

ADVANCING THE PRACTICE OF LAW AND ACCESS TO JUSTICE THROUGH THE DEVELOPING OF NEW STRATEGIES IN CIVIL LITIGATION.

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Abstract

The practice of law in court and in legal tribunals is the main focal point where jurisprudence is developed in the first instance. It is from the disputes that are litigated in court that lead to the clamor for civil liberties of an individual or a group in the society and thereafter leads the implementation of the right. It is therefore necessary to ensure that the space where these civil liberties are first sought is well ventilated to advance the space for anyone who would like to pursue any right.

Failure to advance legal practice creates high chances of retrogressive jurisprudence that endanger civil liberties. This paper seeks to identify various types of bottle necks that limit the advancement in litigation especially from the point that a practicing counsel in any jurisdiction can identify with. Once these practice challenges are identified we shall develop ways of removing and/or ameliorating them therefore enhancing the development of the law.

Further majority of the law firms (especially in Eastern Africa) depend on litigation as the main source of revenue.¹ It is therefore necessary to evaluate how we can best identify these challenges that face a litigation counsel, reduce the challenges that create a bottleneck in jurisprudence leading to enhanced opportunities and scope of practicing advocates. This will also lead to a satisfied client since disputes will be settled faster.

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¹ <http://www.ealawsociety.org/strategicplan.pdf> Last modified 3rd July, 2018. It lays out the East Africa Law Society Strategic Plan 2017 - 2021 various engagements that are necessary for members to assist in the advancement of litigation.

Introduction

Majority of the law firms and counsel practicing law in Kenya are actively engaged in litigation². The other group of counsel comprise ‘in-house counsel’ who share information/facts, supervise and/or draft pleadings and documents for the litigation counsel who frequents the courtroom. Whichever part of the conveyor belt the counsel is engaged there is need to identify the aspects that make litigation and the practice of law difficult. We shall then develop and identify ways to ameliorate these challenges. Most of these commonly experienced challenges range from; technological challenges, practice rules, lack of mentorship for young counsel, lack of proper coordination of functions within the bar and the bench, poor law firm organization and management, failure to expand and tap emerging markets, lack of innovation and many others which may be special to law firm or cut across the board.³

This paper point of departure is based on the fact that ‘majority of the law firms have an active arm focused purely on litigation⁴’. The other areas of practice; conveyancing, corporate law, anti-trust/competition law, commercial/business consultancy may also be widely practiced but have an anchoring in litigation. The other areas of practice (constitutional law, administrative law, land law, insurance, employment and labour) will all experience an advancement/developed jurisprudence once the practice bottlenecks are removed. Once counsel is able to have an expedited court hearing with all the necessary information delivered to him (irrespective of the specialization area) then jurisprudence shall be developed rapidly.

The Judiciary in Kenya has been expanding and making all ways to enhance accessibility and reaching out to the citizens. This has seen more court stations being constructed and others being renovated opened up.⁵ More judges and magistrates are also being hired. To the contrast the Law Society fraternity of practicing counsel has not put up functions collectively that enhance research and jurisprudence to move in tandem with the judiciary. An example is seen through the fact that

² www.lsk.or.ke Last modified 3rd July, 2018. Members search reveals that majority of the lawyers are involved in litigation.

³ DAV (German Bar Association) *Legal Services Market in 2030*, 2012 Prognos AG

⁴ Litigation is also commonly referred to as ‘dispute resolution practice/service’

⁵ www.judiciary.go.ke downloads Last modified 3rd July, 2018 (court buildings under construction) get an extract from the website

small solo practice law firms with minimal ability to spend on research in emerging areas, technology and human resource capability are coming up every day. As a result only few cases of notable jurisprudence have been litigated at the recently opened High Court stations in counties after the promulgation of the new constitution.⁶ The development of jurisprudence has therefore lagged behind in the counties, this also has an adverse effect on the way counsel practice law in these counties. The practice of law has taken a discourse where its larger bias leans towards raising revenue to the partners in the firm rather than pursuing jurisprudence and an advancement of the rule of law. The challenges that are experienced in small firms leave little or no resources for the expending of law firm resources towards mentorship to young upcoming lawyers (and pupils), marketing and developing infrastructure.⁷

Comparative research carried out in other jurisdictions.

