.[40] It refers to technologies that provide access to information through telecommunication.[41] The initial use of ICT in Kenya was very basic in form of landline telecommunication, type writers and analogue printers amongst other archaic means of communication. In the early days there was limited competition between service providers most of whom were using copper (co-axial) cables to provide networks unlike today when the primary networks are fiber optic[42]. It also needs to be highlighted that communication with the outside world was dependent on slow erratic satellite communication which today has seen competition from several sub-marine cables with resultant lower costs and better quality.

Modern (network) technologies have come with the introduction of faster more versatile terminal equipment like mobile telephones, digital printers, i-pads, laptops, video cameras, photocopiers, internet amongst many others. These have in essence created a 'global village' where people can communicate with others across the world real time. The use of ICT then became applicable not only in private transactions but also in government institutions to improve efficiency.

It was in fact extremely necessary to embrace the use of technology in our day to day running of affairs which would make things easier and faster. This also led to development as things are done faster and more efficiently. For instance, postage of a letter would in the past take about

[40] B. A. Amollo, *Role of ICTS in promotion of Good Governance: Case for Libraries in Kenya,* A paper presented in Nairobi, Kenya at KLA Annual Conference in 2007.
[41] F. Contini & F.G. Lanzara, *ICT and Innovation in the Public Sector (Electronic Book), European studies in the making of e-government*, Palgrave Macmillan, (2009).
[42] Fiber optic communication is a method of transmitting information from one place to another by sending pulses of light through an optical fiber where the light forms an electromagnetic carrier wave that is modulated to carry information.

two weeks yet today the sending of emails is instant. The United Nations Special Rapporteur, Frank La Rue, highlighted the importance of ICT for development by stating:

> "Access to means of communication and in particular, to electronic communication is now seen as necessary for achieving development and, therefore, should also be considered as an economic and social right. Governments should take responsibility for facilitating and subsidizing access to electronic media to ensure equitable enjoyment of this right, to combat poverty and to achieve their development goals."[43]

The Kenya ICT Board was established by the Honourable Retired President Mwai Kibaki as a state corporation under the State Corporations Act[44] on 19th February, 2007. This was as a result of the Government's intention to realize national development goals and objectives for wealth and employment creation through having information- based society. ICT was to be used to improve government operations and help it achieve its key public policy objectives.

2.9 INTRODUCTION OF ICT IN THE JUDICIARY

In line with the introduction of ICT in Kenya, there came a need to have it introduced in the various government arms, including the judiciary. For a long time, the judiciary faced various challenges such as poor case and record management, underdeveloped and insufficient ICT capacity and inadequate research material. To counter these challenges, the judiciary saw the need to incorporate ICT by automating the judiciary to improve case-flow management and systems. The Judiciary Transformation Framework, 2012-2016 was established and was

[43] A. Gronlund, R. Heacock & D. Sasaki, J. Hellstrom, W. Al-Saqaf, *Increasing transparency and fighting corruption through ICT : Empowering people and communities*, The Swedish Program for ICT in Developing Regions, 2010.
[44] CAP 446.

anchored on four pillars. These are People Focused Delivery of Justice, Internal Human Resource Capacity, Infrastructure and Resources and ICT as an enabler.

In line with the fourth pillar, the Judiciary Information Technology Committee (JICT) was established on 15th October, 2008.[45] The main role of this committee was to oversee the digitization of court records, creation of a document management system, development of ICT policy and strategic plan, establishment of communication infrastructure and acquisition of ICT hardware and software. JICT committee was given an obligation of giving progress reports on their successes, challenges and areas of improvement to ensure that the ICT system developed would meet its purpose.

The Second progress report was presented by Chief Justice Evans Gicheru (as he then was) on 13th October, 2010. The JICT committee reported that digitization had already began and that court records at the Court of Appeal and the High Court in Nairobi were being scanned. A contractor had been engaged to scan court records dating back at least ten years in the said courts. In order to ease the access to justice and improve efficiency through the use of ICT, the JICT committee embarked on establishment of appropriate infrastructure and systems. The use of basic electronic gadgets marked the beginning of the introduction of ICT in the judiciary. This involved the use of computers and printers, typewriters which have since been upgraded. The introduction of advanced ICT equipment in the judiciary then followed in an effort to improve the existing basic equipment.

[45] Chaired by the Honourable Justice P.N Waki

The first step was to have a case-flow management system which was essentially purposed to maintain information of cases such as date fixes, court proceedings and case law. This system maintains information regarding cases and operates with a powerful search engine on intranet and a website that all the members of the public can have quick access to. Another contractor had been awarded a contract to provide an electronic document management system and supply computers and scanners. A file tracking system would also be developed to maintain information regarding movement of files thus the cronic problem of disappearance of files would be eradicated. Another proposal was that the hearing of cases would be heard through video conferencing.[46] For instance, The Honourable Justice Francis Tuiyot, on 3rd January 2012, while sitting in Mombasa, allowed an application to have evidence taken *via* video link in a matter where four Danish navy officers had been charged with the offence of piracy.

The first telepresence[47] link was established between the Court of Appeal in Nairobi and its sub-registry in Mombasa. Video cameras and screens were installed in specially refurbished sound-proofed rooms in Mombasa and Nairobi Law Courts. This facility enables parties who are in Mombasa to have their cases heard by the Court of Appeal Judges sitting in Nairobi through telepresence. This was expected to reduce the cost of litigation and also facilitate speedy access to justice as parties will not have to travel to Nairobi when the Court of Appeal is not in session in Mombasa.

This pilot tele-justice was rolled out in the Court of Appeal to test its success after which it would be applied in criminal cases and later installed in prisons and the other courts. This would mean that remanded accused persons would not have to be brought to court when it was not

[46] Daily Nation, Wednesday January 4, 2012 at page 29.
[47] This is a refined form of video conferencing

really necessary such as during mention of their cases. In the long run, this would reduce the costs incurred in transporting remandees to court on a daily basis. The first case was televised from Mombasa where the Court of Appeal heard three cases *via* video conferencing. The bench sat in Nairobi while the respective lawyers were in Mombasa. This was indeed a milestone for the justice sector in Kenya.

There would also be created a computerized public complaints management system where all complaints would be dealt with in a timely and efficient manner. Any queries would be answered promptly thus ensuring that the public has confidence in the judiciary. Another novel introduction was that text creation, storage and retrieval will be done electronically through the use of computers while hard copies of the files would be scanned and be saved electronically

The recording of the proceedings will now be done electronically. This would be done through voice recognition technology which would free the judges from the tedious and time consuming task of manually recording verbatim the evidence and arguments during trial. In addition, the perennial problem of disorganized archival and storage paper records would be solved. There is also the use of microphones to enhance audibility of the judge. There are people who while in court strain to hear what the judge is saying. This was therefore introduced to ensure that the litigants are able to hear what the judge is saying especially in courts that are large. Local Area Networks (LANs) and Wide Area Networks (WAN) were to be introduced in some of the court stations and implementation process for the remaining stations was budgeted for the 2010-2011 financial year.

Some of the activities that were identified as necessary to advance this ICT agenda in the judiciary were purchase of laptops for all judicial officers, installation of Audio Visual Court Recording System and installation of SMS system to enable litigants to access the status of their cases.

In May, 2012, the Chief Justice, Dr. Willy Mutunga launched a special typing pool staffed with sixty two copy-typists at the Milimani Law Courts. These are to date being used to type proceedings so as to free the court of hardcopy files and help the judges work faster. On 30th July, 2012, the judges at Milimani Law Courts were handed ipads and blackberry phones to help in improving efficiency in the delivery of justice. The ipads are internet-enabled with more than one hundred applications uploaded. These were acquired as part of the judiciary's ICT strategy.

2.10 ICT *VIS-À-VIS* ACCESS TO JUSTICE IN THE JUDICIARY

One of the main reasons why it became necessary to introduce the use of ICT in the judiciary was so as to enhance the access to justice. The main question of concern is whether or not the use of ICT in the judiciary has enhanced access to justice. Previously, the judges and magistrates would record proceedings and write judgments in long hand then their secretaries would type them out. There would then be need for editing and proof reading by the judge to ensure that they were correctly done. This would then cause delays as a lot of time was wasted in the preparation of any document. One of the biggest challenges came about when an aggrieved litigant has lodged an appeal but had to wait even for a year to have the typing of proceedings done so as to prepare the record of appeal. It is also important to note that whenever a judge was transferred, the typing of proceedings had to be done where the handwriting was not legible enough for another judge to read. This also created a lot of unnecessary delays which could have

been avoided if the proceedings had been done in soft copy. The use of ICT ensures that proceedings are recorded electronically and thus making the work of the judge easier at the time of writing their decisions. Where a judge is transferred, the new judge assigned the case will comfortably proceed from where the former stopped. Further, it is easier for the judge to make any necessary amendments to his judgments or to prepare a similar judgment since it will be a matter of copy and pasting instead of writing out the judgment all over again. This certainly leads to faster delivery of judgments.

Whenever a document is prepared electronically, then copies are easily available as they are produced digitally. When a party seeks for a copy of any court document such as ruling or judgment they can be given immediately without any delay as they are only printed from the computer having been electronically prepared. With the introduction of ICT, the hard copies can be scanned and made available in soft copy which also enhances access to justice. This is already being done.

