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WELCOME REMARKS BY JUSTICE RUTAZANA ANGÉLINE, PRESIDENT OF RWANDA JUDGES' AND REGISTRARS' ASSOCIATION
AT THE 14TH EAMJA CONFERENCE AND AGM

22nd - 24th November 2017, SERENA, KIGALI

Hon. Chief Justice of Rwanda

Hon. Chief Justice of the Republic of Kenya

Hon. Chief Justice of the Republic of Uganda

Hon. President of East African Court of Justice

The representative of the Chief Justice of Tanzania

Hon. Ministers present

Hon. Ambassadors of EAC Member States present

Hon. Justices and Judges from the EAMJA Member States present

The President of EAMJA

The Representative of CMJA

The Representative of ICJ Kenya

Hon. Registrars and Magistrates from the EAMJA Member States present

Distinguished guests

Ladies and Gentlemen,

On behalf of Rwanda Judges and Registrars Association and on my own behalf, I am pleased and honored to welcome you all to this 14th East African

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Magistrates and Judges Association Conference and Annual General Meeting.

Allow me to extend a special and very warm welcome to our guests, Honorable Justices, Judges, Magistrates and Registrars from the EAC Member States present. I know there is a big number of delegates who came by road from different places including Zanzibar, Tanzania and Uganda, and for us this is a clear manifestation of your commitment towards the activities of EAMJA.

Honorable Chief Justice of Rwanda

Distinguished Guests

Ladies and Gentlemen,

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The East African Magistrates' and Judges' Association (EAMJA) draws membership from the organizational bodies representing registrars, magistrates and judges in the four of the East African countries, and the Association bringing together Judges and Registrars in Rwanda was admitted as a member in 2011.

The EAMJA organizes rotational annual conferences in respective member countries on a specific theme, and this year's conference is hosted by the Rwanda Judges and Registrars Association, under the following theme: **"Enhancing the use of ICT for an Effective, Efficient, transparent and accountable Administration of Courts in East Africa".**

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Through various presentations and panel discussions, this Conference will serve as a platform in which judicial officers from country associations will interact, learn from each other's experience and exchange ideas on how the judiciaries can use the Information Communication Technology to enhance efficiency, effectiveness, timeliness, access, transparency and accountability, the challenges encountered, as well as strategies that will help to improve their own systems in their respective jurisdictions.

We are grateful to all partners who have assisted us in making this conference a success, especially the Government of Rwanda which financially supported this Conference. I also wish to thank the International Commission of Jurists (ICJ) Kenya Section, which facilitated the Pre-Conference Executive Council Meeting. I wish also to recognise Her Honour Chief Magistrate Matankiso Moliehi Ntunya who came all the way from Lesotho to represent the Commonwealth Magistrates and Judges Association as Regional Vice President for Africa.

With those few remarks, I once again welcome you to Rwanda, and I wish you fruitful deliberations.

Thank you for your kind attention.

God bless you

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OPENING REMARKS, MS BRENDA KAMAU, COUNCIL MEMBER, ICJ KENYA

The Guest of Honor

Chief Justices from the region.

Judges and Magistrates, with hierarchies observed.

Distinguished Delegates,

Invited Guests and Speakers,

Ladies and Gentlemen,

Good Morning.

On behalf of the Council and the Secretariat of the Kenyan Section of the International Commission of Jurists (ICJ Kenya), it is my great honor to address this auspicious gathering of judges and magistrates from across East Africa, during this year's East African Magistrates and Judges Association Conference.

As you may know, ICJ Kenya is a membership organization that draws its membership from Distinguished members of the bar and the bench. The organization, since its establishment in1959, works to promote human rights, democracy and justice in Africa, through the application of legal expertise and international best practices.

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ICJ Kenya has had a long history of supporting judicial reforms in the region and considers the Judiciary a key ally in the realization of human rights, democracy and the rule of law. At ICJ Kenya, we recognize and appreciate the unique and pertinent role that judicial officers play not only as citizens, duty bearers, leaders, interpreters of law, law makers, but also as

champions of human rights, democracy and the rule of law.

Distinguished delegates.

The EAMJA annual conferences brings together judicial officers from all over East Africa to discuss issues affecting our judiciaries and provides a platform for judicial education, bench- marking and the sharing of emerging best prac-

tice.

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This year's conference, hosted by the Rwanda Judges and Registrars' Association, under the theme; "Enhancing the use of ICT for an Effective, Efficient, transparent and accountable

Administration of Courts in East Africa" is not only timely, but is relevant to the needs of the public and necessary to shape the future of the administration of justice in the region.

My fellow Jurists

As I stand here before you today, I cannot help but reflect on the crucial role that ICT has played in our society today.

In a very short period of time, technology has evolved to unimaginable extents - making the world a global village. ICT has grown to be an integral part of our lives. Millions are connected through intricate systems and much more affordable, simple handheld devices. Technologies

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have allowed the creating and sharing of information, ideas, other forms of expression via virtual communities and networks.

Honorable members

We all know that our society faces various barriers in access to Justice. Poverty is a cross cutting barrier. The indigent in our society are often uneducated, do not understand the technicalities of the Court processes and procedures, cannot afford to pay for legal representation or even court fees. Further, vulnerable groups, and specifically women, suffer double jeopardy in their quest for justice. Societal and cultural biases that discriminate negatively on women, as well as technicalities of the justice system further prevent women from accessing justice in the courts.

On the other hand, the justice system is bogged down with case backlog, poorly coordinated efforts among justice system actors, corruption, slow and

tedious manual systems, low human resources, et cetera. These challenges prevent the Courts from drawing special attention to assist the poor and vulnerable groups such as women.

Yet justice must be affordable and accessible to all without discrimination; service delivery must be efficient, transparent and accountable. Article 15 of CEDAW as well as Article 8 of theMaputo Protocol provide for equality before the law, men and women alike.

Ladies and Gentlemen,

The question that we should ask ourselves today is HOW technology can be used to promote and enhance equality and access to justice for all. HOW ICT can help to provide effective, efficient, transparent and accountable administration of justice in our Courts. HOW technology can leverage against discrimination of women in the justice system.

Technology can provide internal and external supplementary enhancements to the systems we already have. On one hand, ICT can be used to strengthen internal coordination and enhance case management to ensure efficient proper service delivery. On the other hand, simple technologies can be developed to increase communication and feedback to the public while increasing transparency and accountability in service delivery.

Honorable members

The time is ripe for discussions on ICT in service delivery by judiciaries in the region. I wish you fruitful deliberations and pledge the support of ICJ Kenya in implementation of resolutions that emanate from this forum.

God Bless You and God Bless our region.

Ms Brenda Kamau

Council Member. ICJ Kenya

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COMBATTING CORRUPTION IN THE JUDICIARY: RWANDA EXPERIENCE, Presentation by Chief Justice , Prof. Sam Rugege

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Introduction

My task this morning is to give you an overview of the experience of Rwanda in combatting corruption, strategies we have used and the challenges encountered. I hope you will help us to chart a way forward in the continuing war on corruption.

It is beyond question that corruption is a scourge afflicting societies in many countries of the world but more particularly in developing countries, including those on the African Continent. Corruption diverts much needed resources that should be channeled in productive activities; social and economic programmes in health, education, infrastructure etc. are stalled or abandoned with the result that our people cannot be lifted out of poverty and live decent lives. The money diverted is usually not invested in productive activities but rather dissipated in luxurious consumption, while in many cases it impoverishes those coerced to indulge the greed of the corrupt.

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The tragedy of corruption is more so if the corruption is among judges and other judicial officers who are assigned the responsibility of ensuring justice for all without fear or favor. It is therefore befitting that at this conference we also reflect on combatting corruption and in particular corruption among judges. Although making the judiciary corruption-free may not be winning the war against corruption in all other arms of government and other segments of society, as Mazi Sam Ohuabunwa believes it would in his country Nigeria, it would certainly be a giant step in the war to rid our societies of corruption. (Mazi Sam Ohuabunwa, "Fighting Corruption in the Judiciary" *Business Day*, October 4th, 2016) www.businessdayonline.com/fighting-corruption-in-the-judiciary/).

We should reject the excuse that judicial officers succumb to corruption because of poor pay. Corruption is a matter of lack of integrity or ethical depravity. There are more rich or financially comfortable people who engage in corrupt practices than the poor. However, inequitable remuneration of and allocation of benefits to public servants in relation to services rendered may be a source of disgruntlement, demoralization making public officers nonchalant and vulnerable to corruption. Those responsible for remuneration and facilitation of judicial officers ought to be sensitive to the nature of judicial work and its incompatibilities compared to other areas of public service in order to ensure reasonable and equitable remuneration. However, failure to meet this objective should not be an excuse for corruption which is more likely to make matters worse, especially for the poor and vulnerable.

1. Fighting corruption in Rwanda

According to Transparency International, Rwanda is ranked No. 3 in Africa on the Corruption Perception Index 2016 released in 2017. That may sound a good indicator. However, it is still No. 50 out of 176 countries surveyed and therefore there is still a lot to be done. There is still corruption in Rwanda although it may be at a much lower level than many developing countries. The dire corruption situation in some countries should be no comfort to those countries with less corruption. The goal should be to stamp out corruption everywhere. Rwanda is doing its best to fight it with a zero tolerance policy and accompanying stern measures.

As far as the judiciary is concerned, before the reforms of 2003/2004, the judiciary was reputed to be one of the most corrupt institutions in the country. This

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was largely because of various factors including an unwieldy court structure, poor administration, the massive backlog of cases consequent on poor organization and laxity of judicial officers as well as lack of legally qualified judicial personnel who lacked the knowledge and ethics of professional judicial officers.

However, a comprehensive review of the judiciary was done in 2004 and measures put in place both to improve service and get rid of the "bad apples" whenever they could be found. Over the past 13 years, 2004 to 2017, 22 judges and magistrates have been dismissed for corruption or conduct with strong indications of corruption but without hard evidence of corruption. Over the same period 29 court clerks were dismissed for similar misconduct. The names of those dismissed are published to ensure they are not reemployed in the Public Service.

Nature of corruption in the judiciary

Corruption in the judiciary includes directly demanding a bribe or other benefit to provide a service or an unfair advantage over another person. This may involve influencing a decision, delaying proceedings, making files disappear, altering a judgment that has already been delivered for instance to have a prisoner released early, deciding on an issue not in the papers before the court, skipping some essential procedures to benefit a litigant, abuse of ex-parte procedure, altering dates etc.

The legal Framework

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The penal Code of 2012 provides for corruption and similar offences and how they are to be punished. What is significant about these provisions for our purposes is that a judge found guilty of corruption is punished much more severely than an ordinary person. He or she may go to jail for between 7 and 10 years whereas other persons are liable to 2 to 7 years depending on the nature and seriousness of the corruption.

II. Strategies adopted in fighting corruption in the judiciary

- Qualified judicial officers and transparent recruitment process

  The first strategy was to recruit legally qualified judicial officers. Recruitment is done by the High Council of the Judiciary composed mostly of judges elected to represent other judges from different levels. Other members are 2 deans of law faculties, the Ombudsman, the President of the National Human Rights Commission, a representative of the Minister of Justice and a representative of the Bar Association. This ensures independence and objectivity of the Council.

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- Code of ethics

  A code of ethics for the judiciary was enacted in 2004. The code stresses the requirement of independence of judges from external pressure and their impartiality in the performance of their duties. The code prohibits judges from engaging in business as this could compromise their impartiality. A judge may not be a director of a company or other commercial entity. The Code emphasizes: "In particular, a judge shall refrain from acts of corruption and other related crimes and exemplarily shall fight against it." (Article 7 of the *Law relating to the Code of Ethics for the Judiciary*.) The Code further obliges judges to disqualify themselves if there

is a likelihood of bias because of a personal interest or that of a relative or friend. It also requires them to "handle all persons equally without discrimination whatsoever, based on race, colour, ethnicity, origin, clan, sex, opinion, religion or social status".