There are websites of many law firms globally which are highly recommended for perusal to acknowledge the diversity of legal practice. They give a general insight of how dispute resolution is practiced with respect the law firms jurisdiction and the practitioners preferences⁸. Of interest this paper is how we can enhance the practice of law by evaluating the existing systems from a legal practitioners view.

Challenges in England and Wales: The leading legal jurisdiction in the Commonwealth Common Law jurisdiction is the United Kingdom and specifically England. This is most exemplified by the outstanding law reporting system created which has enhanced the doctrine of judicial precedence. In an article in January 2016, The Law Society of England and Wales published an article on the future of legal services.⁹ In this report the Law Society of England and Wales examines their current position *vis a vis* the expected position in the year 2020. The main driver that was noted

⁶ To enhance devolution as provided for in Chapter 11 of the Kenyan Constitution the Kenyan Judiciary has opened up many court stations in the counties that did not have a High Court Station.

⁷ A good example is where a small firm will not engage a pupil because it does not have adequate office space to host the pupil.

⁸ <http://hfm.co.ke>, <http://www.vonwobeserysierra.com>, Last modified 3rd July, 2018

⁹ The Law Society of England and Wales, The Future of Legal Services, January 2016. www.lawsociety.org.uk Last modified 3rd July, 2018.

was technology. The technological changes expected are inevitable and law firms (and counsel individually) will have to adapt to these changes to remain afloat. Globalization is also a key feature that was noted. Global trends and their repercussions to the National economic trend crucial. These trends will certainly affect the business environment where the lawyers practice. The report indicates that small solicitor firms will be most hit if they do not adopt new technology and emerging business trends.¹⁰ The report indicates that the transition to 2020 will be most difficult to the small law firms if they do not innovate. There is an acknowledgment that there is a fragmentation in the profession as a major market trend. There is an acceptance that many firms will have fewer and fewer solicitors working in them. Talented senior lawyers are moving from the top law firms to partnership in smaller law firms. The survey confirms that most of the solicitors are aware of the risks ahead however there is no definite affirmation that they working toward neutralizing the noted risks.

Using the data to assess the future trends, the report notes that future firms will continue to generate most revenue from litigation.¹¹ This same litigation work that has been predominantly done by lawyers will decrease since other professional will take it up reducing the lawyers' dominance in some fields.¹² A good number of law firms in England and Wales generate their revenue from personal injury claims and employment claims. This situation is similar to the Kenyan situation that led to the creation of the Employment and Labour Relations Court.¹³ To reduce this type of litigation there has been the creation of a tribunal system and enhanced use of ADR in the labour division in England and Wales which has a likelihood of eating up the bigger chunk of the revenue generated by the employment and labour disputes. The insurance industry has also started making efforts to reduce the cases that proceed to litigation through claims management companies and use of insurance brokers. All these factors suggest a competition on the legal services that are

¹⁰ Idid at page 11

¹¹ This joins issue with the fact that majority of the law firms in Kenya and the counsel details in the Law Society of Kenya website indicate that most advocate engage in insurance and employment and labour litigation.

¹² In Kenya case on probate and grant of letters of administration of estates has been simplified and majority of such cases are proceeding without legal representation.

¹³ Article 165(2) of the Kenyan Constitution 2010

currently seen as a preserve for lawyers. In Kenya real estate firms and savings cooperative societies are also completing small land buying transactions with minimal involvement of lawyers.