The use of ICT ensures improved access to the law. Previously, the litigants had to visit the Government Press offices to collect hard copies of the relevant law for which they were interested in. This was at times taxing since the office is only in Nairobi and the purchase of the statutes was subject to availability. Similarly, when one was looking for relevant authorities, they had to go through the hard copies in search of what they were looking for which was tedious and time consuming. This has now been changed by the introduction of ICT. All one needs to do is log on to the Kenya Law Reports website and search for a statute or authority just by the click of a button.

Automation of the judiciary through ICT has also helped in eradicating corruption as it promotes transparency and accountability. No more shall we hear of disappearing files which are only found when there is an exchange of bribes. There will be no more applications in court to have files kept in the 'strong room' for safe custody.

2.11 FACTORS THAT HINDER EFFECTIVENESS OF ICT IN ENHANCING ACCESS TO JUSTICE IN THE JUDICIARY

As discussed earlier, there are many reasons why the use of ICT in the Kenyan judiciary has not necessarily enhanced accessed to justice. These factors are varied. Firstly, there is the problem of illiteracy in Kenya. There are very many Kenyans who are uneducated while another big group is educated but are computer illiterate. The use of ICT can only be effective in enhancing access to justice if the people are able to use it in the first place. For instance, the use of computers is a skill that many Kenyans do not have. This means that they cannot be able to access the laws available over the internet thus their access to justice is impeded.

Another cause for alarm is that there are a number of judges and magistrates who are not techno savvy and neither are some of the support staff at the judiciary. For the use of ICT to be effective in meeting its objectives, there must be a judiciary that is able to use the electronic equipment provided. There is also the problem of inadequate resources both by the judiciary and by the litigants. Many of the litigants are usually poor people who can barely afford legal representation. This means that they cannot be able to afford equipments such as computers. They are therefore not in a position to access the internet and find laws that would assist them in their case. This means that the use of ICT in the judiciary would not assist in enhancing their access to justice.

On the part of the judiciary, lack of proper and adequate funding will prevent it from maintaining the machines and employing qualified manpower to run them. This will also be a barrier to enhancing access to justice. It must also be noted that the judiciary has had limited adoption of information and communication technologies especially in the development of the required ICT infrastructure. The use of ICT has been introduced in the courts located in the urban areas such as Nairobi, Eldoret and Mombasa. In effect, the courts in rural areas are still using the manual systems thus leaving out the people in those areas in the walk to a more efficient and effective judiciary. These rural courts are therefore characterized by ineffective storage systems of files, delays in the delivery of judgments amongst many other difficulties in the course of their operations. This makes it even difficult for the magistrates working in those areas to work effectively. There is too much emphasis on urban courts to the detriment of the rural ones.

Despite the introduction of ICT in the judiciary, access to justice has not been enhanced due to the rigidity of some judicial officers who were in office before the introduction of new operative systems. For instance, the court of appeal continues to be a court of procedure rather than of justice. It has continued to leave out many people with good cases or delay their cases just because of procedure. For instance, what would it matter for a court document to be bound in blue and not black in so far as delivery of justice is concerned? To this end, the judiciary despite its good policies on reforms would not be able to meet its objectives with such an old school mindset that is repugnant to justice.

2.12 CONCLUSION

As discussed, access to judicial justice is paramount in the growth and development of any country. Whenever there are violations of human rights, the people are protected by the

implementation of the law through the judiciary. It is not optional but mandatory for any country to protect the independence of its judiciary to ensure that all the cases brought before it are managed expeditiously, impartially and in a manner that conforms to the laws of the land and the rule of law.

The use of ICT in the judiciary or any other institution can only be a powerful resource if it is used or applied in a manner that furthers its objectives. In the judiciary, it must be applied in a manner that improves efficiency in the delivery of services. This means that ICT should be able to make the court services more accessible, increase accountability and transparency and also ensure timely delivery of judgments among many other objectives of the judiciary. This will then culminate in improved access to justice as all those who require court services are able to access it at minimum possible cost. In addition, this will improve the quality of justice as judges have better access to legal materials while the public can get access to judgments in time.

CHAPTER THREE

IMPLICATION OF THE USE OF ICT IN THE JUDICIARY: RESULTS AND DATA ANALYSIS

3.1 INTRODUCTION

The objective of this chapter is to present the data analysis design and the findings of the research. The researcher did a cross analysis between the data that was collected and the results that were generated from the data. The chapter then examined whether the specific objectives of the research were achieved and whether or not the research questions were answered. This would give a clear indication that indeed the research done here was justified and the results would help the judiciary to transform the manner in which ICT was being implemented in its operations to enhance access to justice.

3.2 DATA ANALYSIS DESIGN

Since the study obtained data items that were quantitative in nature, the raw data was systematically organized in a manner that facilitated analysis. Data was converted to numerical codes referred to as 'coding', including as much information as possible, to avoid initial omission of vital information which might have been impossible to recover later and ensure consistency. Similar information was categorized and grouped together to give a summary of results using descriptive statistics on all variables. The descriptive statistics used included measures of central tendency (frequency, percent and mean). The frequency measured the number of respondents who answered in a particular manner giving a total of 235 in each instance. The percentage was calculated on the basis that 235 represented 100%. So for each variable measured, the percentages would cumulate to 100%. The mean was obtained by summing values and dividing by the number of values.

From the data generated, the researcher then presented the findings in the form of graphs and tables to compare the results for each variable and correlate them with each other to show which one scored higher than the other. Factor analysis was used for this study. It was suitable because it is a statistical approach that can be used to analyse interrelationships amongst a large number of variables and to explain these original variables not only in a condensed way but also in terms of their common underlying dimensions with a minimum loss of information.

3.3 RESULTS AND ANALYSIS

The objective of this research was to examine the extent to which access to judicial justice has been enhanced for Kenyans through the introduction of ICT in the judiciary. It is in line with this objective and in an attempt to answer the research questions that the results are presented here below.

3.3.1 General Information on the respondents

Section A of the questionnaire derived background information about the respondents. The respondents consisted of 6 judges, 216 advocates and 13 clerks totaling to 235 respondents. 17 of the respondents worked in the judiciary, 182 in law firms, 22 for Non-governmental organizations and 14 for other sectors such as banks and insurance firms as shown in table 1 below.

The results showed that majority of the respondents were highly educated and therefore their ability to appreciate technology was higher. 233 of the respondents had received university/college level education and they accessed courts regularly either as judges, advocates, clerks or litigants and were therefore in a position to evaluate the impact of the use of ICT in the

judiciary. 33.6% of the respondents had accessed the courts for less than five years while there is 32.3% who had accessed the courts for a period between 6-10 years. A significant number of the respondents had accessed the courts for over 10 years. This implies that the respondents were adequately exposed to the court process for more than 5 years and were best placed to evaluate any progress that had been made in the administration of justice in the courts.

Table 1: Background information on the respondents

VARIABLE	**INDICATOR**	**FREQUENCY**	**PERCENT**	**MEAN**	**STD. DEV**
Institution working for	Judiciary	17	7.2	2.14	0.621
	Law firm	182	77.4		
	NGOs	22	9.4		
	others e.g., insurance ,banks	14	6.0		
	Total	**235**	**100**		
Level of Education	Secondary	2	0.9	2.99	0.92
	University/College	233	99.1		
	Total	**235**	**100**		
Capacity in access to courts	Judges	6	2.6	2.03	0.305
	Advocates	216	91.9		
	Clerks	12	5.1		
	Litigant	1	0.4		
	Total	**235**	**100**		
Period accessed courts	0-5years	79	33.6	2.30	1.274
	6-10years	76	32.3		
	11-15 years	26	11.1		
	16-20years	38	16.2		
	Over 20 Years	16	6.8		
	Total	**235**	**100**		

Source: *Research Data*, (2015)

3.3.2 Exposure to ICT and ICT resources available in the judiciary

Section B of the questionnaire sought to examine whether the respondents were well conversant with ICT, in terms of training and exposure, and whether in fact ICT technologies were being used in the delivery of services at the judiciary. 66.8% of the judges had received formal training in ICT while 30.8% of the clerks had formal training. In addition, 46.2% of the clerks had received basic training through seminars and this data points to the fact that the judiciary is indeed training its staff in the use of ICT technologies.

Table 2: Level of ICT training for Judges

1. Judges

VARIABLE	INDICATOR	FREQUENCY	PERCENT	MEAN
Training in ICT	Formal	4	66.8	1.50
	Basic/Seminars	1	16.6	
	Self	1	16.6	
	Total	**6**	**100**	

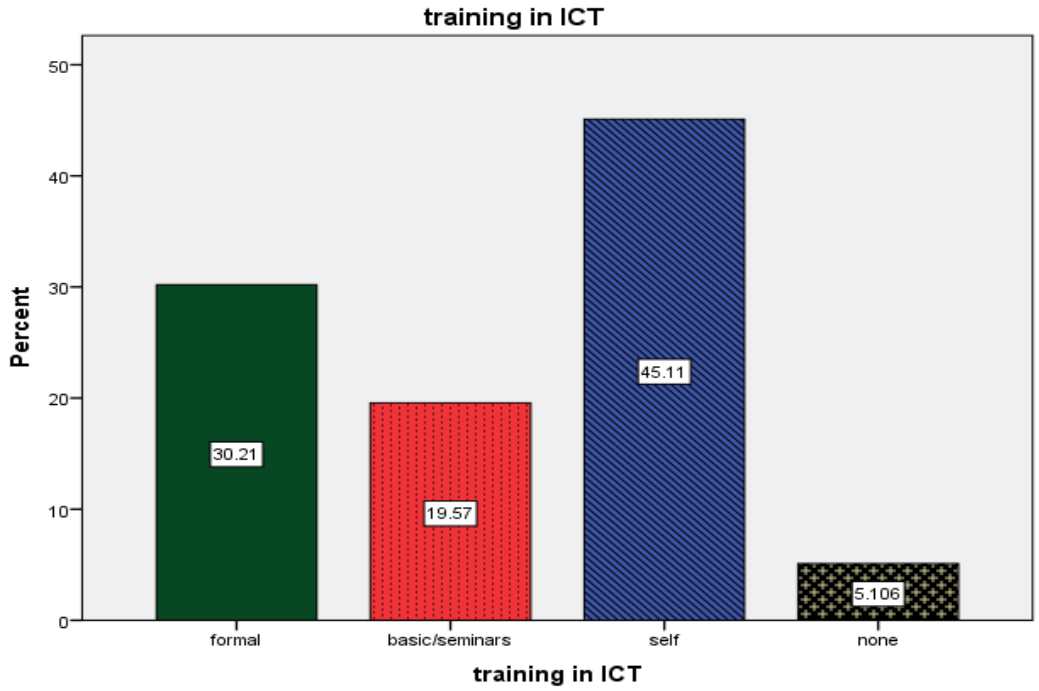
Table 3: Level of ICT training for Clerks