Declaration of assets

Judges and magistrates like other officials at a certain rank, must declare their assets to the office of the Ombudsman every year before the end of June. Non-declaration will subject the official to disciplinary sanctions and will normally trigger investigation by the Office.

❖ Sensitization and Public awareness campaigns

Sensitizing the public

One of the weapons in the war on corruption is sensitization of litigants and potential litigants to report judicial personnel who demand bribes or want to engage them in any form of corruption. It is crucial to win the confidence of the public and their willingness to collaborate if we are to get rid of corruption in the judiciary. There are talk shows against corruption given by judges or other judicial personnel on radio and television.

Anti-corruption week

As part of the sensitization programme, the judiciary holds an annual anti-corruption week during the second week of February, in addition to the national anti-corruption week every December. Members of the public are informed of their rights and the right to get justice without paying bribes or other inducements. They are made aware of the risk that the person who demands a bribe from one litigant may demand it also from the opposite party and be unable to deliver what is promised. More im-

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portantly they are made aware of the wider negative effects on the country's economy and hence their own well-being and development.

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There is also a dedicated telephone line, paid for by the judiciary, which people can use to report corruption and other related misconduct that they may notice at the courts. They are able to receive a response without having to physically come to the Supreme Court. In this way, those who are asked for bribes or other inducements may report in time for police to be alerted and to apprehend the culprit red-handed.

Sensitizing the judges and other judicial personnel

Judicial personnel are sensitized to report litigants or their agents who seek to corrupt them so that they may be prosecuted. This kind of cooperation and collaboration is crucial in the fight against corruption in the judiciary. Judges and other judicial officers, are reminded that those who engage in corrupt practices project a bad image to the whole judiciary and tarnish the good name of those who are honest and dedicated to their work and profession.

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At a recent judges' retreat, judges spent quite some time discussing the evils of corruption as a national issue and what needs to be done to uproot it. They were schooled in the history of the country, how for many years it suffered from colonial underdevelopment and abuse of rights over decades and how today we have the opportunity to use all our resources to forge ahead in terms of economic and social development and everybody's role in protecting whatever material resources we have. Dignity, self-respect, responsibility and justice for all-rich and poor-were emphasized as centuries old Rwandan values. It was also pointed out that corruption was incompatible with these values.

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Due to this sensitization a number of people have been arrested and prosecuted for attempting to corrupt judicial officers. The general consequence of sensitization is that it has caused mutual suspicion amongst corrupt judicial officers and litigants, each fearing that the other cannot be trusted not to report.

❖ Inspectorate of courts

The general inspectorate of courts has established a program of investigation that specifically targets court staff that have been fingered by members of the public as being involved in corruption. They receive complaints, interview the complainant and the accused judicial officer, examine court records for signs and work hand-in-hand with security institutions in such investigations. If there is strong indication of misconduct a report is compiled and sent to the Chief Justice who may then pass it on to the High Council of the Judiciary for disciplinary proceedings to commence. The concerned judicial officer submits a written statement on the allegation and is summoned to appear before the Discipline Committee and the Council accompanied by a lawyer if he chooses. Sanction for corruption or similar serious misconduct is dismissal.

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The Inspectorate is also in charge of quality assurance of judicial work. Inspectors may take samples of judgments in a court they have received reports of poor performance or unethical behavior among judges or other officers. Analysis of such cases may disclose misconduct with signs of corruption which may trigger a formal investigation.

❖ Better service delivery

Reduction of backlog: As earlier indicated, delays in delivery of justice can lead litigants to use corruption to jump the queue. We have used

temporary contract judges and court clerks to reduce the back log of cases from about 57, 000 in 2007 to about just over 4000 those cases by end of 2017. Backlog cases in Rwanda are those which have been in court for over 6 months since filing. Laws have been amended to ensure litigants do not unnecessarily delay cases through adjournments etc. Fines are imposed on those who delay cases without sound justification, including lawyers who do not show up for hearing or fail to file the necessary documents in time.

Efficiency through use of Information technology: In 2011 we introduced an ***electronic filing*** system whereby the litigant did not have to come to court to file a case thus saving time and cost for the litigant, improving efficiency and transparency in registries. Case management was upgraded in 2016 to a new Integrated Case Management System with many more features than just electronic filing.

As will be illustrated in a later dedicated presentation, the system can be accessed anywhere on computer, tablet or mobile phone for electronic filing of a case, issuing of sermons, receiving notifications regarding case proceedings, litigants can follow-up their cases regarding current status and what follows next. Lawyers file their pleadings and other documents online, court fees can be paid online or using mobile money on telephone and a litigant can check whether his/her case has been appealed and follow the progress of his/her case online. There is thus little contact between a litigant or his/her lawyer and the court which minimizes opportunities for corruption. It is almost impossible for files to vanish. The system also helps track any adjournments, and other delays and assists in compiling reports on the performance of individual judges, thus revealing where there might be suspicious conduct symptomatic of corruption.

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III. Challenges faced by the judiciary in combating corruption

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Detection of corruption: Corruption is a crime that is difficult to detect and investigate due to its clandestine nature. New and sophisticated ways of engaging in corruption are being utilized. There are normally claims of corruption by litigants, perhaps accompanied by suspicious circumstances but in most cases no reliable evidence to convict as the crime has to be proved beyond reasonable doubt. However, in some cases, there is enough to mount disciplinary proceedings leading to sanctions for the concerned judge or other judicial officer, including dismissal.

Inadequate Investigative skills

Like many other African countries, I believe, Rwanda is still lacking in modern investigative skills and equipment to keep up with the various new and sophisticated corrupt practices and ways of concealing the proceeds and fruits of crime. Equally, our civil society is still weak in terms of investigative skills. Investigative journalism can be very effective in exposing corruption in the judiciary or elsewhere. In 2015 the *Tiger Eye Private Investigation Agency* in Ghana led by multiple award-winning undercover reporter, Anas Aremeyaw Anas, uncovered corruption by catching on camera several judges and magistrates of the Ghana judiciary taking bribes, which included cash and livestock. After a petition and subsequent disciplinary procedures, the judicial officers were dismissed. (Ref. Modern Bright Gordon, 'Bribery and corruption in Public Service Delivery: Experience from Ghana Judicial Service' Feb 2017). We need such investigative journalists and we need to invest more in improving the skills

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of our investigation officers and prosecutors and even judges who handle corruption and similar cases.

Insecurity

The silence of those asked for bribes or other corrupt inducements hampers the war on corruption among judges and other judicial officers. It is often said rightly, that those involved in corruption often report only when the deal does not come through; for instance, where the person has paid a bribe but loses the case. Although reporting of corruption has increased, some judicial officers remain reluctant to report instances due to concerns for their security. Members of the public are also reluctant to report fearing that they may be prejudiced in their cases by the judicial officers reported or their colleagues. However, attempts are made to reassure them that there will be no negative consequences. Where they report early enough before the corrupt transaction takes place, they are encouraged to go through with the transaction with the collaboration of the police so that the culprit may be caught in the act. The law exempts from prosecution people who report corruption and protects whistle blowers but the public in general is yet to embrace whistle-blowing.

Negative solidarity: There is a disturbing trend of negative solidarity among some judges and registrars who do not want to report their colleagues involved in corrupt practices. Those of their colleagues who get caught and are prosecuted are given light sentences despite the law which states that judges and prosecutors found guilty of corruption shall be given heavier sentences than ordinary people. They try to find mitigating circumstances as the current Penal Code appears to allow a judge to go below the minimum in case of mitigating circumstances.

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The lawyers

Despite the fact that lawyers are officers of the court and expected to be persons of integrity only interested in securing justice for their clients, they are betrayed by some of their colleagues who corrupt judges or court clerks to secure favourable but undeserved judgments or other unfair decisions detrimental to the other parties to the dispute. A number of litigants have complained that their lawyers asked for payments above what they had agreed as fees claiming that the extra was for the judge; a claim that may or may not be true. This is usually done when the particular litigant has a weak case but feels he must win and the lawyer goes along with it. But it may also be that the lawyer is greedy or lazy to fight the case fairly or both. Unless we get rid of corruption among lawyers, it will be that more difficult to rid the judiciary of corruption as well.

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Apparently the Bar Association is launching an anti-corruption programme next week (from 28 November, 2017). Let us hope it will have some positive results.

Conclusion

In conclusion, Rwanda has tried to minimize corruption in the public service including courts and has had some success. We have not reached where we want to be, which is eliminating corruption altogether, but the objective is to keep pushing, winning over more anti-corruption public servants and making the citizens bold to reject corruption, insist on their rights and expose those who want to get what they do not deserve through corruption. I hope the deliberations at this conference will contribute to our efforts to fight corruption. Africa has no choice but to double its energies in this war.

"'Fighting against corruption in Zanzibar is a public issue but most of the times depend on individual's integrity, individuai independence and individuai effort in performing judiciary and officiai duties in Zanzibar". Speech of Hon. Chief Justice of Zanzibar during Law c/ay Ceremony February, 2015

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FIGHTING AGAINST CORRUPTION IN THE JUDICIARY IN KENYA: PROGRESS, CHALLENGES AND PROSPECTS

BY HON. MR. JUSTICE PATRICK KIAGE*'

"Judges ought to be more learned than witty, more reverend than plausible, and more advised than confident. Above all things, integrity is their portion and proper virtue."

Francis Bacon, "Essay LVI: Of Judicature", Essays (1625).

Background

The genesis of corruption in Kenya's judiciary can be traced to its humble beginnings of the 19th century. This is because the emergence and evolution of the Judiciary was based on inequality and on racial basis as relic of Kenya's colonial past. This state of affairs has been credited for impairing the development of a homogeneous Judicial system which took almost a century to correct.

A number of reasons were advanced for prevalence of corruption in the Judiciary. They included non-merit based recruitment and promotion; poor terms and conditions of service; bad deployment and transfer policies and practices; delays in the hearing and/or determination of cases; greed; ignorance by the public on their legal rights, procedures and processes of the courts and the law generally; existence of wide discretion on the part of the Judicial officers in both civil and criminal matters; entrenched culture of corruption in the society as a whole; and excessive workload due to insufficient personnel and inadequate and/or antiquated equipment.

The Committee on the Administration of Justice (Kwach Committee) was appointed in 1998 to review the administration of Justice in Kenya. In its report the committee cited corruption, theft, ^drunkenness, incompetence, sexual harassment, neglect of duty, lateness and racketeering as common problems that the Judiciary was facing. Among its recommendations were: to amend the constitution to allow for removal of incompetent Judges, develop and

implement a code of conduct for Judicial personnel backed by an inspectorate unit and to

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reorganize case handling and management systems. Unfortunately, these recommendations did not see full implementation.

In 2002, The Panel of Eminent Commonwealth Judicial Experts was established by the Constitution of Kenya Review Commission "CKRC" to advise it on constitutional reforms regarding the Kenya Judiciary, it found that, as it^was then constituted, the Kenyan judicial system suffered from a serious lack of public confidence and was generally perceived as being in need of fundamental structural reform. Therefore, strong measures were necessary for Kenya to achieve an independent and accountable Judiciary, capable of serving the needs of the people of Kenya by securing equal Justice and the maintenance of the rule of law under a new constitutional order.

The Author is currently a Judge of the Court of Appeal in Kenya, he is a former Criminal Defense Lawyer then a Special Public Prosecutor. He taught Criminal Law at the Catholic University of Eastern Africa and Trial.

Advocacy at the Kenya School of Law. He is also the Author of 'Essentials of Criminal Procedure in Kenya' Law Africa, 2011 and 'Family Law in Kenya' Law Africa 2016.