What is driving this change? Globalization, technology, client preference and competition.¹⁴ Consumers who have access to technology expect that they will be informed the developments in the legal issues timely. They also research for the information online and thus have an understanding of the services expected therefore challenging the outcome that the lawyer will provide. Once the information is available online to the consumer he chooses what to do with it; eg engage a lawyer, a consultant with other specialized firms. The main issue for the consumer is what value do I get from you. The consumer is looking for a value that goes beyond the legal expertise. The lawyer has to understand the aspect of connected business relations his legal advice advances towards the consumers intended outcome. This informs the fact that the traditional model law firm is endangered if it does not re-engineer to provide a wholesome package. A plan of action is necessary for any firm of the future.

Competition among law firms is healthy, however the small law firms will have a difficult time navigating the busing environment if they do not engage in marketing and outreach. It is necessary for law firms to reach out for alternative business/markets legal related. The law firms' pie is being pursued by global firms like the Big4 which offer multi consultancy on many business aspects. In conclusion there is need to make a similar evaluation for law firms in Kenya and see the challenges that underlie the future legal practice.

American Bar Association Experience: In a similar outlook the American Bar Association through its Commission on the Future of Legal Services conducted a survey and published a report on the same.¹⁵ The American Bar Association (Commission) commissioned this study on the delivery of legal services to the public. The American public being entitled to good legal services, it was therefore necessary to identify the challenges that hinder the delivery of these services, scrutinize the weaknesses and strengths so that the next generation of legal services meets the legal

¹⁴ The report in note 9 above refers to client preference as buyer behaviours.

¹⁵ American Bar Association, Commission on the Future of Legal Services, *Report on the Future of Legal Services*. 2016. www.shopABA.org

needs of the society. The main challenges noted are; resistance to technology and globalization and the high cost of access to the legal services. The high cost to legal services has led to the non-affordability of the services. As a result many people/litigants opt to go to court unrepresented leading to a waste of judicial time to the affected litigant and the others in court. This has also led to many avoiding accessing justice since the high cost has put them off.¹⁶

The paper proposes that lawyers give out more time for pro bono services and enhanced funding for legal aid. The paper underscores the need for legal aid especially for those living below the poverty level. There are gaps that need to be filled by lawyers giving up their time voluntarily so that social justice can be achieved. Some of the unrepresented in court are in areas where legal representation is most needed, example being in child custody, mortgage foreclosures, eviction and debt collection cases which all touch on issues of poverty and lack of the back needs. The report confirms that most lawyers actually give out their time for pro bono services however that is not enough. There is need for concerted efforts between the government, judiciary and the Bar Association collectively.

The report details the efforts that have been tried to enhance the practice of law in various American States. These innovations will mostly require the use of technology. They will need support from the judiciary and the relevant Bar Association. An example is the On-line dispute resolution for small claims and landlord /tenant disputes which are often simple legal disputes. There is a suggestion that this type of dispute goes migrates online so that time can be saved from the court rooms.¹⁷ Some jurisdictions in the Unites States of America have also courts assistants to help the unrepresented litigants file pleadings in court. They include California, Washington, New York and Arizona where they are referred to as court Navigators. They have a limited scope and only use court house computers to assist unrepresented litigants. They are mainly law students and are not allowed to appear in court on behalf of the litigant or plead on behalf of the litigant. The assistance only include generating and filling of forms.

¹⁶ Ibid at page 8.

¹⁷ Online legal disputes has also been tried in eg Dutch Legal Aid Board. *Online Problem Solving Dispute Resolution for Divorce*, Netherlands. And British Columbia Ministry of Justice Canada, *Online Solution Explorer for Small Claims and Condominium Disputes*.

Legal training is now being re-engineered to help innovate solutions to the legal sector. The teachings in the American Universities. A Task Force by the American Bar Association on legal studies recommended that Law Schools should offer more technology training, experimental learning and the development of practice –related competencies. The providing of incubators for the young legal graduates to learn how to provide legal services to low and moderate income clients. The underlying issue is that justice should be simplified for the non-represented litigants, complexities should be avoided/removed where they do not add value/enhance justice. These complexities lead to intimidation of the litigants. In general access to justice should also be affordable to all.