2. Clerks

VARIABLE	INDICATOR	FREQUENCY	PERCENT	MEAN
Training in ICT	Formal	4	30.8	2.00
	Basic/Seminars	6	46.2	
	Self	2	15.4	
	None	1	7.6	
	Total	**13**	**100**	

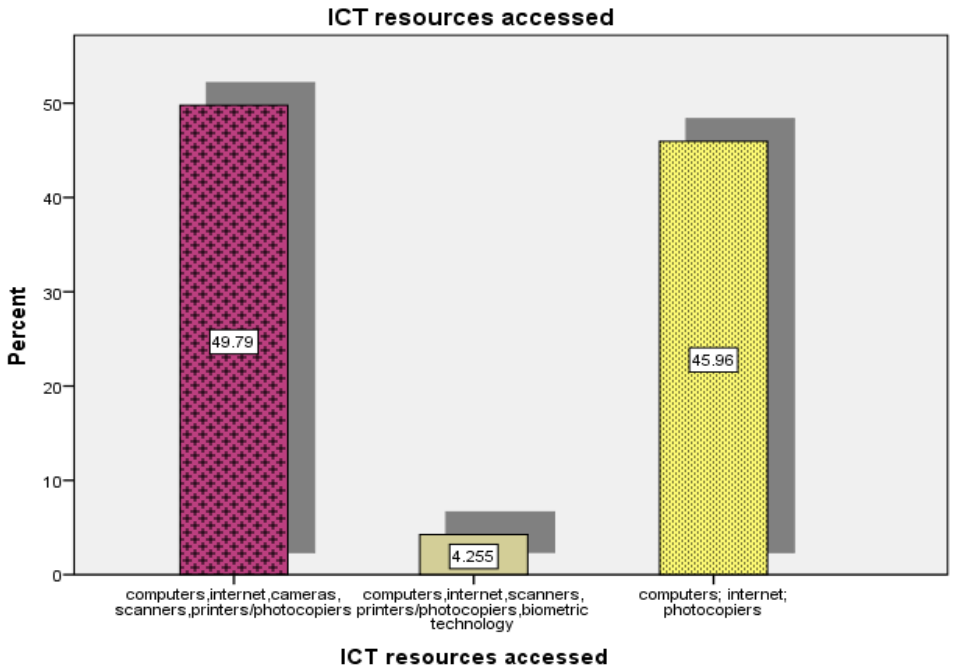
However, 47.2% of the advocates had trained themselves in ICT technologies but there was also a significant 29.2% and 18.5% whom had received formal and basic training respectively. The average finding for all the respondents, as shown in Table 4 below, was that 45.11% of the respondents had trained themselves in ICT whilst 30.21% and 19.57% had received formal and basic training respectively:

Table 4: Level of ICT training for all respondents combined



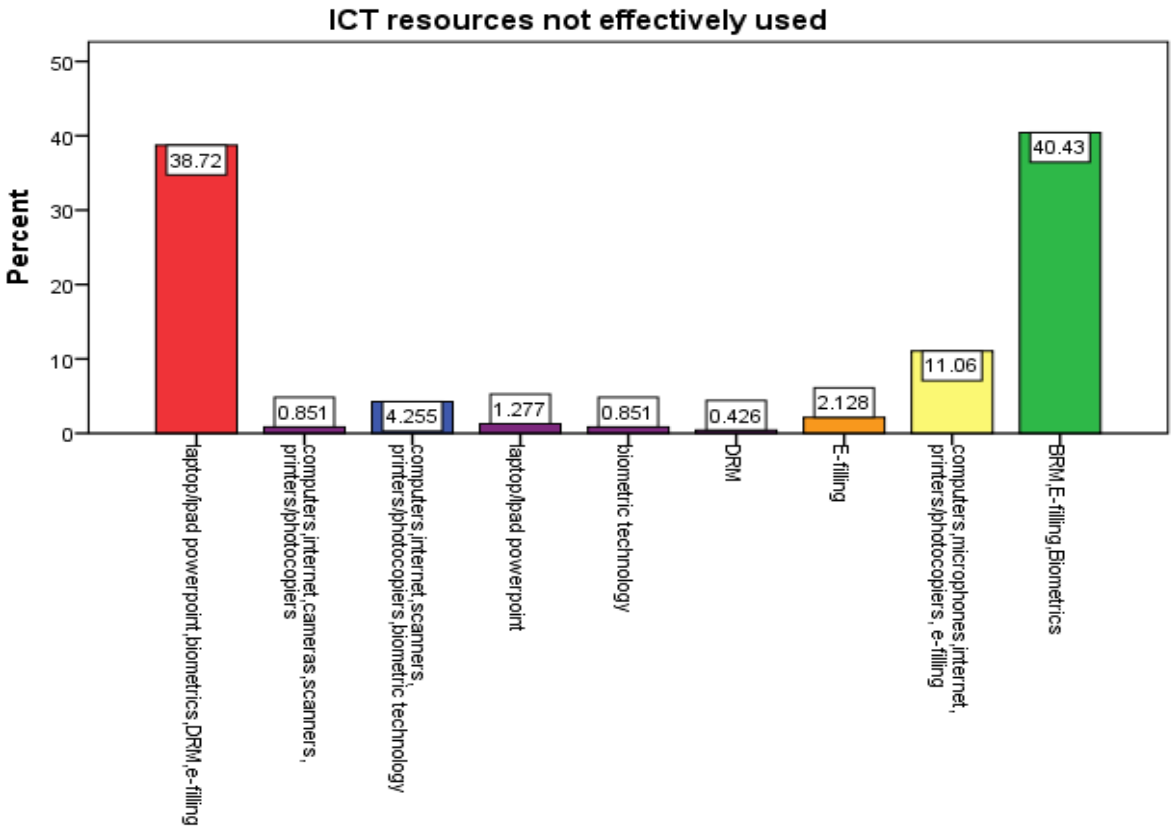
As demonstrated in Table 5 below, it was noted that most of the respondents had some level of exposure to ICT technologies. The most commonly used were computers, internet, cameras, scanners, printers and photocopiers. These were the more basic forms of ICT resources which formed indicators in measuring the variety of ICT resources accessed.

Table 5: ICT resources accessed by the respondents in their line of work



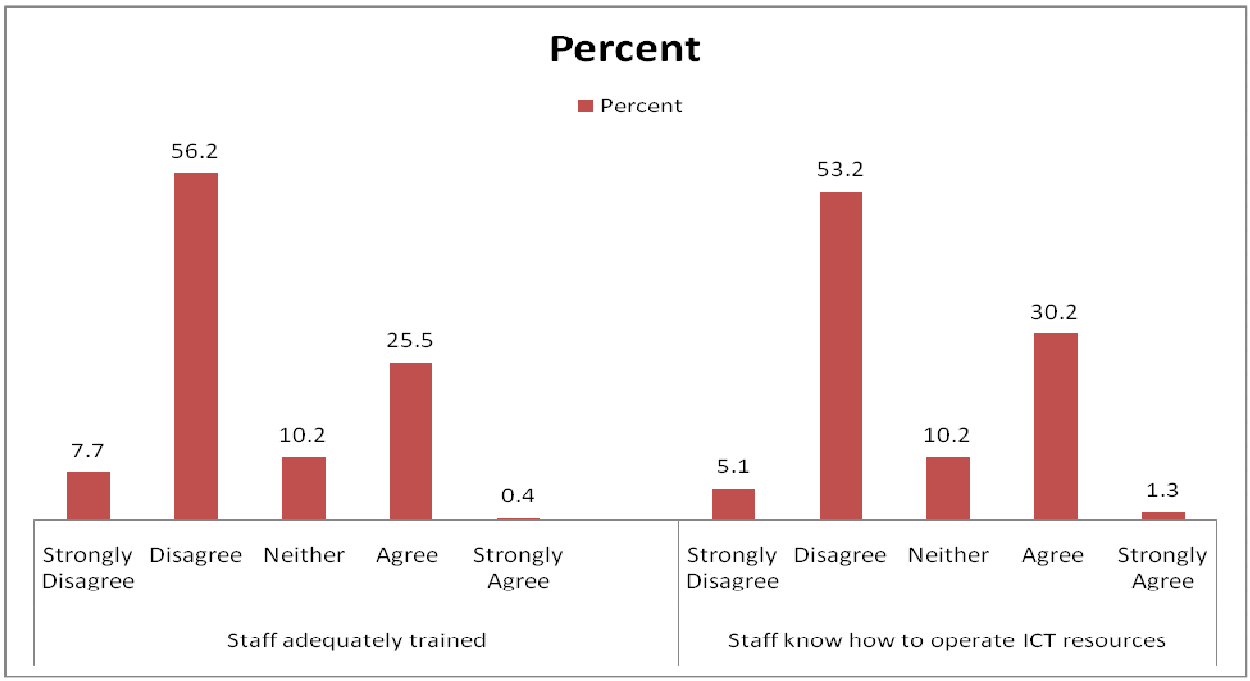
66.7% of the judges were of the view that biometric technology, digital rights management and e-filing had not been effectively used in the judiciary. 46.2% of the clerks also supported this view as well as 39.8% of the advocates. In addition to these three, the advocates felt that laptops, i-pads and power point had also not been effectively used in the judiciary. On average, a total of 40.43% of the respondents agreed with this position as shown in Table 6 below. This is a clear indication that the ICT resources often used in the judiciary are still the basic forms and the advanced forms have not been adequately or widely used in delivery of services.

