



17TH APRIL 2023 | ISSUE 5

THE LEGAL INSIGHT

The Official LSK Weekly Newsletter

MEETING WITH THE STATE COUNSELS FROM THE OFFICE OF THE ATTORNEY GENERAL

The Law Society of Kenya, led by Vice President, Faith Odhiambo, held a joint meeting on 5th April 2023, with the State Counsels from the Office of the Attorney General.

The meeting offered an opportunity for deliberation on the provision of legal services to the Government by external Counsels with the objective of streamlining the process after the ruling in JR Application 364 of 2018 and the subsequent circulars issued by the Government on the issue.



FEATURED

News Segment

Tech News

Notices/Vacancies

Weekly Bites

Upcoming Events



THE CONSULTATIVE MEETING BETWEEN LSK & THE MINISTRY OF LANDS

The Law Society of Kenya led by President Eric Theuri and the LSK Conveyancing Committee attended a joint consultative meeting on 12th April, 2023 with the Ministry of Lands and Physical Planning and other key Stakeholders to discuss the ongoing challenges with the Ardhisasa platform.



The Cabinet Secretary Ministry of Lands Hon. Zachariah Mwangi Njeru and the Principal Secretary State Department for Lands and Physical Planning Hon. Nixon Korir were present among other Senior Officials of the Ministry.



The LSK team reiterated all the issues raised in our memorandum and during previous engagements with the Ministry. It was noted that members continue to experience delays, inefficiencies and service collapse across the Country's registries resulting in extreme hardship to Advocates, other Stakeholders and the Public at large. The issues below were highlighted:

1. There is a challenge of feedback from the Ministry resulting in stakeholders not being informed of any progress.
2. Inconsistency at the registry and the need for confirmation on which transaction can happen i.e. what is manual and/or what is digital.
3. The Land Administration and Registration Services have become slow with significant backlog in pending transactions resulting in the need for payment of facilitation fees for transactions to be completed.
4. The entire process has become extremely expensive as opposed to achieving its intended purpose of easing the cost of doing business.
5. The challenges, with conversion of titles and long-term leases and sectional titles under the Sectional Titles Act, 2020, continue to grow.
6. The audit that was conducted did not include substantial input from the stakeholders who are the users of the system and is as a result not comprehensive in identifying the gaps with the system.



CONTD..

After extensive discussions, the following resolutions were agreed upon:

- A Technical Team to be formed with two (2) nominees from each stakeholder that is LSK, Institute of Surveyors of Kenya and Kenya Bankers Association, who will meet the Ministry of Lands technical team at least once a week and within a month, report back to the Joint Stakeholder Committee on the areas of reform.
- The Joint Stakeholder Committee will be meeting once a month.
- The way forward is for all 3 stakeholders to support the digitization process which will be done through the Committee identifying the gains, gaps and coming up with realistic timelines and working together to find interim solutions.
- The Joint Technical Committee to identify transactions that can be handled digitally from end to end and where the system has gaps, identify the issues and develop protocol for manual intervention until the system is fully functional.
- All Stakeholders should communicate to their members to refrain from paying facilitation fees to ensure all Kenyans get equal services from the Ministry.
- The Ministry to work on relationship building, customer care and creating awareness of the platform.

The Law Society of Kenya remains committed to unlocking the solutions to the challenges being experienced by its members with regard to Ardhisasa and continues to pursue a better practice environment for our membership.





THE YOUNG ADVOCATES MENTORSHIP PROGRAMME LAUNCH

The Judiciary, under the Office of the Chief Justice, in collaboration with the Law Society of Kenya and the Senior Counsel Bar, launched the Young Advocates Mentorship Programme on Monday, 17th April 2023 at 12:30 pm at the Sarova Panafric.

Vice President, Ms. Faith Odhiambo, represented the Society and moderated the launch alongside the CJ's Chief of Staff, Ms. Rose Wachuka.

The Young Advocates Mentorship Programme is a flagship programme of the Office of the Chief Justice, Hon Lady Justice Martha Koome, EGH and a crucial aspect of the Judiciary's Social Transformation through Access to Justice (STAJ) Vision, which seeks to enhance access to justice through partnerships and collaboration.