The objective of the Panel was to come up with a judiciary that was independent, efficient and accountable. Independent in terms of institutional and financial autonomy; freedom from executive, parliamentary or private sector interference; independence in administrative operations; and also the independence of individual judges and magistrates, and freedom from executive, judicial or other patronage structures that influence their work. Efficient in terms of delivery of consistent, fair and timely justice; thus laying a constitutional basis for legislative or other follow-up on matters such as case management, procedural reforms, guaranteed law reporting etc. Accountable in terms of accessibility by all consumers of justice to the court, its structures and its outputs; transparency and consistency in its operations and outputs; integrity, appointment criteria and procedures, and non-corruption.

The Panel found that there was a crisis of confidence in the Kenyan Judiciary on the basis of lack of competence and integrity. Corruption was found both in forms of bribery and exertion of political pressure on judicial officers. The Ad-

visory Panel's most significant recommendations for constitutional reform were premised on two fundamental principles.

The first is judicial independence. The Panel recommended the entrenchment of the terms of office for judges to ensure that as individuals, they enjoy the necessary protections to allow them to decide cases without fear or favour, affection or ill-will, in an open and public manner and in accordance with the law. The second vital principle that motivated the Panel's recommendations is accountability. Public office is founded upon public trust. Judges,

magistrates and judicial officers must be accountable to the public for their conduct and actions. Judicial accountability goes hand in hand with judicial independence. The twin goals of accountability and independence can best be achieved by exposing the judicial structure to public view. Secrecy breeds suspicion and distrust.

This Panel endorsed the recommendation by the Kwach Committee that:

...rigorous vetting is necessary before appointment of judicial officers. The

11 appointments process must be transparent and tailored to identify individuals of the highest integrity for recruitment. There must be a transparent and merit-based judicial appointment system.

The Panel also recommended the adoption of a clearly established transparent appointment process with clearly stated criteria under the authority of a restructured Judicial Service Commission. With regard to judicial officers, the Committee recommended that

a) Judges shall be persons of integrity and ability with appropriate training and qualifications in law.

b) Judges shall exercise judicial power impartially and in accordance with the law and authority without fear, favor or ill-will.

c) The tenure of Judges shall be guaranteed and adequately secured by the Constitution.

The Panel concluded its recommendations by stating that:

"We believe a short, sharp, shock is necessary to detour this path towards a culture of corruption. We hove, for the sake of this great country, that the pro-

posed Committee will prevent the Judiciary from being a complicit partner in public corruption, rather than its greatest enemy. "

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In 2003, President Mwai Kibaki suspended Chief Justice Bernard Chunga and se^p a tribunal to investigate him on charges of corruption. Judge Evans Gicheru was appointed Acting Chief Justice. Chief Justice Chunga then re-signed from office in February. The Acting Chief Justice revived the Judiciary Committee on Reforms and Development. A sub- committee, called the "Integrity and Anti-Corruntion Committee" headed by Justice Aaron

Ringera, was established in March. Its mandate was to investigate and report on "the magnitude and level of corruption in the judiciary, its nature and forms, causes and impact on the performance of the judiciary" and to identify corrupt members of the judiciary.^ In June,

President Kibaki appointed eight new High Court judges.

Part I, of the Ringera Report set out evidence of corruption, unethical conduct and other offences at the highest levels. It discussed the nature, and forms of both petty and grand corruption in the judiciary. The report identified poor terms and conditions of service amongst the major causes of judicial corrup-tion. Part II of the Report identified five nut of nine Court of Appeal judges (56%), 18 out of 36 High Court judges (50%), 82 out of 254 magistrates (32%) and 43 paralegal officers implicated in "judicial corruption, mishehayinr or

want of ethics."^ Tribunals to hear the cases were set up for the judges who declined to resign.

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1. Vetting of Magistral£s_A»44ud[ges

The Judges and Magistrates Vetting Board was created by the Vetting of Judges and Magistrates Act, 2011. This Act was passed by parliament to cre-ate the necessary institutional framework and guidelines for the vetting of judges and magistrates. The Board

was set up to vet the suitability of all judges and magistrates, in office prior to the promulgation of the Constitution of Kenya, 2010, to continue to serving in accordance with the values and principles set out in Article 10 and 159 of the

new constitution.

Some of the relevant considerations that the Board took into account during the vetting process included (a) whether the judge or magistrate meets the constitutional criteria for appointment as a judge of the superior courts or as a magistrate; (b) the past work record of the judge or magistrate, including prior judicial pronouncements, competence and diligence;

(c) any pending or concluded criminal cases before a court of law against the Judge or Magistrate; (d) any recommendations for prosecution of the Judge or Magistrate by the Attorney-General or the Kenya Anti-Corruption Commission; and (e) pending complaints.

The Board also took into account matters of professional competence, integrity, written and oral communication skills, fairness, temperament, good judgment, including^ojjimon sense, legal and life experience and demonstrable commitment to public and community service.

Out of this process 11 judges and several magistrates were found unfit to serve.

2. Interview process of magistrates and judges

In the current constitutional dispensation, the Judicial Service Commission advertises for the positions available for judicial officers. Applications are received and member of the public are invited to submit memoranda giving any information they have against the applicants.

Interviews are conducted and the best suited applicants for the positions are selected. In the Ringera Report, 30 September 2003, p. 1. Ringera Report, p. 46.

In case of the chief justice and deputy chief Justice the interview process is televised. The nominees for both deputy and chief justice are then forwarded to parliament for approval and eventually to the President for appointment.

3. ANNUAL STATE OF THE JUDICIARY REPORTS

This is a report that the Chief Justice is required to give an annually to the nation on the state of the Judiciary and the administration of justice.'^

In his^rst 120 days in office, Rtd. Hon. Chief Justice Willv Mutiinga described the Judiciary that he found as being "...an institution so frail in its structures; so thin on resources; so low on its confidence; so deficient in integrity; so weak in its

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public support that to have expected it to deliver justice was to be wildly optimistic. .. ..a Ludiciary designed to fail. Power and 1 authority were highly centralized. Accountability mechanisms were weak and reporting

Irequirements absent." ^

On that report, the Chief Justice indicated that he had appointed an Ombudsperson to receive and respond to complaints by staff and the public. In just three months, the office had received over 700 complaints of various categories. The Chief Justice had also appointed special magistrates to handle traffic matters that were a maionsource of corruption. Among '

others the judiciary had at the time commenced digitization of proceedings, recruitment of both judicial and non-judicial staff, clearance of case backlog and adoption of performance management contracts.

2011-2012

The backdrop of this report was that the Judiciary as an institution had not incorporated data collection in its processes. The Judiciary innovated the Court fees calculator which was expected to save time and minimize avenues for corruption, eliminate instances of overcharging, standardize fees in every court station, and reduce congestion in the registries.

2012-2013

In this reporting period, all principal magistrates and magistrates of higher rank had been

gazetted to handle matters under the Anti-corruption and Economic Crimes Act. The judiciary also adopted the Judiciary Transformation Framework (JTF) 2012-2016 which fashioned a vision to completely overhaul how justice was delivered by first cleaning house from within. The entire institution was, therefore, mobilised towards a mindset of transformation by putting every member of staff through culture change trainings dubbed 'Transformation Workshops'.

2013-2014

The period was dominated by audit reviews and a purge on corruption. The JSC investigated allegations of financial, procurement and human resource

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mismanagement against the then Section 5 (2) (b) of the Judicial Service Act

^ "Progress Report on the Transformation of The Judiciary The First Hundred and Twenty Days," 19*''October,2011.

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Chief Registrar of the Judiciary, Gladys Boss Shollei. The findings of these investigations led to the removal of the former CRJ from office.^ Ms. Anne Atieno Amadi was appointed and sworn in as the new Chief Registrar of the Judiciary. She subsequently appeared before the various Committees of the National Assembly including the Budget and Appropriations Committee, the Parliamentary Public Accounts Committee and the Parliamentary.

Departmental Committee on Justice and Legal Affairs to account for financial and administrative operations in the Judiciary and apprise the Committees of the systems being put in place for better institutional management.

The Directorate of Performance Management also conducted spot checks in 27 court stations.

The objective was to check on the running of court stations as per the Judiciary Transformation Framework. They were also intended to check on corruption issues.

In the FY 2013/14, anti-corruption campaign strategies meetings were undertaken in 27 bounties, nine sensitization fora on corruption, and 75 social audits conducted, anti-corruption messages disseminated through 48 media programmes and 2,900 IEC materials produced and distributed. Design of the values-based anti-corruption campaign was undertaken and 2 Public Service Announcements (PSAs) to promote the embrace and practice of the National

Values transmitted. The UN International Anti-Corruption Day was also commemorated.

2014-2015

The Institutional Capacity and Staff Rationalization Survey was conducted in the FY2013/2014. The requirements of the new Judiciary Transfer Policy, the desire to deal with corruption cartels in registries, and the decisions and determinations of the Judges and Magistrates Vetting Board had far reaching implications on the human resource management and development in the Judiciary.

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The interventions were implemented to realign Judiciary manpower with the needs of each court station, to address operational shortages left by the on-going vetting of Judges and Magistrates, to respond to the high rate of staff attrition and to deal with historical injustices on staff career stagnation. A total of 105 judicial officers and 1,216 Judicial staff were transferred. Some of these officers had been in one court station for 10 or 2^)^ars. Further, after several years of career stagnation 447 were promoted.

In the FY2014/15, Anti-Corruption Civilian Oversight Committees were reconstituted in six Counties to make them effective. 19 sensitization fora were held for partners and vulnerable groups, 109 social audits and open fora for the public and campaign strategy meetings held in 10 additional Counties. 60 values Public Service Announcements were produced and transmitted, 184 and 55 anti-corruption media radio and television programs respectively produced and disseminated.

During the period, there was, however, a 6.9%increase in the complaints received on corruption.

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4. JUDICIARY TRANSFORMATION FRAMEWORK 2012-2016

The Judiciary was expected to bring the new Constitution to life by changing it from a policy document to a living, breathing document which promotes values and principles and ® Report of the Investigation into Allegations against Chief Registrar of the Judiciary Gladys Boss Shollei, on October 18,2014. (www.judiciary.go.ke) advances the rule of law and human rights, develops the law and contributes to good governance. This framework was the Judiciary's strategic reform blueprint launched in May, 2012. It was anchored on four pillars: (a) People-focused delivery of justice; (b) Transformative Leadership, Organizational culture, and Professional and Motivated Staff; (c)

Adequate Financial Resources and Physical Infrastructure (d) Harnessing Technology as an Enabler for Justice.

On the people focused delivery of Justice pillar, collection of fines inside the court rooms was introduced, informing clients on legal costs and fines, putting up notices in court stations to warn litigants about trading without getting receipts, use of social media and pamphlets] explaining court procedures were

also adopted.

On transformative leadership and organizational culture, culture change in the Judiciary was one of the main agendas of information. This was to aid in improving the public perception of the Judiciary and also to enhance and improve service delivery.

This Framework was successful in meeting its objectives, guided by its underlying philosophy of laying the foundations of Judiciary transformation. Thus, in the last five years, / nearly 40 policies plans, manuals and regulations have been developed and published; a data culture has been introduced and several service delivery pilot projects have been undertaken.

Judicial officers and staff are required to take part in performance appraisals and to file daily returns of their work. All this is geared towards-integritv ansparencv-and accountability.

The Judiciary has also introduced Asexual harassment policy for its staff.

5. SUSTAINING JUDICIARY TRANSFORMATION; A SERVICE DELIVERY AGENDA 2017-2021

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This phase is intended to shift focus away from institutional building and capacity enhancement Jto enhancing service delivery. Rather than concentrating efforts at renewed institutional reforms, interventions will focus on completing and consolidating those reforms, but also emphasizing the improvement in the speed and quality of service delivery in the Judiciary bv incr£asing efficiency and effectiveness at individual and system levels, as well as individual accountability for performance.

The shift towards quality service delivery will be achieved through a series of interventions, including: (a) Automation, Digitization and Improvement of work methods (b), Operationalization of development systems (c) Enhancing individual accountability (d), Enhancing institution accountability (e) Entrenching performance measurement and monitoring and evaluation (f) Entrenching policies and manuals already developed. All these measures are geared towards the quest for Judicial integrity and accountability.