Table 6: ICT resources not effectively used in the judiciary



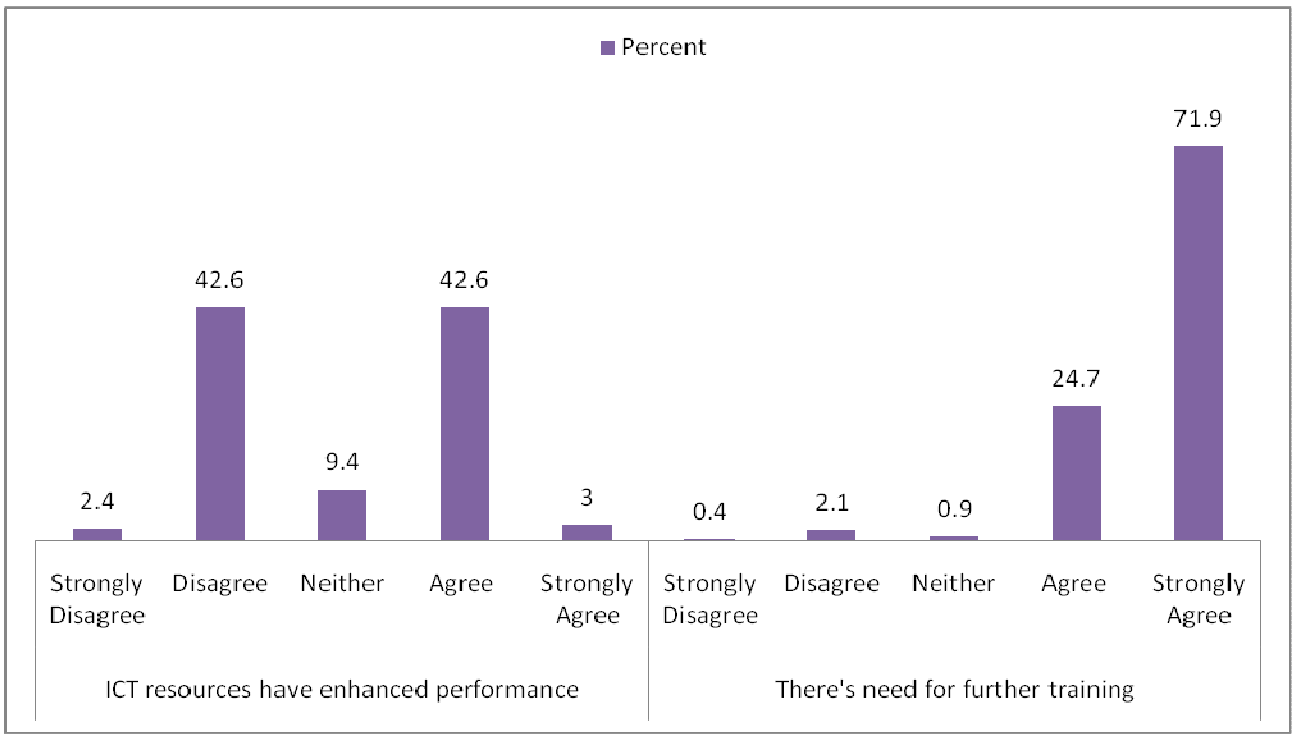
The use of digital rights management, e-filing and biometric technology is quite minimal hence there is need to enhance their use. This is mainly because these resources were introduced to enhance the security of court documents in an attempt to fight rampant mis-filing and disappearance of files. Though the judges were furnished with i-pads, the population is yet to feel the impact of its use. It is not clear whether they were to be used in open court or for private use in their chambers. That is why the respondents do not see them being used as judges are still manually transcribing the proceedings in the physical court files. The same is also true regarding the use of power point as it has not been effective.

Table 7A: Adequacy of training of judiciary staff in ICT



From the above table, 56.2% of the respondents disagreed with the statement that the staff are adequately trained in ICT while 53.2% disagreed with the statement that the judiciary staff know how to operate ICT resources. It therefore means that a large group of the population feel that since they are not served using ICT resources, then it is because the staff do not know how to operate these resources, which automatically can be used to infer that they are not adequately trained in ICT. This is despite the fact that they are well educated as already discussed above.

Table 7B: Use of ICT in relation to enhanced performance and training of judiciary staff



From this position, it is clear why the results in table 7B showed that 71.9% and 24.7% of the respondents strongly agreed and agreed respectively, with the statement that there is need for further training of the judiciary staff specifically on ICT.

3.3.3 The use of ICT in the judiciary

64.3% of the respondents agreed that the use of ICT in the judiciary has improved with 7.7% strongly agreeing with this view. In addition, 61.3% of the respondents agreed that ICT resources in the judiciary have been made more accessible. However, it was noted that 25.1% disagreed with this view meaning that there are still those who feel that more must be done to enhance accessibility of ICT resources in the judiciary. This could also add to the already established fact that the use of resources such as digital rights management, e-filing, biometric technology, powerpoint, laptops and i-pads had not been adequately used.

On the issue of whether the judiciary staff have embraced the use of ICT resources, 39.1% disagreed while 42.1% agreed. This places an almost 50:50 view on this particular variable. Those who are served using ICT felt that the staff had adequately embraced its use whilst those who were not served using ICT resources felt that the staff had not embraced its use. It can therefore be safely stated that close to 50% of the population are yet to fully appreciate and feel the impact of ICT in so far as enhancement of access to justice is concerned. This is supported by the results which showed that 43.8% disagreed that the public and litigants are served using ICT resources while 41.3% agreed with this statement.

3.3.4 Has ICT enhanced performance of the judiciary

From the results in Table 8 below, over 50% of the respondents disagreed and strongly disagreed with all the statements regarding the issue of whether the use of ICT had enhanced the performance of the judiciary. This translates to mean that the use of ICT in the judiciary is still a work in progress and has therefore not met its objective. However, taking into consideration the number of respondents who either agreed or strongly agreed, it is also obvious that the use of ICT has been beneficial to a certain extent and not entirely ineffective. The respondents who bore this view were also a significant number. Therefore, much as there is great room and need for improvement in the use of ICT, the extent to which it has been implemented has amounted to a significant impact that cannot be ignored.

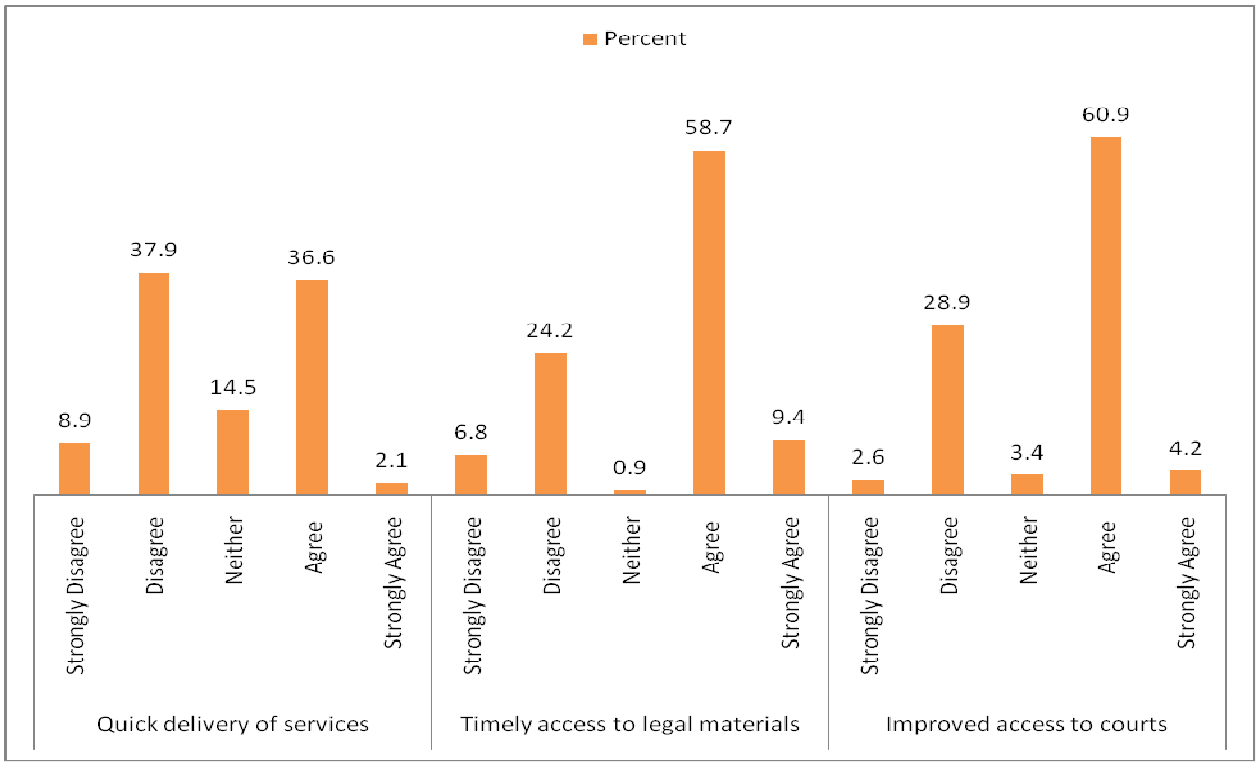
Table 8: Impact of ICT in enhancing performance of the judiciary