The Teaching of the Practice of Law and Management of Law Firms: There is a dire need to change how law schools are preparing future lawyers. There has been noted that there is little or not enough emphasizes on technology related training and office practice management. These aspects are usually learnt during the practice of law. In an article by Richard Granat and Stephanie Kimbro they discuss these issues that are missing in the training of law in the American Universities today.¹⁸ The main aspects of the paper are the practical aspects that the new legal practitioner encounters once he/she completes training and is admitted to the bar. These challenges are practical in nature as the lawyers manages his time, clients and wants to execute a legal assignment. Use of technology and minimal costs to efficiently execute the task is necessary while at the same time delivering client satisfaction. All these are hallmarks of an advancing jurisprudence.

The authors note that only a small fraction of law schools are teaching technology and office practice management related modules to the up-coming lawyers. The author puts it that law school graduates are ill prepared for the future they are most likely to pursue.¹⁹ When you consider our earlier finding that most lawyers are in solo practice of law majority and therefore majority teach themselves these management issues and they do not have the luxury of on job training since their

¹⁸ Richard S. Granat and Stephanie Kimbro, *The Teaching of Law Practice Management and Technology in Law Schools: A new Paradigm Shift*. Chicago – Kent Law Review (Vol 88.3)

¹⁹ Ibid at page 759.

time is also limited and focused on the clients work. The upcoming lawyer is more of an entrepreneur and least of an employee. He needs the art of capturing and retaining clients, he needs to package his pleadings wonderfully before the judge/tribunal, counsel needs to be efficient in time management in court, in the office and when conducting research and he need information on the emerging trends. Majority start law firms without a well crystalized business plan/business model, as a result they spend the formative years learning the ropes of law firm management. These law firm management skills includes billing of fees and when to outsource a service. The identification of personnel for a small solo law practice is not easy. The probability that a small law firm will have a five year plan is also low. The only goal they practice is developing a client base for higher fees.

On the use of technology few law firms have used it effectively with good returns. The next article will help discuss the issues related the adoption of online practice.

An evaluation of Virtual Law Practice in the United States of America: There is a general realization or acceptance that the future practice of law will to a bigger extent be done online. As a result this article by Stephanie L. Kimbro evaluates the issues that may arise within the virtual practice of law.²⁰ Among the issues that have been noted that will be necessary is the creation of an online portal platform (read registry) by the affected bar association to facilitate the lodging of documents. A lot of training will be necessary to navigate the software programmes developed by the bar association, high level security to avoid encroachment by non-members and the members websites will also need to be linked with the client to facilitate the virtual law office and a client interphase.

Ethics among the members shall also be necessary to restrict members from offering services beyond their jurisdiction. Special insurance covers will also need to be procured for the virtual law office. The insurance cover shall be for either the hardware and/or software.

²⁰ Kimbro, Stephanie L. *Virtual Law Practice; How to Deliver Legal Services Online*. ISBN 978-1-60442-828-5 (a publication by the American Bar Association: The Law Practice Management Section)

Affordable legal services shall also be achieved if most of the services are migrated to an electronic platform. The legal lingo of process serving will have to be amended to provide for serving of court process electronically and the filing of a return of service electronically. It no longer makes sense when a big fraction of our population have emails but we conduct process serving physically and file the return of service manually. This discussion should be enhanced amid the recent developments in Kenya where the President of the Law Society of Kenya wrote a letter to the Cabinet Secretary Land and Urban Planning complaining the fact that some legal consents will be obtained electronically despite the law requiring physical appearance by parties.²¹

The provision of the legal services without a compromise of the standard will also need to be looked at. This can best be evaluated on a case by case basis and depending with the client being served. The transition to a virtual platform will also mean that some clients will not join in at the onset, some of them will still want their meeting held physically in the office unlike a millennial client who may not mind a virtual meeting. The lawyer who started practice before the current technological advancement may be inclined to practice as such unlike a millennial counsel. The creation of secured platforms either with passwords or encryption shall be necessary to secure information and keep off unwanted third parties. The client shall also at some time to come choose a lawyer who is providing services online and who isn't. The lawyers' fees shall also be paid via online transfer real time as long as the services rendered are agreed upon. It will be for the lawyer and the client how they want the information shared online stored. It can remain in the cloud if not disputed or stored in hard copies if the storage space and other demands for the physical production are made.