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EAST AFRICAN MAGISTRATES AND JUDGES ASSOCIATION CONFERENCE, KIGALI, RWANDA

PAPER PRESENTED BY:

THE HON. MR. JUSTICE ISAAC LENAOLA,
DEPUTY PRINCIPAL JUDGE, EAST AFRICAN COURT OF JUSTICE (EACJ),
SUPREME COURT JUDGE SUPREME COURT OF KENYA

JUDGE, SPECIAL RESIDUAL COURT FOR SIERRA LEONE

PRESIDING JUDGE, SUPREME COURT OF KENYA AT NAIROBI

AND MEMBER OF THE COUNCIL

SUBJECT:

BALANCING JUDICIAL INDEPENDENCE WITH JUDICIAL ACCOUNTBILITY

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■ The Judiciary of British Columbia has on its website a statement on judicial Independence [And what everyone should know about it.] It states in part: The term Judicial Independence' is often talked about when discussing the justice system but it is not always understood."

And ultimately the sole purpose of the concept is to ensure that every citizen who comes before the court will have [their] case heard by a Judge who is free of governmental or private pressures that may impinge upon the ability of that Judge to render a fair and unbiased decision in accordance with the law." [Quoting Garry D. Watson, in the 'Judge and Court Administration]

■ It has three common elements:

[i] Security of Tenure

[ii] Financial Security

[iii] Administrative independence; management of the litigation process and cases a Judge will hear.

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■ Which of the above do you consider most paramount?

■ Which is the biggest threat to judicial independence? [It depends where

- give examples of Buru'&i and security of tenure].

■ Is government always the villain in violating judicial independence?

What of private entities e.g. in commercial courts? What of the

administration of the Judiciary itself? [Give examples of transfers,

tramped up complaints against judicial officers, or drastic steps such as happened in Malta where operations of a Court was suspended to pre- preempt the hearing of a case

■ What of interference from colleagues? [Examples; how many times do we seek favors of each other? Are superior Courts such as Court of Appeal and Supreme Courts immune from peer pressure? Do we referee each other to the extent that a Divisional head demands particular approaches to decisions in a division? What of Principal Judges and heads of Courts? Do we prefect our juniors to the extent that in seeking favors they even consult us before making hard decisions?

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What of constant attacks and criticisms of Judges by all and sundry? Does it undermine independence? [Give Supreme Court of Kenya example and the complaints].

— Judge William Henry Hastie once said:

“I, and all Judges benefit from thoughtful criticism of those taking issue with the reasoning or unstated assumption. Indeed the appellate process is grounded in thoughtful criticism. Nor of course, do I suggest that personal or partisan criticism is somehow outside our tradition of freedom of expression. But when criticism reaches the level of intimidation and attempts to affect the outcome of a particular case or of future cases of like kind before a particular fudge, judicial independence is imperiled."

■ On individual independence, Justice Cardozo in 1921 said:

"A fudge is not wholly free. He is not to innovate at pleasure ... He is to draw inspiration from consecrated principles. He is not to yield... to sentiment, to vague and unregulated benevolent. He is to exercise a direction. Informed by

tradition, methodized by analogy. Disciplined by system, and subordinated to the primordial necessity of order in the social life."

- Henry VIII is also recorded as having said that he ruled England with his laws and his laws with his Tudges. How many of the leaders in East Africa can say the same?

- On Accountability; who is the Judges' employer and to whom in an employee/employer relationship do they account to? The President as the appointing authority? The Judicial Service Commission? The people? In Kenya for many years, Judges had no letters of appointment, only Gazette Notices indicating date and constitutional provision relating to appointment and Constitution?

- On performance management, how do we guard against exaggerated results? [every Ruling including for an adjournment being recorded as a decision].

- How do we guard against victimization when the bar is raised so high that inability to meet that bar leads to sanction?

- What are the probable sanctions for inability to meet the bar? Removal? Whatever the punishment, it must be fair and never interfere with independence including on security of tenure.

Conclusion

- Judicial independence in its widest sense is a precious pillar of any democracy. Its lose in any significant way portends the collapse of the democracy. We must guard it with all our might.

END

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COURT ADMINISTRATION: Good practices & Challenges: Experience of Rwandan Judiciary system

Presented by Honorable Justice KAYITESI Zaïnabo Sylvie,
Deputy Chief Justice

Presentation outline

- Introduction
- Good practices –Innovations to enhance effective Court administration, Impact and Achievements
- Challenges
- Conclusion

- The Court administration also referred to the judicial administration or to the administration of the courts plays a central role in judiciary system, in giving response to increased court filings, shrinking budgets and hence ensuring a proper operation of the business of a court.

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- The Court administration includes the practices, procedures, and offices that deal with the management of the administrative systems of the courts.

- Over the years, court administrators have become an integral part of judicial management because the effectiveness of the judiciary resides in organizational competence.
  - Courts must keep pace with increasingly complex caseloads and the increasing focus on the performance of the judicial system.
  - The ability to address those and other challenges requires effective management by judges within the courtroom as well as by administrators outside of it

- Traditionally, the administration of court referred to overseeing budgets, assigning judges to cases, creating court calendars of activities, filing of court documents, maintaining a file system of cases and a record of all final judgments, and processing paperwork generated by judges.

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- Nowadays, the administration of court goes beyond to overseeing legislative budgets and personnel administration. It attempts to modernize and rationalize courts, introduce court research and continuing legal training, to ensure the efficiency, effectiveness, accuracy and consistency of the judicial system.

II. Good Practices - Innovations of judiciary reform

- Main good practices emanate from innovations set up in the judiciary reform of 2004 undertook in order to safeguard fundamental rights and public liberties for sustainable development, peace and security, that cannot be without justice; and Justice is not possible if is not backed by a strong and effective judiciary.

- The judicial reform of 2004 has drawn strategies to deliver fair and timely justice, that are built on five major pillars: 1) Resolving the problem of case backlog in courts which was the main cause of long delays in delivering justice; 2)Consistently improve quality of judgements; 3) Improve service delivery by using technology in court activities; 4)Provide courts with adequate infrastructure and equipment ; 5)Build the capacity of judicial personnel.

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- This reform reviewed the justice institutions setup, courts structure and procedural laws to enhance independence of the judiciary, accountability of courts, its leadership, judges and other courts staff, hence this impacted significantly the administration of courts in Rwanda.

- Capitalizing on the new legal infrastructure, the leadership of the judiciary of Rwanda has kept on improving the said reform, bringing in innovations and incorporating best practices derived from the Rwandan culture and borrowed from different parts of the world with the goal to: deliver fair and timely justice. To reinforce the reform, in coming days news laws on judiciary and judicial procedures will be promulgated.

II. 1. Innovative strategies for efficiency, effectiveness in court administration

- Among the innovative strategies that guided us towards the effectiveness and efficiency in court administration the following are worth mentioning:

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- Adoption of strategies to speed up cases, improve quality of justice;
- Adoption of strategies to improve service delivery, that allow citizens to access court services without coming to queue at courts;
- Engaging the public on Court procedures information and protection of their rights;
- Adoption of strategies for accountability of courts, its leadership, judges and other courts staff,

II.1. A. STRATEGIES TO IMPROVE SERVICE DELIVERY TO CITIZENS AND EASY EXCHANGE OF INFORMATION AMONG JUSTICE SECTOR ACTORS.

- To allow citizens to access the courts without making queue before courts, and for easy exchange of information among justice sector actors two system respectively were set up:
- In the beginning the Judiciary set up **EFS (Electronic Filing System**), that was manly operational in the Supreme Court and Commercial courts where 100% of cases were electronically filed, but was slightly lower in other courts in particular in the Primary Courts. Litigants could be summoned or pay court fees and any other court services electronically.
- Today an **Integrated Electronic Case Management System (IECMS)** is operational, it allows all institutions involved in justice delivery to process cases and share information/files faster. It allows also litigants to follow up the progress of their cases online, either through their respective lawyers, Cyber café or even through their smartphones.

II.1. B. STRATEGIES TO SPEED UP CASES, IMPROVE QUALITY OF JUSTICE,

AND TO ENHANCE ACCOUNTABILITY OF JUDGES

Streamline courts' jurisdiction:

- Jurisdiction of different levels of courts has been reorganized to ease the burden on superior courts. This strategy allowed the SC to reduce the time it takes for a litigant to have his case disposed of from 6 years in 2012 to 2 year in October 2016;

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- Introducing a procedure for petitioning the Supreme Court over applications for review of a final decision due to injustice. When, the final decision is made and there is evidence of injustice referred the law, parties to the case shall inform the Office of the Ombudsman of the matte, which decides to request the revision on the ground of injustice.

- A new Court of Appeal will be soon created to end the problem of backlog in Supreme Court, and the procedure of revision of a final decision due to injustice will be organized within the courts.

STRATEGIES TO SPEED UP CASES AND IMPROVE QUALITY JUSTICE (CONT'D)

Measures to tackle delays:

- The standard time of six month is fixed by the law to process a case and deliver judgement and is largely observed.

- Delaying tactics are sanctioned by payment of a fine;

- Time limit for judges to write the judgement is set to 30 days after closing the hearing;

- The judgment is to be read in extensor and its copy must be ready to be issued within 5 days.

- Ø A target of disposing of at least 15 cases monthly per judge was set;

- Ø Regular monitoring of grounds for adjournments of hearings and delivery judgments;

- Ø Monitoring time it takes for case to be processed from its registration to its disposal in every court;

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Enhance the quality of judgments

- **Continuing legal education :** To maintain professional competence, all judges and registrars benefit continuing legal education. Every year the Inspectorate Unit of the Supreme Court set up a program on legal training et ensure the implementation of the training program.

- Court monthly peer review forum to discuss emerging legal issues arising from disposed cases;

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- Development of bench books and regulations to assist judges in dealing with specific legal issues;
- Preparation of law reports to enhance coherence and consistency in deciding upon similar cases;
- Intolerance of breach of the code of conduct of judicial personnel;-

II.1.C. STRATEGIES FOR ACCOUNTABILITY OF COURTS, ITS LEADERSHIP, JUDGES AND OTHER COURTS STAFF

- Establishment of Evaluation performance system and an Inspectorate of Courts Department to consistently assess performance of courts and devise strategies for improvement:
- The Evaluation performance system of judicial personnel is composed of different level depending on the level of judicial personnel. Each personnel is evaluated by the hierchical superior at first stage and the second stage is assumed by the Biro of the judiciary composed by the Chief Justice, the Deputy Chief Justice and the President of the High Court and the President of the High Court of commerce. The evaluation is based on the staff commitments put in an annual personal objectives.
- The Court Inspectorate is in charge of monitoring and ensuring that policies adopted to deliver timely and fair justice are effectively implemented. Its job description includes but is not limited to consistently:
  - Receive and process complaints from the public;
  - Evaluate courts performance unless the Supreme Court;
  - Identify weaknesses and propose areas of training
  - Conduct research and develop legal materials to provide judges with well searched legal information and updated jurisprudence;
  - Devise ways of consistently improving case management and application of IT solutions thereto to modernise justice delivery;
  - Develop policies aimed at improving court administration;

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- Develop and instill standards of professionalism and ethics, and prepare reports on disciplinary issues of judges and court staff to the High Council of the Judiciary
- Coordinate and supervise law reporting activitiess and build trust of the public in judiciary
- Develop and implement communication strategies to better inform the public on how the judiciary operate.