Variable	Indicator	Frequency	Percent
Reduced backlog of cases	Strongly Disagree	29	12.3
	Disagree	105	44.7
	Neither	21	8.9
	Agree	77	32.8
	Strongly Agree	3	1.3
Improved efficiency in conclusion of cases	Strongly Disagree	17	7.2
	Disagree	104	44.3
	Neither	22	9.4
	Agree	88	37.4
	Strongly Agree	4	1.7
Reduced corruption	Strongly Disagree	33	14.0
	Disagree	91	38.7
	Neither	24	10.2
	Agree	76	32.3
	Strongly Agree	11	4.7
Improved efficiency in filing system	Strongly Disagree	40	17.0
	Disagree	119	50.6
	Neither	16	6.8
	Agree	58	24.7
	Strongly Agree	2	0.9
Helped staff to work faster	Strongly Disagree	39	16.6
	Disagree	99	42.1
	Neither	13	5.5
	Agree	81	34.5
	Strongly Agree	3	1.3
Improved confidence in judiciary by publics	Strongly Disagree	37	15.7
	Disagree	117	49.8
	Neither	30	12.8
	Agree	48	20.4
	Strongly Agree	3	1.3
Enabled better presentation in courtroom	Strongly Disagree	44	18.7
	Disagree	125	53.2
	Neither	17	7.2
	Agree	46	19.6
	Strongly Agree	3	1.3
Improved security & administration of justice	Strongly Disagree	26	11.1
	Disagree	108	46.0
	Neither	30	12.8
	Agree	69	29.4
	Strongly Agree	2	0.9
Improved security of documents	Strongly Disagree	46	19.6
	Disagree	112	47.7
	Neither	14	6.0
	Agree	62	26.4
	Strongly Agree	1	0.4
Enabled better filling and improved security of court documents	Strongly Disagree	36	15.3
	Disagree	123	52.3
	Neither	17	7.2
	Agree	57	24.3
	Strongly Agree	2	0.9

3.3.5 Whether ICT has enhanced access to justice

The respondents answered the last part of the questionnaire where the results were to analyse whether or not the use of ICT in the judiciary has enhanced access to justice.

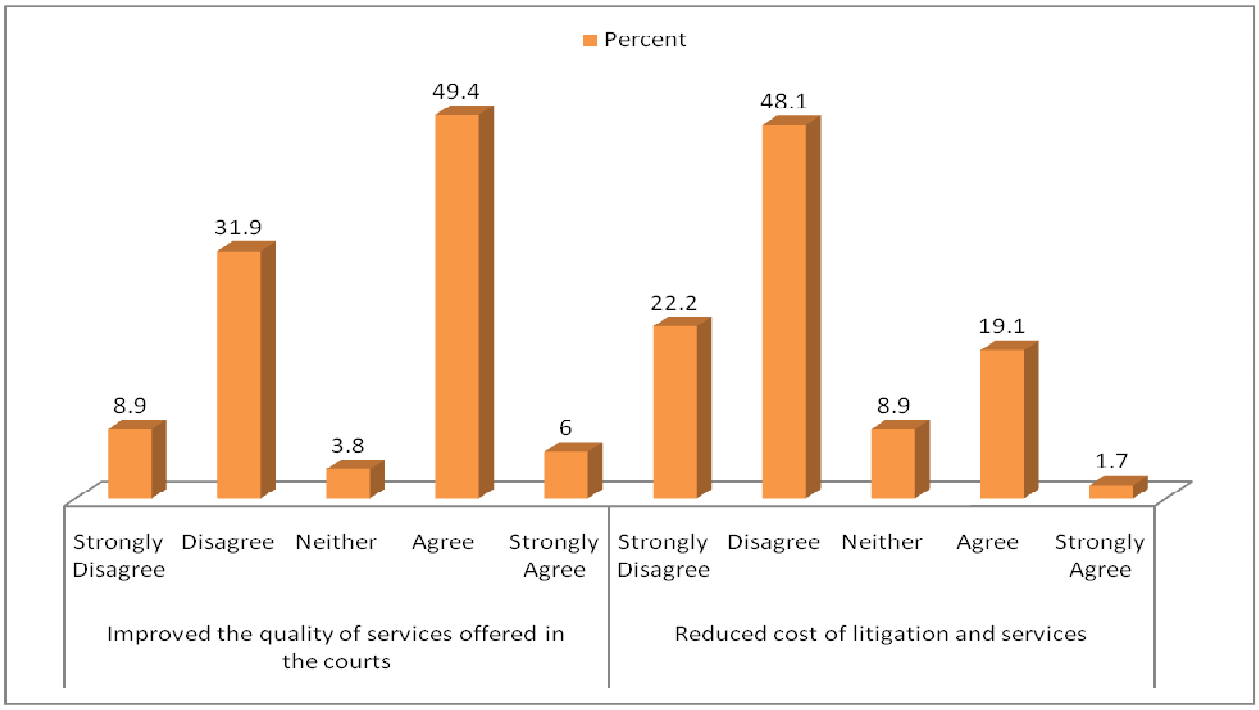
Table 9A: Relationship between the use of ICT and enhanced access to justice



As noted from the Table 9A above, 37.9% and 8.9% disagreed and strongly disagreed respectively, that the use of ICT had enabled quick delivery of cases. However, 36.6% and 2.1% agreed and strongly agreed with this statement. More of the respondents were therefore not in agreement with that statement. On whether or not ICT had enhanced timely access to legal materials, a commendable 58.7% agreed with this statement while only 24.2% disagreed, meaning that indeed ICT had improved the access to these materials. This supports the theoretical layout discussed in this paper where it was discussed that the use of ICT had been expected to ensure timely access to legal materials especially on the online plat form. Since

many of the respondents had access to the internet, then it would mean that it had contributed to this trend.

Table 9B: Relationship between the use of ICT and quality and cost of services offered



In addition, 60.9% (refer to Table 9A) agreed that ICT had improved access to courts which matches the results on the issue of timely access to legal materials and that of quick delivery of services. In able 9B, the results showed that 49.4% of the respondents agreed that the quality of services offered had been improved by the use of ICT resources. However, 22.2% and 48.1% strongly disagreed and disagreed, respectively, that ICT had reduced the cost of litigation. Though it was widely perceived that ICT would reduce the cost of litigation, the results showed to the contrary. This is because the use of ICT has also not been effectively implemented and there is need for improvement to enhance performance.

A significant number of the respondents disagreed with the variables in this section. For instance, a total of 40.8% disagreed that ICT had improved quality of services offered in courts through the use of ICT. 31% did not agree that there is now timely access to legal materials, while 31.5% denied it had improved access to courts. It must be clarified at this point that the questionnaires were in reference to the use of ICT specifically in the High Court. This is because at the time the researcher was carrying out the pilot study, it was noted that the use of ICT resources was more efficiently applied in the High Court than in the magistrate courts. A spot check for instance in the magistrate courts showed that almost none of them were fitted with microphones and cameras and would therefore have been inappropriate for the research. Similarly, the high court registries had been give priority in supply of ICT resources such as e-filing, digital rights management, printers, copiers, scanners and computers while the magistrate's courts were still using manual systems such as pigeon hole filing systems. Therefore, the clerks who participated in the research were drawn from the various high court registries and the ICT department.

3.4 INTERPRETATION OF RESULTS

In the first chapter, the researcher identified the objectives that the study sought to achieve. At this stage, it is then important to examine whether the research objectives were met and whether the research questions were answered. This would then express the importance of the study.

3.4.1 Level of ICT training and exposure necessary to enhance the performance of the judiciary

The main intention for introducing the use of ICT in the judiciary was to enhance its performance. However, one of the challenges that was anticipated by the researcher was that

since some of the judiciary staff were used to manual system of working, they would be adamant to embrace the new technology. Table 1 showed that 99.1% of the respondents were well educated having attained education above university level. This meant that these were people who would be able to appreciate training in ICT and easily adapt. In fact, in tables 2 and 3, the findings were that 66.8% of the judges and 30.8% of the clerks had been formally trained in ICT. Further, 46.2% of the clerks had received basic training through seminars. This means that indeed the judiciary has made an effort in training its staff on ICT.

However, in table 7A, the results showed that 56.2% disagreed with the statement that the staff were adequately trained in ICT while 53.2% disagreed with the statement that the staff know how to operate ICT resources. These two variables were related in that the probable reason why the respondents felt that the staff were not adequately trained was because they did not display knowledge on how to use the ICT resources. This finding confirmed the hypothesis stated in chapter one that there was need for training and retraining of the judiciary staff in order to enhance effectiveness of ICT in promoting access to justice which is supported by 71.9% of the respondents who supported the need for further training.