The mentorship programme will serve as a training and mentorship avenue for young advocates through the existing pro-bono scheme. This initiative will also aim to promote a volunteer culture within the profession. By working together with the LSK, the Judiciary aims to establish a shared platform that promotes access to legal information, thereby overcoming one of the key barriers to access to justice.





Fin-Tech

THE FIN-TECH TAKE OVER

Proudly brought to you by the Tech & Intellectual Property Committee of the LSK

What exactly is Fin-Tech?

Banks have gone head to head, outdoing each other with innovation. It started with online banking, then mobile loans and now every other financial institution wants in on financial technology (Fintech). Advancements like remote payments, app-based stock trades, and automated insurance claims became commonplace, which have all built onto the Fintech explosion.

Fintech refers to the application of innovation and the application of technological solutions to the products and services offered in the finance sector. The speed at which the take-over of FinTech has swept over the globe has been surprising for one reason; new innovations are usually met with resistance and slow uptake. So why did Financial Technology become so popular?

Why is FinTech so popular?

The answer is simple; Fintech solutions are faster and more cost effective for both the customer and the banking solution in a sector that was for a long time fraught with delays and unpredictable hitches. Fintech relieves the client of some of the strain associated with in-person banking and document verification.

But even before the consumer realized they needed Fin-Tech, financial institutions must have done some heavy lifting because the rise of fintech has been marked by two key pointers:

1. Expertise: Banks did not take the 'trial-and error' method. Instead, they had clear cut goals of exactly what they wanted to achieve such as improving a specific product or extending their distribution channels. What banks then did was to acquire existing technologies and incorporating them into their systems, as opposed to starting from scratch building their own tech solutions.
2. Solutions targeted at the consumer's pain points. The front-end and back-end of Technology





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Where's Africa's piece of the pie?

For over sixty years through the evolution of Fintech, the US has been the leading innovator in the financial services sector. Over the last decade however, China has taken the lead on account of its smart phone dominance. Over the last couple of years, Africa has been slowly up-turning the market, and Venture Capitalists have been trooping in scouting for FinTech investments ever since.

To put it in perspective, Kenya is the second largest consumer of Fintech, after Nigeria, which is whose population is almost 4 times that of Kenya. Mpesa, has played a key role towards adoption of Financial Technology in Kenya, which The Economist* estimates that 25% of the country's GDP is channeled through Mpesa transactions.

Equitel is another key player that has created a niche for itself for financial inclusion. Equitel is a mobile virtual network operator competing with Safaricom's M-Pesa, and offers a full suite of banking services on mobile devices, by combining banking services with telecommunications services.

New Entrants into the Kenyan FinTech Market

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Write to us with your Legal Tech News* or
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POSTPONED

POSTPONEMENT OF THE CPD SEMINAR SCHEDULED FOR 28TH APRIL 2023

The Society has **POSTPONED** the CPD Seminar on Legal Drafting: Being Aware and Loyal to the Nightmare of Choice slated for Friday, 28th April 2023 at Dallas Premier Hotel, Kisii due to unavoidable circumstances.

The CPD Seminar to be facilitated by Hon. Justice Sila Munyao and Wilkins Ochoki, Advocate will now be held on **Friday, 5th May 2023 from 8.30 am to 2.30 pm.**

We regret any inconvenience caused.

NOTICE FOR COMMENTS ON THE DRAFT CERTIFIED GOVERNANCE SECRETARIES BILL, 2023

The National Treasury and Economic Planning in conjunction with the Institute of Certified Secretaries have finalized developing the Draft Certified Governance Secretaries Bill, 2023 which seeks to repeal the Certified Public Secretaries of Kenya Act, 1988.

The Draft Certified Governance Secretaries Bill, 2023 proposes to provide quality assurance for the practice of the certified governance secretaries to train, certify and ensure continuous professional development. It establishes the Institute of Certified Governance Secretaries which shall have powers to issue guidelines, standards, codes of practice and conduct in the certified governance secretary profession and set levy fees and subscriptions.