The practice of law online is no longer 'if' but 'when' as long as the precautionary measure are worked on.

²¹ See the letter by President of the Law Society of Kenya wrote a letter to the Cabinet Secretary Land and Urban Planning dated 5th April, 2018 on the concerns of the Law Society on the transitioning to an online land registration portal.

South Africa Legal Survey: The legal publishing LexisNexis together with the Law Society of South Africa conducted a survey in 2016 on the legal profession in South Africa.²² This survey was conducted for purposes of understanding the South African legal landscape in several areas. These areas include; research, use of online technology, use of social media, business growth strategies and their general areas of practice.²³ The first point of observation is that there are more male lawyers than female lawyers. The study notes that there are a total of 24,330 attorneys, 15,133 male and 9,197 female lawyers. This denotes a 62% of the attorneys are male while 38% are female. This will obviously lead to female lawyers being few in the various practice area and representation.

The attorneys who took part in the study noted that the most prevalent age was 32 and 35 years of age. This indicates that the South African Bar Association has a fairly young bar. 40% of the total surveyed attorneys had practiced for less than 10 years. 52% have been with their current law firms for less than 5 years. This therefore deduces a close co relation of age, years of practice and period spent in the current firms; whereby 52% of the young attorneys with few years of practice will have changed law firms before 5 years are over.

On issues of research 90% conduct their research online using a personal computer or laptop. Research is also conducted via tablets/mobile phones with hardcopy books/journal being the least used for research if the same information is available on all the mediums. This can be extrapolated by the writer to indicate that if the information can also be presented in soft (in court or before a tribunal) the preparation, examination and sorting of the research information can all be done via a personal computer online. This can lead to expedited and quality research for a client. This extrapolation can also be confirmed since 86% of the attorneys have internet availability.

Online trends have also been changing and adopted for business change. Law firms confirmed that they use social media for networking. The most used platform is twitter. That is for marketing and to keep in-touch with clients. Clients are also contacted through social media which is an increasing trend.

²² Lexis Nexis &, Law Society of South Africa. *Attorneys' Profession in South Africa*, 2016 Review LexisNexis, 2016.

²³ See above note at The Executive Summary

It is worth noting that there are other challenges in the South African study that this paper has overlooked since they are only prevalent in South Africa; they include, the categorization of black and white counsel in many areas eg. The number of black lawyers in partnership, the total number of black or white layers, the number of law firms owned by white or black lawyers. This confirms that in South Africa race is still an issue to be considered when analyzing any societal information.

The German Bar experience: The German Bar Association in order to position itself for the market in the next 20 years it commissioned a research.²⁴ This research intended to identify the position of law firms today (read 2012) and if they will be able to compete in successfully in the legal services market in the year 2030. This research was carried out in 2012 and involved over 5,000 counsel and law firm partners. This confirm the wide ranging aspects of the research. It indicated that competition is not only from within the legal profession but also from outside the profession.²⁵ Among these challengers are banks, car dealers and insurance firms. However the research confirms that there has been an increase in the number of law firms being registered especially in the urban centers.

In a comparable position there has been an increase in the number of law firms in the main towns and cities in Kenya. Most of these startups are being run/opened by young counsel who do not want to be employed in boutique law firms where career progression is limited to the vision of the one (or few) partners whose opinion dominate. However when the young counsel opens his law firm, the manner of style and practice of law ends up resembling the majority of the law firms' demeanor. However the new law firms try to create and tap niche markets because of competition.