The answer to the research question of whether or not the use of ICT resources was necessary to enhance access to justice was certainly in the affirmative. 42.6% of the respondents were of the view that indeed ICT had enhanced performance of the judiciary. However, it must also not be ignored that 42.6% of the respondents disagreed with this view. This leads to the conclusion that though ICT resources have brought a positive impact in the judiciary, there is room for growth to ensure that its effectiveness is enhanced.

3.4.2 The extent to which ICT resources have been introduced in the judiciary

The judiciary had foreseen widespread introduction and implementation of ICT in the whole country. However, the starting point was through piecemeal application as an attempt to identify whether or not it was effective in assisting it to meet its constitutional mandate. The findings showed that to date, the commonly applied ICT resources were still the basic forms such as computers, printers, scanners, photocopiers and internet as 49.79% of the respondents acknowledged seeing these being used (refer to Table 5). However, the use of power point, digital rights management, e-filing, biometric technology, i-pads were found to be least effectively used by the judiciary (refer to Table 6). These were more advanced ICT resources whose use was anticipated to ensure that the judiciary was modernized and made more effective. The data then confirms the second hypothesis that the use of ICT resources has not been effectively introduced to meet their objective. There is need for the judiciary to hasten the introduction of resources such as e-filing which would safeguard the security of court documents. This would also mean that there must be budgetary allocations set aside specifically to meet this end.

3.4.3 Extent to which use of ICT has enhanced the performance of the judiciary

The data generated from part 3 of part C of the questionnaire sought to establish whether or not the respondents felt that ICT had enhanced the performance of the judiciary. This was in reference to ten variables which related to the manner in which the judiciary carried out its functions. The variables used in this part were to measure whether or not the challenges that the judiciary sought to fight through ICT had in reality been dealt with. These were the theoretical assumptions that the judiciary thought would be achieved by ICT including but not limited to reduction of backlog of cases, reduction of corruption, improvement of security of filing systems

and court documents amongst others. As shown in table 8, over 50% of the respondents disagreed (including strongly disagreed) with the variables listed. This means that the larger group of the population was of the view that the current application of ICT resources had not met the standards needed to enhance performance of the judiciary. There is need for JICT to restructure the manner in which it is implementing the use of ICT to make it effective.

3.4.4 Extent to which the use of ICT has enhanced access to justice

The assumption by the proponents of use of ICT in the judiciary was that it was the ultimate solution to the myriad of challenges it was facing in an effort to improve its performance. Table 9A showed that 36.6% and 58.7% of the respondents agreed that ICT had improved the delivery of services and the timely access to legal materials respectively. 60.9% agreed that it had improved the access to courts. This confirms the argument earlier in this study that the use of ICT had indeed improved access to justice. Legal materials are now readily available through the internet which can be accessed from any location across the country.

However, there was a significant group of respondents who still felt that this was not the case. In fact, 22.2% and 48.1% strongly disagreed and disagreed respectively, with the statement that ICT had reduced the cost of litigation as shown in Table 9B. It is still yet to be seen how the judiciary intends to counter the challenge of costs noting that it was foreseen to be one of the benefits of using ICT. Further, this confirmed the hypothesis that ICT could not on its own counter all challenges in the judiciary in improving access to justice. There are other factors that also play a role in promoting access to justice such as attitudes by judiciary staff, work ethics, willingness to adapt to change, applicable law amongst others. ICT was only an enabler.

As Waleed H. Malik rightly pointed out, for ICT to be effective, the rule of law must be respected. It was not enough to merely introduce ICT in the judiciary. The successes of the use of ICT in Kenya is similar to those that were identified by Jusitce Lungten Dubgyur in the Bhutan judiciary. The only point of departure is that in Bhutan, it is more advanced and widespread unlike in Kenya where some courts in rural areas are yet to even be connected to power.

3.5 CONCLUSION

From the results obtained above, it can be concluded that the use of ICT in the judiciary is necessary to enhance access to justice. This is because a significant number of the respondents applauded its use and regarded it as essential to enhance the performance of the judiciary. The level of exposure necessary to kick start change in the judiciary is quite basic. Most of the judiciary staff, though not adequately trained in ICT, have received some form of training that has brought an impact in the manner in which services are rendered. If they are adequately trained and provided with more of the ICT resources that are yet to be utilized effectively, then the performance will definitely improve. Lastly, though ICT has enhanced equitable access to justice for Kenyans, the impact is not satisfactory as a significant number is dissatisfied with its use. Notably, there are ICT resources that have not been fully utilized thus undermining the efforts by the judiciary to fully embrace ICT and enhance access to justice.

CHAPTER FOUR

THE USE OF INFORMATION AND COMMUNICATION TECHNOLOGY IN THE JUDICIARY: THE LEGISLATIVE FRAMEWORK AND COMPARATIVE ANALYSIS

4.1 INTRODUCTION

Any system of governance used in a jurisdiction is enhanced where there is a legal framework governing it. It is easier to enforce something that enjoys legal back up rather than one that is policy oriented. ICT in the judiciary is therefore likely to be enhanced where there is a specific law that governs its implementation and enforcement. This ensures that it is done in a manner that fits its purpose. This chapter will be an examination of the existing laws that promote the use of information technology in the country and any other laws that are still in the form of policy documents. The chapter also examines the use of ICT in courts in Europe and what Kenya can borrow for efficient application of technology in courts to enhance access to justice in Kenya.

4.2 LEGISLATIVE FRAMEWORK IN INFORMATION AND COMMUNICATION TECHNOLOGY IN THE JUDICIAL SYSTEM IN KENYA

4.2.1 ICT Policy Framework

In terms of policies, the first in Kenya was the National ICT Policy of 2006.[48] It is the present policy governing national ICT issues in Kenya. It was published through a special issue of the Kenya Government Gazette. The mission of this policy was identified as '*…improving the livelihoods of Kenyans by ensuring the availability of accessible, efficient, reliable and affordable ICT services....'* The policy's vision is to have a *'…prosperous ICT-driven Kenyan society....'* This policy has been under review since 2009 on account of changes that have taken

[48] Published in a special issue of the Kenya Gazette available at http://www.information.go.ke/docs/ICT%20Policy.pdf

place and continue to take place in the sector. For instance, we now have a sub-marine fiber bandwidth, the economic blue print, vision 2030, the Bill of Rights under the Constitution amongst many others that will necessitate an updated and advanced policy.

Secondly, we have the Vision 2030 document which was finalized by the Government in 2007 and aims to make Kenya '*…..a globally competitive and prosperous nation with a high quality of life by 2030.. .*' The vision was to be implemented through five Medium Term Plans (MTPs) one of which would relate to the ICT sector by facilitating the provision of equitable and affordable quality information and communication services countrywide. The Government in its review of the first MTP in the ICT sector showed progress in the landing of the East African Marine System undersea fiber cable and finalization of the first phase of the National Optic Fiber Backbone Infrastructure[49] both of which had also led to creation of jobs for Kenyans. We have also seen the ongoing development of Konza City which though still under construction, is highly expected to be a '*..Sustainable world class technology hub and a major economic driver for Kenya with a vibrant mix of businesses, workers, residents and urban amenities..*'[50]

Recent developments in the sector include the migration from analogue broadcasting to digital only transmission of terrestrial television. We also have the mobile sector industry with players like Safaricom, Telkom Kenya and Airtel Networks Kenya. They have also been providers of internet and data services in addition to Data Networks, Wananchi Online, Access Kenya and Jamii Telcom. Intense competition amongst these players has resulted in much cheaper consumer friendly prices which has been a great advantage to the larger population.

[49] T. M. Waema and M.N. Ndung'u, *Understanding what is happening in ICT in Kenya, A supply and demand side analysis of the ICT sector,* Evidence for ICT Policy Action, Policy Paper 9, 2012.
[50] Available at *www.konzacity.co.ke* accessed on 21st August, 2015.

The institutions involved in policy making are the Ministry of Information, Communications and Technology, National Communications Secretariat (NCS), Communications Authority of Kenya (CA), Parliamentary Committee on Energy, Communications and Public Works, Appeals Tribunal, Directorate of e-Government, Monopolies and Prices Commission and the Kenya ICT Authority (ICTA).[51]

4.2.2 ICT Legal Framework

The Constitution of Kenya, 2010 has enshrined Bill of Rights that require delivery through responsive ICT policy making. These include Freedom of Expression (Article 33), Freedom of Media (Article 34), Access to Information (Article 35), Economic and Social Rights (Article 43) and Consumer Rights (Article 46). The Constitution has expressly mandated Parliament to enact specific laws that will enforce the protection of these rights.

There are also various pieces of legislation that govern the ICT sector in Kenya. The Kenya Information and Communication Act[52] provides the current framework for regulating the communication sector in Kenya. It created the CA to license and regulate the sector, an Appeals Tribunal to arbitrate disputes amongst parties who are dissatisfied with decisions made by the CA, Telkom Kenya to offer communications services, Postal Corporation of Kenya (now incorporating the Huduma Centre) and the NCS whose mandate is to advise the government on the adoption of a communication policy. It must be noted that CA has been actively regulating the sector through licensing and the government has issued regulations governing vast areas including but not limited to dispute resolution, fair competition, consumer protection, determination of tariffs amongst many others which has in turn promoted efficiency in the sector.

[51] This is a government owned corporation tasked with rationalising and streamlining the management of all ICT functions of the government of Kenya.
[52] CAP 411A.