II. 1.D. Engaging the public on information and protection of their rights;

- There is a weekly talk show over the radio where the public is informed on courts' jurisdiction and judicial procedures;
- There is a free toll line and online channels through which the public seek and obtain legal information, or raise concerns, irregularities on proceedings regarding their cases in court;
- Judgments are made public on the website of the judiciary and there is also an online platform where the public and legal professionals can discuss court decisions
- There is an independent annual report on bribery index of public institutions including the judiciary as well as an annual report on public perception on justice delivery in courts

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Impact of these strategies

- The efforts made for an effective court administration supports judicial independence, enhances public trust and confidence in the courts, and improves the overall administration of justice.
- The confidence and trust people have towards Rwandan courts increased. This was proven by a study conducted by Rwanda Governance Board, in its report, Citizen Report Card; 2015 which indicated that people have confidence in courts to the level of 88.2%.
- It was confirmed by International reports such as World Economic Forum, Global competitiveness Index; 2015-2016. This report indicated that the Rwandan Judiciary is ranked 26th among 140 countries assessed world-

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wide; the 2nd place in Africa after South Africa and the 1st place in East Africa regarding independence.(Ref: Global competitiveness report 2015 -2016,pg 309).

- The level of divergence in court decisions on similar facts and the same legal issues kept on decreasing. In 2015/2016 cases altered on appeal were 10.77% as compared to 14% in the previous year 2014/2015.

III. Challenges

- The existence of old and inefficient court infrastructures are still a challenge to the court administration, hence to the performance of the Judiciary.
- The main objective of improving service delivery is hindered by the lack of internet connectivity , mainly in primary courts which can not have full connectivity, this impact on the use of IECMs.
- Retention of personnel in primary courts mainly.

Conclusion

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- The court administration varies, depending on the jurisdiction, location, size of the court, and perhaps the particular focus of the court.
- Rwandan judicial system has made efforts to built good practices to ensure efficiency and effectiveness in our court administration system; however, we are sure that there still exists best practices we haven't yet explored or simply don't know.
- This conference is valuable to allow each judicial system includes ours to learn from each others, to expand our information and knowledge, to improve our respective court administrative systems.

THANK YOU

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COURT ADMINISTRATION: BEST PRACTICES AND CHALLENGES – TANZANIA EXPERIENCE
PRESENTED BY IGNAS PAUL KITUSI AT THE 14TH EAST AFRICAN MAGISTRATES' AMD JUDGES' ASSOCIATION CONFERENCE 22ND – 24TH NOVEMBER, 2017 AT SERENA HOTEL – KIGALI, RWANDA.

A. INTRODUCTION

The only qualification that I have to speak on this subject is that I was there when the Judiciary decided to implement the idea of having specialized Court Administrators. Therefore, I have first-hand information and my assumption is that I am expected to share that experience with fellow delegates from the East African jurisdictions.

It is not easy to define what court administration is, but I will adopt the following description by Justice Makaramba in a paper presented at the Annual General Meeting of the Tanganyika Law Society: -

> *"Simply stated judicial administration, also referred to as court administration is the practices, procedures and offices that deal with the management of the administrative systems of the courts. Judicial administration is concerned with the long-range activities of the court system. In other countries for example, the United States of America (USA), judicial administration has become a profession. Every court in the USA has some form of administrative structure that seeks to enhance the work of judges and to provide services to attorneys and citizens who use the judicial system"*

Court administrators, I now dare say, are mandated to provide services that facilitate the business of the court by making available the necessary resources. The resources ought to be provided by the executive who has a constitutional duty to do so by using the taxes it collects. In England and Wales this

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arrangement is considered as a "partnership". In a paper titled ***Providing Sufficient Resources for the Courts and the Judiciary as a Fundamental Constitutional Obligation***, Sir Peter Gross observed: -

> *In England and Wales this aspect of the States' primary duty, is by statute, placed on the Lord Chancellor – who is under a duty to '**ensure'** that there is an efficient and effective system to support the carrying on the business of the courts and the appropriate services are provided for the courts"*

So, what is it that informed our judiciaries, specifically my Judiciary to place this "cat among pigeons" so to speak? What are the benefits, and what are the challenges?

B. BACKGROUND

Ours date back to 1970s when the Judiciary of Tanzania was on the death-bed and a prescription was necessary to cure it. Invariably, everyone who writes on the background to the current Judiciary Administration must refer to the 1977 Pius Msekwa report and the 1996, Mark Boman Report. To name two of them, one is Justice Stella Mugasha's paper on **Constitutional Obligation to Provide Sufficient Resources to the Courts and the Judiciary: A Retrospection of Tanzanian Judiciary**. The other is Justice Ndika's paper titled **"Tackling Delays for an effective Judiciary".**

The said reports on the Judiciary performance and Justice system identified many challenges including mentioned by Prof. Ibrahim H. Juma, Chief Justice of Tanzania in his paper "*Balancing the Independence of the Judiciary with Accountability: Recent Piecemeal reforms in Tanzania which are;*

i. *Inordinate delays in resolving disputes and dispensing justice.*

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ii. Limited access to justice and legal services for the majority of people.

iii. Corruption and other unethical conduct and practices in the legal system.

iv. Outdated systems and lack of responsiveness to emerging social, political, economic and technological development.

v. Low levels of public trust in the legal system.

vi. Low levels of competence and poor morale amongst public sector legal personnel.

vii. Inadequate numbers of professionally trained personnel and

viii. Poor provision and maintenance of the work environment for most public institutions in the legal sector"

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For the purpose of this presentation I will cluster the challenges as being;

i. Legal – Laws and procedures needed to be updated.

ii. Resources – Financial; there was need for more budget

Human; there was need for more and skilled personnel.

iii. Administrative – There was need to change the administration structure.

None of the stakeholders were overly enthusiastic in carrying out the proposed reforms. The government was not ready to meet the huge cost of Us dollars 266 million proposed by the Financial and Legal Management Upgrading Project (FILMUP) in 1996. Judges and Magistrates were still suspicious of the

proposed new cadre of Court Administrators. As a result, Tanzania resorted to What His Lordship Prof. Juma, Chief Justice calls Piecemeal reforms.

It is not my intention to discuss those piecemeal reforms. Real renaissance to address the legal, resource and administrative challenges identified by the reports dating since 1970s came in 2011 with the enactment of the Judiciary Administration Act, No.4 of 2011.

THE JUDICIARY ADMINISTRATION ACT.

This enabled the Judiciary of Tanzania to reposition itself. First of all, it provided more teeth to the Judicial Service Commission and made judges and magistrates more accountable. Secondly it separated execution of the judicial functions from non-judicial functions by introduction of the office of Court Administrators. This addressed the structural problem. Thirdly, it established the Judiciary Fund to address the financial challenge.

The background to the current organization structure went like this, inter alia;

> *"Currently the Registrar Court of Appeal is the Chief Executive and Accounting Officer of the Judiciary of Tanzania dealing with day to day administration of the Judiciary. The Registrar Court of Appeal is also the administration of the Court of Appeal. The Registrar is most of the time overwhelmed by all these functions hence the need for review of the functions so as to separate the administration of the Judiciary of Tanzania and of the Court of Appeal."*

ADVANTAGES OF THE NEW SETUP.

(i). Increase in the independency of the Judiciary.

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I am aware of the feeling that the establishment of the office of the Chief Court Administrator has eaten into the independence of the Judiciary because control of resources is by non – judicial officers. Prof. Mgongo Fimbo has ever raised this fact as a rhetoric question at the inauguration of book titled ***RULE OF LAW OR RULERS OF LAW***, by B.A Samatta Chief Justice of Tanzania (Rtd).

However, I hold the view that there are more advantages than disadvantages, and some of the advantages are not tangible. Speaking from my own experience as Registrar there is nothing I used to dislike more than going out to beg for money from the Treasury. I was always conscious of the fact that I was a judicial officer and that I should not be lying that low.

So, this system, in my view, has taken judicial officers out of harm's way and made them to concentrate more on that which they can do best; administer justice it increases the esteem of Judicial officers and enhances their independence.

On top of that the introduction of the Judiciary Fund has made it possible for the judiciary to plan its activities without the fear of funds being taken back by the Treasury. Once the funds are allocated they can be spent even on the next financial year which enables activities to be rolled over.

(ii) Increased accountability (here in Rwanda it is called Good Governance in Courts)

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Judicial Officers concentrate on case disposition and elimination of case backlog. The Judiciary Administration Act, 2011 redefined roles and functions Judicial Offices Ethics Committees.

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(iii) Home Grown solutions for challenges.

Although finances are not adequate yet, the fact that the Judiciary has control of what is allocated has enabled it to prescribe cure for its challenges unlike in the past when reforms were external driven.

In a somewhat similar background, the following is said about the Judiciary in Singapore

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"Under this approach, the judicial authorities systematically analyzed the Courts' problems and capabilities and then charted their probable prospects and requirements in the future .... Based on these over views, the judiciary developed a plan and reform strategy covering wide – ranging issues.... Using participatory techniques, they assessed the judicial system's institutional infrastructure, human resource endearment and links with clients and other stake holders"

JUDICIARY-LED REFORMS IN SINGAPORE frame works, Strategies and Lessons, Waleed Heider Malik, The World Bank, 2007.

The Judiciary of Tanzania treaded along the same thorny path to the Promise Land. Former Principal Judge Shaaban Lila (Now Justice of Appeal) has a testimony to this as he writes;

"Inefficiency created huge backlogs. It increased public outcry for better services and eroded public trust in the judiciary.... with this challenge the JOT administration engaged in thinking for solution."

These challenges are now history. Case backlog at the subordinate Courts has now been re–defined to include cases which are over six months old despite that, there are no backlogs at primary court which carries 80% of the total case load. At the High Court where the problem was rampant we have less than 10 cases that are over 5 years countrywide. It is not a good virtue to brag but litigation lawyers have been heard complaining at the speed adopted by the Judiciary.

(iii) Increased physical and functional Access to Justice.

The judiciary has planned and it is implementing a project that will see a court for every Region, District and Ward. Absence of court services in some parts of our jurisdiction tends to deprive many citizens the right to seek legal redress. Cumbersome procedures in our adversarial systems baffle the main players who cannot head or tail what takes place. Writing on this, Principal Judge of Tanzania L.K Wambali says;

"On the other hand, while procedure is important to access to justice, it is acknowledged that in many jurisdictions, including Tanzania procedures and court processes are outdated and have made the litigation process slow and cumbersome to the extent of denying access to justice for many."

Under the Judiciary Administration Act No 4 of 2011, a Directorate of Case Management has been established to deal with that key activity. There is also a Rules Committee that keeps an eye on laws and procedures that need to be updated.

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CHALLENGES

(i). Cultural and Mindsets

As I said earlier, judicial officers live in their own safe corner and look at all others as strangers. It is the same with the military people and perhaps other institutions. However, we should focus on the coffee instead of the cup.

Similarly, non - judicial officers tend to rub intentionally or unintentionally. Yet there are those who believe or feel that they have been brought as life-jackets to the sinking judiciary.

(ii). Untrained Court Administrators.

Working in the judiciary without some tailor-made training program for court Administration has proved challenging to both. Administration in the judiciary is in many respects unique in that the experience is acquired by only

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working in the judiciary. Therefore, it has taken only the fast learners to know the dos and don'ts and in some stations the chemistry simply failed. Section 65 of the judiciary Administration Act requires cooperation coordination and consultation in everything done by the Chief Registrar and Chief Court Administrator. But there are personality issues sometimes at the lower levels.

CONCLUSION

Separation of performance of judicial from non-judicial functions is the way to go. This gives judges-incharge, registrars and magistrates incharge more time to deal and plan for cases disposition. This should go with a clearly defined division of functions to guard against crush of personalities.

I THANK YOU FOR YOUR KIND ATTENTION

The role of ICT in achieving a modern, effective and efficient court administration: successes, best practice, challenges and way forward.

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By Justice Francois Regis Rukundakuvuga, Inspector General of Courts, the Judiciary of Rwanda

Introduction

ICT is paramount to any institution which seeks to modernise its management and to enhance its organizational performance. In court system, ICT should aim at ensuring: Timely, Quality and Accessible justice. In its endeavour to modernise courts administration for effective and efficient justice delivery, the judiciary of Rwanda embarked on use of numerous innovative technologies in court activities with a particular emphasis on case management.