The paper also addresses aspects of international competitiveness. The paper identifies that the law firms that will be able to compete successfully are those that have an international exposure. Law firms will need to have international networks so that they can tap the multinational clients. Technology will also enhance the way legal services are delivered eg client updates are currently being done electronically via email and reminders to clients via short messages. It is therefore necessary for counsel to position themselves on how they will offer legal services beyond borders.

²⁴ See note 2 supra

²⁵ Page 4 ibid note 6

For counsel to thrive in the emerging competitive markets the paper recognizes some aspects that are necessary to exhibit. The main one is that counsel will have to be an entrepreneur; counsel will have to exhibit strategy on how to tap markets, create synergies with other counsel either in partnerships, create economies of scale and create a sharp eye on the opportunities in the sphere of business of the law. Creations of brands will be necessary. How counsel brands, displays and markets himself will be important to get a breakthrough in a market. Law firms may also need to cooperate with other consultants on project based work to build an experience and exposure to novel duties. Individual solo practices will be endangered and competition against them stiff if they do not build synergies. However the small law firms will thrive if they maintain good fiduciary relationships, efficient delivery of services to clients where a personal touch is created, highly organized firms with unique characters will still thrive despite international competition.

Published work by the Kenyan Judiciary and Kenya institutions and the Law in Kenya

In the recent past about one decade the Kenyan Judiciary has been reengineering itself so that it can deliver justice through increased accessibility. This has seen several publications where the judiciary has been publishing an annual year book.²⁶ Several Task Forces and Commissions have also been set up to look into various issues ailing the delivery of justice. This has had a ripple effect in the development of legal services offered by counsel since counsel cannot afford laxity or offer substandard legal services when the judicial is providing enhanced services.

An evaluation of the The Advocates Act and the Law Society Act Kenya on areas of regulation and general practice is key.²⁷ Several cases has been filed by counsel in Kenya over the years on areas of regulation, practice, disciplinary issues and others.

In a magazine article by the President of the Law Society of Kenya²⁸ he discussed some of his highlights, achievements, of the period. Some of the highlights included; having successfully passed a Remuneration Order of 2016 despite opposition from banks and the Competition

²⁶ www.judiciary.go.ke downloads/2016-2017 hand book.

²⁷ Cap 12 and Cap 16 of the laws of Kenya.

²⁸ Eric Mutua, *The Final Submission: Success and Challenges during my four year term. The Advocate*, LSK Magazine issue No 6, November 2016

Authority, having fought for the construction of a modern office block for the Law Society of Kenya but it never materialized, having litigated successful to have judges vetted by the Judicial Service Commission being sworn in as judges despite opposition from the executive, having filed several cases which assisted in the implementation of the new Constitution of Kenya 2010.* and having pushed for the amendments of the Law Society of Kenya Act whereby there was a creation of eight Law Society Branches in Kenya. In this issues we can note that it is a big issue to the clients and the society how much lawyers charge for their fees. This determines if the fees will hinder access to justice or encourage access to justice. Another issue is the fact that the lawyers need to be seen as the fore defenders of justice within the society. Its up to the Law Society to advocate for human rights and fight for human dignity.

He notes that there is an increment in the number of lawyers joining the profession. He specifically notes that in the year 2015 2,500 advocates were admitted to the bar. He notes that the Law Society secretariat offices can no sustain the number leading to the proposal for the construction of new offices christened LSK International Arbitration Centre.

Practice Challenges in Kenya from a Practicing Counsel²⁹. An article by Kevin McCourt a counsel with one of the leading firms in Nairobi, Kenya. He notes that there is need for the practitioners in Kenya to align themselves with the opportunities created in the new Kenyan Constitutional dispensation. However with the government as a client McCourt notes that the practitioner needs to specialize. He notes that there a good number of consultancy opportunities available but they are taken up by foreigners with links to donor clubs. In some instances he notes that there is need for law firms to team up to provide different varying skills. He poses that the Law Society should make arrangements for training for lawyers on some unique areas of practice eg tax and environment issues.