We also have the Science and Technology Act[53] of 1977 which was repealed by the Science, Technology and Innovation Act, 2013 which aims at facilitating the promotion, co-ordination and regulation of the progress of science, technology and innovation of the country, to assign priority to the development of science, technology and innovation and to entrench science, technology and innovation into the national production system and for connected purposes. The Kenya Broadcasting Corporation (KBC) Act of 1988[54] established the Kenya Broadcasting Corporation to assume the government functions of producing and broadcasting programmes or part of programmes by sound and television and to provide the management, functions and powers of the corporation.

4.3 COMPARATIVE ANALYSIS: THE EUROPEAN EXPERIENCE

The Kenyan experience in the use of ICT is still in its implementation stage. It is yet to be reviewed in its successes and failures. This means that it is important for Kenya to learn from other countries' experience.

There are several countries where the use of ICT in judiciary has been successfully implemented. The researcher analysed the use of ICT in European countries without narrowing down to specific jurisdictions. This was in light of the fact that no one country seems to have perfected the use of ICT in the judiciary to effectively enhance access to justice. There are salient features that are common in these countries thus making them appropriate for this study. For instance, the ministries of justice, in an attempt to manage the constantly increasing case load in courts, have adopted three main strategies- namely:-, increasing the administrative personnel and judges,

[53] CAP 250. *repealed*
[54] CAP 221.

changing norms and procedures and investing in ICT.[55] Though the diversity of institutional settings within Europe provides contrasting examples of technology used to support administration of justice, the use of ICT is considered one of the most important key elements in improving administration of justice. The rapid technology development has opened up new opportunities that would not have been considered a few years ago. For instance, statutory reforms have been introduced to give room to exchange and use of documents and electronic data within and between the national judicial systems.

In late 1970s and early 1980s, ICT began playing a role in the court activities in Europe. In order to support bulk data processing and record systems within central administration, mainframe applications were developed in several countries. At this point, there were very limited effects of these systems on courts. However, in the late 1980s, after the development of personal computers, ICT began being slowly introduced in court activities.[56] Technology was developed to improve working practices and to provide better court services.

Judicial administrators in Europe found it necessary to rethink the ICT functions at the time and adopt the use of electronic filing, web services, consultation through online court registration and electronic exchange of legal documents, legislation and case law. These were introduced in order to test whether the use of ICT in courts would indeed meet its objectives such as enhancing efficiency, timeliness, accountability and transparency which would all in turn help in providing adequate and satisfactory services in the judiciary.[57]

[55] M. V., *Justice Systems and ICT: What can be learned from Europe?* Utrecht Law Review, Igitur, Volume 3, Issue 1 (June) 2007.
[56] F. Contini, *Information System and Information Infrastructure Deployment: The Challenge of the Italian E-Justice Approach*, Twelfth European Conference on Information Systems, Turku, 14-16 June, 2004.
[57] B. Loveday, '*Address to EGPA Conference, Cape Sounion, Greece*' in M. Fabri, *et al*, The Challenge of Change for Judicial Systems, 2000.

These technologies as applied were graded to be individual, organizational or inter organizational. Individual technologies included applications such as word processing used for editing, formatting and printing standard documents and these would help a judge save time on document preparation as all he would need to do is edit a document instead of creating a whole new one. This would only apply to an individual person. Organizational tools on the other hand required collective adoption by all members of the court. This would help in enhancing its performance in whole as there would be coordination between departments. This resulted in creation of local area networks. Inter-organizational technologies created a link between the court and external factors including other government departments, lawyers and litigants. For example, creation of a website by courts would enable court users access information posted in the website across the world.[58]

The three categories of technologies used in the European courts are firstly basic technologies such as desktops, spreadsheets, word processing and emails. These allow people working within courts to learn about and effectively use ICT especially since many of the countries have also been characterized by poor ICT competence. This was the starting point towards the use of advanced technology. For instance, a judge would need a computer and internet connection to be able to access online legal information services. The second category are the applications used to support administrative components of the courts such as automated registers, case management systems, biometric technology and e-filing. Lastly, the courts have technologies which support the activities of the judges which include online law libraries and sentencing support systems.[59]

[58] O. Hanseth, *Theorizing about the design of Information Infrastructures: design kernel theories and principles*, available at: http://www.coe.int/t/dg1/legalcooperation/cepej/evaluation/2006/CEPEJ_2006_eng.pdf. accessed on 15th September, 2015.
[59] M. Velicogna, *Justice Systems and ICT: What can be learned from Europe?* Utrecht Law Review, Igitur, Volume 3, Issue 1 (June) 2007.

A report prepared by the European Commission for the Efficiency of Justice (CEPEJ)[60] showed that out of the 49 European judicial administrations considered, 48 of them generally had at least some basic computer technologies introduced and applied in courts. Out of the 47 countries that participated in the research, 41 of them had basic computer and word processing facilities in 100% of the courts, 5 in more than 50% of the courts and only 1 in less than 50% of the courts. The countries included in the survey were United Kingdom, Netherlands, Italy and Switzerland. It is noted that the application of these technologies in the said countries is much more advanced than in Kenya.

These countries introduced the said technologies with various objectives many of which have been realized. ICT has helped in broadcasting the information in electronic court records through the internet making that information readily and easily accessible. ICT has also helped the judges in legal research as they are able to use search engines and text mining techniques which have in turn enhanced the quality and efficiency of legal research. Online research was found to be more convenient and time saving than visiting a law library and going through law books that were at times worn out due to age or outdated due to the dynamic nature of law. The judges have also been able to meet virtually and discuss procedures, legislation and cases which has helped in the development of discussion forums and groups.

Another great innovation that was seen in these countries was the expansion of court management system applications to help in case management. These improved the monitoring and management of cases from the time an action was filed, to the trial until it was concluded or settled while cushioning the process from unnecessary delays. This was done through automation

[60] CEPEJ, European Judicial Systems, Edition 2006 (2004data).

of case trials, case planning, case tracking, document management and scheduling of hearing. For example, once a plea was taken, the event is registered, a judge is allocated the case, a hearing date is set and notice issued and a time period is then allocated for the judge to review the plea before the hearing. The system automatically generates this information. Indeed this was a big step towards reducing the backlog of cases and curbing the rampant and mysterious disappearance of files as matters were now been tracked electronically. Case management systems also helped in monitoring the performance of cases and organizing court activities. Another technology widely used in Europe is audio recording devices which keep track of hearing in court rooms. Other technologies that have been adopted in Europe are automated registries, multiple screens, video recording and video conference systems, intranet infrastructure and exhibit support systems for electronic presentation of evidence.[61]

Automated registers completely revolutionalised court activities. They have improved the process of data retrieval unlike when court clerks manually searched for court files or went through numerous pages in court dockets in such of particular documents. Another advantage of this technology is that it enabled multiple synchronous data entry and the system would be able to automatically update any new data in place of manual data entry system.[62] In Italy, courts developed a software to create a barcode to help the staff use an optic scanner to enter data into the case management system which was also made available to lawyers. This in effect ensured that interested parties would be able to timely access information concerning their matters.

However, despite the advanced implementation of ICT technologies in Europe, there are certain challenges that these countries have faced which have inhibited the efficiency of ICT in

[61] M. Taruffo, *Judicial Decisions and Artificial Intelligence*, Artificial Intelligence and Law, (1998) Volume 6.
[62] M. Velicogna, *Use of Information and Communication Technologies (ICT) in European Judicial Systems*, European Commission for the Efficiency of Justice, Igitur, 2006.

enhancing access to justice. Firstly, the complexity, flexibility, variability and discretion that are typical of judicial decisions cannot be effectively tackled through computer automated systems. This is because human contribution is mandatory in the administration of justice. Therefore, even if technology may be advanced, the manner in which decisions are made will ultimately depend on the judge, the law, procedures and circumstances of the case. ICT would in this case not of its own enhance access to justice.[63] Secondly, since courts are highly structured and the procedures defined in law, these laws are dynamic in nature and thus change with time. Software on the other hand lack flexibility to keep up to date. Technology does not become part of the institution but is only a tool used by people in the office. Therefore, if the people who create an application leave office, that application becomes obsolete unless there is continuous training and exposure of other members of staff on how to update the system. This has been found to be challenging as some of the data is sensitive in nature and allowing anyone and everyone to access it may pose security threats.

Another challenge is that ICT was introduced without clear strategy as a result of which a multitude of diverse hardware architecture, case management systems, automated registers and office automation tools were adopted. This was in a way counter-productive as it resulted in poor inter-operability both within the same courts and between different courts thus leading to high operative costs.

[63] M. Taruffo, *Judicial Decisions and Artificial Intelligence*, Artificial Intelligence and Law, (1998) Volume 6.

4.4 CONCLUSION

From the discussion in this chapter, it is clear that the European countries have effectively adopted the use of ICT in their courts. In addition, this adoption is widespread and not just restricted to specific courts. Kenya has a long way to go in so far as attaining that level of implementation of ICT in courts is concerned. However, as Kenya continues to improve the use of ICT in courts, there is a lot to learn from the challenges faced by these counties. For instance, introduction of ICT in courts and development of applications must be done in a structured manner to ensure that there is coordination not only within the courts but also between the courts and external players. There is also the need to have proper, regular and effective training while introducing ICT to ensure that there is continuity even when some members of staff leave the institution. Lastly, Kenya must be prepared to invest heavily in ICT to ensure that an effective system is created in all courts in Kenya without any bias, so as to achieve the ultimate objective of enhancing access to justice.