This presentation will recall the common advantages attached to ICT, make a retrospective view to where we are coming from and share experience of the ICT journey of the judiciary of Rwanda towards fully and effective automation of all courts proceedings through what has been termed: IECMS or Integrated Electronic Case Management System.

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Common advantages attached to the use of ICT

It is commonly known that ICT plays a great role in addressing challenges that may bar the efficiency of judiciaries:

- ✓ **Communication:** Fast and easy information sharing
- ✓ **Slowness** in case processing
- ✓ **Cost:** in terms of time, litigant Transport, Queue
- ✓ **Security:** hard copy wearing, loss of papers making-up a dossier
- ✓ **Space:** Physical space for huge archives
- ✓ **Accuracy** (Identification by biometrical): Know real criminal identity
- ✓ **Efficient coordination of courts' activities**
- ✓ **Reporting:** Effective reporting for better decision making
- ✓ **Transparency/Accountability**: performance monitoring and evaluation
- ✓ **Access to justice:** Court users getting information easily

- ✓ **Access to legal information etc.**

Where we are coming from?

Before 2004 reform the judiciary of Rwanda was working in a difficult environment:

1. **Poor Communication**
2. **Case handling**
3. **Reporting**
4. **The journey to IT Techniques usage in the judiciary of Rwanda**

Since 2004 judicial reform Rwanda judiciary has tirelessly invested a lot of efforts in IT use in courts:

- ✓ One computer machine per person
- ✓ Networking all courts
- ✓ Fiber Optic **52/82 courts**
- ✓ Broadband **30/82 courts**
- ✓ Video conferencing
- ✓ Digital exhibit support system for presenting
- ✓ evidence electronically
- ✓ Digital Court Recording System (DCRS)
- ✓ Witness protection
- ✓ Online law reporting
- ✓ IECMS (Integrated electronic
- ✓ case management)

What is IECMS

The IECMS is an electronic case management system that was designed by Synergy International Ltd, an American company based in Armenia in collaboration with local Justice Sector institutions (RNP, NPPA, JUDICIARY, MINIJUST, AND RCS). IECMS has numerous functionalities in case management. It serves as the single point of entry for all Justice Sector institutions involved in manag-

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ing cases. The system records all judicial case information from the time a plaintiff files a civil case; or in criminal matters, from the time of arrest through sentence execution; efficiently sharing that information among all relevant sector institutions.

IECMS replaced previous case management soft wares Registre de Dossiers Judiciaires (2006-2010), Electronic Filing System (EFS: 2010-2016) Electronic Record Management System (ERMS: 2016) which were proven not fit to process and follow up cases from filing to closure.

IECMS INTEGRATES JUCTICE SECTOR INSTITUTIONS:

Working in an integrated environment: Electronic case management System for all judicial actors, with the Judiciary at the center of integration.

Automation of workflow processes

- ✓ The IECMS automates the existing workflow processes of the Justice Sector Institutions and provides each institution with a configured interface to perform their specific functions, restricting access based on user roles, permissions, and case status;
- ✓ The case workflow automates the processing of cases from one agency to the next, so that there is a seamless integration of activities and communication;
- ✓ The system automatically sends in-system, email, and SMS notifications to users, and users can create, assign, and track tasks.
- ✓ The information is captured and passed on digitally, and data exchange is no longer fragmented.
- ✓ A detailed audit trail provides a record of all edits and status updates.
- ✓ The system tracks individuals separate from cases, so that authorized users can access an individual's profile to see their relevant case histories.
- ✓ If the police create a case file on an individual, for example, they will instantly have access to the individual's full case history across all justice sector institutions.
- ✓ This includes comprehensive access to legally authorized police, court, and prison records.

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- ✓ The system benefits litigants by providing online services for case filing, payments, automated reminders, and free access to summons and judgments. This significantly reduces the burden on the court to respond to in-person requests.
- ✓ Effective monitoring of the case workflow guarantees compliance to the rules of procedure, which in turn guarantee and protect the rights of litigants, as any misuse of the required procedures is immediately evident.
- ✓ The IECMS speeds up proceedings, eliminates duplication of effort across agencies, and reduces the time required to transmit documents between institutions. It increases transparency, equality before the law, and accountability. It enforces compliance with procedures across institutions, so that one cannot jump the queue

Business intelligence: reporting system

- ✓ In addition to case tracking, the IECMS acts as a Monitoring and Evaluation tool for analyzing and reporting on the performance of sector institutions in the provision of justice.
- ✓ This includes reports and graphic presentations of key performance measures, such as the average caseload per judge, the court clearance rate, the average time to disposition etc.
- ✓ The analytical reporting tools include ad hoc report builders for charts, graphs, tabular reports, GIS and an Executive Dashboard module for presenting multiple reports in a single view.
- ✓ All reports and analytics can be saved and modified, and are dynamically updated every time a user opens the analytics module.
- ✓ Through the integrated features of the system, the Judiciary of Rwanda can now see a comprehensive overview of current cases and case backlogs disaggregated by court, by judge and even by nature of cases (family, land, insurance, insolvency etc).
- ✓ This is enabling more strategic planning and resource allocation as it is possible to monitor overall performance.
- ✓ Simply put, IECMS provides tangible benefits to court staff/judges as well as to decision makers and to litigants

Benefits of IECMS to Court Staff:

- ✓ Automatic saving of information in case of internet or power failure.

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- ✓ Automatic court case number generation.
- ✓ Easy access to case documents from other institutions (cases from lower courts, police, NPPA, correctional services)
- ✓ Notifications on proceedings of cases.
- ✓ Online Case summons and orders.
- ✓ Easy to dispatch information to litigants and other system users (all information is available in one place)
- ✓ Permits easy access to precedent for judges to ensure quick, fair, and consistent decisions.
- ✓ Easy manipulation of case documents. Use information that has already been input by others without having to rewrite it in order to save time.
- ✓ Automatic case schedule (pre-trial, hearing, pronouncement, adjournments) which used to be manual and tedious.
- ✓ Case assignment is easier (assign a judge or task a registrar)
- ✓ Electronic office (appointments, tasks, follow up of tasks)
- ✓ IECMS reduces chances of physical contact which combats bribery

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Benefits of IECMS to Citizens / Litigants

- ✓ **Accessible** anywhere on all devices (computer, tablet and mobile)
- ✓ Provides online services for case filing, payments, automated reminders, and free access to summons and judgments
- ✓ Litigants input and view **pleadings online side** by side on each issue
- ✓ Automatic **pleading generation** in pdf or in word.
- ✓ **Easy feedback** functionality with the registrar.
- ✓ Automatic information of **appeal deadline**
- ✓ Online access to proof that a case is no longer **eligible for appeal** due to time bar
- ✓ **Free access to Judgment copies** online
- ✓ **Online Follow-up of cases** : their current status and next status
- ✓ Keep up with court schedules on **system calendar.**

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- ✓ SMS, E-mail and system **notifications** of Case proceeding notifications (filing, pre-trial, hearing, pronouncement).
- ✓ From a single window, given username and password, **litigants access all cases** in which they have ever been Party or Advocate.

Pleadings are written in the system
Pleadings can be read side by side
IECMS is already effective:

IECMS Currently is deployed in **all courts**

Phase 1 launched January 2016 with **16 courts** (15 courts plus High Court Chamber of International Crimes (HCIC))

Phase 2 launched in September 2016 with **29 courts** (all higher courts including 16 primary courts)

Phase 3 launched in June 2017 with **38 primary courts. The highest accessibility**
1 , 4 7 8 , 1 6 4
Country: Rwanda, Armenia, USA, Uganda, UK, Netherlands, Kenya, Sudan, Belgium.

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Mobile devices: Apple Ipad, Apple Iphone, Techno, Blackberry, Samsung Browser: Firefox, Chrome, Internet Explorer, Opera

Figure 2: Accessibility of IECMS all over the World

Current Status of IECMS as of 14th / November / 2017

- ➢ **100% of cases filed online** in all courts.
- ➢ Total Cases filed **93,590**
- ➢ All submissions for Civil and Commercial Cases are written within the system.
- ➢ All criminal cases executions to prisons is done within the system.
- ➢ Cases pronounced **54,856Criminal cases indicate the highest peak with 60,068 cases filed and 39,296 cases pronounced Impact of IECMS on justice delivery**

Awards and recognition:

The effective implementation of an automated Case Management System

has also been the source of international recognition of the Justice Sector, and was specifically cited by the World Bank as the primary factor causing Rwanda's ranking in the Enforcing Contracts section of the Doing Business Report to rise 22 positions between 2016 and 2017. The improvement in enforcing contracts is directly attributable to the IECMS implementation. Rwanda is now ranked second in Sub-Saharan Africa for ease of doing business, and now has the highest Quality of Judicial Processes Index score in the region, even higher than the average for OECD High Income countries. On average, it takes less than half the time to enforce a contract in Rwanda as it does in the average OECD High Income country.

The IECMS was also presented a continental public management Award, **International gold trophy,** just 3 months after its launch in 2016, for being the best demonstration of innovative public management in Africa. The award was organized by the African Association of Public Administration Management (APAAM). IECMS was also awarded the **5th Technology Solution Award** at the joint conference of the National Association of Court Administrators and the International Association of Court Administrators in July 2017, at Washington DC, USA

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Key Factors for Success:

Country Ownership – The IECMS development was a government-driven process from the start. This is critical to ensure long term funding and sustainability, as donor funded projects are often short-term and independently executed.

Sector Wide Approach and Interagency Cooperation – The level of coordination needed to roll out an interagency information system is highly sophisticated. In Rwanda, this was made possible through the combination of a predefined Justice Sector Wide Approach.

Proactive Business Process Reengineering –the IECMS development required a thorough business process analysis and knowledge of workflows and roles of courts staff to determine the level of each individual staff action and the related permissions. Working hand in hand for people knowledgeable of court processes (the office of the Inspector General) and the IT-team to adapt required technical solution was paramount to expedite the work of the developers.

Developing from the Beginning – The development of the IECMS was done

logically, in the same order as the workflow. From the Rwandan National Police to the Rwanda Correctional Services, in criminal matters; and in civil matters from the litigant to court. This enables the developers and users to track the development and workflow of case processing logically, making adjustments with a thorough understanding of the precedent for each successive step.

Deploying from the End –The Court application was rolled out first, which created a demand for data from the prosecution. When the prosecution began using the system, it placed a demand on the police to provide data. This strategy creates a demand for information which motivates the previous organization in the chain of information to provide good data.

Focusing Forward – When IECMS was launched, the Judiciary instructed that from that point forward, each new court activated on the IECMS would receive new cases in the electronic format. It is better to initially focus on new cases only. Cases that were underway already were completed without the IECMS.

Training of Trainers – A Training of Trainers model was used to reach the large number of users. Some forty trainers were trained to support ongoing efforts at bringing new users online. A separate team of administrators received advanced technical training over a period of seven weeks so that they could monitor and maintain the system independent of developer intervention.

Challenges Encountered and Lessons Learned:

The following are some of the challenges encountered and lessons learned which may provide useful insights for future implementations:

Addressing Capacity Constraints –Even with a strong team of trainers, resources were limited when bringing the IECMS to scale. To respond to increasing requests, the Judiciary established a mailing list which enabled users to share problems, questions, and solutions. This enabled those who were early adopters to actively assist new users. It was also a good way to monitor feedback from users to help improve the system.

Confronting Institutional Resistance to Change – As with any CMS implementations, court staff and judges are naturally resistant to change.

In Rwanda, this was most conveniently addressed through regularly scheduled

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meetings of court leaders, which were already being held on a quarterly basis under the chairpersonship of the Chief Justice. In these meetings, Judges and registrars could learn from their peers' experience. This proved to be the best way to achieve buy-in from new users.