He notes that new technology challenges are demanding specialized legal services and thus few law firm can be awarded the work. He advises that there is need to form consortiums and alliances

²⁹ Kevin McCourt. *Practice Challenges in Kenya from a Practicing Counsel*. The article is a presentation during the Continuous Legal Education forums in Meru, 6th September 2013

with foreign firms. He advises that such groups using the Limited Liability Partnership Act* can have a big effect for the future.

He proposes solutions such as creating multidisciplinary practices which is common with accountants and more often leads to the firm commanding high fees and offering good services. He also notes that the increase in numbers is a big challenge. He opines that there is need to look into the issue of pupillage and employment opportunities for young upcoming lawyers.

Challenges to employment and practice of law by attorneys with disabilities. This was a unique survey carried out by the State Bar of California Committee on Legal Professionals with Disabilities. This article notes some of the challenges experienced by some of our colleagues with disability that we constantly overlook in the profession.

The case of *Mohammed Ashraf Sadique Vs Mathew Oseko T/A Oseko and Company Advocates*³⁰ this was a case where a counsel opened a law firm contrary to the Advocates Act.³¹ The Act provided that an advocate shall not open a law firm as a partners /proprietor unless he had been under the employment of another counsel for a period of not less than two years since his admission to the bar. In this case Mathew Oseko was found to have opened a law firm where he partnered with another counsel contrary to section 32 of the Advocates Act. He was found guilty of the offence contrary to section 32 and punished by the court. The Act was later amended and the section removed.

This case shows the extent young counsel are willing to undertake so that they can have their own autonomy in the setup of law firms. In this case there were also allegations whereby the young counsel was accused of inappropriately ‘taking’ clients from the firm where he was earlier employed and diverting them to his recently opened law firm. This is a concern indicative of a low mentorship programme and a competitive practice bent on raising revenue and not pooling together in the firm.

³⁰ Misc App 901, 903 and 938 of 2007 (consolidated)

³¹ Sec 32 of Cap 16 of the Law of Kenya

Technology is changing every sphere in our life, the same has also happened in the practice of law. To what extent should counsel engage in offering virtual legal services? This is complicated when the virtual space is full of all manner of legal knowledge, some misleading. In this paper we shall also encourage the development of law firm tech services that have been implemented in other jurisdictions or comparable law firms. A good engagement in technology is that many law firms have reported an increased use of social media to interact with their peers, clients and the society.

Conclusion; Overcoming of the challenge

The developments made in the practice of law may be watered down if we do not identify the current challenges that hamper access to justice and the practice of law.³² The developments being seen in our jurisdiction are geared towards individual counsel or law firm gains rather than a focus in the development of jurisprudence within a multi-sectoral approach that enhances general practice of law. There are small challenges that can be tackled collectively by the Law Society while others need collaborations with the government, judiciary, law schools and other institutions. Once we deal with these challenges, we shall have an enhanced and efficient legal practice in our jurisdiction.

The hypothetical challenge in this study is to evaluate the co-relation between the current mode of legal practice and if it can be improved after the removing of the current challenges.

It is anticipated that after we have identified the limitation the currently exist in the practice of law we shall simultaneously develop access to justice and the practice of law.

It is the duty of every lawyer to spend resources that advance the law and ultimately the dignity of life, pursuit of happiness and security of human rights. If there are general efforts by all lawyers to develop the law it would also lead to a scenario where the best scenario is achieved for all. All lawyers will therefore need to forfeit the practice of law within a sphere where they forgo their individual luxuries (eg spending their earnings on non legal issues and spending more resources

³² This paper has have particular interest in the post-independence gains within the legal practice field. Also see Kuloba “*Judicial Hints of Civil Procedure*” Nairobi, Law Africa 2nd Edition 2006

on research and legal technology) for the better of the general profession. This is a contract where lawyers are committing to give up some liberties for better justice to litigants.

Once all lawyers have consented to the contract to put more resources to develop justice, the governed litigants will be guaranteed of justice. A better functioning system of law and justice removes the fears and dangers that man is constantly exposed to.