CHAPTER FIVE

RECOMMENDATIONS AND CONCLUSION

5.1 INTRODUCTION

The research has explored the use of ICT in the judiciary in an effort to enhance access to judicial justice. Proponents of the use of ICT in the judiciary have argued that it is the key to enhancing access to justice. However, despite the introduction of ICT in the Judiciary, justice is still inaccessible to many even in its most basic form. This has been worsened by the fact that ICT is in itself beyond reach to most Kenyans.

5.2 RECOMMENDATIONS

The use of ICT in the judiciary can be used to enhance the access to justice if the following recommendations are put into place:

1. Structured judicial reforms and policies

   The judicial reforms and policies geared towards enhancing access to justice must be structured and implemented in a manner suitable to fit their purpose. Otherwise, it remains an academic exercise.

2. Government commitment through budgetary allocations and policy development

   There is also need to have active government participation and involvement in terms of financial support and policy development so as to ensure that the use of ICT is effectively embraced in the judiciary. As earlier noted, the use of ICT in the judiciary is an expensive venture. There is need to develop the infrastructure to support the use of ICT in the judiciary as well as the skilled man power to operate them. The government must

therefore prioritise the funding of the judiciary to ensure that it ably develops its ICT department countrywide. It must be noted that the financial independence of the judiciary adopted in Kenya today is a step towards this great success.

3. Periodical training and re-training of judiciary staff

The judiciary currently has officers that do not have sufficient knowledge in the ICT sector including basic computer skills. Most of the officers appointed in the past, especially the judges, do not know how to operate computers hence rely on the administrative staff to do the typing and online research. In the advent of ICT in the judiciary, it is expected that a judge who is able to research online for instance will be more efficient and have access to the latest jurisprudence on a matter before him. It is therefore necessary that the judicial officers together with the sub-ordinate staff undergo training on ICT. This includes all the employees since even the keeping of records will be digitized and hence the support staff at the registry have to be ICT knowledgeable. Since ICT is as dynamic as law, the judiciary staff also ought to undergo retraining time and again to ensure that they are kept up to date with the emerging trends in ICT so as to improve its efficiency.

4. Creation of a judiciary technical team

The other recommendation is that the judiciary has to have an effective technical team that will be responsible in ensuring that all the machinery used in ICT are kept in the best state of repair. Many at times noble projects have been initiated but stall in a short time due to poor maintenance.

5. Creating a security system for documents saved in soft copy

   The judicial officers have in the past been blamed for the disappearance of files. Even with the introduction of ICT this can still be done, even easier. A person intending to make a file get lost only needs to delete the documents saved which is certainly easier that carrying a bulky physical file and hiding it. It is therefore proper that codes are used to safeguard information saved and bar access by unauthorized persons. This will ensure that there is a specific individual or persons responsible for the safekeeping of the saved documents.

6. Creation of an ICT monitoring system

   For ICT to be effective and sustainable, there should be a committee or department with the sole role of monitoring the progress and curtailing any challenges faced to ensure that there is no hindrances that may affect the strides reached this far.

7. Creation of an ICT policy and strategic framework

   Lastly, it is necessary to have provision for a definite framework consisting of ICT policies and strategies that lay out technical, administrative, auditing, legislative, financial and operational guidelines. This will ensure that the use of ICT in the judiciary achieves its purpose by having a well managed system that is sustainable.

5.3 CONCLUSION

The use of ICT in the judiciary is viewed as fundamental to promote access to judicial justice in Kenya. This is because it is seen as a step towards promoting a judiciary that is transparent and efficient in delivery of its service. Once the system is effectively implemented, we will no longer

have incidences where the files mysteriously disappear or judgments are plucked out of the files. We will then have quick dispensation of justice and the courts will be viewed as the centre of justice.

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APPENDICES

APPENDIX I: COVER LETTER

Dear Respondent,

I am an LLM student at the University of Nairobi School of Law currently conducting a research on the impact of the use of information and communication technology (ICT) in the judiciary in so far as enhancement of access to justice is concerned. The judiciary has progressively introduced various ICT technologies in its operations in an effort to make justice more accessible to litigants. This has especially been seen as a step toward addressing a myriad of challenges including but not limited to backlog of cases, corruption, laxity, poor case files management.

This research is of high importance since its success will examine whether or not the use of ICT has been effective in the promotion of access to justice in courts and identify any factors that hinder its effectiveness in meeting its objectives and the appropriate solutions.

I kindly request you to give your response to the questionnaire provided below which would take approximately 7 minutes. I pledge that the information obtained will be used entirely for academic purposes.

Thank you in advance.

Yours Faithfully,

Priscilla W Kagucia

APPENDIX II: QUESTIONAIRE

RESEARCH QUESTIONAIRE ON THE IMPACT OF THE USE OF INFORMATION AND COMMUNICATION TECHNOLOGY IN THE JUDICIARY TO ENHANCE ACCESS TO JUSTICE

SECTION A: GENERAL INFORMATION.

1) Which institution do you work for? (tick where appropriate)
   Judiciary ( ) Law firm ( ) NGO ( ) Other (Specify)……..
2) How far did you go in your education? (tick where appropriate)
   Primary level ( ) Secondary level ( ) University/College ( ) Other. (Specify) ……
3) In what capacity do you access the courts? (tick where appropriate)
   Judge ( ) Advocate ( ) Clerk ( ) Litigant ( )
   Other. (Specify) ……
4) For how many years have you accessed the judiciary/courts? (tick where appropriate)
   0-5 ( ) 6-10 ( ) 11-15 ( ) 16-20 ( ) Above 20 ( )

SECTION B: ICT IN THE JUDICIARY

1) Which of the following training methods have you undergone on ICT? (tick where appropriate)
   Formal ( ) Basic/Seminars ( ) Self ( ) None ( )
   Other (Specify)……..
2) Which of the following ICT resources do you have access to as part of your work or in your day to day life? (tick where appropriate)
   Computers ( ) Microphones ( ) Internet ( ) Cameras ( ) Scanners ( )
   Printers/Photocopiers ( ) Laptops/ipads( ) Powerpoint ( )
   Biometric Technology ( ) Digital Rights Management ( ) e-Filing ( )
   Others. (Specify) ……
3) Which of the following ICT resources have you witnessed being used in the judiciary? (tick where appropriate)
   Computers ( ) Microphones ( ) Internet ( ) Cameras ( ) Scanners ( )
   Printers/Photocopiers ( ) Laptops/ipads Powerpoint ( )

Biometric Technology ( ) Digital Rights Management ( ) e-Filing ( )

Others. (Specify) ……

4) Which of the following ICT resources have not been effectively used in the judiciary? (tick where appropriate)

Computers ( ) Microphones ( ) Internet ( ) Cameras ( ) Scanners ( )

Printers/Photocopiers ( ) Laptops/ipads Powerpoint ( )

Biometric Technology ( ) Digital Rights Management ( ) e-Filing ( )

Others. (Specify) ……

SECTION C: IMPACT OF THE USE OF ICT IN THE JUDICIARY IN RELATION TO ENHANCEMENT OF ACCESS TO JUSTICE

Please indicate the extent to which you agree with each of the following statements relating to the use of ICT in the judiciary given the scale below.

5. (Strongly agree) 4. (Agree) 3. (Neither) 2. (Disagree) 1. (Strongly disagree)

	Strongly Agree	Agree	Neither	Disagree	Strongly disagree
1. Use of ICT in the judiciary has improved.	5	4	3	2	1
2.ICT resources in the judiciary have been made more accessible	5	4	3	2	1
3. Staff in the judiciary have embraced the use of ICT resources	5	4	3	2	1
4. Members of the public and litigants are served using the ICT resources.	5	4	3	2	1

Please indicate the extent to which you agree with each of the following statements relating to training of judiciary staff on ICT.

	Strongly Agree	Agree	Neither	Disagree	Strongly disagree
1. The staff are adequately trained in the use of ICT resources	5	4	3	2	1
2. The staff know how to operate the ICT resources in a fast and efficient manner.	5	4	3	2	1
3. ICT resources have enhanced the performance of the judiciary	5	4	3	2	1
4. There is need for further training	5	4	3	2	1

on use of ICT technologies.					

Please indicate to what extent you think the use of ICT has enhanced the performance of the judiciary.

	Strongly agree	**Agree**	**Neither**	**Disagree**	**Strongly disagree**
Reduced backlog of cases	5	4	3	2	1
Improved efficiency in conclusion of cases and delivery of judgments	5	4	3	2	1
Reduced corruption	5	4	3	2	1
Improved efficiency in the filing system and retrieving of files	5	4	3	2	1
Helped the judiciary staff to work faster and easier	5	4	3	2	1
Improved confidence in the judiciary by the public	5	4	3	2	1
Enabled making of better presentation in courtroom	5	4	3	2	1
Improved security and administration of justice	5	4	3	2	1
Improved security of documents	5	4	3	2	1
Enabled better filing and security of court documents and documents in files	5	4	3	2	1

Please indicate to what extent you think the use of ICT has enhanced the access to justice in the judiciary.

	Strongly agree	**Agree**	**Neither**	**Disagree**	**Strongly disagree**
Quick delivery of services	5	4	3	2	1
Timely access to legal materials and judgments	5	4	3	2	1
Reduced the cost of litigation and services offered in the judiciary	5	4	3	2	1
Improved access to courts	5	4	3	2	1
Improved the quality of services offered in the courts	5	4	3	2	1

THANK YOU FOR PARTICIPATING