Promoting Public Awareness – It was a big challenge to educate nearly 13 million inhabitants about the new IECMS. The Judiciary turned to the local radio stations, national network televisions, and local newspapers to educate litigants about IECMS. Also representatives of the judiciary put on use national talk shows both before and during the launch of IECMS to promote awareness of court users. This proved to be the most effective way to reach the population.

Providing Access to e-Justice – The Judiciary of Rwanda was aware that only about 20% of the population has a reliable internet connection. To mitigate this challenge, the Judiciary involved the training of youth "facilitators," who could more easily adopt the new technology, and would be able to offer their services in support of new users.

These facilitators were deployed throughout the country to inform citizens and help new users create accounts and file cases, receiving a small fee for their services. The facilitators were trained along with workers in cyber cafés, ICT tele-centers, and smart villages, mobilizing the private sector to provide e-service kiosks throughout the country so that litigants could get the help they need.

Poor litigants who cannot afford these services are able to access support directly from MAJ employees, enabling them to file or follow-up on cases free of charge.

In addition, user manuals and tutorial videos on YouTube were distributed in both English and Kinyarwanda.

Adapting Procedural Law – In Rwanda, the procedural law must are being aligned with the IECMS, as the automation has made certain procedures obsolete, or modified others. For example, since all litigants can get summons directly from the system, it should no longer be obligatory to service summons manually. The IECMS streamlines procedures and so the Procedural Law must adapt accordingly.

IECMS Developments in pipeline:

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The IECMS implementation is ongoing, and execution of civil cases will soon be processed through the system in addition to criminal case execution.

In addition, future integrations are envisioned with other information systems and institutions, such as the Court Bailiffs, National Identification Agency (NIDA), Rwanda Development Board, Rwanda Law Reform Commission and Law Library, to permit easy access to shared information directly through the IECMS.

There is also in pipeline, e-signature and integration with Irembo **(Public Service E-payment System Provider System)** for online payment with visa card.

Conclusion

Rwanda is unique in attempting a unified system from the start, which intensified the need for efficient local coordination and left little room for error. This approach was enabled by a phased approach in which the system was rolled out for different regions and different institutions at a moderate pace. This mitigated the demand on Judiciary resources and logistical support. It also enabled the judiciary to learn and apply best practices from one phase to the next.

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Above all, the process of bringing the application to scale was made possible through focused leadership, a positive reception by the population, and a firm political commitment to embracing technology as a driving tool for development.

Without such a unique social and political climate, it should not be taken for granted that the successful outcome in this instance could be easily replicated in other environments.

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THE ROLE OF ICT IN A MODERN, EFFECTIVE & EFFICIENT COURT ADMINISTRATION: SUCCESSES, BEST PRACTICES CHALLENGES & WAY FORWARD

14TH EMJA CONFERENCE KIGALI RWANDA

Presenter: Hon. Justice Geoffrey Kiryabwire, JA
Chair, ICT Committee - EACJ
Chair, ICT/Law Reporting – Judiciary Uganda

OUTLINE OF PRESENTATION

1. Introduction.
2. Setting the debate for the use of ICT in the Courts .
3. Role of ICT in the Courts
4. Success Stories
5. Some emerging challenges.
6. Way forward.

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The new debate. What does the future hold for legal practice?

- The Prof Susskind theory of **" The legal & judicial practice revolution"**

The legal profession

"Tomorrow's legal world as predicted…bears little resemblance to that of the past. Legal institutions (i.e. The Courts) and lawyers are at crossroads…and are poised to change radically over the next two decades than they have over the last two centuries. If you are a young lawyer, this revolution will happen on your watch…"

1. Tomorrows lawyers: An introduction to your future. 2013

2. The end of lawyers? Rethinking the nature of legal services.

The Courts

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"looking ahead now, in thinking about the long term future of the courts and dispute resolution, one fundamental questions sets the agenda: is the court a service or a place?"

1. Judges, IT Virtual Courts and ODR.

Too Paper Based?

Initiating a analogue to digital migration in the legal profession-Fantasy or reality?

- How do you even begin to contextualize legal digital migration in a profession where there is often quote maxim *"That Justice must not only be done but must be seen to be done"* ?

Ø Pleadings must be in writing signed and filed in court.

Ø Service of court process must far as possible be personal

Ø When presenting evidence the best evidence rule must apply in that court should deal with originals and not copies.

Ø Hearings must be conducted in open court unless otherwise waived to be heard in chambers.

Ø Witnesses must give evidence in person

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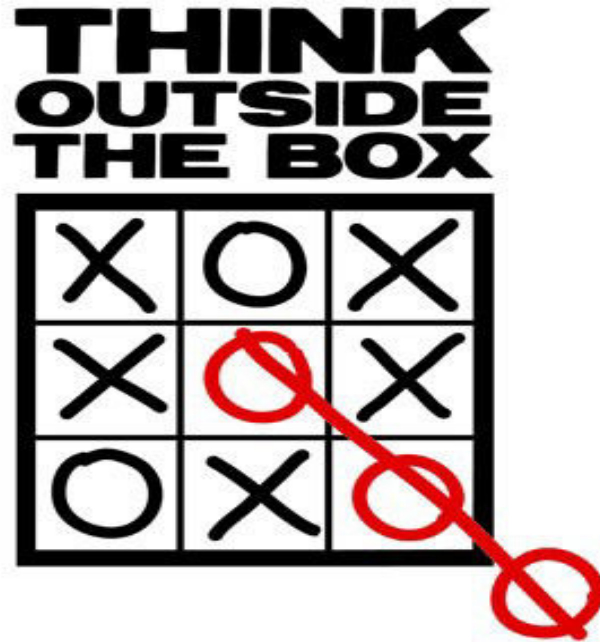
Time to change & think outside the box



(Innovate or perish)

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The need to reform judicial business processes

- Inefficiencies in the judicial process has led to need to reform the business processes of the courts.
- The Lord Woolf Report "Access to Justice" 1995 UK

- Need for case management
- Cost effective processes
- Alternative dispute resolution

- The Justice Platt Report 1995 Uganda

Modern case management system

Enter E-Justice and E-Court

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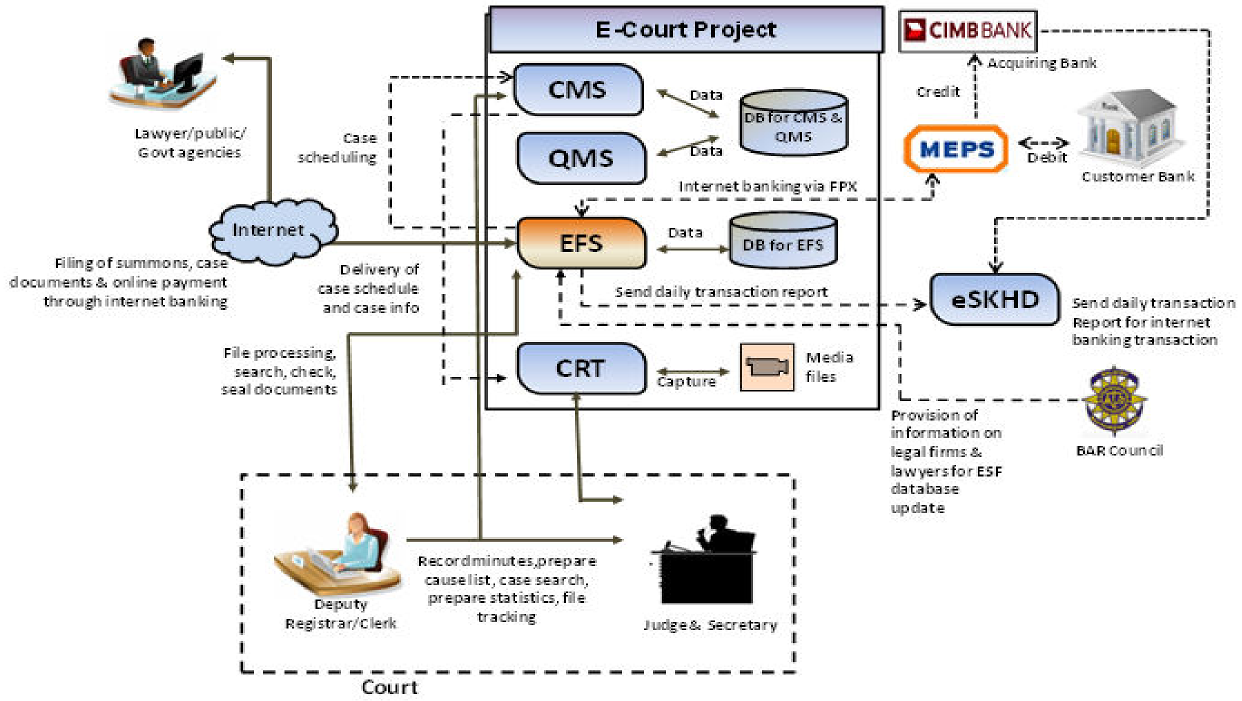

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Enter E-Justice and E-Court

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Case study Reform of the Utah State Courts 2007

- Utah introduced a new strategy to embrace ICT

"Judicial branch should develop & use technology to enable the courts to develop quality services at lower costs to the tax payer"

- Output included

Ø e-record

Ø e-document

Ø e-payment

Ø e-access on line

Ø e-transcript

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Case study Reform of the Utah State Courts 2007

e-notice

Ø e-service

Ø e-training

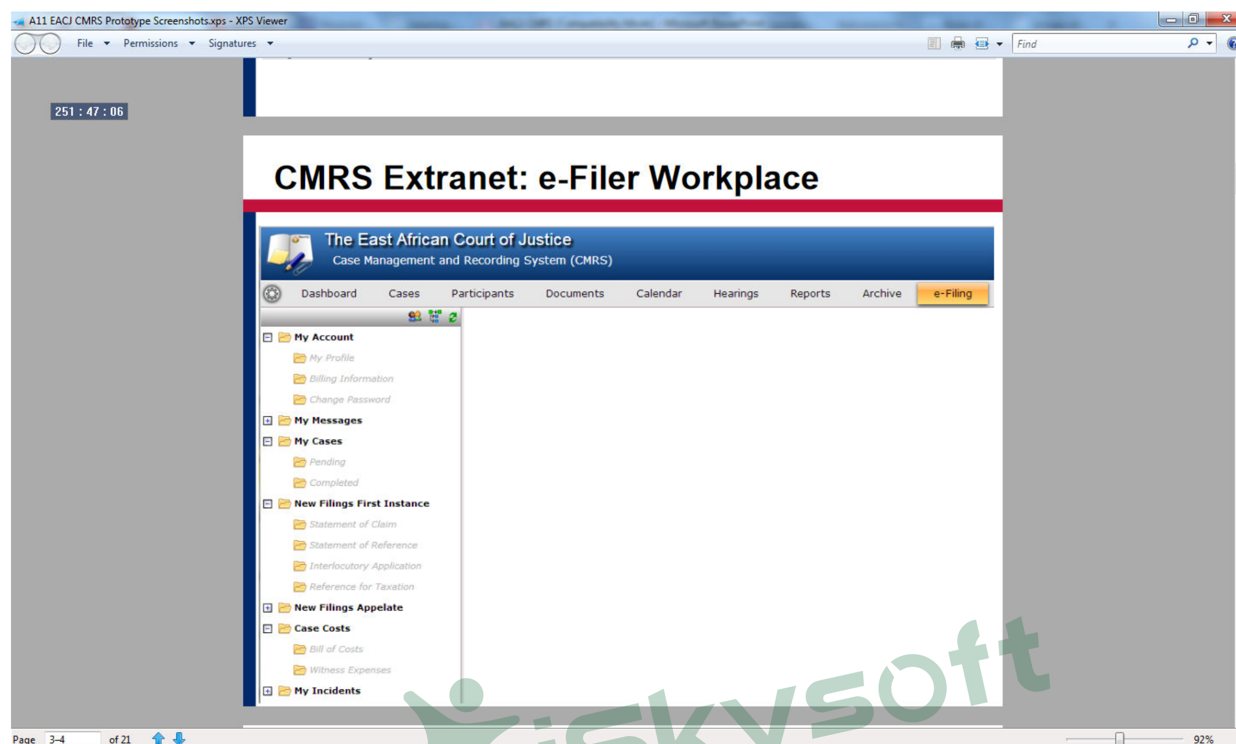
Results by 2010

ü better management of court processes using CORIS a single case management system through all courts