In accordance with Article 10(2) (a) of the Constitution that highlights national values and principles of governance including participation of the public, Members are hereby invited to submit their comments on this Bill, which can be accessed through this [link](#), to Ms. Winnie Tsuma via winnie.tsuma@lsk.or.ke not later than **Friday, 21st April, 2023.**



WHY WE SHOULD ALL BE WORRIED THAT THE GOVERNMENT OF KENYA IS CASH STRAPPED

Over the last three years, Kenya has been going through an economic downturn that had been precipitated by the COVID-19 pandemic. In all these three years the Government of Kenya has been operating to sustain the economy through various measures that include cutting back on some of the recurrent expenditures, slowing down on recruitment of new employees, reducing allocation on nonessential commodities, and resisting wage increases in various quotas. These measures were however for a short-term basis as the country clawed back from the impact of the COVID-19 pandemic. In the long term, most economists have pointed out that the country's high debt burden had to be managed in the most strategic and cost-effective way. A way that would ensure that the country's economic growth trajectory is not brought to its knees and also Kenya delivers on its contractual obligations with its lenders.



To further put this into perspective, one would have to look at the country's economic growth for the last 3 years. According to the World Bank, the economy's GDP between 2021 and 2022 ranged between 5.1% and 5.2% with increased costs being felt in food items such as maize, beans, and sugar.

All these factors came into play during the 2022 General Elections and it was one of the pivot points for the current administration Blueprint dubbed Bottom-Up Economic Transformation Agenda 2022-2027 (BeTA).

The economic model in its social economic transformation has promised to ensure that the Country's economy is revamped. It is therefore discouraging to see reports of County government workers and Civil servants going for months without their salaries. This is particularly worsened by the fact that only 10 % of Kenyans are in permanent jobs and most of which are within the National and County government. These statistics by the Central Bank of Kenya also show that the income from these jobs is what most of the employees depended on for household survival.





CONTD...

Therefore, when this income is limited through inconsistent payments such as, what has happened in the devolved system for the last three months, it means key governance issues will start to crop up. These include corruption brewed from the need to supplement income from delayed salaries; reduced provision of optimal services to the public due to low levels of motivation by public servants; stalled projects due to lack of employee deployment in critical areas; and ultimately there is reduced circulation of money which is a driver for most small and medium-sized businesses both in the urban and rural areas. Resultantly, this will affect the country's economic projections and will be a blow to the social economic goals pronounced in the Sustainable Development Goals that Kenya has subscribed to.



A prolonged effect of these issues will lead to disquiet and precipitate a breeding ground for economic unrest, as has been witnessed in countries in Europe and Latin America since 2019. In most of these countries, a large part of these protests, according to Carnegie Endowment's Global Protest Tracker, shows that the unrest was interrelated to inflation and grim economic projections for households.

It is therefore imperative for the government of Kenya to serve the people by ensuring government services are not limited by employee satisfaction. It is equally noteworthy that the economic situation currently being faced affects many of the transactions that advocates interact with within the government offices. Incessant delays in the provision of services occasioned by disgruntled employees will ultimately limit access to justice for the clients and loss of income for advocates. It is hoped that the government's economic advisors are coming up with long-term solutions for this challenge. Ultimately good governance is the goal for all of us.



WRITTEN BY:
SOPHIE KAIBIRIA
Director, Practice Standards





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15TH -20TH AUGUST 2023

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LSK CPD WEBINAR 

1 CPD UNIT

MANAGEMENT OF THE LAW FIRM



SPEAKER



Richard Omwela,
Senior Partner, Dentons Hamilton Harrison & Mathews

Wednesday 19th April 2023
2.00 pm – 3.30 pm
Charges: Kshs. 1,500

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LSK CPD WEBINAR 

1 CPD UNIT

COMPETITION LAW:

Emerging Tension Between Traditional & Mobile Banking




FAITH ODHIAMBO,
ADVOCATE
LSK VICE PRESIDENT

Friday 21st April 2023   2.00pm – 3.30pm

REGISTER

Inquiries: cpd@lsk.or.ke or call 0111045300



ONLINE WEBINAR

<https://bit.ly/3U8C4v8>

Young Lawyers Committee

presents

The Status Of Mental Wellness Within The Legal Profession And The Need For Deeper Conversations And More Action: Men's Perspective



DATE
25th April 2023

REGISTER NOW



TIME
2:00PM

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Managing Partner Wacu
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CINDANO GAKURU
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