ü e-record made transcripts available on line then outsourced giving a saving of $ 1,350,000 per year

ü 33% of court payments of $ 1bn were handled on line

ü time to produce records for appeals reduced



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Court Case Administration system(CCAS) Uganda Judiciary

Uganda Judiciary ICT Strategy 2015/16 to 2019/20

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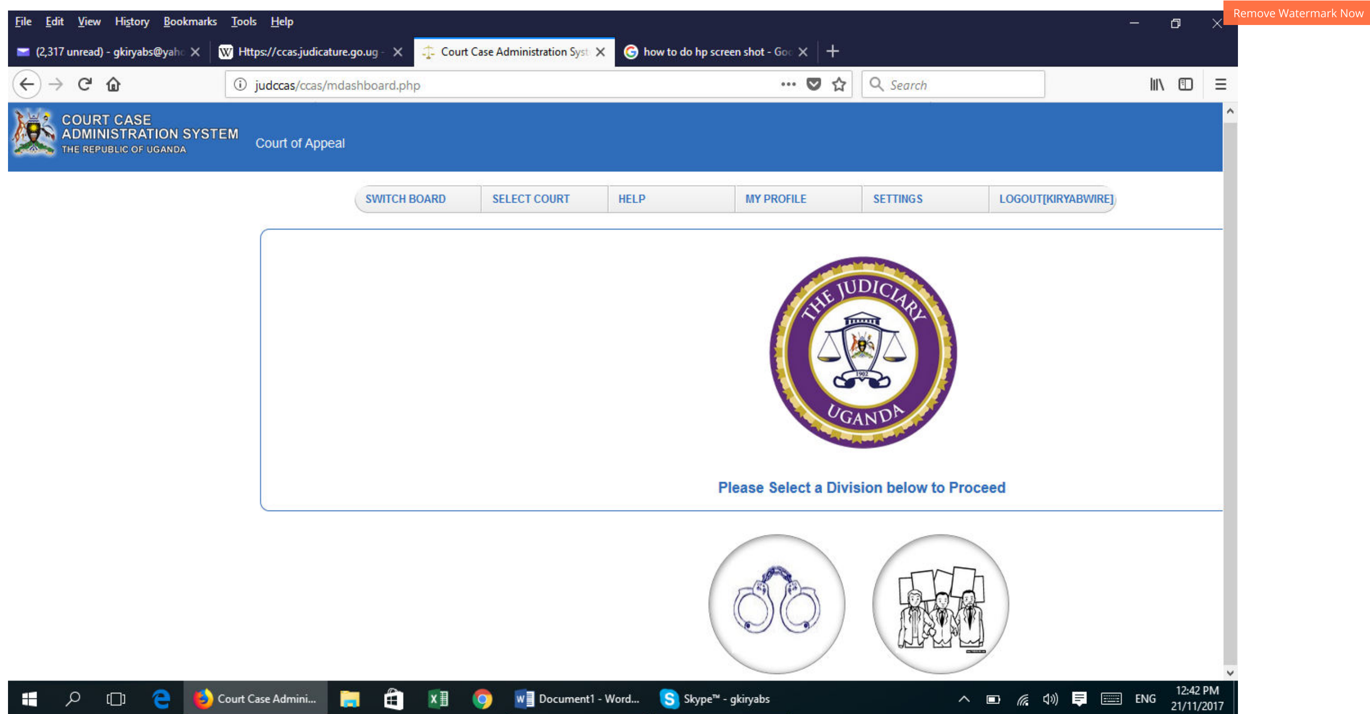

- 9 Pillar holistic but phased analogue to digital migration.
- It embraces the thinking that the court can no longer physical space but rather a service accessible with some of its processes available on demand.
- It will plug the Uganda Judiciary into the NITA (U) E-Government architecture (will be among first 10 or so Government agencies to do so.
- Components like audio-visual hearing (video conferencing are already active) to graduate this live streaming of hearings.
- integration with other Justice law and order (JLOS) sectors.
-

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Public interface/CX (customer experience)

- Interactive voice recognition (IVR) & computer access
- Apps development

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Advantages of use of ICT in the courts

Improved efficiency and cost effectiveness

- Improved court productivity and reduced delays
- Improved access to justice
- Improved accountability and public confidence in the justice system

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Challenges

IT is costly and difficult to procure

- Training (status quo & BBC syndrome)
- Buy in by the legal profession.

Ø Standardisation of processes.

Ø Increased pre trial protocols.

Ø Wider discloser.

- Evolving rules of court in a digital era.

Ø Best Evidence Rule

Ø The Sub Judice Rule

The rise of the virtual court and On line dispute resolution

Way forward

- Reform the court business processes
- Develop a user driven ICT strategy
- Ensure horizontal and vertical integration
- Train judicial officers and manage attitudinal change.
- Budget for ICT and use a scale up model
- Involve the bar and public in ICT uptake

Question ?

Are we ready for the Prof Susskind Legal & Judicial Practice Revolution?

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Answer

We better be ready because the future is actually already here

Thank your kind attention

Justice Geoffrey Kiryabwire

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THE ROLE OF ICT IN ACHIEVING A MORDERN, EFFECTIVE AND EFFICIENT COURT ADMINISTRATION: SUCCESSES, BEST PRACTICES, CHALLENGES AND WAY FORWARD
By Hon. Justice Mr. Luka Kimaru

(Presented to a conference of the East Africa Magistrates and Judges Association

(EAMJA) on 23'^'^ November 2017 at Serena Hotel- Kigali, Rwanda)

I am privileged to address you today on a subject that is very relevant to our

courts as they strive to dispense justice to our people. All of us would agree that

living in a modern society without Information Communication Technology (ICT) is unimaginable. Embedding ICT in our courts is therefore very crucial. It is no longer optional. Our courts must now take advantage of the new develop-

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ments that will enhance the delivery of their services.

Court automation is not a new phenomenon in many of our courts, but the scope and level of development varies amongst different jurisdictions. ICT enablement of courts is about providing designated services to the courts, litigants, lawyers by universal computerization of the courts and enhancement of ICT in the dispensation of justice. The objective is to make justice delivery system effective, efficient and cost effective.

Properly harnessed and deployed, ICT can facilitate speedier trials where

proceedings are typed instantly and are available to the trial judge to prepare the judgment. ICT tools can be utilized for decision making through utilization of data automatically generated by the system.

The automation of courts also has a potential to enhance public confidence in the judicial process by minimizing the risk of misplacement or loss of court files. This is because ICT tools can be used for data management, data processing and secure archiving of information to guarantee transparency and accountability in the way information in files is handled.

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I see several ways that Courts can benefit from ICT tools:

1. Ensuring court personnel use simple applications such as excel and word,

emails to send and receive information, internet to conduct research, et cetera. - In their day to day work in place of / or complementary to the manual way of working.

2. Developing electronic case management and filing systems. This system should ensure records and documents can be input, transmitted, processed, stored and retrieved electronically. This ensures an orderly database of cases which data can be utilized for case management.

3. Ensuring relevant and timely information is received from and by the court

users. ICT tools can be developed for purposes of communicating information

such as court dates and changes in court dates, cause lists, notices, etc. ICT

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tools can also be harnessed to create a platform where court users communicate their concerns and grievance to the court.

4. Ensuring ICT technologies support court room hardware including computers, screens, video recording and video conference systems technologies, audio recording devices to keep track of the hearings, internet and internet infrastructures, exhibit support systems for presenting exhibits and video recording into text and to manually or automatically indices the contents.

Video conferencing allows for long distance participation of a party, witness or expert in a case. A case experience of the Kenyan Judiciary ICT Implementation The Kenyan judiciary digitization strategy is anchored on the basis of the Judiciary transformation framework for the years 2012- 2016 whose objective on ICT was as follows:-

a) To computerize the courts with strengthened hardware;

b) Connect all courts to the National judicial Data Grid through WAN and additional redundant connectivity

c) Provide centric facilities such as centralized filing centers at each court, create a robust court management system through digitization, document management, judicial knowledge management and learning management

d) Facilitate better performance in courts through case management and process re-engineering as well as improvement in process servicing through hand held devices

e) Enhance ICT enablement through e- filling e- payment and use of mobile application

Some of the ICT programs tailored to improve service delivery include the following:-

a) Judicial operations support systems;

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Comprises of email system- online case date tracking starting with Milimani High Court; mobile SMS queries, e- Filing and case management

b) Court Management System

Comprising court fees and fines e-reciepting, mobile payment of court fees, court transcription for 22 court rooms in preparation for election petition

c) Enterprise resource planning i.e Leave management, automated performance management and appraisal, financial management, asset management, facility management

d) ICT infrastructure

(Internet connectivity, WIFI connectivity, networks, data centers at the Supreme Court building and Milimani & Mombasa Law Courts and other government premises.

e) Document and archive management

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(digitization, archiving, data curation, publication and distribution of extant legal documents). ICT initiatives that have been piloted to improve service delivery in the judiciary include:-

1. The Electronic Diary- designed to address challenges of manual date fixing, closed diaries and publishing of cause lists.
2. Digital audio and video recording.
3. Queue management at the family division
4. Financial management system Implementation of e- Filing

e-Filing benefits have already become evident for both the courts and law firms.

The most significant change electronic filing has brought to the courts is efficiency. Electronic case filing document storage is automatic and secure and reduces the storage needed for keeping paper documents. There is increased accessibility of the digitally filed documents and multiple people are

able to check important files at once. There is also greater security for documents given that digital files are difficult to modify. With e-filing, the exact date and time of filing and acceptance has another layer of verification and can more easily linked to the entire case. The system further provides more control of digitally logged documents as they can be tracked so that involved parties can view status of changes, schedules and otherwise mitigate risks with greater transparency. Lastly, there is no more limitations of court hours as you can file whatever from wherever.

The program however has had its share of challenges. As concerns e-Payment, it has been observed that the time taken by the law firms to receive

acknowledgment of payment was significantly long (at times up to 24 hours from the time of payment). This was attributed due to the backlog of documents filed and at the registry on a particular day. It was also attributed to technical challenges on the mobile money transfer platform and the receiving bank. To address this issue, the court is in talks with the mobile telecommunications company and its bankers with a view to achieve a faster, more reliable and effective payment process for clients.

Another challenge that has been experienced is with regard to e- Filing of existing files which had not been envisaged. It has been reported that the process has been slow as the lawyers were not aware that the system applied to the old cases. There have also been challenges with the legal provisions supporting e- Service and e-Payment. Currently, the acceptance of a digital receipt is not recognized thus the user still needs to visit the registry to have a manual receipt

provided. Also e-Service assumes that the person filing suit has the digital contact of the respondent. There's therefore need a review of the procedures and

creation of a new law to govern e-Service and to adopt a digital receipt. There has also been a challenge of stable internet connectivity as it has ben reported that unreliable internet connectivity affected the confirmation of payments made online. Confirmation of payments is required to be made within 10 seconds otherwise the payment verification fails.

Lessons learnt

1. ICT programmes must be friendly and adopt in response to comments

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from users. A thorough needs analysis is required

2. The information technology budget should take into account costs of data preservation and system maintenance

3. Users should receive adequate training

4. Cases covering various subject matters should be integrated

5. Systems in other jurisdictions can offer useful guidance.

Way forward

ICT innovation in the court needs more study. The integration of ICT systems in

the court requires sustained efforts to reach optimum levels of efficiency. A step by step approach should gradually implement the desired system. It is work in progress. It has been good to talk to you and I wish you every success in today's conference.

Thank you

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